

RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

Wednesday 6 February 2008

Session 3

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RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

3rd Meeting 2008, Session 3

CONVENER

*Roseanna Cunningham (Perth) (SNP)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

*Karen Gillon (Clydesdale) (Lab)

*Jamie Hepburn (Central Scotland) (SNP)

*Des McNulty (Clydebank and Milngavie) (Lab)

*Peter Peacock (Highlands and Islands) (Lab)

*Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

*Bill Wilson (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Bill Kidd (Glasgow) (SNP)

Nanette Milne (North East Scotland) (Con)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

David Stewart (Highlands and Islands) (Lab)

*attended

THE FOLLOWING GAVE EVIDENCE:

Veronica Burbridge (Royal Town Planning Institute in Scotland)

Bill Dodds (Scottish Building Standards Agency)

Mike Donaghy (WWF Scotland)

Ronnie Falconer (Chartered Institution of Water and Environmental Management)

Andrea Johnstonová (RSPB Scotland)

Wendy Kenyon (Macaulay Institute)

David Martin (Scottish Hydrological Group)

Blair Melville (Homes for Scotland)

Tom Nisbet (Forestry Commission Scotland)

Karen Smyth (Scottish Rural Property and Business Association)

John Thomson (Scottish Natural Heritage)

Hamish Trench (Cairngorms National Park Authority)

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Mark Roberts

LOCATION

Committee Room 1

Scottish Parliament

Rural Affairs and Environment Committee

Wednesday 6 February 2008

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

Flooding and Flood Management Inquiry

The Convener (Roseanna Cunningham):

Welcome to the meeting. I remind everybody to switch off their various bits of electronic equipment, or at least to put them into flight mode, so that they do not receive a wireless signal at all. You should also get them well away from the microphones, because the closer they are to the microphones, the worse the interference is, although I am assured by the sound operators that having them far away does not mean that they do not interfere.

We are continuing our oral evidence sessions on flooding and flood management. Members have been provided with a background paper for the discussion, for which we have allocated two hours. It will be a round-table discussion, hence the rather unusual seating arrangements. I will take a minute or two to speak about the format, for anybody who has not been involved in such a discussion. The aim is to allow the committee to take a deal of evidence in a shorter time than would be the case if we used the traditional panel-by-panel method. The format allows issues to be discussed and argued between individuals from different groups across the table. The discussion must be directed a bit, so that we do not go down pointless blind alleys and into interesting side ways that do not have terribly much to do with the main subject. The discussion will not be completely anarchic.

A different approach is required from everybody. Members are expected to take a back seat in the discussions, which is always challenging for politicians. The structure puts huge pressure on the witnesses to participate fully. If the discussion appears to be flagging a little, members are here to be brought in or to chip in. The best way in which to keep the politicians quiet is for the witnesses to keep the discussion lively. Although members are not excluded from taking part, we should try not to ask long discursive or speechy questions and to keep the discussion going.

Witnesses can comment directly on what other witnesses say. However, I ask you to indicate to

me if you want to speak. The idea is to try to react to the evidence across the table, so that you do not have to get me or another committee member to ask questions for you—you can put your hands up and chip in. The reason why the discussion must be moderated through me is that having so many people around the table presents a challenge for the official report staff. If people speak at the same time, that creates difficulties. We will try to keep to one person speaking at a time, so that the official report staff have a fighting chance of keeping up with what is said and so that the recording system can record. If people want to speak, they should put up their pen or hand to catch my eye or that of my clerk, Andrew Mylne, or my deputy convener, John Scott. I have a plan of the seating arrangements and I will note who is in the queue to speak. As long as you catch our eyes, you will be asked to speak, although there may be a few people ahead of you in the queue—you should not feel that you are not being asked to speak.

That is probably all that I need to say on the format of the discussion. Some of the witnesses have been involved in round-table discussions before and some have not, so we will see how we get on. I recognise some of the faces and I know that some people here will have no difficulty keeping up their end of the conversation—I am not looking at Mike Donaghy in particular. The idea is to keep it lively, but not to have a complete stramash that cannot be understood by anyone who is listening or trying to take notes.

All the written submissions that have been made have been included with the meeting papers, so committee members have them.

I suggest that we start with some of the broader issues just to get things moving. After that, we can go into slightly more specific discussions about land use, the role of the planning system and buildings, and so on.

I will throw into the ring a question about the extent to which flood management is being done at catchment level in Scotland—obviously that is on a slightly bigger scale than local authority level. Does anyone want to be the first to pick up the baton? Do not all rush at once.

Wendy Kenyon (Macaulay Institute): The situation is different in different parts of Scotland, but, generally, flood management is not taking place at catchment level. There are a few good examples where little things are happening. I doubt that we will be able to shut Mike Donaghy up about the River Devon, where catchment-scale flood management planning is being implemented, as it is on the Dee and in other areas such as the Tweed. However, in general it is not happening, which is partly because of institutional arrangements and the fact that the legislation does

not allow catchment-based planning. The legislation is old and needs to be updated, which is the point of the proposed flooding bill.

Ronnie Falconer (Chartered Institution of Water and Environmental Management): I support what Wendy Kenyon said. Flood management planning is piecemeal at the moment. In the past, it was led by specific projects and the scheme at Perth is a good example of that. A study was done of the Tay catchment as part of the feasibility studies for the Perth scheme.

Implementing the requirements of the floods directive in the proposed flooding bill will give an excellent opportunity to implement catchment-wide strategic flood risk management through the preparation of flood risk management plans and the mapping that goes along with those.

The catchment flood management plans for England and Wales that are being prepared by the Environment Agency provide an appropriate model to consider for catchment flood management in Scotland and are in keeping with the likely requirements of the floods directive. The plans enable a broad consideration of the environmental and economic issues integrated with the improvement in flood risk, the benefit to people and the reduction in damage to property.

David Martin (Scottish Hydrological Group): A good Scottish example of catchment-wide planning is the White Cart Water scheme on the south side of Glasgow. To prevent flooding in Glasgow, the proposal is to flood in parts of North Lanarkshire. That has required the active collaboration of the authorities concerned, and if that collaboration had not been forthcoming it might have been difficult to achieve the scheme's objectives. It depends upon goodwill at the moment.

The Convener: Is working at catchment level the only effective way to work? I see that everyone agrees that it is. However, there would be administrative problems, because catchment areas do not coincide with local authority areas. How best can we proceed? In some cases, we might almost be recreating the old regional council boundaries.

Mike Donaghy (WWF Scotland): If we want to manage catchments within the Scottish river basin—as it is known under the Water Environment and Water Services (Scotland) Act 2003—we have to have the appropriate structures for managing floods at catchment level. At the moment, the law does not allow us to do that and we do not have those administrative structures. We have to find a way of aligning things.

We commend the Scottish Government for discussing the issue and allowing us the opportunity to develop ideas further. One way of

proceeding would be to use the framework that already exists under the water framework directive, involving the national advisory group and the area advisory groups that exist throughout Scotland. Work is done at catchment level, although groups share catchments—there is a nest of catchments.

If work were done simply at local authority level it might solve some problems, but local authorities are not the same shape as the catchment areas. The local authorities would have to find a way of getting involved in catchment work.

Karen Smyth (Scottish Rural Property and Business Association): I agree with Mike Donaghy. The area advisory groups offer a way of managing the catchments. However, the groups have a distinct role at the minute. It might be an idea to have a separate area advisory-type group for the role, with a national body as well.

Wendy Kenyon: It is great to consider the role of the area advisory groups, but you would obviously not want to add groups and groups if that were not necessary—the same people and organisations would attend all the groups. However, I understand that the area advisory groups are quite overstretched, in their remit, in what they have to do, in their objectives and in their resources. I would not like the area advisory groups to be given an extra mountain of work and an extra remit without also being given the associated resources. That has to be taken on board.

Karen Smyth: I agree.

Ronnie Falconer: Me too. The area advisory groups might be overstretched were they to take on the extra work.

The floods directive works hand in hand with the water framework directive. It might therefore be appropriate to consider a parallel structure to the structure under the water framework directive. In our written evidence, CIWEM has proposed a single strategic authority.

The Convener: I wonder whether you would mind avoiding using acronyms when possible. Their meaning might not be immediately obvious, particularly for the official reporters.

Ronnie Falconer: I am sorry. CIWEM is the Chartered Institution of Water and Environmental Management.

As I was saying, we have suggested a single strategic authority, which may well be the competent authority under the requirements of the floods directive. Various possibilities exist, one of which is the Scottish Environment Protection Agency. However, if it were to be SEPA, it would have to be adequately resourced and funded for the strategic role.

We have also suggested that the strategic authority should be supported by a small, high-level, national advisory group, which would help with guiding national policy and might be led by the Scottish Government.

Below the level of the strategic authority, it will be essential that local authorities group together on a catchment-wide basis. At the moment, we have the flood liaison advisory groups, but their effectiveness is variable. If that model was to be considered again, the groups would need to be underpinned by the appropriate legislation and funding to enable them to operate effectively. We see it as essential that there be a catchment-wide grouping of local authorities to come together for the implementation of the catchment-wide flood management plans. Those plans might well be prepared by the overarching competent authority.

10:15

The Convener: There is an issue of money, of course. At present, the money—with advice—goes to the local authorities, who come up with the proposals. However, if we were in a situation in which we were to introduce some of the more wide-ranging organisations, would it be feasible for the money to continue to go to local authorities or should that be reconsidered? I am looking at Peter Peacock because I know that he has a strong interest in the financial set-up. It strikes me that an advisory group is different from a group that is managing the catchment area. Money is a big issue in that regard.

Ronnie Falconer: If SEPA or another authority were undertaking the strategic role in the preparation of a catchment-wide plan, it would have to be properly funded. One of the reasons why action is sporadic at the moment is that there is no clear funding route to undertake strategic catchment-wide flood management.

The implementation of the catchment strategies could be funded through the local authorities. However, there would need to be some agreed means of distributing that funding and that could perhaps be administered by that catchment-wide grouping of local authorities.

Andrea Johnstonová (RSPB Scotland): I want to support what has been said about using structures that are parallel to the water framework directive.

We would like adequate funding to be allocated to a catchment-based approach to flooding. Local authorities have a key role to play in putting in place flood defences, soft engineering and hard engineering, but there is also a catchment role for other organisations, such as SEPA and the Forestry Commission, and for land users, farmers and farm managers, who have a role to play in

delivering wider catchment management measures that will help to achieve sustainable flood management.

There is a need to strengthen the current responsibilities, not only for local authorities but for other organisations that have a key role to play in flood management, including the Forestry Commission, Scottish Natural Heritage and others.

Just as the water framework directive aims to achieve a catchment-based approach to the management of water resources, sustainable flood management aims to achieve a reduction in flood risk through a distribution of funding and responsibilities for flooding.

Veronica Burbridge (Royal Town Planning Institute in Scotland): I agree with what has been said about catchment-level policies and structures. It is important that those policies and structures are linked to the national planning framework, which will provide the framework for action through development plans and so on.

John Thomson (Scottish Natural Heritage): I echo what other speakers have said. I was going to make a similar point to the one that Andrea Johnstonová made about the need to co-ordinate implementation funding from a wide range of sources. As she said, we are not talking about just local authorities; we are talking about other public bodies and other streams of public funding, such as the funding that is available through the Scottish rural development programme, which is relevant to some of the natural flood management techniques.

The analogy that I will draw—which Hamish Trench might want to comment on—is with a national park plan, which the national park authority has the responsibility for preparing in consultation with other bodies and stakeholders, from the public sector and beyond. Responsibility for implementing the various elements of the plan is, however, distributed among a wide range of bodies. When those bodies sign up to the plan, they sign up to making an appropriate contribution towards its implementation. Such a model is appropriate for flooding, on which action is required by many different players.

The Convener: A couple of balls have been lobbed in the direction of Hamish Trench.

Hamish Trench (Cairngorms National Park Authority): I will begin by picking up John Thomson's point. It is interesting to look at the issue in the national park context. In the national park, we manage the headwaters of at least four of Scotland's major rivers. What happens as regards land use and planning in the national park can have a significant impact on communities downstream. Even with the co-ordinating role of the national park plan and the statutory duty on all

public bodies to work towards it, we face the implementation challenges that have been described, which are about bringing together an integrated package of funding that takes an overview. We face the same problems of working across the boundaries of three local authority areas. That is the key challenge.

I agree that we need a process that is similar to the one that was adopted under the water framework directive, but I caution against setting up a parallel group process, because part of the problem is the fractured nature of responsibility in planning. Given that there is a capacity issue as regards the advisory groups and the catchment management process, perhaps we should consider how to bring those two more closely together because, ultimately, we are talking about the process of catchment management, which deals with both objectives.

Wendy Kenyon: As regards the structures for managing flooding on a catchment scale, as well as the national, Government-type bodies that are already in place, there are non-Government bodies from which we can learn. The Tweed forum, for example, has a catchment management officer, who has driven forward a catchment management plan. That has been a bottom-up process, which has brought in all the relevant local authorities in England and Scotland, as well as private sector interests, such as fisheries interests, and non-governmental organisations. Although that process has resulted in the driving forward of a catchment management plan that is focused not on flooding, but on the interests of all the people around the table, many good things can be learned from it.

The funding of the Tweed forum has involved drawing together a portfolio of funding options, including Europe and the lottery. I am not suggesting that that would be appropriate in the context of legislative requirements, but additional funding might have to be brought in from a variety of sources to supplement the core funding that the forthcoming flooding bill dedicates to flood management.

David Martin: Without disagreeing with preceding speakers, I would like to sound a note of caution, which is based on my experience of the effectiveness of voluntary local authority liaison groups. There is a danger that they will become bogged down in parochialism, although that is not necessarily the case—the White Cart Water scheme, which I mentioned earlier, shows that voluntary agreement can be extremely effective. However, if such agreement is lacking, the Scottish Government, which has the overall power and—most importantly—controls the funding, might need to take fairly firm action to oblige co-

operation if it is not forthcoming on a voluntary basis.

Mike Donaghy: It is important to remember that Scotland is a small country and that those of us who are involved in flood management have seen the same faces every week for the past few years—in other words, we are not talking about the creation of new groups. It is often simply a question of the same people wearing different hats. What those people need is focus, resources and an area in which they can work. Such an area is being provided by the Water Environment and Water Services (Scotland) Act 2003 and the proposed flooding bill. We know roughly what to do and what changes we must make. We know that we do not need to limit our resources to those that come from a flooding budget, because many other funding streams could be brought into play. That needs to be investigated.

However, there are some things that we do not know. For instance, we do not know how we will make the arrangements work on the ground. We need demonstrations and experiments in which we work with communities and land users in urban and rural areas to see how the arrangements might be rolled out. There is a real need for that. However, we know enough to get started and we know roughly which people should be involved. This will not be just a group of people who turn up for a little chat about flooding and then go home; they will have a remit and a budget and they will have aims.

The Convener: Mike, it is great that you know who should be involved, but can you tell us? We need to know that. Can you tell us who those people should be and how the groupings should be structured? If there is unanimous agreement on those matters, that is fantastic because it makes our job easier. However, there might not be agreement on some of the detail.

I will let you have a minute to think about how to respond to that while we hear from John Thomson and then from Ronnie Falconer.

John Thomson: I support David Martin's point about the need for the process to have some sort of statutory and governmental back-up. Although it is true that voluntary co-operation is desirable and often fruitful, a stick is sometimes needed to make things happen in the event of difficulties and differences of opinion.

On a slightly different point, there is some danger that the debate might overlook, or give too little attention to, coastal flooding. The debate has concentrated on catchment management, but coastal flooding issues are potentially very important. I do not say that coastal flooding requires a radically different approach but—as was the case with the water framework directive—

the marine and coastal aspects have tended to be relegated to some time in the future while we concentrate on terrestrial, freshwater issues. We should not make that mistake. We need to recognise that some of the biggest threats come from coastal flooding.

Ronnie Falconer: Picking up both those points, I suggest that the coastal and catchment issues really need to be linked. Each grouping of local authorities needs to consider all sources of flooding, including coastal flooding, fluvial flooding, flooding from intense rainfall—pluvial flooding—or from surface water as well as flooding from sewers. The groupings must also include the likes of SNH, Scottish Water and SEPA.

I emphasise the point that such groupings must be underpinned by legislative backing and funding, but leadership is also a key issue. If various local authorities are grouped together, there might be an issue about which should take the lead. To make the groupings work, there is a clear need for strong leadership—for a champion—to take things forward. To get round any arguments about who should lead, the process should set out clearly whether, for example, that should be done on a rotation basis.

The Convener: I must say that I am unbelievably impressed by the Trappist vow of silence that committee members seem to have taken. I had not intended to be so intimidating that MSPs would say absolutely nothing—

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): You were.

The Convener: I find it difficult to envisage that Bill Wilson, Mike Rumbles and Peter Peacock—not to mention the other committee members—do not have specific questions in their areas of expertise.

Bill Wilson (West of Scotland) (SNP): We are always quiet.

The Convener: The idea is that MSPs should not dominate the discussion rather than that they stay out of it completely.

Andrea Johnstonová: Ronnie Falconer described the process of sustainable flood management that should be covered in legislation and what it should deliver. Sustainable flood management is pretty much the process of dealing with catchment-scale flood management measures. It takes into consideration things such as river flooding and surface water flooding in towns. It also involves a number of measures that will help to achieve a reduction in flood risk—natural approaches to flooding such as the restoration of wetlands and uplands. Together with the other measures, they aim to reduce the flood risk.

10:30

John Scott (Ayr) (Con): In moving the discussion forward, we are looking for areas of agreement. First, is there agreement on the legislation that needs to be reformed? Secondly, Ronnie Falconer spoke about leadership. Is a consensual view emerging on who should lead? Should it be SEPA or a flood tsar, or should there be a different structure? It would be great if we could discover a consensual view this morning.

Tom Nisbet (Forestry Commission Scotland): I would like to respond to comments made before that question. Forestry Commission Scotland supports the concept of catchment flood management and is trying to follow that in the design and management of our forests via our forest and water guidelines. As we develop that approach, there will be significant demands on funding to bring about the land-use and management changes required to deliver the perceived benefits for flood management.

There is an issue about how effective the measures are and, given that significant funding will be needed, whether they are cost effective. As has been said, more work needs to be done to quantify the benefits. We need a robust evidence base both to identify what difference the measures can make and to help influence future funding to ensure that the benefits are realised.

Peter Peacock (Highlands and Islands) (Lab): I was interested in the point that several witnesses have made about how the current legislation does not enable interauthority working—in fact, I think that someone said that the law did not allow that to happen. However, we heard from David Martin about the White Cart scheme.

David Martin: The White Cart scheme is voluntary.

Peter Peacock: I would be interested to know how that happens. In effect, one local authority is assisting another with its problems.

Mike Donaghy put emphasis on voluntary partnerships and arrangements—people working together for a common purpose—but others raised the important point that statutory underpinning is needed. There are several models in Scotland of allowing local authorities to work together. In some parts of Scotland, strategic planning allows local authorities to work together. All our police and fire services are run by a mechanism that requires local authorities to work together. National parks and community planning partnerships are also ways in which authorities work together. Does any of those existing models—the strategic planning model, joint boards or community planning partnerships—commend itself to the partnership approach on flooding?

I would also be interested to hear how the scheme that David Martin mentioned happened in practice.

John Thomson: I wanted to respond to John Scott's challenge. SEPA is the obvious organisation to lead the process, primarily because of the responsibilities that it already has under the Water Environment and Water Services (Scotland) Act 2003 and the water framework directive.

In that context, I support what Andrea Johnstonová said. Although I recognise some of the challenges of integrating the two processes, I think that it is essential that that happens. Indeed, it will ultimately be more cost effective to make that happen. I am not saying that there may not be specialist sub-groups to deal specifically with the flooding aspects within the wider context, but I think that the two processes should be integrated—and that makes SEPA the obvious lead body at the national level and when it comes to rolling out catchment management across the country.

David Martin: In response to Mr Peacock's question, I do not know. I presume that Glasgow approached North Lanarkshire and received a positive response, but somebody else might be able to give a more informed answer.

One structure that could be relevant for consideration is one that used to exist in Scotland: the catchment-based river purification boards. They were concerned with water quality and had extensive resources and staffing. Although that would not necessarily be appropriate for flood management because the actual work would be done by consultants or contractors, or delegated to the relevant local authorities, the geographical structure of the river purification boards might well be appropriate and relevant.

Mike Donaghy: I agree with John Thomson that SEPA seems to be the obvious body to lead on this. There are two caveats. The first is that SEPA's strength is in flood warning rather than in flood management, so we have to be aware of that and we have to be able to fill that capacity when we need it. The second one is a *cri de coeur*—we have experienced the river basin management planning process with SEPA through the area advisory groups, and it has done a brilliant job of rolling that out, but it is terribly focused on process and not focused enough on output and product. We do not want that to happen with flooding—we do not want to be jammed up in process; we want to see people protected.

The Convener: I will just pick up on that. Professor Crichton gave evidence about a potential conflict of interest within SEPA in that respect. He said:

"It is concerned with water quality and, if you told it that it was also concerned with flooding, there would be internal arguments."

He also said that

"SEPA has commitments ... to object to any changes to or modifications of rivers, especially dredging in places such as the River Nith"—[*Official Report, Rural Affairs and Environment Committee*, 23 January 2008; c 411.]

whereas a lot of what we need to do about flood management will involve changing river areas. There is a suggestion from Professor Crichton that, because of that internal conflict within SEPA, a flood commissioner is needed to iron things out.

We have been talking about SEPA and some of the challenges that it would face—I am throwing that in, if we have got to that point in the conversation.

Veronica Burbridge: I support the idea of SEPA taking a lead at the national level, because we need national information and monitoring, and there is perhaps a skills deficit that we need to face up to. We need people with geomorphology and hydrology skills to address the issue, and we need a pool of expertise nationally that can be called on by more local groups that are dealing with the integration on the ground.

Ronnie Falconer: Just to pick up on Professor Crichton's point, I do not see any real conflict here. One of the fundamentals of the floods directive is, as I said before, that it sits hand in hand and works side by side with the water framework directive. Who better to ensure that that happens than SEPA? If there were to be any conflicts, a possible role was suggested earlier for a high-level national advisory group to support and guide any high-level policy decisions or difficult decisions that SEPA—if SEPA was to be the competent authority—might have to make. That group could be part of the Scottish Government, or it could be led by the Government.

If the competent authority were to be SEPA, there would be an overlap between where its remit stops and where that of the grouping of local authorities on a catchment basis starts. There is the potential for a split in that regard, with SEPA having the clear responsibility for the preparation of the strategic flood risk management plans, and the catchment flood management groups—the local authorities—having the clear responsibility for implementation. The preparation of the plans would have to be done in close consultation, or partnership, with the catchment flood management groups. That might be one model to consider.

Wendy Kenyon: Having SEPA in charge of the process does not necessarily preclude also having a flood tsar. It would be possible to have such a person in SEPA and still bring in all the outside organisations, local authorities and private

interests that need to be involved. They could work alongside each other.

The Convener: Do people proactively support the idea of a flood commissioner, or are they just going along with the proposal because they do not think that it would pose too big a problem? Is anyone arguing that that is the way forward? If no one is arguing proactively for the proposal, we should take note of that. I take it from the lack of response from the panel that no one is proactively looking for such an appointment. We will take that bit of useful information on board.

Andrea Johnstonová: As we have agreed, SEPA is the obvious choice. I support Mike Donaghy's point that if SEPA is to be given a role under the floods directive to produce the catchment management plans, it will need to grow all the relevant flood management expertise. A similar situation arose in the debate on the Water Environment and Water Services (Scotland) Bill over which body would lead the river basin management planning process. At the time, a similar conflict was perceived between SEPA's interests as a regulator and its interests as a lead organisation in river basin management planning. I think that the conflict was resolved. Obviously, a similar conflict is perceived in this regard between SEPA's regulatory role and its role as a lead organisation in putting plans together. With the relevant expertise and support, SEPA can resolve the issue.

Mike Rumbles: We have heard a lot about consensus and agreement. John Scott said how much he wanted to find agreement with everything. I will do the opposite. I want to find where the disagreement is; otherwise, we are wasting our time. I think that the disagreement focuses on funding. Everyone around the table is saying that this is all great stuff as long as it is properly funded. Everyone is nodding and saying that this or that is a great idea. We are not going to get anywhere if we are like that.

Let us take funding as an example. If MSPs agree to pass the Budget (Scotland) Bill today, the funding mechanism will change. Funding will be channelled through the local authorities without being ring fenced. Regardless of need, it will go to the authorities on the basis of the Convention of Scottish Local Authorities funding formula. Many witnesses said that SEPA should be in the lead. Where is the disagreement? Is that the way to proceed? Have we got it right? Are we going in the right direction? Is this what we need to tackle the issue? What about the money? That is the key question.

Karen Smyth: I have an issue to raise on funding. We have heard a few times this morning that the Scotland rural development programme is a way of funding flood management. That is true,

as there are facilities within the SRDP to allow for some flood management. However, such an approach would be piecemeal and might not be the best way forward. SRDP money will reduce over time as funds become committed, and the SRDP must cover a range of issues, such as agri-environmental schemes and rural enterprise, so it is not the best means for addressing as big an issue as flooding. If we are to use the SRDP to address flooding, we need to push the European Commission to put more money into it to ensure that there is adequate funding and that land managers can adequately implement flood management techniques. Pillar 1 has been suggested in the context of climate change.

If there is a case for flooding land or changing land use to allow for flood management, land managers need to be adequately funded. We need a long-term approach—over 30 to 40 years—to ensure that flood management is properly funded and adequately implemented.

10:45

Hamish Trench: I endorse what Karen Smyth said about funding and land use. Land use can play a significant role in managing the effects of flooding, particularly in upstream catchments. The SRDP has been mentioned a few times—

The Convener: We will discuss land use, but I do not want to go too far down that road just now.

Hamish Trench: In that case, I am happy to leave it at that.

John Thomson: There is a broader point, which is not about land use but about funding. We cannot afford not to spend money on flood management. I know that there are 101 other areas about which we could say the same thing, but it is clear that we are building up bigger and bigger bills as a result of flooding.

That raises questions about the source of the money that goes towards flood management implementation measures. There is no real alternative to public funding of the planning process. However, implementation, not planning, is the most expensive part of the process. We must give pretty creative consideration to how we fund implementation measures, across the spectrum of funding mechanisms that have been mentioned, such as European money and lottery money. We must acknowledge that many measures—certainly the softer measures—deliver not just flood management benefits but multiple benefits.

There needs to be a serious rethink of the relationship between Government and the insurance industry in the context of flooding. I understand that the deal that has been done

United Kingdom-wide means that the industry will continue to insure people, almost irrespective of where they live, as long as the Government is committed to funding appropriate flood management and flood protection measures. That deal needs to be re-examined. I do not want to speculate on how we do that, but the issue requires serious attention. Individuals have a very real interest in ensuring that their property is not flooded. Perhaps that should be reflected to some extent in insurance premia, and perhaps the premia ought to be used in part to fund appropriate flood prevention measures.

We need a wide debate about funding, but I see no alternative to spending significantly more money on the area, given what we know about climate change.

The Convener: We will have another evidence session, which should include insurers. The issue is controversial and there is discussion to be had about the extent to which we can put such costs on to individual householders, given the limited basis on which they can protect their homes.

I will bring in Ronnie Falconer and Wendy Kenyon on funding before we begin to consider more specific issues.

Ronnie Falconer: I am concerned about taking away ring fencing for funding for flood risk management. Europe is serious about climate change and flood risk, as shown by the fact that the floods directive went through in record time. Europe is serious about both strands of climate change: mitigation and early adaptation. The clear message from the Stern report and the European Union green paper is that if we do not start to adapt to climate change now—flooding is just one aspect of that—it will cost us much more later.

The clear message is to direct funding to sustainable flood management. If ring fencing is taken away, funding that should go to flood risk management could go to the wrong place. Ring-fenced funding for flood risk management should go to the competent authority at the strategic level, but the lion's share would have to go into implementation and, therefore, to the local authorities' catchment flood management groups. That would be sensible because the local authority groupings have a clear role in spatial planning and flood emergency response. We have not talked about the latter, but it is an important factor in raising our level of resilience. I reiterate that I would have real concerns if flood risk management was not properly financed and the funding got diverted elsewhere.

The Convener: So, given half a chance, councils will spend money on flower baskets instead of on flood management.

Ronnie Falconer: I am sure that councils have many other priorities, but flood risk management needs to be properly funded.

Wendy Kenyon: My point is related to funding and the Scotland rural development programme. Two sides must be considered, one of which is that soft measures of sustainable flood management, such as creating wetlands and planting trees, can deliver objectives and outputs that are consistent with the SRDP, so the multiple benefits that John Thomson talked about are relevant. It seems reasonable to use the SRDP funding to fund those soft measures, where possible.

The other side to consider is that SRDP funding is relatively static and we would be competing with agricultural markets in which there has been a massive increase in the price of agricultural products over the past two years. The price of cereals, for example, has risen from £60 to £150 per tonne—the farmers around the table might be able to correct me on that. If we try to pay land managers with a static, relatively blunt tool—agri-environmental schemes and funding of that nature—in order to get them to use their land in a particular way, we will have to compete with the market, bearing in mind that the situation might change because of dynamic markets.

Mike Donaghy: Wendy Kenyon made a good point. I have talked to farmers about that problem and I got a fairly even response, which was that if they were guaranteed a fair sum over a long period, they would be prepared to take that over the fluctuations in the market. It is better for the farm business to have a fixed sum, which might be lower or higher than the market at different times, because it would give consistency.

We must remember that there are specialisms within the funding scheme, particularly for the funding of forests. Funding is not given for just five or seven years; grants can be given for longer durations. I am not saying that that is the perfect model, but it is a different model.

The Convener: We need to move the discussion on. I want to ask about coastal flooding, which I think most people accept is necessarily different from river and rainfall flooding. Does dealing with it need different structures? Can it be dealt with under the same structures that deal with all the other types of flooding?

David Martin: Similar structures—not the same, obviously—are appropriate. In coastal flooding, the unit that responds to the river catchment in fluvial flooding is the coastal cell. A great deal of research on coastal cells has been done and is available. A coastal cell is a continuous line of coast over which the processes—the movements

of material along the beaches—are continuous, usually between headlands. Like a catchment, a coastal cell may straddle more than one local authority, but it is the basic unit on which coastal management should be based.

The Convener: So the structures should be similar but separate.

David Martin: Yes.

The Convener: Coastal flooding should be dealt with separately. I can see some potential disagreement.

Mike Donaghy: I do not disagree fully. Technically, David Martin's description might be the way that a scientist would describe the situation but, from an administrative point of view, it is much easier to take coastal flooding into the spatial context of the water framework directive, which includes the whole of an estuary, part of the coast and out to 2 miles under its jurisdiction. We can consider the details and must base the structures on evidence, but I am worried about getting too technical. We want something that is practicable as well.

The Convener: There is also an issue with proliferating organisations, which must be addressed from the perspective of not cluttering the landscape.

David Martin: Can I come back briefly on that?

The Convener: I will take Ronnie Falconer first and then come back to you.

Ronnie Falconer: I would argue strongly for integrating the authorities. We have many major conurbations on estuaries, where the problem is a combination of coastal and fluvial flooding, with all the other types of flooding as well. To some extent, coastal and fluvial flooding are considered separately at the moment, which is a hindrance. There is a golden opportunity to bring the two together under one authority—I suggest that the local authority groupings would be appropriate—and there would be no reason not to continue with coastal management plans and catchment management plans. It is also good to ensure that the two types of plan are considered and implemented by the same authority because there might otherwise be gaps between them.

David Martin: I withdraw my comment. The arguments against proliferation are probably stronger than my technical arguments in favour of coastal cells.

The Convener: In that case, is it fair to say that you want to ensure that there is an understanding of the distinctive nature of potential coastal flooding?

David Martin: Indeed.

The Convener: As long as the distinctiveness is recognised, is the structure not too much of an issue?

David Martin: Absolutely. I add that coast protection, where the land is not at risk of flooding but is at risk from erosion, is subject to the same processes and requires a similar response. That is probably not a large problem in Scotland, but it is my experience in south-eastern England.

The Convener: We will move on to some more specific issues. I will allocate roughly 20 minutes each to three areas of discussion: land use, particularly agricultural and forestry land; the implementation of planning guidance; and the effectiveness of current building regulations. Those three topics will take us to midday and will round off the evidence-taking session.

Before we go into those three topics in detail, I have a more general question. What powers should catchment managers—I presume SEPA—have over land use, planning and building standards? Should they have powers over them? If they should, what transfer of powers from local authorities would be required? Should they have chief planning officer powers? Those are interesting questions. Does anybody want to start on that, before we consider the more specific areas? Should we go for maximum powers, minimum powers, or what?

11.00

John Scott: There has to be a discussion around land use. There was a very good paper from the Forestry Commission on the matter. It noted in particular that forestry is probably most effective in upstream flood plains. The suggestion was made that that might affect low-value agricultural land, but we should bear in mind Wendy Kenyon's point about competing land uses, as well as the possibility of food security becoming an issue. It is not an issue currently, but the price of commodities has doubled in the past year, so it might well become an issue again. If it is proposed to use land for planting to increase the hydraulic roughness of the area, you might find that farmers are not willing to allow that. Would Tom Nisbet or others like to say how that might best be achieved?

The Convener: Remember that we are thinking in terms of powers.

Tom Nisbet: We have been working on a flood management study, in the north of England. The aim is to plant flood-plain woodland, as a demonstration trial to quantify the benefits for flood alleviation. We have faced significant problems in convincing landowners to plant woodland because of the funding situation. We offer a woodland creation grant, which can provide support for

woodland planting, but it is not seen as being sufficient, in the circumstances, to compensate for the loss of agricultural subsidies and the reduction in the capital value of the land. There is certainly an issue in respect of how such aims can be achieved.

The powers aspect is difficult. One cannot force landowners to change. The voluntary approach has been shown to work elsewhere, with an appropriate mix of carrots and sticks. It is about finding the right funding mechanism to provide sufficient payments to compensate and to reflect the multiple benefits that can result. That is the desired approach.

Blair Melville (Homes for Scotland): I will give a more general response, starting with powers over land use and whether SEPA or any other organisation might take more powers over it. I would be wary of that, from the perspective of a planner in the development industry, for the simple reason that there is currently a clear statutory requirement: local authorities make decisions on land use through the statutory development plan process. I would be concerned about muddying the waters with the involvement of another body with powers over or decision-making ability in land use. The development plan is clearly the vehicle for co-ordinating land-use decisions, whether they are on a strategic scale or otherwise. The White Cart provides a good example. There, the Glasgow and Clyde valley structural plan would be the appropriate vehicle for considering big land-use decisions such as whether land should be left free to flood or its alternative uses be considered.

The point is that decisions on land use are always a balance between competing uses. If we become hung up on the environmental issue to the exclusion of other Government agendas, such as promoting economic growth or increasing the amount of housing, we risk getting the whole process out of balance. If we were to introduce another public body or agency with land-use decision-making powers, we would confuse the planning system.

Hamish Trench: On the broad point, I agree that the development plan is the right vehicle for co-ordinating land-use decisions. Of course, that should be informed by strategic environmental assessment and environmental impact assessment of sites to address some of the issues. On the specific issue that the Forestry Commission raised about land management, the voluntary approach with land managers has proved to be relatively effective in several areas but, as was rightly pointed out, the payments are not sufficient to compete with other potential income sources or long term enough to give security in many cases. Other models exist that are worth exploring, such as the right-to-flood

model that the Environment Agency uses, which offers a slightly more dynamic relationship between Government and land managers, rather than a specific agri-environment type of payment.

Karen Smyth: I agree with Tom Nisbet, Blair Melville and Hamish Trench. I would be anxious if SEPA were to dictate land use to land managers—that would not be a good way forward. We should proceed by working with land managers and riparian owners.

Ronnie Falconer: I, too, agree with the points that are emerging. Good land management practice must be achieved primarily through encouragement, education and incentives. The National Farmers Union Scotland could have a role in ensuring good farming practice and encouraging farmers to farm for water—that might be a good concept to promote. Coupled with that, the development planning process—with local authorities or coalitions of them guiding at a more strategic level—will fit nicely with the flood risk management plans, which will, I presume, be prepared under the proposed flooding bill in response to the floods threat. The flood risk management plans will inform the higher level development plans, so we could have an integrated strategic planning process.

Mike Donaghy: That is the key point. I do not agree with Blair Melville and some of the other comments that have been made—SEPA is not the bogeyman. However, its role should be as a secretariat or regulator—it should not have the power suddenly to say that something cannot happen. That would be a move away from the aim of public and stakeholder participation and integration. In the end, we are talking about protecting people from the risk of flooding, so there is no point in people demanding to exercise their right to develop an area when it will cost the rest of us a fortune to defend the area and people will live in fear every time it rains heavily. We must take an integrated approach.

We should remember that sustainable flood management is not a technique but an approach that is made up of techniques. The sort of techniques that can be used in sustainable flood management are hard and soft engineering measures: building in resilience in our buildings so that they are better able to survive floods, having good flood-warning systems and working with the insurance industry. However, key to all that is working with planners to avoid developments in areas that are at risk and where we do not want people to live. There is also natural flood management, although its contribution to lowering flood risk varies a great deal depending on the catchment.

The Convener: I will throw in the point that the difference between a local authority and SEPA is

that one has a democratic mandate and the other does not. We must not lose sight of that, because we are likely to discuss serious issues that will have a big impact on individuals.

Karen Gillon (Clydesdale) (Lab): I want to respond to a comment by Blair Melville that alarmed me slightly in relation to balancing priorities. To follow on from John Thomson's statement about the insurance industry, is it not irresponsible to suggest that we should allow developments in areas that could flood and then expect individuals or insurance companies to pick up the tab? When it is absolutely evident that an area will flood and that, if we build on it, the houses or developments will be flooded, surely somebody somewhere in the process should have the right to say, "No, that is not the right approach and we will not allow the development." Regardless of the housing pressures that exist, it is simply irresponsible to allow such developments to proceed. I have seen constituents suffer as a result of previous bad development decisions.

Wendy Kenyon: I have had discussions with colleagues at the Macaulay Institute about that point. Perhaps we do not need a lot of new powers, but better enforcement of existing powers. We should be able to tell people, "Don't build there, it's going to flood."

Mike Donaghy mentioned a raft of measures relating to sustainable flood management. The research that we have done suggests that education and awareness are also important. We must educate not only the public, who may not know what their role is, but farmers and land managers, who need to know what impact a particular land management practice or draining a piece of land will have downstream. We also have evidence that farm advisers are not well versed in flood management techniques, which means that farmers and land managers are not advised on the topic. The committee should add education and awareness to the menu of issues that it has identified.

Peter Peacock: My question is about your reaction to the suggestion that SEPA should have the power to designate land for a particular purpose. Is that a reaction to SEPA or a reaction to the suggestion that anyone should have the power to designate a piece of land in a local plan for the purpose of flood management, taking it out of other potential uses? That might be a new power; it would certainly be a different way of using existing planning powers. As well as zoning land for development or recreation, we could zone it specifically or primarily for flood management, which could have long-term implications for payments to farmers who currently farm that land. Is a new power or an amendment to existing powers necessary?

Andrea Johnstonová: My point relates to strategic planning law. I agree that strategic planning may be appropriate in relation to flood management. A consultation on the national planning framework—which will be a statutory document that will guide the implementation or drawing up of statutory plans, both local and regional—is under way. If the document includes proper guidance on where development may take place and what techniques can be used to prevent flooding, that can be fed into local and regional plans. The committee may want to have an input into the national planning framework.

John Thomson: I draw a distinction between the existing land-use planning system, which is about the regulation of development, and wider land-use planning. That distinction is relevant to Peter Peacock's question. There is only so much that we can do through the existing land-use planning system to influence activity. We can influence building development and we can zone land to try to prevent building development taking place, but we cannot do much about management of the land. That underlines the importance of linking planning through the land-use planning system—which is critical to preventing inappropriate development on flood plains—with wider influences on land use, which are being developed in the context of the SRDP to establish local priorities. That process still has a way to go.

The issue is relevant to the question of where powers reside. Traditionally, local authorities have had no real powers in land management, and land managers have resisted giving local authorities such powers. If we are to have the integrated approach that is required, we must start to think carefully about the relationship between the land-use planning system that is operated by local authorities and whatever measures are in place to guide the use of public funds to support land management.

My final point ties that to what Wendy Kenyon said. I take her point entirely about advice. Through a slightly more developed system of land management guidance—we might want to use the word "guidance" rather than "plan", which sets alarm bells ringing—we should be able to ensure that the people who offer farmers advice do so in the light of all the considerations that have been mentioned, including flood management issues.

11:15

The Convener: We will have a slightly longer discussion on planning issues, so I do not want us to become too bogged down in planning at the moment. We have set aside 20 minutes for that.

Bill Wilson: I will return to a point that Karen Gillon and Wendy Kenyon made. Most people who

acquire property will know its flood risk level. It might help to insist that, before a property is sold, the purchaser must be made aware of the property's flood risk level.

Mike Donaghy: Peter Peacock talked about designating land as being owned for flood management. Facts are chieftains that winna ding. We need more hydrologists on catchments. We are not producing the flood managers of the future in Scotland and we desperately need them; it is not as if we did not know we would need them. The University of Dundee is struggling to obtain the funding for courses to produce those flood managers. So that we have people out on the ground to talk about modern flood management, we must start to produce those managers.

In designating land as being for flood management, the catchment is described. The designation will say, "This is where your floods have their effect, this is where they come from and these are the places where you can do something about it." Such a place might be a farm, a forest or somewhere else. After that, we start to make decisions. Not just SEPA, but the whole group that is involved must make decisions on the balance that Blair Melville talked about. For example, do we want to pay to lose a haugh field, which is the best producer on a farm, to protect houses further down, or do we let that go and build a wall? All such decisions must be made as part of a sustainable flood management approach. We know where we are going to do things because the flood risk management plan shows that. The decisions are made thereafter.

Ronnie Falconer: The existing planning system is adequate, but it needs to be examined closely. If the designation of an area for flood management is to be in a high-level plan, if it is properly consulted on and if people buy into that designation or at least have the opportunity to object if they feel strongly about it, that is probably a good democratic process. Higher-level plans will be informed by flood risk management plans, whose preparation will involve the specialists who know where best to designate such areas. I agree with Mike Donaghy that we must ensure that we have such specialists.

When the details of the design of a flood risk management measure are considered, we might find that the area that was designated was not the best and might have to be changed, so a mechanism for dealing with such a change will be needed. The extreme question is whether compulsory purchase would be required. I do not know the answer, but perhaps the way forward is to check whether the existing system could cope with that.

The Convener: I will bring in Mike Donaghy briefly, but I want us to move off planning for a few

minutes. We are becoming bogged down in something to which we have allocated another segment of the meeting.

Mike Donaghy: I will be brief. We are talking about people's lives. We do not give people options for keeping their houses when a motorway or a reservoir is being constructed. We are talking about serious stuff, so we cannot keep faffing about. Sometimes, we just have to say, "It has to be done," as we do with motorways and reservoirs.

John Scott: In the remaining minute—

The Convener: I will give you a bit longer, because the planning stuff has taken time.

John Scott: I will draw us back to the land-use discussion and to the evaluation of the physical attenuation processes that might be available in upper and mid-catchment areas. I spoke about hydraulic roughness, creating meanders, soil absorption and the possible value of forestry in the process of absorbing or at least delaying peaks. If anybody has strong views on the physical worth of those attenuation techniques, we would like to hear them.

Ronnie Falconer: The exact benefits of those land management measures—including forestation, which has a big role to play—is indeterminate at the moment. There are studies that are trying to get figures, but we will probably not get hard and fast figures. All I can say is that the measures will be beneficial and, more important, that they will be beneficial over a fairly long timescale, in parallel with the likely impacts of climate change. If we delay implementing the measures for too long, it might be too late to get them started, because they are long-term measures.

Wendy Kenyon: On the effectiveness of soft techniques and land management approaches, there is evidence from demonstration sites around Scotland of those approaches, or implemented techniques, working. Colleagues from Macaulay can give you evidence of that. At the moment, the demonstration sites work individually. The information from them is not linked so we cannot see whether any themes or threads can be drawn out of them to provide more concrete evidence and to persuade the people who are more sceptical about them. That is a definite need that must be filled.

Tom Nisbet: That is a crucial point. The results of small-scale field and hill-slope experiments in headwater catchments show that land management measures work at this level. What we do not know is whether they are also effective at a larger catchment scale. That is a concern. If we go down the road—as I think we need to—of seeking funding for land management change, we

need to show that the measures work. We need more research to quantify the measures and demonstrate that they are fit for purpose.

The Convener: Mike Donaghy is pretty key in this. A number of committee members visited the River Devon project. Do you want to comment on what you have heard so far? It is a casting a bit of a question mark over the viability of some of the schemes.

Mike Donaghy: I largely agree with what has been said. I know the limitations of what we have been doing, although in principle we know that the measures bring benefits. In one or two cases, we know what they do. If we imagine that, at catchment level, we have 100 wetlands that have been drained over the past 150 years, we know that if we start allowing them to act as wetlands again, they will attenuate the flow, if we do it in combination. We are still investigating by how many cubic metres of water per second the flow changes and under which event. We also have to investigate how we access land fairly and how we work with land users. It is true to an extent that there is a question about the schemes, but according to Professor Charles Ainger that should not be a reason for not doing it. As Ronnie Falconer said, we have to start early. It may be that we have to build hard defences in the interim—such defences have a limited lifespan—in order to allow the natural stuff to go ahead. Natural flood management is not the be-all and end-all, but it is among the techniques that we would use.

John Scott: I have a supplementary for Tom Nisbet on the research he did for his paper. Of all the attenuation techniques that you discussed and evaluated, which is potentially the best? Is it flood-plain timber growing?

Tom Nisbet: We think that attention should focus on flood-plain woodlands as they present the greatest opportunity for flood reduction. As Mike Donaghy suggested, there have been studies and some modelling has been done. However, we still need to strengthen that evidence base. We need to test the models to show that they work in the field. That will be necessary if we are to convince the flood engineers to change tack.

That said, I support Mike Donaghy's view that natural flood management has few downsides: as we heard, there are multiple benefits. There is no risk in going down that road. On the assumption that we receive an assurance that other flood defence measures will be put in place, there is only a limited risk that the options will not come up with the goods by reducing flooding significantly.

The Convener: After I take the next three speakers, I want to return to the planning stuff for

about 10 minutes. We did quite a lot on that earlier.

Ronnie Falconer: Land-use management is not the whole answer—it has to be one among a portfolio of measures. I do not think that anybody would argue with that. We are not saying that we can get rid of hard flood defences. We are always likely to require an element of hard defences, but they should be seen as one element of a portfolio of measures.

I have a soft spot for afforestation of the flood plain, although—again—the measure is difficult to quantify. One could, of course, plant the whole flood plain, but economics may preclude that. Strips of forest—transverse forest strips—can be planted across the flood plain to slow down flow and create storage. There are many examples where that could be done relatively easily.

Des McNulty (Clydebank and Milngavie) (Lab): I am interested in how the criteria for deciding between different uses of resource can be developed. One argument sees need in terms of flood management, but the discussion has raised the possibility that, for every flood management problem—if we can call it that—different people attach different values to different solutions.

I am thinking of the argument for the hydrological versus the ecological solution, or impacts on population versus managing an entire scheme. Different people place different values on what can be called the fringe benefits, as opposed to the benefits of the entire scheme. Those in favour of forestation may argue that a benefit of afforestation is the forest. One can also argue that the perspective that sees afforestation only as a flood prevention measure is a limited one.

I am not getting a sense of agreement on the criteria that could, or should, be used in making the critical decisions on which schemes, or which parts of which schemes, should go forward. Everything is desirable and we can all agree broadly on the issues, but I do not yet have a clear sense of how the hard decisions on different patterns or priorities of spend will be taken.

The Convener: Sometimes it is useful to realise that such agreement is not in place. Perhaps that explains some of the issues that we are having to deal with, and so forth.

David Martin: I endorse and support what Ronnie Falconer said. Land management, tree planting and the creation of wetlands have multiple benefits, among which is flood attenuation, but it is unlikely that such measures will be the answer to an immediate flood defence and protection problem. They are long-term amelioration measures, not the solution to an immediate flood-defence problem.

The Convener: In a sense, you have echoed what Mike Donaghy said, which is that we may have to build the hard defences to allow time for the soft defences to be taken up.

I see a forest of hands. I will call everyone—if their points are on the subject and if they make them as briefly as possible.

Andrea Johnstonová: Under the new flood risk directive, we are moving away from a reactive and piecemeal approach and towards planning for flood management so that we are not constantly reacting, as we have done in the past. Because we are going to start planning, we will have the time to consider catchment solutions, soft engineering and the combination of measures required to develop a good plan that will meet future needs on flooding.

11:30

Ronnie Falconer: I am in total agreement. We are looking for multiple wins. I mentioned that the catchment flood management plan model is used down south. There, a rigorous process is gone through to test different strategic options—different policies—for elements of the overall catchment. Through that process, the authorities arrive at a conclusion on which ones provide the most wins for the environment, the economy and flood risk management. Those processes can be used to inform that work in future.

The Convener: Okay. I will shift us back on to planning for 10 minutes and then, from roughly 11.40 to 12.00, we will consider how robust current building regulations are on flooding. We may hear slightly different voices at that point.

We have heard about the desperate need for more flood managers, hydrologists—perhaps they are the same thing as flood managers; I do not know—and planners. Of course, we also need more houses in tens of thousands. That is the big conundrum. How do we achieve the things that we need? We will take 10 minutes to consider the effectiveness of the implementation of the current planning guidance—Scottish planning policy 7—as opposed to a hypothetical future change.

Veronica Burbridge: SPP7 gives us a strong statement about not building on flood plains.

The Convener: How effective is its implementation? It may give us a strong statement, but how effective is it in practice?

Veronica Burbridge: I would like to connect this to the discussion on land use. There is a need to link planning with detailed land-use management. Let us come down one level from the SPP to consider the Glasgow and Clyde valley structure plan, for example, under which the green network was established. We are moving towards green

infrastructure, which picks up on the multifaceted benefits that we can get from identifying green networks on the ground, which may have different roles to play in flooding or biodiversity.

Yes, there is a need for housing, but we want it in the right place with quality environments for the people who live in it. The implementation of SPP7 and the related planning advice note should be able to get us going in that direction.

The Convener: It should be, but the question is whether it is. Is it being implemented effectively right now—or not? Do you have an answer to that or are you going to say that it depends on the area?

Veronica Burbridge: I am afraid that I do not have any research on which to base a response. How are you measuring effectiveness?

The Convener: Can I get some input? There were heads shaking around the room.

Blair Melville: There was a slight misinterpretation of what I said earlier. That we should not have any planning and should have housing everywhere is clearly not what I was saying.

The development industry generally accepts SPP7 as a pretty robust piece of guidance. The question that you rightly pose is how well it is being used. At a strategic, development plan, level, it is being used pretty effectively. We are clearly not in the game of developing in flood risk areas or not following the guidance on making appropriate decisions about when it is right to use hard defensive measures to achieve other aims.

We get into difficulties on detailed implementation. A lot of development is already taking place in built-up areas. It is brownfield development in areas in which there may already be flood risk issues that we have to deal with because we have invested social and economic capital in cities and urban areas and we cannot just run away from them. That is where the building industry experiences the greatest difficulty: getting a co-ordinated response from local authorities, SEPA and all the other bodies who have a finger in the flooding issue.

For example, there can be issues about the interpretation of what the one-in-200-year flood risk actually means for ground levels, building levels and the freeboards that people are beginning to add to take account of climate change. A range of uncertainty and inconsistency begins to creep into the process, and the net result in many parts of Scotland is considerable delay dealing with planning applications.

We are getting down to the nitty-gritty of implementation: there is inconsistency and a lack of clarity in how the guidance is interpreted at the

margins of whether a flood risk is acceptable. A lot of that comes back to resources, which we talked about earlier. We talked about resources for higher-level catchment management, but resources are equally thin on the ground for hydrologists in local SEPA offices, who can provide input to the development management process quickly, timeously and consistently.

Ronnie Falconer: SPP7 was a great step forward. Before it was introduced, there were numerous instances of houses being built on flood plains when it was obvious that they should never have been built there.

The Convener: Some of the communities that have developed on flood plains have been there for hundreds of years. We have been building on flood plains since before medieval times. It is not a new thing, is it?

Ronnie Falconer: No, but the risk is increasing with climate change, and the value of the property that we are building is going up as well, so the overall impact of flood damage is increasing.

My praise of SPP7 should be tempered by the fact that, as far as I can see, interpretation of it varies. SEPA tends to apply the terms fairly rigidly. I know of numerous cases in which, for example, proposals for land raising have been viewed negatively when perhaps they should not have been. There is a need for greater—

The Convener: I apologise for butting in again, but does that happen because SEPA's remit makes it difficult for it to agree to such developments, or is there nothing about SEPA that should prevent it from agreeing? I am interested because it takes us back to the discussion about SEPA's role.

Ronnie Falconer: It is a question of interpretation. The requirements can be interpreted rigidly and strictly, and SEPA has a tendency to do that. There is perhaps a need for greater flexibility.

SPP7 has almost been leapfrogged by planning policy statement 25 on development and flood risk in relation to communities and local government in England. It has the same broad structure as SPP7.

The Convener: You said that that is an English measure, so it does not apply in Scotland.

Ronnie Falconer: That is right, but I am suggesting that the time is perhaps right for a review of SPP7, testing it against the model in PPS25 in England and Wales. PPS25 has the same type of sequential test as is in SPP7, but it also has what is called an exception test. There may be valid grounds or good sustainability reasons why some development, such as critical infrastructure, has to take place on the flood plain.

PPS25 provides a set of criteria by which the exceptions can be judged—obviously, there has to be no impact elsewhere. I suggest that it is worth considering that exception test.

Another key aspect of PPS25 is that it requires local authorities to conduct strategic flood risk assessments. At a higher level there are regional flood risk assessments, and at local authority level there are strategic flood risk assessments. Under SPP7, there are also development-specific flood risk assessments. Strategic flood risk assessments are proving to be of great benefit to local authorities in England and Wales in informing local plans. As a spin-off, they are proving beneficial in respect of flood emergency planning. If authorities know what the flood risk areas are, which informs development, they also know where the safe evacuation routes are. My plea is for SPP7 to be reviewed in light of the recent introduction of the PPS25 model in England and Wales.

Mike Donaghy: I attend flood liaison advisory group meetings, where we get to the nitty-gritty and find out how much pressure is being brought to bear on planners to allow developments to go ahead. Professionally, planners may not want those developments or may see really good reasons for not proceeding with them, but for political or other reasons the developments go ahead anyway. One of the themes that I pick up at FLAG meetings is that if a developer will not take on land that has some flood risk, social housing, hospitals, old folks homes and schools end up being built there. I can give the committee examples of that. The process is not working properly, because there is an easy way out each time.

We cannot get away from the fact that there is huge pressure from developers. To be fair, there is also huge pressure on developers to get houses in wherever they can. We cannot leave a legacy of fear for the people who buy those houses, because they live with a flood risk—which costs them a fortune, because if they have bought their house they may eventually lose their mortgage.

The Convener: That is a serious issue. Does anyone want to contradict or confirm what Mike Donaghy said? Ronnie Falconer alluded to the fact that that might be happening, but I do not know whether he wants to go as far as Mike Donaghy has gone.

Ronnie Falconer: There have been instances in which the guidance has not been applied properly and in which there have been other overriding factors. There should be proper implementation of whatever guidance is provided.

The Convener: No one else has indicated that they want to challenge what Mike Donaghy has said.

John Scott: Mike Donaghy has made a big statement: that when developers will not build houses on land, planners put hospitals and schools on it instead. We would be interested to receive examples of that to inform the committee, if no one else. When Mike Donaghy makes such a claim, it is important that he should be able to substantiate it.

Mike Donaghy: I would not have made it unless I could substantiate it.

John Scott: We would be grateful for that information.

Blair Melville: Ronnie Falconer spoke about PPS25 in England. The exceptions approach is reasonable. I would never argue that it justifies building housing on a flood plain but, speaking as a planner rather than as a housing developer's representative, I think that it substantiates my point that there is always a balance to be struck when determining land use. We need to decide what is essential in social and economic terms and whether a development justifies measures to deal with flooding, as opposed to measures to avoid flooding. We must always have that balance in mind.

Veronica Burbridge: I agree. Planning may help to protect existing development.

Further to Mike Donaghy's statement, we have a duty not to put people and institutions such as hospitals and schools into areas of risk. If we do not take that approach, we are just mortgaging the future.

11:45

The Convener: We will move on to building regulations. How effective are they right now in ensuring the resilience of new buildings that are at risk of flooding? I want to focus on the current situation because from that we will draw a decision about whether the regulations need to be changed. I assume that Bill Dodds wants to come in at this point.

Bill Dodds (Scottish Building Standards Agency): Yes. It will probably help if I set the scene before anyone else takes on the issue of building regulations.

There has been a building regulation in place since 2005 that states that every building should be designed and constructed to ensure that there will be no threat to the building or to the health of its occupants from flooding and the accumulation of groundwater. In 2005, we moved towards less prescriptive functional building standards, and we are now undertaking a review of flooding issues, which is currently on the agenda of our building standards advisory committee. We are considering not only the resilience side of projects or

developments but the role that sustainable urban drainage systems can play in surface water run-off. We are starting to see signs that the introduction of SUDS has had an effect.

Ministers have powers to make regulations for the building standards system. The Scottish Building Standards Agency helped prepare the draft guidance on that, but the administering of building standards lies with local authorities, and it tends to follow planning consent. We have heard many statements from around the table along the lines of it being best not to build on a flood plain and what have you, but there are times when such building is unavoidable—for example when a gap site or a brownfield site needs to be developed, for which we must recommend certain resilient constructions. With joint funding from our English colleagues, we recently commissioned research to consider measures that could be put in place to protect dwelling houses in particular against flooding.

The Convener: Bill Wilson raised the point about the need for us to be much more overt about the robustness of buildings when faced with flooding. There are certain kinds of flood that no building can resist. Can people think about the extent to which building regulations can impact on that robustness and the point at which they cannot? Only so much can be done with an individual building, particularly a domestic one.

David Martin: At the risk of sticking my neck out on a subject on which I claim no expertise, it seems to me that most of Scotland is secure from flooding. We are fortunate in many respects compared with, for example, eastern England, which has hundreds of square kilometres that can never be given total protection from flooding.

Nevertheless, as earlier speakers have mentioned, some areas of Scotland do have a flood risk. Infill development, replacement buildings and so on in such areas cannot be sterilised and obliged to decline and decay simply because there is an unavoidable, residual flood risk. It seems to me that there is a role for building regulations in situations in which there is a recognised flood risk, but it is not about rendering the ground floors of buildings proof against flooding; it is about ensuring that buildings are constructed to allow them to recover more easily from flooding and be put back into use quickly.

Ronnie Falconer: I do not know the answer to the question, "How effective are our current building regulations?"—others may be better placed to answer—but I think that we could make better use of planning advice note 69, "Planning and Building Standards Advice on Flooding", which offers a lot of excellent advice on how to make buildings more resilient.

I am sure that PAN69 is underpinned by other building regulations and guidance. There will always be situations in which it is not economic to protect individual properties by large flood management schemes. In such cases, the only solution is to raise resistance and resilience to flooding, so that properties recover more quickly. There may also be groups of properties where the best approach is to raise the level of resistance and resilience. There is good guidance, but there is a lack of incentives and funding. There is no grant system to enable the individuals concerned to go ahead with such costly measures.

The Convener: Building regulations can be used to incorporate such measures in new build, but you have moved on to a separate issue—measures that we can introduce to ameliorate difficulties with existing housing. After Wendy Kenyon has spoken, I will ask Blair Melville to speak about new build, which is the principal concern of Homes for Scotland.

Wendy Kenyon: We should not concentrate exclusively on housing and getting people back in after it has been flooded; the overwhelming of drainage systems because of all the hard surfaces in built-up areas is also an issue. Two thirds of the floods in England in the summer were pluvial, which means that run-off overwhelmed the drainage system. People can take up their gardens and grassy areas to put down impermeable surfaces, which can lead to the drainage system being overwhelmed. That issue should be considered in building regulations.

The Convener: Is there nothing we can do to stop that? Should we say that no householders will be permitted to concrete over their gardens?

Wendy Kenyon: I would not dare to say that.

The Convener: We say and demand many things. Given the experience south of the border, should we be thinking about stopping people tearing up their gardens?

Wendy Kenyon: There is international experience of such measures, and they should certainly be considered. Policy instruments such as requiring people to pay to put down impermeable surfaces can be used. People can also use new materials—they do not have to put down concrete or tarmac; there are porous surfaces on which they can park their cars.

The Convener: You are talking about cars that people will not have, because we need to get rid of those, too.

Wendy Kenyon: Of course.

The Convener: I invite Blair Melville to comment on the issue, although it tends to arise only after houses have been handed over by developers.

Blair Melville: As David Martin and others said, we cannot get away from the reality that at times, for sustainability or economic reasons, we will continue to develop and redevelop our existing urban areas. That makes perfect sense from a range of perspectives. Prevention and management are more of an issue in those areas than in areas where new land is being allocated for housing. Building standards and the more resilient construction of houses have a role to play. As new house builders, our interest stops to some extent once we have sold a house. What the householder chooses to do with his front garden is a matter for the planning authority.

Even when we build houses on brownfield sites, one of our big concerns remains the inconsistent application of advice from SEPA. A creeping issue is that SEPA appears increasingly to have the final say in the determination of planning applications. A recent reporter's decision considered a range of reasons for and against a development, but the determining factor in the reporter's mind was SEPA's advice on flood risk, despite the fact that the developer was able to propose amelioration methods and technical solutions to the problem. We would be concerned if SEPA's advice became the determining issue in planning applications, setting aside all the other balancing factors that have been mentioned.

The Convener: When you comment on that, Bill Dodds, can you give us one or two examples of best practice in building regulations?

Bill Dodds: In fact, there is only one building regulation in this regard. Because of the functional standard, the developer is pretty much left to consider the guidance that underpins it. To take up one of the other points that has been made, we are taking a look at hard standing areas. We had a SEPA representative at our technical committee, who gave us an informative talk about monoblock paving and so on. We are considering modifying the area of hard standing that people may have.

The use of sustainable urban drainage systems is becoming increasingly relevant. Traditionally, we had a system of hard pipes, hard surfaces and water shooting straight into the watercourse. Now, there are attenuation developments, with basins and ponds, which slow run-off into rivers. That comes under the building regulations, too. It is not simply a matter of protecting against floods; it is about reducing the potential for flows into catchments and rivers.

Guidance on the resilience of buildings is typically along the lines of using proper materials such as concrete and water-resistant plaster, and raising electrical sockets. Other practical issues are covered, such as door boards and window mechanisms to prevent floodwaters coming in. I suppose that we have a lot to learn from our

European colleagues, particularly those in Holland. They have developed a lot of the technologies. I know that BRE is actively involved in that area. We are constantly learning lessons from our European colleagues.

Ronnie Falconer: I am heartened to hear what Bill Dodds said about introducing measures on paving. That is one clear area where we can make a difference. Not just increased paving is an issue; so-called urban creep is associated with the proliferation of conservatories, too—believe it or not. The additional roof run-off from conservatories contributes to what is reckoned to be a 20 per cent increase in urban run-off due to paving, conservatories and other things that are happening. There could be additional building regulations or planning controls for when approval is given for a conservatory. It might be granted only if there is a soakaway—if it is appropriate to have a soakaway—or if there is some means of local at-source storage, such as a rainwater butt or some other simple measure. Such provisions could easily be introduced.

Resilience measures would need to be implemented only where there is a risk of flooding. If something had to be built in a flood-risk area, it would be made resistant and resilient to flooding. There is also the intractable problem of pluvial flood risk. I think that the committee discussed it at its previous meeting, and that it agreed to consider the possibility of mapping it.

The Convener: Everybody at the previous meeting agreed that it would be a good idea to do that, but nobody wanted to take responsibility for doing it. We have flagged up the matter with the cabinet secretary.

Ronnie Falconer: It is a very difficult thing to do, but techniques have been developed for high-level screening, across the country, of areas that might be more susceptible to high-intensity rainfall flooding. They include depressions in the ground or flow paths where flow is concentrated, for example down the centre of a high street. Those techniques are evolving.

The Convener: Mike, do you wish to come back in before I wind up and call Bill Wilson? I saw you reacting to some of what you were listening to.

Mike Donaghy: We must remember that resilience is about the ability to bounce back from floods. Bear it in mind that the one-in-200-year flood is the one that we do not want to be in or anywhere near—we would want to get away from it. Ironically, it was said of PPS25, a new piece of English legislation:

“Development that would not be safe in the higher-flood-risk areas should be directed to areas of lower risk wherever this is practicable.”—[*Official Report, House of Lords*, 1 October 2007; Vol 694, c WA161.]

Do you know what that means? It means people being put into an area where they suffer a higher chance of getting flooded—by higher-frequency floods. A one-in-30-year flood occurs more often than a one-in-200-year flood. We must bear those things in mind.

Ronnie Falconer: I challenge that.

12:00

The Convener: We are right at the end of our discussion and it is interesting that we have ended up on a note of disagreement. Bill Wilson has a specific point to raise.

Bill Wilson: It is about porous material, my knowledge of which is limited to my reading of a series of articles in *New Scientist* about three years ago. Is there a porous material that we could use for pavements and roads? Would it be possible to introduce creeping porous material into cities by insisting that, every time a large chunk of road is dug up, it is replaced with a porous material that would allow more drainage? What would the practicality of that be?

The Convener: Yes or no, Bill?

Bill Dodds: We had some comment from SEPA on that. The understanding was that, when people said that they were putting in porous pavements, they were not. Someone had driven round a few Tesco and Asda car parks, and—

The Convener: So it is a monitoring issue.

Bill Dodds: It is a monitoring issue. We are also examining compliance issues.

The Convener: So is it yes or no, Ronnie?

Ronnie Falconer: It is appropriate only where the ground will accept it.

The Convener: So technical issues are involved. There was some disagreement at the end about the interpretation of planning policy. I do not want this discussion to go on, however—it cannot go on any longer.

As I say to everybody at the end of these evidence-taking sessions, if there is anything that you wish to come back on—that issue of disagreement, for instance—please feel free to contact the clerks about it. We are accepting follow-on written evidence, so please submit some if you wish, if there is anything that you feel should have been raised but was not. We had a specific area to cover, and we are returning to such matters as insurance—that is for a separate session. If there is anything about that which you feel we should examine, please let us know.

I thank everybody for attending. Thank you also for submitting your written evidence, which has been very helpful.

12:02

Meeting suspended.

12:08

On resuming—

Pig Industry

The Convener: Agenda item 2 is a discussion about the pig industry. Members will remember that Mike Rumbles raised the subject initially, and we have received briefings from the Scottish Parliament information centre and the NFUS Scotland. I will ask Mike for comments and then open up the discussion to other members. I will allow a maximum of 10 to 12 minutes for the discussion.

Mike Rumbles: First, thank you, convener, for putting the subject on the agenda. It is a huge issue throughout Scotland but particularly in the north-east, where most of the industry is based.

The papers from the NFUS and Tom Edwards from SPICe are comprehensive. They are short but effective, and they show in a nutshell what the issue is. Let us be clear: the industry is in crisis. It is unprofitable, and losses have been exacerbated by rising costs in a market that is already affected by the foot-and-mouth crisis south of the border.

I want to focus on what practical action can be taken to help the industry. I note that the NFUS called for three courses of action, on which I am happy to support it. However, what I hope will come from this discussion is an agreement to hold a short evidence session, perhaps with the NFUS, followed by the minister's response to that. We could then take things from there. It would be a very short inquiry.

The Convener: I will outline the three options that we have. The first is the minimal option, which is to have this discussion but take no further action. Secondly, we could hold a one-off evidence session, which Mike Rumbles has suggested and which, because of our existing commitments, would have to be scheduled for late April or later, or as an additional meeting before Easter in a week in which we are not meeting. The third option is to write to the Cabinet Secretary for Rural Affairs and the Environment to ask what steps the Scottish Government is taking to support the pig industry and allow the response to inform the next discussion of our forward work programme, which will be in June.

Those are the three levels of action, and the final two are probably not mutually exclusive. In any case, we would probably want to write to the cabinet secretary as a minimum.

Mike Rumbles: I agree that the final two options are not mutually exclusive. However, having initiated the process, I do not think that we can afford to wait until June and to include the issue in

our forward work programme because the industry is in crisis. My preferred option would be to take the window of opportunity in April and put the issue on the agenda then.

Peter Peacock: I am grateful for the opportunity that Mike Rumbles has given us to discuss the issue. A few months ago, I visited a pig enterprise near where I live. I received a thorough briefing and have exchanged a lot of correspondence with that business since then. There is no question but that it is facing colossal losses—there is just not enough cash in the industry. In a sense, I am surprised that more enterprises have not gone out of business already, such is the crisis.

There have been vast increases in grain and feed costs on top of foot and mouth and the backlog and collapse in prices that that caused in the market. Those factors, combined with the import of cheaper foreign cuts, the way in which the supermarkets brand some of the products and the changes to slurry storage because of nitrates, all add to the problem.

The pig sector is one part of the agricultural industry that is in serious crisis. It would be well worth our while to have a short evidence session with the minister and some industry representatives. That would allow them to air the issues in public and us to scrutinise what is happening a bit. We should not underestimate the importance of the issue, and I support Mike Rumbles's proposition.

John Scott: I am happy to support it, too. There is no doubt that the industry is in crisis and in real danger of losing its critical mass. There is already insufficient abattoir capability in the north-east, particularly for sow slaughtering. We must also remember the burden of regulation that the industry faces. We exported part of the industry in the late 1990s in terms of sow tethering, and the danger is that we will lose the entire industry abroad and end up importing the meat that otherwise would have been—and should have been—produced by our farmers.

The Convener: There is a meeting on 16 April. We could incorporate evidence taking into that meeting and in the meantime write to the cabinet secretary.

Members indicated agreement.

The Convener: We will invite both the cabinet secretary and either the NFUS or other industry representatives. Mike Rumbles might want to suggest how that session could work, although we do not want to expand it too much.

Des McNulty: Given that we have had briefings from both SPICe and the NFUS, could we ask the cabinet secretary to respond to the issues raised in them before the meeting in April?

The Convener: That is what I have just said—we will write to the cabinet secretary prior to that meeting.

Des McNulty: I was going to suggest that we ask the cabinet secretary for a response by mid-March. That would allow the other bodies, such as the NFUS, to comment on what he has said, rather than wait.

The Convener: We will indicate that we will have a session on 16 April and that it would be more than helpful if we were given enough space before that to allow reaction to what the cabinet secretary says.

Mike Rumbles: The NFUS makes it clear that the main processor is the Grampian Country Food Group, which has been in contact before. It might be useful to involve that company.

Jamie Hepburn (Central Scotland) (SNP): I think that we have had this discussion previously. Is it not an individual company—an on-going commercial concern?

Mike Rumbles: It is the biggest, without any question.

Jamie Hepburn: I am slightly concerned about inviting a commercial concern.

The Convener: We will reflect on having an industry representative. I seem to remember speaking to a pig industry association in the past. I think that there is an industry organisation that is not the NFUS, and that might be a better organisation to invite—to avoid any issues.

That discussion was useful. I now close the public part of the meeting.

12:16

Meeting continued in private until 12:40.

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