

EDINBURGH TRAM (LINE ONE) BILL COMMITTEE

Tuesday 2 November 2004

Session 2

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EDINBURGH TRAM (LINE ONE) BILL COMMITTEE

7th Meeting 2004, Session 2

CONVENER

*Jackie Baillie (Dumbarton) (Lab)

DEPUTY CONVENER

*Phil Gallie (South of Scotland) (Con)

COMMITTEE MEMBERS

*Helen Eadie (Dunfermline East) (Lab)

*Rob Gibson (Highlands and Islands) (SNP)

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

*attended

THE FOLLOWING GAVE EVIDENCE:

Barry Cross (City of Edinburgh Council)

Andrew Oldfield (Mott MacDonald)

Angus Walker (Bircham Dyson Bell)

James Walker (TerraQuest Solutions)

CLERK TO THE COMMITTEE

Jane Sutherland

LOCATION

Committee Room 4

Scottish Parliament

Edinburgh Tram (Line One) Bill Committee

Tuesday 2 November 2004

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

Item in Private

The Convener (Jackie Baillie): Good morning and welcome to the seventh meeting of the Edinburgh Tram (Line One) Bill Committee. Before we proceed, the committee must decide whether to take in private the final agenda item, which is to discuss our approach to consideration of the general principles. I suggest that we take that item in private to enable us to have a full discussion about the witnesses and the timetable, as well as the themes that we want to consider. I am keen that, as we have done in the past, we publish our agreement on the timetable and the list of witnesses, so that everybody—objectors, the promoter and other interested parties—is aware of what we intend to do. Do members agree to take agenda item 4 in private?

Members *indicated agreement.*

The Convener: I should have pointed out that my colleague Jamie Stone sends his apologies. He is stranded, fogbound, at Inverness airport. If he joins us during the meeting, that will be welcome. Unfortunately, we cannot control the weather.

Edinburgh Tram (Line One) Bill: Preliminary Stage

10:04

The Convener: Agenda item 2 is consideration of a late objection. Members have a paper on the matter. We must first consider the reason for the lateness of the objection, which is from Ms Anne-Sylvie Todd. Do members feel that the objector has good reason for not lodging the objection within the specified period?

Phil Gallie (South of Scotland) (Con): Given the confusion that surrounds some elements of the route, it is understandable that Ms Todd either misinterpreted the information or was not fully informed. It is reasonable that she should lodge her objection now.

Rob Gibson (Highlands and Islands) (SNP): I agree.

The Convener: So members are happy to allow the objection as a late objection.

Members *indicated agreement.*

The Convener: I now ask members to give preliminary consideration to the objection. Do members agree that the objection should go to the consideration stage for substantive consideration?

Members *indicated agreement.*

The Convener: The objection has been accepted and will be considered at the consideration stage.

Agenda item 3 is to take oral evidence on the adequacy of the accompanying documents. Members have already had the opportunity to—*[Interruption]* They have had the opportunity to switch off mobile phones and pagers, and to consider the folder of written evidence from the objectors and the promoter.

The first topic that we will consider is the scope of the bill, which is a technical issue. I welcome Barry Cross, who is from the City of Edinburgh Council, and Angus Walker, who is from Bircham Dyson Bell. I invite them to make a brief opening statement of about five minutes, if they so wish.

Barry Cross (City of Edinburgh Council): We do not have opening statements, madam.

The Convener: Excellent. You can come back.

Barry Cross: We would rather not.

The Convener: That saves us time, for which I am grateful.

I will kick off with a technical question on planning approval, so please bear with me. I

understand that section 70 refers to article 3 of, and class 29 in part 11 of schedule 1 to, the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

Angus Walker (Bircham Dyson Bell): That is right.

The Convener: You know what I am talking about, which is good.

I understand that that means that planning permission will be granted automatically for development that is authorised by the bill, with a couple of exceptions—the erection of buildings and bridges and the formation and alteration of roads—which will be subject to what I call the normal planning approval process.

Angus Walker: That is not quite the case.

The Convener: Will you explain how the system works? What will be approved through the bill and what will go through the normal planning process?

Angus Walker: As you say, section 70 is concerned with planning. By virtue of the permitted development order to which you referred, planning permission will be deemed to have been granted for the works that are specified in the bill, with the exception of the types of development to which you referred. Such developments will have been given something roughly similar to outline permission. The tram operator or constructor will have to apply to the council for a prior approval before it carries out such work, whereas the remainder of the work can be carried out without further approval.

The Convener: Take me, as a layperson, through the situation if the bill is passed. We have indicative drawings of where the tram stops will be. If we pass the bill, we will agree that there can be tram stops, as well as agreeing to where the tram stops will be sited and how they are to be constructed, although that will be decided at a later stage, following a detailed application going through the planning process. Is that right?

Angus Walker: Yes, more or less. Under the order, the only reasons that the planning authority can give for refusing or putting conditions on the subsequent approval is if it thinks that a tram stop would be better sited elsewhere within the limits of deviation, or if it thinks that the design

“would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.”

In other words, the authority can set conditions if it thinks that the design would look better if it was altered slightly. The authority cannot just turn down the development flat; it must come up with an alternative.

The Convener: What are the limits of deviation that you mentioned?

Angus Walker: They are defined in section 2. In essence, they are the perimeter of the area within which the works can take place. Although lines have been drawn on the plans where the tramlines are expected to go, if it is discovered at the detailed design stage that ground levels are different, or if other considerations arise, the lines can be moved slightly from side to side, within the limits of deviation.

The Convener: So we would be agreeing not only the route, but the margins of error.

Angus Walker: In a way, yes.

The Convener: That is helpful to know.

For the tramline that we saw in Nottingham, some of the wires are attached to buildings. Under the order, are such wires subject to the normal planning process at a later stage? Are they considered to need prior approval?

Angus Walker: They are a prior approval development. Section 15 gives the power to attach equipment to buildings and section 70(4)(b) refers specifically to the issue. The permitted development order refers only to buildings and extensions to buildings as works for which prior approval must be sought, but it is not clear whether a piece of apparatus that is attached to a building is one of those. Because of that, and because of the particular sensitivities of working in a beautiful city such as Edinburgh, we have made it clear in section 70(4)(b) that we expect to seek prior approval for attachments to buildings. There is no argument about that—we will do that.

The Convener: That clarity is helpful.

As I said, all the tram stop locations on the maps with which we have been supplied are indicative. What discussions have you had with Barry Cross, or others in the City of Edinburgh Council, about the planning approvals that would be required for the final location of the stops?

Angus Walker: Although, technically, the bill will allow the stops to be put anywhere, the design of the tram system is pretty much predicated on certain stop locations—the business case was developed and the environmental consequences were worked out on the basis of particular locations for stops.

Barry Cross: The issue of stop locations has exercised the City of Edinburgh Council, particularly the planning authority part, because tram stops need to relate to the urban environment in which they are set, including footpaths, linkages and destinations. Prior to lodging the bill, the council approved a set of tram stop locations. The process of giving any prior approval consents will be based on the set of approved locations. However, assuming the powers are granted and construction commences, if there are obvious

reasons to move a tram stop slightly, the council, as the planning authority, will have retained through the bill the ability to approve or otherwise the modification. What we do not want to do is to allow a process whereby, for example, a public-private partnership operator can move stops without that approval process, because the position of the stops is crucial.

10:15

Angus Walker: The design of the stops has been encapsulated in a document called the design manual. Although it is not one of the official accompanying documents, the council felt that it was important to set out the standard of design that it expects to be used in the hardware of the tram system.

The Convener: The committee already has copies of that document. Although it is not one of the official accompanying documents, it is of interest to us.

Phil Gallie: It has been indicated that a considerable number of planning applications will have to be made during the course of construction. Given the importance of ensuring that there is the minimum of delay in the construction process and that builders are kept to their timetable, will specified planning team members be available at all times to ensure that the various planning requests are responded to quickly?

Angus Walker: As I hoped that I had explained, the applications will not be full planning applications; they are a bit like reserved matters, if you know anything about planning. Outline approval will already have been given and only the detail will have to be finalised. In the bill, they are termed "prior approvals." The process does not involve the full panoply of steps that are involved in a planning application.

I am sure that every effort will be made to ensure that the prior approvals are dealt with as quickly as possible.

Phil Gallie: I am relieved to hear that, but only up to a point. My greatest impression of the planning process is one of delay.

I asked whether there would be a dedicated team of people who would deal with the prior approvals. If so, will the cost of that team be included in the financial assessments that we will consider later?

Angus Walker: The council will put resources into dealing with those planning consents. Whether it does so by setting up a dedicated team is a matter that will be determined when we have an idea of the nature of the applications, the number of them and how they are grouped. The

design manual is one of the methodologies that we have put in place to ensure that the process is as smooth as possible. There is a presumption that if stops are designed in accordance with the design manual, for example, the process will be much smoother than it would be if the stops were designed from scratch.

As with all planning consents, the project costs and the financial case will include the cost of preparing and submitting applications. They will not involve the cost of processing the applications, which is a cost for which the planning authority is responsible.

Rob Gibson: What is the process for obtaining planning approval? What opportunity is there for the public, Historic Scotland and any other relevant interests to be involved in that process?

Angus Walker: When the series of prior approvals that I have referred to comes before the council, which is the local planning authority, it will be possible for people to make comments in the usual way. I expect that Historic Scotland will be closely involved with the prior approvals, particularly those which affect the world heritage site part of the route.

Rob Gibson: Apart from individuals, are there other relevant interests that might have a major part to play?

Angus Walker: Certain amenity groups, such as the Cockburn Association, have expressed an interest in the development of the scheme and I am sure that they will continue to take an interest.

Rob Gibson: What assurances can you give the committee that the views of the public and agencies such as Historic Scotland on the final location of tram stops will be taken on board during the planning approval process?

Angus Walker: The public have already had an opportunity to comment on the location of tram stops during the consultation period. Those locations will be the ones that will be applied for unless something unforeseen happens. When the prior approval comes before the council, the public will again have an opportunity to comment.

The Convener: You said that there is an expectation that Historic Scotland and local groups would be involved in "the usual way." For the sake of clarity, could you explain what the usual way is? How would the public and groups be involved in the process?

Angus Walker: I am not fully familiar with the City of Edinburgh Council's procedures for planning applications but I imagine that the prior approvals will be publicised in the way that planning applications are and that those who are interested will be looking out for them and will be able to comment on them when they see them.

I should point out that Historic Scotland has been closely involved in the development of the design manual, which includes the design of the stops and the other structures. To a certain extent, those features already have Historic Scotland's approval.

The Convener: We are keen to get details of the exact procedure so that we can reassure ourselves that the process that is followed is appropriate and, in your words, takes place in "the usual way", so that people are aware of their opportunity to comment at each and every stage. It would be helpful if the council could let us have that information in writing.

Helen Eadie (Dunfermline East) (Lab): Angus Walker told Rob Gibson that all the participants had had an opportunity to take part in consultation. I would like to press him a little further on that. There is a difference between having the opportunity to take part in consultation and having one's views taken on board.

Good practice suggests that, at the end of a consultation process, the loop should be closed by informing those who were involved in the process what the outcome was and letting them know whether their objections have been dealt with to their satisfaction. That is not to say that everyone's views will have been accepted, of course, but I think that you get the point that I am trying to make.

Angus Walker: Yes. At either the next meeting or the one after, you will have an opportunity to talk about consultation in particular, if you want to explore the process that has already been undertaken. I am sure that the choice of the route was altered as a result of the consultation that was undertaken, for example. The results were publicised on the Transport Initiatives Edinburgh website.

The Convener: To be helpful, I point out that, during the consideration stage, the committee will be examining the detail of the tram stops and the route. It is not as if we move from this point to a discussion of planning. There is an interim stage during which we will consider those detailed points.

Phil Gallie: This bill is important. The powers that are passed on to the authority or the undertaker are quite extensive. You have said that the use of a private bill is preferable to an approach that involves the "salami tactics" that would otherwise have to be used. For the uneducated, such as I, could you explain what salami tactics are?

Angus Walker: I used that phrase in an attempt to convey in ordinary language something that the promoter might be accused of. Although some powers in the bill—the principal powers—can be

sought only by means of a private bill, others, such as listed building consent, could have been sought by separate applications. The bill avoids the need to deal with the listed building legislation. Once the bill is authorised, listed building consent is, in effect, given whereas the promoter could have sought it separately. There are one or two other similar examples.

A situation could have arisen in which, although the principal powers would be sought via a private bill, all sorts of other applications would be made to other authorities, and objectors would have to chase through many different applications, send their objections to many people, appear in various fora to voice their objections and so on. They would be at a disadvantage because, instead of having one transparent authorisation process, they would have to go all over the place to try to stop the various elements of the scheme. Earlier, you referred to the possibility that planning applications might bog down the scheme. That is why we have sought as far as possible to have planning consent contained in the bill.

Another problem is that, if we required an alternative consent, the people to whom we had to apply for that consent might ask why the bill had not been authorised before we approached them, while the committee might ask why we had not got the other consents before coming to you. That would take us into a catch-22 situation in which each authorising body would wait for the other to approve part of the scheme.

Phil Gallie: I will reserve my comments on the listed building aspect of the discussion until other questions have been asked.

I accept that the additional powers are all embracing. One such power is that of compulsory purchase. Will you comment further on the need for you to have an all-embracing right of compulsory purchase, given that, to some extent, you already have that right?

Angus Walker: The City of Edinburgh Council has compulsory purchase powers, but they are to be used only in relation to particular purposes, which do not include the construction of a tram system. The powers relate to regeneration and so on, under the Town and Country Planning (Scotland) Act 1997.

The promoter is seeking to acquire all the necessary land by agreement rather than by having to use the compulsory purchase powers, which it will use only as a last resort. Although it will try to avoid having to use any compulsory purchase powers, the bill needs to include them in case all else fails and the scheme is held up because the promoter is unable to obtain some of the land required.

Phil Gallie: What protection do people whose land is purchased under a compulsory purchase order have if, once the line is constructed, it does not follow the expected route and their land is not used? One of the things that has been emphasised to us is that all of the maps and route details that have been produced might not be accurate to the n^{th} degree. What rights would individuals have to ask for their land back if it is not used?

Angus Walker: The next question-and-answer session will address more closely the issues relating to maps and so on. In general, the promoter will seek to acquire only the land that is absolutely necessary for the scheme. It is likely that that will not be all of the land within the limits of deviation. In other words, the land that is acquired will not be the full amount of land that the promoter is seeking powers to acquire. If the promoter acquires some land that it ends up not needing, I imagine that it will seek to dispose of it.

Phil Gallie: That does not quite answer my question. You say that you imagine that it will dispose of the land. However, I am thinking of the interests of the person whose land has been compulsorily purchased. Will that person have first refusal on repurchasing the land at a cost that is no higher than what they were paid?

10:30

Angus Walker: If the land is acquired by agreement, it is likely that something along the lines that you suggest might form part of that agreement. However, the general law of compulsory purchase is that the land is yours, with no strings attached, once you have acquired it—although the council might well end up selling it back to the original owner.

Phil Gallie: I will move on, but I make the point that, although you have spoken about the general rules of compulsory purchase, we are not operating under the general rules because tramlines are excluded from those rules. We are talking about specific compulsory purchases.

Angus Walker: The bill will use the general compulsory purchase laws, so what I said earlier still holds.

Phil Gallie: Another power that the council already has, and which will be specifically included in the bill, is the power to stop up roads and to enable the sharing of roads with buses and other forms of transport. Once again, why do you need that power to be in the bill?

Angus Walker: Road space will have to be shared when the tram goes along the road and there are some instances in which paths and other rights of way that cross the tramline route will have

to be either stopped completely or diverted. Those are listed in schedule 3. Only the roads that the bill specifies will be able to be stopped up should the bill be authorised; there will not be a general power to stop up any road that the promoter feels like stopping up. However, if it turns out that there is an additional road that the promoter wants to stop up, the promoter will be able to apply for that in the normal way.

Phil Gallie: Do the measures include temporary stopping up during construction?

Angus Walker: Yes—that is covered in schedule 4. The start and end point of each stopping up appears on the relevant plan so that people can see exactly what is going to happen.

Phil Gallie: Delays inevitably occur during construction. Will there be penalties if further time is required for the stopping up of roads during construction?

Angus Walker: The power for temporary stopping up is phrased so that the power lasts until a year after the particular piece of work has been completed. The power is therefore linked to the work; it will not be the case that the power to stop up expires before the work is finished.

Phil Gallie: That gives a blank cheque as far as the timescales go. I would have thought that the council would intend to minimise disruption for the general and travelling public, so will there be any protections for the public in respect of the stopping up of roads?

Barry Cross: You are quite right to suggest that one of the key issues for the City of Edinburgh Council is to minimise disruption to the population as a whole. The principal way of ensuring that will be through the contractual arrangements that are arrived at in order to deliver the tramline. Those arrangements will cover the issues to which you refer. We did not consider that the principal tool for managing the programme would be the powers relating to temporary traffic regulation or temporary stoppings up; it appeared to us that the robust method would be through the contractual arrangements of the construction contracts.

Phil Gallie: Thank you. I have been concentrating my remarks so far on those particular aspects. I have a further question but, for the moment, I will let other members move on to other questions.

Helen Eadie: My question is about scheduled monument consent. The Victoria swing-bridge is the only such monument that may be affected by the bill. Why did the promoter seek in section 69 of the bill to exclude certain key sections of the Ancient Monuments and Archaeological Areas Act 1979?

Angus Walker: When the bill was being drafted, it was not clear whether the Victoria swing-bridge would be affected. I understand that discussions continue with Historic Scotland as to whether the bridge is affected and whether section 69 could be removed at a later stage. The measure is exactly the same as the one used in the Channel Tunnel Rail Link Act 1996. There is a precedent, because some ancient monuments lie on the route of the channel tunnel rail link. The same process is being applied in Edinburgh.

As you say, the swing-bridge is the only scheduled monument on the route. It is possible that the tramline will cross the Water of Leith without touching the bridge, so it may be that the section will be removed at the consideration stage.

Helen Eadie: We are anxious to obtain an assurance that if you receive a blanket exemption by means of section 69, you will ensure that agencies such as Historic Scotland are consulted before any work is undertaken in relation to any scheduled monuments that are not currently affected by the bill.

Angus Walker: Historic Scotland made an objection to the bill only recently. However, correspondence with the organisation on the effects of the bill is now fairly well established. Historic Scotland will certainly be involved in any discussions about the effect of the bill on any scheduled monuments—although only one is affected.

The Convener: The problem will be resolved if the section is removed, but the committee will want assurances on what would happen should the blanket exemption remain. It is quite a wide power.

Phil Gallie: The answer to the third question that I wanted to ask has been covered to a certain extent. The question was about nuisance. The bill gives immunity to the undertaker in respect of the creation of nuisance. You have suggested that some form of control over the undertaker will be maintained during the construction process. Will you expand on the levels of control that you envisage?

Angus Walker: I will address the legal aspect of that question. If, before the bill was authorised, the contractor went to Princes Street and started building the tramline, that would obviously be a public nuisance and the contractor would be stopped immediately. If the bill is authorised and the contractor is able to commence works, it is a defence—in legal considerations of nuisance—that the contractor has statutory authority for doing what it is doing. However, it will still have to act reasonably. If it causes unreasonable noise, for example, it could still be restrained.

Barry Cross may have something to add on the relationship between the council and the contractor.

Barry Cross: A couple of Mr Gallie's concerns are to do with the relationship between the works and nuisance and inconvenience to members of the public. It will hardly come as a surprise to committee members to hear that the council, acting through TIE, takes that issue seriously—not least because the tramline will run through the very centre of our street network, in Princes Street and the city centre. It will run through a world heritage site and will have an impact on a great number of citizens who use or cross the affected areas on their daily business.

There are two strands to the answer to your question. The first has to do with the management of the contractual process. We have to ensure that the contract is planned, understood and managed. I disagree with Mr Gallie when he says that delays are inevitable; I do not think that they are inevitable at all—although they would be inevitable if we did not manage the process properly.

The second strand—which is at least as important—is the process of providing information and involving people. I do not know whether members came across such a thing during their visit to Nottingham, but we have to evolve a communication strategy so that—weekly if not daily—people are made aware of what is going on and of what the implications are. That will allow people to make any necessary changes to, for example, deliveries to their shops. We must communicate with people so that they know precisely what is going on and what to expect. People have to know how long works will last. Through TIE, we intend to resource the management of that communication process in just the same way as we will resource the contractual management process. It is important that the tram project is not regarded as bad news, an encumbrance and a nuisance for the three years of construction.

Phil Gallie: I am sorry that you take slight umbrage at my suggestion that delays were inevitable, but I was thinking about things such as the weather, as well as other contractual problems. Whether there are delays will depend to an extent on the preset timescales and on the way in which the whole contract is scheduled. Am I being premature in suggesting that—perhaps as part of the accompanying documents on the scope of the bill—it would have been useful to have some kind of construction planning chart to show the approach and timescales for each of the principal sections?

Angus Walker: I am sure that that is something that the parliamentary authorities can consider if

they ever review the set of documents that are required.

There are two deadlines for the starting of the works. The land acquisition must be completed within five years and the planning powers last for only 10 years, but that is just for the start of the development.

Phil Gallie: Once the development starts, those powers go on for ever.

Angus Walker: I agree.

Barry Cross: Unfortunately, I cannot give you the comfort of final contract documents showing precisely when different elements of work will take place and what their implications will be. As you can imagine, this will be a significant piece of work that will take a considerable time to get to grips with.

The only comfort I can offer—and perhaps the most important one—is that, in addition to being assured by the interest that this committee is taking in the issue, people can rest assured that the council and, in particular, its elected members will take an interest in what is happening and in the way in which the project is being delivered. There will be no shortage of observers; 400,000 people will be out there watching the works. I can offer that general comfort, rather than the comfort of a detailed programme of how the works will be executed. Minimising disruption will be a fundamental objective.

10:45

Angus Walker: In the accompanying documents, the nearest thing to any sort of programme is the estimate of expense and funding statement. One of the requirements is the inclusion of an estimate of the timescale within which the project will be completed and a statement of the margin of error in that estimate.

The Convener: The Parliament does not ask for that level of detail in the accompanying documents because that would imply a presumption that the committee was about to approve the general principles of the bill.

Phil Gallie: The scope of the bill.

The Convener: Or, indeed, the scope of the bill. We will be keen to get that kind of detail from you at the consideration stage, if that is possible, as the committee may take a different view from that which the promoter has taken on any aspect of the bill, including the route, tram stops, or whatever. However, it would probably not be helpful to have that kind of detail provided now.

Angus Walker: Okay, but the estimate of timescales is given in the estimate of expense and funding statement, at paragraph 308.

The Convener: That is helpful. As there are no further questions, I thank you very much. I invite Angus Walker to remain seated—not that you have had enough already—and thank Barry Cross for attending this morning.

We move on to consideration of maps, plans and sections in the book of reference. I invite James Walker, of TerraQuest Solutions, and Andrew Oldfield, of Mott MacDonald, to join Angus Walker. Welcome to the committee. If you wish to give a five-minute opening statement, please feel free to do so.

James Walker (TerraQuest Solutions): I do not, thanks.

The Convener: This is excellent. We do not want to discourage people, but it gives us more time for questions.

Rob Gibson: Can you provide further information on the on-site inspection that was carried out to ensure that Ordnance Survey information was up to date?

James Walker: While the referencers were conducting the initial site visit and identifying any interests, we would have been basing it on the most up-to-date OS data available at that time. We would also have identified any instances where the OS data had changed and either made those changes ourselves or sought approval from the developer to make those changes.

Rob Gibson: The Scottish transport appraisal guidance 2 drawings sometimes state:

“Ordnance Survey background mapping replaced with Waterfront development drawings where appropriate”.

Is that related directly to the route or to the areas surrounding the route?

James Walker: Generally, that is related just to the route, the limits of deviation and the immediate surrounding areas and the intention is to provide the best available mapping data.

Rob Gibson: Was the whole route inspected in that way?

James Walker: Yes, it was.

Rob Gibson: What work was undertaken along the former railway corridors to ascertain the exact dimensions of private residences in relation to the boundaries of the former railway corridor land?

James Walker: That information was based on the OS data that were available and a recent topographic survey. If anything on site seemed not to match that, changes would have been made or the matter would have been investigated further.

Rob Gibson: What are the latest OS data?

Andrew Oldfield (Mott MacDonald): At the time that the parliamentary plans were drawn up,

the OS data that were used were in the October 2003 version of Land-Line mapping from OS.

Phil Gallie: My point follows on from Rob Gibson's. There are discrepancies between the route as it is proposed and what happens in future. Perhaps I am extending beyond my remit, but when I look at the map of the route I am conscious that the area of most uncertainty is the Roseburn corridor. I do not know whether it is within your remit to comment on the fact that one of the objections that we have received refers to the possible usage of that corridor by tramline 2 vehicles for maintenance, laying-up, or whatever. To remove some of the uncertainties, the Roseburn corridor could perhaps be removed altogether, leaving tramline 2 to service the Haymarket route with tramline 1 stopping at Granton and going back. It seems to me that there is not a great population between the two ends of the Roseburn corridor that would use the tramline. I realise that I might be slightly out of bounds—

The Convener: Just a bit.

Phil Gallie: Nevertheless, that thought strikes me as I look at the map.

The Convener: I understand entirely those concerns. However, as convener, I would like to set our own limits of deviation. That is probably a matter for the consideration stage. Nevertheless, if our witnesses can answer the general point in general terms, that would be helpful.

Angus Walker: In general terms, the bill provides for a loop. I would say that it is a general principle that the tramline is a circular route. The whole business and economic case has been predicated on its being a circular route.

Andrew Oldfield: At the outline business case stage, a number of different parts of the loop were considered. What emerged from that was a loop that served the key locations. The background to that is best explained in the recent response to key question 1, which was issued on the Friday before last. It is not my specific field, but I understand that the patronage between Haymarket and Granton is a significant element of the loop and that that patronage would be reduced if there was no direct link between the two places.

Phil Gallie: The answer that Angus Walker has given suggests that my question was in order or would have been in order under the scope section of our questioning. I leave it on the table and come back to Mr Walker on the scope. What consideration was given to this matter, given the fact that the real antagonism to tramline 1 comes from the Roseburn corridor?

Angus Walker: I am not best placed to answer a question about the choice of the route. I do not know whether anyone else here is.

The Convener: We will pick the matter up next week—be forewarned. Phil Gallie has shown his hand entirely.

I want to press you on the general question that was posed by Rob Gibson, concerning former railway corridors. That is clearly going to be a sensitive issue. Our experience tells us that there is always a degree of encroachment on disused railway lines by people bordering those lines who extend their gardens, put up garden sheds, or whatever. There will be debates about who owns what. Have you had any discussion with any of the people bordering the railway line about who owns what, or are you relying simply on the technical data that you have?

James Walker: Our assessment was generally based on the OS data and the recent topographic survey. As I said, if anything on site appeared not to match that, we would have established with the interested parties where they felt that their interest was, based on their titles in the land register of Scotland or the register of sasines. If anything seemed not to match the data on which the maps were produced, we investigated it further.

The Convener: That brings us neatly to my next question. In compiling the register, what interests did you look for in the land register of Scotland and the register of sasines?

James Walker: In the land register, we looked for any parties that would have a notifiable interest. There were certain interests that were not noted, such as heritable creditors. In the register of sasines, we looked for anybody who had a potentially notifiable interest that was adversely affected. They would have been notified and logged in the book of reference.

The Convener: In layperson's terms, explain to me what a notifiable interest is.

James Walker: Anybody who has a title to land that is registered in either of those registers has a notifiable interest.

The Convener: Did you carry out an independent check to ensure that all the interests had been recorded accurately? These are quite complex matters. Can you give me any details of that?

James Walker: Yes. Various stages were undergone to check those interests. Initially, we searched both registers, as something that was not on the land register might have been on the register of sasines. However, the register of sasines is not easy to search because it is text based. Once those two searches were exhausted, we were left with certain areas of unknown land and a site visit was carried out to interview anybody on site who appeared to have an interest in that land. After that, we sent out land interest

questionnaires to every person who had been identified on the registers, to establish any further interests. Various other searches were carried out with the local authority and other major landowners.

The Convener: When you say that you interviewed people on site, do you mean that you turned up, saw something and went and knocked on someone's door?

James Walker: That is right. If somebody appeared to have an interest on site, we would go and speak to them if possible.

Helen Eadie: Can you tell us what the land interest questionnaire contained?

James Walker: From the land register and the register of sasines, we got the names and addresses of people who had interests and registered titles. The questionnaires invited those parties to identify any further interests that they felt existed. We then sent a questionnaire to the people with those interests as well, asking them, too, to identify any person who they felt had an interest.

Helen Eadie: There would be people who did not return the questionnaires. I would be interested to learn whether you undertook any follow-up work with regard to the people who did not return the questionnaires.

James Walker: There were follow-up reminder letters, questionnaires and phone calls until an adequate response could be gained or until all the searches had been exhausted. A further site visit would have been carried out if we still had not received a response.

Helen Eadie: What reasons, if any, were given for the questionnaires not being returned?

James Walker: Generally, we would not ask for a reason. There are many investment properties with no one living in them, and the owners might not have visited their properties to collect the questionnaires for several months. That could be one reason, but there is a multitude of reasons.

Helen Eadie: What happens in the event of long delays due to boundary disputes with people arising from the fact that the register of sasines and the land register of Scotland might not be up to date or might, in fact, create disputes between owners of land?

James Walker: I am not sure that I understand your question.

Helen Eadie: I am asking how you resolve that issue.

James Walker: It is not up to us to resolve the issue. We collect everybody's information as they see it or as the registers state it. If there was a

dispute, we would state that information as it is and leave it up to them to prove their interest at a later stage.

Phil Gallie: Before I go on to my allocated question, I would like to ask a legitimate question on the map. Is there any chance of having a fully detailed map with dimensions specified in the not-too-distant future? Would that be important?

Angus Walker: Which dimensions are you thinking about?

Phil Gallie: For the Roseburn corridor, for example, it would be useful to see the width of areas that would be taken up by the tramline or the width of any cycle track, or the precise details of what vegetation would have to be removed, so that people can determine precisely what you have on offer. During the visit we made the other day, we passed under bridges and were under the impression that decisions had not been made about the future of those bridges. That gave me cause for concern. It would be important to have that sort of detail on the map.

11:00

Andrew Oldfield: The centre-line alignment that is shown on the drawing has been developed to demonstrate that a tram can be constructed on and operated along it, but it is recognised that there is scope to optimise, refine and enhance the design. We could put dimensions on the drawing from the centre line to the boundaries of the corridor, to show the width of the cycleway at certain points and how the bridges would work, but there is scope to enhance the design.

In terms of identifying specific trees and the mitigation that will be put in place, quite a lot of work has to be done on surveying and understanding the landscape habitat mitigation measures that will be required. That is an on-going process, which will take place over the full range of seasons. Although we can go some way towards that fairly readily at this stage, there is a limit to how much we can define, because that would be more prescriptive than the status of the current design requires.

Angus Walker: The bill will limit the work that can be carried out within the limits of deviation and the descriptions of works in schedule 1. Works 12 to 12E in schedule 1 are the works along the Roseburn railway corridor. If the bill is passed in its current form, the works could not go beyond those descriptions. That puts a backstop on the amount of work that can be carried out.

Phil Gallie: Does that protect the bridges that are in place?

Angus Walker: It does. Works 12A to 12E refer to the bridges that go across the railway corridor.

One of them is the replacement of a footbridge, and the other four are alterations to bridges. The right of way across those bridges will need to be maintained to the extent that it has not been limited in the bill.

Schedule 4 lists the roads that are to be temporarily stopped up. If any of those bridges had to be stopped up, it would have to be listed in the schedule. The schedule lists

"Accesses to St. George's School"

and the

"Cycletrack from South Groathill Avenue to former railway line".

They may be temporarily stopped up during the works.

Phil Gallie: I simply wanted that on the record, convener.

Under rule 9A.13 of standing orders, any bill that affects the prerogative, hereditary revenues or private interests of the Crown cannot be passed unless appropriate consent has been signified. Are you aware of any property that may fall under that rule, for example parcel 108 in the book of reference?

Angus Walker: Yes. That example is a good one, because it is Crown land on the foreshore at Granton. When we first lodged the bill in December 2003, and parliamentary officials were checking all the documents before it was formally introduced, we gave an undertaking that we would seek the necessary authorisation from the Crown during the passage of the bill. That does not need to be obtained until the final stage, but it will be obtained.

Furthermore, the Crown Estate commissioners are objectors to the bill, because we have inadvertently included, I think, two parcels—108 and possibly 108A, from memory—in the compulsory purchase powers. One does not compulsorily purchase land from the Crown; one merely requests that it be obtained, so an amendment will be forthcoming, with the agreement of the Crown Estate, to rectify that situation.

Phil Gallie: Perhaps facetiously, I wonder whether you would recommend that objectors who feel strongly about the matter should write to the Queen.

Angus Walker: It is not for me to say but, yes, if that is how they feel.

The Convener: Unless committee members have any further questions, that concludes our questioning. I hope that you did not find it too painful.

Angus Walker: Not at all.

The Convener: Good, because we may just invite you back. Thank you, gentlemen.

I welcome Jamie Stone, intrepid traveller from the north. The last we heard you were fogbound in Inverness, so congratulations on getting here just in time for us to move into private session.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): That is very kind. I must give you, the clerks, the general public and the witnesses my humblest apologies. I thought that I would be here in excellent time, but God decided otherwise.

Phil Gallie: You should come by tram next time.

The Convener: With those comments, we move into private session.

11:06

Meeting continued in private until 11:11.

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