

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 14 March 2006

Session 2

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LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

8th Meeting 2006, Session 2

CONVENER

*Bristow Muldoon (Livingston) (Lab)

DEPUTY CONVENER

*Bruce Crawford (Mid Scotland and Fife) (SNP)

COMMITTEE MEMBERS

*Mr Andrew Arbuckle (Mid Scotland and Fife) (LD)
*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)
*Dr Sylvia Jackson (Stirling) (Lab)
*Paul Martin (Glasgow Springburn) (Lab)
*David McLetchie (Edinburgh Pentlands) (Con)
*Michael McMahon (Hamilton North and Bellshill) (Lab)
*Tommy Sheridan (Glasgow) (SSP)

COMMITTEE SUBSTITUTES

Colin Fox (Lothians) (SSP)
Mr Bruce McFee (West of Scotland) (SNP)
John Farquhar Munro (Ross, Skye and Inverness West) (LD)
Dr Elaine Murray (Dumfries) (Lab)
Murray Tosh (West of Scotland) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Julie Kane (Scottish Executive Finance and Central Services Department)
George Lyon (Deputy Minister for Finance, Public Service Reform and Parliamentary Business)
Christine Munro (Scottish Executive Legal and Parliamentary Services)
Nikola Plunkett (Scottish Executive Finance and Central Services Department)

THE FOLLOWING GAVE EVIDENCE:

Jacquie Reilly (Association of Town Centre Management)
Niall Stuart (Federation of Small Businesses)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Alastair Macfie

ASSISTANT CLERK

Euan Donald

LOCATION

Committee Room 4

Scottish Parliament

Local Government and Transport Committee

Tuesday 14 March 2006

[THE CONVENER *opened the meeting at 14:01*]

Planning etc (Scotland) Bill: Stage 1

The Convener (Bristow Muldoon): I welcome members and our first witness this afternoon. Jackie Reilly represents the Association of Town Centre Management and will give evidence on the provisions in the Planning etc (Scotland) Bill that relate to business improvement districts. The Local Government and Transport Committee is a secondary committee in relation to the bill. I invite Jackie Reilly to make introductory remarks before members ask questions.

Jackie Reilly (Association of Town Centre Management): Perhaps it would be most useful if I were to explain my involvement in business improvement districts, after which I would be delighted to answer members' questions.

Prior to the introduction of legislation in England and Wales, the Association of Town Centre Management was invited to develop and deliver a national BID pilot. I directed the pilot, which covered England and Wales and lasted for three years. The pilot operated at 22 sites, which were selected for their differences rather than their similarities, so that we could ascertain how BIDs might work in different circumstances. The sites ranged from major cities such as Birmingham and London boroughs to market towns and average-sized town centres. The pilot meant that we could feed into the process the practical experience of practitioners on the ground and the issues that they raised. That input helped to ensure that a robust piece of legislation was introduced, which—if I may use this phrase—did exactly what it said on the tin. The legislation has been in place for just over a year and we are lobbying for one or two changes, but the changes that we seek are minor and technical, because the legislation works well.

There are 22 BIDs in England. I have been heavily involved in BIDs and I believe that they are an innovative and stimulating concept, because they allow and encourage partnerships to engage fully with businesses. Even I have been surprised and impressed by the amount of interest, support and time that businesses have given to BIDs. For example, at the 22 sites in England, on an average 50 per cent turnout, 70 per cent of businesses have voted in favour of the BIDs.

If that is put into context, it is the first time in living memory in England—with the exception of the City of London—that businesses have been given an opportunity to vote. Businesses are not familiar with the BIDs scheme because it is new and it takes time to set up practices and procedures. It is also a new concept. We are effectively asking businesses to tick a box that says, "Yes please, charge me more money," yet 70 per cent of them on a 50 per cent turnout have ticked that box. As you will know, elections often have a much lower turnout than that.

Businesses are taking an interest in BIDs, which are less than a year old, and they are making the commitment to get involved, putting their experience into the pot, taking the time to read the business plans, and then getting out and voting. That is extremely impressive. Whatever the format, and whether a BID is voted for or against, such a level of engagement has to be good for the areas involved.

I would not say—and I hope that no one would suggest—that BIDs are the panacea for every problem in every business environment, because clearly they are not. They are a hefty tool and they genuinely give businesses an opportunity to identify what they want, to vote on whether they want it and—if it is brought in—to control the process from start to finish.

The Convener: Thank you for those introductory remarks.

Dr Sylvia Jackson (Stirling) (Lab): I am pleased to hear how well the pilots seem to be going. I have a general question: are the Planning etc (Scotland) Bill and the subordinate legislation that will be made under it different from or broadly similar to the United Kingdom legislation?

The bill provides for joint arrangements. Have joint arrangements between local authorities been used down south?

An issue came up at the Subordinate Legislation Committee this morning—the power of veto under section 39. The power of veto might not apply to pilot projects, but has it been an issue to date?

Jackie Reilly: On your first question, I stress that I am not an expert on legislation, and that I have been involved only in the BIDs project, but I read the bill and compared it with the UK legislation, and I picked up some differences. Given those differences and my experience of working with and sharing experiences with the Scottish Executive and the Scottish town centre management initiatives, I imagine that the bill will address some of our concerns. The bill proposes that before a BID partnership can ask the local authority to undertake the vote, it has to demonstrate that 5 per cent of businesses will support it. Under the English legislation, the BID

partnership does not have to demonstrate anything: it simply has to tell the local authority that it is ready for the vote and ask it to carry it out.

From our point of view, careful thought will have to be given to how support for a vote can be demonstrated without people having to say which way they intend to vote. There might be issues about how businesses can be reassured that they can demonstrate their support for a vote without taking away their right not to say which way they intend to vote.

The Scottish proposals stipulate that there must be a voting turnout of at least 25 per cent of those who are entitled to vote, and that they must account for 25 per cent of the aggregate rateable values. There is no minimum in England. Some businesses were concerned about that. However, that is positive, because it is reassuring to businesses to see that we are not encouraging weak partnerships to rush to the vote when they have not thought things through properly, they are not ready, or they do not have the required support—a situation that has not arisen in England to date. Those two stipulations will ensure that partnerships think twice and think carefully, and they will encourage the local authorities involved to ask what evidence partnerships have, which businesses they have been speaking to and how they can demonstrate that there is a groundswell of support before their proposals go through.

I have noticed two further issues, one of which relates to your question on the local authority's right of veto. Under the English legislation, in certain circumstances the local authority can veto the BID even after the vote has taken place. We thought that that was unfortunate, and we lobbied against it, but it went through nevertheless. It seemed to us that it would be unfair to a BID partnership—and, indeed, to businesses—to go through with a vote and pay the costs only to find after the vote that the local authority thought that the proposal conflicted with X, Y and Z. Surely the local authority would know that prior to the vote. Any robust partnership should work closely with its local authority. We would expect the local authority to say that it was not comfortable with the proposal and to discuss the matter with the businesses concerned way before the vote took place. That would be the essence of a good partnership. For us, the change that is proposed under the bill is welcome, as it says that the local authority must declare any veto prior to the vote. That is a step forward.

The other interesting change that I noticed was that the bill indicates that, as in England, BID proposers can ensure that they are successful in their ballot purely by going for a dual key majority. Alternatively, a proposal can stipulate what the percentage of the yes vote must be for it to be

accepted. In other words, a proposal could say that, irrespective of turnout and of whether a simple yes result is obtained, it would be desirable for at least 10 per cent of the businesses to vote yes. Our legislation does not allow that. I view that measure as positive, because a great deal of the development of robust partnerships lies in developing trust and confidence. That is a good way of doing things.

While I stress that I am not an expert, those are the changes that I identified. There might also be some slight changes that I have not picked up on.

You also asked about the power of veto. To my knowledge, the power of veto has never been used or discussed, given what I have already spoken about. We actively encourage all our pilots—there have also been successful BIDs that were not pilots—to involve the local authority literally from day 1. I do not know of a BID partnership that has not done that. The Association of Town Centre Management works closely with the Local Government Association and local authorities. We encourage all parties to be frank with each other and to ensure that they thrash out any issues. I am not aware of any discussions about the need to use the veto, and I sincerely hope that it never comes to that with a partnership.

I turn now to your point on joint arrangements. You raise an interesting question. I am not sure about political etiquette when it comes to mistakes. In England, the primary legislation, like the Scottish bill, says that there may be joint arrangements. Unfortunately, that was not covered by the secondary legislation, so the provision is not usable until the position is resolved. Various BID partnerships have considered work that would cross boundaries, but we have not been able to test that.

I say as an aside that, although we have not been able to test joint arrangements, they are necessary to address situations involving large areas that cross local authority boundaries. For example, one council might have concerns while another does not, or one local authority might want to invoice its own businesses while not letting the other authority do so. We are in no way opposed to such proposals, but the process would need to be thought through carefully. However, we have not had the opportunity to do that because the secondary legislation to cover such proposals has not been produced.

Dr Jackson: Is the problem that there is no commitment to introduce the necessary subordinate legislation or that there has been a time lag in introducing that subordinate legislation?

14:15

Jacquie Reilly: I understand that, when the secondary legislation was being drafted, there was insufficient time to work out the ins and outs of joint arrangements, so the provisions were simply left out. The difficulty now is whether the issue is considered important enough for it to be debated and for the legislation to be amended. We are in discussions about a number of small technical changes, including measures on joint arrangements. If it is decided that further consultation on those is necessary, joint arrangements will be included in the discussions.

Bruce Crawford (Mid Scotland and Fife) (SNP): For someone who is not an expert, Jacquie Reilly seems to have a pretty good handle on the legislation. I have a few practical questions for her about the experience in England.

The Mid Scotland and Fife area that I represent includes a couple of towns with populations of between 50,000 and 60,000. Outside the town centres of Dunfermline and Perth, we have out-of-town shopping experiences consisting of the B&Qs of this world, Sainsbury's and other organisations of that type. Many people would blame those out-of-town experiences for undermining town centres. Has there been any discussion in England of how to capture businesses that are in the immediate vicinity of BIDs so that they contribute to the levy and help to reinvigorate the very town centres that they perhaps undermined in the first place?

My next question—I have a series of questions—is about how charity shops are treated. Do charity shops pay the full levy? Unfortunately, the towns that I mentioned have a plethora of charity shops.

Among other statistics, Jacquie Reilly mentioned that 70 per cent of businesses ticked the box in favour of a BID. I would be interested to hear how that vote broke down among the small businesses, nationals and, indeed, multinationals that inhabit our town centres.

Finally, which projects or activities that have been undertaken by BIDs could not have been carried out by local authorities or other public authorities? Could public authorities have worked in partnership with local businesses to provide the facilities and changes that have taken place?

Jacquie Reilly: Out-of-town and edge-of-town developments are always an interesting issue for debate. The Association of Town Centre Management was involved in that debate long before the development of BIDs. Given the title of our organisation, we naturally work with town and city centres, so we are well aware that the businesses that we work with have a continuing concern about the erosion of business and its transfer to out-of-town centres.

On the question whether the net could be drawn wider so that out-of-town retailers pay the levy, I should say that that is not the concept of business improvement districts. BIDs involve drawing a ring round a recognised area in which every business that benefits must contribute to the funding of the BID's projects and services. A business improvement district is what it says it is. It is not a philanthropic gesture or a community district or a general benefit district. The purpose of a BID is to improve the trading environment or public realm for the businesses within the area. If a BID proposal will not do that, businesses should not vote for it. I hope that I have established that premise.

If a borough-wide BID proposal that included out-of-town or edge-of-town businesses was voted for and met the criteria, those out-of-town businesses would indeed pay the levy and they would benefit from the projects and services. That is the concept of BIDs. However, a town centre or small urban area that sought a competitive advantage would probably identify the projects and services that would set it out as better than elsewhere and as a place to which people would want to come. The likelihood would be—this has been the experience so far in most BIDs—that businesses would go for a BID that was not borough-wide, but which was limited to a specific area. Some BID proposals have involved just two or three streets, some have included a whole town centre, and others have been limited to an industrial estate or business park.

Any major businesses in a BID area—there are some in most BIDs—pay the levy as well. For example, consider the grocery industry, which was discussed recently in a report on small shops. The BID in Coventry has a Sainsbury's—a large one, not a small local one—but it pays the levy the same as other businesses in the area, and it benefits from the projects and services. The answer is not simple, but the legislation allows the boundaries to be drawn as widely as possible, provided that it can be demonstrated to the businesses that the projects and services are to be provided for all of them. The idea of BIDs is not to tell businesses that they have to pay a levy to support something, such as school transport or the erosion of out-of-town shopping, for whatever reason.

On charity shops, the secondary legislation allows for BID proposers to decide which businesses should and should not be involved, which should and should not be exempt, and how the levy is to be charged. The businesses then vote on whether that is appropriate. The proposers therefore decide whether charity shops will be liable for the full levy, exempt or given a discounted rate. A mixed view has been taken on that. Some businesses take the view that charity

shops should contribute to the pot because they already have the benefit of reduced rates or no rates, even though they sell brand new stock and so affect other businesses. Indeed, some charity shops feel that, because they are as affected as other businesses by issues such as crime—they can be more affected by crime, because they tend to be manned by voluntary staff who are not trained and who may be more susceptible to money being grabbed from the till—they benefit more from BID projects and services and are therefore willing to pay. In other areas, the view has been taken that charities should not be charged. The important point is that the issue is covered in the BID proposal and the businesses in the area decide whether it is appropriate.

I turn to the breakdown of votes among small and large businesses. One of the most positive features of the legislation is the dual key majority provision, which means that small and large businesses have an equal say. It is important to get smaller businesses to vote, because a BID partnership needs 50 per cent or more of those who vote to vote in favour, as well as needing those who vote in favour to represent 50 per cent of the rateable value of the voters. One BID proposal failed in Maidstone, where a vote was taken last February, because it was supported by major businesses but not by small businesses, which demonstrates that the legislation works. The voters who supported the proposal represented 60 per cent of the rateable value of those who voted, which was a reasonable amount and higher than the 50 per cent that is needed, but only 49 per cent of businesses voted for the proposals. The small independent businesses did not feel that the proposal was right for them and they did not support it.

In the past three years, I have spent a great deal of time talking to businesses, including accountants and other professional businesses that would benefit from having an improved area for their clients to come to and which would get more passing trade than one might think because more people would notice their businesses. Such businesses value BIDs and think that it is worth getting involved because they can influence the process. Too many times in the past, such businesses have been invited on to partnerships or committees along with a Marks and Spencer or Boots that is the biggest anchor store in the town and which completely controls what happens because it has made a voluntary contribution. Smaller businesses understand that BIDs are designed so that that does not happen and so that their input is equally important.

Finally, I turn to the issue of projects that could not have been done without BIDs, of which there are loads of examples. The purpose of BIDs is to provide additional products and services, which

means that businesses should not vote for them if the proposed changes are not additional to the public services that are already provided. We could argue that such schemes could be voluntary and that legislation is not required.

Finding sustainable funding can be a problem. I set up three voluntary schemes and ran them for several years. We went to businesses and identified the projects that they wanted to deliver, and we often found enough funding for the first year. However, we could not take on some projects because we knew that they would take five years and we were not sure that we would get enough funding. If an area faces such problems, a business improvement district can be the solution, because it guarantees the income stream for whatever period is voted on and agreed to—perhaps three, four or five years. The BID can tell people how the money will be spent, how the project will be managed and controlled, and how it will demonstrate at the end of the term that it has done what it said it would do. The BID creates a sustainable funding mechanism. Many of the projects and services that are delivered by BIDs in England simply would not exist without that secure income and revenue.

Bruce Crawford: How do you treat non-business property owners in business improvement districts? Do they pay the levy voluntarily? Can they opt out?

Jacquie Reilly: The legislation in England does not cover property owners. As I am sure you know, there was a huge debate about that. The identification of property owners is a problem for us when we try to involve them in BIDs. In the case of businesses, the levy is attached to business rates, but there is no mechanism for invoicing property owners and ensuring that they pay.

Our view is that property owners benefit from business improvement districts and, given the concept that those who benefit should contribute, we think that property owners should make a contribution. In the absence of provisions to that effect in the legislation, we encourage BIDs to secure voluntary contributions from property owners. That approach is quite successful, but the downside is that it is successful mainly with the large property companies, which are willing to come to the table and discuss the matter. For example, Prudential, Land Securities and Grosvenor fund all 22 BIDs in England in one way or another, and they often make a substantial contribution.

Under Plymouth's BID proposal, the levy will bring in £250,000 per year, the local authority will give £178,000 and local property owners will give £100,000. That is a large contribution, but we are concerned that most of it will come from one or

two large property owners. Often, other property owners who benefit from a BID do not contribute to it. We would welcome a way of involving them formally.

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): I am still recovering from Bruce Crawford's description of out-of-town shopping experiences.

So far, we have talked about BIDs in urban areas, but I assume that they are equally applicable to cohesive rural areas such as glens or small remote communities.

Jacquie Reilly: The legislation in England and Wales allows any business community to propose a BID, but it might be difficult to create a cohesive group of businesses with similar requirements for projects and services if they are spread out. There are no examples of BIDs in rural areas in England, although there are BIDs in business parks and industrial estates, so they are not all in town and city centres. Someone who proposes a BID can draw as large a ring as they like, identify the relevant businesses within that ring and put the proposal to them, but there could be difficulties in rural areas. In areas where pilots start with a large red ring—for want of a better expression—it is often necessary to shrink it because businesses in one part of the ring have different needs to the others. In such cases, the BID might end up with a huge, unwieldy business plan because it is trying to please everyone while not delivering anything successfully.

14:30

I think that we will start to see several different BIDs in distinct areas that, within a broader area, come under one BID. I will explain that in a slightly more articulate way. In Blackpool, for example, a BID has been secured for the town centre. The seafront businesses, which have very different needs although they are only two minutes' walk from the town centre, are also interested in a BID. The idea is to have one overarching BID company in Blackpool that would cover all the management costs of the administration and to have two, three or four different BIDs in areas in which businesses have voted for them with projects and services that are specific to each area. It might be possible to do that in the sort of area that you describe, but it would be quite a challenge to have one BID for a large rural area.

Mr Arbuckle: Are the existing BIDs in England eligible and applying for funding sources for which they would previously not have been eligible, such as lottery funding?

Jacquie Reilly: They might be eligible depending on what other structure they set up, but business improvement districts that have set up not-for-profit limited companies have vehicles to

secure funding. By having the levy, they also have leverage, which is equally important. We have always advocated a cocktail of funding, which has been the case in town centre management. The last thing that we wanted was for BIDs to be a mechanism to allow us to say that, because the private sector was contributing, we did not want anything else and would stick to the levy. That is not what we proposed and it is not what is happening in business improvement districts in England; they all have a cocktail of funding and use the levy to supply and secure grants to contribute and add to the BID's benefits.

Mr Arbuckle: Will you give us an idea of the level of levy or the variation in levies?

Jacquie Reilly: There is a misconception in England that the levy is 1 per cent of rateable value. It is not, but that figure has been used a lot because national chains were concerned. For example, Boots has 1,400 sites in the United Kingdom; if every one was in a business improvement district and all those BIDs went for a levy of 20 per cent, Boots would have to pay out a huge amount of money. The national chains said early on that, if the levy was to be more than 1 per cent, a strong case would have to be made for them to consider joining a BID.

That is why that figure is bandied about but, in fact, there are different figures. Many levies have been 1 per cent, but some have been staggered. For example, Birmingham has a staggered leisure BID in which leisure businesses in the centre of the BID pay 2 per cent, non-leisure businesses in the centre of the BID pay 1 per cent and businesses on the outskirts of the BID pay 0.5 per cent. Rugby also has a banding structure, but the BID in Bolton has a levy of, I think, 4 per cent.

There is variation. The important point about that is that it is not about telling businesses that we have drawn a red ring around their area, have worked out their rateable value and can get £X. It is about asking what projects and services would address the issues that an area has, how much they would cost to run and whether, if the cost were split equitably, the businesses would be willing to pay it. It is also about changing the business plan according to whether businesses are willing. Our experience is that, if we do it that way, businesses start to say that they do not care if a BID will cost them more money because they want something to happen and will vote for a particular levy. I have been at a meeting where that has happened.

It is important to deliver what businesses want fairly and equitably, so we must find a mechanism that ensures that we can say to a business that its portion of the contribution is £X because of a particular calculation. The levy does not have to be a percentage of rateable value—it could be £50

for everybody, or those with the largest shop frontage could pay more than those with a smaller shop frontage—but it is important that the businesses that are voting for it have been involved in the process and feel that what is being considered is fair and equitable.

David McLetchie (Edinburgh Pentlands) (Con): Is it fair to say that the idea of putting business improvement districts on a statutory footing instead of making them voluntary is tied to the funding mechanism and is a means of creating a legal basis for exacting compulsory contributions from all businesses in the area?

Jacquie Reilly: It would be fair to say that the purpose of a business improvement district is to ensure that, if a proposal is put forward and enacted, it is paid for by everyone, not just by some people. For the past 15 years, comments on that particular matter have been levelled at people in town centre management. I can tell the committee with hand on heart—because it has happened to me—what can happen when proposals are made for an activity.

You knock on the door of every business and ask, “What issues would you like to highlight?” The people in the business say, “Well, the place is not very impressive; actually, it’s a bit dowdy.” I was once told that hanging baskets were what was needed. So I said, “Okay, I’m the town centre manager, I’ll go and find out how much hanging baskets cost and what else is involved in putting them up”. Because nothing is ever straightforward, I got involved in all kinds of issues, such as working out how to put up the baskets, finding out whether we had the right pillars and so on. After all that, I told the 30 businesses that attended the subsequent meeting, “Yes, we can put up hanging baskets in the two streets you’ve suggested, but it’ll cost £20,000. I’ve applied for some grant funding and the single regeneration fund people have told me that they’ll give me £10,000 if I can match it with funding from business. Do you want to do this?” Every hand went up. Everyone wanted to do it and we agreed an equitable form of payment. However, when I trotted around with forms, I could only manage to get two businesses to sign up. The other businesses that had said that they wanted the baskets did not want to sign up and pay. In the end, those two businesses, which were major national chains, footed the £10,000 bill themselves.

The idea behind business improvement districts is to ensure that, if you go through the process and tick the box, everyone has to contribute.

David McLetchie: So that is why it will have a statutory basis. It is all about the money.

Jacquie Reilly: But there is no doubt that, with regard to such bids, we are talking about a

particular funding mechanism. As with any other funding mechanism, it is a process for securing funding.

David McLetchie: You mentioned additionality and said that any services must be additional to those provided by the council. Of course, another debate centres on the level of services that the council should be providing from the business rates that businesses already have to pay. Perhaps you could comment on your experience in that respect. For example, what is uniquely business-oriented about closed-circuit television coverage in a town or city centre that requires it to be funded by businesses as a supplement to their rates?

Jacquie Reilly: That is for businesses to answer. However, I should point out that most businesses do not believe that they should contribute to CCTV provision, although some are happy to contribute to its maintenance. It depends on the area. Some proposals have not gone through because businesses have not agreed to them. It is all to do with the strength of the legislation. If businesses do not believe that there is a business case for a proposal, they do not vote for it and it does not happen.

However, in some cases—such as on industrial estates in Bolton—businesses believe that CCTV is the answer and do not expect the public sector to fund it. They have funded it themselves. Last week, I met a gentleman who has made and serviced tractors on one of those industrial estates for 30 years. In the past, his business, which was one of five branches in a company, would be targeted at night; someone would simply throw a brick through the window, climb inside and then disappear with some very expensive part. Because the business kept getting broken into and kept having to claim for stolen goods, its insurance company not only increased the insurance premiums but kept increasing the minimum claim value to the point at which the business could not claim for less than £1,500. Because the business had been losing an average of £1,500 to £2,000 each month, the parent company was planning to close it.

The business worked with the local authority and other businesses to develop a BID. Part of the funding went towards fitting an alarm in every business on that industrial estate. New fences were put up everywhere and speakers were installed, so that if the businesspeople saw anybody in their area, they could say through the speakers, “We can see you: move away or we will call the police.” New floodlighting and CCTV cameras were also installed. Since then, there have been no break-ins, so the businesses have saved themselves money. The insurance company has accepted that the BID is an

accredited scheme and insurance payments have come down.

The businesses did not expect public bodies to set up the scheme, which has been successful for them. As they are on an industrial estate, a scheme such as theirs might not be wanted in a town centre, but the example demonstrates that the purpose of the scheme is to understand the issues, to agree with the businesses what they are willing to pay for—if they are willing to pay—to improve their trading environment and then to put the proposals to them. It depends on the area as to whether businesses think that they should fund such a scheme.

The only other useful point that I want to make about additionality is that it does not have to have anything to do with public services; businesses might want something that one would not expect any public body to provide. For example, there is a BID in an office area in the States that funds a crèche. The problem there was that staff could not work in the area because there were no crèche facilities. I do not have a similar example for England, although there are two BIDs there that are all offices and no retail.

We have also introduced baselining and service level agreements through the BID process. We recommend that if businesses identify issues that link to public services, they should identify clearly in the BID what the local authority does and get it benchmarked in writing. Businesses may have had no idea how often streets were cleaned, for example, or to what standard. They would say, “We’ve got a lot of issues and we are willing to pay for chewing-gum removal, fly-poster removal, graffiti removal and for steam-cleaning of the streets. But we want to know what the local authority does and whether, if we start paying for those services, it will stop doing what it’s doing because we are doing too good a job.” That happened in Plymouth.

Our recommendation—and as far as I know this has happened in every BID—is that BID partnerships go to the local authority and ask for information in writing about how often the local authority cleans a certain area and to what standard, as well as an agreement that that will not change on the introduction of a BID. For the first time, businesses then have a clear understanding of how a street is maintained, an agreement that it will be maintained to a certain standard and an opportunity through their partnership to monitor the service to make sure that the standard is maintained. I know of BIDs that flag up that things are not always done because they have a document that explains to them what should be done.

David McLetchie: You spoke about a baseline. Is there a statutory basis in the legislation to

establish that baseline? You cannot go around levying extra taxes on businesses for services unless there is a clear agreement about what is additional, as opposed to services that should be paid for out of the rates that those businesses already pay. Is additionality enshrined in statute?

Jacquie Reilly: The legislation is clear that there has to be additionality, but it does not go so far as to say, “You cannot put a BID proposal to the vote if you don’t have a baseline agreement.” I point out again that if businesses are not happy, they will not vote for a BID. There are cases in which BIDs have not been voted for because they have not demonstrated the business case to the businesses.

We spend a great deal of our time now—and we are much rewarded—trying to encourage businesses to exercise their vote and get involved in the process. We operate a free advice line and we get calls every day from all sorts of businesses that are taking an interest. As far as we are concerned that interest can only bring benefits, because even if businesses do not vote for a BID, they will be encouraged to talk and to bring issues to the table. A BID will not be right for everyone and some of the issues that are raised might be matters about which people should lobby, rather than matters for a BID. However, there is engagement and businesses become involved in the dialogue that we have often struggled to achieve in the past.

14:45

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I seek factual clarification about BIDs. I am sure that you have studied the bill that we are considering. Section 31 says:

“A local authority may in accordance with this Part make arrangements ... with respect to an area (a ‘business improvement district’) comprising all or part of the area of the authority.

The purpose of BID arrangements is to enable the projects specified in the arrangements to be carried out for the benefit of the business improvement district or those who live, work or carry on any activity in the district.”

Am I right in saying that no business that is situated outwith the identified district would be required to pay a contribution?

Jacquie Reilly: Yes. A proposal for a BID must include a map that shows the proposed district’s boundaries with a red line. Details of every street in the district must also be given in writing. If there are to be exemptions, for example if charity shops are to be excluded or if offices are to be excluded because the district will include only retail businesses, the exemptions must be made explicit in the business plan, so that the people who vote are clear about what they are voting for and,

equally important, so that it is clear who is entitled to receive a voting slip. Anyone outside the district will not be included in the process.

Fergus Ewing: Would businesses outside the district be required to pay a contribution?

Jacquie Reilly: No.

Fergus Ewing: You will anticipate my line of questioning, because I e-mailed you details yesterday afternoon. I did that because I thought that you might be unfamiliar with circumstances in Inverness, which I represent. It is generally accepted that Inverness city centre has been neglected during past decades, so many of the traditional smaller businesses have expressed incredulity at the suggestion that such neglect can be redressed by their paying more tax. As is the case in other cities, there are new retail parks on the outskirts of Inverness and there has been controversy about Tesco's dominance of the market since a recent survey revealed that Inverness shoppers spend 51 per cent of their money at Tesco. Why should the small traders of Inverness support a scheme that would require them to pay extra tax, but for which Tesco would pay none?

Jacquie Reilly: The situation is not as straightforward as you suggest. We are talking about a concept that creates competitive advantage for a business area, should businesses identify projects and services to which they want to contribute. It might be right and proper to say to a business that is miles from the city centre, "It's your fault that there is a problem in the city centre, so you must pay for that." However, that is not the purpose of a BID. In a BID, the people who benefit from projects and services pay for them and the area benefits from that. The Association of Town Centre Management has worked for more than 15 years in town and city centres. We spend all our time working with businesses, many of which are independent, on matters such as grants for shop fronts, better access for freight or affordable training for retailers. The BID process involves the identification of an area in which businesses want to take the opportunity to introduce projects and services that will give them a competitive advantage and enable them to improve their bottom lines. If a business case is developed that can stand the test of being reviewed by all the businesses in the area, which decide to vote for it, the BID can go ahead. The BID concept does not allow scope for businesses to say, "That business, which is not in the district, must also pay."

Fergus Ewing: I understand that and I think that we agree about the fact that Tesco would pay nothing—

Jacquie Reilly: Unless it had a store in the area.

Fergus Ewing: Tesco is not in the area.

Jacquie Reilly: In that case, it would not be asked to contribute. The bill allows for a business that is outside the area to be asked for a voluntary contribution—nothing says that that cannot be done—but such a business would not be involved in a vote or a compulsory levy.

Fergus Ewing: Inverness is by no means alone, as many other towns and cities share the out-of-town retail centre experience. If a BID covered a city centre, businesses there would pay and businesses outwith the area would not.

I want to hear the city centre management view on a point of principle. In its submission, the Federation of Small Businesses argues:

"It is ... important to remember that small businesses already pay more in rates as a proportion of profit and turnover than their large competitors"

and it refers to a report of last year by DTZ Pinda Consulting, which found that that was the case. I have always found that to be true from speaking to people about their rates. The rates bill for a small retail unit on the high street of any city in Scotland is very high and is a much higher proportion of turnover or profit than that of Tesco, for example. Do you accept that that is correct? If so, do you agree that we need to redress that unfair imbalance and to level the playing field between small and large business before we tax business even more?

Jacquie Reilly: I can comment only on BIDs, because I am not an expert on other matters. The ATCM is consulting its members on a response to the report by the House of Commons all-party parliamentary group for small shops, but our view in general is that we agree with that report and recognise the imbalance between out-of-town and in-town shopping.

In some areas, such as Bedford, the Federation of Small Businesses completely supports the BID proposal, because the case has been made and the FSB feels that a BID would benefit independent businesses. The Rugby BID is another in which small, independent businesses supported the BID proposal much more than the national chains did and felt that it was essential. Our conclusion from that, and other BIDs in which we have heard from small independent businesses, is that it would be unfortunate to not allow BIDs until other issues had been resolved, especially as businesses support the concept when the business case is made. BIDs that have been supported form the higher percentage; five areas have not succeeded in making the case and securing businesses' support, but 22 have made the case.

The Bedford BID is worth examining because it has been in place for more than a year. Small

independent businesses in Bedford voted for that BID, which the FSB supported, and the results in the first year show that that BID has delivered what it was said that it would. I understand that businesses there are extremely happy with the results.

Fergus Ewing: I have no doubt that we will hear about that from the FSB in due course. However, I do not get that impression from businesses in Inverness, as opposed to Bedford. One concern of those businesses was well expressed by the FSB member Graham Russell, who owns the Mill Warehouse (Borders) in Musselburgh. He raises another general point that I am interested in the city centre management view on. He says that a

“major concern is the lack of a level playing field for the high street compared to that faced by out-of-town developments. This is strangling the very lifeblood out of the high street. Worse still, the encircling of many high streets by ever more out-of-town developments ... is the admitted policy of many of these companies.”

Of course, supermarkets offer their customers free parking in locations that are readily accessible by car and by public transport, whereas people must almost always pay—sometimes very high charges—to park in city centre high-street locations. Is that not another reason why BIDs are not the answer? The answer is to remove the existing imbalances between high streets and out-of-town developments.

Jacquie Reilly: As an organisation we recognise the erosion of trade from town and city centres to out-of-town sites. The two issues that are regularly brought to our attention by the businesses with which we work are the selling of non-food goods and free car parking. However, I can only reiterate that addressing those issues is not the purpose of business improvement districts. BIDs are not just for town and city centres. The purpose of BIDs is to provide a tool that allows businesses in an area, if they so wish, to get together to put forward a proposal. Without in any way suggesting that the issues that have been raised are unimportant and do not need addressing, I do not agree that rejecting legislation that would allow partnerships to consider using a BID mechanism would go any way towards solving that problem.

As I said at the beginning, BIDs are not a panacea and they will not be right for everybody. However, we certainly need robust partnerships between the public and private sectors so that we properly engage with businesses. Partnerships should be about more than just the manager of a local large retail store chairing a meeting at which two or three businesses come together for a chat once a quarter. I do not mean to deride those kinds of partnerships, but we also need active business partnerships that deliver things on the ground and establish a track record in making a

difference. Such partnerships can, with consultation and engagement, make good BIDs and are positive.

I do not in any way suggest that those other issues are not serious. They are, and they certainly need to be addressed.

Fergus Ewing: My final question is on the detail of the Executive's plans. I gather that, in what has been called a pilot exercise for BIDs, one applicant will receive a grant of £300,000 and four other local authority applicant bidders will receive £50,000 for improvement schemes that are designed and signed up to by traders. However, I understand that a feature of the pilot is that the Government—possibly through local authorities—will put up the cash and businesses will not be asked to pay anything. That seems to me to be more a bribe than a pilot. The essence of BIDs is that they involve both public sector and private sector cash, but the so-called pilot will not involve that second key component. It is not surprising that, when offered £300,000 of investment in their city centre, a majority of the small number of people who replied to a recent questionnaire said yes. They want the money, but do not want to pay anything towards a BID. Is not the alleged pilot a waste of time that will be of no use in evaluating whether the scheme should be adopted on a wider basis?

Jacquie Reilly: I have been involved in the committee that considered the proposals for the development of that pilot, but I think that it is inappropriate for me to comment on the issue. It is for the Scottish Executive to explain the pilot, but I do not think that that description of the pilot is actually how it will work.

Fergus Ewing: On a point of fact, am I correct in saying that businesses in the pilot area will not be asked to pay a contribution?

Jacquie Reilly: As I understand it, the pilot will provide seedcorn funding, which is desperately needed for any BID. We actively, although unsuccessfully, lobbied the English Government to provide such funding to enable, for example, a person to be employed who could start talking to businesses and developing a proposal to put to businesses. It is not appropriate for me, as someone who only sits on the Executive's committee, to explain the pilot, but that is my understanding of the matter.

If it helps, I might add that we had two pilots in the rest of the United Kingdom. However, an important point is that the purpose of a BID is to develop proposals for which businesses, if they vote in favour of them, will contribute to the pot. For example, although the circle initiative pilot in England was fortunate enough to secure funding to run demonstration projects, a difficulty was

created by the fact that businesses were then told that services that had been provided free for two years would be stopped unless they funded them. It is far better to develop proposals with businesses. If businesses vote for them, they will happen; if they do not, they will not.

15:00

The Convener: That brings us to the end of our questions.

Bruce Crawford: May I ask one tiny question to put me out of my misery?

The Convener: Okay. You may ask one small question.

Bruce Crawford: Where is the pilot in Scotland?

Jacquie Reilly: That has not been announced yet, which is why it would be inappropriate for me to comment on the matter.

We have a website that may be useful to members. I think that Bruce Crawford asked about percentages and more facts and figures. There is a table that shows all the percentages on ukbids.org. If members have any other questions, we would be happy to answer them or send them out to our pilots.

The Convener: Thank you for giving evidence, which is useful, particularly given your experience of BIDs in England.

I welcome our second panel. Niall Stuart is the Federation of Small Businesses' head of press and parliamentary affairs. The FSB has provided a written submission to which Niall Stuart has submitted a slight amendment—he has corrected a figure in point 3 on page 2. The original paper gave the figure of 25 per cent, but the figure should be 50 per cent. Therefore, if members wish to quote, they should do so from the revised paper that they have been given today.

I invite Niall Stuart to tell us about the FSB's position on BIDs. We will then move to questions and answers.

Niall Stuart (Federation of Small Businesses): As our written submission says, the FSB is opposed in principle to the concept of business improvement districts. There will be a pretty clear response if our members, or small businesses, are asked whether they would like to pay more in business rates for what may be additional services. They will say that they already pay enough in business rates and that local authorities already have resources that they should use to deal with security or lighting problems or problems to do with access to certain areas.

Fergus Ewing asked the previous witness about what was happening with pilots and demonstrations in Scotland. I understand that there was a proposal for a pilot or pathfinder area in Perth but local traders voted to reject the idea. That demonstrates the concern among small businesses in many parts of the country that business improvement districts will mean that businesses will have to pay extra money but might not get additional services.

Two or three questions were asked in the previous session about the baseline of services. There is real concern that if businesses start to pay for services in business improvement districts, they will, over three or four years, pick up the tab for services that local authorities, whose services are obviously partly funded through business rates, may have paid for. Very few problems in town centres or other business estates cannot be solved within the existing framework. Local authorities and businesses could work together much better under the existing arrangements to identify problems, develop solutions to them and deal with them.

The point that Jacquie Reilly made is correct. If the bill is passed and a framework is set up that allows business improvement districts, those districts must be business led. If businesses are not going to be involved and are not going to identify problems and propose solutions, the schemes will not get past the ballots. If business improvement districts go ahead, it is vital that businesses are involved at every stage of the process and that they identify problems and propose solutions, because their money will ultimately pay for the solutions.

The Convener: Okay. I open up the discussion for questions. While members are thinking about their questions, I will start off.

I appreciate the fact that businesses may feel that they pay sufficient in business rates for the services that are delivered locally. What would you say in response to the point that came out in the questioning with Jacquie Reilly, that there are 22 business improvement districts already up and running in England and that, in each case, the majority of businesses—in terms of both number and rateable value over the area—voted in favour of the BID? Clearly, those businesses voted in favour because they perceived a business advantage in doing so. Why should we deny businesses in Scotland that opportunity?

Niall Stuart: I fully understand the question. However, as I said in my opening statement, I would like to look at each of those 22 BIDs to see whether the proposals were for CCTV, extra policing, chewing gum cleaning, or whatever else. Local authorities and police boards already have a role in providing adequate levels of policing,

lighting, CCTV and so on, if there is a problem. The mechanism to do those things already exists. If we could get businesses and local authorities working together better within the current frameworks, we could do all the things that BIDs set out to achieve.

Any legislation has costs and benefits. Our worry is that the up-front costs to business would, in many cases, outweigh the benefits of BIDs. That is why, in principle, we are not in favour of BIDs. Jacqui Reilly mentioned Bedford, where the FSB has been an active supporter of the BID. If the bill is passed, the FSB will not be fighting every proposal that is made. We will ask our members whether they are aware of a proposal and whether they agree with it, and we will ask them to use their vote to influence the final outcome because, if they do not use the democratic set-up that exists to decide whether a BID will go ahead, there is a good chance that they will be landed with an extra 1p or 2p in the pound on their business rate.

A series of frameworks already allows local authorities to identify problems and work with businesses to solve them.

The Convener: If businesses perceived that a BID proposal was merely an attempt to substitute for services that a local authority already provided or should provide, surely they would just vote it down.

Niall Stuart: There are black and white and all sorts of shades of grey in between. A BID may pre-empt a local authority starting to take action. A BID might last for five years, within which time the local authority might have identified the problem and started to take action to deal with it. Perhaps, at the end of those five years, the local authority would have been providing the service and picking up the tab for it; however, because that was pre-empted by the BID, local businesses would pay for the service.

Bruce Crawford: As this conversation unfolds, one thing that comes to my mind is the difference between the approach that large towns and cities might take and the approach that the small satellite towns that surround them might take. Businesses in Perth voted against a BID, but I could foresee a situation in which there was a vote in favour of a particular part of Perth getting an improvement district, businesses came together to make that happen and local authorities were compelled to contribute to that and the Blairgowries and the Kinrosses, where there are small businesses with less throughput, found it more difficult to vote a BID through because it was not as easy for them to find the extra pennies, so they would not get the capacity that would come from the local authority matching any money that they might have been able to contribute.

Although the process might suit some larger towns, I am concerned that some of our smaller satellite towns will miss out. I do not know whether the FSB has had a chance to think about that yet or about the impact on smaller businesses in the smaller towns.

Niall Stuart: I will deal first with your point about local authorities matching funding and so on. As I understand it, most town centre management partnerships already receive money from local authorities and local enterprise companies along with voluntary contributions from business and European funding.

Let us say that a town centre management partnership has a budget of £0.25 million. The business improvement levy would raise £100,000, and that would take the nominal budget up to £350,000. However, we are concerned that the local authority, Scottish Enterprise or voluntary contributors who were not caught up in the BID would then say that the partnership had plenty money because it had received the business improvement levy and that had increased the budget. Therefore, instead of the partnerships getting additional funding, their existing funding would disappear and the same amount of money would have to be raised from different places.

You made a point about more thriving town centres raising more money. The issue is critical mass: the more businesses there are, the more money is raised and, hopefully, the more money there is to provide services. Rural areas and small town centres would have to levy a significant extra sum on the business rate to get a critical mass of funding to enable anything worthwhile to be done.

We also worry that the proposal will work in places such as Glasgow, Edinburgh, Aberdeen and Dundee town centres. However, they already do big jobs; they have a big footfall and they are doing pretty well. The BIDs will exaggerate the differences between the areas that are doing really well and those that are suffering.

There is a follow-up point about rural areas. People have asked whether BIDs have to be in town centres. If the BID concept was to be applied to two or three villages in a rural area, it would lose any coherence. Different places would have different problems and they would want different solutions. Again, it would be difficult to raise a significant enough sum of money to provide a service that would make a difference to the businesses in those areas.

Bruce Crawford: I looked at the papers that the Scottish Parliament information centre provided. They mention pilot projects and demonstration projects. Perhaps I should not have been, but I was surprised to find that the prospering city and town centre areas should be considered as part of

the demonstration projects. If those areas are prospering, surely there is no such need for a BID. Yes, the towns might want to take themselves higher—I accept that—and obviously some city centre renewal areas and town centre renewal areas have been accepted for demonstration projects. However, I was surprised to see the prosperous places being considered. What does the FSB think of that?

Niall Stuart: The answer is quite simple. The biggest fans of the BID concept are town centre management partnerships. They see the BID as another source of revenue to fund what they do. From conversations with people throughout local government and the small business sector, it seems that there is not a critical mass of support for the proposal. Town centre management partnerships support it because they think that it is an opportunity.

Fergus Ewing: Yesterday I gave Niall Stuart notice of the situation in Inverness. The previous witness, Jacquie Reilly, confirmed that in the Inverness situation, which is by no means unique, Tesco would pay absolutely nothing towards the BID scheme because the defined area for the proposal covers only city centre shops. Does the FSB think that it is fundamentally unfair that small businesses would have to pay more, yet the likes of Tesco and other megastores that usually operate with free parking on out-of-town sites would have to pay nothing at all?

Niall Stuart: That comes back to the issue of the projects being business-led. I sat on the steering group that made the original recommendations to ministers on the framework for business improvement districts. Despite everything that was talked about and all the literature that was passed around that said that the projects must be business-led, it is apparent to me that the people who are leading on the projects are those who worked for town centre management partnerships.

If the Inverness traders had been involved from the outset and had had an opportunity to talk about the problems that they face and about possible solutions that would make Inverness city centre more attractive and enable them to compete with Tesco, they might have come up with solutions that they wanted to pay for. However, as I understand it, the application to the Scottish Executive for a pilot or demonstration project in Inverness did not have input from small businesses in the Inverness area. It certainly was not led by businesses in the Inverness area. That is why there is such disquiet among businesses that have realised that they might have to pay an extra 2p or 3p in the pound on their yearly business rates.

15:15

Fergus Ewing: Does the FSB agree with the Scottish National Party that the problem with the existing tax burden of business rates is that small businesses pay too much and businesses that operate from larger premises pay too little? Do you agree that there is a strong case for shifting the burden so that small businesses pay less and large businesses such as Tesco pay considerably more? That could be done without changing the overall tax take from business rates.

Niall Stuart: Absolutely. When you interrogated the previous witness you referred to a Scottish Executive report, which explicitly states that small businesses pay more in business rates as a proportion of their turnover and profits than do large businesses. The small business rate relief scheme has gone some way towards ameliorating that effect, but there is a strong case for making that scheme available to more businesses and for making the scheme more generous, to eliminate the phenomenon of small businesses paying a greater proportion of their turnover and profits.

Fergus Ewing: In this morning's *The Press and Journal*, a spokesperson from Tesco was quoted as saying, in response to a question about whether Tesco would contribute to a BID scheme:

"If an approach was made we would have to look at it. I cannot guarantee we would contribute".

However, according to Jacquie Reilly, Tesco would not be approached, because it is not in the proposed district. Unless Tesco made a voluntary donation, which I presume it would not do, Tesco would pay nothing and small businesses in Church Street and Academy Street would pay 2p or 3p in the pound on top of their current rates. I presume that the FSB opposes such a plan, although for reasons that I do not understand the Confederation of British Industry Scotland has come out in favour of higher taxes—albeit with various conditions.

Niall Stuart: As I said, the approach is not being driven by small businesses or even bigger businesses; it is being driven by town centre management partnerships. If the partnership in Inverness had worked more closely with small businesses to come up with a proposal that the businesses could support, I do not think that there would have been such fallout in Inverness city centre.

Fergus Ewing: The BID idea reminds me of the late President Reagan's remark that the 10 most feared words in the English language are, "I'm from the Government and I'm here to help you."

We know that businesses will pay nothing during the so-called pilot—one businessman in Inverness says that it is a bribe, not a pilot. The so-called pilots will receive cash from the Executive in what

seems like a Government game show that offers a first prize of £300,000 and second prizes of £50,000. What are towns and cities realistically expected to do to improve their cities with £50,000? Surely such a sum is inadequate to effect major improvement of the sort that was described today, whether we are talking about fitting burglar alarms or installing closed-circuit television. Does the FSB agree that there is not much point in running the pilot exercises—even if that were an accurate way of describing them, which it is not?

Niall Stuart: I understand that there will be two kinds of demonstration project. In one project, which is referred to as a pilot project, £300,000 will be allocated to show what can be delivered if local authorities and businesses work together. In another four projects, a grant of £50,000 will be provided to enable the local authority to liaise with businesses and put together a proposal for a BID, so that soon after the Parliament passes the bill, businesses will be ready to vote on whether to set up a BID.

I guess that if I was scrutinising the bill, I would say that that perhaps pre-empts the Parliament's decision on whether or not business improvement districts should go ahead. Even as the bill is going through the Parliament, people are getting ready to enable them to vote on the very day that the bill is passed, if it is passed.

Fergus Ewing: I could save the Government £200,000 by offering to liaise with businesses in Inverness free of charge. I know that they do not want BIDs. I hope that the Minister for Finance and Public Service Reform is listening, so that I have saved the Executive £500,000. That would be a good day's work.

Dr Jackson: Before I ask my question, I ask you, convener, to ensure that we are all privy to the same information when we have our next meeting and take evidence on the BIDs proposal. I find it really irritating that one person on the committee seems to be privy to a lot of information that none of the rest of us knows about.

The Convener: In fairness to Mr Ewing, if he has carried out research in advance, he is entitled to bring questions about that to the committee. Any member is entitled to do whatever homework or research they wish to do in order to question witnesses.

Dr Jackson: Now that the information is in the public domain, can we get it? All I am asking is that it is made available to us for our next meeting.

Mr Stuart, would you like to amend the BIDs part of the bill in any way?

Niall Stuart: The FSB is opposed to the concept of business improvement districts. We think that

most of—if not all—the things that people hope to achieve through them can be achieved within existing frameworks.

That said, the bill provides one or two safeguards for businesses. First, 5 per cent of local businesses must have demonstrated some level of interest in a business improvement district before a proposal can even begin to go ahead. Secondly, for the vote to be valid, there must be a 25 per cent turnout among businesses that are eligible to vote. Both those conditions do not apply south of the border; they apply only in Scotland. They provide two additional safeguards to small businesses and some reassurance that BIDs will go ahead only if small businesses support them. The other safeguard is the 50 per cent dual mandate, whereby a simple majority must be in favour of the BID for it to go ahead and that majority must represent 50 per cent of rateable value. Those conditions provide safeguards for smaller businesses, which is what I was there to do when I sat on the steering group that made recommendations to ministers.

Michael McMahon (Hamilton North and Bellshill) (Lab): I first encountered BIDs when the committee considered the rate revaluation situation, two or three years ago. Although I have not kept a close eye on their development, I have kept an interested perspective on them as I have seen them develop in England. Can you explain why this idea that emerged in England and has continued to develop in England does not fit in with the business attitude in Scotland?

Niall Stuart: It is quite simple. If businesses are asked whether they think that they already pay enough in non-domestic rates, they will say yes. If they are asked whether they get a commensurate level of service in return for those rates, they will say no. Businesses expect many of the improvements that we have talked about to be funded from non-domestic rates and other forms of general taxation that are already levied.

The idea of BIDs originated in the USA, where there is such low investment in the public realm that businesses saw all sorts of opportunities in creating BIDs. I do not think that that situation exists in Scotland. We have fairly high levels of taxation and expenditure and we have active local authorities that get involved in all aspects of local life. I do not think that it is fair to import the model from the USA into Scotland.

The long and the short of it is that, if businesses are asked whether they would like to pay more in tax, they will say no.

Michael McMahon: Is the problem the fact that we are calling it a tax? In my experience, town centres already run their own projects. They ask local forums or what have you to make

improvements—environmental improvements, safety improvements, pedestrian improvements and road improvements. That already happens. Is it the idea of formalising that and calling it a levy or a tax that is the issue?

Niall Stuart: Whether it is called a tax or a levy, the key difference is that, at the moment, contributions are voluntary. Businesses ask, “Is this going to benefit me? Is it going to benefit the business? Is it going to benefit the location?” and they make a decision about whether or not to contribute. Businesses are worried that, once a BID is approved, they will be compelled to pay the extra money whether they like it or not. As I say in my written submission, the worst-case scenario for small businesses is that they will end up paying more money for services or physical infrastructure improvements that they do not want. The worry is that businesses will pay more and will not get back what they put in.

David McLetchie: This is a quick, example-type question. Would I be right in thinking that a project that is funded by the City of Edinburgh Council—for example the Hogmanay celebrations or Edinburgh’s Christmas—which has been successful and gets a substantial amount of public funding is the kind of end-of-term festival that could be funded from a business improvement district?

Niall Stuart: Pretty much anything can be funded by a business improvement district. It is up to local authorities, businesses and local enterprise companies to work together to come up with a proposal. There is no list of what can and cannot be included. Obviously, because it would have to go to a vote, it would have to be something that local businesses felt would benefit them and the local area if it was to go ahead. If businesses felt that that kind of focal event or celebration was lacking, there would be nothing to prevent a business improvement district from proposing that.

David McLetchie: That brings us to the issue of balance. Some businesses—hoteliers, and so on—would benefit substantially from such an event while others would not. The benefit of any such project would not necessarily be universal, would it?

Niall Stuart: No. The legislation allows the proposer of a business improvement district to say which businesses are in and which businesses are out. Even within a given locale, it can exclude retail or office-based businesses. The BID can include or exclude public sector buildings. There is also the issue of whether or not landlords are included. When such matters are considered, the BID becomes very complex and it is difficult to articulate to businesses exactly what is on offer, who is going to pay for it, how much they are

going to pay and what the benefits will be. When you start to get involved in whether businesses that benefit more should pay more, the whole thing starts to lack coherence and it is difficult to sell it to the business community.

Tommy Sheridan (Glasgow) (SSP): You have touched on the situation in Perth. You talked about the pilot scheme in that area not getting rich welcome from local businesses. Do you have specific figures for consultation with your membership on business improvement districts? Did you conduct a poll or a survey? If so, what were the results?

Niall Stuart: The federation has 32 branches across Scotland, each of which has a committee meeting once a month. A delegate from each branch meeting is then sent to one of four regional committees, which also meet once a month. A delegate from each of those regional committees is then sent to a policy meeting of what is effectively the executive committee of the FSB.

Tommy Sheridan: You make it sound like a Politburo.

Niall Stuart: Yes, a little bit. It sometimes feels like it.

Fergus Ewing: That is a good sign, I presume.

Niall Stuart: The matter has been discussed at branch meetings, which have fed their views up to the regional meetings. Representatives of those meetings have then sat around the table at a policy meeting, had a debate on the issue and taken the line that the federation does not think that the increased cost to business of BIDs will bring the commensurate benefit to business. Therefore, we oppose the proposal.

Tommy Sheridan: Was a solid line taken, or was there some fraying at the edges?

Niall Stuart: If you ask most businesses whether they want to pay more, they will give you a clear answer. If you ask, “Do you feel that you already pay sufficient tax to fund investment in public services and infrastructure?” almost all businesses will say, “Yes, of course we do, but we do not think that we get the service that we deserve from that investment.”

Paul Martin (Glasgow Springburn) (Lab): Do some businesses accept that CCTV systems, for example, have contributed to an increase in profits over the years? CCTV systems have detected antisocial behaviour outside nightclubs. Such investment can bring benefits in the long term.

15:30

Niall Stuart: I am sorry. I did not hear the first part of your question.

Paul Martin: To put it simply, do you agree that additionality can result in increased profits? I used the example of investment in CCTV systems.

Niall Stuart: If the business community identifies a clear problem that has a clear solution, such as the situation that you describe, in which a nightclub has a problem with antisocial behaviour on its doorstep, I can understand that a BID might offer one way of securing the money to pay for the solution to the problem, whether the solution is the installation of CCTV or the deployment of extra police at a certain location at night. However, if CCTV or policing is inadequate, there is an onus on the police and local authorities to work together to address the problem. A BID is not necessary to resolve such problems.

There are countless examples in Scotland of traders who work together voluntarily and make voluntary contributions that pay for improvements such as hanging baskets, which the previous witness mentioned, or free bus services. Businesses can work together to fund such improvements.

Paul Martin: Do you agree that additionality, whereby a business is asked to make an additional contribution to local services, can lead to an increase in a business's turnover? There is no doubt that that can happen. It is not just a question of people saying, "We don't want to pay"; we must demonstrate that paying for something extra can have a good effect on turnover.

Niall Stuart: I agree that that can happen in cases in which there is a specific problem, which has an obvious solution that will benefit businesses.

Paul Martin: Were you incorrect when you said that every business would say, "I'm not paying an additional contribution"? Businesses must see the benefit of paying for something extra. Perhaps we should be clearer about that.

Niall Stuart: There is a benefit if there is already a well established baseline level of services that council taxpayers and non-domestic ratepayers can expect from the local authority and police. However, in the current environment, in which there is no such baseline, it is hard to demonstrate that money that is raised through a BID will provide an additional service or a service that should not be funded through the local authority's general revenue stream. If there is a clear problem, there is an onus on local authorities and the police to put in place a remedy.

The Convener: That brings us to the end of questions. Thank you for your evidence, which has made a useful contribution to our analysis of the bill.

Subordinate Legislation

15:33

Perth (Pilotage Powers) Order 2006 (SSI 2006/49)

The Convener: Item 2 is consideration of items of subordinate legislation, the first of which is the Perth (Pilotage Powers) Order 2006 (SSI 2006/49). No member has commented on the order, the Subordinate Legislation Committee has made no comment on the order and no motion to annul has been lodged. Are members content that we have nothing to report on the order?

Members indicated agreement.

Council Tax (Electronic Communications) (Scotland) Order 2006 (SSI 2006/67)

The Convener: No points have been raised by members or by the Subordinate Legislation Committee in relation to the Council Tax (Electronic Communications) (Scotland) Order 2006 (SSI 2006/67) and no motion to annul has been lodged. Are members content that we have nothing to report on the order?

Members indicated agreement.

Non-Domestic Rating (Electronic Communications) (Scotland) Order 2006 (Draft)

The Convener: The Deputy Minister for Finance, Public Service Reform and Parliamentary Business has joined us for consideration of two draft orders that deal with different matters, so we will have separate formal debates on them. We will consider first the draft Non-Domestic Rating (Electronic Communications) (Scotland) Order 2006.

I welcome George Lyon and officials Nikola Plunkett, Julie Kane and Christine Munro, who are here to support the minister. The instrument has been laid under the affirmative procedure, which means that Parliament must approve it before its provisions can come into force. It is normal practice for the committee to give the minister the opportunity to make an initial statement and thereafter for the committee to ask questions of the minister and his officials prior to the official debate. I remind members that if they want to ask any questions of the officials, they will have to do so at this point and not when we are in the formal debate.

Mr Lyon, you have the opportunity to make an initial statement to the committee, then we will go to questions and answers.

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): Thank you, convener. The draft Non-Domestic Rating (Electronic Communications) (Scotland) Order 2006 will enable local authorities to issue bills for business rates electronically, rather than on paper, to people who wish it. The order provides that bills can be issued either by e-mail to the individual, or by making the bill available on a website. This will bring the position in Scotland into line with that south of the border.

I highlight that the order merely makes an enabling provision for local authorities. In order for an individual to receive his or her bill in an electronic format, both parties—the individual ratepayer and the local authority—must agree that the bill is to be issued electronically. By ensuring that the consent of both parties will be required, we will avoid placing any burden on individual ratepayers or on any local authority.

The changes to the legislation will not require that people receive or issue notices in this way; however, where it is appropriate to do so, issuing bills electronically to business rate payers has the potential to generate resource-releasing savings for councils and greater convenience for ratepayers across Scotland.

The legislation is complemented by a similar draft statutory instrument for council tax bills, which I understand the committee has also considered today.

The order is a part of the devolved Government of Scotland's on-going commitment to e-government and the provision of Government services electronically wherever that is feasible. We are fully committed to delivering the challenge that is set out in the partnership agreement to deliver excellent public services to the people of Scotland. The order further highlights our commitment to keep Scottish public services focused on customer needs and to deliver our public services efficiently, using technology that is fit for the needs of the 21st century.

I will be happy to discuss any issues arising from the committee's consideration of the draft order, and my officials will be happy to answer any technical questions that might arise.

The Convener: Thank you, minister. We will start with a question from Sylvia Jackson and then go to Tommy Sheridan.

Dr Jackson: I have two very quick questions. You said that electronic bills will be issued if it is agreed. What is the procedure for agreement? What will happen when a business gets a new owner?

George Lyon: The system is an opt-in system. The local authority must be willing to use the new

technology and the business must be willing to receive the bill electronically. If there is a change of business owner, I imagine that the new owner will have to re-register and state to the local authority that they are willing to receive their bill electronically in the future. Nikola Plunkett can describe the technical measures that will be needed for a business to register that it wishes to receive the bills electronically.

Nikola Plunkett (Scottish Executive Finance and Central Services Department): It will be for the local authorities to set up those mechanisms. As it is presented today, the draft order does not outline how that should happen because we believe that it should be left to local authorities to determine.

Dr Jackson: I am sorry; I did not hear you very clearly. Did you say that it will be for the local authority to decide how that will be done?

Nikola Plunkett: That is correct.

Dr Jackson: Can you go on to the question about a new owner?

Nikola Plunkett: The agreement will be between the local authority and the ratepayer, so if a property passes to a new owner, the new owner will have to agree to receive their bill electronically.

Dr Jackson: When you consulted them, did local authorities suggest how they envisaged that that would happen?

Nikola Plunkett: No; we did not receive responses of that type. We received a small number of responses to the consultation and they were all neutral or made no comment.

Tommy Sheridan: My first question is almost exactly the same as Sylvia Jackson's. I envisage disagreement in the future over whether someone has paid their bill if they have agreed to receive their bills in electronic form. You are suggesting that it will be entirely a matter for local authorities to deal with. Is there no pro forma that the Executive could suggest that would make it clear that someone had registered on a specific date at a specific time to receive bills in that way? Are you saying that it is a matter for local authorities alone?

Nikola Plunkett: We have not suggested a pro forma.

George Lyon: I understand that some local authorities are currently using a system that allows businesses to receive their bills electronically.

Julie Kane (Scottish Executive Finance and Central Services Department): West Lothian Council has looked at the proof of concept of doing that where it is billing companies with which it has that agreement. The problem is that there is no legal basis, should there be a dispute about the

payment of bills. That is why the draft Scottish statutory instrument is before the committee today. That council is, however, gaining efficiency savings in terms of the administrative process. The provision works both ways: it works for the service provider and the local authority and for the client, who has less of an administrative burden.

Tommy Sheridan: My questions come from a positive point of view, because the order is to be welcomed. However, as you say, we are trying to establish a legal basis for future disputes over non-payment or disputed payments and I am worried that, in the course of such disputes, there will not be a clear indication of what represents registration or opting in. The minister said that it will be an opt-in scheme, but what will constitute opting in? Will that be recorded so that there will be no way that someone can say, further down the line, "We never received our bill"?

George Lyon: I imagine that local authorities will have to ensure that there is a proper registration process and that businesses that register with them are fully aware that, once they have opted in to the system and been registered, in any dispute over payment, both sides have been properly notified that that is how the businesses have asked for their bills to be sent out. The draft statutory instrument seeks to confer on the electronic communication that will send out bills legal authority that it currently does not have.

Tommy Sheridan: I am trying to prod the position a wee bit because we have a situation with summary warrants for council tax whereby there is no legal obligation to prove that an individual has not paid a bill. There is simply a presentation to a sheriff for a warrant to be granted, and all that the local authority has to prove is that it sent out the bill. Can you assure me that a similar problem will not arise here in relation to recovery actions? Will there have to be proof that a business has registered?

Nikola Plunkett: Yes. The system should work exactly as the system for a paper bill works. The draft SSI will not introduce any new appeal mechanism, nor will it change anything that already exists for a paper bill. If someone says that they did not receive their initial bill by e-mail, exactly the same procedure will be followed as if they had said that they did not receive their initial bill on paper.

Tommy Sheridan: Okay. I suppose that the difference is that proof would also be needed that that person or company had said that they wanted to receive the bill electronically. It is the registration part that I am concerned about.

George Lyon: I will try to clarify the issue that Tommy Sheridan raises. The use of electronic communications is subject to certain conditions'

being met. One of those conditions is that the notice can be accessed by the business and is legible to the same extent as if it had been sent in the usual paper format. That perhaps gives some reassurance.

Dr Jackson: Where in the draft order is it mentioned that both parties must agree that the bill is to be issued electronically? You made it clear in your opening remarks that that would have to be the case.

Christine Munro (Scottish Executive Legal and Parliamentary Services): That is covered in two provisions. The first is in article 2, which will insert a new provision into the Local Government (Scotland) Act 1973, on serving of notices. New section 192(8) of the 1973 act will provide that the address must be "notified to the authority". We take that notification to be the point at which a business agrees to notices' being served electronically. In other words, the point at which someone sends notification to the authority represents the agreement. There is a separate provision on agreement in new section 192(9), under which a notice may be published on a website when the authority notifies the person of the means of accessing the information

"in a manner agreed between them".

The provision will enable local authorities and businesses to agree on an approach that might be different from notification.

15:45

Dr Jackson: I want to be clear. Are you saying that new subsection (8) of section 192 of the 1973 act will say that there must be agreement and that the agreement will be given when notification is given?

Christine Munro: Yes.

Dr Jackson: Tommy Sheridan mentioned the appeals process. How would someone take up an issue if an error was made but the council insisted that it was in the right? Would the Scottish public services ombudsman deal with such problems?

Nikola Plunkett: If a ratepayer was adamant that the local authority had never sent them a bill, they would first try to resolve the matter by approaching the local authority. If agreement could not be reached, the ratepayer could approach the Scottish public services ombudsman because there would—I assume—be an issue of maladministration.

Bruce Crawford: I want to raise a minor technical matter. The draft SSI will require the consent of a minister in the Office of the Deputy Prime Minister. I presume that that is just to do

with the Electronic Communications Act 2000 and the requirement that Scottish ministers act

"with the consent of the Secretary of State".

Is there a difference between the ODPM and the secretary of state?

Nikola Plunkett: Sorry, where does the draft SSI refer to the secretary of state?

George Lyon: The SSI refers to a minister of state in the Office of the Deputy Prime Minister.

Bruce Crawford: The explanatory notes say:

"Section 8 of the Electronic Communications Act 2000 empowers the Scottish ministers, with the consent of the Secretary of State ... by order to modify any enactment".

However, on the SSI itself it looks as though consent must come from the ODPM. There might be a good reason for that, but I do not understand the difference.

Christine Munro: The requirements of section 8 of the 2000 act are that the consent of the secretary of state must be given. In legal terms, that means that any secretary of state can give consent. In practice, the ODPM deals with such orders, so it was agreed that the ODPM would give consent.

Bruce Crawford: Thank you for that simple explanation.

Mr Arbuckle: In article 2, new section 192(14) of the 1973 act mentions Christmas eve. Why? That is not a public holiday in Scotland.

Christine Munro: That is just a standard formulation, which we have used in other orders of this type, to make clear what is considered to be not a working day. The formulation gives legal certainty about such days, when people might not be working.

The Convener: That brings us to the end of questions, so we move to the debate on the order. Minister, do you want to make further comments before you move motion S2M-3991, in your name?

George Lyon: I have nothing to add to my opening comments.

I move,

That the Local Government and Transport Committee recommends that the draft Non-Domestic Rating (Electronic Communications) (Scotland) Order 2006, be approved.

Motion agreed to.

Valuation and Rating (Exempted Classes) (Scotland) Order 2006 (Draft)

The Convener: We move on to consider the draft Valuation and Rating (Exempted Classes) (Scotland) Order 2006. The minister is being

joined by another official, Norman MacLeod. Again, I invite the minister to describe the purpose of the order before we move to technical questions on it.

George Lyon: The draft Valuation and Rating (Exempted Classes) (Scotland) Order 2006 makes provision for the exemption from rating of offshore electricity generators. The first offshore wind farm in Scotland is expected to be fully operational in the next year or so, so the time is right to introduce the legislation, which is currently most relevant to wind farms, but will also exempt from business rates wave and tidal power electricity generators.

Renewable energy will provide a substantial contribution to Scotland's economy and will safeguard our environment from harmful emissions. With global energy demands increasing and fossil fuel reserves diminishing, the development of cleaner sources of energy is urgent.

The Executive is committed to developing a wide range of renewable energy technologies. In particular, we want Scotland to become the world leader in marine energy, which has an extraordinarily high potential. The rates exemption further underlines our commitment to the development of renewable generation in Scotland. It will also ensure that future offshore electricity generators in Scotland will be treated the same with respect to business rates as those south of the border. Without the order, we would not only break the harmonisation of valuation practice, but would potentially provide a disincentive to companies to site facilities in Scotland, so our communities would lose out on potential employment opportunities.

I will be happy to discuss any issues relating to the draft order that committee members would like to raise, and officials will be only too happy to answer questions on technical issues or issues that I cannot address.

Bruce Crawford: I welcome the order, but wonder what consultations have been held with the Crown Estate on the proposals, given that it will continue to levy a fee on offshore wind producers in the future. Have you encouraged it to take the same positive attitude that the Scottish Executive has taken?

George Lyon: As Bruce Crawford well knows, the Crown Estate is reserved, but we certainly hope that it will look sympathetically on Scotland's ambitions to develop offshore renewable technology and lead the world in that technology. I am not aware of its having proposed to make any charge or levy changes in respect of offshore generators.

The Convener: As members have no further questions, I invite the minister to move motion S2M-4021.

Motion moved,

That the Local Government and Transport Committee recommends that the draft Valuation and Rating (Exempted Classes) (Scotland) Order 2006, be approved.—[*George Lyon.*]

Motion agreed to.

The Convener: I thank the minister, Nikola Plunkett, Norman MacLeod, all members and members of the public and the press for attending the meeting.

Meeting closed at 15:53.

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