

# **COMMUNITIES COMMITTEE**

Tuesday 13 March 2007

Session 2

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## COMMUNITIES COMMITTEE

### 7<sup>th</sup> Meeting 2007, Session 2

#### CONVENER

\*Karen Whitefield (Airdrie and Shotts) (Lab)

#### DEPUTY CONVENER

\*Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

#### COMMITTEE MEMBERS

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

#### COMMITTEE SUBSTITUTES

Chris Ballance (South of Scotland) (Green)  
Alex Johnstone (North East Scotland) (Con)  
Christine May (Central Fife) (Lab)  
Mike Rumbles (West Aberdeenshire and Kincardine) (LD)  
Ms Sandra White (Glasgow) (SNP)

\*attended

#### THE FOLLOWING GAVE EVIDENCE:

Graham Marchbank (Scottish Executive Development Department)  
Des McNulty (Deputy Minister for Communities)  
Simon Stockwell (Scottish Executive Environment and Rural Affairs Department)

#### CLERK TO THE COMMITTEE

Steve Farrell

#### SENIOR ASSISTANT CLERK

Katy Orr

#### ASSISTANT CLERK

Catherine Fergusson

#### LOCATION

Committee Room 4



## Scottish Parliament Communities Committee

*Tuesday 13 March 2007*

[THE CONVENER *opened the meeting at 14:15*]

### Decision on Taking Business in Private

**The Convener (Karen Whitefield):** I open the seventh meeting of the Communities Committee in 2007. I remind all those present that mobile phones and BlackBerrys should be turned off. I have received apologies from Patrick Harvie and Tricia Marwick. I understand that Jamie Stone has been delayed but expects to join the committee later.

Agenda item 1 is a decision on taking business in private. Members are asked to consider whether to take item 4, which is a discussion on the committee's annual report, in private. Is that agreed?

**Members** *indicated agreement.*

**The Convener:** We previously agreed that item 5 should also be considered in private.

## Planning for Waste Management (Draft Scottish Planning Policy)

14:15

**The Convener:** Item 2 is draft Scottish planning policy 10, on planning for waste management. I welcome the Deputy Minister for Communities for this item. He is joined by Graham Marchbank, Graeme Purvis, David Reekie and Simon Stockwell. Thank you for joining us today.

Is the SPP likely to change in any way as a result of the consultation responses that you have received from interested parties?

**The Deputy Minister for Communities (Des McNulty):** In responding to that, shall I make a few opening remarks, or do you want me just to deal with the specific question?

**The Convener:** I would prefer you just to deal with the specific questions. I was not aware that we had asked you to prepare an opening statement. I am sure that we will cover in questions everything that would have been in your opening comments.

**Des McNulty:** I am sure that you will.

**Christine Grahame (South of Scotland) (SNP):** Send us copies via e-mail.

**Des McNulty:** I will do that.

I welcome the opportunity to discuss the SPP with the committee. The policy has been in place for 10 years—since 1996—as national planning policy guideline 10. Some additional advice on good practice has been issued through planning advice note 63, but the essential core of the policy has been in place for 10 years.

We have brought forward the preparation of the policy by one year, in response to stakeholder interest. There have also been major changes in waste management policy—in particular, with the publication of the national waste plan—and we are subject to challenging landfill directive targets. That is why the policy is being brought forward at this stage.

As we did for the planning advice note on community engagement, we are seeking to involve the committee, as well as all other consultees, in the preparation of the final SPP 10. We will wrap up all the comments that have been made—including comments from the committee—and turn those into a final document, probably in April to May. We intend to publish that document at the beginning of the summer, taking into account the various comments that have been made.

**The Convener:** Is it the Executive's intention that the SPP should reflect any advances in and

changes to waste management technologies and the new generation of installations that might be appearing? If so, how will you ensure that that happens on a rolling programme, instead of waiting for those changes to happen and taking them into account afterwards?

**Des McNulty:** What has propelled us forward is not so much changes in the technologies, as most of the technologies for dealing with waste management are relatively well established and there have been no significant technological shifts. If brand new technologies come along, we will revise the policy in that context. The driving force for bringing forward the preparation of this document is the frustrations that existed in the planning system, particularly in relation to waste management facility applications. We want to take the benefits of the Planning etc (Scotland) Act 2006—the widening of inclusion, improvements in efficiency in planning, the culture change and the streamlined processes that are coming through because of the act—and apply them to waste management installations, where we think that those things are particularly relevant, given the scale of public concern that often exists over such proposals.

We are not always going to be able to speed up the process by which approval is considered—it takes as long as it takes to get it right. However, we hope to streamline the process, cutting out unnecessary delays and giving people a better interface with the process when matters of contention are likely to arise.

**Scott Barrie (Dunfermline West) (Lab):** On that issue, given the poor perception of waste management facilities among the public, how can local authorities be encouraged to ensure—either collectively or individually—that development plans make sufficient provision for waste management?

**Des McNulty:** As politicians, ministers—not necessarily me, but the Minister for Environment and Rural Development and other ministers—will set the overall policy framework, especially for dealing with domestic waste but also, to some extent, for dealing with industrial waste. Ross Finnie has today published a paper on commercial waste, which constitutes about 75 per cent of total waste. That will link in with what we are trying to do in this document. The framework is set by politicians; it will be the industry that produces the applications that will have to be dealt with through the process.

We are hoping that the publication of this document and the pressure that will be placed on local authorities as a result of it will mean that they will incorporate waste management plans and waste management facility plans into their development plans. That is an important process.

Waste management should not be an afterthought to development plans. The two things should be brought together.

Larger waste management proposals would be quite likely to form part of the national planning framework. We would expect very large facilities to be part of that. We hope that, right the way through the different levels of the planning process—from major applications down to such minor issues as wheelie bins in Edinburgh—waste management will become part of the planning process and the culture that we are trying to build into the planning process will fit in with waste management so that it all becomes integral.

It is all about the pressure of a culture change in planning and ensuring that waste management is central to that. It is no accident that this is the first SPP that we are bringing forward after the PAN on community engagement. We are trying to prioritise and highlight the importance of getting this right, given the objectives that we have set for waste management. We have already set and agreed to targets for 2010, 2013 and 2020. We really must take this forward and ensure that the planning framework exists to deal with that.

**Scott Barrie:** I admire the aims and intentions, but how can we ensure that we have enough waste management facilities to enable us to comply with European legislation? What extra powers do you foresee will be necessary if local authorities do not co-operate as you hope they will?

**Des McNulty:** The penalties—both national and local—are considerable. If Scotland fails to achieve its waste management targets, infraction proceedings can be taken by the European Union. Also, if a municipal authority fails to meet its waste management targets, there are grant penalties that the Executive can impose. There is also the possibility of imposing fines on local authorities that fail to meet their targets. There are mechanisms to ensure enforcement, but we hope to avoid having to go down the enforcement route by issuing guidance and advice that require authorities, on a voluntary basis, to balance dealing with permissions through the planning arrangements and ensuring that they have the facilities in place to address the volume issues.

I am keen to ensure that we are not in the position that Glasgow City Council was in seven or eight years ago, when its existing waste management facility was coming to its end and it had nowhere to put the rubbish after that. That would be unacceptable. We need a mechanism to ensure that the combination of advice, support and a planning framework is coupled with penalties. We have notified penalties to local authorities in the past, under the landfill allowances scheme, so

there are mechanisms in place to ensure compliance.

**Dave Petrie (Highlands and Islands) (Con):** I want to continue on the theme of people's sensitivity to the proximity of landfill sites. The draft SPP does not provide fixed distances that should be maintained between waste facilities and settlements. What consideration was given to the inclusion of minimum recommendations for fixed distances, such as those for opencast sites, and how was the suggested distance of 250m for outdoor composting sites arrived at?

**Des McNulty:** I refer the specific details of your question to one of my officials. There is a general issue about putting fixed distances in advice of this sort, as that may not meet the particular circumstances of an installation. It is sometimes hard to define precisely what the distance should be in relation to a specific installation. We hope that people will operate within a framework of guidance and be guided also by scientific evaluation.

There is a judgment to be made in setting the distances, but we will monitor the situation closely. If there is evidence that waste facilities are being sited too close to settlements, we will review the situation. The judgment that we made at the outset was that we do not want to get into the minute specification of fixed distances to cover all types of installation. Simon Stockwell or Graham Marchbank may wish to say something on that.

**Graham Marchbank (Scottish Executive Development Department):** The advice on the distance of 250m for a composting facility came from a publication called "Planning for Waste Management Facilities: A Research Study". That document contains general siting criteria and suggests that 250m is a reasonable distance for outdoor composting. It talks about distances for other kinds of plant, as well. In fact, it says that some of them can be operated very close to what might be called a sensitive receptor, which might be housing. The distance for a leachate treatment plant, for example, is given as 100m, so things can come close.

On landfill, there is no advised distance in that document simply because of factors such as topography, the fact that it might be over an aquifer and much larger-scale considerations. Simon Stockwell may have something to say about the general impacts of the Landfill (Scotland) Regulations 2003 (SSI 2003/235) and on how we can apply those through the SPP without being too specific.

**Simon Stockwell (Scottish Executive Environment and Rural Affairs Department):** The landfill regulations reflect the terms of the European landfill directive. They say that, in

considering granting permits for landfill sites, a number of factors must be taken into account, such as the distance from the boundary of the site to residential or recreational areas. The regulations ask us to take account of various factors but do not specify formal distances.

**Dave Petrie:** Let us move on. We have heard from some witnesses that the environmental impact assessment process would be expected to address distances between a waste management facility and a settlement. How would that be done in practice? I am thinking along the lines of mitigating against such things as odour and wind-blown waste. Would such things be taken into consideration in identifying a site? I know, from past experience, that waste water treatment works can be a nightmare. The minister will be aware of that, too. There are measures that can be taken to control odour, but I wonder what consideration will be given to that issue.

**Des McNulty:** I yield to no one in my knowledge of the problems that are caused by waste water treatment plants. However, I will let Graham Marchbank or Simon Stockwell respond on the specific details of planning.

**Graham Marchbank:** I cannot say that I have any experience of waste water treatment plants.

**Dave Petrie:** I am making a comparison with the odour and wind-blown waste from landfill sites.

14:30

**Graham Marchbank:** I remember that point being made at the stakeholder session that was held two weeks ago. Odours do not respect boundaries or buffer zones, but they are dependent on a lot of moveable factors. The other thing that we say about cumulative impacts in the draft SPP is that, if it cannot be demonstrated that mitigation can be put in place through the wording of the environmental statement, the planning authority's decision might be that an application should be refused. That policy perspective is there in the draft SPP, but we also have the imperative of trying to meet our obligations to create new installations.

**Dave Petrie:** So mitigation procedures would be formally put in place.

**Graham Marchbank:** There would be a mix of the planning conditions attached to the planning consent and, importantly, the pollution control licence that the Scottish Environment Protection Agency would issue.

**Des McNulty:** The mechanisms for pollution control are, in a sense, separate legislative procedures under organisations such as SEPA. More specifically, local authorities' environmental health departments, as well as the operators, are the people who are responsible for running that.

One of the problems that might arise if we were to put rigid stipulations in planning is that the situation might be turned on its head. Areas around waste water treatment plants might become blighted for housing or other kinds of development because of the planning requirements in relation to such plants. I would be concerned about that, and I suspect that other members whose constituencies contain waste water treatment plants would not want to see a corridor created around those plants because of some relatively arbitrary planning stipulation.

**Dave Petrie:** Okay. The proximity principle states that waste should be transported to nearby facilities, preferably by modes other than road. Given the limitations of existing transport infrastructure in some areas of Scotland, how can that be achieved in practice? To be parochial, I ask that question in relation to the Highlands and Islands, in particular. Do you foresee significant cost implications in transporting waste by sea or rail as an alternative to transporting it by road, especially in servicing rural areas?

**Des McNulty:** One of the problems in the Highlands and Islands—arguably, it is an even greater problem in the south of Scotland—is the limited amount of infrastructure and the distances between bits of infrastructure, whether road or rail. We must recognise that we cannot overcome those obstacles in a planning framework such as this. We must be pragmatic about that. We need to ensure that the distribution of waste management facilities is such that it does not mean that material is being dragged over excessive distances where that is avoidable. I would have thought that it is a matter for the planning authorities in rural areas to take account of the geographical and transport infrastructure circumstances of those areas in deciding what their waste management strategies are going to be. For example, it would not be sensible to have a single waste management treatment plant in the Highlands.

**Dave Petrie:** There is an economic argument. Companies such as Tesco and the heavy goods guys say that they go by road because it is cheaper to go by road, even at 5 miles to the gallon, than to go by rail or by sea. In the SPP, you are fairly prescriptive in saying that you do not want them to use conventional road transport, so it appears that they would have to use rail or sea where the infrastructure for that exists. I take it that the favoured option would be for them to use rail or sea links.

**Des McNulty:** Where it is possible to use rail or sea links, or to make short road journeys to rail or sea transportation points, we should encourage that. However, we recognise that there are parts of Scotland where there are not many viable

transport options—we could probably identify them geographically. Therefore, there are limits on what we can achieve.

**Dave Petrie:** Would there be an option to work in partnership with the forestry industry to use its rail links and facilities?

**Des McNulty:** It would be logical for people to work in partnership and share facilities if there are opportunities to do so.

**Simon Stockwell:** There are examples of waste being transported by methods other than road. For example, waste goes from Edinburgh to Dunbar by rail. There is at least one proposal to transport waste by sea in the Highlands—I do not know its current status. People who have sites that might be suitable for waste management installations notify whether the site has rail links that might make the site more suitable for waste management.

**Graham Marchbank:** We are integrating land use and transport policies—another SPP deals with that—and we expect transport assessments to be submitted with planning applications for certain development proposals, so that consideration can be given to access to a site and what would go in and out of it.

**John Home Robertson (East Lothian) (Lab):** Mr Stockwell unwisely referred to Dunbar. The transport of waste from throughout the Lothians to the Oxwell Mains landfill site at Dunbar was sold to the local authority and community on the basis that virtually everything would go by rail. It is excellent when most waste is transported by rail, which is sometimes the case. No one knows that the waste is there, because it is contained, which was the objective.

However, I ask the minister to reflect on Murphy's law, which is that what can happen will happen. It is expensive to take stuff to the handling centre and get it on and off trains and people will find a way round doing that. Recently, notwithstanding the good intentions, more and more stuff has been transported by road, which means that there is more traffic and, because not all lorries are properly covered, stuff flies out of the back of lorries and makes the roadsides filthy. I emphasise the importance not only of setting an objective but of making contracts tight, so that waste is delivered by rail if it can be. Transport of waste by rail can work and is the right approach, but what more can you do to ensure that it actually happens?

**Des McNulty:** Enforcement is central and, as you said, a large part of that is contractual. If someone is asked to move waste from one place to another, their contract can specify standards.

On that point, and also in response to Scott Barrie's question whether there are enough sites,



it is important that, while creating an adequate number of sites, we do not lose sight of our recycling objectives. By pursuing those objectives more effectively, whether in the context of domestic or commercial waste, we reduce the number of waste management sites that are needed and we reduce the need to transport waste significant distances. We need a combined approach in which we get the planning framework and the management of waste right and we ensure that we have effective recycling initiatives at the point at which waste is created. Such an approach will create a virtuous circle.

**John Home Robertson:** Can more be done through SPP 10 or another mechanism to ensure that if an undertaking has been given to transport waste by rail, the stuff really is transported by rail and people cannot start taking liberties?

**Simon Stockwell:** Infrastructure might be funded by the strategic waste fund, which is the ring-fenced grant that the Executive gives to local authorities. We provide advice to authorities on how the money should be spent and how they should work with the private sector and communities. As the minister said, it is key that contractual conditions should be complied with, including conditions on transporting material by methods other than road, such as rail or sea. We can certainly remind authorities in the guidance on the strategic waste fund that we issue that they should ensure that they properly enforce contracts that say that material should be transported by methods other than road.

**The Convener:** I want to say something more before we leave the proximity issue. I listened carefully to what was said about flexibility and regulations in addition to SPP 10 that would be useful in considering the proximity between a landfill site and a settlement. The Scottish Executive thought that having a fixed distance between opencast sites and settlements was right. My experience in North Lanarkshire is that landfill often ends up filling up holes on sites that opencast mining has left. If it is good enough to have a fixed distance between opencast activities and settlements, why is it not good enough to have a fixed distance between settlements and landfill and waste management sites?

**Graham Marchbank:** One possible answer to your question is that distances are set for opencast coal mining and hard rock quarrying to some extent because coal and rock are blasted out of the ground and flying rocks are dangerous. I think that a distance of 500m is advised in those circumstances. The opposite happens with landfill, in that things are put back into the ground.

**The Convener:** I appreciate what you are saying, but for most of the time blasting in opencast mining will not occur right at the site's

boundary—it will occur at varying points. Landfill activity can have as much of a negative impact on a settlement—in fact, its impact will often be much worse as a result of lorries generating noise as they go backwards and forwards on the site and drop off landfill. That noise, even on a landfill site with a life expectancy of 10 years, can be far more sustained than the noise on an opencast mining site. If we reach our recycling targets—which I want us to do—the landfill site in my constituency, which is the biggest in western Europe and which had a life expectancy of 15 to 20 years, will in fact have a life expectancy of 25 to 35 years. We recognise that such activity is needed, but we must ensure that it does not have a detrimental impact on communities. One way of ensuring that it will not do so is by having a fixed distance between landfill activities and settlements.

**Des McNulty:** I appreciate your intention. Indeed, I would like to share my experience in that context. When I was a councillor in Glasgow, my ward included the major landfill site for Glasgow waste. That waste was often placed no more than 500yd or 600yd from people's houses and it was certainly a problem for those who lived nearby.

If we introduced a fixed distance between settlements and sites, I suppose that one of the problems would be that several sites would immediately be rendered inoperable. We must think carefully about how we should manage such things, and about whether it is correct to have fixed distances or whether we should ensure that the distance between a potential site and a settlement is taken into account with other environmental impacts in a proper environmental assessment before a new site is designated. Perhaps we should pay particular attention to that approach.

I am sure that the committee wants to discuss cumulative impacts. If a site has been used for rock quarrying or opencast activities and becomes a landfill site, the designations for the original circumstances might apply to the landfill site. That may give some of the protection that is being sought.

**The Convener:** We will move on to cumulative effects a little later.

14:45

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** Paragraph 10 of the draft SPP, which deals with waste management, health and the environment, refers to a study by the Department for Environment, Food and Rural Affairs that

“indicates that the treatment of municipal solid waste has at most a minor effect on health”.

Further, the draft SPP argues that

"Modern, appropriately located, well-run and well-regulated" waste sites, if operated well,  
 "should pose little risk to human health."

Those statements contrast with the evidence that we have received on petitions that the committee has dealt with in recent years. Community groups and individuals have called for health issues to be a material consideration in the determination of planning applications. I understand that communities are fearful because the draft SPP is not clear about where we should go and, in particular, SEPA's role in the matter. How will you address those concerns?

**Des McNulty:** SEPA's primary role is to regulate and monitor plant emissions of various kinds. It has a clear statutory duty in that regard. We rely on SEPA and council environmental health departments to ensure that all the environmental standards are maintained effectively.

One problem with a planning framework is that planners are typically not the best people to evaluate and assess the health impacts of proposed developments. We rely on other statutory bodies to evaluate the standards to which technologies should operate. The research and standardisation is generally done on a United Kingdom basis, although some is done on a Europe-wide basis. We have standards to which operators are expected to adhere and which are taken into account at the planning stage. Part of the planning process is to ensure that operators are aware of the standards that they are expected to meet and that plants are designed in a way that allows the standards to be met.

**Cathie Craigie:** That sounds fine, but communities have a problem with the lack of clarity in paragraph 10. In particular, SEPA's role must be made clear. Will you take that on board?

**Des McNulty:** We could certainly take that on board and mention SEPA's role explicitly in the paragraph. Perhaps we could provide a footnote that sets out the relevant statutory agencies that identify the standards. I do not know how long that footnote would be, but I am sure that there is a way of managing the matter so that people who read the document can access the information and find out who is responsible.

**The Convener:** The minister anticipated earlier that I would ask him about cumulative effect. He was right about that—he has obviously heard me mention the subject before.

We recently heard evidence from Ann Coleman of Greengairs environmental forum, who rightly pointed out the importance of getting right the criteria that will be used to judge cumulative impact. She pointed out that the criteria should not only be about the number of landfill sites in

proximity to a settlement, but should cover the size of the developments and, potentially, whether a landfill site in the area has recently ceased to be used. Greengairs, which is in my constituency, is a good example of that. It currently has western Europe's largest operational landfill site and North Lanarkshire Council's main tip, which is shortly to end its life, having been worked for a number of years. There have been other landfill activities close to the village, and a proposal for another landfill site is still on the table. Do you and the rest of the Executive acknowledge the concerns of villages such as Greengairs? How will you ensure that not only the number of activities but the size of a landfill site and the amount of operations that take place there are taken into account?

**Des McNulty:** The Executive, at both official and political level, is well aware of Greengairs—not least as a result of your highlighting the issues that have arisen, convener. What struck me about Ann Coleman's evidence was that she said that the relationship between the operator and community representatives had improved significantly, in comparison with what it was like 10, or even five, years ago. I do not claim that that is a result of the legislative framework that we have set up. The intention is to consider what went wrong at Greengairs in the past, what improvements have been made and what still has to be done in dealing with what is an exceptional circumstance that is still significant for the people living there.

We are trying to learn the lessons, particularly in relation to cumulative impact, when a site is hit, hit and hit again with landfill use. As you said, if a site is used once, that makes it suitable to be used subsequently.

The Executive has introduced the environmental justice fund, which I hope can assist places such as Greengairs by mitigating some of the impacts on the community. We need to find appropriate ways of dealing with cumulative impact that are based on a proper scientific and expert evaluation of needs, requirements and application. In places such as Greengairs, that would involve a full environmental assessment, rather than simply a process operated by planners. It is difficult to get that into planning guidance, but I hope that the guidance that we have put in place provides a framework in which exceptional circumstances can be dealt with much more appropriately than they were in the past.

**The Convener:** I am glad that you mentioned conducting a scientific assessment of how landfill impacts on a community. We have come some way and made some advances—for example, four years ago, cumulative impact did not feature in the planning guidance or legislation that dictated whether an activity could occur. However,

communities still need to be reassured and to have confidence that any application for a landfill site has been judged not just on its merits but on the science behind it to ensure that it makes sense for the site to be in a particular place. It is important to consider the cumulative effect of having a landfill site in close proximity to a similar development. How will the Executive provide such reassurance?

**Des McNulty:** Topography plays a part in all such sites—I do not know whether Graham Marchbank wants to say any more about how we deal with the issue.

**Graham Marchbank:** We take those points seriously. The 55 responses that we received to the draft SPP, including the response from the stakeholders panel, were certainly lively. One thing that we will come to terms with is the fact that, by and large, we will not be building new landfill sites. We will be building new installations that will generally be under a roof—in a tin shed, if you like.

There will still be a need for landfill sites, and they may be required in places where cumulative impact could have an effect. However, as I said earlier, if the effect is measured and seen to be too severe, the sites should not be allocated to those places under the development plan in the first place. Furthermore, if an application is made that cannot meet the requirements of the development plan, consultation responses and scientific evidence, it may be refused. There will still be a need for landfill sites, but the focus is shifting away from them. The Greengairs site may have a long life, but it will have that with the benefit of its existing planning consent.

**Simon Stockwell:** One major issue is waste data. Information on municipal waste is continually improving, and because we have been funding significant changes in recycling facilities and other infrastructure through the strategic waste fund, the Executive now has information on roughly how much we expect waste to rise by in the next 15 years and how we expect it to be treated. We have information that will tell us that we need X amount of landfill, Y amount of recycling and so on.

We have much less information on commercial and industrial waste. It is harder to get the information because of the wide variety of waste producers. However, one of SEPA's tasks in the next two years is to improve the data on commercial and industrial waste, to get more information about how much is recycled at the moment and then to reach a view on how much has to be put in landfill. That will give us a better feel for the need for landfill sites across Scotland for both municipal and non-municipal waste.

**The Convener:** A big challenge for the Greengairs operator is that, having spent a

considerable amount of money in an attempt to deal with the leachate problem, it has encountered additional problems because of the limited type of waste that is put into the site. It has no scientific explanation for why that waste is increasing quite radically the levels of leachate, and it has to invest heavily in the site again to deal with the odour problems. However, we will not go down that road as it gets very scientific and technical—at points, it is too technical for the local MSP, I must say.

**Cathie Craigie:** We all support working in and engaging with communities, and the draft SPP states that that is expected or required. What type of applications for waste management facilities will require pre-application consultation and environmental impact assessments?

**Des McNulty:** I think that the answer is significant applications, but do not ask me to define too closely what "significant" means in that context.

It will depend on the tier of planning in question. The national planning framework will cover sizeable proposals. At a local authority level, I would expect a new incineration plant or a landfill facility of a significant size to be the subject of a pre-application process. Something much smaller might not require the same pre-application process.

It will be for each local authority to establish its own definition of "significant". The matters that we are discussing are often so sensitive and controversial that the definition would not be a matter for planners alone but would involve local politicians and the local community, with the help of the guidance that we are providing.

15:00

**Graham Marchbank:** Some definitions will be in secondary legislation arising from the Planning etc (Scotland) Act 2006. I will not read it out chapter and verse, but paragraph 38 of PAN 81 suggests that significant applications might be ones that are contrary to the development plan or which require environmental impact assessments. Such applications could well include some waste management installations.

**Simon Stockwell:** When the private waste management industry gave evidence to the committee, it made the point that it now tries to engage with communities better than it perhaps did in the past. For significant infrastructure such as incinerators or landfill sites, the industry tries to engage with communities beforehand. There are also on-going community forums to discuss the operation of plants even after planning permission has been granted. The waste industry acknowledges the need for early engagement with communities.

**Cathie Craigie:** I accept that, as a result of the new planning legislation, communities will be encouraged to get involved with local development plans. I hope that people will be much more aware of what is happening with the use of land in their communities.

Minister, how can you be confident that pre-application consultation will engage local communities? As the convener said, some of the scientific information is very technical and is difficult even for an MSP such as her to understand. How can an ordinary member of the public be expected to read and understand the scientific assessments? What help and support can people expect from their local authority, perhaps through guidance from the Scottish Executive?

**Des McNulty:** You put your finger on a difficult issue. If we were to reduce the complexity of the scientific information so that it could be understood by every member of the public, some members of the public would be dissatisfied with the sophistication and rigour of the information. We are caught between a rock and a hard place. The important thing will be to ensure the maximum possible transparency. That is the guiding principle behind the SPP.

Rather than being introduced without any background, an application should be introduced by means of a development plan process so that people can be made aware of the criteria used in the application. The way in which an application is introduced should conform to the guidance that we are publishing on commercial, industrial and domestic waste. We will be asking for greater clarity on technical matters such as infrastructure and types of waste.

We are introducing a model policy for local authorities: we want them, when considering sites for waste management, to prioritise industrial land rather than other kinds of land. People will therefore be able to compare their local authority's decisions with the model policy, which will allow them to see whether the local authority is following best practice in Scotland.

We accept the need for local flexibility and a criterion-referenced system for waste management. We are integrating the national waste plan with the national planning framework and with secondary legislation on development plans. Those will make the process less of a one-off event and will ensure that the way that things are brought through is more systematic.

In the way in which we are designing the SPP, we are trying to ensure that the factors that have given rise to the concerns that were raised during your consultation and ours, which were about health, good neighbour agreements, enforcement

rules and so on, are explicitly dealt with in the documentation. We think that, through that much more considered and systematic framework, individuals who find out about a proposal for their area will be able to access much more information, which they can use to pitch their points of view. That is all that we can do. From the point of view of most members of the public, I do not think that reducing things to the simplest common denominator will be the best way to approach the matter. We need to make the mechanism as simple as possible, so that people can understand it, but we also need to give people detailed information if they want it.

**Cathie Craigie:** I accept what you have said, and I hope that that is the way in which we will operate in future.

Do you see any scope for public funds being made available to community groups so that they can access independent opinions on the scientific information? That is important because, regardless of the situation—whether it concerns a planning application to build half a dozen houses or a waste management plan—people take sides. Might assistance be made available to communities to enable them to engage their own experts?

**Des McNulty:** There is no centralised fund, although a limited amount of resources go to Planning Aid for Scotland in relation to the full range of planning activities.

Community groups can draw on the support of local universities and the relevant enforcement departments of the local authority. I can think of a number of examples of that happening in my constituency, and I am sure that you can think of examples in yours. Often, the difficulty relates to uneven access to or possession of resources. Some communities are much better resourced than others and are, therefore, better able to contest applications. We might need to examine that in the context of environmental justice and the support that comes to communities through community planning and other such mechanisms. I am not sure that the issue would be best addressed through the planning framework.

**John Home Robertson:** I apologise for the fact that I have been in and out of the committee room. I am also a member of the European and External Relations Committee, which is meeting in another committee room at the moment—these things make life interesting.

I offer the minister an example of a situation that shows that engagement with communities can work. Some years ago, Lafarge Cement UK spotted an opportunity to use its cement works in Dunbar to burn for fuel car and lorry tyres, recycled liquid waste and other quite worrying

material. Inevitably, when the proposal was made, the usual pressure groups came along and conjured up images of billowing black smoke going up the chimney and so on, and there was some public concern. However, following a lot of consultation and on-going public engagement involving the company, SEPA, the local authority and community councils, the proposal has been found to work well. All tyres from Scotland and tyres from the north of England, as well as other stuff, are disposed of in the cement works. I am the constituency member of the Scottish Parliament for the area and in recent years I have not received a single complaint or gripe about the handling of that material at that location.

Proactive engagement not only at the planning stage but thereafter—I emphasise the need for companies to remain actively engaged—can make a big difference and establish partnerships. It is possible to recycle waste and to recover energy from a wide range of materials when companies approach matters in the right frame of mind, but when companies try to hide things from people they get into a lot of trouble. I am making an observation rather than asking a question, but the minister might want to respond.

**Des McNulty:** Your comments accord with my experience. When a planning application for a major plant is made it is almost always a mistake not to inform people—or to misinform them—about it. Members of the public appreciate being given accurate, truthful information by companies that make an active attempt to engage with them, explain what is happening and deal with issues that they raise. I always argue that if a company is considering developing a waste management installation its public engagement strategy will save it much money and hassle in the short and longer terms.

**Scott Barrie:** How can we encourage planning authorities to make the provision of recycling or waste management facilities an integral part of commercial, industrial or housing developments?

**Des McNulty:** One way of doing that is by linking waste management strategies with the planning framework, at development plan stage or later, through development management, and by making it clear that we expect such facilities to be provided. We will make secondary legislation on development management on the back of SPP 10 and the Planning etc (Scotland) Act 2006, so the framework will push authorities hard in that direction.

I share your concern. Some local authority development plans are good, but many do not adequately reflect the national policy framework on recycling or provide an adequate mechanism for identifying sites for plants and getting developments approved. By publishing SPP 10

and setting the policy framework, we hope that a culture change in waste management and recycling will be part of the wider culture change in planning that we seek, so that the management of rubbish is not forgotten about or dealt with at the end of the process but is integral to a local authority's approach.

I hope that a combined approach involving grants, the strategic waste fund, landfill tax and the penalties that authorities will face if they do not meet European targets and comply with European directives will concentrate people's minds. In the past, authorities were left to get on with waste management and there was no overarching national policy framework, but that is no longer the case. Pretty strong levers are in place to ensure that local authorities and commercial companies—we should not forget that 75 per cent of waste comes from the commercial and industrial sectors—comply and plan to comply with legislative requirements, whether they are set by the Scottish Parliament or in European legislation.

15:15

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** On types of waste, several consultation responses said that the SPP did not refer sufficiently to non-municipal waste. Will the final SPP and the model policy provide more guidance on how non-municipal and special waste can be addressed through the planning system?

**Des McNulty:** I do not think that you had arrived at the meeting when I said that my colleague and yours, Ross Finnie, today published a framework on the sustainable management of commercial and industrial waste, which makes up 75 per cent of waste by weight. SPP 6 and the document that Ross Finnie has produced establish a framework that is fair across the municipal and industrial sectors.

**Mr Stone:** Has Ross Finnie touched on biomass? Will you tell us—or remind me—how the SPP will take account of the development of policies and technologies for dealing with such waste?

**Des McNulty:** I refer that question to one of my colleagues.

**Graham Marchbank:** We will deal with that in two ways. One way is through SPP 6—our renewable energy policy—which we hope to publish shortly and will consider the case for biomass to reduce greenhouse gases. As for building plant to use biomass as a fuel source, that ought to be as uncontroversial as a range of other waste installations is, provided that it is properly licensed and that the right locations can be found.

We see the link between SPP 6 and SPP 10 in dealing with biomass as a crop or renewable energy source and as a means of creating energy.

However, strictly speaking, biomass does not represent energy from municipal waste or commercial and industrial waste—it is an add-on. Some balances must be struck and we will take account of that. Next week, we will meet SEPA to discuss some finer points.

**Des McNulty:** I will add a point that is not particularly apropos of biomass. Combined heat and power networks present an opportunity for energy and waste to contribute to amenity and area regeneration. That has a considerable future. I hope that, as we move forward with the SPP 10 process, opportunities will arise to take full advantage of converting waste into energy.

**Dave Petrie:** Do you foresee waste management plants that are self-sustainable through renewable energy in the long term?

**Des McNulty:** Full self-sustainability might be too high a criterion to adopt, but the conversion of waste matter to energy can be an effective way of getting rid of waste material or reducing it to more manageable volumes. It is a virtuous circle. Whether that will reach 100 per cent may be questionable, but if it makes a percentage contribution it is valuable.

**Simon Stockwell:** That is true in relation not only to energy but to plant compost, for example. A market exists for high-grade, high-quality compost, which can offset the costs of running a plant.

**The Convener:** That concludes our questioning. Thank you for attending the meeting. The committee will shortly reflect on the evidence that you have given us and on previous evidence from stakeholder groups, and will consider what further action to take.

I suspend the meeting for a short comfort break and to allow our witnesses to leave.

15:19

*Meeting suspended.*

15:25

*On resuming—*

**The Convener:** We have heard from stakeholders and the minister and his officials about SPP 10. What issues do members think should be covered in further correspondence with the minister? Does anyone have any suggestions? I take it from the silence that everyone is happy.

**Dave Petrie:** Proximity is an issue that has to be addressed. Aligned to that are the mitigation procedures to combat the fears about odour and wind-blown problems.

**The Convener:** I agree. We should seek further guidance from the Executive on the distance between developments and settlements.

**Cathie Craigie:** We discussed the impact on health. It is important to have clarity in the SPP about the lines of communication and SEPA's role. Whether the Executive or any of us like it or not, people think that the health implications should be considered when an application is made. It is important that they understand how their concerns will be dealt with.

**John Home Robertson:** It is worth including in any report the general issue of the link between SPP 10 and the culture change in the new Planning etc (Scotland) Act 2006. We said all the way through our consideration of the Planning etc (Scotland) Bill that we hoped that communities would not indulge in knee-jerk opposition to proposals and that people would be aware that we all need hospitals, roads and waste handling. We invited people to accept that it is our waste and that we have to make provision for handling and storing it. There is a relevant link to be made in the narrative.

On proximity, the fact that a site should be a minimum of 250m from a settlement should not be the end of the story. There should not be an open 250m area; there should be bunding or screening or planting to provide mitigation. Ideally, the distance should be more than 250m. It is about not just the size of the belt around the development but its quality, to ensure that people do not experience noise and smells, for example.

I keep harping on about Dunbar and the need for on-going engagement between the operator and the community. I do not know whether that can be made a planning condition, but it would be worth while, because such engagement is mutually useful.

**The Convener:** Thank you. Your point about the tie-in with the 2006 act is important, but we should also tell the Executive that there needs to be a tie-in with other SPPs, such as SPP 6, which relates to biomass, the national planning framework, the national waste strategy and planning advice notes. We could ask the Executive to ensure that the links are clearly referenced, so that people can access the information easily.

15:30

**Dave Petrie:** We discussed renewable energy towards the end of the evidence session. Methane is created in many landfill sites and there is also wind or solar power, so consideration could be given to opportunities for utilising renewable energy to run plants, as long as it is not prohibitively expensive.

**The Convener:** The matter should be covered in SPP 6, but you make a fair point.

**John Home Robertson:** There are huge opportunities in that regard. I do not know what happens at Greengairs, but at Oxwell Mains enough methane is recovered to provide all the power that the cement works next door requires. If modern landfill sites are properly laid out, the recovery of methane can be very valuable.

**The Convener:** If members have no more comments, I will make a couple of suggestions. I asked the minister what changes would be made to SPP 10 as a result of the consultation responses. His answer was vague, which is understandable, but it would be helpful if he could provide us with details in due course.

John Home Robertson talked about transport in the context of the successful use of transport other than road transport to move waste to Dunbar. We should ask the minister how transport assessments for proposed developments can be incorporated into SPP 10.

**John Home Robertson:** We should add something about the risk of backsliding. People can start off with the good intention of transporting everything by rail, but something can go wrong and bad habits can creep into the system. We must keep an eye on that important issue.

**The Convener:** Finally, we should ask the minister to reflect further on the cumulative impacts of sites. Communities should be confident that we are not just paying lip service to the issue and that the approach will deliver for them when hard decisions need to be taken about how we manage our waste. Every community generates waste and a single community should not take more than its fair share of the burden—sadly, that is not the current approach.

Are members content that we cover those issues in correspondence to the minister?

**Members indicated agreement.**

## Subordinate Legislation

**Housing Revenue Account General Fund Contribution Limits (Scotland) Order 2007 (SSI 2007/73)**

**Housing (Scotland) Act 2001 (Alteration of Housing Finance Arrangements) Order 2007 (SSI 2007/74)**

**Home Energy Efficiency Scheme (Scotland) Amendment Regulations 2007 (SSI 2007/85)**

**Town and Country Planning (Prescribed Date) (Scotland) Regulations 2007 (SSI 2007/123)**

15:33

**The Convener:** Item 3 is consideration of four Scottish statutory instruments that are all subject to the negative resolution procedure. The Subordinate Legislation Committee has made no comment on the instruments and no motions to annul have been lodged. If members have no comments, does the committee agree to make no recommendations on the instruments?

**Members indicated agreement.**

**The Convener:** We move into private to consider items 4 and 5.

15:34

*Meeting continued in private until 15:59.*





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