EDINBURGH AIRPORT RAIL LINK BILL COMMITTEE

Tuesday 23 January 2007

Session 2

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EDINBURGH AIRPORT RAIL LINK BILL COMMITTEE
1st Meeting 2007, Session 2

CONVENER

*Scott Barrie (Dunfermline West) (Lab)

DEPUTY CONVENER

Mr Jamie McGrigor (Highlands and Islands) (Con)

COMMITTEE MEMBERS

*Mr Charlie Gordon (Glasgow Cathcart) (Lab)
*Christine Grahame (South of Scotland) (SNP)
*Iain Smith (North East Fife) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Andy Coates (Environmental Resources Management)
Barry Cross (TIE Ltd)
Alison Gorlov (John Kennedy and Co)
Gail Jeffrey (Scott Wilson Railways)
Erica Knott (Scottish Natural Heritage)
Steve Mitchell (Environmental Resources Management)
Kevin Murray (TIE Ltd)

CLERK TO THE COMMITTEE

Jane Sutherland

LOCATION

Committee Room 3

Scottish Parliament

Edinburgh Airport Rail Link Bill Committee

Tuesday 23 January 2007

[THE CONVENER *opened the meeting at 14:00*]

Edinburgh Airport Rail Link Bill: Consideration Stage

The Convener (Scott Barrie): I welcome everyone to the first meeting in 2007 of the Edinburgh Airport Rail Link Bill Committee. I ask those attending to ensure that they have switched off all portable electrical equipment.

There are two items of business on the committee's agenda. Agenda item 1 is consideration of evidence on European protected species. We have received written evidence from Scottish Natural Heritage and the promoter, which is contained in appendixes A and B to paper EARL/S2/07/1/1. Members will recall that the committee is required to report to the Parliament on whether the promoter is likely to be able to obtain licences to construct the EARL scheme in locations where construction may impact on otters, bats or great crested newts.

The first witnesses represent Scottish Natural Heritage. I welcome Erica Knott, east areas casework support officer, and Paul Lewis, planning advisory officer. Before we begin questions, I inform members that we have received apologies from Jamie McGrigor, who is stuck in Argyll.

I ask the witnesses to describe SNH's relationship with the promoter in relation to the species that I mentioned.

Erica Knott (Scottish Natural Heritage): Since the publication of the bill, and even before that, we have had continued dialogue with the promoter and its consultants on all the protected species that are involved and on other natural heritage issues.

The Convener: On the otters that live in the area, your evidence states that the third test that needs to be met will be satisfied. Will you elaborate on your specific reasons for reaching that conclusion?

Erica Knott: From the surveys that the contractors have carried out on behalf of the promoter, we know that otters are present at three sites. The works will involve the closure of one of the active holts and disturbance to some resting areas. The third test requires us to consider and to provide advice to the Scottish Executive—the licensing authority—on whether the disturbance will affect detrimentally the favourable conservation status. That status is decided at European level, but each individual development proposal that could cause disturbance must be considered at the local, national and European levels.

Otters, which are present in every $10km^2$ in Scotland, are one of the success stories in Scotland and have come back from having a poor record to having a good one. We have considered otter presence in and around the area that will be affected by the proposal, as well as in the Lothians, the central belt and Scotland as a whole, and have concluded that, with the proposed disturbance and mitigation, it is unlikely that favourable conservation status will be affected detrimentally in the long term.

The Convener: I think that I heard two double negatives, but I believe that what you said means that everything is okay. Is that right?

Erica Knott: Yes.

Christine Grahame (South of Scotland) (SNP): Your submission states that no bat roosts were identified during survey work. What process would be put in place should some be discovered later?

Erica Knott: An issue with many species is that they are very mobile. As there will be a long period between the introduction of the bill and royal assent and between royal assent and any construction works, we have asked for the normal continuous survey work to be undertaken before construction starts. If a bat roost were found, a licence would have to be applied for and we would conduct similar tests to those which we are conducting for the otters. We would consider what mitigation could be implemented. We would advise whether favourable conservation status would be affected and which species of bat were affected, and would offer mitigation solutions.

Christine Grahame: I understand the mobility of bats, but great crested newts are not as mobile, so I take it that they are just hiding from everybody at the moment. If they were to abandon their secretive ways and not hide from the construction workers, would the same process apply to them?

Erica Knott: The process is slightly different for great crested newts, because we are aware of only one site where they could be present. The consultants carried out a survey that determined that great crested newts were not present at the time. However, it is notoriously difficult to determine their presence or absence. The consultants have worked on the basis of the worst-case scenario that great crested newts are present in the Dalmeny ponds and have provided a

mitigation solution that is satisfactory to us. If great crested newts were found, further mitigation would not be required. A licence would have to be applied for and the proposed mitigation would have to be adhered to.

Christine Grahame: I have a feeling that great crested newts know how to be a success story: they simply hide from everybody.

Iain Smith (North East Fife) (LD): The witnesses will have seen the proposed amendment to section 46 of the bill, on mitigation of environmental impacts. It is for the committee to determine whether the amendment is adequate, but we would welcome the witnesses' thoughts on the proposal and its consistency with other schemes with which they have been involved.

Erica Knott: We have seen a version of the amendment to section 46. However, this morning we were sent further proposed amendments, which we have not had a chance to check. The version of the amendment that I saw was reasonable, but we will need to get back to the committee with further advice on the proposed amendments that we were sent this morning.

Iain Smith: Do you have any other comments?

Erica Knott: No. As long as the proposed amendment to section 46 takes into account the code of construction practice, we will be satisfied with it.

The Convener: Those are all the questions that we had for you. Thank you for your attendance and your evidence. I will allow a short pause to allow the promoter's witnesses to take their place at the table.

I welcome Kevin Murray, senior project manager for TIE Ltd; Alison Gorlov, partner at John Kennedy and Co; Gail Jeffrey, senior project manager at Scott Wilson Railways; Andy Coates, principal consultant at Environmental Resources Management; and Sally Monks, senior consultant at ERM.

I will start with a question about the relationship between the EARL scheme and the Conservation (Natural Habitats, &c.) Regulations 1994 (SI 1994/2716). How can we achieve a balance between the two?

Kevin Murray (TIE Ltd): It is worth going over some of the history of the scheme so far on that issue. With help from and review by SNH and the Scottish Executive Environment and Rural Affairs Department, we have already looked at the application of the regulations and how the scheme may satisfy the three pertinent tests, with particular regard to the ground investigation works. We believe that the applicability of tests 1 and 2, on overriding public interest and there being no alternative, sets a sensible precedent for the scheme as a whole. With regard to the ground investigation works, test 3 was applied to those works that were particular to the situation. However, having gone through the issue at length, we believe that it has been demonstrated that the scheme that is presented overrides tests 1 and 2 and the regulations.

I do not know whether Gail Jeffrey wants to elaborate on what we have done.

Gail Jeffrey (Scott Wilson Railways): In relation to test 1, in terms of the public interest under regulation 44(2) and the rise in passenger numbers at Edinburgh airport from 5 million passengers per annum in 2001—the figure is, I believe, about 8 million at the moment—to between 21 million and 23 million passengers per annum by 2030, we believe that the EARL project offers a number of benefits to the public at large, which were covered at preliminary stage. In summary, the project will bring economic benefits of £920 million; transport benefits over 30 years; a benefit-cost ratio of 2.16 over 60 years; and accessibility for about 3.2 million people in the Scotland who live within 2 to 3 miles of a station served by the EARL project.

In terms of sustainability, we are talking about raising to 44 per cent the percentage of people going to and from the airport by public transport, of which EARL will account for 22 per cent in 2026. In terms of tourism and sustainability, 1.7 million cars per annum will be removed from the roads by 2026. That will obviously bring the environmental benefit of reduced CO_2 emissions and the economic benefit of reduced congestion. In terms of the growth of tourism, VisitScotland has identified that the scheme is believed to spread the benefits of tourism wider than just the central belt, by providing accessibility—

The Convener: Sorry, but can I stop you there? We know all that. We have discussed those issues and have considered the evidence at preliminary stage. The crux of my question relates to the regulations on European protected species. Is the project considered more important than protecting the bats, otters and great crested newts? That is what I was trying to tease out in my question.

Kevin Murray: Perhaps I can pass the question to Andy Coates, who may be able to elaborate.

Andy Coates (Environmental Resources Management): In terms of the project that we have at the moment, we are looking at the designs that are available and comparing them with the tests that we looked at. We believe that the work can be done and still meet the requirements of the tests.

The Convener: Earlier, Erica Knott mentioned the code of construction practice. How will SNH be kept up to date on the progress of the scheme?

What role do you envisage for SNH in relation to the code?

Kevin Murray: We see SNH as an important consultee in the development of many of the management plans, including those that relate to the European protected species and the environmental management plan. In the past, we have consulted SNH and other interested and pertinent groups at length, and we will continue to do so in the future. It is important that the mitigation that we bring to the project has their endorsement and oversight, so we will continue that consultation to its fullest.

14:15

Iain Smith: Although most of the committee would recognise a bat and probably an otter, I am not sure that we would know a great crested newt if it ran along the table. Bearing that in mind, how will you ensure that all your contractors are fully trained and aware of their responsibilities in relation to otters, bats and great crested newts?

Kevin Murray: The environmental management plan, the commitments that it captures and the detail that supports it—the otter mitigation plan, the great crested newt survey and the other background work that is going on—will all be made available to, and their importance brought to the attention of, the contractors. Responsibilities will be contractually enforced through the environmental management plan, and all the commitments that are made for various locations across the project will be catalogued in that document, so that it is readily accessible and clear. It is obviously important that the contractors work with those commitments.

Iain Smith: What enforcement measures are in place to ensure compliance with the plans? As promoter, how will you police them?

Kevin Murray: We have talked about an environmental officer—someone who has an overview on behalf of the promoter, which will be the authorised undertaker at the time—policing the work. There will be an audit and compliance process to ensure that the environmental management plan is delivered.

Alison Gorlov (John Kennedy and Co): I would like to touch on the legalities of how the enforcement process will work. There are two levels: one is what the authorised undertaker does for itself; and the other is how enforcement is picked up if the authorised undertaker does not do what should be done or if there is disagreement about how something has been carried out. That is where proposed new sections 46, 46A and 46B come in—they would be inserted by the proposed amendments, of which the committee has copies. Broadly speaking, they would impose statutory obligations to comply with the COCP, the noise and vibration policy and—this is important today—the environmental policy documents and management plan. Those obligations would be policed as if they were a set of planning conditions and would be enforceable in the same way.

The proposed amendments also contain specific provision for the local planning authority to appoint what we have called a clerk of works to monitor what the authorised undertaker is doing.

Iain Smith: My experience of the enforcement of planning conditions is such that that does not give me a great deal of comfort. I hope for reassurance that the promoter will ensure that the commitments are adequately enforced, rather than just relying on local authority planning officers to do so.

Alison Gorlov: The position in this case is slightly unusual, as there will be a specific person whose task it is to monitor what the authorised undertaker is doing. That is the public sector long stop and, as I said, it is in addition to the fact that TIE will monitor its own compliance with its obligations.

Mr Charlie Gordon (Glasgow Cathcart) (Lab): Will the promoter undertake to revise the current draft of the code of construction practice to incorporate the changes requested by SNH? Could you have a revised draft with the committee clerks by next Monday?

Kevin Murray: We will undertake to deliver that for next Monday.

Mr Gordon: You have suggested amendments to the bill to meet the concerns of the Scottish Environment Protection Agency in relation to the Water Conservation (Controlled Activities) (Scotland) Regulations 2005 (SSI 2005/3480), on which the committee received representations in May. Will you briefly explain what is proposed and confirm whether SEPA is content with your approach?

Alison Gorlov: First, we do not know whether SEPA is content. We have proposed some amendments, which I will run through in a moment, but, rightly or wrongly, we did not send them to SEPA initially because we were responding to a letter that had been addressed to the private bills unit. The proposed amendments were sent to SEPA last night, but we have not had a response.

We think that SEPA should be content because the proposed amendments do precisely what was anticipated in the letter that it wrote last May. Its concerns fell into two slightly different areas. The first related to section 14 of the bill, on the power to make discharges into watercourses. Section 14 contains a saving provision on the law as it was

when the bill was introduced—I refer to the Control of Pollution Act 1974, which has since been repealed. Proposed amendment 13 would take out the offending subsection, which is subsection (6) of section 14. Proposed amendment 14 contains a specific saving provision on the relevant controlled activities regulations. We believe that that approach would deal with section 14 in precisely the way in which the matter was dealt with in the Glasgow Airport Rail Link Bill. We think that SEPA agreed to the same form of words in relation to GARL.

In relation to the other aspect of the controlled activities regulations, a number of works were identified as having a direct impact on watercourses. We realised that it was probably correct, as SEPA had suggested, to include some protection for the controlled activities regulations in respect of those works. Proposed amendment 48A would introduce a new section on the protection of the water environment. The proposed amendment says:

"Nothing in this Act affects the operation of the Water Environment (Controlled Activities) (Scotland) Regulations 2006 (SSI 348) in relation to Works Nos. 3D, 3E, 4B and 4D"—

that is, the river division works—

"or any ancillary work"

connected with those works. We think that we have met SEPA's requirements, as the works referred to are those with which SEPA was concerned and we have put in an unqualified saving that nothing will affect the operation of the controlled activities regulations in relation to those works.

Mr Gordon: I understand that you do not regard it as necessary to extend section 46 to impose specific obligations. Is that correct?

Alison Gorlov: Yes. The objective of section 46 is to impose statutory obligations that do not at present exist. However, nothing in the bill will affect the obligations to comply with the controlled activities regulations.

The Convener: The committee will know SEPA's view before we consider any amendments.

Alison Gorlov: The proposed amendments were prepared in helpful consultation with one of the Parliament's lawyers. I think that I am right in saying that she indicated that she was content with what was proposed.

The Convener: If there are no further questions, I thank the witnesses for their evidence. The committee will consider all the written and oral evidence on European protected species before it reaches its views, which will be set out in a report to the Parliament.

We are joined by witnesses for the promoter. Barry Cross is the project director of TIE Ltd and Steve Mitchell is the technical consultant of ERM. Kevin Murray, Alison Gorlov and Gail Jeffrey have previously given evidence. This is expected to be the final oral evidence session with the promoter before the committee considers its draft consideration stage report. The committee has a range of questions for the promoter that arise from its consideration of the written and oral evidence on outstanding objections.

I propose that we start with questions about the promoter's noise and vibration policy. The information that the committee has received indicates that the threshold levels for noise mitigation are identical to those for the Glasgow airport rail link and that the unacceptable impact levels are 3dB lower than those for GARL. Can you explain why the maximum night-time level is 12dB higher than that for GARL?

Steve Mitchell (Environmental Resources Management): I hope that committee members have seen our paper on this topic. If so, I suspect that you will not want me to repeat the paper but simply to summarise its key points.

The Convener: Could you perhaps simplify it?

Steve Mitchell: Simplifying the paper will be a useful way to start. The EARL noise and vibration policy document is, I believe, quite simple; it is certainly a little bit simpler to read than the GARL document. That is important because we want people to understand what we are committing to.

When you look at the GARL document very carefully—which takes some effort—and consider the peak or maximum noise event levels, you can conclude that the two policies will in fact provide noise mitigation at quite similar peak noise levels. The GARL policy refers to peak noise levels of, say, 70dB, which would seem to be 12dB better than the 82dB of the EARL policy. However, the level at which noise mitigation will be applied is actually very similar, because you have also to consider the ambient noise levels.

Most of GARL is along a railway where ambient noise levels are quite high. The mitigation of peak noise levels will apply at those levels, which are broadly the same as the levels that we are committed to for EARL. Although the figures look different, when you go through the policies in detail and understand what will actually happen in practice, I believe that they will deliver similar mitigation at a similar noise level.

The Convener: I do not know about my colleagues, but I am not sure that I am following this completely. Bear with me.

You mentioned ambient noise levels. Can you explain the relevance of the ambient noise level

having to increase to trigger action on unacceptable levels?

Steve Mitchell: Someone who lives next to the GARL route currently has a railway running past them. When the GARL scheme is introduced, it will add more train noise events, but there will be no need to mitigate the new train noise to be quieter than the existing train noise. If there is no change in the ambient noise, that will be acceptable to everybody. The existing peak noise levels along the GARL route are around 80dB. That figure is very similar to the 82dB that we are committed to for the EARL scheme.

The Convener: Is everyone else following this?

Iain Smith: Just about.

Steve Mitchell: Shall I try putting it another way?

The Convener: Yes, if you could.

Steve Mitchell: I will talk about the peak noise level that you would mitigate. In the EARL scheme, you would mitigate to 82dB or the ambient peak, whichever is higher. Generally, the 82dB is the higher, so that is the number that you would mitigate to. In the GARL scheme, the ambient level is generally the higher when you compare the 70dB and the ambient. The ambient level is around 80dB, so in both GARL and EARL you end up mitigating to a very similar number—around 80dB.

The Convener: Right. I think I understand that.

Steve Mitchell: A particular feature of GARL is that the ambient peak noise levels are much higher than they are for EARL; that is why the policies look different. However, they will deliver mitigation at a very similar noise level.

The Convener: Right. I want to ask now why the hours during which the levels apply differ for the impact levels and the unacceptable impact levels. Why do the unacceptable hours commence one hour earlier and finish one hour later?

Steve Mitchell: Are you comparing the unacceptable levels in the EARL with the threshold levels—the one-hour difference?

The Convener: Yes.

Steve Mitchell: The reason is historical. We have inherited the unacceptable levels from the noise insulation regulations that apply to railways in England and Wales. Those regulations just happen to use a different time period to define the night. Rather than reinvent those regulations, we have inherited them and the levels within them for the scheme. The intention is not to adjust the level of protection, but merely to follow the convention that is used in the regulations in England.

14:30

The Convener: What remedies would affected persons have regarding the noise levels?

Steve Mitchell: Could you help me with the question?

The Convener: If the threshold levels are breached and acceptable levels are exceeded, noise insulation will be offered. I wonder what that actually means. How will people actually not hear anything?

Steve Mitchell: Where it is predicted that the threshold levels will be exceeded, we are committed to trying to stop the noise at source, by which we mean the railway. We will build noise barriers or bunds to try to contain the noise within the railway land. We expect that to be successful. From our work on the environmental statement and work since then, we expect to be able to mitigate the noise from the railway to achieve the threshold levels. However, if we cannot do so and we breach the acceptable noise levels, we will revert to noise insulation, which is a package of internal secondary glazing to be added to existing glazing. Additional ventilation may in some cases be needed to allow windows to remain closed. Those are the two main tiers of our mitigation strategy.

Mr Gordon: Will you explain what "routinely exceeded" means in practice in relation to train horn noise and why train horn noise should be treated differently from other noise that the railway creates?

Steve Mitchell: Train horn noise has the potential to cause sleep disturbance at night, which is why it is dealt with in the noise and vibration policy. There is a possibility that train horns will be sounded at night if there is maintenance on the track or if, on occasion, a driver thinks he sees a person or perhaps an animal. Drivers have discretion to sound the horn. If that happens in the sort of situations that I described, we do not expect to provide mitigation, because there will be no reason to expect that the event will be repeated. On the other hand, if the horn is sounded routinely—perhaps every night or a few times every night—as drivers see something that is a permanent feature of the railway, such as the entrance to or exit from a tunnel, where the standard is for some reason to sound the horn, and if someone is disturbed by that to the extent that it causes sleep disturbance, we will mitigate the noise.

Mr Gordon: Is it not the case operationally on railways that drivers tend to sound their horn as they approach a tunnel, in case there is someone there whom they cannot see?

Steve Mitchell: Historically, that is absolutely correct, but the rules have recently been changed slightly to allow drivers more discretion, partly because some new trains in the south of England have particularly loud horns. In the past few years, there has been a process of trying to relax the traditional sounding of the horn, so the situation is now slightly flexible. Under the noise and vibration policy, if when the railway is operating the horn is sounded routinely and the noise is above the acceptable levels, we will offer noise insulation to allow people to sleep without being disturbed.

Mr Gordon: What is the significance of the phrase

"residential areas that may be affected"

in paragraph 1.4.2 of the noise and vibration policy? Which residential areas will not be thus affected?

Steve Mitchell: That paragraph suggests that, if the horn is sounded routinely near an area of residential property, we will have to provide mitigation. As you say, the most likely candidates are areas near either end of the tunnel, particularly at the north end, in the Wheatlands area.

If, when the railway is operating, a procedure requires the horn to be sounded routinely, we will mitigate. However, at this point, it is not absolutely clear whether that will be the case.

Iain Smith: What happens if vibration levels are not within the levels that are set out in the document?

Steve Mitchell: The short answer is that an engineer somewhere would be a bit embarrassed. Designing the system is all about the need to avoid exceeding the vibration standards that we have set for ourselves. Design is not an exact science; nonetheless, it is a fairly empirical process. There are plenty of railways from which decent source data can be taken and from which engineers can work out whether the limits may be exceeded. Of course, any good engineer would allow for design margins within the process; doing that gives a level of confidence.

We do not expect the levels to be exceeded. During commissioning, we will of course test the levels. People will be very keen to get out and check that the track forms are delivering as we hoped and expected. If it was found necessary to do so, I guess that we would not rule out ripping up the track and putting down something better.

Iain Smith: At the moment, will any properties be affected by vibration levels that are outwith the levels that have been set?

Steve Mitchell: We will look carefully at the track form in one or two areas. If I may, I will put the question in another way: do we need any special track forms to solve the problem? Clearly, special track forms can solve any such problem. I refer to various levels of resilient track form that have different levels of elasticity support, so to speak. There are a couple of places where we expect to use a non-standard track form. For example, we need to look carefully at the track close to the Myre and Myreside properties at the north end of the scheme. We expect to achieve the standards with the use of a modified track form—indeed, we expect to achieve them everywhere.

Iain Smith: Why do you propose to restrict the monitoring of noise and vibration levels to a five-year period when, for example, the GARL scheme has a seven-year period? What will happen thereafter?

Steve Mitchell: I think that the GARL scheme has a five-and-a-half-year period. That is my recollection from the last time I read it. I stand to be corrected on the matter. I apologise if my information is out of date.

The principle is one under which we will conduct monitoring for approximately that period of time. The EARL engineers and I think that that is enough because a cycle of maintenance is established after a few years of operation. The track maintenance comes round every year or two and noise levels may shift up or down as a result. After five years, the cycle is established. By monitoring beyond that time, one would simply be repeating the same cycle of results. There is no need to continue to monitor after that time.

Iain Smith: Although you have undertaken to monitor vibration levels, you have not indicated how such sites will be selected or how many there will be. Can you indicate the number of sites and give details of the locations for vibration monitoring?

Steve Mitchell: I am unable to do so, as that will depend on the final design. Under noise, we have indicated that approximately 10 sites will be monitored. I stress that the figure is approximate—the number could be greater or smaller. The principle is one of monitoring locations where mitigation is required to achieve the standard that has been set. Given that there are only a few such sites in terms of vibration, I expect the number to be less than 10. If the local authority was concerned that residents are anxious about vibration, it has discretion in this regard. If it were to express concern, we may slightly increase the number.

Iain Smith: If noise and vibration levels are exceeded, what is the mechanism for enforcing noise and vibration mitigation?

Alison Gorlov: The mechanism is exactly the same as it is for all the other environmental

obligations. There is a statutory obligation in section 46 for the authorised undertaker to

"employ all reasonably practicable means"

to comply. As you heard, the authorised undertaker will monitor his activities to ensure that he complies as far as is reasonably practicable. I do not want the committee to think that that phrase takes anything from the obligation; it does not—it merely states the obvious. One can do only what is practicably possible.

All the obligations will be treated as if they were valid planning conditions. The ultimate sanction is that the local planning authority, which will have a dedicated officer who monitors what we are up to, will tell us that there is non-compliance and a raft of enforcement measures will come into operation. The planning authority can start by issuing a notice that tells us that we are in breach and ultimately it can call a complete halt to the works until we have sorted ourselves out. There is a range of measures, from our ensuring that we are doing the right thing to our being stopped in our tracks.

Iain Smith: Literally.

Alison Gorlov: Indeed—before the tracks are even laid.

Christine Grahame: We all got there before you, Iain.

The Convener: That concludes questions on the noise and vibration policy, so we will move on to the draft code of construction practice. Can you explain the role of SEPA, SNH and other regulators in the production of site environmental management plans?

Kevin Murray: They will be consultees and will be involved as the plans are developed, so they will see what the plans bring to the contractors' management processes.

The Convener: Are you saying that such bodies will be consulted on the plans?

Kevin Murray: Yes.

The Convener: That is what I was looking for.

In the flow chart at figure 1.2 of the draft code, there is no mention of the fact that the contents of the COCP as presented to the Parliament represent the minimum standard to be met and that subsequent changes cannot reduce that standard. Given that we indicated our intention to amend the bill in that regard, would it be helpful to include such a statement?

Kevin Murray: Yes. I agree that it would be helpful if we made that clear.

The Convener: Thank you.

Christine Grahame: This might seem silly, but are the lines in yellow and green part of the draft COCP, or did we put them there?

Kevin Murray: We put them there, to try to assist in showing where amendments have been made between drafts.

Christine Grahame: This is a nippy little comment, but we can hardly read the green bits.

Is the code available electronically, so that residents can access it?

Kevin Murray: Yes. It is available on our website.

Christine Grahame: The flow chart on neighbour notification, at figure 1.3, is useful. How will local residents be informed and consulted as construction proceeds?

Kevin Murray: The intention is to establish a two-week neighbour notification process, during which we will consult neighbours and others, before we make formal notification about a change of process that we would agree, for example, through the code of construction practice.

Christine Grahame: How do you define "local residents" and ensure that you do not miss people out? I know from the Communities Committee's work on planning legislation that a difficulty with neighbour notification is to do with who is notified.

Kevin Murray: Indeed. That might just depend on where the works are at the time and who is local to the works, but we will ensure that we approach community liaison groups and community councils if they also seem to offer an appropriate mechanism. We will do what is appropriate to the circumstances.

Christine Grahame: Is there a conflict between what the COCP says about neighbour notification and what it says about the arbitration process in paragraph 1.15?

Kevin Murray: I do not think so.

Christine Grahame: The local construction plans have not yet been drawn up—I take it that they are up for discussion. What is the role of residents in agreeing the plans? They will be key to the process, given that the work might be right on their doorstep.

14:45

Kevin Murray: Very much so. In developing the local construction plans, we want to take on board local residents' views, where possible, through consultation.

Christine Grahame: What is the timescale for that? It will depend on the work that you will be doing, but can you give us an idea? A week would

not be long enough. Are you involved in discussions already?

Kevin Murray: No. We might hold the discussions through a series of workshops, which might be a sensible, practical way of consolidating people's views on what is essential in the local construction plans and what is less important.

We are yet to start developing detailed local construction plans, but we know where we think they will be required. We have focused on the main construction sites, but that is not to say that there will not be others. As we start to progress the scheme, we will flush out other areas where it might be beneficial to create local construction plans. There is a major construction site at Wheatlands, and it is clear to us that our neighbours at that site will want to understand in more detail than is given in the code of construction practice how the works will be undertaken there.

Christine Grahame: As a matter of interest, have you followed the evidence that the Communities Committee has taken on planning advice notes and the way in which developers should liaise with and relate to communities?

Kevin Murray: Yes. We will reflect on that.

Christine Grahame: That is important, because communities feel that they do not get involved early enough. They say that that is why conflicts arise. Their evidence is useful.

Kevin Murray: Yes, indeed.

Christine Grahame: Will you explain the role of the local authorities in relation to consents and approvals?

Kevin Murray: The local authorities have been consulted on the code of construction practice and we will consult them throughout on the local construction plans. They are the backstop for people if there are any problems, so it is important that they share in the plans and have a voice in how they are developed.

Christine Grahame: Am I right in thinking that, in effect, the bill will give outline planning consent and the ordinary planning process will then kick in? Things are a wee bit more complex with a technical project such as this one.

Kevin Murray: That is true.

Christine Grahame: So you will work within the discipline of planning advice notes and the Planning etc (Scotland) Act 2006, which will be in force by then?

Alison Gorlov: We will work within that discipline, but the committee should bear it in mind that it will be modified somewhat. The effect of the bill is to give outline planning permission for the works, so we will not go to the local planning authority with a detailed planning application. We are required to take certain things to the local planning authority and to seek prior approval of design details, but the general permitted development order will enable us to build the major part of the works without seeking further planning approvals from the local planning authority.

Christine Grahame: Thank you for clarifying that.

What will happen if, during your consultation on local construction plans, there is a big problem and residents are not happy, or you are not happy? How will that be resolved?

Kevin Murray: We will try to accommodate concerns about the ways in which works are undertaken but, as you rightly say, there might well be aspects that are beyond that accommodation. If what we can do falls short of what is sought, we will try to explain what can be done and why it is not appropriate to go beyond that. We will explain as fully as possible why aspects of the work need to be undertaken in a particular manner, perhaps for safety or environmental reasons that are overriding and must prevail.

Christine Grahame: So you will have the last say.

Alison Gorlov: We will not have the last say, in that the local construction plans are subject to approval by the local planning authority, which has to consult. We will present it with the results of our consultation. If the local planning authority is aware that there is a disagreement, it will, no doubt, want to hear more from all concerned.

Christine Grahame: And then?

Alison Gorlov: It will make a decision.

Christine Grahame: So it is the planning authority—

Alison Gorlov: The local planning authority will make the decision, which will be subject to an appeals procedure.

Christine Grahame: So it will fit into the usual planning process?

Alison Gorlov: Yes.

Christine Grahame: You mentioned a hotline. I am sceptical about hotlines generally—they are either engaged or not on when they ought to be on. How will the hotline work? Will it be on 24 hours a day? If it dawns on me at 3 o'clock in the morning that I have something about which I am cross, will I be asked to press button 1 and, following that, buttons 2 and 3 and lose the will to live, or will there be a person at the other end?

Kevin Murray: We think that there will be a person there at all times. Throughout normal working hours, it will be managed by a person in an office.

Christine Grahame: Will it be 24 hours a day?

Kevin Murray: Beyond normal working hours, a call might be referred to a responsible manager on site, who is looking after works that are being undertaken at that time. If there was a railway possession, for example, the number might be forwarded directly to the manager so that something could be done at the time, if it was practical to do so. At all times, there would be a mechanism by which a complaint that came in by the hotline would be captured, registered, logged and then followed up and, we hope, resolved.

Christine Grahame: Capturing, registering and logging the complaint might not mean that I speak to somebody.

Kevin Murray: No, it would.

Christine Grahame: So I will always be able to speak to somebody, no matter what time of day or night or what day of the week?

Kevin Murray: Yes, absolutely. The intention is that a caller will be forwarded to a person who is responsible for works that are being undertaken outside general business hours.

Christine Grahame: We now have on record the commitment that there will be no press-button hotline.

Saturday afternoon working is required as a norm in the code of construction practice. I understand that it normally terminates at 1 pm but, according to the code of construction practice, it can go on until 6 o'clock at night. That is not even special; it is just standard. Why?

Steve Mitchell: The advice that we had from the City of Edinburgh Council's environmental and consumer services department when we did the study for the environmental impact assessment some time ago was that it would expect all-day working on Saturday as the norm, so we have fallen in line with what we believe is the local standard.

Christine Grahame: That is the norm in Edinburgh, is it?

Steve Mitchell: Yes, the City of Edinburgh Council gave us that advice.

Christine Grahame: I have learned something about the City of Edinburgh Council that I did not know. That is one to add to the encyclopaedia.

Why is only seven days' notice of Sunday or evening and night-time working to be given to near neighbours when the notice for normal working is 14 days? It seems to me that you should give people longer notice when they are not going to get to sleep.

Kevin Murray: The neighbourhood notification process that is described is applicable whatever the day, so the intention is that there will be a two-week notification process and, thereafter, a week's publicity about the works happening. I believe that that is what is being referred to in the seven-day notice for Sunday working: there would be seven days to alert near neighbours once Sunday working was agreed.

Christine Grahame: I seem to remember that you will do only a certain level of work in those odd hours—it could not be really noisy stuff. Is that right?

Kevin Murray: Particular works that are described as taking place in the working hours would be expected to be undertaken seven days a week—for example, the tunnelling operations—but if there were noisy activities outwith those hours, there is the facility for us to go to the local authority and seek approval for such works, having consulted on them and on the requirement to work outwith normal working hours.

Christine Grahame: My last question is about vermin displacement. There is something in the code of construction practice about pest control and food on site, but what might concern residents is that, once you start tunnelling, digging and moving rivers, a lot of rats will be looking for new homes. What are your obligations on that and how much have you taken the issue into account? It is quite serious.

Kevin Murray: Indeed. We have talked to a number of parties local to the works who share that concern. We will undertake to manage those aspects ahead of the work commencing and, when the work is on site, to ensure that refuse is managed well and that the site is tidy, clean and clear from vermin.

Christine Grahame: Refuse is probably the lesser of your problems. The greater problem is the disturbance of creatures that, unlike the great crested newt, do not seem to be friendly. It is a serious issue for the people who live nearby.

Kevin Murray: Yes, and we take it seriously. We understand the problem and will consider a way of managing it ahead of the works.

Mr Gordon: Why should anyone who claims for property damage when the promoter has not undertaken a prior survey be required to meet the initial costs to support their claim?

Kevin Murray: We believe that somebody who makes a claim for damage to property that lies outside an area in which we have concerns and in which we have said we want to monitor properties

for damage should initially be responsible for that claim. That is a reasonable proposition. We have made it clear in the code of construction practice that expenditure will be recovered from the authorised undertaker if damage occurs as a result of works and a claim is found to be just. The aim is to avoid unnecessary claims. Spurious claims might be made if the authorised undertaker met all costs. We want to distil out responsible claims and ensure that matters are dealt with appropriately.

Mr Gordon: I thought that there could be a middle way. I foresee a scenario that involves a little old lady on whose home a prior survey has not been carried out. A crack starts to appear in her property during contractor operations and you say to her, "You'll have to arrange a survey at your own expense," but she is asset rich and cash poor. I thought that a procedure could be devised so that a nice man like you can go to the property and say, "That looks like a crack. Perhaps we should spring for a survey for this little old lady."

Kevin Murray: I suspect that that would be reasonable. There could be a case-by-case approach. We simply wanted to outline our approach in principle, but we may have to create a process that will allow problems to be considered on a case-by-case basis if people do not have the means to arrange a survey entirely at their own expense.

Alison Gorlov: We have identified what we think are the risk properties, and we accept that we must do something about them—indeed, the bill obliges us to do so. Forgive me for speaking as a dry lawyer, but in every sphere of endeavour, if a person thinks they have a case and t'other chap does not agree, the first person must pay to prove that they are right and that the other person is wrong. A person whose property is outside the at-risk envelope must prove their position. It is not unusual for a person who makes an allegation to pay to prove that they are correct and to be reimbursed if they are proved to be correct. The arrangements are therefore not as draconian as they may appear to be.

Of course, that presupposes that we do not say when we are called to look at a property, "Oh, gosh, you're right." It is possible that Mr Murray had such cases in mind. I cannot give any commitment, but if it were seen that the contractor was obviously responsible for damage, one would expect TIE to go to the property and see the damage for itself. However, as a general, across-the-board principle, it is entirely reasonable that he who alleges that a property outside the danger zone has suffered damage ought to prove that it has done so. He will be reimbursed if his allegation is proven to be correct.

Mr Gordon: It still seems to me that you could map out a middle ground.

How have the normal working noise levels been determined? What precedent exists for them?

Steve Mitchell: Noise limits during normal working hours date back to the then Department of the Environment's advisory leaflet 72, which was published in 1976. All railway and road schemes of the nature and on the scale that we are talking about have adopted those limits. The list of precedents is longer than my arm.

Mr Gordon: I understand that such levels have not been set for other schemes and that such matters have been left to local authorities.

Steve Mitchell: From my experience, 75dB in urban areas and 70dB in rural areas, as measured at the side of the nearest sensitive property, are the universally adopted noise limits for normal daytime contractor working. I am not aware of variations on those levels for contracts of the type that we are discussing. You may have seen an unusual project.

15:00

Mr Gordon: Can you guarantee that the same maximum noise levels will apply in all places where so-called quiet work is undertaken nearby? I understand that that is a particular concern for businesses in Roddinglaw.

Steve Mitchell: If a business premises that might not at face value seem sensitive to noise—for example, a factory—contains an office that is sensitive, the office or other area of the premises where people require concentration and peace and quiet to function will be treated as a noise-sensitive receptor. However, the rest of the factory premises that is not sensitive to noise will not be so treated.

Mr Gordon: What land take is proposed at Carlowrie Farm Cottages? In particular, has an agreement been concluded with the residents to the effect that their land will not be acquired permanently for drainage works? The committee agreed to amend the bill if necessary to provide only for temporary land take for the drainage works.

Kevin Murray: The only update that I can give the committee is that we have not concluded an agreement at this time. We are seeking such an agreement. We are content to reach that agreement if we get sufficient powers to undertake the drainage works. However, the issue between the promoter and the objector parties has not been resolved.

Iain Smith: If, during the construction period, noise levels are a problem and exceed the limits

that have been set, by what process will residents or businesses be able to object or complain?

Steve Mitchell: There will be two routes. There will be noise monitoring in areas where critical interfaces between essential works and nearby receptors are expected. In those areas, we will capture the values that can be assigned to the noise and the local authority will be involved in checking those data. If exceedances are noted, a feedback process will enable the contractor to take action and a repeat monitoring exercise will be undertaken.

If noise becomes an issue somewhere else, where we do not have routine monitoring, people will be able to call a hotline that will allow them to press buttons or, preferably, talk to a person—

Christine Grahame: You have given an undertaking that people will be able to speak to a person. You are committed to that now.

Iain Smith: Let us hope that they will be heard above the noise.

Steve Mitchell: Sorry: there is no question but that the hotline will be about more than just pressing buttons.

The complaints response process will then click in, with a requirement for a 24-hour response. The response process might well trigger not just action to reduce the noise but noise monitoring as well, so the location relating to the complaint might be added to the monitoring burden that will be placed on the contractor.

Iain Smith: How will the pollution emergency response plan and the other plans be enforced?

Kevin Murray: They will be enforced under section 46, which the committee has heard about before. Like the code of construction practice, the pollution emergency response plan will be treated as a mitigation policy document, which will be enforced under section 46.

Alison Gorlov: At the risk of repeating everything, I should say that all the other mitigation measures that I described before will be similarly enforced.

Iain Smith: From our reading of the assessor evidence, it is clear that a number of agreements have been reached with objectors and other affected parties. Why is none of those listed in annexes A and B?

Kevin Murray: We are working on a comprehensive commitments list, or register, but it is still under development. The register will form part of the code of construction practice. As I mentioned before, some of the commitments will come through the environmental management plan. The agreements will make their way into the document, but we have not been able to include them yet. We will refer to areas where commitments have been given so that those are visible. Local construction plans will draw out areas where we need to demonstrate that commitments have been brought to the attention of the contractor.

Alison Gorlov: It is worth pointing out that the agreements relate to not just the COCP, but to a variety of things. The COCP issues will find their way in there, as has just been said; other things will sort themselves out in whatever way is appropriate for the particular agreement. All of them will be in a commitments register, the status of which—concerning its public visibility—I am afraid I do not know. However, that is perhaps not for me.

The Convener: What is the timescale for them finding their way into the document?

Kevin Murray: We have a register running just now, which we could put in as a starting point. It will develop over time. A register could be put in very shortly; in fact, we will try to put something into the revised version that we will submit on Monday.

The Convener: I was going to ask whether you could do that for Monday.

Kevin Murray: We will try to do that.

Iain Smith: Paragraph 13.1.1 of the code of construction practice sets out how the code and the local construction plans will be applied to contractors. Can you explain how the landscape and habitats management plans will be applied?

Kevin Murray: Where elements of landscape and habitat management and mitigation require to be made explicit for local construction plans, for example, they will go into the local construction plan documents. We will draw them through that process and make them visible. Equally, mitigation commitments will be made through the environmental management plan, and mitigation commitments that are made through the landscape management plan will flow into the catalogue that is the environmental management plan. So, the plans will be visible to the wider public through two mechanisms.

Iain Smith: What consultation will take place in relation to finalising the landscape and habitats management plans, and with whom?

Kevin Murray: As has been the case to date, we will consult the environmental bodies, the local authorities and the local community. The document is available on our website. Where we have liaised with objectors and communities, we have invited comment on that document—as we have on all the other documents that have made their way on to our website. We will continue in

that vein, and we will ensure that those comments are considered.

The Convener: That completes our questions on the code of construction practice. Thank you for your evidence.

The committee will remember that work has been progressing on a number of objections—in particular, on group 21, which deals with objection 29 in the name of Mrs Agnes McGowan. We discussed the objection at our previous meeting. I ask the promoter whether the objector, Mrs McGowan, who lives adjacent to the proposed construction compound for the tunnel and who will be affected by construction noise around the clock for up to two years, falls within the ambit of the advance purchase scheme.

Kevin Murray: Regarding Mrs McGowan's situation, we believe that the property at Wheatlands House can be acquired under the EARL advance purchase scheme, subject to some additional commencing and to proper application of the APS.

The Convener: Excellent. Can you tell us whether any such application by Mrs McGowan would be supported by Transport Scotland?

Kevin Murray: I can. We have received confirmation from Transport Scotland that it would support the acquisition of the property under that scheme.

The Convener: Thank you very much. We will finish today with questions on the amendments that may arise as a result of negotiations between promoter and objector. Does anyone have any questions on that?

Christine Grahame: I note the position regarding the objectors at Carlowrie Farm Cottages. That is still on either the hotplate or the back-burner—one or the other. You have agreed, in negotiations with objectors, to promote amendments to meet their concerns. Can you explain what is proposed, whether any amendments are proposed in respect of other objectors, and why the committee should agree to the amendments?

Alison Gorlov: I had better deal with that. I think that I am correct in saying that the majority of the agreements do not result in amendments to the bill. In some cases, in which we have different arrangements regarding land acquisition, there are outright obligations not to acquire land. That is to say that, come what may, that land will not be acquired from EARL. That will give rise to amendments. They are not in the paper that you have because, when that paper was put together, I had not completed verifying what I had been told about the content of all the agreements. I need to trawl through them, and I have not completed that exercise; however, I will do so in the near future.

In many cases, the deals about land acquisition are contingent on something else happening. For example, if someone does not want us to acquire his land but is more than content to let us on it to do something, so long as we go away again afterwards, that is fine so long as the rights are granted to TIE in due course. Therefore, one cannot give up the long stop of compulsory purchase powers in case something goes wrong and the rights are never granted. Those agreements will not necessarily give rise to amendments to the bill.

I will run through the third-party agreements that give rise to other bill amendments. I will take the ones that do not relate to objectors first if you would like to hear those. The Registers of Scotland had concerns, which I am bound to say were raised primarily in the context of another bill, about the way in which the automatic vesting of completed roads would work from the point of view of the Keeper of the Registers of Scotland registering the change of title. A raft of amendments—proposed amendments 8 to 12—deal with those concerns. There was a further concern about the way in which acquired rights would operate: if we had purchased rights for the benefit of the railway, how would they operate in respect of registration and the requirements of the Title Conditions (Scotland) Act 2003, which states that if they are not registered they do not have effect? We addressed the matter in helpful discussions with the Keeper of the Registers of Scotland and the issue is dealt with in proposed amendment 50.

Proposed amendments 13 and 14 are for the benefit of SEPA and SNH and amend section 14. They deal with the controlled activities regulations and get rid of the reference to the Control of Pollution Act 1974.

Proposed amendments 46 to 48 deal with environmental mitigation. Amendment 48A is the saving for the controlled activities regulations in relation to the river diversion works.

Proposed amendment 58 is a definition: it defines the code of construction practice. Proposed amendments 60 and 61 also give relevant definitions. They define the local construction plan and mitigation policy documents, so that we know what we are talking about.

Finally, on the environmental amendments, proposed amendment 75 is the procedure for approval of the code for construction practice and the local construction plans.

On third-party objectors, we have two amendments from Mr Marshall at Carlowrie House. Part of the wall of Carlowrie House is within our limits of safeguarding. In discussion with Mr Marshall, we were persuaded that he was right

that the rest of the wall might also be at risk and could benefit from being within the safeguarding zone, so we have introduced proposed amendments 14A and 14B to achieve that and to ensure that all the safeguarded wall is treated on the same basis for planning purposes.

Proposed amendment 28 is for the benefit of BRB (Residuary) Limited. You might recall that it has historic rights under old railway enactments, which it has inherited because its role is to inherit dead railway legislation and the responsibilities that go with it—it is not quite dead: there are historic obligations to stop structures falling down and becoming a nuisance and to fence the old railway. So far as those come within our railway corridor, BRB (Residuary) Limited understandably wants to offload those responsibilities. That is achieved by proposed amendment 28. The form of words was evolved in discussion with BRB (Residuary) Limited and with its agreement.

There is a raft of proposed amendments for BAA, or rather for Edinburgh Airport Ltd, which is the subsidiary company of BAA that runs Edinburgh airport. It is the licensed operator of the airport. Would the convener like me to list the proposed amendments or deal with them one by one?

Christine Grahame: No.

The Convener: I do not think that Christine—

Christine Grahame: Thank you very much for the comprehensive list, but I would also like to know what the deadline is. It is perhaps a stupid question, but what is the deadline for proposing amendments?

Alison Gorlov: We introduced a first draft of the amendments that we are after on 12 January. That draft has what we thought at that date would be everything bar the land acquisition details. Since then, we have identified one further matter, which is an adjustment of the procedures in schedule 9, to bring in planning appeals procedures—I think Mr Cullum has seen what we have done. We do not think that anything else is needed, other than to complete the land acquisition details. I do not think that we have been given a deadline for submitting our paper, but no doubt the clerks will tell us about that in due course.

15:15

Christine Grahame: Yes. The clerks are nodding and mumbling off-stage, like a Greek chorus.

Alison Gorlov: Please excuse me if we have already been given a deadline. I might have been told, but I do not have a date in my head.

Christine Grahame: The convener will provide guidance, as always.

The Convener: No deadline has yet been set. Committee members will lodge the amendments in accordance with parliamentary procedure, as members know. We will let the promoter know before that happens.

Is the scope for developer contributions to assist in funding the scheme, which is currently required under the bill, to be reduced? If so, why?

Barry Cross (TIE Ltd): The theoretical scope for securing developer contributions will be reduced. The bill as drafted includes a provision that facilitates the local planning authority in the creation of a developer-contributions strategy, which the authority would apply. During consultation with a number of parties, including BAA and other significant landholders in rural west Edinburgh, developer contributions were a major issue. At a previous committee meeting we described the process whereby we reached agreement with BAA. The sum of that agreement included the modification of the developer contributions horizon. The justification for that approach was that what was being secured through that agreement was considered to be crucial to the future of the project, given the potential risk to the project if BAA and others—but particularly BAA—continued to object to the bill.

The agreement has borne fruit. BAA/EAL's assistance in the development of the project has significantly helped the design process and the rate of progress. The purpose of the approach to developer contributions was to secure an agreement with EAL and its partnership in the project. That is the justification for modifying the developer contributions horizon. The approach meant that a handful of other major objectors in west Edinburgh were able to withdraw their objections, thus improving the probability of the project's success.

Christine Grahame: Who are the other major objectors you mention? In simple language, I take it that people who were going to have to pay into the scheme will no longer have to do so, which has secured their support for the project.

Barry Cross: No. As I said, the issue of developer contributions is somewhat theoretical. One has to make a raft of assumptions. First, there is the assumption that local planning authorities will put in place a developer-contributions policy and framework, which it will impose on developments in west Edinburgh. It would be an assumption to think that an authority would do that, given that it would clearly need to weigh up the benefits of doing so against the benefits of securing developer contributions for either the tram project, for example, or its own projects rather than for EARL.

There are also assumptions that relate to the probability and type of development, particularly considering two clear signals that we received from the City of Edinburgh Council, which is the planning authority for the major proportion of the project. Those assumptions relate to a signal the planning authority gave EAL that the permitted development rights, which currently mean that planning applications are not required for a number of active airport functions, could not by their nature attract developer contributions in the future. That is another chip at the policy.

Christine Grahame: I am following what you are saying, although the language is difficult—I know that that is not your fault—but I want to know which other major objectors withdrew their objections in the light of the change in developer contributions. Who were they? I want their names.

Barry Cross: I am pausing because I know the developers who had a particular interest, but I want to be certain that the developer contribution was a ground in their objection. They included New Ingliston Ltd, West Craigs Ltd and FSH Nominees Ltd and FSH Airport (Edinburgh) Services Ltd.

Christine Grahame: Thank you. How does that impact on the funding of the project?

Barry Cross: I cannot do any better than refer back to the evidence given by Transport Scotland at an earlier meeting, when a similar question was asked. You will remember that, from the first days of the project, although the statement of funding indicated that funding sources would be likely to include funding from developers, no specific sum was allocated for that category. As Transport Scotland also noted, we have secured significant contributions from BAA.

The evidence given by Transport Scotland and the minister dealt appropriately with the question and showed their confidence that the project was not dependent on the receipt of developer contributions through the mechanism in question.

Christine Grahame: So the funding is secure?

Barry Cross: I cannot do any better than requote the evidence that the committee heard from the minister and Transport Scotland.

Christine Grahame: I will read the evidence after the meeting.

Mr Gordon: I want to press that point and perhaps put it as plain as a pikestaff. Edinburgh Airport Ltd was an objector, but it has now withdrawn its objection. Am I right that, because there will be a smaller contribution from that privately owned firm, the taxpayer will have to make a larger contribution than would otherwise have been the case?

Barry Cross: This is a question of probability. Because the local planning authorities have never put together—or even said that they were minded to put together—a developer-contribution policy for EARL and because we therefore do not know what such a policy or any rate would have been, it is impossible to say what funding the policy might have secured, particularly when we consider the value of funding in year 25 or 29 of the project when it is discounted. However, we have a significant contribution from EAL, in both land and the effort and work that it is putting into the equation, and our judgment is that we have significantly reduced risk to the project because of that. I cannot really equate that to what might have happened, because we do not know what might have happened.

Mr Gordon: Hmm.

The Convener: Okay. I do not think that we have any further questions, so that concludes our evidence taking this afternoon. I thank Scottish Natural Heritage and the promoter for their evidence. I remind committee members that the next meeting will be next Tuesday and that it will be held entirely in private.

Thank you all for your attendance.

Meeting closed at 15:25.

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