

PUBLIC PETITIONS COMMITTEE

Wednesday 7 December 2005

Session 2

£5.00

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PUBLIC PETITIONS COMMITTEE

18th Meeting 2005, Session 2

CONVENER

*Michael McMahon (Hamilton North and Bellshill) (Lab)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)
*Helen Eadie (Dunfermline East) (Lab)
Mr Charlie Gordon (Glasgow Cathcart) (Lab)
*Rosie Kane (Glasgow) (SSP)
*Campbell Martin (West of Scotland) (Ind)
*John Farquhar Munro (Ross, Skye and Inverness West)
(LD)
*Ms Sandra White (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Frances Curran (West of Scotland) (SSP)
Susan Deacon (Edinburgh East and Musselburgh) (Lab)
Phil Gallie (South of Scotland) (Con)
Rob Gibson (Highlands and Islands) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Jade Allison (Save Dalkeith Park Campaign)
Norma Anderson
Mark Ballard (Lothians) (Green)
Mr David Davidson (North East Scotland) (Con)
Colin Howden
Richard Lochhead (North East Scotland) (SNP)
Hazel Reid
Elizabeth Robertson (Save Dalkeith Park Campaign)
Mike Rumbles (West Aberdeenshire and Kincardine) (LD)
Stewart Stevenson (Banff and Buchan) (SNP)

CLERK TO THE COMMITTEE

Jim Johnston

ASSISTANT CLERK

Richard Hough

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Wednesday 7 December 2005

[THE CONVENER *opened the meeting at 10:06*]

Item in Private

The Convener (Michael McMahon): Good morning and welcome to the 18th meeting in 2005 of the Public Petitions Committee. I have received apologies from Charlie Gordon, and Rosie Kane is running late due to delays on the trains. I apologise to everyone for the delay; a few of us were held up in traffic, so we are starting the meeting a little late.

Agenda item 1 is consideration of whether to take item 4 in private. Item 4 concerns the payment of witness expenses and it is not usual for us to discuss those in public. Do members agree that we should take item 4 in private?

Members *indicated agreement.*

New Petitions

Victim Notification Scheme (PE899)

10:07

The Convener: Agenda item 2 is consideration of new petitions. Petition PE899, by Hazel Reid, calls on the Scottish Parliament to urge the Scottish Executive to review the operation of the victim notification scheme to ensure that the victims of serious violent and sexual crimes are given the right to receive information about the release from prison of an offender who has committed a crime against them, regardless of the length of the sentence that was imposed.

Before being formally lodged, the petition was hosted on the e-petitions site; from 25 October 2005 to 30 November 2005, it gathered 883 signatures and six comments. Members have received a copy of the e-petitions briefing for the petition.

Hazel Reid is here to make a brief statement in support of her petition; she is accompanied by Norma Anderson. I welcome you both to the committee. You have a few minutes to make your opening comments and then we will discuss the issue that you have brought before us.

Hazel Reid: This time last year, I wrote to the victim notification scheme to ask for information on the release date of my husband, who had attempted to murder me. I also asked whether he was eligible to apply for a day-release scheme under which he would be allowed into the community before the end of his sentence. My main concern was about the possibility of his being eligible for day release as that would mean that he could turn up at my home or my work and I would have no knowledge that he was free on any particular day. Naturally, I believed that he had admitted to a serious crime and therefore I expected to be given information under the victim notification scheme.

The Scottish Prison Service replied to my request by stating that, as my husband had received a sentence of less than four years' imprisonment, I was not entitled to any information under the scheme. I was devastated. For three days I could think of nothing else and I cried constantly. I was living in a state of fear. For years, I had been told by my husband that I was worthless, and in court I felt that I was not worth while, especially as my husband's advocate stated several times that his client was not a danger to the public but only to his wife. The victim notification scheme reiterated that I was of no account.

Contrary to statements that have been made recently by the Executive, the scheme has been

running for a lot longer than a year. It began on a trial basis in 1997 and became more formalised in January 2001, when the "Scottish Strategy for Victims" was published. That document contained three key policy objectives, one of which was to improve the availability of information for victims of crime. The scheme then passed into legislation under the Criminal Justice (Scotland) Act 2003, which supposedly gives victims or an eligible family member the right to receive information about the release from prison of the offender who committed the crime against them. The Executive has stated on numerous occasions that the scheme is under review, but what does that mean? How long does a review take?

That has been my experience, and I am not alone. I urge the Executive to rectify as soon as possible the ludicrous situation whereby the VNS will release information to the victim only when the perpetrator receives a sentence of four years or more, no matter what crime has been committed. Arbitrary sentencing should make no difference to a victim's right to know or to be consulted, and that right should apply to all victims of serious crime, be they women or men. If I had had the information, I would have known when and where I needed to ensure greater awareness and protection of myself.

It is too late to change the law for me, but many victims of violence, domestic abuse and sexual abuse are likely to face the same situation, because sentences for those crimes are often lenient. Those victims' safety is compromised through lack of information. Nobody—least of all a person who has just gone through the trauma of an assault—should be disregarded in that way; they have suffered enough. Thank you for granting me the time in which to speak to you.

The Convener: Thank you for your opening comments. I understand that you have been through a traumatic experience, and I am sure that members will be as sympathetic as they can be in their questioning. If you find it difficult at all, please let us know and we will take appropriate measures.

John Scott (Ayr) (Con): Good morning. You have my sympathy for the dreadful experience that you have gone through. You will appreciate that the timescale for victim notification has been drawn up with the best of intentions, although you are not content with it. Are you suggesting that a special case should be made for domestic violence, as opposed to other crimes? Or are you suggesting that the victim should have a right to information if the sentence is three years or two years? What would you like to happen?

Hazel Reid: I would like any victim of an assault to have that right, whether they are a man or a woman, and whether the incident is domestic or

non-domestic. Also, attempted murder should be viewed as a serious crime. My husband admitted in court to attempted murder—that is what he was sentenced for. However, I was told that it was not a serious crime, as he did not receive a sentence of four years.

John Scott: So, you suggest that the type of crime should determine whether there is automatic notification of the victim.

Hazel Reid: Yes.

Ms Sandra White (Glasgow) (SNP): Thank you for coming along and being so brave as to give evidence today. The committee listened to what you said, and I hope that we will be able to do something about the situation.

I want to ask about information that you may have received before your husband was sentenced. Did lawyers advise you that, if the sentence was less than four years, you would not receive notification? When did you find out that, if the sentence was less than four years, you would not be told about the release date or whether your husband would go into a day prison?

Hazel Reid: This time last year, when I wrote to the VNS asking for information, I did not know. No one had told me before then that I was not entitled to that information.

Ms White: So, lawyers do not advise victims of that. Victims receive no information—even from the legal profession or the courts—about what is happening: it is left up to them.

Hazel Reid: The witness protection scheme said that there was something set up and that I could apply for that information. I knew that, but no one said that there was a time limit and that the offender had to have received a sentence of four years or longer.

10:15

Ms White: You mentioned the witness protection scheme, which seems to be in two parts. When you were told about that, you assumed that you might be given knowledge, but you actively had to seek out the knowledge—nobody gave you it.

Hazel Reid: Correct.

Jackie Baillie (Dumbarton) (Lab): I am clear that you want the nature of the crime and the level of severity rather than the length of the sentence to be the determining factor—I appreciate that sentencing varies. I want to take you to the beginning of the process—the point at which the perpetrator was charged. The news articles with which we have been provided suggest that the fact that he pled guilty to the charge might have led to a lesser sentence. Have I picked that up correctly?

Hazel Reid: That is my belief. A house-breaking charge was dropped because he pled guilty. There was a plea bargain. He said in court that he had a knife in his hand because he wanted to slip the lock and that he climbed in through the window because he was unable to slip the lock, but he actually threw a brick through the window and then came in and stabbed me immediately. He was in possession of the knife before he came into the house, but that was not how it was seen in court.

Jackie Baillie: I am not a lawyer, but I would have thought that if the action was shown to be premeditated, rather than done in the heat of the moment, that might have carried a higher tariff. That illustrates that what happens at the beginning of the process might not be helpful for the victim notification scheme.

Hazel Reid: Correct.

Campbell Martin (West of Scotland) (Ind): Obviously, few of us in the room could even begin to imagine what you went through. I seek clarification on one point. It is ridiculous that you were not told when your husband was to be released. You described the sentence of four years as arbitrary, which is exactly what it is. Every victim of the sort of crime of which you were a victim should be notified when the perpetrator is to be back on the streets. Do you know whether the police are advised or forewarned when someone like your husband is put back on to the streets?

Norma Anderson: The police are told only if they ask. In Hazel's case, the police were told, because her domestic abuse liaison officer took the time to find out. They wrote to the Scottish Prison Service to say that, in their opinion, Hazel would be endangered if he was released on day release, which is why the SPS actively vetoed that.

Campbell Martin: Hazel, am I right that your situation was exacerbated by the fact that your husband kept contacting you from prison?

Hazel Reid: Yes.

Campbell Martin: You asked for the matter to be checked out, but if it had not been, he would have been back on the streets and neither you nor the local police would have known.

Hazel Reid: My daughter visited him about three or four times when he was in prison. He boasted to her that he would be getting out in some way. She thought that he meant an open prison—she did not know exactly what it was. She told me about it, so I made inquiries, because I was unaware that prisoners could get out on a day-release scheme, two thirds into their sentence. I discovered that in about November or December last year. Because my husband got out of jail in

August, he would therefore have been eligible to apply for the day-release scheme in January to start in February. I was concerned, because I felt that I had until August to get prepared, but suddenly I had only until February. As it happened, he was not granted day release, but I did not have any information on whether he would be granted it, so I had to take safety precautions; in fact, I had to take them six months before I was ready to take them.

The Convener: You may have no knowledge of what I would like to know, but I am just trying to get as good a picture as I can of the problem. We have heard about your specific situation and your individual problem, but do you have any evidence, either empirical or anecdotal, of how widespread the problem is of a victim being recontacted by the perpetrator of a crime against them in situations in which they were not entitled to be notified that that person was being released? Does that happen predominantly with women victims? Do you have any information or evidence on that?

Hazel Reid: I do not, although I have been told by various agencies that women get very upset because the situation that I am in is not unique to me. Especially with sexual assault, an offender does not tend to get a sentence of more than four years. Many sexual assault crimes are committed by someone who is known to the victim. When you know the perpetrator, there is always a fear that they will come and seek you out once they have been released from jail. When the victim notification scheme refused to give me the information that I wanted, I was at my lowest ebb.

Norma Anderson: I think that a woman is killed every three days by a violent former partner and that, often, criminal proceedings have already been taken against him.

The Convener: That is the kind of evidence that I was interested in, because it helps to give us a wider picture. We have heard a good explanation of Hazel Reid's individual circumstances, but I am trying to get an idea of the wider situation.

Concerns have been expressed around the table. Do members have any suggestions on how to deal with the petition?

Jackie Baillie: For me, there are two issues: the differences that we know exist in sentencing practice and the fact that changes can be made to the initial charges that might ultimately reduce the sentence that is handed down. I suggest that we write to the Crown Office and Procurator Fiscal Service, the Scottish Executive, the Scottish Prison Service, Victim Support Scotland, the Parole Board for Scotland and Safeguarding Communities-Reducing Offending to bring the terms of the petition to their attention and to seek their views on a review of the notification scheme with a view to changing it.

Ms White: I agree entirely with what Jackie Baillie said, but I would also like us to contact the police. I am surprised that the onus is on the police to ask whether such people are to be released and that they are not notified automatically. We should ask the police about that.

The Convener: Should we ask the Association of Chief Police Officers in Scotland? There are a number of police bodies and I am not sure which of them it would be most appropriate to ask.

Ms White: ACPOS is probably the most appropriate body to ask.

The Convener: As there are no further suggestions on how to progress matters, I thank Hazel Reid for bringing the issue to our attention. We will get back to you once we have received responses from the organisations to which we have decided to write. At that point, we will discuss matters further and decide what more we can do. We will keep you advised of the responses that we receive and we will seek your views on them when we obtain them.

Hazel Reid: Thank you.

Dalkeith Northern Bypass (PE900)

The Convener: Petition PE900 is by Jade Allison, on behalf of the save Dalkeith park campaign. The petition calls on the Scottish Parliament to urge the Scottish Executive to ensure that the proposal for the Dalkeith northern bypass is comprehensively and properly assessed with 2005 data and that the results are published and consulted on before any contract is let. Before being formally lodged, the petition was hosted on the e-petitions site; from 25 October 2005 to 30 November 2005, it gathered 1,135 signatures and 17 comments. The usual e-petitions briefing has been sent to members. An additional 467 signatures have been submitted in hard copy.

I welcome to the meeting Jade Allison, who is accompanied by Elizabeth Robertson and Colin Howden. Jade will make a brief statement in support of the petition, after which we will discuss its contents.

Jade Allison (Save Dalkeith Park Campaign): I thank the committee for the opportunity to speak to the petition. I represent the save Dalkeith park campaign group, which is concerned at the fact that the proposed route for the Dalkeith northern bypass will sever Dalkeith park.

Many people probably do not know the park. Its current designed landscape dates from the 1720s, but there has been a park in the area since the 1630s. Historic Scotland's inventory of gardens and designed landscapes shows Dalkeith park stretching from Dalkeith High Street to the A1 at

Whitecraig. The park is part of the Edinburgh green belt and is a well-used recreation area for local people and people from further afield. The proposed route will cut through the park, causing irreversible environmental damage and destroying some ancient woodland.

This bypass has been under consideration since the 1950s. The first local public inquiry on the issue was held in 1992; at the time, the park was not used to the extent that it is now and few people objected to the proposal. Permission for a single carriageway was granted in 1993. A second local public inquiry that was held in 1996 looked solely at changing the single carriageway to a dual carriageway. In its 1999 strategic roads review, the Scottish Executive concluded that the A68 Dalkeith bypass was one of several schemes that, although reasonably worth while, should be held in abeyance. It was stated:

"future appraisals will be conducted using a multi modal approach which will allow potential trunk road schemes to be considered alongside other potential transport improvements in the area."

However, no such appraisal, which should assess possible public transport and traffic management alternatives, has been carried out prior to proceeding.

The research justifying the road was conducted in the late 1980s and early 1990s and does not take into account the A7 Dalkeith bypass, the dualling of the A1 and the proposed Borders rail link. Moreover, since then, there have been many changes in infrastructure, transport planning and environmental policy. However, any fresh evidence that was collected in the recent Executive-commissioned studies cannot be used to challenge the decision, because the Executive is not prepared to consult on such evidence or to revisit its original decision. With such out-of-date information, how do we know that the road is the best way of dealing with Dalkeith's traffic problems? In fact, a document that was obtained under freedom of information legislation and which outlines recent local traffic studies suggests that that is not the case. Aspects of the old studies have already been proven wrong. For example, it was predicted that, by 2000, 139 cars would be queuing from Dalkeith High Street back to the Sheriffhall roundabout. That has not happened. Building a new road does not solve pollution problems; it simply shifts them elsewhere.

Given the lack of any local public consultation; the fact that the current local plan, which was produced in 1998, is out of date; the lack of any full environmental impact assessment with public consultation; and the failure to carry out a multimodal study, despite the Executive's commitment to do so, it is clear that the Scottish Executive and the Minister for Transport will not

engage with the public. As a result, we need the help of the Scottish Parliament. The petitioners ask the Parliament to write to Scottish ministers and the appropriate committees to ensure that the issues are addressed before any contracts are let.

10:30

The Convener: I open the matter up for discussion. Do members have any questions?

Rosie Kane (Glasgow) (SSP): I declare an interest as a supporter of the campaign who has signed the petition.

I want to pick up on a number of interesting facts that you mentioned. First, how were people invited to be involved in the initial consultation? Secondly, can Colin Howden suggest examples of recent road construction projects for which improvements in traffic were promised? Perhaps he can explain whether those new roads have been successful in dealing with traffic problems.

Jade Allison: The local public inquiry took place in 1992—I was not in the area at that time, so I did not know that the park existed—but I think that it was simply announced routinely and in the regular way. I think that people were invited to respond to the consultation and that information was made available in local libraries.

Rosie Kane: My feeling is that, as you said, many of the decisions were made back in the 1950s, when we had very little knowledge of the environmental effects and other negative impacts of road construction. In that era, I think that the consultations on planned roads did not include the entire community. Do you agree that the community has probably changed quite dramatically since then?

Jade Allison: The community has changed very much since then. Also, the use of the park and people's appreciation of green spaces in which they can enjoy their recreation time have changed significantly since 1992.

Colin Howden: On the process issue, the multimodal study that Jade Allison mentioned should have been carried out. When the Executive published its trunk roads review in 1999, it said that it would conduct multimodal studies to consider alternatives to road building and perhaps to consider alternative road projects to those that were already on the books.

Over the years, the Executive has engaged in good practice on the central Scotland transport corridor studies, which were widely consulted on and considered all the options. Those studies reached the conclusion that the M8 and M80 should still be widened, but that that would do no good on its own because additional investment in public transport would also be required. In that one

instance, the Executive has carried through on its own policies.

There has also been bad practice—I think that that is what Rosie Kane was getting at—in projects such as, not surprisingly, the M74 northern extension. The Executive decided to proceed with the M74 without carrying out a multimodal study. Indeed, it was decided that the study would be done alongside the building of the road. That is completely unacceptable under the process, as the study needs to happen before the Executive decides to proceed with a project.

Rosie Kane: In advance of the construction of the M77, promises were made that the road would result in less traffic, more jobs and an improved community. In your experience, has the introduction of a motorway through Pollok reduced or increased traffic?

Colin Howden: My understanding is that no follow-up study on the M77 has ever been done. We never get to see whether the job and traffic benefit claims that are often made for such projects can be demonstrated afterwards. That failing affects the whole range of Executive transport policies, but that is a broader issue. As far as I am aware, the local experience is that the M77 has tended to increase traffic levels.

Since the public inquiry into the Dalkeith northern bypass in the 1980s, the architecture of transport policy has changed. Neither the Standing Advisory Committee on Trunk Road Assessment report that found that new roads tend to generate increased traffic levels nor the findings on the impacts of transport on the economy were available when the new road was given the go-ahead. We believe strongly that such issues have to be taken into account as a matter of Executive policy before the Executive supports such schemes.

Rosie Kane: Do you want account to be taken of the SACTRA finding that new motorways simply generate new traffic, such that surrounding areas might find themselves in a much worse situation?

Colin Howden: Not all new roads will generate increased traffic levels. A new road that is built in a remote area might not generate more traffic, so the issue is not quite so clear cut. However, SACTRA's 1995 report concluded that the construction of new trunk road capacity in areas that are already congested will tend to generate new traffic. That finding has not been taken into account in the Executive's decision to proceed with the Dalkeith northern bypass.

Ms White: Some parts of the case are quite confusing. Our briefing note states that in 1993—before the Scottish Parliament existed, obviously—permission was given for the construction of a single carriageway. In 1997

additional land was purchased for a dual carriageway, but in 1999, by which time the Scottish Parliament existed, the Scottish Executive said that the scheme should be held in abeyance and considered again in the future, possibly as part of a multimodal study. I find it strange that the Executive has not done that study and that nobody has had any correspondence from the Executive on the matter.

You have been involved from 1999 to the present day. Has the Scottish Executive explained why it decided to go ahead with the bypass? Have you had any meetings with ministers or any indication of why they changed their minds?

Jade Allison: We have had no meetings with ministers, but we have made a lot of freedom of information requests and the matter has been discussed in the Scottish Parliament. Basically, it boils down to the fact that the money is available. When the M74 case went to the High Court, there was money left over. Through written questions, Fergus Ewing established that the scheme was given the go-ahead because the money was available.

Ms White: I wish that that would happen in other areas. You have had no meetings with ministers and have received no explanation other than the fact that the money was available. Has an environmental impact assessment been done?

Jade Allison: The Executive says that it is updating the environmental impact assessment and conducting further traffic studies, but we were told that we cannot get hold of those studies because they are in progress. Basically, the road has been decided on and the studies are being done to justify it.

John Scott: In the 1990s, two public inquiries established the need for the bypass. Are you saying that, because of strategic road improvements and other transport improvements in the area, a bypass is no longer needed?

Jade Allison: It is possible that there is no need for the bypass, or perhaps other measures could be introduced, such as a weight restriction on vehicles through Dalkeith and improvements in public transport. We need a multimodal study to establish whether a bypass is needed and whether it is the optimum solution. There is probably a need to sort out traffic problems and pollution in Dalkeith, but we need to find the optimum way of doing that. I am not sure that research that was done in the late 1980s and early 1990s can tell us the best thing to do.

John Scott: I see that your petition has 1,500 signatures. What is the population of Dalkeith? Do you think that you represent the views of everyone in Dalkeith?

Jade Allison: I am sure that I do not represent everybody. We held a public meeting in Dalkeith, which was well attended by about 300 people. The upshot of that meeting was that, although people felt that something needed to be done about the congestion in Dalkeith, they were not prepared to lose Dalkeith park. They wanted further investigation to determine whether the construction of the bypass was the right thing to do. I think that we represent the vast majority of people in the Dalkeith area.

Jackie Baillie: Mr Howden, are you from the Dalkeith campaign or do you have a particular interest in roads and transport?

Colin Howden: I am from TRANSform Scotland, but I was asked to come along today by the save Dalkeith park campaign. TRANSform is the national sustainable transport alliance.

Jackie Baillie: I thought that I recognised you from somewhere. I just wanted to establish that.

I am curious. There have been two local public inquiries, which is a higher degree of scrutiny than many communities achieve. What did those inquiries not cover that gives you such cause for concern?

Jade Allison: The second local public inquiry examined only the dualling aspect. There was considerable representation from people who opposed the road altogether, but their concerns could not be heard because of the remit of the inquiry.

I am sorry—I have forgotten the rest of your question.

Jackie Baillie: Did the inquiries consider the environmental concerns or any aspects of the dualling that related to the original concerns?

Jade Allison: The first and second local public inquiries had environmental impact assessments carried out, but they were non-statutory environmental impact assessments that did not comply with the European directives. It was felt that the bypass would be far enough away from the site of special scientific interest—the ancient oak wood—for it not to warrant such assessment. No public consultation was done as part of the environmental impact assessments, and the use of the whole park was not properly considered at that time.

Jackie Baillie: Does the fact that the Executive has indicated that it will go back to baseline environmental information and put in place measures to mitigate against the effects of the road give you any comfort at all?

Elizabeth Robertson (Save Dalkeith Park Campaign): No. There needs to be a public consultation.

Jade Allison: Given the fact that the decision to build the road has been made and that the project is going ahead, I question why further assessments are being done. Surely, assessments and research should be done first, to work out whether the project is the optimum thing to do, before it goes ahead. I have no comfort in those things being done after the event—after the decision has been made.

Colin Howden: I reinforce Jade Allison's comments. Things have changed. The evidence that has been submitted mentions infrastructure changes in the construction of the A7 Dalkeith western bypass and the Executive's proposals for the construction of the Borders railway. Frankly, I would like to know what the impact of the Dalkeith northern bypass will be on the viability of the Borders railway, which is something that we strongly support but which I fear that the Dalkeith northern bypass will damage.

On top of that, there have been changes—I will not go into them in depth—in transport policy and environmental policy, with the Executive's commitments to tackle climate change and the changes in national planning policy over the period. The policies that were set in 1992 belong to a different era.

Jackie Baillie: To balance that, we must recognise the changes that have taken place in the profile of transport usage and the fact that car ownership has increased substantially in the same period.

Colin Howden: I concede that.

The Convener: The committee is joined this morning by Mark Ballard. Mark, do you have any questions that you would like to ask?

Mark Ballard (Lothians) (Green): I have some comments. As an MSP for the Lothians and a campaigner on transport and environmental issues, I understand that the Dalkeith bypass was held in abeyance after the 1999 strategic review, which was conducted by Sarah Boyack. As has been said, a multimodal study was to be done to assess the potential benefits of the proposed northern bypass against the benefits of other—also, I presume, costly—investment in transport infrastructure in the area. I was, therefore, surprised when it was announced in June that the bypass was being taken out of mothballs.

I have received a great deal of correspondence from local people—not just in Dalkeith, but in the wider Lothians—who are users of the park and who consider it an important area of green space. Many of those correspondents expressed their surprise that the public inquiry took place as long ago as 1992 and commented on how much the area and the usage of the park have changed since then. Like everybody else who is involved in

the debate about the park, I am frustrated by the lack of up-to-date information on the impact of the proposal on the environment and the lack of a multimodal study. That makes it impossible to conduct the needed public debate about this £40 million to £80 million proposal.

I urge the committee to take what steps it can to make that information available so that there can be a proper public debate on the potential benefits—or otherwise—of the proposal. That is the light in which the committee should look at the issue. Whatever side members take, in opposing or supporting the scheme, it is necessary to make that debate possible; at the moment, it is not.

The Convener: The more that I have heard, the more confused I have become. I do not know the Dalkeith area or the history of the project—I have not been involved in it at all. Is there a problem of congestion in Dalkeith that has to be addressed? Would you support any project to address the issue, or are you saying that there is no problem and, therefore, no need for a bypass?

10:45

Jade Allison: There may be a problem of congestion in Dalkeith: some times I have found traffic queues; other times I have not. The issue has not been researched properly. We are confused as well, convener, because research has not been done to show what the problem is.

Recently commissioned reports, which have been released under the freedom-of-information scheme, show that congestion happens only with westbound traffic. That traffic would not be affected by the Dalkeith northern bypass. A report that we read talked about people trying to avoid the Edinburgh city bypass at Sheriffhall roundabout by travelling along Salters Road and going west through Dalkeith. We need to establish what the problem is in order to solve it.

John Scott: How big is the park?

Elizabeth Robertson: About 1,000 acres. It goes from the A1 at Whitecraig and along Salters Road, and from Sheriffhall roundabout to near enough Dalkeith High Street.

John Scott: So it is 1,000 acres and you are objecting to one road going through it.

Elizabeth Robertson: Yes.

Mark Ballard: The road will bisect the park. That is the concern: it is not a road going through one corner of the park, but a road that will drive a wedge right through the middle of the park.

I want to pick up on the convener's question. I have been concerned with congestion in Dalkeith, but there is a feeling that only one shot of Executive money will be available to solve that

congestion. At the moment, it is not clear whether the northern extension would be the most effective use of that public money, or whether more effective ways of tackling pollution and congestion in Dalkeith town centre could be found. It is impossible to debate the issue because the facts are not in the public domain.

The Convener: I want to ask Mr Howden—or Mr Ballard—a question. There has been debate recently over the route of a bypass to address congestion in Aberdeen. No one argued that there was no congestion in Aberdeen; the argument was over the route of the bypass. Is the situation in Dalkeith similar? Are you concerned about the route of the bypass, or do you think that no bypass is needed?

Colin Howden: You asked initially whether there was congestion in Dalkeith. At times there is, but the question is whether the best way to address it is to spend £40 million on a new road. Would we support any road proposal? Perhaps—but only after alternatives had been investigated.

I am from Aberdeen, so I know a little about the terrain there. Broader concerns have been expressed over the Aberdeen western bypass than just the concerns over route choice. If you have missed hearing about the other objections, I am pretty certain that you will hear them when the public inquiry is held in two years' time. If you have £400 million to spend—that is the figure that is proposed for Aberdeen—people might feel that it would be better to spend the money on addressing the radial flows of commuters into the city at peak hours, rather than on a circumferential route. A circumferential route will not do much to cater for commuting trips into the city, because of the constraints on road capacity once commuters hit the built-up area.

The Aberdeen and the Dalkeith proposals are different beasts.

John Scott: I want to ask another question about Dalkeith park. The Meadows in Edinburgh is bisected by a road, and some might suggest that, in a similar way, such a road would give access to the Dalkeith park. Would you not see that as a benefit?

Jade Allison: There would be no access off the road and into the park. In fact, the road would cut through many of the tracks and paths that people use at the moment.

The Meadows is quite different. It does not have much by way of wildlife; it has no deer, badgers or kingfishers, for example. Building a road through Dalkeith park would disturb a wildlife corridor. The River Esk valley is a listed wildlife site and it will be bisected by the road. In the Meadows, the road probably offers better access, but that would not be the case in Dalkeith park.

John Scott: The park is probably 50 times the size of the Meadows.

Jade Allison: Yes.

The Convener: Do members have any suggestions on how we should deal with the petition?

Rosie Kane: We should seek the views of the Scottish Executive, Midlothian Council, TRANSform Scotland and Friends of the Earth Scotland. We could also seek views from a wildlife organisation. Could anyone assist me with the name of an appropriate organisation?

John Scott: The Scottish Wildlife Trust.

Jade Allison: The Woodland Trust Scotland would be another option.

Jackie Baillie: Do we need to request the views of TRANSform Scotland, given that they have been stated so eloquently today?

The Convener: There would be no harm in writing to TRANSform Scotland to get an official response. Jackie Baillie's question is legitimate—in the past, representatives of organisations have spoken to petitions and we have said that, given that they came along to the meeting, there is no need for the committee to receive a written response from them. However, given the wider implications of the issue, it might be useful to get the organisation's views rather than those of an individual who is assisting a petitioner. That gets us round the problem of setting a dangerous precedent.

Jade Allison: May I make another suggestion? It might be worth speaking to Whitecraig community council, which feels that it has not been consulted. The issue has been dealt with in Midlothian, but people in East Lothian will also be affected.

The Convener: There is no problem with that. That is a good suggestion. We will do that.

We will discuss the matter further when we get the opportunity. We will let you know what the responses are from the various organisations and seek your views on them. Thank you.

Maternity Services (Rural Areas) (PE898)

The Convener: Our next new petition is PE898, by Mrs Lynne Simpson, on the provision of maternity services in rural areas. It calls on the Scottish Parliament to urge the Scottish Executive to review the provision of maternity services in rural communities to ensure that the quality of services and local access to services are retained. The petitioner refers to a petition that has been signed by 15,300 people from Fraserburgh and the surrounding area to save the 24-hour

Fraserburgh maternity unit, which is under threat of closure.

We are joined by Stewart Stevenson, who has indicated an interest in the petition. Stewart, do you want to comment?

Stewart Stevenson (Banff and Buchan) (SNP): I am aware that the committee has dealt with a number of petitions in the past that relate to changes in or proposed closures of maternity units. I want to highlight why this petition is different and why it deserves consideration beyond the committee. First, this maternity unit is perhaps different from others that have been the subject of public agitation in that it is a midwife-led, community-based unit. There have been some developments since the other petitions came to Parliament, such as the proposals in the Kerr report, which seeks to devolve to the community as much activity as possible that can safely be done in the community. The proposals to close this and a number of other community maternity units in the Grampian NHS Board area deserve examination. We should consider whether it is appropriate for Parliament to seek to persuade the minister to intervene and give further direction to the health board on the implementation of the policies that are contained in the Kerr report.

There are some special considerations in relation to Fraserburgh. The first and key one is that, despite the fact that it has a population of 15,000, Fraserburgh is relatively isolated from major centres of hospital support and national health service acute services provision. It is the only town with a population of more than 10,000 that is more than an hour's travel away from an acute services hospital. If services were transferred from the maternity unit in Fraserburgh to Aberdeen, where the director of nursing at NHS Grampian has already said there is no spare capacity, it would involve a round trip of more than four hours to go there by public transport. That illustrates why the Fraserburgh community feels particularly strongly about the matter.

Fraserburgh is also isolated from good transport links in general. There are no railways in that part of Scotland at all. Indeed, once the Borders rail link is built, I will represent the only constituency in Scotland that has neither railway nor airport, which illustrates some of the local issues.

In the public gallery today are the petitioner, Valerie Ritchie, and her friend and fellow campaigner, Rachel Allan. Wendy Bowie would have been here, but she gave birth in the unit in Fraserburgh on Monday. Like many of the inhabitants of Fraserburgh and the surrounding area in the past, she is committed to taking the opportunity to give birth close to home, friends and family when it is safe to do so. We hope that the committee will agree, in the light of the Kerr report,

that the matter deserves further consideration by the Parliament and that the petition is distinctly different in its focus from previous petitions. We ask the committee to acknowledge that the midwife-led unit makes a particular contribution in an environment in which there is a shortage of obstetric consultants and that it would be quite perverse to allow Grampian NHS Board to proceed with a reduction in midwife units when there is a need to relieve the burden on consultants rather than increase it.

I am happy to answer any questions that I think I can answer.

The Convener: Thank you. I would like to say, for the record, that we have previously considered PE689, PE707 and PE718, which were all on maternity services. One of them, by Jamie Stone, was about consultant-led maternity services in the Highlands. The committee never examines the specifics of an individual decision; that is not what we are here to do. We consider the general issue that is raised by a given petition, so although I understand that the Fraserburgh situation is new to Fraserburgh, it is not new to the committee, because decisions have led to concerns before and we have addressed petitions that have been in a similar vein. I point that out so that members stay focused on what we need to look at. We will not sit in judgment on the decision re Fraserburgh, but we will look at how the decision-making process arrived at that decision. If members stick to that, we can consider the petition in that way.

Jackie Baillie: I would like to be helpful and to consider the matter in its general context. We have considered a number of petitions about maternity services in the round before. What interests me about PE898 is that it throws up the principle of what we are doing with midwife-led services. Those are being hailed as the answer in other parts of Scotland, so I am slightly curious as to the reasons given for the reduction in the midwife-led service and whether that has anything to tell us about wider policy. Will the minister have to sign off the proposals, or is the matter internal to NHS Grampian?

Stewart Stevenson: My understanding—and it is a qualified understanding—is that the minister will have to sign off the changes that the community health partnership, as part of NHS Grampian, is proposing. To ensure that I do not mislead the committee, I should say that the change is part of a series of changes that are being made, but it is fair to say that it is the one that is attracting the greatest focus. Mike Rumbles led a members' business debate on the situation in Aboyne, which is different, and I understand that there are threats to maternity units elsewhere in Scotland, although I cannot offer the committee much specific information. However, Jackie Baillie

is certainly correct that the petition is distinctly different from previous petitions on the issue in that respect. It is worth saying that English health boards are talking directly to midwife-led units in Aberdeenshire to gain their advice and experience in establishing new units in rural England. That illustrates the regard in which the work that is done there is held.

11:00

Jackie Baillie: I want to press you on the reasons why you are—

The Convener: I do not want us to get into a question-and-answer session with Stewart Stevenson, because we are trying to address the petition and Stewart is not here as the petitioner; he is here to comment on it because he has local knowledge or an interest in the issue. Our aim is not to have a dialogue with him but, if you need clarification on anything, I am more than happy for you to ask him for it. I am trying to get a discussion rather than a question-and-answer session.

Jackie Baillie: I want to establish whether the generic reasons for the reduction relate to a wider policy position, rather than simply to what is happening in that locale.

Stewart Stevenson: The relevant policy issue is the Kerr report, which focuses on ensuring that we deliver health services as close to the point of need as possible. That applies to a range of services, but especially to maternity services, which deal with people who are well, not ill, and which, of all services, most need to be delivered locally. There is an opportunity to deliver the services locally through midwife-led units, which are cost effective. That is a particularly important point that is in line with the Executive's policies as exemplified in the Kerr report, which has been produced since the committee considered the previous petitions on maternity services. The Parliament should be aware of whether the Executive's policy is being implemented appropriately on the ground—I bring an example that suggests that it is not.

Ms White: We have received various petitions on the issue, most of which have concentrated on consultant-led services. The present one, which is on maternity services in rural areas, is slightly different, particularly given that we now have the Kerr report.

I seek clarification on a couple of issues. Stewart Stevenson might be able to provide clarification, or we could write to the Executive or Grampian NHS Board. Was a consultation carried out throughout the Highlands and other rural areas on the closure of midwife-led maternity units? Was the Royal College of Midwives approached regarding the closure of the units? Perhaps there are not

enough midwives, or there may be another simple reason, but many questions need to be answered. Obviously, the issue is not just about Fraserburgh; it is about the Highlands and all other rural areas. Was a consultation carried out similar to the one that was done in Glasgow? In Glasgow, we felt that it was not done properly and the minister is looking at that.

Our papers state that NHS Grampian will make a decision on the issue early in the new year. How early in the new year will that happen? Will the issue go to the Minister for Health and Community Care? How much time do we have to get answers? We have one more meeting before Christmas, but it will be at least January before we get any answers back.

The Convener: Those are all legitimate questions, but we do not need to ask them of Stewart Stevenson. We will direct them to where they have to go—the Scottish Executive or the NHS must be asked how the decision was arrived at. You have raised several questions that we can legitimately ask the Scottish Executive. Our next meeting is 21 December, so I doubt that we will have a response by then, but we could write with some urgency. Even with the best will in the world, a fortnight's turnaround for a response from the Executive would be asking a lot.

Ms White: If we wrote to NHS Grampian to ask for the reasons for its decision and the timescale, that would give us a rough idea.

The Convener: We can certainly write to NHS Grampian and ask for information on the decision, which would allow us to judge how the decision was made and to test that against the consultation and decision-making process that is required. That would be a legitimate route for us to take. We will take that on board and ask the relevant questions.

John Scott: We have touched on much of this already but, given Mrs Simpson's letter, I am concerned about whether the consultation process has been carried out as it should have been. The importance of consultation was a strong theme of the Kerr report.

I am sorry to be site specific, but I am also concerned that it is a 9 am to 5 pm maternity midwife service. What happens through the night? If the minister has signed off the proposals, is he aware of all the issues, which are not peculiar to the area that we are discussing?

I see that the Health Committee looked into the issues as part of its workforce planning inquiry and noted that accident and emergency services and maternity services should be provided as close as possible to the point of need. Who has ultimate responsibility—the Health Committee or the Minister for Health and Community Care? Does the minister take note of what the Health

Committee says? An accident and emergency unit in my constituency is also affected. The minister needs to provide the bigger picture in his response.

The Convener: Would you like those questions to be asked when we write to the minister?

John Scott: Please.

The Convener: Okay. Are there any other contributions or questions?

Ms White: Could we write to the Royal College of Midwives?

The Convener: Yes, we will take its view. It will be worth hearing whether it has any concerns. As ever, we will collect the responses, examine the information and see what else we can do to address the concerns that are raised in the petition. I thank Stewart Stevenson for his contribution this morning.

Solicitors (Scotland) Act 1980 (PE901)

The Convener: Our next petition is PE901, by Bill Alexander, which calls on the Scottish Parliament to urge the Scottish Executive to repeal section 32(1)(b) of the Solicitors (Scotland) Act 1980. Correspondence from the petitioner has been circulated to members. I am happy to hear what members think we should do in respect of that information.

I thought that I had gone deaf, until I heard somebody's voice in the distance. Does anyone have a view on the petition?

John Scott: We should pass the petition to the working group for research into the legal services market in Scotland.

Ms White: We have already received a similar petition.

The Convener: Yes.

Ms White: It was about extending who can represent people in court. As we are examining that petition, and PE901 is by the same petitioner and reiterates much of the previous petition, perhaps we should close PE901.

The Convener: Are members happy that we do that? John, you had a suggestion about writing to someone for information.

John Scott: Is the petition exactly the same as the one that we received previously?

The Convener: It is not. It would not have been allowed to proceed if it was exactly the same. It is on the same area, but it is different.

John Scott: It would do no harm to pass the petition on to the working group, which can do with it as it wishes. I agree with Sandra White that

thereafter we should close the petition, as we have already addressed the issues.

The Convener: Jackie, do you have a view?

Jackie Baillie: That is fine.

The Convener: Are members happy to do that?

Members *indicated agreement.*

Current Petitions

Fishing Industry (PE804)

11:09

The Convener: Item 3 is current petitions, the first of which is PE804, by Carol MacDonald and Morag Ritchie, which calls on the Scottish Parliament to use its influence to return control over the fishing industry to Scotland. At its meeting on 9 November, the committee considered the response from the Minister for Environment and Rural Development and agreed to seek the petitioners' views on the response. That response has now been received and I am happy to hear what members think of it. I am also aware that Richard Lochhead has indicated an interest in this petition. Richard, do you have anything to add to the deliberations?

Richard Lochhead (North East Scotland) (SNP): Thank you very much for allowing me to make a brief contribution. The committee has rehearsed several times before why Scotland should not participate in the common fisheries policy. However, no one in recent years has put the arguments more eloquently and passionately on behalf of Scotland's fishing communities than the Cod Crusaders. I am sure that we are all very impressed by their activities and pay tribute to their hard work over recent years. Carol MacDonald's response to the convener's letter, which we will discuss shortly, again eloquently lays out why I hope the committee will support her petition. It would do the Parliament enormous good and gain the committee enormous respect if we were to support the petition. The Cod Crusaders have succeeded in persuading many people that Scotland should not be part of the common fisheries policy. Indeed, the petition has the support of more than a quarter of a million Scots. That speaks volumes about the strength of the arguments. I reiterate the point that was made in Carol MacDonald's letter, which said:

"If the Committee was to agree with 250,000 people who backed the petition's request to apply pressure on Westminster and free us from the rules of the Common Fisheries Policy (CFP), then Scotland would have a great bargaining tool at Brussels in December which could work for the Scottish fleet's benefit."

That refers to the fact that in the annual fishing talks in Brussels later this month, the 25 member states will barter between them the livelihoods of thousands of Scottish families. I was at the talks last year. At one stage, they were not going in Scotland's favour and the Scottish and United Kingdom ministers' bargaining tool was the fact that there was a strong campaign in Scotland to take it out of the common fisheries policy. Scotland managed to get an improved deal

because ministers were able to use that weapon. That and the many reasons that have been laid out by the Cod Crusaders and others in the fishing communities mean that the committee should take a tough stance today. I appeal to the committee to support the petition in a clear way.

The Convener: Do members have any views on that? We know where the Cod Crusaders are coming from; the question is how we deal with the petition. They are asking us to do something very specific. We have written to the minister and we have received a response that says that he will not do what the Cod Crusaders are asking for. How does the committee take the petition any further forward?

Ms White: Some of the minister's answers concerned me. For example, referring to the Department for Environment, Food and Rural Affairs, he said:

"They did not ask for a contribution from me."

That concerned me. I have not seen what happens up north, but I am interested in what happens in Scotland generally. It seems from a united fishing industry alliance document, to which the minister referred, that

"fisheries could be managed from outside the CFP".

Has the petition gone to the European and External Relations Committee and the Environment and Rural Development Committee for their feedback?

The Convener: No. We would not work in that way. We do not refer petitions to other committees and then ask them to tell us what they intend to do. They usually advise us, but we do not start a dialogue with them. If we decide that we want to refer something on to another committee, it then becomes a matter for that committee.

Ms White: I know, but basically we have had nothing at all back from the European and External Relations Committee or the Environment and Rural Development Committee.

The Convener: We have not asked those committees to look at the petition.

Ms White: We have not asked them, but I wanted clarification on the concerning fact that Ross Finnie said that DEFRA did not ask him for a contribution.

The Convener: As far as I understand, other committees have looked at the issue but not at this petition. It raises the same issue that has already been addressed by the committees to which you refer.

If you are suggesting that we should refer the petition to those committees, I have no problem with that, but that would be the end of it for us. We

would pass the petition to another committee to do with it what it wanted. A committee might tell us what it wanted to do with the petition, but it would not be for us to tell it what outcome we expected or what route it should take—such decisions are for the other committee. If you want to pass the petition on to the European and External Relations Committee or the Environment and Rural Development Committee, that is fine—I have no issue with that. However, that would mean the end of our dealings with the petition.

11:15

Ms White: I understand that; I just wanted clarification of what the committee can do. The petitioners want to back up the petition that will go to Europe. I would like to hear what other members have to say.

John Scott: Sandra White's suggestion that we should refer the petition to the European and External Relations Committee is good. Ross Finnie has made clear his views. Whether or not we agree with him, he is the minister, so he represents our Executive's position. Fishing is very much a European matter, so the European and External Relations Committee might want to have something to do with the petition. Given that it has 160,000 signatures, the petition is important and should not be taken lightly.

The Convener: We have sent petitions to several committees for information, but we have never sent one to two committees and asked them both to do something with it. That creates a difficulty.

John Scott: I suggest that we send the petition to just one committee—the European and External Relations Committee.

The Convener: We could send the petition to the Environment and Rural Development Committee for information, but if we send it to the European and External Relations Committee because we think that that is the best place for it to go, that committee will have responsibility for the petition. We cannot ask two committees to consider the same petition, because one committee would have to decide what it wanted to do in the light of what the other committee did, which would create a difficulty. Are you suggesting that the European and External Relations Committee would be the best choice?

John Scott: That is my suggestion.

Jackie Baillie: I hesitate to speak, because I am not an expert in the field. I understand the convener's point about sending the petition to one committee, but I think that the Environment and Rural Development Committee might have more of a body of expertise, although I will not go into

the debate about which committee the petition should go to. I am conscious that much of the debate has been about the process rather than the substance. Which committee gets us to where we want to end up is a fine debate.

In his response, the minister cited "Net Benefits: A sustainable and profitable future for UK fishing" and comments from the Royal Society of Edinburgh report about remaining in the common fisheries policy. He talked about including the Fishermen's Association Ltd in implementation, the role of the regional advisory councils and involving fishing communities directly in shaping fishing policy, all of which we would endorse. I do not know whether that will deliver the outcome that we all want, so I am comfortable with referring the petition to a specialist subject committee that could consider it in more detail or advise us that it has done so and send it back.

Helen Eadie (Dunfermline East) (Lab): I was a member of the European Committee when we produced a report on the common fisheries policy. I do not know whether Sandra White was also a member at that time; she was a member of that committee at one stage.

That committee recommended that zonal management committees should be established, and they have become the regional advisory committees. It might be appropriate for the European and External Relations Committee to examine the petition with a view to monitoring and evaluating how the regional advisory committees are working, as that recommendation was a firm outcome of the report. That would also tie in with the Scottish Executive's view that such committees are the most appropriate way to involve fishermen in the process. I support sending the petition to the European and External Relations Committee, to allow it to examine how regional advisory committees have worked out more than three years after it produced its report.

The Convener: We will write to the European and External Relations Committee. It will receive a copy of the *Official Report* and will understand why we have referred the petition, but how it takes forward what the petition calls for will be a matter for it.

Ms White: The petitioners call for pressure to be placed on Westminster, but Westminster has no petitions committee. Can the committee pass the petition to Westminster? I simply want to clarify what powers the committee has.

The Convener: We could do so. We have done so before. We could write to the appropriate minister and say that we are passing the petition on for information and that we want to make Westminster aware of the debate here, but that would be all that we could do with it.

Ms White: I would be happy if the petition were passed to Westminster and to the European and External Relations Committee, as the matter is a European matter.

The Convener: Okay. Are members happy with that suggestion?

Members *indicated agreement.*

The Convener: We will close consideration of the petition at that, unless Richard Lochhead has another suggestion to make.

Richard Lochhead: It would be helpful if a view were given on the petition today, if that is possible. I do not know whether giving a view would be appropriate, but members might want to consider doing so.

The Convener: Who should give a view?

Richard Lochhead: Can the committee give a view on it?

The Convener: No. We do not give such views on petitions. We will pass it to the European and External Relations Committee. The petition will then be the property of that committee, which will deal with it as it sees fit.

Richard Lochhead: Okay. I said that because the petition has been circulating in the parliamentary processes for a year.

The Convener: I assure you that petitions have circulated for much longer than that. We will take whatever time we need with petitions that we are dealing with and trying to progress. If we pass the petition on to the European and External Relations Committee, we will have concluded our deliberations and the petition will become the responsibility of that committee, which will deal with it as it sees fit. We will also send the petition to Westminster for information.

Planning Procedures (Playing Field Land) (PE813)

Recreation Open Space (Provision and Planning Regulations) (PE771)

Planning System (Recreational Spaces) (PE821)

The Convener: Petition PE813 is by Ronnie McNicol, on behalf of Laighdykes residents group. I hope that I said that properly.

Campbell Martin: Yes.

The Convener: The petition calls on the Scottish Parliament to urge the Scottish Executive to review existing planning procedures and guidance to ensure that they are sufficient to

prevent local authorities from using playing fields for development purposes.

Petition PE771, by Olena Stewart, calls on the Scottish Parliament to urge the Scottish Executive to consider whether there is sufficient guidance for local authorities to safeguard playing fields and recreational open space, and to establish whether additional legislation is required to cover conflicts of interest within local authorities on planning matters in relation to the loss of playing fields.

Petition PE821, by Sheena Stark, calls on the Scottish Parliament to urge the Scottish Executive to ensure that all planning applications for planning consent for change of use of recreational spaces be routinely sent to the appropriate minister for consideration.

At its meeting on 6 June 2005, the committee agreed to write to sportscotland and to the petitioners. Members will have seen the responses that have been received. What do members think? I invite Campbell Martin to say something first, as he has a particular interest in the matter.

Campbell Martin: Members have listened to the arguments that the petitioners have put forward on the three petitions. I do not intend to go back over those arguments, but each petitioner made a strong case. They won the argument, but unfortunately they still face losing the playing fields in their areas.

There are issues that we must consider before we move on. The main issue is probably that the petitioners—certainly the Laighdykes residents group—are frustrated because they have gone down the proper road and used the proper procedures to raise their concerns, but have come up against a brick wall whenever they have done so. They think that the local authority has ridden roughshod over their objections and concerns and that the Scottish Executive has not listened to their case. Obviously, the Public Petitions Committee's role is to facilitate a good hearing for the petitioners and to ensure that their case is heard. The committee has done that; it has allowed the petitioners to have their say and to make their case. As I said, they won the argument but—unfortunately—that does not mean much when people are faced by local government and central Government.

The petitioners have consistently asked why councils should have local and strategic plans and why there should be national planning policy guidelines if they are simply to be ignored when it suits local authorities to ignore them. That certainly seems to have happened with Laighdykes. Saltcoats and Ardrrossan are also losing substantial playing fields. There have been contraventions of the local plan and national planning policy guidelines, but the proposals will almost certainly go ahead.

According to a recent survey, 30 of the 32 councils in Scotland are building a total of 300 schools using public-private partnerships. Problems arise because the multinational consortiums behind this programme of school building do not want to refurbish old schools; they simply want to build new schools on adjacent land. An additional problem in Laighdykes was that the land adjacent to the school was not a school playing field, but a public playing field. As a result, the local authority had to appropriate the land so that it could be allowed to build on it.

That brings us to a recent survey by Andy Wightman and Jim Perman on common good land, which is an issue that we have not really considered before. Given its history, the land in Laighdykes should almost certainly have been designated as common good land, because it was purchased by the former burgh councils and taken over by the subsequent local authority after reorganisation. However, despite that, the local authority has simply appropriated the land and it is likely that a school will be built on it. We know from reports that there has been almost no audit of the common good land and playing field land that is being lost to build the 300 schools.

I turn to the role of sportscotland in the petitions and in helping the committee with its deliberations. The Holmhill Wood community park action group estimate that 320 acres of playing fields will be lost to school building, which equates to 180 football pitches. Sportscotland, which is supposed to encourage people throughout Scotland to take part in sport, has gone along with the plan. My criticism of that organisation is quite strong: in my only personal contact with sportscotland when I was helping the Laighdykes residents group to save the playing fields in Saltcoats, the senior sportscotland representative certainly supported the council's proposals. It was quite clear that he wanted to accommodate the council's plans and, as the papers that I have submitted to the committee show, sportscotland has argued that it was able to support the plans because they would provide enhanced facilities such as a running track, floodlights and all-weather pitches. However, those enhanced facilities will be fenced off and people will be charged to use them. Local kids will probably not be able to afford to play on the floodlit pitches; they will certainly not be able to have informal kickabouts, because the land will be fenced off. Facilities are not enhanced if local people cannot use them.

I am really disappointed by sportscotland's attitude. Obviously, my specific example is what has happened at Laighdykes. Such areas are fenced off before a school is even built, so Laighdykes will lose its National Playing Fields Association-recommended area.

I am pleased that we have been able to let the petitioners have their say and make their case, but the land will be lost forever and we will not get it back. It seems that the committee's only option is to refer the petition to the Communities Committee to inform its debate on the planning bill, which will come too late for the communities that have petitioned us. The land will be lost. I just wish that we could do more to protect playing fields throughout Scotland and to support the petitioners, who I think won their case.

The Convener: I am more than happy to hear any suggestion about how to take the matter forward.

Jackie Baillie: We have heard a lot of detail about one particular petition, but nothing about the other two. The Communities Committee will want to consider the wider issues, not least the question of common good land. In that respect, I believe that the matter can be taken forward in the vehicle of the forthcoming planning bill.

11:30

John Scott: My comment is also relatively brief. The petitions raise very real issues that must be considered. However, I should point out that the campaigners in Ayr had a physical victory, because South Ayrshire Council stuck to the planning guidelines and refused the planning application.

Notwithstanding that, there is no question but that the three petitions have highlighted a real problem. At least, the planning guidance needs to be updated. Sportscotland, of which Campbell Martin was so critical, perhaps acknowledges its own confusion. It is happy for the guidance to be updated through national planning policy guideline 11 on sport, physical recreation and open space.

I agree with Jackie Baillie—it is important for the Communities Committee rigorously to consider the matter during its consideration of the planning bill because there is a Scotland-wide problem.

The Convener: Our experience shows that, even though petitions usually highlight a particular concern of a community or an organisation, it is seldom that community or organisation that benefits from the committee's consideration of the petition because, usually, the decision in respect of their case has already been made. However, other people benefit from their experience. Although the changes that come about cannot be applied retrospectively, they improve processes for the future. That may well happen in relation to Laighdykes and the other cases. It may be that the planning changes that will come about will protect other communities but that it is too late for the people who lodged the three petitions that are under discussion.

Ms White: I do not want to go into the Glasgow situation—the use of tennis courts, bowling greens and that sort of thing, which is happening all over Glasgow and in other areas. However, I add that NPPG 11 is causing a lot of concern. Unlike Campbell Martin, I am quite pleased with sportscotland's response in that it recognises that bowling greens are being sold off and it will raise the matter under the new review.

We should send the petitions to the Communities Committee because it will be considering the planning bill—and, perhaps, discussing third-party right of appeal. Our briefing note states that a draft version of a new Scottish planning policy 11 is expected to be published for consultation in February 2006. I would like confirmation, perhaps from the Communities Committee, that that will not be published after the planning bill is considered by Parliament. It would not be joined-up thinking if the planning bill was passed by Parliament and the new SPP 11 came along afterwards. We do not know when the planning bill will be published. Can we get clarification of that?

The Convener: As I have said in previous conversations on the matter, if we send the petitions to the Communities Committee, it will be up to that committee to deal with them. The Communities Committee will examine the planning bill and I am sure that it will have to take such matters into consideration. Sandra White has flagged up a genuine issue. I think that there is agreement that we should send the petitions to the Communities Committee. We can ask it to consider the specific issue and hope that it will be addressed.

As the three petitions raise similar issues, are members happy to send them to the Communities Committee for consideration during passage of the planning bill?

Members indicated agreement.

Campbell Martin: Obviously, I am not happy with the outcome, but I accept that the Public Petitions Committee has done everything that it can. I agree that the committee should send the petitions to the Communities Committee.

Small-scale Energy Generation Equipment (PE837)

The Convener: Petition PE837, by Neil Hollow, calls on the Scottish Parliament to urge the Scottish Executive actively to use its influence to ensure that, by 2020, all buildings in Scotland, including domestic, commercial and Government buildings, be fitted with at least one type of small-scale energy generation equipment, that such equipment should be brought within permitted development rights and that no charges for connecting to the grid should be made.

At its meeting on 11 May 2005, the committee agreed to write to the Scottish Executive, Friends of the Earth, the Baywind Energy Co-operative and the Energy Networks Association. Responses have been received and circulated to members. I will be happy to hear what members think we can do with the petition.

Jackie Baillie: I suggest that the petitioner be given an opportunity to comment on the responses. However, I understand that our colleague, Sarah Boyack, is considering introducing a member's bill on renewables. Perhaps we could send the petition to her for information?

The Convener: I am happy to follow both suggestions. Do members agree to do that?

Members indicated agreement.

A90 Trunk Road (Upgrade) (PE856)

The Convener: Petition PE856, by Iain McDonald, calls on the Scottish Parliament to urge the Scottish Executive to upgrade, as a matter of urgency, the stretch of the A90 trunk road between Tipterty and Balmedie in Aberdeenshire in the interests of safety and the environment.

At its meeting on 25 May 2005, the committee agreed to write to the minister with responsibility for transport and to Friends of the Earth Scotland. Responses have been received and circulated to members. Do members have any comments on those responses?

Jackie Baillie: In the absence of contributions from other members, I say that I was encouraged by the response from Tavish Scott, the Minister for Transport and Telecommunications, who says that he will consider what needs to be done to complete the work that is required for the scheme, which was previously held in abeyance. On that basis, I would be inclined to close the petition.

The Convener: Do members agree to close the petition?

Members indicated agreement.

Children's Services (Special Needs) (PE853)

The Convener: Petition PE853, by Ken Venters, on behalf of the Carronhill action team, calls on the Scottish Parliament to urge the Scottish Executive to introduce legislation that would require all proposals that relate to the closure or alteration of facilities and services for children who have special needs to be referred to it and which would, in the case of such proposals, require detailed consultation of parents of affected children and the implementation of a moratorium that would prevent the closure of special needs schools until such legislation is in place.

At its meeting on 22 June 2005, the committee agreed to write to the Minister for Education and Young People and to Aberdeenshire Council. Responses have been received and circulated to members.

Mr David Davidson (North East Scotland) (Con): It would be helpful if I knew what the minister had said in his letter. Might I prevail upon you for a copy of the letter?

The Convener: It is on our website. I do not know whether we can get a copy to you at the moment.

Mr Davidson: I am quite happy to continue. I have supported the parents of children at the special needs school that is mentioned in the petition and others across Aberdeenshire. There is an issue with regard to the council's previous approach to special needs schools. The enveloping state of the council's thought was that it knew best and that all children would more or less fit into whatever provision it cared to offer. However, that is not the case. Some of the children, particularly those at the school that is the subject of the petition, have tremendous special needs, most of which simply cannot be dealt with in the mainstream system.

A few days ago, I attended a meeting of the local area committee that covers the Carronhill area. Local councillors have unanimously supported the position of the parents and have sought to go to the full council, through its various committees, to recommend that the school be replaced on the same site with a building that is fit for purpose. The existing building has some failings, but the unit is good and the staff are unbelievably excellent. They support other base schools and attached units across the shire. Everyone acknowledges that the facility is superb but that, in time, a new building will have to be built so that capacity can be increased—there is a rising trend of need in the area.

I congratulate the petitioners on the work that they have done—as members know, they have collected thousands of names. The issue must be taken back to the minister because, if councils are suffering from budget difficulties or whatever, they are not always best placed to make decisions on special needs education and support. Certainly, the children who have gone on to lead fulfilling lives after having attended the school have said that they benefited from the system and from the fact that they were not in mainstream education. Some children will enter the main stream but it is important that we preserve units such as Carronhill Special School.

We need a clear signal from the committee—which could be passed on to the Education Committee—to encourage the minister to ensure

that the parents' needs are listened to. If necessary, the Education Committee could visit the school, as other MSPs have.

The pro forma that was returned to the committee states that the petition has been discussed with Fiona Hyslop and David McLetchie. In fact, the petitioners have done far more than that: they have discussed the matter with a range of MSPs from all parties, and I have not come across one MSP who does not support their position.

The Convener: Mike Rumbles has also joined us. Mike, do you have any comments on the petition?

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I apologise for not being here earlier. I was at a committee briefing on the forthcoming registration of members' interests bill.

The petitioners asked me to tell the committee that they are—I am not sure how to put this—a bit disappointed that they were unable to address the committee personally when the petition was originally lodged. They would also have liked to speak to the committee today.

I take issue with what David Davidson has said about the local council: the council did not take the position that it knew best, but consulted widely. As David Davidson said, the area committee of the council is 100 per cent behind the petitioners, which is good news for the petitioners.

The letter from the minister's office states that

"it is not the Executive's policy to require education authorities to close their special schools."

It also states that

"the 2004 Pupil Census shows that overall there are 32 more publicly funded special schools and units in Scotland now than there were in 1996."

That is a positive response. On Carronhill and Stonehaven—which is in my constituency—and the wider issue of special schools, the petitioners are right; however, the issues are being addressed both by the local authorities and by the Executive.

The petitioners would have liked the opportunity to address the committee, as part of the process. I do not question the ruling that was made, which was that the petition was similar to other petitions; however, the petitioners feel that it was not.

The Convener: We discussed the matter when the petition first came before us. We have built up a wealth of experience on a lot of issues. Earlier, we considered a petition on maternity services; it was the fourth petition that we have received on maternity services and those petitions have not been identical. We do not consider the specifics of individual cases, but the generality and the process.

The closure of a special needs school is the same issue as the closure of a rural school or any other school. The guidelines may be specific to special educational needs, but the process by which a decision is arrived at is exactly the same. The committee did not need to hear from the petitioners in respect of their individual concerns, because the general issue that they were addressing was dealt with by the committee in its handling of other petitions. We have built up a wealth of experience in that.

Although I hear what Mike Rumbles is saying, I disagree. I am sorry that the petitioners felt that they were snubbed or in some way not listened to because they were not required—that is the word that we use—to give additional information. However, I felt that we did not require additional information from them. We understand the issue, as we have dealt with similar issues, and we have received a response from the Executive that explains the process and the Executive's thinking. Members have enough information to enable us to make a decision on what we should do with the petition, and we do not require the additional information that the petitioners felt that they had to give us.

Ms White: It has been an amicable meeting up to this point, convener; however, I raised that matter with you and the clerk because I thought differently from you on the subject. I do not want to go over old ground—the procedure has been pointed out, and that is fine. I think that we should refer the petition to the Education Committee, which is looking into the issue at the moment. It would be good to refer the petition to that committee to let it examine the detail of it. Everyone whose child needs to attend that special needs school has a right to be heard by the Education Committee, so we should pass the petition to that committee.

11:45

John Scott: Have the petitioners had the opportunity to comment on the responses that we have had?

The Convener: They have not as yet, but it is usual for us to ask them to do so. We can certainly ask them for their response to the Executive's response. Do you want us to hold back referring the petition to the Education Committee until we get the petitioners' response? I am more than happy to do so.

John Scott: We should make it plain that it is probably our intention to send the petition to that committee in due course, but it would be fair to give the petitioners the opportunity to comment now because they feel upset that they did not get the opportunity to make a presentation.

The Convener: Do you want to decide now to send the petition to the Education Committee or should we wait until we have received the petitioners' response?

Ms White: It might be January or February before the petition even reaches the Education Committee, which is considering school closures at the moment. I am not on the Education Committee, but perhaps someone else can help me in that respect.

The Convener: The alternative is to send the petition to the Education Committee now and ask it to contact the petitioners.

Ms White: That is a better idea.

The Convener: That would bring the petitioners directly into the debate with the Education Committee.

Mike Rumbles: I am not trying to challenge any ruling, but it is rather odd that although the petitioners are in the public gallery now—

The Convener: We are not going down that road. We have discussed the matter before and we do not ask members of the public to come to the table just because they are here; no committee of the Parliament would do that, let alone the Public Petitions Committee.

Jackie Baillie: I am conscious of the issue about speed. Why do we not just refer the petition to the Education Committee? Then, either through their MSPs or after what they have heard today, I am sure that the petitioners will respond directly to the Education Committee without an invitation to do so.

Ms White: I would like the invitation to be issued anyway, because people are at liberty to write to their MSP regardless of what a committee says.

The Convener: So members want to send the petition to the Education Committee and ask it to contact the petitioners specifically about it.

Ms White: I would prefer that.

John Scott: That would allow the Education Committee to consider the petitioners' response.

The Convener: Okay. Are we agreed?

Members indicated agreement.

Gaelic Language Teachers (PE857)

The Convener: Petition PE857 from Mrs C A Jackson, on behalf of Bowmore Primary School, calls on the Scottish Parliament to urge the Scottish Executive to take urgent action to ensure adequate provision of Gaelic language teachers.

At its meeting on 25 May 2005, the committee agreed to write to the Scottish Executive, the

Gaelic secondary school teachers association, the national group of parents of children in Gaelic-medium education and the Gaelic pre-school council. Responses have been received from the national group of parents of children in Gaelic-medium education.

Do members have any views on the petition?

John Farquhar Munro (Ross, Skye and Inverness West) (LD): The problem has been long and drawn out, particularly in relation to the primary school at Bowmore in Islay.

When one reads through the papers, it is interesting to note that the Scottish Executive has been aware of the situation and has liaised well with Argyll and Bute Council, which has responsibility for education in that area. Despite its best efforts, the council has not been able to attract a full-time teacher to take the post at Bowmore and I would like to know the current position. There have been tremendous developments in the Gaelic world during the past three or four years—Gaelic has become more established and a duty has been imposed on local authorities to promote the language, and particularly Gaelic-medium education. It seems strange, therefore, that a school in Bowmore in Islay, which is one of the key areas where Gaelic is spoken and used, is not able to attract a teacher. I wonder what the problem is.

The Convener: It might be worth our while writing back to the petitioners to ask for their views so that we can get a bigger picture. We have received an Executive response that we could let them have sight of. I look forward to receiving their comments on it. We can then look at the petition again in due course.

John Farquhar Munro: I agree with that. We should write to Argyll and Bute Council to ask for its views on the situation.

The Convener: Are members happy to do that?

Members indicated agreement.

Ancient Woodland (PE858)

The Convener: Petition PE858 was submitted by Andrew Fairbairn on behalf of the Woodland Trust Scotland. It calls on the Scottish Parliament to urge the Scottish Executive to address the threat that is posed to the fragmented remnants of ancient woodland by fulfilling the commitment to protect the nation's rarest and richest wildlife habitat that it made as a partner in the United Kingdom forest partnership for action in preparation for the world summit on sustainable development in 2002.

At its meeting on 22 June 2005, the committee agreed to write to the Executive, the UK forest

partnership for action, the Forestry Commission Scotland, Scottish Natural Heritage and the Confederation of Forest Industries (UK) Ltd. Responses have now been received, so I would be happy to hear what members think that we should do.

Ms White: I would like us to hear what the petitioners think of the responses, which are quite detailed.

John Scott: I wonder whether we should pass the petition on to the Scottish forestry strategy review group, which is holding a consultation. I do not know for how long that consultation will go on, so it might be reasonable to pass the petition on to the group as part of the process that it is undertaking. We should also seek the group's views on the petition.

The Convener: Are members happy to do that?

Members indicated agreement.

European Funding (South of Scotland) (PE850)

The Convener: Petition PE850 was submitted by Andrew Wood on behalf of the supporters of the south of Scotland alliance. It calls on the Scottish Parliament to urge the Scottish Executive to apply pressure on the UK Government to renegotiate the NUTS II—nomenclature of territorial units for statistics—boundaries with the European Commission, especially those that relate to the south of Scotland.

At its meeting on 22 June 2005, the committee agreed to write to the Scottish Executive, the Office for National Statistics, the south of Scotland European partnership, Scottish Borders Enterprise, the Scottish Agricultural College and the office of the European Commission in Scotland. Responses have been received and circulated to members.

Ms White: I remember this petition. It was interesting to find out how much money we will lose through the proposed reorganisation of structural funds. We have received some good responses and I would like to know what the petitioner—the south of Scotland alliance—thinks about them.

The Convener: We must be careful. The petitioners are the supporters of the south of Scotland alliance, not the south of Scotland alliance.

Ms White: Oh, I am sorry. That one wee word, "supporters", is important.

The Convener: Members will remember the debate that we had when we first discussed the petition.

Ms White: I could be taken to court.

The Convener: We need to ensure that we write back to the right petitioners. Just for the record, we will be writing to the supporters of the south of Scotland alliance.

Ms White: Absolutely. That was well spotted by the clerk.

The Convener: Members are happy about that suggestion.

Therapeutic Work Initiatives (Funding) (PE820)

The Convener: Petition PE820 was submitted by Graham Clark. It calls on the Scottish Parliament to urge the Scottish Executive to ensure that adequate funding is provided for therapeutic work initiatives to assist people with psychotic psychiatric disability.

At its meeting on 28 June 2005, the committee agreed to write to the petitioner and to the Deputy Minister for Health and Community Care. Responses have been received. Do members have any suggestions on how to deal with the petition?

John Scott: I welcome the minister's response, which is highly positive. Given his response, the job has been done, so I suggest that we close our consideration of the petition.

The Convener: Are members happy with that proposal? Do you have a different suggestion, Sandra?

Ms White: I think that we have taken our consideration as far as we can. I would have liked us to have taken it further, but many of the matters with which the petition deals, such as therapeutic earnings, are reserved to Westminster. Attempts to employ people through the therapeutic earnings process are often overlooked and the difficulties involved are prohibitive. The people who take part gain nothing except work experience. I know that we cannot take the matter to Westminster, so I must agree with John Scott. However, the petition will have been worth while even if it does nothing but highlight the lack of joined-up thinking between the Department for Work and Pensions and the Scottish Executive on efforts to get people into therapeutic work.

The Convener: What you said is right.

Vulnerable Adults (Medication) (PE867)

The Convener: Petition PE867, our final petition today, was submitted by W Hunter Watson. It calls on the Scottish Parliament to provide adequate safeguards to prevent vulnerable adults from being given unwanted, unnecessary and potentially harmful medication by surreptitious means.

At its meeting on 8 September 2005, the committee agreed to write to the Scottish Executive, Alzheimer Scotland, the Scottish Association for Mental Health and the British Medical Association Scotland. Responses have been received and circulated to members. The committee has also received a submission from Enable Scotland and further correspondence from the petitioner. I do not think that we have concluded our consideration; given the responses, there is still some work to be done on the petition. Do members think that it would be worth writing to the Deputy Minister for Health and Community Care to ask for his comments?

Jackie Baillie: I think that it would. I also suggest that if Enable has not already seen all the responses that we have got, we should send them to Enable. I agree that we should seek the views of the new deputy minister on the responses that we have received from SAMH, Alzheimer Scotland and Enable.

The Convener: Okay. We will see where we can go with the petition once we hear back.

We move into private session to deal with agenda item 4.

11:55

Meeting continued in private until 12:01.

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