

RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

Tuesday 19 February 2008

Session 3

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RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

4th 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:

Graeme Archibald (Johnstons of Elgin Ltd)

Alvin Barber (City of Edinburgh Council)

Kathy Cameron (Convention of Scottish Local Authorities)

Sandy Gillon (Glasgow City Council)

Andrew Grzesinski (Macrae & Dick Ltd)

Alex Macmillan (Elgin Community Council)

Jennifer Main

Councillor Eddie Phillips (Convention of Scottish Local Authorities)

Bob Stewart (Moray Council)

Michael Urquhart (Gordon & MacPhail)

Bryan Watson (Elgin Community Council)

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Mark Roberts

LOCATION

Moray College, Elgin

Scottish Parliament

Rural Affairs and Environment Committee

Tuesday 19 February 2008

[THE CONVENER *opened the meeting at 10:03*]

Flooding and Flood Management Inquiry

The Convener (Roseanna Cunningham): I welcome everybody to this meeting of the Scottish Parliament Rural Affairs and Environment Committee, which I now call to order. Members have travelled from various parts of Scotland to be with us, and a variety of witnesses will give evidence. I do not know whether members of the public have come to see the proceedings. If they have, they are welcome, and I hope that they enjoy what they hear.

The purpose of today's meeting is to take evidence as part of our flooding and flood management inquiry. We decided to meet in Elgin because of its fairly recent history and because it seemed appropriate for us not to spend all of our time deliberating in Edinburgh.

The committee has had meetings in Perthshire, which is another area that floods badly, and in parts of Glasgow where there have been serious problems. We have therefore already been to see some of the difficulties that have arisen. We were particularly concerned to take formal evidence from local people in the course of our inquiry, and that is what we will do today.

At the end of the evidence-taking session on flooding, there will be a short item to deal with two pieces of subordinate legislation. At the very end, there will be a short discussion in private. If some members of the public stay until the bitter end, they will be asked to leave at that point, while we go into a brief private session.

I am very pleased to be in Elgin. I thank everybody who has helped us to set up the event, particularly Moray College for its work in setting up the meeting. We thank the college's staff, particularly Sheila Biggs, for making all the arrangements.

We have received apologies from one committee member: Karen Gillon is unable to be here as she is on her way back from a Commonwealth Parliamentary Association visit to Malawi. She is unable to get to Elgin in time for the meeting. Part of the Commonwealth Parliamentary

Association delegation's trip involved a visit to the Chikwawa district of Malawi, which, I am advised, was badly affected by flooding last month. At least six people were killed and more than 50,000 people were displaced. At one level, that puts our problems into perspective. We have serious flooding problems in parts of Scotland but, thus far, they have not involved statistics on that scale.

I remind everybody at this end of the room to switch off all mobile phones and pagers, or to get them into flight mode. They interfere with the sound system, which creates difficulties.

Members of the committee have received a paper advising them of the Scottish Government's recently launched consultation and proposals for flooding legislation. As everybody knows, a flooding bill will be introduced in Parliament at some point this year.

Our first panel of witnesses effectively represent the local authority interest. I am trying to work from my notes, but they never seem to work on the same basis as the seating arrangements. Anyway, we have with us Councillor Eddie Phillips and Kathy Cameron, who is a policy manager for the Convention of Scottish Local Authorities—which we will simply call COSLA from now on; Alvin Barber, who is the senior professional officer for flood prevention with the City of Edinburgh Council; Sandy Gillon, who is the environmental sustainability manager for Glasgow City Council; and Bob Stewart, who is director of environmental services at Moray Council.

Councillor Phillips and Mr Barber wish to make brief opening statements. I must ask you to be as brief as you can, because we want to get into our questioning. We have allowed until about 11:15 for this panel.

Councillor Eddie Phillips (Convention of Scottish Local Authorities): Good morning. COSLA is presently evaluating the contents of the Scottish Government's consultation document and we will reply to it in detail soon. We view flood prevention as a major issue for many local authorities in which strategic, cross-boundary, solutions happen now and will need to happen in future. Speed is paramount in applying measures in civil emergencies, and a strategy of preventive measures with as few impediments placed in our way as possible is both advisable and desirable.

COSLA wishes to bring to the committee's attention the issue of human intervention in watercourses. Recently, my council required an owner-occupier to submit a retrospective planning application for the culverting of a watercourse. The council refused the application and the owner appealed. The reporter upheld the appeal. In effect, that sends a message that culverting can be deemed acceptable.

Culverting is part of our flooding problem. Councils have a legal duty to keep culverts clear, to prevent backing up and extensive flooding, but owner-occupiers have no financial responsibility to keep culverts free flowing. To COSLA, that is palpably unfair to councils and council tax payers. We believe that the polluter-pays principle should be extended to the owners of culverted areas and that councils should be able to charge such owners if it becomes necessary to clear the culverts.

The Convener: I suspect that members will pick up on that point in their questions.

Alvin Barber (City of Edinburgh Council): I spent 17 years in Lothian Regional Council's drainage department. In 1992, I was involved in Edinburgh's first flood prevention scheme, which protected the Roseburn area. In 1996, I was transferred to East of Scotland Water; like almost every other local authority engineer with any hydraulic engineering experience whatsoever, I was transferred to the water authority. The responsibility for flood prevention was transferred to the City of Edinburgh Council as the local authority.

In January 2000, however, I moved to the City of Edinburgh Council to take up what was at that time the only full-time post in the council that was devoted entirely to flood prevention. I hardly had my knees under the desk before, in April 2000, we had the worst flooding in Edinburgh for at least 50 years, which affected large areas. Since then, I have spent most of my time trying to get our two major flood prevention schemes off the ground. They are the schemes for the Water of Leith and the Braid Burn. Their estimated value is some £40 million.

After nearly eight years, we have started work on the Braid Burn flood prevention scheme and we hope to start work on the Water of Leith flood prevention scheme about this time next year. They have both been confirmed and we hope to go out to tender soon. I expect that any changes in legislation will come too late to help my council to promote those schemes, but I hope that our experience in trying to get them under way will be helpful to other councils in the future. I tried to reflect that in my written evidence.

The Convener: Thank you. Jamie Hepburn will begin with some questions about the legislation and its reform.

Jamie Hepburn (Central Scotland) (SNP): I am interested to hear your views on the role of objections in the process. Will you comment on your experience of taking forward flood prevention schemes? How long did it take you to prepare schemes? Were there any objections? If so, were they a major cause of delay?

It is clear from the presentation that Moray Council gave us last night that objections go through many stages. That is a potential problem. How do your local authorities deal with, and try to resolve, objections? It seems that Moray Council is good at doing so. How can the process of dealing with objections be streamlined?

The Convener: That was a general question and we would like most members of the panel to answer it, but we will not be able to have every member of the panel answering every question. If we need an answer from every member of the panel, I ask everyone to be as succinct as possible. Otherwise, I ask members to say whether they want specific witnesses to answer their questions.

Alvin Barber, do you want to rest on your opening statement or do you want to amplify what you said?

Alvin Barber: For our major flood prevention scheme, the time between the closure of the objection period and the decision to hold a public inquiry was 13 months. For 13 months we were negotiating on objections. That time has to be shortened. The negotiations took place in conjunction with the then Scottish Executive. We feel that there has to be a statutory way of reducing the time required. There also has to be a way of resolving objections, because many problems could be resolved if we had the facility to do so. I am thinking in particular of compensation issues when we have to use people's land.

10:15

The Convener: How long did the inquiry process itself take?

Alvin Barber: It was six months before the public inquiry began and another 10 months before we had the reporter's decision.

The Convener: So about two and half years in total.

Sandy Gillon (Glasgow City Council): Glasgow's experience has been similar to Edinburgh's. Dealing with objectors took us about a year. However, we did not hold a public local inquiry because we were fortunate enough to be able to resolve all the objections. Although 700 people notified us of an intention to object, we received only seven objections. The key to reducing the number was communication with the community. We ensured that the community understood exactly what we were doing.

Compensation—which Mr Barber mentioned—was the issue behind our biggest objections. Farmers' land was being used for storage purposes, and compensating such people is not easily done through the legislation on flood prevention.

Bob Stewart (Moray Council): We have promoted four flood prevention orders, to which we received, respectively, no objections, four objections, two objections and 26 objections. That last is for the order in Elgin, for which the objection period has just closed. Mr Gillon spoke about community support. We have £120 million-worth of capital work, so receiving a total of only 32 objections shows pretty amazing community support.

The Convener: The question was about timescales.

Bob Stewart: If there is one objection to a flood prevention order, there has to be a public inquiry. We have already heard about the time that that can take.

I want to re-emphasise a point about compensation. Compensation is not only for people who are affected by flooding; it is also for people who are affected by solutions to flooding.

Kathy Cameron (Convention of Scottish Local Authorities): I support my colleagues: what they have said reflects the experience of people in other parts of the country. Inquiries, whether for flooding or general planning issues, take time. As Bob Stewart said, one objection can cause a delay. That can add to the cost, because if you delay the progress of schemes, the cost will go up.

John Scott (Ayr) (Con): Would the witnesses like to put a figure on a reasonable level of compensation? Compensation has been a recurring theme in all our discussions with other people. What would you need to do to achieve your ends?

Sandy Gillon: Glasgow City Council has employed the district valuer. Most of our compensation issues have related to agricultural areas, which, as you can imagine, are outwith our normal expertise. It has been difficult. The flood prevention legislation did not lend itself particularly well to dealing with the issues. The areas concerned will be farmed for most of the time, so we have had to consider how much disruption or injurious effect would be caused and what damage would be done if there were a flood. Discussions with farmers continue.

The Convener: Are you proceeding case by case?

Sandy Gillon: Yes.

John Scott: Would anybody else like to put a figure on it?

Alvin Barber: The important thing is not the amount of compensation, but the ability to determine a figure in advance. We had many objections from people because they did not know whether they would get compensation. Under

existing legislation, compensation cannot be agreed until after the damage has been done and the work has been carried out. Some people felt that the only protection they had was the ability to object to the scheme, because they did not know whether they would get any compensation.

The Convener: Does Bob Stewart want to add to that?

Bob Stewart: No—the point has been well made.

Jamie Hepburn: I was going to follow up the question but, from the answers, I do not think that I will get a useful reply. Can you give specific examples? When compensation has been paid, how much has it added to the capital costs of programmes?

Bob Stewart: We cannot say what has been added to the capital cost because compensation is a risk for which local authorities must allow. Like other authorities, we use the district valuer to try to establish what the risk might be and we put a figure for the risk in our estimates. However, at the end of the day, compensation is a matter for agreement between the district valuer and others and it depends on the specific event that takes place.

Jamie Hepburn: So, for the most recent scheme that you promoted and carried through, you cannot tell me how much was paid in compensation, rather than how much the scheme cost?

Bob Stewart: No. I can tell you only that the one scheme that we have carried out in Lhanbryde has now been in place for more than a year and a half and I believe that compensation has just been agreed.

Jamie Hepburn: I think it was Councillor Phillips who mentioned the need for cross-boundary solutions to the problem of flooding. That is self-evident, because rivers flow through various local authority areas. One issue that has been discussed is the creation of catchment management bodies. At present, how do local authorities work together when a problem is created by a river or other feature that crosses boundaries? How could that be done better in future?

At the Moray Council presentation last night, we were told that all the rivers that cause flooding in Moray start in the Highland area, but it seemed to me that the council's regional approach relates to the former Grampian region, which does not include the Highland Council area. That seems to be almost a contradiction. Do the structures need to be revised? If so, how should they be changed?

Bob Stewart: Under the water framework directive, Scotland is treated as one river basin,

which is clearly wrong because there are several river basins. If the legislation is to be reviewed, the new legislation must work on the basis of at least seven or eight river basins. From the strategic perspective, that makes a lot of sense.

Moray Council has historical links with other authorities in the former Grampian region, but we have a good working relationship with Highland Council. I have no problems working with Highland Council or any other authority to promote schemes. We are moving from reacting to flood events to establishing where flooding might occur and developing schemes proactively. That is a different approach that could be incorporated in legislation.

The Convener: The challenge will come if you discover that two or three sets of works much further up the line—perhaps in the Highland Council area—would have an enormous benefit for Moray Council. How successful would you be in persuading Highland Council that it must spend money in its area to solve a problem that could be experienced in the Moray Council area?

Alvin Barber: Existing legislation gives local authorities the power to spend money on flood prevention schemes in another local authority area provided that that local authority agrees. We are doing that at the moment—we are working on a reservoir in West Lothian. That has not been a problem with West Lothian Council.

The Scottish Environment Protection Agency, as the overall authority for developing catchment management plans, is carrying out consultations with local authorities to ensure that it knows everything that is going on. Its role is not proactively to develop flood prevention, but to co-ordinate local authority schemes. SEPA must ensure that it knows about all flood prevention schemes and proposals in local authority areas, so that it can incorporate those in its catchment management plans. In my area, the process seems to be developing well. I see no significant problems.

Sandy Gillon: Glasgow City Council has taken a similar approach. Under the White Cart Water flood prevention scheme, we are constructing three storage areas in East Renfrewshire and South Lanarkshire. We have received nothing but positive co-operation from the authorities in those areas. Glasgow City Council will fund that work

We should seek ways of benefiting one another. If we are proposing to do work to solve a problem in our area, the local authority in whose area the work will be done should be encouraged to identify ways in which it can benefit that area. For example, because we are building storage areas in East Renfrewshire, there is the potential for East Renfrewshire Council to build much lower

defence walls and to save money. It is about co-operation and getting bigger bangs for our bucks.

Des McNulty (Clydebank and Milngavie) (Lab): How will the process work under the proposed new funding arrangements? You are talking about measures that have worked under the existing funding scheme, which allowed authorities to bid in a consortium. The bulk of that resource was provided by the Scottish Executive or Scottish Government. The new arrangements are different. How will cross-border co-operation work in that context? How does Moray Council bid from its allocation for work to be done in the Highland Council area? What do council tax payers think of that?

Bob Stewart: The question of finance is not new. As was explained to the committee last night, we have had to go through three spending regimes. This happens to be the third. Under the previous regime, we were looking for about £120 million-worth of works to take place in Moray. That was more than the allowance for Scotland as a whole, which was always going to be a problem. Under the new arrangements, we have a little more flexibility and have been promised £40 million. There is still the question of how we will implement the balance of the schemes, but that was always going to be an issue. To me, it does not matter whether the works take place in the Highland Council area, Aberdeenshire or anywhere else, as long as they are to the benefit of Moray people. From the positive response to the schemes that we have promoted, it is clear that that will not be a problem.

The Convener: We will come back to the issue of finance.

Des McNulty: Bob Stewart has answered a question that we were going to ask later, when discussing finance. My question was about cross-border working, which can work only if funding arrangements are in place to allow it. What happens if the bulk of the money for flood remediation is distributed to local authorities on a formula basis? I am not talking about what the formula is or how it works; I do not see how cross-border arrangements are likely to work successfully unless authorities can make bids to a big pot of Scottish Government money—which is not the arrangement that will be in place. How will the White Cart Water flood prevention scheme operate under the new funding arrangements? I do not see how it can. Perhaps you can explain it to me.

Sandy Gillon: I do not think that I can explain it to you. It would be particularly difficult to do that.

10:30

Bill Wilson (West of Scotland) (SNP): Do you mean that it is difficult to explain, or that it would be difficult to deliver?

Sandy Gillon: It would be difficult to deliver the White Cart flood prevention scheme if Glasgow City Council was not the sole funder, unless we could take a co-operative approach that considered how a scheme the size of the White Cart scheme could benefit a number of local authorities. We need to be more flexible and strategic in how we approach flooding. We must look at flood prevention not at a local level but across boundaries if we are going to deliver. It will be difficult otherwise. We need a strategic plan.

Des McNulty: So you need two things: a strategic plan and a funding regime that supports it. The problem that I see is that, if there is a distributed basis for funding, it is difficult to reassemble the funding in a strategic framework.

Sandy Gillon: I agree.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): As I see it, this is the nub of the issue, but please correct me if I am wrong. There has been a change in the funding process. In the previous regime, 80 per cent of capital funds came from the Scottish Executive and 20 per cent from the local authority. Now, the Scottish Government has removed ring fencing from the money that it allocates to the 32 local authorities to deal with flooding. I will direct this point particularly to COSLA as it has an umbrella remit for all 32 councils. It must be the case that some of the money to deal with flooding that the Government is giving through the distribution formula to the 32 councils will go to councils that do not need to spend it on that. They will therefore spend it on education, transport or whatever else. That will mean that less money will be delivered in Scotland for flood prevention. Am I correct? Some councils, such as Moray Council and Glasgow City Council, need to spend money on flood prevention, but will others—we have not heard which they are—spend the money on something else?

Kathy Cameron: We have outlined our views about the arrangements in the concordat in our written statement, and it would be difficult to go beyond that. I accept Mike Rumbles's point.

Mike Rumbles: So is it correct?

Kathy Cameron: I would like to come back to the committee with a clearer position from COSLA. I have not been directly involved with the finance side of things, although I am aware of the arrangements for the flood grant scheme and how that came about. I know that in virtually every authority there were schemes in preparation. Not

all were of the scale of the Moray, Glasgow or Edinburgh scenarios, but things were happening for the spending review and beyond. The fact that the schemes were not at the point of being delivered does not mean that there is nothing that the councils want to undertake. Having said that, I would be happy to return to the committee with a clearer position on the issue.

The Convener: Would any council say that it has no requirement for flood prevention or is there a requirement for flood prevention everywhere in Scotland, albeit that it will be less significant in some places?

Kathy Cameron: It is about the level of requirement. There will be requirements for flood prevention everywhere, but not all of the same scale.

The Convener: There are different scales.

Mike Rumbles: I can give the committee an analogy. Both the convener and I were on the Health Committee in session 2, and we encountered the same issue with regard to free personal care for the elderly. COSLA and the Government said that there was enough money for the care, but half of the councils in Scotland said that they did not have enough money—the Health Committee heard a lot from them—while the other half kept their heads down. The fact must have been that those councils had more money than they needed because of the distribution formula.

It strikes me that we are dealing with exactly the same situation. The Government and COSLA say that the pie is big enough and that the necessary money is available. However, instead of being given where it is needed, the money is distributed among all 32 councils. Some councils are desperately in need of more resources while others that receive more than they need keep their heads down. They do not put their heads above the parapet and say, "Actually, we have more than we need." Is that correct?

Councillor Phillips: COSLA is aware of the individual difficulties and requirements that face councils throughout Scotland. You are right to make the analogy with free personal care. I believe that councils face a huge diversity of problems to different degrees in different areas. It would be wrong to say that councils such as mine—East Renfrewshire Council—have no problems with flooding but those problems pale virtually into insignificance in comparison with those of Moray Council. It will be down to individual councils to highlight to the Scottish Government and to the committee the particular demands that they face. That is the only way that I can see of doing things properly.

Mike Rumbles: My point is that we will hear from Moray Council, Glasgow City Council and the City of Edinburgh Council—all of which are represented here today—but we will not hear from councils that are in receipt of funds to tackle flooding but which they will spend on something else.

Kathy Cameron: It is difficult to say that councils will spend the money on something else. I gather—we have not had time to do an in-depth analysis of this—that the recently published consultation raises an issue about the definition of sustainable flood management, but I suggest that we need to look at the more fundamental issue of the definition of flooding. We have talked about that at some length, but people in the community perhaps do not fully appreciate what the nature of a flood is. As Councillor Phillips mentioned, local authorities face costs for measures such as culverting, if they want to make a small local change to a watercourse to alleviate pressure. The fact that such schemes are not on the same scale as those in Moray and Glasgow does not mean that councils should not have access to resources to take them forward.

The issue is also about how such schemes sit within the local authority's capital priorities. The authority needs to prioritise the scheme against other capital priorities in its area. The scheme needs to be costed and taken through the process of gaining planning consent—the committee might also want to consider consents, on which we know authorities have particular views—but that process cannot be delivered overnight. The suggestion that some councils do not need resources to tackle particular flooding issues does not necessarily reflect the actual position.

Mike Rumbles: Are you confident that every penny that the Scottish Government gives to tackle flooding is spent on that purpose by all 32 councils? Yes or no?

Kathy Cameron: I do not think that is a reasonable question to ask me.

Mike Rumbles: I do.

Kathy Cameron: I have already offered to come back to the committee with our position on that.

The Convener: Okay—fair enough.

I think Peter Peacock has related questions.

Peter Peacock (Highlands and Islands) (Lab): I have two separate sets of questions. I will first pursue the line that has been taken by colleagues and take it slightly further. I then want to put a question to the individual local authorities.

We have heard a lot of evidence about the need for catchment zone planning and for a catchment zone approach to flooding. As has just been

mentioned, one issue in co-ordinating the efforts of local authorities is how different councils manage their capital programme and what priority they give at any given time to flooding as opposed to roads, education and so on. Is there a case, as Mike Rumbles suggested, for thinking about budget planning on a catchment or river-basin basis? If we had seven or eight catchment zones—as Bob Stewart suggested—funding could be allocated to those catchment zones with a strategic plan for each. The money would end up with the individual local authorities in a catchment zone to enable them to deliver the work, which is what COSLA wants to ensure. Is there a case for taking such a sub-national, but not local, approach to get strategic planning and delivery at catchment zone level?

Kathy Cameron: I want to take the discussion back a bit. There are examples of councils' co-ordinating their funding on other areas, such as Europe. Councils have worked in partnership for a number of years and have put resources into delivering particular projects. There has been co-ordination of funding for other scenarios and policy areas, so there is in principle no reason why what you suggest could not be done. Delivery would obviously be subject to political arrangements and the support that was in place, but the suggestion seems reasonable, in principle.

Peter Peacock: Thanks.

I appreciate that two entirely different sets of local authorities are present: one set includes two large cities with large populations and tax bases; then there is Moray Council, which has a relatively small population, but a huge flooding bill compared with the two large cities. That situation places different demands on the authorities.

Moray Council gave helpful evidence that it has costed particular schemes under the third funding regime, as it described it. That scheme may change in the future—only time will tell. That council has a new funding allocation of £40 million over three years, but the council's written submission suggests that it has £23 million less than it would have had via the previous scheme. If we look forward to the next three-year period and the next spending review, there will be a gap of something like £80 million in total between what the council would have liked and what it thinks it will get. Twenty-three million pounds over a three-year period is a huge sum, and £80 million over a six-year period is a colossal sum.

What happens now in terms of Moray managing its flood prevention scheme? What will happen in the cases of the White Cart scheme in Glasgow and the Water of Leith scheme in Edinburgh? I would like Bob Stewart to give us a feel for how Moray Council will manage the funding gap. Will the council spread the costs over many more

years? Will the scheme take many more years to complete, and is there a time limit? I presume that, in terms of contracts and getting engineers to do the work, the council is required to complete the scheme within a particular time. Do councils have to think about taking money from other budgets in order to top up the budget for flood prevention schemes, which in Moray's case involves a gap of £23 million over three years and £80 million over six years? Do you have to cut your coat according to your cloth and reduce the scope of the scheme? How do you manage the situation?

Bob Stewart: The starting point is that we were given a global amount of money, and the informal indication that we have is that £40 million of that is for flooding measures. Moray Council has already decided that every penny of the £40 million will be used for such measures. Obviously, the council has some reserves that it will also use for flood alleviation. I do not know what will happen at the end of that because there is a long-term programme for the provision of flood alleviation measures, which will go beyond the three-year period and take us into another strategic review. How fast we will be able to move at that time will depend on the political response to that review.

Harping back a little to what was said before, I am aware of the up-front costs for local authorities in developing flood prevention schemes, so I do not grudge other local authorities having money in their settlements to prepare schemes—I think that that is justifiable. Nevertheless, if the type of scheme that Mr Peacock talked about was established and a river catchment fund was available, what would happen to local authorities that had prepared schemes in the meantime and were halfway down the road with them? There would have to be an interim proposal or means of dealing with the situation at some point.

Peter Peacock: So, if I follow you correctly, one option would be to delay schemes and manage them into the next spending review period because more cash may come in then—some cash will certainly come. However, I presume that there is a limit on how far you can shunt schemes forward or delay their implementation.

Like the schemes in Glasgow and Edinburgh, the scheme in Elgin in Moray is a good example of a big scheme that takes many years to plan and deliver. Is there a case for the expenditure on flood prevention being considered beyond the normal three-year cycle because of the nature of the process? Should we be thinking beyond a single spending review period, so that we can give councils certainty? You have spoken of a process that has already taken about a decade and which could go on for another six, seven, eight or more years.

10:45

Bob Stewart: COSLA has argued that we have to go beyond year-by-year planning. We now have three-year planning, but I certainly accept that some subjects have to be considered over an even longer period.

Peter Peacock: Flooding would be one of them.

Bob Stewart: Yes.

The Convener: Alvin Barber spoke about the time that is taken to deal with objections, to decide whether to hold an inquiry, and then to hold the inquiry. It took about two and a half years. At the moment, the Elgin scheme has received 26 objections. Unless planning processes change markedly in the very near future, you could well arrive at the next spending review before you have even started work.

Bob Stewart: That could certainly be the scenario.

The Convener: My suggestion is not beyond the bounds of reasonableness.

Bob Stewart: Definitely not. We hope to negotiate some of the 26 objections away, but we are unlikely to get rid of all of them. Because of the programme that we have to follow, we will get into a public inquiry, which will certainly take us into 2009 if not 2010.

Peter Peacock: Even if you could resolve all the objections, however, the funding regime and the way in which spending review periods work mean that you could not start work until the next spending review period anyway. You will not be certain of having the cash to complete the schemes.

Bob Stewart: You are taking us into hypothetical situations: there is only so far we can go down that route.

Peter Peacock: Your council could not commit today on the next spending review.

The Convener: We are just repeating things now. We have to cover some other areas.

John Scott: What are your views on sustainable flood management, about which we hear a lot? Are there enough hydrologists in the country? Are there enough consulting engineers? Should you be employing in-house people, as has been done effectively in Moray, or should lead local authorities farm out their expertise all over Scotland?

I particularly want to ask Bob Stewart about sustainability and downstream management of flooding. People in this room are very concerned about the consequences of your speeding up the flow of water through Elgin and possibly flooding the lands beyond.

Bob Stewart: I can give brief answers to some of those questions. Our process is resource intensive, and resources and skills are scarce just now. We cannot sustain the situation in which local authority hydrologists submit their schemes to central Government hydrologists to be criticised by SEPA hydrologists, when none of us knows anything about what they are talking about. A far more efficient procedure has to be found. We have to bring things together so that people can sign them off.

If we were convinced that issues to do with Elgin and downstream could not be resolved, we would not be promoting the current flood prevention order. We believe that the issues can be resolved. People have fears, but we feel that those fears are exaggerated.

Alvin Barber: We are starting from an inherently unsustainable situation, because we have already built on areas that are at risk of flooding. We are stuck with that, and we now have to protect those areas as best we can—as long as what we do is sustainable. It is important that we apply clear sustainability criteria to everything that we do. We should not build flood prevention schemes that are not sustainable. In other words, if building a flood prevention scheme would consume more of the world's resources than not building it, we should not build it. If we do not build it and there are buildings in flood risk areas, we must accept that replacing properties that are damaged by flooding will consume a lot of resources. Anything that we build to protect such areas must meet those criteria. It is not worth building a massive flood prevention scheme to protect things the replacement of which will not consume a lot of resources. However, we must consider all proposals on their own merits.

John Scott: Notwithstanding all that, the new factor in the equation is climate change. At the weekend, I was in Tewkesbury, where flooding must have been happening since the middle ages. It could not be otherwise, given the town's situation. Similarly, I imagine that there has always been flooding here in Elgin. However, the new dimension is climate change and the marked increase in rainfall since the 1960s—that is the element that we must suddenly cope with. What was sustainable 50 years ago is no longer sustainable.

Alvin Barber: There are other important reasons why building in such areas has become unsustainable. A lot of property that was built in the middle ages could have come back into operation a short while after being flooded. That is not the case now—the damage is greater because of the materials that we use. Other important factors come into play that mean that there is a greater need to protect property than there was in the past.

John Scott: I am happy to let you and other witnesses develop that theme.

Sandy Gillon: I take the point about climate change. My view of sustainable flood management is that we can build defences to protect against a one-in-200-year flood, but 50 years from now the return period might be much shorter, so we must find ways of plugging in extra resources to make defences viable again. That goes back to catchment management and looking at wider areas to identify where water can be controlled. We must plan for such eventualities and ensure that land use planning includes what can happen so that storage areas are set aside. Development plans must incorporate such factors.

We must ensure that when we construct such schemes, we do not look just at flood defences. Consideration should be given to the inclusion of other sustainability issues, such as access, quality of life and sustainable transport, all of which link in with green networks and biodiversity. It is not just a question of focusing our resources on flood defences—we must take a much wider view. Funding has been mentioned. When we start to take a much wider perspective, we must consider what other funding sources are available to support a holistic approach.

Part of the problem that we have in Glasgow is not to do with hard engineering: it is not fluvial flooding but pluvial flooding—the overland flow and the undercapacity of the sewerage systems—that causes a problem for us. As well as linking in with the flooding prevention mechanisms and funding, we must look to the quality and standards III process. We are trying to do that in Glasgow, but it brings its own constraints because it has different—

John Scott: Is it fair to say that you seek a menu of options, including soft and hard engineering solutions, which must be supported?

Sandy Gillon: Yes.

The Convener: We will come on to pluvial flooding in a minute, so we will return to that. Councillor Phillips wants to make a quick comment.

Councillor Phillips: I have a brief comment on sustainable flood management. Anecdotal evidence from my council suggests that there has been a continual loss of internal expertise to deal with such matters. That issue should be brought to the committee's attention. Finance is not the only issue. The bodies that know how to deal with such situations are leaving the industry.

The Convener: Do you mean hydrologists?

Councillor Phillips: Yes.

The Convener: You are confirming a shortage of hydrologists.

Councillor Phillips: That is the anecdotal evidence from my council.

The Convener: We have already heard about that in evidence, but it is interesting to have it confirmed. Bill Wilson wants to pursue the issue of pluvial flooding.

Bill Wilson: Yes—I have a few questions on that subject. As Sandy Gillon has just mentioned sewerage systems, that seems a good place to start. I have noticed that yours and others' evidence suggests that there are differences in required standards between Scottish Water and local authorities in their handling of flooding. I would like to hear about any problems that you have had in co-ordinating your flooding plans with Scottish Water. Have you found yourselves in the situation of having built flooding controls to a certain standard, while being backed up by a sewerage system that is of a far lower standard?

Sandy Gillon: Sewers are designed to deal with a one-in-30-year storm return period. Flood prevention and watercourse management systems look for a much higher return period of one in 100 years, so there is an imbalance straight away. We have to make the systems work together. If the sewerage system can cope with only a one-in-30-year storm, what happens to the water that cannot get into the sewer? Where does it go and how do we manage overland flows? That was one of the key issues in Glasgow in 2002—we had rivers where you would never believe there could be rivers. Once that overland flow got to the watercourses, they were not in a condition to take it because they have suffered decades, if not centuries, of neglect through industrialisation.

Design standards are not necessarily the problem; how you deal with them is. The sewerage system works fine until it starts to rain.

Bill Wilson: Is that not a bit inconvenient?

Sandy Gillon: That is the situation. We can deal with dry weather flows—Scottish Water is happy to deal with them—but when it starts to rain, the problems arise. The trick is to manage surface water out of the sewerage systems, take it to the watercourses, where it should be, and try to get them into a condition that allows them to deal with that. In a built-up area such as Glasgow or Edinburgh, that requires a clear strategic approach involving all the authorities—Scottish Water, SEPA and the local authorities—to ensure that we understand how we manage our water.

Alvin Barber: There is no provision at the moment to allow Scottish Water to invest in its infrastructure as part of a flood prevention scheme—it cannot get the funding to do that. I do not think that anyone in a local authority expects us to increase the standard of the drainage and sewerage systems above the one-in-30-year

level—it is just not practical to do so. However, when those systems overflow, the water has to go somewhere else and that involves strategic management. At the moment, councils can apply for funding—or they used to be able to, but that has changed—for flood prevention schemes, but there is no process that involves Scottish Water in that. It is important to bring Scottish Water into the process.

Sandy Gillon: We have been working closely with Scottish Water to develop our strategic approach to flooding. The best idea is to ensure that our funding mechanisms mesh together. Scottish Water's problem is that its funding mechanism works to a different timescale and it is considerably constrained under Q and S III as to where it can spend its money. It is fixed that it has to deliver certain outputs.

I do not know what the water industry commissioner's outputs are, but if Scottish Water has been tasked to deal with 100 unsatisfactory intermittent discharges, it does not necessarily have to deal with them in Glasgow; it might be cheaper to deal with those 100 UIDs somewhere in the Highlands. It might cost £20,000 to deal with one UID up there whereas it could cost £0.5 million in Glasgow. There is no incentive for Scottish Water to focus such treatment in a particular area and such constraints are a problem in taking a strategic approach.

Kathy Cameron: We are getting close to the point at which we will have to think about the mid-term review of the Q and S III exercise. In making further recommendations, the committee might wish to look at the capacity of Scottish Water to respond to that process in the current investment period.

11:00

The Convener: Should there be a single strategic flooding authority, regardless of whether it is called a flooding tsar or whether SEPA does it? I do not want big long answers—"Yes," "No," or "I do not know," will be fine. What are your immediate reactions to the idea of a single strategic lead person or organisation?

Alvin Barber: No.

Sandy Gillon: Probably. Yes, I think it has a role.

Bob Stewart: If anyone must have the duty, it should fall to SEPA.

Councillor Phillips: I do not know.

The Convener: That is fine. It is just an interesting question.

Bill Wilson: Part of the problem with pluvial flooding is the fast run-off. Clearly, the more

impermeable the surface, the more quickly the water runs off. Also, the more we expand development, the more impermeable surfaces we have. In a previous evidence-taking session, I asked about the degree to which porous materials could be used in car parks, for example. One of the witnesses commented that, although we might get a commitment to use porous surface materials, there seemed to be no way of checking—*[Interruption.]*

The Convener: Excuse me a second, Bill.

Somebody has a mobile phone on, despite my request at the start to switch them off. Will everybody double-check?

Bill, I am sorry to have interrupted, but you were being disrupted.

Bill Wilson: That is okay.

One of the witnesses in a previous meeting suggested that, whatever commitment people made to use porous materials, because there was no monitoring of the use of such materials, they could put down non-porous materials. What are your experiences in the use of porous materials? If a commitment is made, does anybody monitor it and how?

Alvin Barber: The only way to monitor it is through building regulations and the planning process. The City of Edinburgh Council has an agreement with SEPA to ensure that sustainable urban drainage systems—SUDS—are used in all new developments. That is a condition of planning consent and, therefore, it is up to the council's planning officers to monitor the situation and check compliance. However, we certainly do not have the resources to ensure that that is done.

The building regulations cover SUDS for private developments. Where drainage facilities, such as porous paving, are built and owned by householders, they come under the building regulations and it is the responsibility of council's building standards officials to check them. All that they can check is that the drainage system has been built properly; there is no way of monitoring whether it is maintained properly. There are big problems with existing SUDS that were built when the council maintained above-ground filtration systems and Scottish Water maintained those below ground. There is still no certainty about that. The problem needs to be addressed clearly, and it is largely a matter between the councils and Scottish Water.

Sandy Gillon: Porous paving is a form of source control. Delivering SUDS in urban areas under "Sewers for Scotland: 2nd edition"—complying with its requirements such that SUDS will be adopted—is land hungry. It requires large areas of land that are not considered part of the

green-space allocation in any development. SUDS are expensive in urban areas, so we need to drive the size of them down. The only way to do that is through source control and one of the key elements of source control is porous paving. We need to introduce such material more readily.

I take Alvin Barber's point about maintenance and monitoring of such material. The way forward is to make it part of the adoptable road, but roads authorities will baulk at such an approach because they perceive that porous paving is expensive to maintain and not as effective as gullies. That is unfortunate, because the only way of ensuring that such material contributes to an effective SUDS is to manage and maintain it in a particular regime, and the roads maintenance system probably provides the key to being able to do that.

Bob Stewart: I do not think that SUDS provide the universal answer. In some areas, soil conditions and groundwater levels are such that SUDS are not appropriate. Much more investigation is needed to test the effectiveness of SUDS throughout Scotland.

John Scott: Is there enough land in the three local authority areas that the witnesses represent and in the Perth area for us to be able to build housing that is not on flood plains? Can we move away from building on flood plains, as a sustainable way of preventing the flooding of new housing?

The Convener: And how many houses would we be able to build if we did that?

John Scott: It is a big issue, but we need to address it.

Alvin Barber: We are probably in a fairly privileged position in comparison with the south of England in that respect. In Scotland there should be no shortage of land that can be developed. However, the position is different in every local authority area. In Edinburgh we are fortunate in that there is no shortage of land, but in other authority areas—

The Convener: You said that there is no shortage of land, but it is not necessarily land that is zoned for housing. There might be plenty of land, but whether planners will allow us to build on the land is another issue.

Alvin Barber: I was going to say that there are conflicts to do with the preferred use of land. Our view is that in flood risk areas only brownfield land should be considered as suitable for zoning for development—I speak in general terms, because there are bound to be occasions when, for planning reasons, it is thought that a flood plain is preferable to a green-belt area.

The issue is difficult. We have tried to address it by allowing development on flood plains only

where the improvements necessary to enable the development include improvements to the watercourse. For example, in Craigmillar we are diverting a watercourse and opening up a culvert, so there will be a new, open watercourse, which is designed to enable development in an area that was formerly a flood plain. That has happened through the local plan process.

Bob Stewart: One of the most interesting statistics came from the insurance industry, which said that during every flooding occurrence 40 per cent of the properties affected are outwith the flood-map areas. The identification of an area as being at risk of flooding is not the be-all and end-all. Local authorities must consider whether a flood risk assessment is appropriate. We have used the expertise available to us to do that, so that we at least have a chance to assess potential problems and consider remedial measures.

John Scott: In Moray you are probably stuck with having to build on flood plains.

Bob Stewart: Perhaps not in the way that we have done in the past. There are areas that can be developed that are outwith the flood plains, but that does not mean that the risk is negligible.

Sandy Gillon: If we are to take a strategic approach to flood management, the development plan and the planning process are key. It is about how we manage our land. Bob Stewart has referred to areas outwith the flood plains. SEPA's flood maps do not show half the areas in Glasgow that are subject to flooding. We must manage flooding through the development process. We can build houses, as long as we understand where we can build them and what actions we must take to defend them against flooding. We may have to tell a developer that they cannot build somewhere because it is at the bottom of a hill and we want to use the site as a flood plain. There may be an opportunity to excamb lands. We need to get the whole picture and to manage the situation.

Bill Wilson: My question relates to coastal areas. Given that sea level rises of anything between 0.5m and a catastrophic 5m are predicted, should a minimum height above sea level be set for development?

Sandy Gillon: Glasgow City Council is not doing that at the moment.

Bill Wilson: It may not be happening in Glasgow, but is it happening in other council areas?

Bob Stewart: There are areas where we have identified coastal erosion as a problem. Every year part of the revenue budget is spent on maintaining the coastal defences that we have in place.

The Convener: What about coastal inundation?

Bob Stewart: One area in Moray is a possible candidate for coastal inundation. It happens to be at the mouth of the Spey. We have come up with various alternatives but, unfortunately, the cost of testing them is greater than the benefit that the schemes would produce. That is a problem for the authority.

Alvin Barber: As is the case in parts of England, the areas in Edinburgh that are at risk of coastal flooding are entirely developed. There is no question of allowing greenfield development in those areas; instead, they require to be protected, which is a fairly easy choice. The problem is that the greatest variation in predictions concerns sea level rise. The difference between 0.5m, which is within the bounds of the models that we are using at the moment, and 5m is huge—vast areas of land would be affected. The big problem is that at the moment we do not know. In my written evidence, I identify sea level rise as the area of biggest uncertainty. Most of the other uncertainties relating to climate change come within the range of error with which we are used to working; potentially, sea level rise falls well outwith that. I have recommended that firming up the research into sea level rise should be a priority, not just for us but for the whole world.

John Scott: We will have to make decisions before that research is likely to bear fruit.

The Convener: COSLA made some comments on Met Office predictions and warnings.

Kathy Cameron: The issue of warnings is crucial. Work started on extending SEPA's flood warning facilities, but I am not sure whether the additional resources to advance that work will be available. SEPA was looking to buy in a service that has been put in place elsewhere in the country. Bob Stewart spoke about coastal management. In 2003, COSLA's flooding task group recommended to the Government that councils with a coastline should consider preparing shoreline management plans to help them to manage the coast. That was one of our 10 recommendations that was not taken forward.

Peter Peacock: In your written evidence, you state:

"The current Met. Office warnings can be too vague and can cover larger areas than necessary, with the result that they may not always be acted upon properly."

We heard evidence from the Met Office just a few weeks ago that it now has the technology to get much closer, more localised identification of precipitation that might cause flooding. Are you saying that, among all the things that we and the Government need to consider, we need to examine that area more closely?

Kathy Cameron: On the flood warning side of things?

Peter Peacock: Yes.

Kathy Cameron: It certainly sits among the range of tools that would help councils to work better.

Peter Peacock: To plan better and to predict better?

Kathy Cameron: Yes.

The Convener: What kind of resources are available to you for flood warning and preventive evacuation? Can you manage that within your council budgets if you have to?

Bob Stewart: If there is an emergency, we deal with it.

Kathy Cameron: Because of our responsibilities as a responder, under the Civil Contingencies Act 2004.

The Convener: It is a question of resources for evacuating people, responding to flood warnings, bringing people back and so on.

11:15

Sandy Gillon: I cannot comment on the emergency planning element. All I know is that, when a flood happens at 2 o'clock in the morning, we do not know where the water is coming from—whether it is coming from a sewer or a watercourse. We do not know which authority is responsible for dealing with the matter. It is difficult to deal with such cases.

We receive heavy rain warnings from the Met Office, which allows us to take action such as cleaning screens and ensuring that the relevant watercourse is in the best condition to accept the heavy rainfall. When we used to have phone conversations with the Met Office, its staff would look out the window and say, "Yup, it's raining across Cathcart, so you'd better get some sandbags out." Now, we get the warnings from Exeter. The local element has gone. We do not necessarily have the same level of service. It is all right—we still get rain warnings—but the local knowledge is perhaps not what it used to be.

Peter Peacock: So you are saying that the service is less.

Sandy Gillon: I am not saying that it is less; it is less local.

Peter Peacock: We have had evidence that the technology now exists to get very localised predictions, if that is the right way of phrasing it. It costs money to do that, as more radar has to be put in. Would that benefit your ability to respond as you have just described or is the current situation sufficient?

Sandy Gillon: The current situation is that we know when rainfall is arriving. The Met Office and

its meteorologists do not have the same local knowledge as the people we used to deal with.

The Convener: You are saying that the guy in Exeter will not be able to say, for instance, "That's the same kind of rain that you had two years ago when the White Cart flooded, so you'd better prepare for it."

Sandy Gillon: That is right. And I could not get home.

The Convener: Okay. I ask Alvin Barber to be quick, as we need to move on to the next panel of witnesses.

Alvin Barber: We rely heavily on SEPA's flood warning system, and we rely on SEPA to liaise with the Met Office. SEPA is investing a lot in its flood forecasting methods. It has taken our flood models, and it is updating them for a realtime flood warning model. It is doing a lot of work on that.

John Scott: It appears from what you have said that you have good flood warning predictive methods, so why does Glasgow not?

Sandy Gillon: We do have good flood warning, but we have seen a change. Like the other gentlemen here, we work with SEPA and we have flood warning systems in place.

The Convener: It is a matter of local knowledge.

Sandy Gillon: It is local knowledge that we have lost.

John Scott: And it could be improved on.

Sandy Gillon: Yes, of course.

John Scott: We are considering the strategic aspects, and they should be improved.

Sandy Gillon: Yes. We need much more focus.

The Convener: Thank you all for coming to give evidence. We will suspend the meeting very briefly to allow for a changeover of witnesses. I do not want folk to wander off outside for a cigarette, however, because it will not be that long a suspension.

Once again, I thank this panel of witnesses for coming along. You are very welcome to stay, if you wish to listen to the next bits of evidence.

11:19

Meeting suspended.

11:24

On resuming—

The Convener: The second panel of witnesses are all Elgin residents. We have with us Alex Macmillan, who is the chairman of Elgin community council; Bryan Watson, who is a

member of the community council; and Jennifer Main, who submitted written evidence to the inquiry. Mr Macmillan and Mrs Main wish to make brief opening statements. I ask them to keep them brief, because we are quite tight for time.

Alex Macmillan (Elgin Community Council): Thank you very much for giving us the opportunity to address the committee. I am the chairman of Elgin community council, but I have not been affected directly by flooding. All I am here to do is advocate on behalf of a lot of the citizens of Elgin who have been affected.

Jennifer Main: Thank you for asking me to come to the committee meeting. I am here not so much on my own behalf as on behalf of my neighbours and friends who were affected but who have not been able to get involved in this inquiry—it is rather a daunting prospect for folk—because they are frail, elderly or do not have the facilities to deal with all the paperwork involved. I have spoken to them at length.

The Convener: Mrs Main, your written evidence seems to suggest that residents' warnings of the Elgin floods of 2002 were very much dependent on their having internet access—and, I presume, checking the information on the internet—or receiving a telephone warning. How did people receive warnings?

Jennifer Main: I did not receive any warning. I just saw the flood waters coming nearer and nearer and I warned my neighbours. That was it.

The Convener: So, basically, people got warnings over the back fence.

Jennifer Main: Yes.

The Convener: Was that the experience of the other witnesses? They might have heard anecdotal evidence about the receipt of warnings.

Bryan Watson (Elgin Community Council): There were no warnings, other than from watching the news. It all happened that quickly.

The Convener: Right—so in your view there was not much time for any formal warnings to be given.

Bryan Watson: To my knowledge, I did not receive any formal warnings at the time.

The Convener: Did you receive any warnings?

Bryan Watson: None whatever.

John Scott: Do you think that the council should be responsible for that? I am surprised that it does not try to go round and warn people in some way, such as with a loudhailer van.

Alex Macmillan: The council attempts to warn people, but it is impossible to get up-to-date information from the SEPA website. Any warning

system needs to be effective; the information needs to be updated regularly and targeted properly, so that it gets to the right people at the right time. That has not happened; the system needs to be totally effective, but it is not.

The Convener: We must accept that we will never have a system that is 100 per cent perfect. We will never get perfect warnings that are always received in sufficient time for everybody to be able to deal with the situation. There will always be some breakdowns. How would you like to receive a warning? What do you envisage as the appropriate kind of warning to which you would be able to respond reasonably?

Jennifer Main: I suppose that getting a phone call or having someone come round to warn people would be appropriate.

The Convener: Are you thinking of a van at the end of the street with a loudhailer?

Jennifer Main: Yes, or somebody just coming round to say what was happening.

Alex Macmillan: There could be some form of cascade system, whereby key people are told and they would then tell others and so on—the message would be passed on in that way. I am not saying that those key people would be available to take such information every time, but there has to be a fallback position.

John Scott: Do you see the police having a role in that?

Alex Macmillan: Definitely.

Bryan Watson: I agree with Alex Macmillan. I appreciate that it is difficult to inform a population of perhaps 20,000. You must remember that among those who are affected are elderly and infirm people who might not have internet access and might not even watch the television during the day. There might even need to be a door-to-door mechanism to inform people, because some people might not hear the loudhailer. All sorts of complications exist, but the places that are at risk are well known, so the area that has to be covered is not great.

The Convener: So you think that a system could be established to cover the areas that are most at risk.

Bryan Watson: Indeed.

The Convener: Everybody would understand the process.

How effective was the emergency response—the reaction process, the evacuation process, the temporary accommodation and the provision of food and clothing—once it got going?

Jennifer Main: I did not see any response. I had no experience of anything like that. None of my neighbours was approached by anybody to help.

The Convener: Not even within the—

Jennifer Main: I can talk only about my own little area. My next-door neighbours are in their 80s and people who are nearby are almost as elderly, but nobody came to help them. Opposite the back of my home, a woman who is in her late 70s looks after a Down's syndrome brother, but nobody came near her at the time of the flood or even after it.

11:30

The Convener: Did you know where to go?

Jennifer Main: No. I went to my mother's property, which is the next door but one. She lives upstairs. Nobody came to check on anybody. Fortunately, my neighbours had folk visiting them, who helped them to evacuate and go up the road to another friend's home. Nobody came near them, even in the weeks post flood.

Peter Peacock: I will pick up a point by Mrs Main. I think—please correct me if I am wrong—that you say somewhere in your helpful submission that the council might have prioritised its activities on council housing stock.

Jennifer Main: That is the perception among people in my neighbourhood.

Peter Peacock: You are not in council housing stock.

Jennifer Main: No.

Peter Peacock: So there may be—I put it no more strongly than that—a different approach to council properties, because of the council's responsibilities to them, from the approach to the community as a whole.

Jennifer Main: Yes—to private properties.

The Convener: As Alex Macmillan is the chair of Elgin community council, he might have more of an umbrella remit.

Alex Macmillan: Perhaps I have more of an overview. Many families were evacuated during the major flood event and a lot of them were put up in accommodation that the council owned. People were in that accommodation for a considerable while. The reaction from charitable organisations that were involved in that sort of thing was reasonable, but I am not sure whether the council's social services reacted in the broader way that they might have, especially considering Mrs Main's situation. Some reaction happened, but I am not sure whether it was absolutely—

The Convener: So the reaction was not consistent in all the areas that were flooded.

Alex Macmillan: No.

The Convener: Plans were being carried out, but they did not encompass everybody.

Bryan Watson: That is certainly my view. My situation was slightly different. The house that I was living in was at risk of flooding and the waters reached within 50ft of it, but the water actually entered the property that I was to move into in the following week. I did not own that house at the time, which caused complications with the exchange of contracts and so on. When we finally moved into that house on 22 November, we found floors ripped up and dehumidifiers running and we knew nothing about that.

The Convener: You did not know who to ask about that.

Bryan Watson: The previous occupants had set up that arrangement through their insurance. We were left with the machines and we did not know what to do with them. We did not know when people were coming back for them. We had no contact point. I had to ring the number that was stuck on one of the machines to find out the situation.

Des McNulty: I will look back at the causes of the flooding. Mrs Main says in her submission that she has lived in Market Drive for 30 years. She observes that fields had been waterlogged or that there had been evidence of water there, yet the council allowed them to be built up and covered with a hard surface. She almost attributes the flooding events to the fact that development took place.

Jennifer Main: In the small area where I live, there used to be open fields along Edgar Road. The fields absorbed a lot of water—I am not sure whether it came up from underground—and they were always sodden. The area has since been well developed and it now includes a B&Q store that is built on a massive pile of hard core. The water that used to rise in the fields has moved elsewhere—to my bit—and the mart area has been flooded. In previous floods, pictures show that the area around New Elgin Road was flooded but the water did not enter people's houses. It was not enough to make people evacuate their homes. I got that from people who have lived in the area all their lives. They have experienced several previous floods but those were minor enough for people to walk along the pavements. Since all that building around Edgar Road was completed—B&Q, Asda and all those wonderful places—people have been flooded out twice. I was nearly flooded out in 1997, when the water came up close to my joists.

The Convener: Were there objections to those developments?

Jennifer Main: No. None of us knew enough about the issue then.

The Convener: Was the issue canvassed at all before the developments were built?

Jennifer Main: No, we had not a clue. We did not realise, but now we do. However, further development has been proposed on the flood plain area. The water table is less than 2m below the surface, but people are still thinking of building further developments there. That frightens us.

Des McNulty: I am interested in finding out whether, as a precursor to such development, the council or developer undertook appropriate hydrological studies to consider what the implications of the development might be for displaced flooding. From what you have said, it sounds like that did not happen in this instance. However, I know of several cases in my constituency and elsewhere in which there is evidence that such issues were raised yet the development proceeded regardless.

I suppose that two questions arise from that. First, whose responsibility is it if a council or a developer knowingly builds on land where there is a reasonable expectation that the development will have flooding implications elsewhere? Secondly—

The Convener: That is not really a question that these people can answer. They are not concerned about whose responsibility it is, as long as somebody takes responsibility.

Des McNulty: To be fair, convener, I take it from Mrs Main's evidence that the flooding that she and her neighbours experienced was a consequence of decisions that were taken by others who either should have known about this—

The Convener: Can we have a question, Des?

Des McNulty: Is that a fair summary of Mrs Main's view?

Jennifer Main: I think so, yes.

The Convener: When were you informed that you could return to your homes? After being evacuated, how long were folk out of their homes for?

Jennifer Main: I was not evacuated—

The Convener: But you had to leave.

Jennifer Main: I just went out and went back to clear things up and to put stuff in the attic. I had to contact insurance people and I had to get the building demolished, but nobody told me what I could and could not do.

The Convener: In the area that was evacuated, how long were people out of their homes for? When were they able to get back to their homes?

Alex Macmillan: They were out for a considerable while, but I cannot give you dates. I suggest that Moray Council would be best placed to answer that question.

The Convener: Was it weeks or months?

Alex Macmillan: It was months.

Jennifer Main: I was out for eight months.

Alex Macmillan: It was definitely months.

The Convener: In your situation, Mrs Main, was it very much your decision as to when you could return to your home?

Jennifer Main: Yes. I was chivvyng the builders on to get things finished and dried out.

Bill Wilson: Jennifer, you said that no one contacted you after the event. Given the evidence that flooding affects people's health—if people need to leave their house, they have the problem of deciding what the risk is of its being polluted and contaminated—what contact would you have liked to receive from the council or other authorities after the flooding was over?

Jennifer Main: It would have been nice if a human being had come round to ask whether I needed advice or assistance and to say, "Here's a phone number that you can call" or "We can put you in touch with such and such who can advise you on the best course of action." I know from word of mouth that, after the 1997 flood, builders came in from the cities to do repair jobs hastily. They were real chancers who were just after money. People could have been warned about that sort of thing. We could have been given advice on how to contact people who know more about dealing with flooding. A human being who asked whether they could help in any way would have made an awful lot of difference to many people.

Bill Wilson: That must have added to the personal stress that people felt after losing their house.

Jennifer Main: Yes. You felt alone and deserted in your fighting. Everybody was in the same boat—granted—but some people were worse off than others.

The stress that people faced afterwards cannot be overestimated. For example, a small block of four houses along Linkwood Road had eight residents, three of whom are now dead and two of whom have stress-related illnesses. It cannot be proved that that is due to the flood, but it must have had an effect on them. My next-door neighbours are in their 80s and whenever it rains heavily, they are twitchy; indeed, they have become so neurotic, it is not true—twitchy is not really the word for it. I visit them and say

reassuringly, "Och, never mind. It's not going to happen again."

Bill Wilson: It is some time since the last flood. Obviously, if your neighbours are twitchy, they are still very concerned about the possibility of flooding. Should the council continue to offer to help such people?

Jennifer Main: One of the things that makes them twitchy is not knowing what is happening. They think that the flood alleviation measures are taking a long time. No one has come to see them to ask their opinion or to offer them help. They think that the new developments in the area will worsen the situation. They are frightened.

Peter Peacock: My question is for Mr Macmillan and Mr Watson of Elgin community council. You spoke of the immediate communication difficulties that you encountered. Helpfully, you moved on to address the nature of the communication and the questions why the flooding happened, how to prevent it from happening again in the future, and what plans the council has for taking things forward. What are your thoughts on communications with the community on future plans and how to prevent such flooding from happening again? Also, will you address the issue of the length of time that has elapsed since the last big floods?

Alex Macmillan: People have told me that they perceive a lack of progress in the alleviation of problems for people in Elgin. I am talking not only of residents but of businesspeople. I appreciate that the process of even starting to implement a flood alleviation scheme is extremely long and drawn out. Of course, all the statutory hurdles have to be met and overcome if a scheme is to be brought to fruition. As Jennifer Main said, flooding causes people a tremendous amount of fear and frustration.

Again, we have to bear in mind that any effective flood alleviation scheme can easily be negated by indiscriminate building on the flood plain. Even when a scheme is put in place, it is essential for the powers that grant planning permission to be aware of that. I think that I am right in saying that the flood alleviation scheme for Elgin will not be complete until 2014, which is still a heck of a long way down the line. The scheme has been going on for a long time and yet its completion is still a long way off. Inevitably, the matter will go to public inquiry. There will be objections.

The Convener: There are 26 objections.

Alex Macmillan: Indeed. No one—the council, flood alleviation team or powers that be—can overcome those objections within the approved timescale. The scheme will have to go to public inquiry, which will lengthen the whole shebang.

Peter Peacock: From a community point of view, are the statutory processes that happen to be in place as a result of successive pieces of legislation in need of radical reform? Do we need to do that to streamline and speed up councils' ability to respond to people's genuine fears?

Alex Macmillan: It is essential for the process to be streamlined. As I said at the outset, I have no experience of flooding. However, for those who have experienced it, the threat of heavy rain—the rain itself or snow melt or whatever—can be frightening. As soon as the Lossie starts to rise, the fear is there. People rightly perceive that bureaucracy is delaying flood alleviation work. It is therefore essential for bureaucracy to be streamlined. The solution has to be got to the people who are affected as soon as possible.

11:45

The Convener: Perhaps one way of streamlining would be to find ways of overcoming objections much more quickly. However, if we were to do that we would create separate issues about consultation and fairness. If we streamlined the process so that objections were managed away quickly, I presume that representations would be made to you as a community council by objectors who were unhappy and felt that they were being overridden. A balance must be reached. I think that there is a consensus that the balance is not right at the moment, but we must consider the other side of the coin. How would you respond to that?

Alex Macmillan: I take the point entirely. I give the example of the Rothes scheme, where there were objections but they were overcome. It is to the benefit of the local good that the objectors withdrew their objections. There needs to be—how shall I describe it?—a local community responsibility. People must consider the overall picture and think, "Am I going to put in an objection just for the sake of it? Can I justify my objection, which might be to the detriment of many other people? Yes, I might need to make an objection, but how far have I got to take it?"

The Convener: So you think that a greater good test should be applied in such circumstances.

Alex Macmillan: Yes.

Jamie Hepburn: Mr Macmillan spoke extensively about the process that is involved in the proposed Elgin flood defence scheme. I think that I know the answer from what he said, but I will ask my question anyway. I presume that the community council is in favour of the scheme. Is that the case? Has it discussed the scheme and does it have an official position?

Alex Macmillan: Yes. We were involved at the earliest stages in considering the various types of scheme that might be employed in Elgin. We gave our considered opinion. We plumped for a considerably different scheme, but we were persuaded that the scheme that was chosen was the right one. The correct conclusion was reached, and the scheme that is progressing is the right one for Elgin.

Jamie Hepburn: Does that view reflect wider public opinion?

Alex Macmillan: I am pretty sure that it does. The sooner the scheme is in place, the better. I have to say, whether or not it is right and proper to raise the matter today, that there are doubts about the funding for such a scheme. I would say to anybody and everybody that the scheme must be funded and that the bulk of the funds must come from the Scottish Government.

John Scott: I am certain that the council is trying to do its best, but it has limited funds. If more needs to be done—for example, if there are to be people on the streets before or after an event to give counselling and advice—that will come at a cost. Do you think that council tax payers in Moray, or at any rate in Elgin, would regard that as a justifiable additional burden on the rates?

Alex Macmillan: I do not necessarily regard it as a burden on council tax payers. Again, I seek the Scottish Government's help, because the problem is national. Moray is a relatively small area but it has the largest flood alleviation scheme in Scotland. It is doing its damndest to get the schemes in place and, as such, it deserves all the help that it can get from the Scottish Government, both financially and in terms of expertise.

The Convener: I think that what John Scott was asking about, though, was the immediate aftermath and the situation that we discussed earlier regarding the provision of warnings and immediate support. There would be people on the streets in yellow jackets to tell people what was happening and get them organised. Obviously, such people would be provided locally. They would be people who work for the council, people who have been drafted in by the council, people from the police, or whatever. The cost would have to be met locally because what would be provided is an emergency response rather than a flood alleviation system. It is a slightly different issue.

Alex Macmillan: The issue comes down to the local area disaster plan—I am sure that there is one for Moray.

The Convener: When you say that you are sure that there is such a plan, does that mean that you have not actually seen one?

Alex Macmillan: Personally, I have not seen a local area disaster plan for Moray and I do not necessarily need to see it, but I am sure that there is one and that it involves the military—we have two Royal Air Force bases in Moray. Manpower should be available to co-opt, not only from the police, but from the local authority.

John Scott: If you could mention just one thing that was not done during the previous floods but which should have been done, what would it be? As there will be another flood, what should be done differently the next time?

Alex Macmillan: The alerting system needs to be refined and targeted. We need a way of ensuring that warnings are given to the people who are vulnerable, as Mrs Main said. Those warnings and those people must be taken care of. It is very much a people thing.

Jennifer Main: I agree that it should be a people thing. There should be checks to ensure that folk can get out of their houses safely and that they are all right for the weeks and months afterwards.

The Convener: The logistics of that are difficult, because warnings can come at fairly short notice.

Jennifer Main: It is a neighbourhood thing.

The Convener: Giving effective advice to the number of households that we are talking about—100 or 150—is difficult logistically.

Jennifer Main: We could break the number down into little lots. We could have a responsible person in each street.

The Convener: You are talking about co-opting members of the public, which is slightly different.

Jennifer Main: I am talking about community, which is important. It would not cost anything to get people to notify one another and to be good neighbours.

The Convener: So we need somebody to be the street captain, if you like, and to take responsibility.

Jennifer Main: Yes.

Bryan Watson: The effectiveness of warnings to the public comes down to how much information those who need to inform the public have in the first place. To my knowledge, we have insufficient radar coverage in this area via the Met Office.

The Convener: That is ironic, in the circumstances.

Bryan Watson: Yes. Floods need to be predicted early enough. The floods that we are talking about do not happen quickly. Deluges happen, but the floods that we have had were the result of three days of rain. The technology exists,

but we do not have it here. With that technology, it would be much easier to inform people.

Right from the start, before the flood alleviation project got under way, I asked the flood team and the council what procedures could be carried out in an emergency situation, such as bursting river banks 5 or 6 miles up the road to minimise flooding of property. Of course that would flood farmland and compensation would have to be given, but that would be considerably less costly than dealing with the effects of a flood in a small city. The only answer that I received was, "We have looked at that and it does not seem to be a possibility." However, I believe that it is a possibility. Even in the interim between now and 2014, I would like that to be considered. The scheme would not have to be expensive—it would not have to be a structure. However, using such a measure would not be the ideal scenario.

The Convener: If such a measure could reduce the impact, it would be helpful.

Jennifer Main: In 1997, I was nearly flooded—the water came close to below my floor joists—but I was not flooded because the River Lossie burst its banks downstream. That confirms Bryan Watson's point.

The Convener: The UK is one of the few places in the world where insurers still insure for flooding risk—there are many countries where such insurance is not available at any price. After negotiations with the Westminster Government, the industry is stating that it will continue to provide such insurance. At the household level, what is your experience of dealing with insurers in the aftermath of a flood?

Jennifer Main: I was lucky, because my insurers were good. I had two separate insurers, but I did not have any problems—they were helpful.

Bryan Watson: In my case, the previous occupants' insurers dealt with the matter—my insurance policy was not involved. However, when it was time to renew my policy the following year and I tried to get a better deal, I discovered that I could not go to another company. Zurich was insuring me at the time and if I had left it to go to another insurer, I would have been hit with a very large premium. In fact, the majority of insurers said that they would not insure me.

The Convener: That is interesting. Although the industry as a whole has said that it continues to insure for flooding, it is not so easy in practice to find insurance.

Bryan Watson: To give Zurich its due, it knew that the house had been flooded and was happy to continue to insure me, but I could not go anywhere else. Zurich also did not put up my premiums,

although it could have done—and I could not have gone anywhere else.

Peter Peacock: Do you know whether that was the experience of others, for example your neighbours?

Bryan Watson: My neighbours were in the same situation in not being able to change insurance policies, but generally the insurance companies have been fantastic. I have no quibbles with them.

The Convener: Alex, do you want to comment?

Alex Macmillan: It is often impossible for people to change insurer when their property has been flooded. I do not know about the situation for businesses. Business insurance is often considerable.

The Convener: We have a panel of business witnesses, who will no doubt be asked about that.

I suppose this question is germane to insurance issues. What advice have folk had about action that they as individuals could take at household level to protect their property or minimise the impact of flooding events? Have your insurers or the council suggested anything? Has there been any information about what you could do?

Jennifer Main: SEPA says that we should be responsible for our own properties. There is no way that I can be responsible for keeping the water out of my property. A few firms have said that we could put things over our vents—

The Convener: Guards?

Jennifer Main: Yes. They would be totally useless in my case as the water comes up through the ground.

The Convener: So commercial companies are approaching you with ideas, but you are not getting independent advice from anywhere.

Jennifer Main: That is right. I cannot put anything such as a bund wall around my property because it is too big. My next-door neighbours were told about closing their vents. They are in their 80s, and they cannot even see properly. How are they supposed to do that in the pouring rain? It would not work in their instance anyway.

Bryan Watson: Nobody approached me. I approached various companies, but because they are private companies the costs would have been astronomical. I asked my insurance company whether it could send round an assessor with knowledge of flooding to see what I could do—either to bring down my premium or at least to show my insurance company that I am making an effort. However, we are in the same situation as Jennifer Main as the water comes from underneath.

The Convener: Did anybody come?

Bryan Watson: No. Although my insurance company applauded me for making every effort to do something, it did not help me.

The Convener: So the message is that householders have to be responsible for taking action, but there is nobody to tell them the ideal solutions to put in place. Is that your experience as well, Alex?

Alex Macmillan: Yes, that is the general perception.

The Convener: So we are talking about responsibility without knowledge.

John Scott: Will you tell us a bit about the clean-up operation? Was the community happy with it? How was it handled? Was the council obviously busting a gut? I am sure that it was, but how was the operation perceived locally?

Alex Macmillan: To be fair to the local authority, it was seen to be busting a gut. However, there was a perception that it was busting a gut to look after its own property first. I suppose that for anyone the priority is to look after their own property first, but local private residents felt more on the periphery.

John Scott: Were private residences less affected?

Alex Macmillan: No, I do not think that private residences were any less affected by floods.

Jennifer Main: The clean-up in our area was all done by insurance and building people—demolishing the insides of houses and loading up skips. The council was not involved at all.

12:00

Peter Peacock: Alex, because of your position on the community council, you are among the better informed people in the community. Are you clear about who, among all the agencies, is responsible for dealing with flooding issues? We have heard that we should tidy up the institutional landscape and make one agency clearly responsible. Who do you feel ought to be responsible?

Alex Macmillan: That question raises an extremely good point. Communication is the lifeblood of any organisation in responding to any situation. At the moment, I could not put my finger on whom I should go to for a particular response or for particular advice; neither, I am sure, could flooded-out residents. There has to be a well-targeted organisation with overall responsibility for this particular aspect of local disasters, but I do not see such an organisation. If it is in place, it is not particularly well publicised. Again, we come back to a lack of communication.

Peter Peacock: From your knowledge, do you have a preference? Should the local council be responsible, as it is democratically accountable? Could it be SEPA? Could it be the police?

Alex Macmillan: I am loth to say that it should be SEPA, because of the experiences that many people have had with SEPA. Having SEPA would not be particularly conducive to arriving at the solutions required.

We have to have the right person or the right organisation in the right place at the right time. My personal opinion is that it should probably be the local authority.

John Scott: Are you suggesting a helpdesk in the head offices of the local authority, or a flooding helpline? I do not know whether such things exist—forgive my ignorance.

Alex Macmillan: Such things do exist. However, we have to consider the number of inquiries that there would be, and the overall feeling—I will not say “panic”—about agencies’ inability to do anything for people affected by flooding. Whom will those people get hold of? There needs to be a well-publicised and well-documented chain of people to be contacted.

The Convener: You would like an A4 sheet of paper saying which phone number to try first and giving a very clear outline.

Alex Macmillan: I would indeed—but unfortunately, if people go through to a helpdesk or a call centre, they will be put on hold, which is a problem. People need a rapid response, but the communications at present mean that they are not likely to get a rapid response if 30 or 40 people call in on one telephone line.

The Convener: That will always be a difficulty.

Alex Macmillan: It will.

The Convener: It would be difficult to set up a system to deal with a situation that will arise only once every few years.

Alex Macmillan: I have not fully considered this idea, so I am going outside the box, but many years ago if a disaster or a major event arose, there used to be a mobile response—a van or something would go to where the problem was. People then had a rallying point. Whether such a response would be possible now, I have absolutely no idea.

The Convener: Okay. I thank the three witnesses for coming along—your evidence has been useful. A number of issues have arisen that we will want to follow up. As I should have said to the first panel of witnesses, if anything occurs to you later that you wish you had said or that you wish we had asked, please feel free to contact the committee clerks.

Alex Macmillan: May I make a point now?

The Convener: Yes.

Alex Macmillan: For a long while, the process for the flood alleviation scheme for Elgin was bogged down because of the apparent reluctance of Scottish Water to communicate with Moray Council. I would request that all statutory government bodies be required to communicate.

The Convener: Thank you. That is a useful point.

12:04

Meeting suspended.

12:08

On resuming—

The Convener: The final panel of witnesses represents the business community in the area. Graeme Archibald is the financial director of Johnstons of Elgin Ltd; Andrew Grzesinski is the group managing director of Macrae & Dick Ltd; and Michael Urquhart is joint managing director of Gordon & MacPhail. Mr Archibald and Mr Grzesinski want to make brief opening statements. I ask them to be very brief.

Graeme Archibald (Johnstons of Elgin Ltd): I appreciate the opportunity to speak to the committee.

We are concerned about the time that it has taken to reach the stage of submitting a flood prevention order. We acknowledge that Moray is a small authority with limited resources and believe that progress might have been accelerated significantly had a central pool of skills been accessed to work in partnership with local officials.

It has been 10-plus years since the July 1997 floods and we could be waiting another six or seven years—even that might be optimistic; it could be another 10 years—for a project for Elgin to be completed, which is not a comfort factor.

Andrew Grzesinski (Macrae & Dick Ltd): I have two points. First, the committee should consider the wider impact of flooding, rather than just how it affects businesses in a place such as Elgin—certainly, my business has other branches throughout Scotland. Secondly, the time taken for the flood alleviation scheme to be given authority to proceed concerns us because if we have another flood, our business could talk about withdrawing from Elgin. I know that my colleagues from Johnstons of Elgin are big employers in the area too. That could mean that up to 500 to 700 jobs would be lost locally.

John Scott: I know that you—or your colleagues in the business community—have had

discussions with the local authority about the construction of flood defences. The Scottish Council for Development and Industry's submission was quite robust in some of its criticisms. Would you like to expand on the comments on compensation and moneys for the creation of flood defences, for example?

Andrew Grzesinski: Do you mean the council's flood defences or companies' and organisations' flood defences and what we have had to do?

John Scott: The council's flood defences and paying compensation to people such as you for land and so on.

Andrew Grzesinski: Nothing has been mentioned.

The Convener: You have not been approached in any way about that.

Andrew Grzesinski: Not at all—quite the opposite.

John Scott: Have you had worthwhile discussions with the council about health and safety?

Andrew Grzesinski: No, we have had no real communication with the council on health and safety.

John Scott: What are your major concerns?

Andrew Grzesinski: As an organisation on a site that has been flooded, we and the people who work in our business were better prepared in 2002 than in 1997 with regard to health and safety. However, our concern is that the flood evacuation plan that we have created relies heavily on the staff and we know that we face staff saying that they do not want to come in to evacuate a site that might be flooding at 2 or 3 o'clock in the morning, so we might have to seek professional help. Is that what you meant about health and safety?

John Scott: Does that affect your development plans?

Andrew Grzesinski: It most certainly does. We were looking at investing reasonably heavily in the site in Elgin and we had to stop that simply because of the insurance implications. We have a responsibility to our shareholders, in respect of their investment and their funds—should we build on a site that will flood? Our property values are pretty much zeroed now; we are on a 4-acre site and if we put it to market today, it would not be worth a lot of money.

John Scott: Is that the general experience of others in the business community?

Andrew Grzesinski: I do not know—ask my colleagues.

Michael Urquhart (Gordon & MacPhail): After the 1997 floods, we took a proactive view on how we could protect the business. We operate on Boroughbriggs Road—we have been there for more than 50 years and we have expanded the site in that time. We are looking to sustain the business—we employ somewhere in the region of 120 to 130 people, so we have their livelihood to think about. No matter what business one is in, it is a competitive marketplace, and if one is taken out of business for a protracted period one has to make up for that, and one has to think about the livelihood of one's employees in that time. The issue is not just the immediate aftermath; it is the time that it takes to get back into one's stride. It can take years to complete the insurance claim process. Such things take up time that could be used in other ways.

Peter Peacock: I was fascinated when Mr Archibald said that the delay in implementing the Elgin scheme is "not a comfort factor". We have heard that there is more uncertainty about long-term funding for the scheme. Is the delay also a cost factor for your business? What practical impact do delays in investment have on insurance cover for your business or your judgment about whether to stick with the current site?

12:15

Graeme Archibald: We have been on our current site for 210 years, so a move would be a major consideration.

I will give a little background to our situation. In 1997 the Johnstons claim was mentioned in the annual report and accounts of our insurers, Royal & Sun Alliance, as being one of the two largest claims that year. The initial estimate was £30 million but the claim was eventually settled at around £25 million, including fees. There had been damage to buildings, plant, machinery, fixtures, fittings and stock. The site is relatively low and when the water got in it made a massive lake, so we had to pump out virtually the whole site, which took the better part of two and a half days. We had a fairly large claim for business interruption. We had protected ourselves by having a 24-month indemnity period, which is fairly realistic in the textile industry.

In 1997, the insurance company thought that the flood was just an act of God. The company was proactive. Our premium did not go up in 1998 but we were invited to put in place within 18 months defences that might enable us to avoid a repetition of a claim of a similar size—

Peter Peacock: At your cost.

Graeme Archibald: Yes, we had to fund the work. We spent a six-figure sum developing flood defences such as walls and barriers, installing the

pumping capacity that we needed and considering seepage issues. We had to try to channel water to where we could best manage it, into our mill lade and into areas from which it could be pumped back into the river.

The claim for the damage that we suffered on the Newmill site in 2002 was probably less than £0.75 million—the main claim that year was at a property on the other side of the river. We think that water levels in 2002 were 2 or 3ft higher than in 1997, so our flood defences and the action that we took had a significant impact.

The events in July 1997 and November 2002 were quite different but, three weeks after the 2002 flood, our insurance company told us that it would offer us no renewal terms for flood damage at our site as of 1 January 2003. That was a massive consideration for us. We were given three weeks' notice of the withdrawal of cover, which is not comforting for any business. We virtually cannot get insurance for flood damage.

Peter Peacock: In effect, do you now have to self-insure? Must the company make provision for any future liability?

Graeme Archibald: We are indeed self-insuring. One of our brokers—give them their due—worked hard to find us options. They approached a syndicate at Lloyd's, which talked about a rolling five-year policy with an initial premium of about £1.5 million, which would offer limited cover and have very high deductibles. However, even with such cover there would be a significant element of self-insurance.

Peter Peacock: As you said, the business has been on the site for 210 years. You have an international reputation and I do not doubt your commitment to staying on the site. However, I presume that when you take a long or medium-term view of the business, as you must do, you have to consider the scheme that is planned for Elgin. If the scheme were completed, would you get back into the insurance market with comfort? Would that ease your position?

Graeme Archibald: Our insurers told us that once a scheme had been developed, completed and properly trialled and tested, they would consider offering us insurance terms again. In other words, they would not consider offering us flood cover until there had been another major flooding event and it had been shown that the defences that had been put in place were reasonable.

Peter Peacock: Your hope for the future must be that the scheme that is proposed for Elgin will protect your business effectively. Its deliverability is critical to your future economic success.

Graeme Archibald: We are one of the companies that have had to object to the scheme, because at this stage we have not been presented with solutions to all the issues that we want to raise. Over the past two or three years, we have worked fairly closely with the flood alleviation team. After the flood prevention order was filed, we had two further meetings with the team in an effort to progress matters. We believe that key issues remain. We have objected on the planning side and on the FPO side, because we need solutions that will protect Johnstons. The problem goes wider than that. If one of the riverbanks around Johnstons were breached, all the housing in the area would also suffer. We can put forward and resource objections and get professional guidance on our submissions, but others beside us are not in that fortunate position. There is a social issue, which has already been touched on.

Peter Peacock: I want to broaden the discussion. You have all made the point that your businesses' ability to expand is compromised because of insurance implications. What impact has the perceived flooding risk had on the reputation of Elgin as a place for doing business?

Andrew Grzesinski: The main impact is on those who are considering the area for future investment. No one would go to the area along the East Road, because there is a perception of flooding risk. Any investor would have to seek a site that was zoned outwith the town. The area that is at risk from flooding is of key importance to us, as a retail business, because it is alongside a main road and is visible.

Peter Peacock: So securing the flood protection scheme that is envisaged for the city of Elgin is tied up with the future economic success of Elgin.

Andrew Grzesinski: I agree entirely. The insurance issue is massive. As Michael Urquhart pointed out, all three of us are in very competitive businesses. To be competitive, we must keep our costs at a level similar to, if not lower than, those of other commercial organisations.

The Convener: Mr Archibald, you said that Johnstons of Elgin has existed for 210 years on the same site.

Graeme Archibald: Yes.

The Convener: Has a history of the company been written?

Graeme Archibald: Yes.

The Convener: You know what I am going to ask now. Johnstons has been on the site since 1797. Before 1997, it experienced major flooding incidents in 1829, 1915 and 1970. From your knowledge, how did the company survive those flooding events? You have been on the site for 210 years.

Peter Peacock: Not personally.

Graeme Archibald: Thank you.

The Convener: Presumably, at any point in the 210 years, Johnstons could have decided to move up the road a bit. Flooding events may be more frequent now, but there has been flooding in the past.

Graeme Archibald: In 1915, there were two floods within a six-week period—one in September and one in October. If you visit the mill, you will see the levels that the flood waters reached, as both are marked on the buildings. The level of the 1997 flood was higher than the levels of the two 1915 floods. From our flood defences, we know that the level of the 2002 flood was higher than that of the 1997 flood.

The Convener: And the 1829 flood was higher than both of them.

Graeme Archibald: We do not know that. There is no flood mark on the buildings to tell us the 1829 level. There are references to flood and fire in the history of Johnstons that two of our former chairmen created, but in those days some businesses were close to water courses because they used them for specific purposes. We have a lade that runs through the site.

The Convener: My point is that Johnstons must have built the reality and risk of flooding into its business, because it would not have stayed on the site for 210 years otherwise.

Graeme Archibald: It recognised the potential risk—

The Convener: And experienced it.

Graeme Archibald: Yes, and built up the levels of the river banks round about the site. As we developed the site, a lot of the excess material was used to strengthen the river banks instead of being taken off site. The flooding that we have experienced recently has not come from the river, which is on three sides of us; it has come down the main road and in our front gate.

The Convener: So the design of the subsequent growth around the area has created a bigger problem.

Graeme Archibald: Yes. The flood water did not breach the defences by us, but once it got in it could not get out.

The Convener: Your evidence is interesting, because your company experience goes back over all those years.

Bill Wilson: I presume that, in earlier years, the company relied on the water for power, so there was less option of moving away than there might be now.

The Convener: Yes, but the difference between the big flooding events that Johnstons experienced in the past and the ones now is that the built-up area channels the water in a different way.

Andrew Grzesinski: Johnstons has 200 years of experience. Its flood defences and the way that it monitors the level of the burn are key to us at Macrae & Dick. Our business gets more information from Johnstons than from elsewhere because of the controls that Johnstons has in place. It is impressive; you should visit.

The Convener: Have businesses other than Johnstons done works around their premises to try to alleviate the problem?

Michael Urquhart: After the 1997 flood, our insurers said that it was an act of God—a one-in-100-year occurrence—so they continued our insurance at normal rates. After 2002, they said, “Well, that is more than one in 100 years,” but we were proactive and told them that we wanted to protect the business because, for it to continue to succeed, we had to manage the risk. We spoke to them about what we could do internally, such as putting stock of a lower value at a lower level so that, if there was a loss, the cost to them would be less. We did quite a lot to minimise any insurance claims, but we also wanted to build a flood wall round our site so that we could remain intact, and put non-return valves on the drains so that we could keep the site dry. That cost a six-figure sum.

With that approach to risk, our insurers decided to continue flood cover on our policies but they increased the premium and the deductibles until such time as our flood wall was complete. That was back in 2006. We had to spend a significant sum to protect the business, but it is of longer-term benefit for the business and our employees’ livelihoods to continue.

The Convener: You may have heard the community council representatives and residents say that, although they have been told that householders have a responsibility to take steps to help to alleviate flooding risk, they are getting little information from anybody about what those steps should be. Are you getting enough information to help you? If so, where is it principally coming from?

Andrew Grzesinski: I was interested to hear Jennifer Main say that protecting an individual’s small property would come at a massive cost to the individual. After the flood in 2002, we immediately investigated how we could stop the water coming in. The cost was a six-figure sum—a horrendous level of investment—and one aspect did not weigh up against the other.

I might be speaking out of turn, but in our business a light switch will not be placed less than

3ft up a wall. The plasterwork on our walls stops at 3ft 6in. That is a result of our experience from 1997 to 2002. We have taken steps to minimise any damage and increase the speed of evacuation. In answer to your initial question, it is too costly to protect ourselves from flooding.

12:30

The Convener: But, ultimately, somebody has to pay sooner or later. Who should that be?

Andrew Grzesinski: Should business pay? Should the rate payer pay? Should the Scottish Government pay?

The Convener: The Government does not get its money from thin air—it gets it from you.

Andrew Grzesinski: Exactly.

John Scott: You are the first group of businesspeople that we have had in front of us and you understand matters from a business perspective. How should flood alleviation schemes be funded? The cost to the taxpayer at the moment is huge. Should industry pick up a percentage of the cost?

Andrew Grzesinski: You should be able to tell me that. There have been schemes—perhaps not flood alleviation schemes—such as the one concerned with tollbooths on the Forth road bridge—

John Scott: Do not worry; we have our own ideas about what should happen. We are seeking evidence from you and we are asking the questions today.

Andrew Grzesinski: Okay.

John Scott: We are asking you because you are our expert witnesses—you are important businessmen—and we are seeking your ideas.

Andrew Grzesinski: Such schemes should be paid for as they are paid for in other areas of the country. If the problem affects the community, its standing, its profitability or its longevity, local government should pay.

The Convener: From your experience of the most recent floods in 1997, 2002 and 2004, do you get warnings or do you have your own system in place?

Graeme Archibald: We have our own system in place. We have a small pump house at Johnstons because, as I said, a lade runs through the site. The pump house runs 24/7 to move water out of the lade and back into the river. We also have a well system in the area. We measure the distance from the height of the water to the top of the well—it is our gauge as to how quickly we must react.

The Convener: Do you tell anybody else about that?

Graeme Archibald: If anybody asks, we are happy to tell them.

The Convener: No; do you volunteer the information to anybody else?

Graeme Archibald: People know that we have it.

The Convener: Do you volunteer that information to anybody else? Do you phone the local council and say, "Don't know what you've heard, but we've just checked the levels and we're moving out"?

Graeme Archibald: Three months ago, in November 2007, I was on to the Moray flood alleviation people on that very front. We were seriously concerned about the water level and we put in place 50 per cent of our flood barriers.

The Convener: What experience do the other two businesses have of flood warnings?

Andrew Grzesinski: We have an emergency plan whereby we look at the SEPA website. Our master plan is—

The Convener: To talk to Johnstons.

Andrew Grzesinski: It is to talk to Johnstons, because it has that monitoring system on the burn. That little bit of networking helps us.

Michael Urquhart: Obviously, we look at the weather forecast to see what weather is coming in. In addition, a relation of one of our employees is a farmer up at Dallas, and he gives us information about what the river is doing up there. We know that we get what he is getting now in, say, two hours. We start making judgment calls on that basis. We also look at the river in various places so that we know when to put up our barriers.

Bill Wilson: Do you pass on that information? Do you do the same as Johnstons, which passes on its information?

The Convener: Do you phone others?

Michael Urquhart: There is a network. If we know of people who are interested, we tell them. At the end of the day, to some extent it is all very Heath Robinson.

The Convener: It is very ad hoc.

Michael Urquhart: Yes. It is about looking at various bits of information.

The Convener: Michael Urquhart looks at the weather forecast and the SEPA website and talks to his farmer up the road, and Johnstons has its wells. What is the most reliable way to get your information? Is it from the SEPA website or the farmer up the road?

Michael Urquhart: It is a combination of all of them. We also get from SEPA readings of river levels at various points, which show whether levels over a period of time are going up or down and the rate of increase.

The Convener: So you have to keep monitoring SEPA's website.

Michael Urquhart: Yes, provided that the event happens during working hours. However, if it happens overnight or at the weekend, you cannot be involved in the same way. As a result, you start to get paranoid when you see heavy rain.

John Scott: So, with regard to finding a solution for businesses, if, as I understand it, the council can access far better information than the business community can, should it make its information more readily accessible? I appreciate the difficulty in giving that information to every single householder in the area, but surely, as far as the half dozen, 10 or 50 key businesses in the community are concerned, it would mean sending only one e-mail, telling them to look to their laurels as an event is expected in 15 hours.

Michael Urquhart: Or local radio could be used to publicise the fact that such an event might happen.

John Scott: Would you welcome such moves?

Michael Urquhart: Yes.

The Convener: But they are not happening at the moment.

As MSP for Perth, I note that in its submission SCDI commented:

"improved systems have been implemented in some areas such as Perth".

Are you aware of such systems in other areas?

Andrew Grzesinski: No. I simply believe that the earlier such information is communicated, the better.

The Convener: I ask the question simply because there is evidence that better systems exist in other areas. We will have to try to establish what those systems are.

Bill Wilson: Presumably, the business community would not object to getting together with the council to co-ordinate all the information. After all, you have several sources of information, and the council and SEPA have other sources. However, I am not clear whether one individual co-ordinates the sundry warnings. You—and I am talking more generally here—could co-operate with, say, the council to set up a system that gathers disparate bits of information to ensure that warnings are more quickly or easily recognised.

Andrew Grzesinski: I have no issues with such an approach.

Graeme Archibald: I am sure that that could be addressed quite easily.

Bill Wilson: Has the business community ever considered negotiating that kind of co-ordinated approach?

Andrew Grzesinski: Not with regard to communication.

The Convener: Do you have a local chamber of commerce?

Bill Wilson: That is the sort of approach that I had in mind.

The Convener: Has the local chamber of commerce spoken directly to the council about setting up a better system of flood warnings for businesses?

Graeme Archibald: I am not aware of having been asked to participate in that way.

I should say that the first visible sign that raises concern is when the weir across the river, just below the cathedral, disappears. We know then that we need to watch the river closely and monitor river levels every hour or two. After all, that is where all the problems historically have started—when the river reaches that critical point, no more water can get under the bridge at Pansport and it starts backing up.

The Convener: I suppose that the question is about how proactive local businesses or business organisations have been in establishing a far better network for transmitting warnings and information quickly.

Graeme Archibald: We have probably not been proactive, but who would you expect to be proactive in that way? Getting the message out is a major issue for the council, but has it come to us to ask for our co-operation?

The Convener: But have you gone to the council? Given that your businesses might suffer massive losses, surely it is a matter of self-interest to get together, bang on the council's door and say, "Oi! We need a far better flood warning system. Can we sit down and talk about how we can organise that?"

Andrew Grzesinski: I would expect it to refer us to the SEPA website, which is probably where it gets the majority of its information. We look at the SEPA site when it starts to rain. When it rains for two days, everybody starts to look at the site.

Bill Wilson: It has been suggested in this evidence session that you could approach the council to say that it is possible to set up a more effective warning system. Would you consider

going to a chamber of commerce or Rotary club and suggesting having a discussion with the council to set up a better system?

Andrew Grzesinski: I cannot speak for every other business.

Bill Wilson: I appreciate that.

Mike Rumbles: In the previous evidence session we heard from individuals affected by flooding. We are now hearing from businesses affected by flooding. We did not ask the individuals whether they were banging on the council's door demanding action. The key player in the community is the council. It should be taking responsibility to ensure that it informs local residents and businesses. It is everybody's duty to co-operate, but action needs to be led by one organisation locally. Do you agree?

Andrew Grzesinski: Absolutely.

Bill Wilson: I am not suggesting that you have somehow failed. If the council is not aware that you have various pieces of evidence, perhaps the opportunity for a discussion about the matter has not arisen before. The evidence suggests that there is an opportunity to have such a discussion now. I am not making a criticism.

Andrew Grzesinski: One of the earlier witnesses referred to the possibility of someone in a yellow jacket going around residents to tell them that there is going to be a flood. We have had two dry runs of nearly flooding over the past couple of years. There was a cost to the business, but we would rather incur it. We have had to move 160 vehicles and consider where to park them at 2 o'clock in the morning, which was a major exercise. Earlier communication is always better, although I expect that the council would say that it would not want to frighten people unnecessarily by acting too early.

Bill Wilson: I am thinking of businesses gathering information rather than warning people. Businesses such as Johnstons all have different bits of information and different ways of gathering it. My worry is that different groups of people are gathering information, but no one has ever thought of getting all that information together so that there is better knowledge of what is going to happen and when a warning has to be issued.

Graeme Archibald: In our area of South Lesmurdie, when local residents see us getting barriers ready they react. The fact that we have started to put up our barriers tells others that we are aware of certain information.

Mike Rumbles: I find this evidence session fascinating. I am absolutely astonished that in an area that has been affected so dramatically by flooding over such a long period, everything is done on an ad-hoc basis—everybody is running

off to do their own thing. It comes down to luck or chance—people see Johnstons putting up its flood defences, so they do the same. Surely such an approach is inconceivable. I am shocked—as, I am sure, are my colleagues—by the situation. Are we overegging the pudding or is the situation as I have described it?

Andrew Grzesinski: I am afraid that that is the reality. It is not just about the business community; in 2002, the houses flooded with very little warning and the residents received very little help. Better communication and organisation could help.

Des McNulty: I am interested in your approach to flood management and how it relates to the way in which the councils and others behave. Mr Archibald, I think that you said that, in effect, you are looking for ways to channel the water away from areas where it will cause you particular damage. I think that when the Chinese introduced—

12:45

The Convener: Where are you going with this, Des? We are all on the edge of our seats.

Des McNulty: When they introduced the river management system, the objective was not necessarily to speed the flow but to divert the water elsewhere.

Graeme Archibald: We gather the water to a point so that we can deal with it more easily. A 3in pump might be adequate to shift water from one area, but in another area we might need a 6in pump to shift the volume of water that has accumulated. We have created various sumps, and we get water to come to those central points. We have a big site, and we could not have pumps all over it, so we want the water to be gathered in such a way that we can best manage it.

Des McNulty: From what we have heard, it seems that the prime focus is on building up the defences and speeding the flow; it is not about creating sumps upstream. Some of the problems that you face are because the flood defences in agricultural areas upstream from you channel the water down towards you. Interestingly, if a risk assessment were done, the water would not be allowed to come near the houses or the factories—the agricultural land would be flooded first—but the council cannot do that under the current legal arrangements.

Andrew Grzesinski: The more flood defences that you create, the more you move the water elsewhere.

Des McNulty: There may be an increased flow of water, but the reality is that your problem is likely to be a result of the fact that people have put in place better flood defences upstream, which

channel the water down to you faster and in greater volumes. There is no sump effect further upstream.

The legislation and the expenditure is all geared towards producing hard solutions in the areas that are immediately adjacent to the flooding, rather than towards producing a solution in your context.

Graeme Archibald: The common factor in the two recent floods—in 1997 and 2002—was that we were faced with north-north-easterly winds, and the lowland rivers could not cope with the volume of moisture that those winds brought into the area. We do not usually get such a volume, and it is not an issue when there are southerly or westerly winds—there can be as much rain as you like and the rivers tend to cope. However, when moisture is dropped on the wrong side of the Grampians, our lowland rivers catch it and we have a major problem.

Michael Urquhart: The other issue is the tides. With high tides, the water comes back up to Elgin and effectively is held there for about two hours, so there is no free flow. As Graeme Archibald said, we have a problem if there is a north-east wind, high tides and rain for two days.

The Convener: You have all become expert with your barometers and forecasts.

Michael Urquhart: Unfortunately.

Graeme Archibald: You raised the question of who should pay. We have had to invest significantly in defence works, but when we said to the assessor in 2003, “Look, our rates are far too high now, because the site value has materially changed,” we were told, “Oh no, we do not see that as an issue.”

The Convener: So you think that the issue needs to be addressed.

Graeme Archibald: Seriously addressed. Our Hawick factory also suffered from flooding shortly after then and we raised the same question with the Borders assessor. Who did he speak to? The Grampian assessor.

John Scott: On that general point, has there been any business rates relief for affected properties?

Michael Urquhart: No.

John Scott: It is just a fact of life.

Graeme Archibald: The 2005 valuations tend to show that a small element of relief has been brought in. It is more evident for our factory in the Borders, the rating of which is lower than other general ratings for factories in the area, so the Borders assessor has recognised the issue more than the Grampian assessor. In both cases some relief factor has probably been built in, but it is not overly obvious.

The Convener: That is a useful point on which to conclude. Thank you all for your attendance. Your evidence has been interesting, because it is the first that we have had from a business perspective. It has also raised a number of questions that we will probably follow up. Thank you. You can head off. We have to move swiftly on.

Michael Urquhart: We will not hold you up.

The Convener: I am always clock-watching when we get to this stage.

Subordinate Legislation

Bluetongue (Scotland) Order 2008 (SSI 2008/11)

Conservation (Natural Habitats, &c) Amendment (Scotland) Regulations 2008 (SSI 2008/17)

12:51

The Convener: Agenda item 2 is subordinate legislation. People are welcome to stay and listen to it, but they will probably find it extremely boring.

We have two Scottish statutory instruments to consider, both of which are subject to the negative procedure; SSI 2008/11 is on bluetongue and SSI 2008/17 transposes a European Council directive on the conservation of natural habitats and wild flora and fauna. The papers have been circulated to committee members. Surprisingly, no member has raised any concern about the instruments and no motions to annul have been lodged. Would anyone like to comment on either instrument or on the letter from the Cabinet Secretary for Rural Affairs and the Environment?

Members: No.

The Convener: Do we therefore agree not to make any recommendations in relation to SSI 2008/11 and SSI 2008/17?

Members *indicated agreement.*

The Convener: The public part of the meeting is now closed. I ask for the room to be cleared of everybody except committee members.

12:51

Meeting continued in private until 13:14.

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