

**EDINBURGH TRAM (LINE ONE) BILL
COMMITTEE AND EDINBURGH TRAM (LINE
TWO) BILL COMMITTEE
(JOINT MEETING)**

Tuesday 14 June 2005

Session 2

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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

EDINBURGH TRAM (LINE TWO) BILL COMMITTEE 7th Meeting 2005, Session 2

CONVENER

*Bill Aitken (Glasgow) (Con)

DEPUTY CONVENER

*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

COMMITTEE MEMBERS

*Marilyn Livingstone (Kirkcaldy) (Lab)

*Kate Maclean (Dundee West) (Lab)

*Alasdair Morgan (South of Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Heriot Currie QC (Counsel for the Institute of Chartered Accountants of Scotland)
Kenneth Carruthers (Counsel for Haymarket Yards Ltd)
Elaine Farquharson-Black (Counsel for CGM (Edinburgh) Ltd)
Malcolm Thomson QC (Counsel for the Promoter)

THE FOLLOWING GAVE EVIDENCE:

Mark Bain (Mott MacDonald)
Rahul Bijlani (Bircham Dyson Bell)
Neil Clarkson (PWP Consulting)
Neil Harper (Brian Hannaby & Associates)
Desmond Hudson (Institute of Chartered Accountants of Scotland)
Murray Lees (Mott MacDonald)
Scott McIntosh (Mott MacDonald)
Steve Mitchell (Environmental Resources Management)
Andrew Oldfield (Mott MacDonald)
Archibald Rintoul (Scotland South East Valuation Office)
Alan Robertson (Jones Lang LaSalle (Scotland) Ltd)
David Robinson (Haymarket Yards Ltd)
Stuart Turnbull (Jacobs Babbie)
Gary Turner (Mott MacDonald)
Craig Wallace (Jones Lang LaSalle (Scotland) Ltd)

CLERK TO THE COMMITTEE

Jane Sutherland

CLERK TO THE COMMITTEE

Terry Shevlin

LOCATION

Committee Room 2

Scottish Parliament

Edinburgh Tram (Line One) Bill Committee and Edinburgh Tram (Line Two) Bill Committee (Joint Meeting)

Tuesday 14 June 2005

[THE CONVENER *opened the meeting at 10:08*]

Edinburgh Tram (Line One) Bill and Edinburgh Tram (Line Two) Bill: Consideration Stage

The Convener (Bill Aitken): Good morning, ladies and gentlemen. I welcome the press and public to the first joint meeting this year of the Edinburgh Tram (Line One) Bill Committee and the Edinburgh Tram (Line Two) Bill Committee. I have apologies from Jamie Stone, who—sadly—cannot be with us as he is attending a funeral. Under rule 9A.5.6 of standing orders, that has procedural implications for the Edinburgh Tram (Line One) Bill Committee, which it can consider at its next meeting.

Consideration stage—the current stage—involves the committees considering the detail of the bills. Our job is to listen to the arguments of the promoter and objectors and ultimately to decide between any competing claims. Both committees consider that task to be serious.

I record both committees' thanks to objectors, the promoter and all witnesses for their written evidence, which will be invaluable as we consider oral evidence today. I welcome to the meeting all those who will give evidence today.

The committees will hear evidence on seven objections that are identical to both bills. The joint objectors attended a timetabling meeting in May at which the procedure for taking oral evidence was explained and the order for evidence taking was agreed.

For each objection, the committees will hear first from all the witnesses for the promoter and then from all the witnesses for the objector. The promoter and lead objectors have also brought representatives who will question their respective witnesses and cross-examine the other side. For three objectors, the promoter has proposed the same five witnesses on route selection. Each objector will cross-examine those five witnesses in turn.

Following completion of each group's oral evidence, the committees will give the promoter's

representative a maximum of five minutes to make closing comments. The committees will then give the objector's representative five minutes to make any closing comments. I stress that such closing statements should introduce no new issues or evidence.

The committees intend to complete evidence taking from seven groups today. For ease of reference, I will use the group numbering that was assigned for the Edinburgh Tram (Line One) Bill. We have the written evidence—witness statements and rebuttals—and copies of the background documents to which that evidence refers, so I remind all witnesses that they must not repeat points that have been made in written evidence, unless they are required to answer questions directly. I stress that we have all the written evidence and that it will all be taken into consideration when we reach a decision.

The committees are well aware that this is the first time that oral evidence has been taken on either bill at consideration stage. I am sure that all parties would welcome clearness and brevity in questions and answers.

The committees wish to be fair to both the promoter and the objectors. Of course, this is not a court of law and the committees will conduct their proceedings more informally. The procedures that we will follow will have some flexibility to take account of the backgrounds of witnesses and their representatives. The committees expect all parties to respect one another and the committees, although I am sure that no problem will arise with that.

The public are welcome to watch our proceedings. They may leave the meeting at any time, but I ask them to do so quietly, please. The meeting is being held in public, but it is not a public meeting. It is part of the Parliament's formal work, so I would appreciate the co-operation of the public in ensuring the proper conduct of business.

I will touch on other matters before we hear oral evidence. As some will be aware, the City of Edinburgh Council agreed on 2 June to recommend to the committees some realignments to the proposed tram routes outwith the limits of deviation. One of those realignments relates to the Haymarket Yards area. I remind all present that neither committee has considered whether the promoter's proposed alternative route has merit. If the committees agree that there is merit in examining the promoter's suggested alternative alignment, they will be obliged to seek the views of all those who could be affected. Those could include existing objectors, who might have new grounds of objection, and prospective new objectors, such as those who did not object to the bills but whom the proposed changes might affect.

Only when each committee reports separately at the end of phase 1 of consideration stage will its decision on the most suitable alignment in that area be publicly known. Such a recommendation will be made on the basis of evidence that the committees receive from objectors and the promoter. Today's meeting is necessary for the committees to take oral evidence on the outstanding objections to the current proposed route at Haymarket.

I remind all present that all evidence must relate to the original objections, which were to the alignment that is proposed in the bills. To assist members in considering some of the objections, copies of the four alternative route alignments have been provided, together with a map of the area.

Members may have observed that some witness statements refer only to the Edinburgh Tram (Line One) Bill, but I make it clear that all the written evidence that has been provided for the meeting is relevant to both bills.

10:15

It has been brought to the attention of both committees' conveners that some of the documentation to which witness statements and rebuttal statements refer was supplied after the deadline for submitting written material. As I am sure the objectors and promoter will acknowledge, delays in providing written material may impact on the work of the committees and on the ability of the objectors and the promoter to participate in proceedings. I put it on the record that that situation will not be tolerated in the future. The objectors and the promoter should meet the deadlines that the committees have agreed.

I ask that everyone ensures that their mobile phones and pagers are switched off.

We now move to consideration of evidence on group 5 objections, from Haymarket Yards Ltd. The first four witnesses for the promoter on group 5 are Gary Turner, Archie Rintoul, Andrew Oldfield and Rahul Bijlani. Before we commence evidence taking, the witnesses will individually take the oath or make solemn affirmation.

GARY TURNER, ARCHIBALD RINTOUL *and* ANDREW OLDFIELD *took the oath.*

RAHUL BIJLANI *made a solemn affirmation.*

The Convener: Gentleman, you are clearly all now bound by the terms and conditions of your oath.

The first witness is Gary Turner, who will address the issue of frustration of proposed plans. Questions should be directed only to Mr Turner at this stage—the witnesses are seated together for

convenience and to minimise delays as witnesses change over.

Each witness will first be questioned by the representative of the promoter, Mr Malcolm Thomson QC, after which they will be cross-examined by Mr Kenneth Carruthers, who is representing Haymarket Yards Ltd. The witnesses will then be re-examined by Mr Thomson. Before I invite questions, could Mr Thomson and Mr Carruthers please briefly indicate the issues in dispute in relation to proposed plans for the development of Haymarket Yards?

Malcolm Thomson QC (Counsel for the Promoter): It had not been my intention to set out at the beginning the areas of dispute, because those appear to me to be apparent from the statements and rebuttals that have been lodged. The promoter's position is that certain proposals and concessions have been made already. Those are set out in the promoter's statements and rebuttals. In my respectful submission, the quickest way of determining now where the remaining areas of dispute are would be if I were to hand over Mr Turner for cross-examination or questioning by the committee, with the opportunity to re-examine afterwards. I would wish to ask one or two questions at the outset to clarify various matters about the evidence, but in general the approach that I have outlined is the one that I was proposing to take.

The Convener: You will appreciate that I am trying to keep the meeting as tight as possible. It might be useful if you briefly highlight the issues that are now in dispute.

Malcolm Thomson: The objector raises five objections. One of them is the alternative route question, which I understand we will not deal with at this point. It is apparent from the evidence from Mr Turner and the other witnesses that, so far as the promoter is concerned, the frustration of proposed plans is not an issue. Similarly, on the relocation of the substation, undertakings have been given or offered by the promoter.

One area of slight difference is that the objector seeks an absolute guarantee of continuous supply of electricity, which, of course, the promoter cannot offer. The promoter can offer not to disturb the supply that is provided by others, which the promoter is prepared to do and has done.

For the reasons that are set out in the statements and rebuttals, the promoter does not perceive the section 90 issue to be a problem. Accordingly, so far as the promoter is concerned, Haymarket Yards Ltd ought not to have an issue with this chapter. We will come later to the choice of route.

The Convener: Thank you, Mr Thomson. Mr Turner will now come into play. Do you have questions for him?

Malcolm Thomson: No.

The Convener: I call Mr Carruthers.

Kenneth Carruthers (Counsel for Haymarket Yards Ltd): Mr Turner, I seek to put your evidence in context. Essentially, your witness statement proceeds on the basis that lines 1 and 2 follow the parliamentary alignment. You looked at the implications of that decision and considered the various alternative layouts of the Haymarket Yards development in order to mitigate the impact of the decision. Is that the general context of your evidence?

Gary Turner (Mott MacDonald): That is correct.

Kenneth Carruthers: Against that general background, perhaps we can look at the areas that you helpfully identified in your rebuttal statement. The first area is the implications on plot 284, which is the strip of land immediately to the south of the building that is known as Haymarket Court.

Gary Turner: That is my understanding.

Kenneth Carruthers: To the east, we have plot 284A and to the west plot 280. Am I correct in saying that that is referred to as a transportation reservation in the adopted local plan?

Gary Turner: Yes.

Kenneth Carruthers: In his evidence, Mr Robinson, who is the witness for Haymarket Yards Ltd, makes reference to the land as being reserved in a section 75 agreement for transport-related purposes.

Gary Turner: So I believe, yes.

Kenneth Carruthers: In your original witness statement, you refer to a number of reasons why the land could not be used for the proposal that was put to Haymarket Yards Ltd in December, which was to relocate the access road in that location. Do you remember saying that in your witness statement?

Gary Turner: Yes. The reference was made not so much to the plot that is immediately in front of Haymarket Yards but to the adjoining plot, particularly the plot that is in front of Elgin House.

Kenneth Carruthers: My understanding of your witness statement is that you said that the planning authority did not want the land to be used for any development—the relocation of the access road to the Haymarket Yards development—because it wanted to retain that land for a landscape strip, the creation of a cycleway and a footpath.

Gary Turner: No. I think that there has been a misunderstanding. The proposals that we are undertaking for mitigation at Haymarket Yards is that the same plot of land would be utilised for

reallocating some of the car parking that would be lost because of the tram alignment.

Consideration and suggestions have been made by Haymarket Yards Ltd. Its concern was that the parking was divorced from its building site. It believed that, if the access road was relocated to the south of the existing access road and the proposal to put parking into the reserved strip was changed so that the parking was put where the current access road is—in other words, the two items were reversed—the undertaking would have less of an impact and would therefore be slightly more acceptable to Haymarket Yards Ltd. The Haymarket Yards Ltd proposal was to relocate the access road to the reserved strip all the way along Haymarket Yards.

We are seeking powers in relation to the existing access road in front of Elgin House, just to the east of the Haymarket Yards Ltd plot. That area is not within the current limits of deviation, so we currently do not have the power to relocate that element of the road. Haymarket Yards Ltd suggested that a means of mitigating that would be locally to address the realignment of the access road, by bringing in the access road in its current configuration but moving it into the reserved strip where it reaches the Haymarket Yards site, so that parking could be adjacent to the building.

Kenneth Carruthers: The purpose of my question was simply to ascertain the status of the transportation corridor and whether you are willing to entertain any development on that location. In short, is it the case that you are prepared to accept parking in that location and that in the light of the recent resolution by the council, which is prepared to accept the tramline in that location, there is no reason why Haymarket Yards Ltd could not request that the access road be relocated to the transportation corridor, as it tendered in December?

Gary Turner: There are two issues. First, the realignment will be addressed later and might not come to fruition. However, if it does, the powers that are being sought include those relating to the access road in front of Elgin House, which is not included in the current parliamentary alignment, as I said. Secondly, we have had discussions with the planners about the proposals to put parking into the reserved strip. The planners have no strong objection to that, as long as the parking is landscaped. Our current proposals for the reallocation of parking have been developed in consultation with the planners. It was agreed that the promoter would take forward on behalf of Haymarket Yards Ltd the application for the planning associated with the reconfiguration of parking that is currently proposed. To answer your question, the planners have no objection to parking in the reserved transportation corridor.

Kenneth Carruthers: I do not want to labour the point at the start of today's proceedings. A proposal was put to you in December that involved moving the access road to the Haymarket Yards development from the location in the Haymarket Yards Ltd consent to the transportation corridor. Is there any reason why that step cannot be taken?

Gary Turner: No. As a result of more recent discussion with Haymarket Yards Ltd, there is a proposal for a layout in which the access road would be in the reserved corridor at the location of the land in the company's ownership and parking would be adjacent to the building. If the company finds that layout acceptable, we have offered to develop the proposal and to discuss it with the planners.

Kenneth Carruthers: That is a possible alternative, if the difficulties with parking associated with the parliamentary alignment are impossible to overcome.

Gary Turner: Yes. The promoter wrote to Haymarket Yards Ltd with the proposal. I stress that the proposal would involve relocating the access road locally into the reserved strip and not all the way along the corridor.

Kenneth Carruthers: Let us move on. The next outstanding issue in your rebuttal statement is the defensibility of the two alternative schemes, by which I mean the Haymarket Yards Ltd proposal and the most recent Transport Initiatives Edinburgh Ltd alternative. The easiest way of addressing the matter would be to make a straight comparison of documents P5/12 and P5/19—do you have those documents?

Gary Turner: Yes.

10:30

The Convener: Mr Carruthers, I am a little concerned that we might be straying slightly. We are obviously aware that other things are going on, but some of your questioning seems to relate to matters that are before the City of Edinburgh Council and not to the matters that are before us today.

Kenneth Carruthers: Sir, that might be a recurring theme during today's proceedings. I am acutely aware that we are here to consider the implications of the parliamentary alignment for the ability of Haymarket Yards to develop the scheme for which it has planning permission. My position will consistently be that the promoter could consider a number of alternative routes. One is that which we have just been considering; another obvious one is that which the council is now resolved to promote in place of the first one.

As far as I can, I shall stick with the scheme that TIE is promoting now, but I shall seek to highlight

its shortcomings by referring to a better alternative. That alternative was what my clients recommended to TIE, and I am thankful that TIE has now chosen to promote that in place of the parliamentary alignment.

The Convener: I am aware that today's deliberations are taking place in something of a vacuum. I acknowledge the constraints on you, Mr Carruthers, and I accept that you might have to cross the line from time to time, but it would be helpful if you could relate your questioning to the matters before us.

Kenneth Carruthers: Sir, I shall proceed on that basis.

Mr Turner, I asked you to look at documents P5/12 and P5/18. Document P5/12 shows, in essence, the scheme for which my clients have planning permission. It shows the Institute of Chartered Accountants of Scotland building—CA House. The building to the right is Haymarket Court, which has yet to be developed.

The other document—I am sorry, I said document P5/18 but I should have said document P5/19. Document P5/19 shows TIE's solution to Haymarket Yards parking difficulties. It addresses the consequence of the parliamentary alignment being adopted. Is that correct?

Gary Turner: At the time that the evidence was being submitted, that was the most up-to-date alignment.

Kenneth Carruthers: In evidence, Haymarket Yards has said that it is not in favour of the alternative shown in P5/19 because of what it refers to as the "defensibility" of the consented scheme shown in P5/12. The issue boils down to the ability to control access to and egress from the site, and to control general movement around the site.

I want to go through this quickly, Mr Turner. Is it your position that both schemes have equal defensibility by dint of the fact that there is scope to introduce three barriers to control the use of the parking spaces? The barriers have been relocated around the development as you have shown in P5/19.

Gary Turner: I would say that the scheme in P5/19 has better defensibility than the scheme in P5/12. Document P5/12 shows the current proposals for Haymarket Yards. It shows a single access that feeds both CA House and Haymarket Court. However, the proposal in P5/12 is that the car parking bays are open. There is no way shown of making them secure. In the proposal that we have put forward in P5/19, the bays are open but there is the potential for barriers to make them secure. The promoter's proposal is therefore slightly better in that respect.

Kenneth Carruthers: The barriers that you are referring to are the black lines that enclose the parking spaces in the landscaped strip at the foot of the diagram and the partly black-lined area at the north-west corner of the building. Is that correct?

Gary Turner: That is correct. They were indicated to show that they could be made secure if that barrier control was required. In its extant planning permission, the proposal by Haymarket Yards to introduce barriers would impact on CA House as well as on Haymarket Court.

Kenneth Carruthers: You have pre-empted my question to some extent. Is it not clear that you could introduce a single barrier at the entrance to CA House and Haymarket Court, controlling access to both sites?

Gary Turner: That is correct. One of the issues in our discussions with Haymarket Yards was that it wanted to protect its own car parking and not impact on its neighbour, CA House. A single barrier could be placed just before you get to the 12 car parking spaces that are in the reserved corridor, which would control all vehicles entering the area of CA House and Haymarket Court. A similar issue could apply: we set a layout that we believed was required by Haymarket Yards, and that would be defensible just for its car parking, not for CA House as well.

Kenneth Carruthers: But there is scope to build a barrier within the car park to control access purely to Haymarket Court. That is not beyond the wit of man, is it?

Gary Turner: Sorry, just to Haymarket Court?

Kenneth Carruthers: Yes.

Gary Turner: That is what we have set out. The barriers are purely for car parking for Haymarket Court.

Kenneth Carruthers: No, I am saying that in document P5/12 it would easily be possible to create an access arrangement in the existing consented scheme controlling access to the 33 spaces for Haymarket Court.

Gary Turner: Not without impacting on CA House.

Kenneth Carruthers: I will move on to your next point, which is ease of access. This may simply be a matter of opinion, but is it not the case that if developers conceive ease of access—by which I mean proximity of car parking spaces—to the entrance to the building to be an issue, P5/12 is more desirable than P5/19, simply by virtue of the fact that the parking spaces in P5/12 are closer to the entrances in Haymarket Court than those in P5/19?

Gary Turner: I have a little difficulty in understanding that, because from the plans that

we have received it is my understanding that the 12 spaces that we put in the reserve are opposite the entrance to the building. I would have thought that it was convenient for people to go to car parking spaces at the entrance to a building, rather than at the rear.

Kenneth Carruthers: I know that an issue has been made of the fact that to do so you have to cross a road, which is not the case with the consented scheme.

Gary Turner: In the consented scheme the car parking spaces are on the opposite side of the access road to the entrance to the building.

Kenneth Carruthers: Which is part of a car park. It is not part of an adopted highway.

Gary Turner: There are two aspects. The access road is in the throes of being adopted. However, the access road serves only the car parking areas to the ICAS building and Haymarket Court, so the volume of traffic will be the same.

Kenneth Carruthers: And on any view you will have further to walk from the spaces on the east of the building in your illustration in P5/19.

Gary Turner: It could be considered that the actual walking distance is greater than it would be in the proposal for P5/12, but I do not think that the actual walking distance will unduly inconvenience people who use the building.

Kenneth Carruthers: My next point refers to paragraph 3.7 of your rebuttal statement, which refers to the location of the car parking spaces within the transport corridor, and in which you state that

"The promoter is prepared to give an undertaking to the objector to apply for planning permission for parking on behalf of"

Haymarket Yards Ltd.

Gary Turner: Sorry, did you say paragraph 3.7 of my rebuttal?

Kenneth Carruthers: Yes.

Gary Turner: I do not have a paragraph 3.7 in my rebuttal. Are you referring to my witness statement?

Kenneth Carruthers: No, the document that I have is your rebuttal to statement of objection, dated 8 June 2005, which contains paragraph 3.7.

The Convener: It is clearly in the papers.

Gary Turner: I have a copy of it now. I apologise.

Kenneth Carruthers: You give an undertaking that you would apply for planning permission. To be clear, document P5/12 is the consented scheme and document P5/19 is what you propose

in its place. Am I correct to say that you would need an amendment to the consent for the 12 spaces to the east of the building; the 12 spaces in the landscape strip; the new access road, which is presumably to serve the ICAS building; and the roadway to the north of the Haymarket Court building? Do those matters require an amendment to the existing consent?

Gary Turner: Yes, as I understand it.

Kenneth Carruthers: It is clear that all that you can do is make an application, is it not? You are not in a position to deliver an amendment to the consent to allow the development to be undertaken.

Gary Turner: As I mentioned earlier, we had discussions with the planners before we developed the proposals. We see no reason why the planning application will not be successful.

Kenneth Carruthers: Do you not have a fundamental difficulty, Mr Turner? Is it not the case, in the light of the resolution that was made last week by the City of Edinburgh Council, that your application for consent for the access road in the landscape strip and the 12 spaces would no longer be supported by the council?

Gary Turner: You are comparing apples with pears. We are looking at the parliamentary alignment being to the north of the building. If that is the case, the planning application would be supported.

Kenneth Carruthers: I have a difficulty with that. Is it not a matter of fact that, in the light of last week's resolution by the City of Edinburgh Council to adopt what will be referred to as option 4—to run the tram within the strip of land reserved for that purpose—we cannot realistically expect the council planning department to support an amendment that was required to bring about your option in document 19?

Gary Turner: I do not see the difficulty. The application would be subject to the requirement to reposition the parking. If the tram alignment goes to the north of the building, the reserve corridor will not be required for a Lothian Regional Transport alignment. If the parliamentary committees decide to accept and approve the alternative, the discussions that we are having about car parking will be irrelevant. There will be no need to relocate the car parking because the area will not be disrupted.

Kenneth Carruthers: Looking at the matter in practical terms, if my clients want next month to develop your option, as shown in document P5/19, and they need to amend the consent that they have in document P5/12, they will have to go to the planning authority and make an application for that amendment. A report would be prepared, but

in that context, surely the author of the report would say, "We simply cannot give consent for this at the present time because the council has resolved to place the tram in that location."

Gary Turner: Sorry. I am having difficulty in understanding what the issue is. The planning application would be made if the tram alignment were to be to the north of the building. If the alternative tram alignment that runs to the south of the building is accepted, your client's concerns about the relocation of car parking will not manifest themselves.

Kenneth Carruthers: I have a final question for you, Mr Turner. In the last sentence of paragraph 3.7 of your rebuttal statement, you state:

"The promoter has also given an undertaking that these changes"—

that is, the changes that are shown in document P5/19—

"will not attract developer contributions as HYL have extant planning."

I understand that that is a reference to the developer contribution policy that the council has adopted, which, in summary, requires contributions to the cost of the tramline from all new developments in the vicinity of the line.

Gary Turner: That is correct.

10:45

Kenneth Carruthers: This is really just a point of clarification. You have given that undertaking in the context of the layout that is shown in document P5/19. Can I take it that the same position would apply in relation to any amended scheme that Haymarket Yards required to accept as a consequence of the tramline being constructed? In other words, can we say categorically that under no circumstances would the council seek a developer contribution for any scheme that it could develop as a consequence of the fact that it has extant planning permission for its development?

Gary Turner: If the changes that will be incurred to extant planning permission are a consequence of the alignment of the tramline, and as the developer contributions are to the tramline, it would seem counterproductive to make those contributions retrospective. The promoter has said that, if alterations or changes to plans are made as a consequence of the tramline alignment, they will exempt Haymarket Yards from those payments.

Kenneth Carruthers: That applies to P5/19 and to any other scheme that may come forward as a direct consequence.

Gary Turner: Yes. If another scheme was agreed between the parties, Haymarket Yards would be exempt.

Kenneth Carruthers: Okay. Thank you, Mr Turner.

The Convener: Thank you, Mr Carruthers. There being no questions from the committees, I invite Mr Thomson to continue the examination.

Malcolm Thomson: Mr Turner, you have indicated that plans P5/12 and P5/19 represent the position at the time that you prepared your various statements. Have matters moved on since then?

Gary Turner: Yes, they have. As was alluded to in the discussion, the developer feels that the parking provision that is being put forward by the promoter is divorced from the site; the developer has a preference for the parking to be adjacent to the building rather than separated by the existing access road. The promoter has written to the developer and has offered to look again at the parking configuration so that the access road can be realigned into the reserve strip, with the parking made adjacent to the building. That offer is still with Haymarket Yards, which is considering it at the moment. That is a similar layout to a sketch that was provided to us by Haymarket Yards—P5/16.

Malcolm Thomson: What is the promoter's position on the Haymarket Yards proposal that we see in P5/16?

Gary Turner: The promoter would be quite happy to develop an alignment similar to that—in fact, it would probably be a combination of what is proposed in P5/16 and in P5/19—so that a larger proportion of the parking could still be on the north side of the building, as the developer would prefer. There would be just 12 spaces to the south of the building, if that was required; however, we would be happy to discuss that layout with Haymarket Yards.

Malcolm Thomson: Let us be absolutely clear about the matter. So far as the bill proposals are concerned, is any physical alteration required to the proposed building, for which the objector has obtained planning permission?

Gary Turner: No. The building's footprint and its location can be retained as in the extant planning. To allow that to continue, the promoter has given an undertaking that it will not permanently acquire the lands.

Malcolm Thomson: And the differences—such as they are—between the objector and the promoter concern landscaping and parking.

Gary Turner: That is correct.

Malcolm Thomson: Thank you very much.

The Convener: Thank you, Mr Thomson. There being no further questions for Mr Turner on frustration, he is now free to leave the table.

The next witness is Mr Archibald Rintoul, who will address the frustration of development plans. There seems to be no rebuttal evidence of relevance to Mr Rintoul's evidence. Are there any issues requiring oral evidence?

Malcolm Thomson: I do not think so.

The Convener: Mr Carruthers?

Kenneth Carruthers: No.

The Convener: You have no questions at all, Mr Thomson?

Malcolm Thomson: No.

The Convener: Mr Carruthers will be in the same position.

We thank Mr Rintoul for his brief appearance at this stage. Unfortunately for him, he will be back later.

Malcolm Thomson: I should perhaps explain that although the timetable shows that Mr Rintoul is available on a number of occasions should questions arise on which he may be able to assist the committees, it is not my intention to lead him unless the convener requires it.

The Convener: That is helpful.

We turn to Mr Oldfield, who will address the relocation of the substation on plot 282.

Malcolm Thomson: Again, the position is as set out. As I explained earlier, the promoter has given what assurance it is able to give. Accordingly, I simply make Mr Oldfield available for cross-examination.

The Convener: I am obliged. Mr Carruthers?

Kenneth Carruthers: I have no questions for Mr Oldfield on the point in question.

The Convener: I take it that the committees have no questions, either.

Members *indicated agreement.*

The Convener: That is fine. Mr Oldfield may leave the table.

The next witness is Mr Bijlani, who will address section 32 of the Edinburgh Tram (Line Two) Bill.

Malcolm Thomson: I simply invite Mr Bijlani to make any observations that flow from a slight corruption of the text in his statement. If there is any aspect of his statement that he wishes to clarify, I invite him to do so, but otherwise I have no questions for him.

Rahul Bijlani (Bircham Dyson Bell): I offer my apologies to the committees. A few paragraphs in my original statement were transposed with some other evidence. All that was missing was an example of how section 32 of the Edinburgh Tram

(Line Two) Bill—which will replace section 90 of the Lands Clauses Consolidation (Scotland) Act 1845—would operate. My evidence sets out that it is standard practice to replace that section of the 1845 act, which states that no party will be required to sell any part of a house or building if they are willing to sell the whole of it.

I will give an extreme example of what could happen as a result of the fact that that provision is unqualified. Part of a garden might be being acquired for landscaping. Let us say that an owner loses a corner of their garden and that trees are planted there as landscaping for the tramline. Section 90 of the 1845 act means that because the owner is losing part of their land, they can require the promoter to take the whole of it, notwithstanding the fact that they are not suffering any other detriment. Section 32 of the Edinburgh Tram (Line Two) Bill seeks to introduce a means of deciding whether there is any material detriment to the retained land. If there is such a detriment, the promoter can be required to take the whole of the land, but if there is not, it is the land that is subject to the notice to treat that is acquired. That is the only clarification that I wanted to make.

The Convener: Thank you. Mr Carruthers?

Kenneth Carruthers: I have no questions for Mr Bijlani.

The Convener: As members have no questions, it appears that the committees are clear about the operation of section 32. Mr Bijlani may leave the table.

That concludes the questioning of the promoter's witnesses on Haymarket Yards. We will now consider the evidence in respect of group 42, CGM (Edinburgh) Ltd. Elaine Farquharson-Black will question on behalf of the objector. We will have a brief suspension to allow the witnesses to take their places at the table.

10:53

Meeting suspended.

10:56

On resuming—

The Convener: The first three witnesses for the promoter for group 42 are Scott McIntosh, Kevin Murray and Steve Mitchell. Before we commence the evidence taking, the witnesses will take the oath or make an affirmation.

SCOTT MCINTOSH *made a solemn affirmation.*

KEVIN MURRAY *and* STEVE MITCHELL *took the oath.*

The Convener: The first witnesses will be Scott McIntosh and Kevin Murray, who will address

disruption to car parking during construction. Mrs Farquharson-Black, am I correct that you are not insisting on your objection on that ground?

Elaine Farquharson-Black (Counsel for CGM (Edinburgh) Ltd): That is correct.

The Convener: The next witness is Mr McIntosh, who will address buildings operation and maintenance. Before I invite questions, I ask Mr Thomson and Mrs Farquharson-Black to indicate briefly the issues that are in dispute with the witness in relation to operation and maintenance of the Citypoint building.

Malcolm Thomson: The promoter has in various statements made it clear what can be done to mitigate the works at the construction stage and thereafter, with particular regard to maintenance. There is nothing more that the promoter can say. There may or may not be a compensation issue in relation to future operation, but there is obviously no such issue in relation to construction. That is part of the reason why Mr Rintoul is here.

Elaine Farquharson-Black: The subject of dispute remains the disruption that my client believes will happen to its premises—the Citypoint building—during building of the tram route and during operation of the tram. I want to explore those points with the witness.

The Convener: We will now proceed to examination.

Malcolm Thomson: I have no questions at this stage.

Elaine Farquharson-Black: Mr McIntosh seems to accept in paragraph 3.3 of his statement that construction of the project will cause disruption to businesses. Does he accept that, given the proximity to the route of the Citypoint building and my client's adjacent land—it is not just on the periphery—my client is likely to be one of the most affected businesses?

11:00

Scott McIntosh (Mott MacDonald): Mrs Farquharson-Black's client is a frontager on the street on which the tramway is going to be constructed. There are a large number of such frontagers around Edinburgh. I believe that the mitigation measures that we have proposed will minimise the impact, although it is inevitable that any construction works adjacent to a building will have some marginal impact on that building.

Elaine Farquharson-Black: You talk about short-term inconvenience, but we have no indication of the length of time construction will take.

Scott McIntosh: Indeed: there is no such indication. We can and will give at a later stage an indication of the length of time during which

construction works will take place. I should point out to the committees that although classically such schemes take something like 30 to 36 months to complete, works would not be taking place continuously outside any one building for that length of time. There will be short periods when works will be taking place and then longer periods when no works take place.

Elaine Farquharson-Black: Your statement deals at some length with interruptions to vehicular and pedestrian access to properties during the construction period, but you do not talk about the impact that the construction work will have on people who work in the buildings. Mr Mitchell deals with noise and we will come to that later. Do you accept that the construction works will impact on day-to-day working conditions within the buildings?

Scott McIntosh: I maintain that they will have a small impact. The effect of noise during construction is addressed in the code of construction practice. The length of a working day is also addressed in that code. Requirements to mitigate other nuisances, such as dust, are also addressed in the code of construction practice. The works will be no more disruptive than the construction of one of the other buildings in the area, such as the effect that the construction of Citypoint had on the tenants in Verity House or Rosebery House.

Elaine Farquharson-Black: I will come on to question Mr Mitchell in connection with the noise levels that will have to be endured, if I can use that word, by Citypoint. Do you accept that the impact on businesses will vary depending upon their proximity to the works, the duration of the works and the nature of the business that is carried on within the buildings?

Scott McIntosh: That is a fair assessment.

Elaine Farquharson-Black: Are you aware that one tenant of my client's building—Analog Devices Ltd—is involved in microelectronic design and testing, and that the company uses sensitive equipment?

Scott McIntosh: I am aware of that.

Elaine Farquharson-Black: Do you accept that the noise and disruption of the construction works are likely to affect that company more than they will affect other types of business, given the sensitivity of what the company does?

Scott McIntosh: Yes. It would be fair to assume that. The question is whether the disruption would be such as to cause the company undue disturbance.

Elaine Farquharson-Black: Are you aware that the company has the option to break its lease if it feels that the construction works are such that its work is being disrupted?

Scott McIntosh: I was aware that the company had an option to break its lease, but I was not aware of the terms of the option. I believed that the terms were that the company could break its lease for whatever reason it thought appropriate.

Elaine Farquharson-Black: We will hear from my clients' witnesses on that.

With respect to letting the rest of the building, do you accept that it is likely to be harder to attract tenants during the construction period? No one is really going to want to come to a building site.

Scott McIntosh: I do not accept that. Anyone taking a building in a city such as Edinburgh where work to build and refurbish buildings is going on everywhere would take a broad view about the benefits to them of being in a building that has good-quality public transport during the length of their lease. Furthermore, in the other schemes of which I am aware, I do not believe that there has been a period when it has proved to be difficult to let or sell property during the construction phase.

Elaine Farquharson-Black: Are you aware that it is proving difficult to let the property just now because of the perception that because the route will pass there, there will be noise and disruption? We are already experiencing an impact although work has not started yet.

Scott McIntosh: You are asking me to offer an opinion. All I can say is that I am not aware of the evidence that clients have refused to take tenancies in the building for that reason or for other reasons connected with the building.

Elaine Farquharson-Black: Again, we will hear evidence from my client's witnesses on that matter.

You mention the fixings to the buildings. If the parliamentary route that we are discussing today is approved, fixings to the Citypoint building will be required, will they not?

Scott McIntosh: Yes.

Elaine Farquharson-Black: However, at the moment, you do not know of what type those fixings will be.

Scott McIntosh: We know the type of fixings, but their number and location on the building will depend on the detailed design of the alignment.

Elaine Farquharson-Black: You have shown nothing to my clients to indicate what is intended by way of fixings.

Scott McIntosh: It is my understanding that the promoter has sent a leaflet to your clients, of which I have a draft copy in front of me, which is entitled, "Overhead line system support from buildings". It has illustrations of typical fixings across Europe, particularly in Croydon and Dublin,

and shows the impact of such fixings on the aesthetics and structure of the building.

Elaine Farquharson-Black: The illustrations are of typical fixings that are used elsewhere, but we do not yet know exactly what will be used in the plan that we are discussing. As you said, we do not know the number or the location of the fixings. At this stage, therefore, we simply cannot judge the impact that the fixings will have on my client's building. We simply do not have enough information, do we?

Scott McIntosh: That is an unfair thing to say. The fixings are broadly similar in every system in Europe. There is no reason to believe that those which we would use would be any different to the ones that have been used recently in Croydon, Dublin and Nottingham. Their precise location will depend upon the detailed alignment, but we are probably talking about a movement of less than a metre to the right or the left or up or down. Of course, the precise location of the fixings will be the subject of discussions with your client.

Elaine Farquharson-Black: You cannot tell us how many fixings there will be. Do you accept that the fixings to the buildings will cause problems for window cleaning and maintenance? I think that, later, Mr Robertson will describe how metal window gantries are used for window cleaning. Surely it will be difficult to negotiate fixed apparatus that carries live overhead wires on the building.

Scott McIntosh: Again, I refer you to "Working safely near the tramway", a copy of which has been passed to your clients by the promoter. It sets out the safety clearances and the potential problems, if there are such problems. It is also my understanding that the promoter has sent CGM (Edinburgh) Ltd a letter that sets out its belief that there would be little interference with the building, and says that it is its belief that all the maintenance gantries are outwith the zone of electrical influence as defined in the documents that were sent to your client. The wires that would be fixed to the building, which would either be double-insulated metal wires or wires that use non-conductive material, will not be electrically live. They are small—less than 20mm in diameter—and will be fixed to the building. I accept that that will cause some minor inconvenience, but no more than is caused by affixing street lighting fittings to buildings in streets such as Princes Street, where such fittings have to be avoided by people doing maintenance work. Such fixings are not unfair and do not represent a major impact on the difficulty of maintaining the buildings.

Elaine Farquharson-Black: If the route is changed to option 4, which is one of the four options that my clients have put forward, will there need to be any fixings to the building?

Scott McIntosh: I believe that there would still need to be one or two fixings to the building because the line will be curving away at that point. A fixing would be needed to ensure the alignment of the wires over the tracks.

Elaine Farquharson-Black: In paragraph 5.3 of your statement, you claim that the benefits of the tram scheme will outweigh the short-term inconvenience for businesses such as my client's. Citypoint is close to Haymarket station which, as we have heard from a number of witnesses, is the third busiest station in Scotland. It is also on a bus route on Haymarket Terrace and it has considerable private parking for a city-centre location. It seems, therefore, that businesses and employees who come to Citypoint are already well served by public transport. Do you accept that the transport benefits for CGM, given its location and the existing transport options, will not be nearly as great as they will be for businesses that are further out on the line? Businesses in the Newbridge area will benefit, not my clients. You are trying to make us ignore the short-term inconvenience, although we will not benefit as greatly as other businesses will do.

Scott McIntosh: I refer you to evidence that Mr Oldfield gave to the committees, which referred to the feasibility study for a north Edinburgh rapid transit solution. The study identified the importance of links to the new, largely residential developments at Granton and Leith. Although your clients have good access to the east and west of Edinburgh thanks to the railway line, and will perhaps have good access to the south if the south suburban railway is reopened, access to the north of Edinburgh, where large amounts of residential property are being built, is not as good. The tram schemes will generate a significant improvement for your client in the catchment area for people who work in the building.

Elaine Farquharson-Black: I have no further questions.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): If it is in order, I want to put a question to Mr McIntosh and a question to Mr Rintoul. Mr McIntosh, is there a complete design manual that takes account of matters such as fixings on buildings? The committees discussed with the promoter the extent of the detail in the design manual in relation to fixings.

Scott McIntosh: I think that it would be the promoter's view that the design manual is work in progress and work remains to be done on it. From an engineering point of view, one could give a clear indication of how fixings will be attached to buildings of different classes. Whether ornamental fixings are provided and what materials are to be used will have to be developed in the design manual. At this stage, the detailed design of

fittings for Edinburgh has not been approved, but we can show the committees typical examples from elsewhere in the United Kingdom.

Jeremy Purvis: I note that you co-authored guidelines on the design and development of light rail schemes. In schemes that are comparable to the Edinburgh scheme, at what stage was a design manual complete or in a form that enabled objectors to give it detailed consideration, rather than in a form that is broadly similar to the one that is used elsewhere on the continent?

Scott McIntosh: It depends on the political and economic situation. I have been involved in design-and-build schemes, the design manual for which reflected a broad set of aspirations by the stage that the scheme in Edinburgh has reached. I have been involved in schemes that were specified and delivered as public sector schemes and for which the design manual was normally well advanced. The design manual for the scheme in Edinburgh is more than sufficient to give comfort on many issues, but will need further refinement.

Jeremy Purvis: Are there other UK schemes for which the design manual was more complete by this stage than is the design manual for the Edinburgh scheme?

Scott McIntosh: No.

Jeremy Purvis: My question for Mr Rintoul—

The Convener: Mr Rintoul is not a witness in this part of the meeting. I am sure that we can obtain the information later.

Phil Gallie (South of Scotland) (Con): Mr McIntosh referred to the possibility of there being concentrated periods of construction. In your experience, is it possible to concentrate on sections of the line and take them almost to completion before moving on to the next section?

Scott McIntosh: Yes. There are ways of doing that and I think that the promoter will be keen to consider ways of compressing parts of the programme. It is obvious that in some areas, such as Haymarket Yards and, more particularly, Princes Street, the constraints of the tourist season and the many events that take place are such that an effort to compress the works will be necessary.

Obviously, the work will be restricted to a certain extent by the working hours that are set out in the code of construction practice, but methods exist—they have been developed in parts of the schemes in Dublin and Nottingham—to compress works as much as possible and get whole sections finished, rather than have a wide sweep of a city centre at a particular level of development. The idea is to do one piece and then move on to the next. The client could specify such a method for the construction of the scheme.

11:15

Phil Gallie: Will those words bring comfort to CGM—particularly with respect to on-going lets—that there might be means by which the construction period can be compressed?

Scott McIntosh: I think so. It could give comfort, although, as I said previously, anybody who contemplates taking a 10, 15 or 20-year lease on a building to locate their business would accept that there might be some periods of disruption during those years—there will be road resurfacing and other buildings will be built. Therefore, people will take the rough with the smooth in coming to a view as to the benefit of locating in a particular place.

Phil Gallie: My final question is on a slightly different tack. We have talked about fittings on the building and maintenance using suspended platforms. Do you agree that there is a difference between a lamp post that is attached to a building and wires that extend and perhaps cross the areas where platforms are used?

Scott McIntosh: If a building is maintained from the top down with a cradle, the issue depends on how far out one can get. On Princes Street, as you will know, the luminaires are fitted close to the buildings, but in other parts of Edinburgh they are on arms that extend out probably beyond the reach of a cradle. Therefore, in those areas, the maintenance workers will have to go down or up to move across and past the fitting. However, as I say, the total gap that we are talking about will probably be less than 20mm. That will create a small amount of additional work, but nothing that would be beyond the normal workings of that method of maintaining a building.

Malcolm Thomson: In the bills with which we are concerned, section 70(4)(b) in both makes provision for the attachment of wires to buildings to be made subject to the prior approval procedure. Have you come across that procedure in relation to other trams and light railways on which you have worked?

Scott McIntosh: Yes—I have come across that in a number of schemes.

Malcolm Thomson: Have you found it to work satisfactorily?

Scott McIntosh: Yes.

Malcolm Thomson: Has it allowed for input from affected proprietors?

Scott McIntosh: Yes.

The Convener: As there are no further questions for Mr McIntosh on buildings operation and maintenance, I thank him for his evidence.

The next witness is Mr Mitchell, who will address different aspects of buildings operation and maintenance. Before I invite questions, I ask Mr Thomson and Mrs Farquharson-Black to indicate briefly the issues that are in dispute with the witness in relation to the operation and maintenance of the Citypoint building.

Malcolm Thomson: The promoter is satisfied that it proposes to do all that can reasonably be done. That can be seen from Mr Mitchell's evidence but, unfortunately, the objector seems to take a different view, which can no doubt now be explored in more detail.

The Convener: Mrs Farquharson-Black, you have clearly indicated in the written submissions what the issues are, so you do not need to address that now. Therefore, I propose that you simply move straight to examination.

Elaine Farquharson-Black: Mr Mitchell, you have not done a noise survey at Citypoint to establish the current noise levels, have you?

Steve Mitchell (Environmental Resources Management): We have done a noise assessment at Rosebery House, the adjacent building, as reported in the environmental statement, but we have not done one at the Citypoint building.

Elaine Farquharson-Black: Do you have document 42/19, which is the environmental statement, before you?

Steve Mitchell: I do not have a copy of it in front of me, but if someone could lend me one, I would be happy to refer to it.

[Interruption.]

Steve Mitchell: I apologise. I now have a copy. It is quite a large document.

Elaine Farquharson-Black: It is indeed. I have been humphing it around. I ask you to look at table 13.1 on page 202, which gives the baseline noise levels that are used in the statement. It states the locations at which measurements were taken, but none were taken at Haymarket Terrace, which is where the Citypoint building is located. Position 1 is Balbirnie Place to the west of Haymarket and position 26 is West Maitland Street on the east side, but no measurements were taken between those locations.

Steve Mitchell: Yes. It is a common approach to environmental impact assessment to pick representative receptors along the route. We tend to pick the ones that we think will be the worst affected. It is simply not possible to assess every building.

Elaine Farquharson-Black: The following comment is made underneath the table on page 202:

"During periods without trains, the area is reasonably quiet".

That is the only comment that we have on the general Haymarket area.

Steve Mitchell: Sorry—are you still on page 202?

Elaine Farquharson-Black: Yes.

Steve Mitchell: That comment relates more to position 1, which is Balbirnie Place. We can see that the noise levels are dynamic between trains, which go past about every two minutes. In between, certainly at Balbirnie Place, there are periods of quiet. However, at Haymarket Terrace—and West Maitland Street, which is not dissimilar—the noise levels are much more continuous. At receptor 26 there is an L_{Aeq} of 71—"L_{Aeq}" being the logarithmically averaged noise level throughout the day—which represents a very high level of traffic noise. That is different from Balbirnie Place. It depends on which part of Haymarket Yards one is in.

Elaine Farquharson-Black: I turn to table 13.2 on page 205, which sets out the criteria for significant noise impacts during construction. The first line of the table shows that the threshold for significant impact in offices will be 75dB.

Steve Mitchell: That is right

Elaine Farquharson-Black: Beyond that level, it is difficult to maintain speech intelligibility.

Steve Mitchell: That is not quite right. Speech intelligibility begins to become an issue at that level, but that is not to say that at 76dB one cannot hear anyone talk—far from it. The point is that below 75dB there would not be a concern about speech intelligibility.

Elaine Farquharson-Black: However, at 75dB you anticipate that there will be a significant impact. The column heading in the table is, "Threshold for Significant Impact."

Steve Mitchell: Yes—that is the criterion that we use to judge significance.

Elaine Farquharson-Black: Schools are slightly more sensitive, as are dwellings. Their threshold is down at 65dB.

Steve Mitchell: The threshold for schools is 65dB. The threshold for dwellings is actually 75dB.

Elaine Farquharson-Black: Further down the table, it states that the threshold for dwellings is 65dB in the evenings.

Steve Mitchell: I am with you. Yes, it is.

Elaine Farquharson-Black: In the 75dB level for offices, there is no regard to the business that goes on inside the office, is there?

Steve Mitchell: No. That dates back to guidance that the former Department of the Environment issued in—I think—1976. It is called “Noise Control on Building Sites” and it is known as advisory leaflet 72. Broadly, it considers speech intelligibility as an indicator of the point at which noise begins to have a disturbing effect. Of course, one has to make an assumption about the building envelope. On the 75dB limit, we should bear it in mind that we are talking about guidance from 1976 and that we are talking about a typical office. I take the opportunity to point out that Citypoint is not typical. It is a far more modern building than those which the 1976 guidance covered. It tolerates external noise far more, because it is highly insulated.

Elaine Farquharson-Black: The current tenant, Analog Devices, which undertakes microelectronic design and testing, is not a typical occupant of a normal office. It performs sensitive work.

Steve Mitchell: I am not sure whether that would be more sensitive than a board meeting, for example. Many activities happen inside offices. We must assess matters fairly generally, for reasons of practicability.

Elaine Farquharson-Black: The text under table 13.2 is clear. It says:

“It should be noted that these criteria are not aimed at providing noise limits for construction activities, but are used to determine whether significant impacts are expected to occur.”

However, the code of construction practice, which is document 42/18, just applies the 75dB threshold as the noise limit. If that is the level at which a significant impact will occur, surely the limit should be set below that and noise should not be allowed to reach that threshold.

Steve Mitchell: The reason for including the paragraph that you quoted in the environmental statement is that a different limit could apply in an exceptional situation. The limit could be higher. For example, if the baseline noise levels were extremely high—I have experienced that in central London, and the situation here is not dissimilar—and were above 75dB, setting a noise limit at 75dB would be unnecessary. There are various reasons for setting a different limit from the criteria that are used to assess the significance of impacts. They are not necessarily the same thing. The sentence that you quoted points that out. As for setting a lower limit, I see no reason to set a limit that is below the threshold of an impact.

The code of construction practice makes it clear that it does not give a permit to make noise up to 75dB. I cannot lay my hand on it, but I think that the introduction to the noise section says that the limit is not a permit to make noise at 75dB. The code is aimed at minimising noise, not at permitting it up to a limit.

Elaine Farquharson-Black: I have a copy of the noise section of document 42/18, which says:

“Subject to the specific requirements of The ... Council, the following minimum requirements shall be met:

(i) During normal working hours ... the maximum noise levels ... shall not exceed ... 75 dB”.

That seems to say that contractors can go up to 75dB, which is the limit that has been fixed.

Steve Mitchell: I will read the first sentence of section 6. Section 6.1(a) says:

“The Contractor shall have a general duty to take all practicable measures to minimise nuisance from noise. The noise limits specified in this section or which may be otherwise agreed with The City of Edinburgh Council shall not be regarded as a licence to make noise up to the stated limit.”

Elaine Farquharson-Black: But the limit is 75dB.

Steve Mitchell: For contractual reasons, matters are written in black and white to be limited, and I am pleased to say that the limits match the thresholds at which an impact could begin.

Elaine Farquharson-Black: Section 6.1(d) says:

“In exceptional difficult circumstances essential work causing noise above these limits may be permitted with the prior approval of the Council and The ... Council.”

Steve Mitchell: The council's role is important. The council's environmental and consumer services section has an obligation under the Control of Pollution Act 1974 to address noise nuisance or noise complaint. That section will be central to monitoring noise and vibration and to agreeing protocols for doing that. Its judgment will be involved if an exceptional circumstance arises. The paragraph that you quoted is much more likely to refer to essential night-time work, which would not concern the objector.

Elaine Farquharson-Black: Table 13.3 on page 206 of the environmental statement is on your assessment of construction noise impacts and contains no measurement for the Citypoint building. We have Balbirnie Place at one side and West Maitland Place at the other side. As I read it, noise at those locations will exceed the criterion by 13dB. The figures are up at 88dB instead of 75dB.

11:30

Steve Mitchell: Yes. You asked me the first part of that question earlier and I will respond to it. In table 13.4, on page 207, receptor number S1 is Rosebery House, which is the neighbour to our property. I would expect the noise levels to be similar to those that are shown there during certain phases—not during the broader phases, but during the track laying and so on. The noise levels are predicted there; in fact, they are the same as

the ones to which you referred. As I said in my evidence, significant noise impacts are predicted at the building in the absence of mitigation measures. We then apply the COCP to drive down those impacts to an absolute minimum.

Elaine Farquharson-Black: Mr McIntosh talked about the fixings that will be made at the building because it is so close. Given the proximity of the line to the Citypoint building, there is surely no room for mitigation measures outside Citypoint. There is no room for a bund or a baffle. We are right up against the building.

Steve Mitchell: When the works are at their very closest to the building, the scope for mitigation is low. I think that you are referring to noise barriers or screens, which would have little effect for the upper floors but would be very useful for the lower floors. However, other measures can be taken. The choice of equipment to be used is very important. The hours of operation and the duration of the works are also important.

We are talking about when the works are directly outside the property. That includes enabling works, track formation and track laying. Mr McIntosh helped us in respect of the programme. He made a vital point with regard to my topic: although a programme of roughly 30 months is envisaged, the works that we are talking about, which are at the closest approach to the building, will last for a matter of days or weeks. As you say, during those works the scope for mitigation is reduced. As I have said in my evidence, I believe that those works would have some effect on the occupants of the building, but let us not get things out of context. That effect would be for a matter of days or weeks in an environment that, as we have just agreed, is already very noisy. In addition, I believe—although I have not tested this—that the building has a high level of noise insulation, because buildings of that type typically do. In fact, the building must have noise insulation, given its current environment.

I have said in my evidence that there will be a residual effect on some occupants. That effect will be of short duration and I believe that the code of construction practice will deliver the best possible protection to the occupants.

Elaine Farquharson-Black: For the record, I do not think that we have agreed that the area is very noisy. We are talking about the construction noise going 13dB above the existing background noise that you measured at different points.

Steve Mitchell: Potentially, that is correct for the very closest works.

Elaine Farquharson-Black: The environmental statement goes on to consider the noise when the tram is up and running. Paragraph 13.5 on page 210 is headed “Noise from Tram Operations”. Paragraph 13.5.1 confirms:

“Where there are tight bends on the route there may be the potential for wheel squeal to occur. These locations have been identified, and are discussed below.”

Table 13.8, on page 218, lists the locations of possible curve-related noise. The tight turn at the Citypoint building is not mentioned in the table. Do you accept that the turn that will have to occur if the parliamentary route is followed will be a receptor and that it should probably have been included in the table?

Steve Mitchell: No. I do not accept that, because the bend is not tight enough.

Elaine Farquharson-Black: What do you believe the bend to be?

Steve Mitchell: I have not scaled it in recent months, so I cannot remember. However, you may be about to tell me.

The Convener: Before Mrs Farquharson-Black tells the witness, perhaps she can enlighten the rest of us. I know what you are trying to get at, but I am not too clear what you expect us to do about it. You have not brought forward an amendment in respect of this section of the evidence.

Elaine Farquharson-Black: I am demonstrating the impact that the construction and operation of the tramline will have on my client's premises, which will be greater than has been suggested by the promoter. We have put forward our preferred options for the route but we must explore the impact of the parliamentary route. The environmental statement does not address the Citypoint building, although we are told that it will be all right.

The Convener: You may proceed on that basis.

Elaine Farquharson-Black: Thank you.

Steve Mitchell: The environmental statement does not address the Citypoint building. I do not know how many buildings are adjacent to the alignment, but the environmental statement would be a much larger document if it addressed each building individually. Instead of doing that, the statement groups buildings together. West Maitland Place is the nearest area to Citypoint that is considered and I am fairly sure that the ambient noise condition in West Maitland Place is similar to that at Citypoint. When the tram is in operation, the increase in noise that we expect will be a fraction of a decibel—I will deal with the bend in a moment. The additional noise from the tram in such an environment, which is in the vicinity of a road that carries heavy traffic, will be insignificant to the occupants of the building. The environmental impact will be insignificant, simply because there is already considerably more noise in the area than the tram will produce.

I have not had a chance to get out my ruler and roughly scale the bend, but I suspect that its radius will be more than 50m. I simply do not expect wheel squeal to happen on that bend, not just because the bend will not be tight but because there is more to wheel squeal than a bend's radius. Wheel squeal is a fairly complex phenomenon, to which we might return in discussions with the committees. There are ways of designing to avoid the problem and on a bend of that radius, in that situation, I do not expect there to be wheel squeal.

Elaine Farquharson-Black: I am in a slightly difficult position, because my witnesses did not give evidence first. May I put to the witness what we understand that the radius could be? Alternatively, will the witness measure it? I do not accept that it will be more than 50m, as the witness suggests.

The Convener: The witness is speaking only to the construction and the operation; he is not speaking to the route.

Elaine Farquharson-Black: He is speaking to the noise impact and the potential for wheel squeal and he indicated that the bend would be outwith—

The Convener: Your case is thin, but carry on.

Elaine Farquharson-Black: Does the witness accept that the radius will be around 35m, which is well within the estimated curve radius that table 13.8 in the environmental statement for tramline 1 indicates would lead to wheel squeal?

Steve Mitchell: Someone has passed me a square rule, so if you will allow me a few seconds I will do my best to measure the bend.

The Convener: I suggest that we suspend the meeting for a five-minute comfort break while you do that.

11:38

Meeting suspended.

11:45

On resuming—

The Convener: Mr Mitchell, have you been able to complete your calculations?

Steve Mitchell: Yes. I have been advised that the radius of the bend is approximately 35m.

Elaine Farquharson-Black: My final question relates to option 4, which is an alternative that CGM has put forward. Do you accept that, if option 4 is followed, the track would be close to the building for a shorter period of time and that, therefore, we could anticipate that the noise

impact on the building would be less and that the tight bend and the potential for wheel squeal would be removed?

Steve Mitchell: I will deal first with the issue of wheel squeal. The fact that a bend might be of 35m radius and might appear in table 13.8 of the environmental statement does not mean that it will produce wheel squeal. The radius in relation to which we start to get more interested in wheel squeal is 20m to 25m. I remain of the view that wheel squeal is not likely to happen in this location, regardless of whether the bend has a radius of 35m or the radius that is in option 4. We might come back to the issue with regard to properties that are near to tighter bends.

I do not think that the alternative route would change the significance of the noise effect on the building, because I do not think that there will be a significant noise effect on the building during the operational phase. During the construction phase, it might be that the alternative route would have less of a noise effect. However, once the tram is operating on the parliamentary route, there will be no significant noise effect.

Elaine Farquharson-Black: Without accepting that there will not be a significant noise effect, I have no further questions for the witness.

The Convener: I am obliged. Do members of the committees have any questions for the witness?

Jeremy Purvis: My understanding is that the promoter has not yet selected any tram vehicle. However, you said that you do not expect there to be wheel squeal at that bend in the route. What other schemes have you used as evidence in arriving at that conclusion, given the fact that no vehicle has yet been proposed for the scheme?

Steve Mitchell: You are correct to say that no vehicle has yet been chosen. Further, there is no specific track geometry or any details of the cant of the track. Similarly, no driver training programmes have been completed. All those factors have an impact on whether a particular bend will produce wheel squeal. However, we know that there are many bends of 35m that do not produce that noise. I am talking about the existing systems, such as those in Croydon and Nottingham, which are reasonable examples. We know that the technology exists that will allow us to avoid wheel squeal. Radius is just one of the indicators of whether it could happen. My view is based on the experience of other systems.

The fact that the vehicle and the track have not been procured or designed gives us the opportunity to ensure that we get the system right. We have something called a noise policy, which is meant to ensure that the vehicle is designed properly to fit the track and that such measures

are taken on board during the procurement process.

Jeremy Purvis: Would that be part of the design manual?

Steve Mitchell: I am not familiar with the exact content of the design manual, as it has not yet been produced. However, the noise policy is a high-level public statement of our intent, which will need to be followed through in various contractual documents. I have met the parts of the promoter's organisation that will develop the contracts and there is great interest in the topic. The matter will be in some of the contracts, but I do not know which ones.

Jeremy Purvis: At this stage, there is no extensive design manual, no assurance on driver training, no clarification on cant, no track in place and no decision about the trams that will be used. Given all that, it is difficult to say with certainty that there will be no wheel squeal. Many factors could have an impact on wheel squeal, but none has yet been decided.

Steve Mitchell: No one is pretending that we are not at an early stage in the design process. However, as I said, there are many bends on tram systems throughout Europe that have the same or lower radii but do not produce wheel squeal. There are ways of avoiding wheel squeal and we have made a high-level commitment to do so.

Jeremy Purvis: However, at this stage that is only a commitment.

Steve Mitchell: It is a commitment.

Phil Gallie: Am I right to be concerned about your comment that, in some circumstances during construction, noise levels might be higher than 75dB? I am particularly concerned because you said that the council and TIE, which have a financial interest in the scheme, would be the arbitrators. Sometimes when there is a contract people get a bit desperate and want to take short cuts and action that might not be in line with expectations. The 75dB noise limit might frequently be exceeded.

Steve Mitchell: I do not think that the 75dB limit would frequently be exceeded. If the limit is exceeded, it will be only for brief periods, for example when we work on the zone that is the closest to the building. For example, enabling works will be difficult to mitigate and 75dB might be exceeded in the short term.

I do not accept that the council will not do a proper job in policing the site. As I said, the council is required to investigate statutory nuisance, under the Control of Pollution Act 1974. The council has powers to influence the works, even if there were no code of construction practice that had to be enforced. I talk to people in the council's

environmental and consumer services department and the noise team in that department is in the business of enforcing best practice on construction sites, among other things. I am confident that the contractor will be made to behave himself and minimise disturbance.

Malcolm Thomson: Are you aware that the code of construction practice contains provision for boundary fencing of works, one of the purposes of which is noise attenuation?

Steve Mitchell: Yes. I think that the boundary fencing requirement is for a superficial density of at least 7kg per m², so that the fence produces some noise benefit as well as visual screening. That would be useful, particularly for the lower floors of the building at the closest approach of the works. The requirement represents an important line of defence.

There is also a requirement for temporary noise barriers within the site, if they are necessary, to provide better noise screening within the site, in addition to that which is provided by the hoardings.

The Convener: That concludes the evidence from Mr Mitchell, to whom we are grateful.

We return to Gary Turner and Archibald Rintoul, to address the loss of car parking. Mrs Farquharson-Black, am I correct in saying that you are not insisting on your objection in that regard?

Elaine Farquharson-Black: That is correct, but I have one point of clarification that I would like to put to Mr Rintoul.

The Convener: I remind Mr Rintoul that he is still under oath.

Elaine Farquharson-Black: I want to ask about the blight aspect as opposed to the car parking.

The Convener: Mr Thomson, have you anything that you want to say at this stage?

Malcolm Thomson: No.

Elaine Farquharson-Black: I have only one question. Has any assessment been made of the compensation that will be payable if the promoted route proceeds?

Archibald Rintoul (Scotland South East Valuation Office): We have not yet carried out that assessment.

The Convener: Do members have any questions?

Jeremy Purvis: Do you think that the measures that are contained in sections 29, 30 and 31 of the bill will be sufficient if people have grounds for compensation during construction, or if people who are on the route of the line have to install barriers to car parks, make changes to the exterior of buildings with regard to other fixings and so on?

Does the bill have the capacity to allow discussion of compensation on those grounds?

Archibald Rintoul: I have not seen sections 29, 30 and 31. If I could have a look at them, I could comment on them.

The Convener: As Mr Rintoul will appear before us later, it might be easier for him to answer your question at that stage.

Jeremy Purvis: I am in no rush; I am here all day.

The Convener: Mr Purvis is reconciled to the fact that he will be here all day and will pursue the matter later.

Mr Thomson, I take it that you do not wish to re-examine Mr Rintoul.

Malcolm Thomson: That is correct.

The Convener: Mrs Farquharson-Black, I think that you will appreciate that I gave you quite a lot of licence with Mr Mitchell, in the absence of a rebuttal statement. I know that you are in a similar position with some witnesses who are coming up later with regard to the alternative routes. I think that you will agree that we issued extensive guidance with regard to the procedure to all objectors, and to your own clients, to the effect that oral evidence would be restricted to matters in dispute. In the absence of any prior notification of disputed matters after you received the promoter's statements, it would not be allowable, in the interests of fairness to the promoter, to allow you to question these witnesses.

Elaine Farquharson-Black: There seems to have been some misunderstanding. Our position is that, with regard to a lot of the evidence that my two witnesses are putting forward, their position remains the same; it has not changed in the light of the rebuttal. In the rebuttal, the witnesses addressed specific points—saying that so and so was right or wrong and so on—but we took the view that, otherwise, the evidence simply stood. My understanding is that that evidence is before the committees on behalf of the promoter and that I should be entitled to cross-examine the witnesses on it. It is evidence that the promoter wishes to put forward and it has not changed in the light of the rebuttal.

The Convener: Perhaps the easier way of dealing with the matter would be to bring that out from your own witnesses as matters progress. However, you appreciate that we were putting some of the witnesses for the promoter in a position of some difficulty. While, obviously, you would not be doing your job unless you tested evidence to the maximum, because of the absence of the rebuttal statements, the witnesses were not entirely prepared for some of the questions that you were asking.

Elaine Farquharson-Black: I apologise for that. I expected that the witnesses would be ready to stand by the evidence that they had put forward.

The Convener: In any event, with the issue of blight having been dealt with in what we assume was a satisfactory manner, that concludes this part of the evidence-taking session from the promoter's witnesses for group 42, CGM (Edinburgh) Ltd.

We now move to consideration of evidence in respect of group 44, the Institute of Chartered Accountants in Scotland. Heriot Currie QC will be questioning witnesses on behalf of ICAS. We will pause briefly to allow Scott McIntosh and Steve Mitchell to join Gary Turner and Archibald Rintoul at the table.

As all the witnesses have already taken the oath or made a solemn affirmation, we move straight to questioning. The first witness is Gary Turner, who will address the issue of loss of car parking and future expansion options at CA House.

Before I invite questions, I ask Mr Thomson and Mr Currie briefly to indicate the issues that are in dispute with Gary Turner.

12:00

Malcolm Thomson: On the question of car parking, my understanding is that there would be no necessary loss of car parking spaces to the building as it stands as a result of the proposals in the bill. If the objector chooses to expand the building, that would involve a further planning application and the imposition of newer, more restrictive parking provisions. It is therefore unlikely that the number of parking spaces would change, even if the building expanded. That is probably all that I need to say at this stage.

We do not accept that there is any inhibiting factor on the physical expansion of the building to the west as a result of the proposals. The promoter's position with regard to noise, vibration and construction impacts has already been set out fully in the statements.

Heriot Currie QC (Counsel for the Institute of Chartered Accountants of Scotland): The position is that when ICAS moved from Queen Street it purchased the site on which CA House is built with a view to being able to accommodate its current and future needs. The site was selected because it presented the opportunity for future expansion. It is further to be noted that, when CA House was built, it was known that a tramline was proposed, and the route was believed to run south of CA House. The building was designed and built with an orientation such that noise-sensitive activities were located on the north side rather than on the south side.

The institute's concern is that, as a result of both the construction process and the running of the tramline to the north of CA House, the building will become unusable for its current purposes and there will be no opportunity to expand. It was with some frustration that the institute read, in the notice of rebuttal from the promoter, that the promoter now appears to have no difficulty with route 4, which returns the route to the south of the building, where it was originally conceived. The purpose of our being here today is to deal—principally, at least—with the route that is being discussed. Those are the matters that concern us.

The Convener: Mr Thomson, do you have any questions for Mr Turner?

Malcolm Thomson: No, sir.

The Convener: Mr Currie?

Heriot Currie: Mr Turner, you have had some discussions with ICAS about reconfiguring the car parking arrangements so that no car parking spaces will be lost. Is that right?

Gary Turner: That is correct.

Heriot Currie: Is it correct that reconfiguring the car park to accommodate the number of spaces that the institute currently has would require building on some of the land that is the subject of the proposed compulsory acquisition?

Gary Turner: When you say “proposed compulsory acquisition”, are you referring to the land to the south of the building?

Heriot Currie: Will you answer in a simple way? Does the reconfigured car park depend on the institute having some of the land whose acquisition is proposed?

Gary Turner: The reconfigured car parking will be on the land that is allocated as limits of land to be acquired or used, which is to the south of the building, where an alternative access road for CA House is also proposed.

Heriot Currie: Is it necessary to build the reconfigured car parking area on some of the land whose acquisition is proposed as part of the process?

Gary Turner: Yes.

Heriot Currie: Do you propose in your statements to deal with that by returning some of the land that will not be needed for construction work?

Gary Turner: ICAS wishes to extend its property on the area of land that is to the west of CA House. As part of the limits of deviation, that land is required to build the tramline, but not all the land will be required once the tramline has been built, so the promoter has given an undertaking

that that land will be returned to the institute so that it can develop that site if it so wishes.

Heriot Currie: The institute will be put in the position that the availability of land that it requires for car parking space and for future expansion will depend on the promoter returning land to the institute after the construction process is completed.

Gary Turner: The promoter has already given an undertaking that it is prepared to do that.

Heriot Currie: Is the position that the promoter is not prepared to exclude any of the land that it proposes to acquire from the proposed acquisition?

Gary Turner: That is incorrect. The promoter has had discussions with ICAS and has said that it is prepared to take the land that it requires for tram operation on completion and to construct the tramline through site agreement. All land that is not required for tram operation and maintenance can be returned to ICAS.

Heriot Currie: In reality, is the promoter likely to object to a planning application from ICAS to build on its future expansion site?

Gary Turner: No.

Heriot Currie: Are you prepared to give an undertaking to that effect on the promoter's behalf?

Gary Turner: Yes. The promoter's position is that land that is initially required for construction of the tramline but not for tram operation and maintenance can be returned to the current landowner. Our difficulty is that no extensions to the building have been identified. As we understand the extent of the extension from the markings on a plan, the promoter sees no reason why it should object to extension of the development.

Heriot Currie: I understand that, in discussions with the institute and particularly with its chief executive, you have declined to give any undertaking that you would not object to a planning application for construction on the site for future expansion. Is that correct?

Gary Turner: That certainly is not my understanding. Potential grounds for objection to the extension proposals would arise only if the proposals were above and beyond what we believe them to be and if they were to have an adverse impact on tram operation. If the proposals were to have no adverse impact on tram operation, the promoter would have no reason to object.

Heriot Currie: So you are prepared to give an undertaking today that the promoter will not object to any planning application for future expansion of

CA House on the land that the institute has acquired for that purpose.

Gary Turner: My understanding is that the promoter has indicated that. I am not in a position to be able to give that undertaking on behalf of the promoter, but I can make inquiries and get back to you. My understanding is that the promoter's response would be positive.

Heriot Currie: Is it not the case that Mr Hudson asked your body for that undertaking but has not been given it?

Gary Turner: That is not my understanding.

The Convener: If members have no questions, I invite Mr Thomson to re-examine the witness.

Malcolm Thomson: Mr Turner, when you were asked about the promoter's position on a future planning application for an extension, I think that you introduced a qualification. You said that you could envisage no reason for the promoter to oppose such an application, provided that the proposal would have no adverse effect on the operation of the tram.

Gary Turner: That is correct.

Malcolm Thomson: Do you want to maintain that qualification?

Gary Turner: Yes.

The Convener: That concludes—sorry, Phil Gallie has a question.

Phil Gallie: Sorry, convener, I tried to catch your eye.

Mr Turner suggested that he could not give the undertaking for which Mr Currie asked. Who in TIE can give it?

Gary Turner: I do not know who would give such an undertaking on behalf of the promoter, but I believe that if decisions are required in relation to which undertakings must be given, a procedure is in place whereby a fast response can be given to the committees. I do not think that the issue that we are discussing is a major concern, but if the objector's representative thinks that TIE declined to give the undertaking, I will ascertain why that happened. My understanding is that TIE would not decline to give the undertaking.

Phil Gallie: Is it in order for me to ask whether, if the witness cannot identify the person or group that could take that decision, the committees could have an answer on the issue?

The Convener: That would be appropriate.

Malcolm Thomson: Mr Kevin Murray is the project manager for line 1. In the first instance, he is the obvious person to ask for undertakings on behalf of TIE or the promoter. If he cannot give an

undertaking on the spot, a higher-level decision might be required and the response might have to come later.

Phil Gallie: Thank you.

The Convener: Does Mr Currie want to raise issues in relation to the matter?

Heriot Currie: I have no further questions for the witness, but I will make the point in my brief closing submission that, given the policy issues, it seems odd that the promoter has proffered no representative from TIE.

The Convener: I thank Mr Turner for his evidence.

The next witness is Mr Rintoul, who will also address compensation for loss of car parking. Before I invite questions from Mr Thomson and Mr Currie, I ask them please briefly to indicate the issues in dispute with the witness in relation to compensation.

Malcolm Thomson: I am not aware that there is an issue in dispute. I understand that compensation is a matter for the future.

Heriot Currie: I will raise two, brief points with Mr Rintoul. First, am I right in understanding—

The Convener: I must interrupt you, Mr Currie. I must first ask Mr Thomson whether he has questions for the witness.

Malcolm Thomson: I do not.

Heriot Currie: My questions will be brief and self-explanatory.

First, Mr Rintoul, am I right in understanding that, throughout the process so far, you have not been in a position to discuss with ICAS any specific aspects of the institute's likely compensation claim on certain hypotheses?

Archibald Rintoul: That is correct. I have had no discussions with ICAS.

Heriot Currie: Why?

Archibald Rintoul: My client, TIE, has not asked me to have those discussions.

Heriot Currie: Secondly, have you applied your mind to the likely overall compensation costs of the enterprise?

Archibald Rintoul: I have not yet been asked to do that, but I will consider the matter shortly.

12:15

Heriot Currie: Are you aware that suggestions have been publicised that funding shortfalls for tramline 1 and tramline 2 are likely?

Archibald Rintoul: No, I am not.

Heriot Currie: I have no further questions.

The Convener: As there are no further questions, I thank Mr Rintoul.

The next witness is Mr Mitchell, who will address the issues of noise and vibration. Before questions, I invite Mr Thomson and Mr Currie to speak briefly about the noise and vibration issues that are in dispute with the witness.

Malcolm Thomson: The committees will be familiar with the objection by the Institute of Chartered Accountants of Scotland. The promoter has considered the problem and Mr Mitchell in particular has considered the suitability and feasibility of additional glazing to attempt to protect the more sensitive parts of the building in which lectures and examinations, for example, take place. The promoter proposes to undertake additional glazing work, subject to the approval and agreement of the objector. That work could be done before the construction phase so that the maximum benefit can be obtained from additional insulation.

Heriot Currie: I have already outlined the main points relating to the institute's concern about noise. The concern that we want to raise with the witness is that, until Friday last week, the material that had been provided by ERM/TIE to the institute was of a level of generality that did not enable any assessment to be made of the likely impact of noise and vibration and the likely success of any mitigation measures. On Friday last week, we received a noise assessment from ERM, but there has, of course, been absolutely no possibility of the institute taking advice about the validity of that material. Broadly, that is the issue that I want to raise with Mr Mitchell.

Malcolm Thomson: Mr Mitchell, will you update us on your work with the objector since the date of your written statement? Has any progress been made?

Steve Mitchell: Yes. I have done some work since the date of my witness statement. There has been no rebuttal statement from me, and my witness statement dates back to the middle of May.

As we have just been told, the technical report has been issued—I thought that it was issued on Thursday, but I am prepared to accept that it was issued on Friday morning. What is reported in the technical report is no different from what I said in my witness statement, although, obviously, a lot of technical and detailed information has been added to justify the statement.

Malcolm Thomson: What about identifying the works that might be beneficial?

Steve Mitchell: We have been into CA House to do two noise surveys. ICAS helped us with

access. Before then, we had a meeting to explain what we thought was the right way to investigate the matter and we discussed the right approach. At that meeting, there was agreement about what we should do about noise measurements and predictions, and we have now completed the assessment.

On the second occasion, we had a good look in the lecture rooms and we had a meeting with the building manager—I think that that is what he is called. The lecture rooms are suitable for secondary glazing. The windows have quite a deep window ledge, which is a good configuration for installing wide air-space secondary glazing inside the existing double glazing. Doing so would considerably upgrade the building's acoustic insulation, and offering that for the building would be a big advantage. We have just heard that our offer is to insulate the lecture rooms.

Malcolm Thomson: Thank you, Mr Mitchell.

Heriot Currie: Mr Mitchell, is it not true that before undertaking your noise and vibration survey, you did not agree the survey's scope of work with ICAS representatives?

Steve Mitchell: I am not sure whether that terminology is correct. We had a meeting to discuss what should be done; we did not simply start. At the meeting, we went into detail about what we proposed. I accept that ICAS might not have had technical representation at that meeting, but two or three people represented ICAS interests. I explained what we thought needed to be done and agreement seemed to be reached on how we should proceed.

Heriot Currie: Is it not true that you did not agree the scope of work for your noise survey, although you might have had general discussions with non-technical members of the ICAS team, as you just suggested?

Steve Mitchell: We had some non-technical—if you like—discussions. I could not talk technically, because no one was present from ICAS to talk technically. However, I went into detail about what we suggested.

Heriot Currie: It would be inaccurate to say, as the background to your noise assessment says, that you agreed a scope of work.

Steve Mitchell: The scope was not agreed in writing, if that is what you are asking about, but I believe that it was discussed verbally. The main objective of calling a meeting was to discuss the scope of work, so I maintain that it was discussed and agreed.

Heriot Currie: We will hear from ICAS witnesses about that.

Whether on Thursday or Friday, your report was issued right at the end of last week, was it not?

Steve Mitchell: It was.

Heriot Currie: Is it fair to say that you have given ICAS no realistic possibility of taking advice on your report's conclusions as part of its preparations for this hearing?

Steve Mitchell: I agree that the time was very short, but I maintain that the general comments in my witness statement have not changed.

Heriot Currie: Is there not a big difference between stating your views at the level of generality that is in your witness statement and stating them in the detail that can be found in your assessment?

Steve Mitchell: There is, but ICAS offered me no one to talk to on a technical level. Had anyone from ICAS made it clear that they had concerns about noise and vibration and had I been asked to talk to a technical expert, I would have been grateful and happy to do that. That did not happen at our first meeting and has not happened now.

Heriot Currie: Do you agree that a significant difference exists between the level of generality that is to be found in the material that is before the committees and the level of detail in the material that you have now intimated to ICAS?

Steve Mitchell: The level of detail is very different. My witness statement is written for a general reader. The technical report is written for an expert.

Heriot Currie: In conducting your noise survey, you assumed that windows on the north side of the building were kept shut at all times. Is that right?

Steve Mitchell: That is not quite right. We assumed nothing. We made various measurements outside and inside the building. We talked to the building manager—his name escapes me, but I have a record of it—about the state of the windows. He explained to us that the air-conditioning system in the building needs some maintenance and repair, which is scheduled. His view is that when the air-conditioning operates correctly, there is no need to open windows. Indeed, the ground floor has locked windows.

Heriot Currie: If the people who occupy rooms with windows that can open regularly open those windows at present, does that not have a material effect on some of the views that are expressed in the material that you have provided?

Steve Mitchell: I am sorry—could you rephrase the question?

Heriot Currie: Yes. If the true position is that the building's users—the people who work in the

rooms—open the windows, which is contrary to the basis on which you have proceeded, that has a material effect on some conclusions in the material that you have placed before the committees.

Steve Mitchell: Whether windows are open when the tram passes the building has a material effect on the noise effect in the building, of course. A closed window performs much better than an open window. Whether windows are open now and will be open in the future is a different question.

Heriot Currie: Is it true to say that in the assessment that you provided towards the end of last week you conclude that, overall, looking at the whole day, noise levels will be increased significantly in rooms at the west end of the building?

Steve Mitchell: That is undoubtedly the case.

Heriot Currie: And that at peak times noise level will be increased substantially over the lower floors?

Steve Mitchell: Yes. That is the case.

Heriot Currie: You conclude that those are significant noise impacts, which will require to be mitigated.

Steve Mitchell: Yes. That is the case. The noise levels will be increased significantly and there will be some impacts on parts of the building.

Heriot Currie: I understand that you have suggested secondary glazing, but is it fair to say that you have put forward no detailed analysis to the committees that would satisfy them that secondary glazing would cure the problem?

Steve Mitchell: I have not put any technical detail to the committees, although my witness statement refers to it. I accept that the committees do not know how much noise performance, in decibels, secondary glazing gives, but members may be familiar with its being used routinely to mitigate road traffic noise. My presumption was that the high performance of secondary glazing is reasonably well known.

Heriot Currie: Thank you. I have no further questions.

The Convener: Jackie Baillie has a question.

Jackie Baillie (Dumbarton) (Lab): I return to the issue of information being shared with the objector. Why was the information not available sooner?

Steve Mitchell: I am sure that you do not want to know the nitty-gritty of my holidays, the availability of staff and such like. The analysis required a second site visit in addition to the initial

visit. The matter became slightly more complicated than we had envisaged, which prolonged the programme. As I say, there is also an approval process. I accept that it may look like we have submitted the information at the last minute as a deliberate ploy, but that certainly was not my—or anyone else's—intention. It was an unfortunate delay, for which I can only apologise.

Jackie Baillie: You suggest that the promoter is willing to enter into an agreement in respect of the three lecture rooms. Are any other rooms on the north side of the building similarly affected? Why is there no agreement for those?

Steve Mitchell: There are other rooms on the north side of the building—mainly office space. Those rooms will be affected, but I would not say similarly. The lecture theatres are significantly more sensitive than an office, for reasons that I have just summarised. There are two broad reasons—perhaps they are obvious. A lower ambient noise condition is required in a lecture theatre than in an office. The greatest impacts would be on the lecture theatres, and that is where we have offered the secondary glazing package.

Jackie Baillie: Would I be equally correct to say that the north side of the building is currently quite quiet, so if the tramline runs on that side it would, irrespective of the use of the room, have a significant impact?

Steve Mitchell: Yes, the north side is quiet. I have answered the question by saying that it will become significantly noisier when the tram operates. That is no secret. I mention briefly in my witness statement that we are looking at measures on the track. We can take some steps to reduce the increase in noise, but the general comment that I have made is that, for the vast majority of the rooms, the noise levels on the north side will remain no higher than those on the south side.

We should consider the fact that the offices on the south side, which are exposed to railway noise, are usable. There are cellular offices and meeting rooms on the south side, as there are on the north side. Given that the tram noise will be about the same for the vast majority of the building, you could say that the noise levels on the north side would not be any worse than those on the south side.

Jackie Baillie: Thank you.

The Convener: We will now move to the re-examination.

Malcolm Thomson: Are you aware, Mr Mitchell, whether at an earlier date either you or TIE proposed a noise assessment exercise?

Steve Mitchell: We proposed the noise assessment exercise at the meeting towards the end of April. We discussed the scope of the exercise and what we should do.

Malcolm Thomson: Were you aware of any previous discussions about possible testing?

Steve Mitchell: No. Prior to the meeting, we were not invited to carry out testing.

The Convener: As there are no further questions for Mr Mitchell on the issue of noise and vibration, I thank him for his evidence.

The next witness is Mr McIntosh, who will address the issue of construction impact on the operation of business. Before I invite questions, I ask Mr Thomson and Mr Currie to indicate briefly in the usual manner the issues that are in dispute relating to construction impacts on the business operations of ICAS at CA House.

12:30

Malcolm Thomson: We are dealing here with familiar issues. The promoter concedes that construction operations will have impacts and a wide range of mitigation strategies are proposed. The only issue that is specific to ICAS concerns the sensitivities of certain areas of the building, about which Mr Mitchell has already spoken. If remedial measures can be effected, it is the intention to effect them at the earliest possible stage, to gain the benefit of them during construction as well as operation. There is nothing else that I can add at this stage.

Heriot Currie: In my cross-examination, I will make the point that Mr McIntosh's statement deals with the issue at such a general level that it can neither give ICAS comfort nor persuade the committees that there will not be a problem.

The Convener: Mr Thomson?

Malcolm Thomson: I invite cross-examination of Mr McIntosh.

Heriot Currie: Mr McIntosh, would it be fair to say that, when you address construction impacts and disturbance, you make reference to the COCP but do not refer in any detail to the specific site-related measures that will need to be taken in relation to CA House?

Scott McIntosh: That is true. The code of construction practice seeks to set a minimum level of mitigation and management of issues that we can assure people will apply in all specific cases. Because the system is not at detailed design stage, we are saying that we can give people to understand that we will not exceed the levels stated except in very limited situations that are set out in the code. The code provides a general guarantee of the quality of the works, the way in which they will be carried out and the mitigation of impacts that we accept will happen as the system is constructed. We believe that that is a much more helpful approach than any arbitrary attempt

to produce small sections of detailed discussion for certain buildings along the route.

Heriot Currie: I refer you to paragraph 3.3 of your statement. You say:

"The CoCP has been subject to consultation with all the parties involved in developing the project including tie, the City of Edinburgh Council, and the technical advisors to the scheme."

Is it the case that there has been no consultation on the COCP with any of the objectors?

Scott McIntosh: That is the case. The code of construction practice is an offer that the promoter is making to set out its position clearly to the committees and to everyone, including your client, who is interested in the works that are being undertaken.

Heriot Currie: I noted that, when you were cross-examined in relation to CGM (Edinburgh) Ltd, you used words such as "very minor" and "minimal". Do you accept that anyone who has lived or worked in proximity to major construction works would have a very different perspective on the issue?

Scott McIntosh: I have the advantage of having lived for a period of two years within 70m of the construction of a tramway. Although it caused certain impacts and inconveniences, it did not prevent the peaceful enjoyment of my residence.

Heriot Currie: Let me put it this way: do you accept that committee members would be entitled to apply their own experience in deciding whether your use of words such as "very minor" and "minimal" is at all realistic?

Scott McIntosh: I would think that those words have the usual meaning that people would apply to them.

Heriot Currie: In your final paragraph, which I find echoed in evidence that you have given about other objectives, you say:

"The promoter is seeking powers to construct the Edinburgh Tram in the belief that the system will have a beneficial effect on a range of issues, including the commercial performance of businesses such as ICAS at CA House. It is the promoter's contention that there is evidence from similar tram schemes carried out elsewhere in the UK to demonstrate the real business benefits that will accrue to bodies such as ICAS."

Without intending to be disrespectful, that appears to be a general observation that you have made without having applied your mind in any detail to the position of CA House. Would you accept that that is fair?

Scott McIntosh: No, I would not. I base that on evidence that has been presented to two committees of the House of Commons, in 1999 and 2004, and on the assessment, which was independently commissioned and carried out, of

the impacts of the Croydon tramlink scheme in London. I also base it on the evidence presented in a recent report by the passenger transport executives on the impact of tramway schemes throughout England and Wales. My evidence is based on the specifics of each of those schemes and the benefits to firms and businesses fronting on to them.

Heriot Currie: You have derived your comments about the general benefits of improved transport infrastructure from those studies and considerations, but would it be fair to say that in your statement there is no detailed balancing of those advantages—such as they are—with the clear disadvantages that are likely to accrue to CA House from the scheme?

Scott McIntosh: With respect, you have not quantified the disadvantages. You have claimed that there will be noise and we have claimed that there will be benefits in the form of access and value to the building.

Heriot Currie: What I am talking about, as you know perfectly well, is considerable noise in the close proximity of rooms that are used for teaching and training.

Scott McIntosh: We have already discussed the fact that mitigation measures are proposed. It has been my understanding that the promoter has given an undertaking that those mitigation measures will be introduced before the construction works begin.

Heriot Currie: I have no further questions.

Phil Gallie: Mr McIntosh, you referred to a report on tramway schemes in England and Wales. My recollection is that the report suggests that all the benefits that were supposed to accrue from the tramway systems did not accrue and that the schemes in fact caused some kind of penalty on businesses in the area, particularly with respect to the costs involved in provision and operation.

Scott McIntosh: No, Mr Gallie. A recent House of Commons select committee report said that a number of schemes have not achieved all the benefits that were promised, particularly in some cases in relation to the number of passengers. However, the report demonstrated that economic benefits, in relation to the number of people taken out of motor cars and using public transport, have been achieved on all the schemes. It also showed that benefits to frontagers, such as ease of access and improved environmental conditions, have been reflected in increased yields from rents, a reduction in voids and increases in the value of properties when sold. Those are real benefits that have accrued in all the schemes.

Phil Gallie: Effectively, what you have just said is that there are probably more benefits than

negatives. With respect to Mr Currie's clients, will there be more benefits than negatives?

Scott McIntosh: The number of car parking spaces at CA House in relation to the number of students and members of staff who use it would seem to indicate that the vast majority of the people who visit and use CA House arrive by public transport. An improved public transport system will be of significant benefit to CA House.

Jeremy Purvis: Mr McIntosh, do you accept that Mr Mitchell acknowledged in his evidence that there would be noise issues not only with the running of the tram but during the construction period? You say in paragraph 3.3 of your statement:

"The CoCP has been subject to consultation with all the parties involved in developing the project including tie, the City of Edinburgh Council, and the technical advisors to the scheme."

Is it fair to say that the COCP will take account of the technical advice with regard to the noise as it affects CA House?

Scott McIntosh: Indeed.

Jeremy Purvis: In paragraph 3.4, you go on to say:

"The Construction Contract will require that the Contractor shall comply with the CoCP".

In that context, should the COCP make specific mention of issues relating to buildings such as CA House that have a particular use?

Scott McIntosh: It is my understanding that, when the contract is let, the code of construction practice will be used as one of the contractual documents with the main contractor for the construction of the tramway. I have no doubt that the promoter will also seek to add conditions as they become relevant and as experience shows that particular points along the route may require additional measures. As I said at the beginning, we believe that the COCP is in place to set a minimum standard. It does not say that there will not be particular requirements in other areas above the standard.

Jeremy Purvis: On the specific elements that relate to CA House and its use, would you expect noise to be one of the additional elements in the code of construction practice that will be part of the contract?

Scott McIntosh: It is my understanding that, as we have said, the promoter will give an undertaking to introduce the mitigation measures at an early stage. Those measures will form part of the contract. Yes, the code would certainly cover those issues.

Jeremy Purvis: Thank you.

The Convener: Does any other member have a question?

Helen Eadie (Dunfermline East) (Lab): The convener will advise me on whether the question is appropriate. Mr McIntosh, I seek information on the enforceability of the code of construction practice. As we know, enforcement is an issue with other codes of practice.

Scott McIntosh: It is my understanding that the promoter will stand by the same sort of approach that has been used with success in Nottingham and other places. That is to say that the code of construction practice will be one of the documents bound up with the main contract. The contract will therefore require that the standards that are set out in the COCP are adhered to in all circumstances by the contractor and all his agents.

Helen Eadie: If the code is not followed, who will enforce it and how will they do so? What are the penalties?

Scott McIntosh: If the code is not followed, that would be a breach of the contract. I defer to my legal friends, who can give a definition of what would happen if there were a breach of contract. The code forms part of the main contract for the work.

The Convener: A genuine issue is involved. The question whether the code is enforceable seems to be a matter of contract. However, the contract is not with the objector, who would be unable to take action for specific implement. Surely the objector is totally reliant on the good will of the promoter in the matter.

Malcolm Thomson: It would be in the interest of the promoter as the contracting employer to ensure performance with the contract. If the terms of the contract were not met, resort could be made in the normal way to pay or perform and a remedy in damages. It is difficult to imagine why it would be in the interest of the employer not to ensure compliance with the terms of the contract.

The Convener: Certainly, it would be fairly disastrous from a public relations point of view if the code were breached. However, I am not confident that we have sufficient assurances on the legalities. It would be helpful if, in the days ahead, we could have in writing the promoter's position, expressed clearly and incontrovertibly.

Malcolm Thomson: Of course.

The Convener: On that basis, Mr Thomson, do you have further questions for Mr McIntosh?

Malcolm Thomson: Yes, on just one matter. Mr McIntosh, is it possible to assess the detailed construction impacts before the detailed design work has been carried out?

Scott McIntosh: No. That would be an extremely foolhardy effort.

Malcolm Thomson: Am I right in understanding that the detailed design work has not yet been done?

Scott McIntosh: That is correct.

Malcolm Thomson: Thank you.

The Convener: Thank you, Mr Thomson. There are no further questions for Mr McIntosh on the construction impacts and the operation of the business. I thank Mr Thomson for his contribution under that heading.

That concludes this part of the committees' evidence taking from the promoter's witnesses for group 44. The next section is likely to prove slightly lengthy, so I propose that we adjourn for lunch. We will reconvene at 1.30 pm.

12:45

Meeting suspended.

13:33

On resuming—

The Convener: We now proceed to evidence taking from five witnesses for the promoter on the issue of route selection. Each of the witnesses will be cross-examined by representatives of groups 5, 42 and 44 in turn, namely Mr Carruthers for Haymarket Yards Ltd, Mrs Farquharson-Black for CGM (Edinburgh) Ltd and Heriot Currie QC for the Institute of Chartered Accountants of Scotland.

The first three witnesses for the promoter on route selection are Andrew Oldfield, Stuart Turnbull and Murray Lees. Mr Lees is a witness on route selection in relation to Haymarket Yards and CGM only. Before we commence evidence taking, Stuart Turnbull and Murray Lees will take the oath or make a solemn affirmation.

STUART TURNBULL and MURRAY LEES *took the oath.*

The Convener: Before the witnesses begin, I point out to Mrs Farquharson-Black that we have found the missing rebuttal statements for these witnesses. Bearing in mind the voluminous paperwork, I think that it is hardly surprising that they were overlooked, but I apologise on the Parliament's behalf that you were admonished earlier in that respect. Nevertheless, the point that I made earlier still arises. For the record, we have received the rebuttal statements.

The first witness will be Andrew Oldfield, who will address the issues of route selection, optioneering and appraisals, stop location, Network Rail proposals, routes considered and the

four route options that the objectors have proposed. Before I invite questions, I ask Mr Thomson, Mr Carruthers, Mr Currie and Mrs Farquharson-Black to indicate briefly the issues that are in dispute with the witness.

Malcolm Thomson: There is one preliminary matter, convener. We have another new witness: Mr Neil Harper. It might be appropriate for him to take the oath.

NEIL HARPER *took the oath.*

Malcolm Thomson: The situation is a little complicated and it is perhaps easiest if I explain it by referring to the four options that have been set out in various productions and documents that the objectors have lodged. The first point to make clear is that none of the four options is the option that is in the bill, which has been referred to as the hybrid option. Option 4 is the one that is featured in the amendment process that the promoter has started—it is seeking the approval of the committees to proceed with that process. I understand that the committees will deal with that issue later, but I just want to identify option 4 as, in effect, the alignment that features in that amendment process.

I should perhaps also mention option 1, which the promoter considered in detail at an earlier stage because it had certain obvious advantages. That route went through what is currently the car park for Haymarket station. It probably has the fewest bends and is the most direct route from the Haymarket Terrace road level to the preserved transport corridor near the railway line. However, the route had to be ruled out because of Network Rail's requirements. In those circumstances, the promoter arrived at the hybrid option that is in the bill. The various witnesses for the promoter will speak about that selection process.

It would be artificial not to recognise that the promoter, in seeking approval to proceed with the amendment process, recognises certain advantages in option 4. The promoter has considered carefully the options that the objectors have proposed and is acutely conscious that certain objectors actively favour option 4. There are obvious attractions in seeking agreement to move forward on option 4 in circumstances in which that would be no less advantageous to the promoter.

As far as the position of the three objectors from whose witnesses we are hearing this afternoon is concerned, my understanding is that Haymarket Yards no longer supports options 1 to 3; it is focusing fairly clearly on option 4. The position of CGM, which was explored in cross-examination this morning, is that it thinks that option 4 has advantages over the current route alignment, but I would be interested to hear what its position is on

the other options. I understand that ICAS is in the simplistic position of being happy with any route that would go to the south of its building, for the reasons that are fully explored in its evidence.

I do not wish to mislead the committees in any way; I am trying to be as candid as I can be about the promoter's position. I do not want to anticipate the amendment process, but at this stage I felt bound to explain what the promoter's position is and why. I hope that my explanation is satisfactory for the committee's purposes.

Kenneth Carruthers: Mr Thomson is correct to say that Haymarket Yards no longer supports options 1, 2 and 3 and is pinning its colours firmly to the mast of option 4.

The position that the promoter has now taken in relation to the promotion of option 4 causes a certain amount of difficulty because, as we have been at pains to suggest, to some extent it calls into question the very purpose of today's meeting. That said, in my cross-examination, I will simply seek to highlight the advantages of adopting option 4 rather than the parliamentary alignment. The committees may wonder whether there is any point in my doing that, given the position that Mr Thomson has just taken, but fundamentally that is what I consider my task to be.

The Convener: I accept that there is a difficulty.

Heriot Currie: I am not entirely clear whether Mr Thomson is telling the committees that the promoter's preferred option is option 4 or whether he is simply saying that the promoter recognises that option 4 has certain advantages. I found his utterances on the matter a little Delphic; perhaps he can clarify them at some point.

The position of ICAS is that it favours route 4; it is not a question of the organisation simplistically accepting any route that would go south of its building because it has proposed an amendment. I expect my cross-examination to be extremely brief. Indeed, had the promoter said that option 4 was its preferred option, it is questionable whether we would even have been here today.

The Convener: I quite take your point.

Elaine Farquharson-Black: My client is the author of the four options. My position is that, as long as the parliamentary route is the one that is being put before the committee, I will explore all four options because we put them forward. We will be happy if any of the four options is chosen. We indicated that if it was clear that the preferred route was now option 4, we would all be packing up and going home. However, if it is still the position that the route that is proposed in the bill is the one that the committees are considering, I must explore all four options today.

The Convener: That is the position. We must deal with the bill as it stands. On that basis, do you have any questions for Mr Oldfield, Mr Thomson?

Malcolm Thomson: Not at this stage.

Kenneth Carruthers: I will cover three areas with Mr Oldfield, the first of which is the location of the stop on Haymarket Terrace. I want to be clear that the choice of either the parliamentary alignment or option 4 would have no bearing on the location of that stop. Is that correct?

13:45

Andrew Oldfield (Mott MacDonald): In that respect, the routes are identical.

Kenneth Carruthers: There is no effect whatsoever. The stop stays where it is.

Andrew Oldfield: Correct.

Kenneth Carruthers: I will move on to ask about Network Rail's proposal to expand into what would have been the line of option 1, which was the reason for discounting that option. Can I be clear that Network Rail's proposal has no adverse impact at all on the adoption of option 4?

Andrew Oldfield: Correct.

Kenneth Carruthers: Can we assume therefore that the land that has variously been referred to as the landscaping strip or the reservation strip, into which you now wish to place option 4, is entirely surplus to Network Rail's requirements?

Andrew Oldfield: I believe that Network Rail will impact slightly on a small strip of land between Verity House and the existing Network Rail property.

Kenneth Carruthers: Yes, but the line to the east opposite Haymarket Yards is entirely surplus to Network Rail's requirements.

Andrew Oldfield: I would have thought so.

Kenneth Carruthers: I am generally interested in how we assess the respective merits of the parliamentary alignment and option 4. Your written statement recognises that both options have advantages and you say that the final selection will be finely balanced. Is it not the case that, on reflection, option 4 has very clear advantages over the parliamentary alignment?

Andrew Oldfield: There are some clear technical advantages.

Kenneth Carruthers: Is that not exactly the conclusion to which you came in the report that you prepared for the purposes of the City of Edinburgh Council planning committee meeting in May?

Andrew Oldfield: Yes.

Kenneth Carruthers: In advising the committee on the respective advantages of the parliamentary alignment and option 4, I just want to be quite clear where the weight truly lies. I will set this in context. I have here a document that I do not believe has been laid before the committee, but its contents ought to be within Mr Oldfield's knowledge.

There is appended to the committee report a report that you prepared—you certainly approved it—that is dated April 2005. Do you have that?

Andrew Oldfield: I have it. It is not a document that I approved. It was issued mid-revision.

Kenneth Carruthers: I am looking at the front page, which gives the heading and the date. It also gives two revisions—P1 and A—and you are noted as the approver of both documents.

Andrew Oldfield: I beg your pardon. The covering page for the report has that information on it, but the appended document does not.

Kenneth Carruthers: The document that I have is entitled "Edinburgh Tram Line One, Northern Loop New Transport Initiative Haymarket Yards Alignment Assessment". The report number is 203011/0084/A and it is dated April 2005.

Andrew Oldfield: Yes.

Kenneth Carruthers: You are noted as the approver. Is this page that I am showing you the front page of the document?

Andrew Oldfield: Yes.

Kenneth Carruthers: On page 19 of the document, there is a comparison of what is referred to as option PA, which is the parliamentary alignment. Is that correct?

Andrew Oldfield: Yes.

Kenneth Carruthers: Is that the option that the bill committees are currently considering?

Andrew Oldfield: Yes.

Kenneth Carruthers: And it is compared with option HY. Am I correct in saying that option HY is, in effect, option 4?

Andrew Oldfield: Yes.

Kenneth Carruthers: You then go through various criteria, the first of which is "Environmental". You say:

"The comparative assessment is predominantly neutral except in relation to noise and vibration which is better in Option HY. This is due to the route being in close proximity to the heavy rail alignment thus overwhelming any impact of the tram. Equally tram was originally anticipated to be in the reserved public transport corridor adjacent to the railway within the local plan and therefore the Haymarket Yards area has been developed in light of this."

Is it clear that, in relation to noise and vibration, your recommendation is that option 4 is superior to option PA?

Andrew Oldfield: I believe that that is the advice of our noise advisers.

Kenneth Carruthers: The next criterion is "CapEx". I take it that that means capital expenditure.

Andrew Oldfield: Yes.

Kenneth Carruthers: You say simply:

"Although not quantified the construction cost benefits will be in favour of Option HY."

You are saying that option 4 is cheaper than the parliamentary alignment.

Andrew Oldfield: Yes.

Kenneth Carruthers: The next criterion is car parking. You say:

"Notwithstanding the above, it has become evident from negotiations with objectors that to construct Option PA through Haymarket Yards, costs will be incurred to replace car parking to three of the developments. The cost of providing replacement parking for the three affected parties is estimated at approximately"—

there is a pound sign, but the figure is marked out. The position, however, is clear: it would cost more to construct the parliamentary alignment than it would to construct option 4.

Andrew Oldfield: Yes.

Kenneth Carruthers: There is then a discussion about what are referred to as "layover" and "turnback" facilities. I understand those to be means by which the trams can be stored in the vicinity of Haymarket Yards if you adopt option 4 as opposed to the parliamentary alignment.

Andrew Oldfield: They allow some operational flexibility for trams to stop temporarily to catch up with timetables and for breaks and that sort of thing.

Kenneth Carruthers: Am I correct in thinking that that would not be possible if you followed the parliamentary alignment?

Andrew Oldfield: Not within the Haymarket Yards area.

Kenneth Carruthers: Finally, you mention run times. You say simply:

"The resulting run time difference between the routes is approximately 25 seconds, in favour of Option HY"—

that is, option 4. Option 4 is a quicker route because it is straighter and more direct—is that correct?

Andrew Oldfield: It is.

Kenneth Carruthers: That analysis supports your conclusion, over the page, in which you recommend that those for whom the report was prepared should substitute the parliamentary alignment with option 4. Was that your conclusion?

Andrew Oldfield: That is correct.

Kenneth Carruthers: I refer to your conclusion in your written statement for the committee. You say that the whole issue is finely balanced. Is it not clear that it is not finely balanced in the slightest but that, on a whole range of criteria, option 4 is markedly preferable to the parliamentary alignment?

Andrew Oldfield: I think that this level of analysis was required to enable us to see the differences between the two.

Kenneth Carruthers: Let me be clear, Mr Oldfield. I am not being critical in the slightest; I am simply trying to ascertain precisely where you fall in your preference. Do you not have a clear preference for option 4 over the parliamentary alignment?

Andrew Oldfield: On the basis of the items in the report, yes.

Kenneth Carruthers: Thank you, Mr Oldfield.

Elaine Farquharson-Black: I would adopt my friend's cross-examination in relation to option 4, to save me having to go back and do that again. As I said before, I have some questions on some of the other options.

Mr Oldfield, in paragraph 3.4 of your statement, you confirm that a feasibility study was carried out between July 2001 and June 2002 in which you looked at several alignments and constraints. The consent for Citypoint was granted in 1998. As part of that feasibility study, did you not examine the planning records for the affected area, particularly where there were vacant sites?

Andrew Oldfield: The alignment that emerged from the north Edinburgh rapid transit study at the end of 2001—which was the one that we adopted at the beginning of our work and which was the basis on which the Scottish Executive told us to proceed to Scottish transport appraisal guidance 2 appraisal—was an alignment just to the south of Citypoint. At that time, there had been no planning search to address that planned development. However, within two or three months, we were able to find details of the footprint of that building, which, until that time, were not known.

Elaine Farquharson-Black: They were not known to you, but clearly they were known to the council, as the planning consent had been granted.

Andrew Oldfield: I do not know. Presumably.

Elaine Farquharson-Black: In paragraph 3.4 of your written statement you confirm that, having discovered that Citypoint was under construction, you identified two further options, which you set out in that paragraph. However, I do not think that option 2 saw the light of day. You went ahead with what you term option 1. You identify its advantages as being that it

“provided a better stop location for modal integration with the Heavy Rail Station and buses, greater segregation ... and made best use of the reserved public transport corridor”.

Those are three advantages that you highlight. You then confirm, in paragraph 3.8, that during the public consultation process you had to change the alignment because of Network Rail's proposals.

Andrew Oldfield: Yes.

Elaine Farquharson-Black: I will come back to that. Is it fair to say that if Network Rail had not come back to you, the preferred route would still be option 1 for all the reasons that you set out?

Andrew Oldfield: I believe so. Yes.

Elaine Farquharson-Black: Would it be fair to say that, if you had not accommodated Network Rail, the tram stop in option 1 still needed to be flat?

Andrew Oldfield: It could have been on a very slight gradient but, in principle, yes.

Elaine Farquharson-Black: With a maximum gradient at the time of 6.5 per cent, the tram stop structure would have had to be elevated, would it not?

Andrew Oldfield: Yes. The tram line would have been at the same level as Haymarket station and it would have passed over the top of the Haymarket station car park, to the west of the station. It would have had to be elevated there, and it could not climb down steeply. We based our design on a gradient of 6.5 per cent, which is a fairly typical light rail design parameter.

Elaine Farquharson-Black: On that basis, the option 1 line—which was and would still have been your preferred route, if Network Rail had not come back to you—would have come past Verity House at higher than ground level. As you say, you would have had to follow the 6.5 per cent gradient, and the tramline would not have got back to ground level by the time that it reached Verity House, would it?

Andrew Oldfield: That is correct.

Elaine Farquharson-Black: To my client, Verity House appeared to be viewed differently from Citypoint. In paragraph 6.3 of your statement, you reject my client's option 1 because of that option's

“more significant environmental impact on Verity House, its owners and occupiers”

and its letability. All those are matters of concern for my client, but you seem to give them an elevated importance in connection with Verity House. TIE—the bill’s promoter—is in Verity House, is it not?

Andrew Oldfield: Yes.

Elaine Farquharson-Black: Let us turn to Network Rail. As I understand it, Network Rail’s redevelopment of Waverley means that it needs the heavy rail bay platform at Haymarket station while the works are on-going.

Andrew Oldfield: I understand that that is correct.

Elaine Farquharson-Black: Is the platform at Haymarket a temporary measure until Waverley is back up and running?

Andrew Oldfield: We have been instructed by Network Rail to assume that it is not temporary.

Elaine Farquharson-Black: Has Network Rail confirmed what it intends to do with the platform when Waverley is back in operation? It is not a through route.

Andrew Oldfield: No, it is a bay platform. Network Rail has not confirmed its intention, but we have been instructed to assume that the platform will be permanent.

Elaine Farquharson-Black: The intention is now to carry out a master plan exercise for the Haymarket area. By the time that that is done, if the bill goes ahead, the tram station and the route will be fixed and there will be no opportunity to change their location through the master plan process—is that correct?

Andrew Oldfield: That is correct.

14:00

Elaine Farquharson-Black: Would it not be better to do it all at the one time and to use the master plan exercise, on which approaching £1 million will be spent, to look at everything afresh and without constraints?

Andrew Oldfield: My understanding is that a preliminary master planning exercise has been undertaken. The outcome is that the promoted alignment is consistent with that master plan, as is option 4.

Elaine Farquharson-Black: You disregard my client’s option 1, which in effect was your option 1 until the bay platform was proposed. My client suggests that that could still be the option if the structure were extended to cover that new platform. However, you seem to have rejected that

suggestion because of “cost implications”. Is that correct?

Andrew Oldfield: We have rejected it because of its cost and impact.

Elaine Farquharson-Black: Did you say “cost of impact”?

Andrew Oldfield: No, I said “cost and impact”. Network Rail would implement a new bay platform that, like option 1, is very close to Verity House. In order to accommodate both structures, we would need to raise the level of the tram alignment considerably to ensure that we were clear of the heavy rail’s zone of electrical influence, because that could be influenced by or influence the light rail system. Because the structure would have to be much higher at that point, it would have to ramp to the west further along, where it would also have a much more significant impact. The structure would be further up the south elevation of Verity House, which is why there would be a greater impact. Moreover, because it would be bigger and extend further west, it would cost more and would have a greater impact in visual and other physical terms.

Elaine Farquharson-Black: You and all the other witnesses agree that there are technical solutions that would accommodate Network Rail, but the issue comes down to cost and the impact on Verity House. Surely this is the City of Edinburgh Council’s opportunity to provide a world-class transport interchange and to upgrade Haymarket. However, the preferred route, or option 1, which we say can still be implemented even though it might cost a little bit more, is just being cast aside. That does not make any sense.

Andrew Oldfield: As I have said, it is my understanding that the preliminary master planning exercise yielded a station adjacent to Haymarket Terrace in a location that was consistent with the promoted alignment and option 4.

Elaine Farquharson-Black: Is there any reason why CGM’s option 4, which has become the preferred route as a result of this amendment, was not considered before my client suggested it?

Andrew Oldfield: It was identified at an earlier stage but, after comparison with option 1, it was discounted by inspection.

Elaine Farquharson-Black: But now, if you will pardon the pun, option 4 is back on track and is the promoter’s preferred route.

I have no further questions.

The Convener: Mr Currie, do you have any questions?

Heriot Currie: I am content to adopt Mr Carruthers’s cross-examination.

The Convener: Do committee members have any questions?

Alasdair Morgan (South of Scotland) (SNP): Mr Oldfield said earlier that a certain level of analysis was required to decide that option 4 was superior to option 1. However, it does not appear from your evidence that the analysis was all that substantial. I am puzzled by how that fits in with your comment that option 4 was discounted by inspection. Basically, many of us think that we are wasting our time here this afternoon. I would like an explanation for why we are wasting our time.

Andrew Oldfield: At the time that what is now option 4 was discounted, option 1 was still a viable option because the Network Rail design for the bay platforms had not come to light. If we compare those two options, I think that it is easy to see which is the better—

Alasdair Morgan: I may have misled you. Instead of referring to option 1, I should have referred to the parliamentary alignment. I was not referring to option 1 of the alternatives that are being suggested.

Andrew Oldfield: Is the question why we are considering the parliamentary alignment?

Alasdair Morgan: Yes.

Andrew Oldfield: When option 1 became unviable, the location of the stop was critical because the stop needs to be close to Haymarket station to achieve the desired integration and interchange with heavy rail at that location. For example, the link that Haymarket will provide between north Edinburgh and west Edinburgh is important for social inclusion purposes. That stop's position is very important.

When option 1 became unviable, we had to find another stop location close to Haymarket station. The stop needed to be off street because it would not be possible to continue to have an operating junction at Haymarket if the stop was on street. That is when the conclusion was reached that it would be necessary to demolish the Caledonian Ale House, which would have been demolished in any case under option 1.

As a result of the master planning exercise that was being considered at the same time, it was proposed that the light rail stop should be adjacent to Haymarket Terrace. That gave us a section of alignment at Haymarket Terrace that incorporates a stop, which is a good solution. We also had the alignment that had previously been developed for the north Edinburgh rapid transit study and for the earlier work package 1 during our commission. At that time, those two things were simply joined together and promoted for the parliamentary submission.

Alasdair Morgan: For all the reasons that you expounded earlier, option 4 seems to be superior,

because it gets back on to the previously reserved public transport corridor sooner than the parliamentary alignment and involves fewer curves. Why was option 4, as you said, discounted by inspection?

Andrew Oldfield: It was discounted by inspection after comparison with option 1. At no stage was it compared against the promoted route. It was really a timing issue. When that option was first identified, it was clear that it was not as good as option 1 so it was discounted at that stage. When we then found that we could not do option 1, the remaining opportunity for us to maintain our programme for deposit of the bill involved the use of the existing alignment. Option 4 had been identified, but it was not progressed at that time in comparison to the promoted option.

Helen Eadie: Which of the two options—option 1 or option 4—would be the favoured option in terms of intermodality, which is obviously critical?

Andrew Oldfield: The issue is finely balanced. The distance of the stop from the railway station would be similar under both options.

Helen Eadie: On social inclusion, what are the implications of each option for ease of access for disabled people, given the need for integration with a railway station that is, bear it in mind, the third busiest in Scotland?

Andrew Oldfield: Between option 1 and the promoted option and between option 1 and option 4, there would be no significant difference on that issue.

Helen Eadie: So the options would be equally easy for someone in a wheelchair who was coming into Haymarket station.

Andrew Oldfield: I believe so.

Marilyn Livingstone (Kirkcaldy) (Lab): Given the evidence that we have received, can we take legal advice about how we should proceed, or do we have to proceed on the original option?

The Convener: We are here on legal advice. I understand fully why you ask the question, but we cannot anticipate what the committees might decide at the end of the day. Having heard all the evidence on the statements, the committees might decide that the parliamentary line is the preferred one. The fact is that that is what is before us today and we must deal with it accordingly.

Malcolm Thomson: Mr Oldfield, you were asked about the intermodality aspect of the comparison between options 1 and 4. Bearing it in mind that option 1 is the route that goes down into the Haymarket station car park, I ask you to compare the bill alignment with option 4 in the context of intermodality.

Andrew Oldfield: The two are identical.

Malcolm Thomson: In that respect, all three options are equal.

Andrew Oldfield: Yes.

Malcolm Thomson: Does the same hold good for disabled access?

Andrew Oldfield: Yes.

The Convener: Thank you, Mr Oldfield. That takes us to the next witness, Stuart Turnbull, who will address highway and traffic requirements. As I have said innumerable times, before I invite questions, I ask Mr Thomson and Mr Carruthers to indicate briefly the issues that are in dispute with the witness in relation to highway and traffic requirements.

Malcolm Thomson: Mr Turnbull is here to speak to the road traffic imperatives for the proposed alignment—whether that is the bill alignment or option 4—particularly the effect that the need to preserve the current road layout on Haymarket Terrace has on the exercise. I am not sure that there is much dispute between the parties on the matter, although I stand to be corrected. However, some minor points of detail have been raised in rebuttals, which I will seek to clarify with Mr Turnbull. I think that they are comparatively minor matters—the clarification may involve little more than a proper understanding of the terms that Mr Turnbull uses in his statement. I do not think that there is any great controversy in relation to his evidence.

Kenneth Carruthers: The only question that I wish to ask of the witness is about the extent to which the analysis that he has undertaken of Haymarket junction would be influenced by the adoption of option 4 in place of the parliamentary alignment. If I may say so, I do not think that that would have any bearing on the analysis that is set out in the witness statement, but it would be useful if the witness clarified that for us.

Elaine Farquharson-Black: We are largely happy with Mr Turnbull's evidence, but I just want to explore where he is now, given some of the comments that he made about what he thought was the determining factor and what his preferred option would be.

Heriot Currie: I do not propose to ask anything in addition to what Mr Carruthers will ask.

14:15

Malcolm Thomson: Mr Turnbull, I believe that the second line of paragraph 6.2 of your statement on group 5 objections contains an erroneous reference to "option 3".

Stuart Turnbull (Jacobs Babbie): That is correct. The first sentence should state that, in my opinion, options 1, 3 and 4

"would provide opportunities for integration"

not options 1, 2 and 4.

Malcolm Thomson: Should that correction to your second concluding paragraph apply to your other two statements?

Stuart Turnbull: Yes.

Malcolm Thomson: I want to ask you about one or two points on which you have been taken to task in section 6 of Haymarket Yards Ltd's rebuttal statement. Which options were you comparing in that regard?

Stuart Turnbull: I was comparing options 1 and 4.

Malcolm Thomson: Does the rebuttal cast some doubt on the reader's appreciation of which two options were being compared?

Stuart Turnbull: My understanding is that, according to the rebuttal, I had stated that when compared with option 1, option 4 would have a greater impact on existing access to the Network Rail car park. That comment was queried in the rebuttal because of an understanding that I was comparing option 4 against the promoted route. However, I clarify that my point was that option 1 would leave existing access to the station car park unaffected whereas option 4 would impact on it.

Malcolm Thomson: Thank you.

Kenneth Carruthers: Mr Turnbull, in your witness statement, you look primarily at the operation of the complex Haymarket junction. Just to be clear, I take it that that analysis is in no way affected if the promoter ultimately adopts option 4 in place of the parliamentary alignment.

Stuart Turnbull: That is correct. The analysis of the junction hinged on the point at which the tram route left the road network and went into the off-street segregated section, which would be identical for option 4 and the promoted route.

Kenneth Carruthers: So the bulk of what you say about the Haymarket area stands equally if option 4 is adopted or if you stick with the parliamentary alignment.

Stuart Turnbull: That is correct.

Kenneth Carruthers: Thank you. I have no further questions.

Elaine Farquharson-Black: As I understand it, you feel that segregation is the important issue in the choice of the tram route's alignment.

Stuart Turnbull: That is correct.

Elaine Farquharson-Black: Does option 1, which is the consultative route, achieve the greatest segregation at Haymarket?

Stuart Turnbull: Yes, it does.

Elaine Farquharson-Black: In paragraph 4.5 of your statement, you set out a number of “core physical requirements” that the line must not impact on. Will you confirm that all of CGM’s options do not impact on the objectives that you have set out?

Stuart Turnbull: I am confident that options 1, 3 and 4 would not impact on those core physical requirements. As option 2, which involves a more radical departure of the tram route up Dalry Road, was not assessed in such detail using the traffic modelling software, I cannot say for certain that it would not impact on the operation of Haymarket junction.

Elaine Farquharson-Black: At paragraph 4.8, you say:

“Under the preferred option there would be fewer conflicts with road traffic in the vicinity of Haymarket station”.

Fewer than in what other option?

Stuart Turnbull: As I explained in my witness statement, a fairly detailed process was undertaken. I think that 13 different options for Haymarket junction were developed, all of which have largely the same core physical requirements, although some had a greater element of on-street shared running than others.

The point that I made in paragraph 4.8 is that, at the end of the process, of the 13 or so options that were considered, the promoted route was considered to have fewer conflicts than some of the other options that were assessed at that point. A comparison of the four main options was not made in the way that was presented by your client.

Elaine Farquharson-Black: Indeed, option 1 would still rank better than the preferred route.

Stuart Turnbull: Purely in traffic terms, it would. From my perspective, Haymarket junction would be very complex under the promoted option; the more quickly we can get the tram away from the junction the better.

Elaine Farquharson-Black: Yes. I appreciate that. I am seeking your point of view.

In section 5, you consider the four options that my client has put forward. Again, that consideration is from your personal and professional interest. As I read it, your preferred route would be option 3. You say that that option provides

“the greatest level of segregation”

after which the order of your preference would be for option 1, option 4 and option 2.

Stuart Turnbull: Yes, that is right.

Elaine Farquharson-Black: Thank you.

The Convener: I call Mr Currie.

Heriot Currie: I have no questions.

The Convener: Does any committee member have a question?

Alasdair Morgan: What is the difference between option 1 and option 4 in terms of segregation? Given that the route under option 4 goes into segregated track almost immediately, it diverges from option 1 in that respect. That is where the Caledonian Ale House is. I think that there is really not much difference between those two options in terms of segregation, perhaps apart from car-parking traffic. Is that right?

Stuart Turnbull: There is no significant difference between them. There are minor impacts in terms of the location of the bus stops on Haymarket Terrace and option 4 is closer to that. I would not argue that the differences are so significant that they cause me concern.

The Convener: Thank you.

Helen Eadie: If option 4 is followed, will compensatory car parking be provided elsewhere?

Stuart Turnbull: I am not sure that I can answer that. The question is one that would be better dealt with by others. I know that the promoter is investigating the car-parking provision at the station. I would have to ask one of my colleagues to deal with the detail of the question. Personally, I cannot give an assurance on that.

The Convener: Does any member have another question?

Members indicated disagreement.

The Convener: Mr Thomson?

Malcolm Thomson: No questions.

The Convener: Thank you. That concludes Mr Turnbull’s evidence on route selection.

We turn to Mr Lees, who will address the engineering and structural issues of route selection. Again, before I invite questions, I ask Mr Thomson and Mr Carruthers to indicate briefly the issues of dispute with the witness in relation to route selection.

Malcolm Thomson: I am so sorry. Is that in relation to CGM?

The Convener: No; all three. We are about to take evidence from Mr Lees on the basis of the engineering and structural aspects of route selection. Basically, what are the points of difference between your clients and the other parties?

Malcolm Thomson: I think that there are no significant differences, but I stand to be corrected.

Kenneth Carruthers: Mr Thomson is correct. Again, it is a matter of no great controversy. The only issue is the extent to which the analysis that Mr Lees undertook stands equally with the adoption of option 4 as an alternative to the parliamentary alignment.

Elaine Farquharson-Black: I have a couple of questions on Mr Lees's written comments on the options that we have proposed. There seems to be misunderstanding on a couple of the options.

The Convener: As Mr Currie has no locus in the matter, I ask Mr Thomson to proceed.

Malcolm Thomson: I have no questions at this stage and am happy to make Mr Lees available to be cross-examined.

Kenneth Carruthers: Mr Lees sets out what is, in essence, an engineering assessment, the final sentence of which states:

"the Parliamentary Alignment is the preferred option."

Is it fair to say that there is nothing to choose between the engineering implications of the parliamentary alignment and those of option 4?

Murray Lees (Mott MacDonald): Yes, that is true. From the structural point of view, my conclusion applies for options 1, 2 and 3, but there really is nothing to choose between option 4 and the parliamentary alignment.

Elaine Farquharson-Black: Again, I adopt Mr Carruthers's cross-examination in relation to option 4.

Paragraph 3.4 of your statement, which deals with the engineering aspects of my client's option 1, states that the proposal to build over the mainline railway bay platform would "cause ... disruption". Given that the bay platform does not yet exist, the two could surely be built together so that there would be no disruption.

Murray Lees: The sequencing that I had in mind was that the bay platform is potentially to be constructed before the proposed tram scheme. There will certainly be disruption to the area as a whole from the noise to which I referred and the height of the structure. That would be the case whether the bay platform was built in advance of or after the structure that would be required for the tramline.

Elaine Farquharson-Black: Surely it would make sense to dovetail the building work as far as possible. If Network Rail is to build something and the tramline could be built on top, it would surely make sense to consider whether those pieces of work could be done together.

Murray Lees: There would be some logic in that if the programmes could be co-ordinated and the two structures could be built at the same time. That would be beneficial.

Elaine Farquharson-Black: In the same sentence from which I quoted earlier, you go on to state that substantial disruption will occur

"during the operation of the Tram system."

I do not understand how extending the structure that the promoter suggests to make it a bit longer, as option 1 suggests, would affect the operation of the tram.

Murray Lees: There is an office block in the area. If the structure was extended and ran at the higher level for longer, trams would run for longer at the higher level past an office building. That would not happen if we did not choose option 1.

Elaine Farquharson-Black: We are back to Verity House again. I thought that paragraph 3.4 was about the impact that building the structure in option 1 would have on Network Rail, but when you mention the disruption that would be caused

"during the operation of the Tram system",

your concern is the impact on Verity House.

Murray Lees: The objective of my written comments was to point out all the issues that arise from the options that have been suggested. I commented on option 1 and its implications for the surrounding area.

Elaine Farquharson-Black: You raise a number of points about option 2, but it seems that you do not dispute its engineering viability. The option could be done, although you highlight cost issues. For example, you state:

"Possessions are expensive, due to the compensation payments".

I presume that you should have considered the wider picture and the costs of the whole of the option—we will speak to Mr Harper about that—but you just focused in and said that option 2 would be more expensive, so we should disregard it.

Murray Lees: I also touched on some of the operational issues for Network Rail. One of the issues that I raised is that the structure would cross the Network Rail lines at a skew, which could have signalling implications. The structure would impact on train drivers, who would have another obstruction across the line, so signalling arrangements might need to be altered and amended as a result. At present in that area, drivers have a clear view, which allows them to operate a safe railway.

14:30

Elaine Farquharson-Black: You will have seen Mr Clarkson's rebuttal statement on options 2 and 3. Do you accept that you appear to have misinterpreted option 3? With either option 2 or

option 3, we envisaged an overall replanning of Haymarket station and the integration of trams and trains.

Murray Lees: I certainly considered options 2 and 3 as being separate from Network Rail's routes. I perceived from the witness statement that the proposed options would be separate transportation corridors over the top of the Network Rail corridor, which would join the strip to the north side of the railway.

Elaine Farquharson-Black: What was envisaged for the station? Would there be one integrated station that would deal with the various modes of transport? Do you accept that if the plan is to create a transport interchange—which I understand is what is planned—it would make sense to have everything together?

Murray Lees: Minimising distances between the various modes of transport would certainly be beneficial. People have been asked about disability access and such matters today. From a purely structural point of view—on which my comments were based—I foresaw issues with locating the route over the top of the heavy rail infrastructure with options 2 and 3. I still foresee issues.

Elaine Farquharson-Black: On the basis that questions on option 4 have been asked, I have no further questions.

Helen Eadie: What issues is Mr Lees alluding to?

Murray Lees: Do you mean in relation to Network Rail?

Helen Eadie: In response to Elaine Farquharson-Black's question, you said that issues would arise. Will you clarify what those issues are?

Murray Lees: Yes. I have tried to set out a number of issues that relate to Network Rail. It is clear that as the structure goes over the top of Network Rail's land, it could not be supported without substructure columns that would go between Network Rail's tracks or on top of platforms, for example. That would have an impact on Network Rail. There are visual intrusion implications, which I talked about previously. Anything that is put down into the railway corridor from above will affect sightlines and such things in the railway corridor and the operational safety of Network Rail. There are also issues to do with electrical interference with the direct current system—the tram system is likely to have such a system in its signalling system underneath. It is important that Network Rail's signalling system is immune to such effects. Those are the kind of issues to which I am referring.

Helen Eadie: I want to follow up Elaine Farquharson-Black's point about providing an

integrated facility at Haymarket. Of all the options that have been proposed, which option would give the most advantageous rail interchange facility for disabled people, bearing in mind the fact that Haymarket station is one of the least disability-friendly main railway stations in Scotland?

Murray Lees: That question is difficult for me to answer because I do not know the relative levels of the integrated platforms and the stop locations. Obviously, it is important—indeed, it is a requirement—to provide access for disabled people, and that is certainly taken into account when ramps, textile paving for sensitivity underfoot and such things are designed and planned for tram systems. Option 4 or the parliamentary alignment, with the tram stop on a large, relatively flat area, would give disabled people reasonable access to the Haymarket heavy rail station.

The Convener: Does Mr Thomson have any questions?

Malcolm Thomson: I have none.

The Convener: That is the end of the evidence from Mr Lees on engineering and structural issues related to route selection. I thank Mr Lees.

The promoter's next three witnesses on route selection are Mark Bain, Neil Harper and Steve Mitchell. The witnesses will give evidence in relation to Haymarket Yards, CGM and ICAS, apart from Steve Mitchell, who is a witness in relation to ICAS only. I ask Mr Mitchell to come to the table.

Heriot Currie: I do not think that it is necessary to cross-examine Mr Mitchell again. I cross-examined him earlier and that is probably sufficient.

The Convener: That is helpful, Mr Currie. In that case, we can proceed to take evidence from the other two witnesses but, before we do so, I require Mr Bain to take the oath or make an affirmation.

MARK BAIN *made a solemn affirmation.*

The Convener: The first witness will be Mr Bain, who will address alignment considerations. I invite Mr Thomson and the representatives of the other parties to give a brief indication of the issues that are in dispute with this witness.

Malcolm Thomson: In light of the promoter's current position on option 4, the only area of dispute is likely to be Mr Bain's views on options 1, 2 and 3, on which he continues to have reservations that certain other parties do not share.

Kenneth Carruthers: In light of that position, I have no questions for the witness.

Elaine Farquharson-Black: In light of the promoter's position, I have no questions on option

4. I have explored a number of the points on that with other witnesses and do not intend to go through them, so my questions to the witness relate to the evidence in his rebuttal statement to do with a light well.

Malcolm Thomson: There is just one point that I would like to clarify if I may, Mr Bain. In relation to one of the rebuttal statements—I think that it is the CGM rebuttal statement—there is a question about whether the gradient causes a difficulty in relation to option 4. Will you help us on that matter, please?

Mark Bain (Mott MacDonald): With reference to paragraph 6 of the objector's rebuttal, I confirm that an allowable maximum gradient of 8 per cent would not preclude option 4.

Elaine Farquharson-Black: Mr Bain, I ask you to look at the figures that are in paragraph 2.1 of your rebuttal statement to Mr Robertson's statement. In the top picture, you have set out the situation "as existing"—we have the building, the paved area, the landscaped area and then the pavement. Below that, we see sections: section a.a. is at the widest point of the light well and section b.b. is at one of the closest points. We can see in those sections how close the light well is, how far up the window it comes—it is halfway up the window—and where the light comes into the building. Do you have a plan that shows the line of the relocated footway superimposed on the existing situation? All you have done is to show the existing situation; we do not know what is proposed.

Mark Bain: No, I do not have such a plan in my evidence, but one can be prepared.

Elaine Farquharson-Black: You have confirmed that the tram route will occupy the land that is currently the public footway.

Mark Bain: That is correct.

Elaine Farquharson-Black: You are referring to the area above the shaded area on the map. The boundary will be pushed back again to create space for a 2m-wide footway.

Mark Bain: That is correct.

Elaine Farquharson-Black: So everything is moving closer to the Citypoint building. However, you cannot tell us today how close the line will be to the building or what it will look like.

Mark Bain: I have explained that the tramway will be entirely outwith the structural area of the light well. At its widest point, the impact will be from a 2m-wide footway that will be required. At that point, the tramway will be 2m closer to the building. However, at section b.b it will be no closer.

Elaine Farquharson-Black: In your statement, you speak about keeping the paved area for maintenance.

Mark Bain: That is correct. The area is level.

Elaine Farquharson-Black: I refer you to sections a.a and b.b. The only area that will remain open is the area a little to the right of the little wall next to the building.

Mark Bain: The exact position of the realigned footway will be somewhere between the brick retaining wall and the reinforced concrete retaining wall that is shown on the plan.

Elaine Farquharson-Black: Section b.b shows that only a small gap will be left.

Mark Bain: We will have to examine that issue in fine detail. The footway will not contravene the line of the small brick wall, but it may contravene that of the reinforced concrete wall at the higher level.

Elaine Farquharson-Black: Do you accept that it is vital to get light into the basement, so that it can operate as an office?

Mark Bain: Yes.

Elaine Farquharson-Black: Do you accept that, although you are proposing glass bricks, those will obscure light? We are talking not about transparent glass, but about obscure glass.

Mark Bain: I cannot tell you exactly how translucent the glass will be. It will allow passage of a significant percentage of light, but not the same percentage as clear glass would allow.

Elaine Farquharson-Black: The plan shows a woman standing in the basement. People in the basement will see the feet of those using the footway.

Mark Bain: I must point out that this is a CGM drawing.

Elaine Farquharson-Black: I am saying that people in the basement will see obscure glass and feet walking within the paved area of the building.

Mark Bain: At section b.b, the distance between the proposed route and the current position of the back of the footpath is of the order of 200mm.

Elaine Farquharson-Black: The problem is that you have not yet done enough work to be able to confirm to my clients what the impact of the tramway will be. The same is true of the other issues that have been raised.

Mark Bain: The detailed design work is still to be undertaken.

Elaine Farquharson-Black: I have no further questions for the witness.

The Convener: Members have no questions for the witness. Mr Thomson, do you have any further questions?

Malcolm Thomson: No.

The Convener: That concludes Mr Bain's evidence. The next witness is Mr Harper, who will address the issue of capital costs. Before inviting Mr Harper to give us evidence, the parties should indicate briefly the issues relating to capital costs that are in dispute with the witness.

Malcolm Thomson: Some fair criticisms have been made of Mr Harper's evidence statement, which fails to specify the options that have been compared or to give the capital costs. I hope to remedy those criticisms when I lead his evidence. An important point of clarification is also required. The rebuttal statements question whether the figures to which he will speak include compensation payments. I make it absolutely clear that they do not. Mr Harper is considering the technical financial costs—compensation is outwith his field. The promoter takes account of it, but not at his level of the calculation.

14:45

The Convener: Mr Carruthers, what are your issues?

Kenneth Carruthers: Mr Thomson has outlined the issues that I will want to address in my questioning.

Elaine Farquharson-Black: Mr Thomson has answered one of my questions, but I am concerned about his suggestion that he is going to introduce the capital costs, because if he is about to throw figures at me I will need to speak to my witnesses about them. I had not envisaged that we were going to get into that, so I have no questions at this point. I would need time.

Heriot Currie: Mr Thomson has conceded the deficiencies in the witness statement that I was going to highlight, so I have no need to cross-examine the witness.

Malcolm Thomson: Mr Harper, we should be absolutely candid about this and explain that the statement that was lodged on your behalf was not the one that you intended ultimately to be lodged.

Neil Harper (Brian Hannaby & Associates): That is right. It was a first draft. The final version apparently has not been presented.

Malcolm Thomson: For that we apologise to the committee.

Could we address first the question of which routes you compared?

Neil Harper: We prepared capital cost estimates for option 1 and the parliamentary alignment.

Malcolm Thomson: Option 1 being the route through the station car park.

Neil Harper: Yes, and running to the south.

Malcolm Thomson: Are you able to indicate the capital costs that you arrived at for each of those options?

Neil Harper: Yes. I confirm that in this context capital costs are infrastructure construction costs and exclude any land or property matters, such as compensation. For the length of the route between common points the estimated cost of option 1 was £8.95 million and of the parliamentary alignment was £7.8 million.

Malcolm Thomson: Again, to be absolutely clear, all questions of compensation are outwith your area of expertise and involvement.

Neil Harper: That is correct.

The Convener: Prior to cross-examination, we will adjourn for five minutes, which will enable Mrs Farquharson-Black to consult her witnesses on the matters that have been introduced.

14:47

Meeting suspended.

14:55

On resuming—

Kenneth Carruthers: In light of the clarification that I have been given, I have no questions for this witness.

Elaine Farquharson-Black: I have only one question for the witness. Does he accept that the costs that he has outlined are incomplete? Does he agree that the costing of the project must take into account compensation issues, which, as Mr Thomson fairly said, are not included in the figures?

Neil Harper: Yes; I agree that a total assessment would include those issues.

Heriot Currie: I have no questions for this witness.

The Convener: Do committee members have any questions?

Jeremy Purvis: My understanding is that the paper that we have before us is a first draft rather than the final report. Why is that the case?

Neil Harper: I believe that that is the case but I cannot answer your question as I was not the person who submitted the witness statements.

Jeremy Purvis: Whom should we ask?

Malcolm Thomson: I can provide further clarification. I do not know why, but the final report

arrived after the deadline. By that time, we had had to lodge the draft document, which we did not appreciate was only a draft.

The Convener: I think that you will appreciate that that is a highly unsatisfactory state of affairs.

Malcolm Thomson: I appreciate that.

The Convener: Do you have any further questions for the witness?

Malcolm Thomson: No.

The Convener: That being the case, that concludes the evidence from Mr Harper.

Our next witness is Steve Mitchell, who will address only the issue of environmental considerations in relation to ICAS.

Heriot Currie: I indicated a few moments ago that I think that I exhausted all of the questions that I have for Mr Mitchell when I cross-examined him the first time around. I will not trouble him again.

The Convener: That is helpful. If members have no questions for Mr Mitchell, we will move on.

We are proceeding as quickly as we possibly can, but I should indicate that, in view of the time, it is most unlikely that we will be able to deal with the objections in the name of Versicolor, the Caledonian Ale House and Norwich Union Linked Life Assurance, which has lodged two objections. We will proceed as far as we possibly can with the other objections. Parties who are concerned with the objections that I just mentioned can now go; we will be in touch to advise them of when the matters will be considered.

Moving to group 5, we will take evidence from objectors and witnesses from Haymarket Yards Ltd. Before we take evidence, Mr Robinson must take the oath or make an affirmation.

DAVID ROBINSON *took the oath.*

15:00

The Convener: I ask Mr Thomson to highlight the issues that are likely to be contentious.

Malcolm Thomson: I do not intend to cross-examine every witness on every matter that is in dispute between the promoter and objectors. It is patent from the statements that we have all read that some matters will probably never be resolved between the parties. I do not propose to waste time asking further questions about those matters. I intend to limit my questions to matters for clarification, to help the committee to appreciate the nature of the dispute, rather than its existence.

Kenneth Carruthers: I will deal with a procedural matter. In anticipation of Mr Robinson's evidence on the points of dispute and in

accordance with the information package that the committees sent, I asked Mr Robinson to prepare an opening statement. I ask for permission for him to read that initial statement on the points of dispute, after which Mr Thomson can cross-examine him if any matters arise from it.

The Convener: Please proceed.

Kenneth Carruthers: I have spare copies of the statement, if they would assist the committees.

The Convener: How long is the statement?

Kenneth Carruthers: It is one and a half pages long.

David Robinson (Haymarket Yards Ltd): I have read carefully the statements and the rebuttal statements that were prepared for the promoter. For the committees' convenience, I will summarise the outstanding issues.

Three potential alternative routes for lines 1 and 2 merit consideration. They can be referred to as route A—the parliamentary route and the promoter's option, which is shown in document P5/19; route B—the HYL option that is shown in the illustration that is appended to the HYL rebuttal statement; and route C—which HYL calls option 4 and which the council has resolved to proceed with in an amendment to the bill. For convenience, I have attached copies of drawings that show each option and appended document P5/12, which shows the consented Haymarket Yards scheme.

Haymarket Yards Ltd remains of the view that, of the options, route C is far and away the most sensible and is clearly preferable to route A, for the reasons that are set out in my statement and rebuttal and which I would be happy to reiterate. Route A—the parliamentary route—is the least attractive of the three options. It would give rise to the greatest disruption and the highest compensation claim. I would be happy to explain any of that.

The promoter's comments about plot 284 are welcomed. TIE had explained that the land at the front was required for landscaping and to construct a footway and cycleway. As the promoter is now prepared to accept car parking and the route of the tramline in that location, HYL maintains that no justification exists for eliminating the possibility of moving the access road to the ICAS building and to Haymarket Court into that area, should option 4 become impossible for any reason. That would allow several potential design solutions to be considered that would avoid numerous disadvantages of route A.

To be clear, Haymarket Yards would still have serious reservations about the tram following route B to the rear, which would have to be considered in detail should option 4 fail. However, route B has

advantages over route A, which is the parliamentary alignment.

Turning to the more specific points made in Mr Turner's rebuttal statement, I do not accept that the promoter's route A, shown in document P5/19, provides better control of access than the Haymarket Yards consented scheme that is shown in document P5/12. With the consented scheme, a single point of access could be established to regulate traffic into ICAS and Haymarket Court. Alternatively, the point of control could be adjusted into the Haymarket Court site, providing control over all but six or seven of the Haymarket Court dedicated spaces.

The arrangements shown in document P5/19 give rise to a range of other issues that have been summarised in the rebuttal statement. I do not accept that the spaces shown in document P5/19 enjoy the same ease of access or that the access road requires to be crossed to gain access to the Haymarket Court building. In the P5/12 option, a number of pedestrians would require to walk across the car park, which is private, from the spaces on the northern boundary to the Haymarket site. That would be materially less hazardous than the arrangement shown in P5/19, where access would require to be taken over the public road that circulates the Haymarket Court buildings and serves ICAS.

Once again, Mr Turner's assurance in connection with the council's developer contribution policy not applying to any changes brought about by the development of the tram is welcome. However, TIE should confirm that the tram contribution policy has no application in relation to any amendments to the extant planning consent that have been brought about as a consequence of the tram proposals. HYL would welcome that assurance.

In conclusion, HYL remains firmly of the view that the reconfiguration shown in document P5/19 does not adequately address the disadvantages that flow from the adoption of the parliamentary alignment. Haymarket Yards welcomes the promoter's stated intention to adopt option 4 in place of the parliamentary alignment, and would not expect to have any serious opposition to the adoption of that alternative. However, if option 4 fails, the promoter should give serious consideration to route B as an alternative to route A, which remains the least attractive of the three.

I am happy to take questions.

Kenneth Carruthers: I have no further questions.

The Convener: We can move straight to cross-examination, but I underline once again the fact that in this instance the local authority cannot lodge amendments to the bills. That is the difficulty

with the situation, which is becoming more and more apparent as proceedings continue.

Cross-examination, Mr Thomson.

Malcolm Thomson: I wonder if you might allow me two or three minutes to take instruction? The first I saw of the statement was a few moments ago. You will appreciate that we have turned from talking about options 1 to 4 plus the parliamentary route to talking about routes A to C. I would like to ensure that I understand exactly what is being said before we go any further.

The Convener: That is a fair point. We will suspend for a brief period.

15:08

Meeting suspended.

15:15

On resuming—

The Convener: Mr Thomson, please proceed.

Malcolm Thomson: Mr Robinson, I want to ask about route B, which I understand is shown in what appears to be an aerial photograph.

David Robinson: That is correct.

Malcolm Thomson: Can I also draw your attention to—

The Convener: Can I interrupt you? I am having a bit of difficulty in seeing how this relates back to the original objection.

David Robinson: The point about route B is that, following discussions that we had with TIE when the alignment was promoted, we thought that there was absolutely no reason why the road should not have been moved south into the reservation strip if it was not to be used for the transportation purpose for which it was originally set aside in the section 75 agreement that applied to the planning consent. In particular, we were concerned about the wish to have an enclosed, self-contained site instead of a site that had a public highway running through the middle of it. At the outset, we asked TIE why, if the parliamentary route had to be accepted, the road could not be relocated to the south with the tram following to the rear.

The Convener: Okay, thanks for that. I am sorry for interrupting you, Mr Thomson. I was simply trying to save some time.

Malcolm Thomson: I am sorry that this is not as clear as it might be.

The Convener: Indeed.

Malcolm Thomson: Mr Robinson, am I right in thinking that the main difference between the route

in P5/16 and your option route B is that, in your proposal, the roadway passing to the south of the ICAS building and your client's land should be a straight line that continues eastwards past the Government building Elgin House?

David Robinson: Principally, yes.

Malcolm Thomson: Have you considered whether route B, in which the access roadway is a straight line, could be achieved under the powers in the bill?

David Robinson: There have been some discussions with TIE on whether that could or could not be done. However, we are not clear whether it could be done.

Malcolm Thomson: In P5/16, one sees the kink in the roadway. It goes further to the south opposite your client's building than it does outside Elgin House. Am I right in thinking that the proposal for car parking and an access road to the south of your client's building could be achieved only with the co-operation of your client, as it involves the use of land belonging to your client that is outwith the limits of deviation under the bill?

David Robinson: That proposal would involve land in our control. That is, however, subject to a section 75 agreement under the terms of the extant consent that has been granted for the building.

Malcolm Thomson: Indeed. However, the section 75 agreement could be capable of being overcome in the light of changed circumstances. This might be just such a changed circumstance.

David Robinson: I accept the point.

Malcolm Thomson: The proposal in P5/16 could be achieved on the basis of co-operation between the promoter, with the powers contained in the bill, and your client's landholding.

David Robinson: P5/16 also shows an additional access to the car park serving the Citypoint building. That is not shown on route B. At the top right-hand corner, the drawing shows an access point that services a site to the north, which does not exist at the moment. That had been dropped in P5/19.

Malcolm Thomson: We might be talking at cross-purposes, as my P5/16 does not show an access to Citypoint at all.

David Robinson: If you look at the drawing more closely, you will see that there is a road that goes round the building and off to the rear. There is an open junction, which, under previous proposals from TIE, had an additional access to the car park serving Citypoint.

Malcolm Thomson: But if you look at P5/19, you will see that that loop of road is closed off.

David Robinson: Yes, that is right.

Malcolm Thomson: If your client was interested in maintaining the security of the ICAS property and the proposed building on your client's site, it would be an obvious thing to close that access off.

David Robinson: That is what we have already suggested to TIE.

Malcolm Thomson: I believe that 5/16 is your client's drawing.

David Robinson: Could you clarify your reference to 5/16?

Malcolm Thomson: It is the drawing that I am holding up now.

David Robinson: Yes, that is right.

Malcolm Thomson: That was produced by someone on behalf of your client.

David Robinson: It was produced by us in response to proposals that were put forward by TIE, but it was not a drawing that we accepted as a final solution.

Malcolm Thomson: So it is a drawing that is subject to on-going discussion.

David Robinson: Yes.

Malcolm Thomson: As far as you are aware, was it ever suggested expressly, by either TIE or your client, that that loop of roadway in the north-east corner should be opened again, as opposed to being closed, as is shown in P5/19?

David Robinson: When the drawing was prepared, it was clear that TIE was seeking to gain access to the car park serving the Citypoint building. On subsequent drawings, in particular that which shows route 5/19, we, through negotiation, persuaded those representing TIE that those rights should not be given over land that we own.

Malcolm Thomson: Can you help me on whether 5/16 came before or after 5/19?

David Robinson: I believe that 5/19 came after 5/16, hence the numbering.

Malcolm Thomson: Thank you.

Kenneth Carruthers: Let us be clear about that last point, Mr Robinson. Would you describe the stage that the design development of the schemes as shown in P5/16 and in the aerial photograph entitled "route B" has reached?

David Robinson: P5/16 shows a schematic level of design. It has not been looked at in detail and was produced as a result of negotiation to try to reduce the impact on the building, should the parliamentary route be pursued.

Kenneth Carruthers: Was it something that you advocated in your discussions with TIE?

David Robinson: Only as a compromise that would be secondary in the pecking order to the option 4 route.

Kenneth Carruthers: And subject, as you have just said, to more detailed design development.

David Robinson: Absolutely.

Kenneth Carruthers: What about route B? How does that sit in the scheme of things?

David Robinson: Route B is very schematic.

Kenneth Carruthers: Are you saying that it was another possibility that you were putting forward as an alternative to what you thought was being forced upon you by TIE in those discussions?

David Robinson: It was put forward in an effort to minimise the impact should the parliamentary line be pursued, but it was not put forward as the preferred option. We have stated all along that option 4 is the preferred option.

Kenneth Carruthers: Thank you. I have no further questions.

Helen Eadie: It would have been helpful if the documents had been labelled more clearly. I feel really frustrated that I do not understand them.

The Convener: I have comments to make about that later.

Malcolm Thomson: I wonder whether we could clarify—and I do not mean any disrespect—who Mr Robinson is. I say that because the original statement of objection is in the name of Haymarket Yards Ltd but does not bear his name. The statement that he read out bears his name, but does not indicate whether he is representing the company or one of its advisers.

David Robinson: I am quite happy to explain. I am director of Haymarket Yards Ltd and a director of Bett Properties, which is a shareholder in Haymarket Yards Ltd.

Malcolm Thomson: That was the assumption that I had made. It just struck me that it had not been clarified.

The Convener: That concludes Mr Robinson's evidence and the questioning for Haymarket Yards Ltd. The committees are clearly anxious to be as flexible as possible. We are of a mind not to allow opening statements, although in this case we allowed one. The past half-hour has demonstrated that doing so is not a satisfactory way in which to proceed, and it will be with very great reluctance indeed that any further opening statements are allowed. Parties to this matter should acknowledge that.

I give Mr Thomson a maximum of five minutes to make any closing remarks that he may have about the evidence relating to the objector.

Malcolm Thomson: Thank you, sir.

In my submission, the evidence that we have had today demonstrates that the area in dispute between the promoter and Haymarket Yards Ltd is probably not very great, if option 4 is to be pursued rather than the parliamentary alignment. Haymarket Yards Ltd has not conceded in absolute terms that it would not be here if we were pursuing option 4, but it has come remarkably close to doing so. I am not sure that I could put my finger on any issue that would prevent it from doing so.

If we remain with the parliamentary alignment, there are matters in dispute. In my submission, there is nothing fatal to the bill, its scheme or alignment in the objection raised by Haymarket Yards Ltd. Nothing that has been raised cannot be addressed or mitigated in some way. That which could not be would properly form the subject matter of a compensation claim in due course. In my submission, there is nothing in the objection that ought to discourage the committees from proceeding with the bill and nothing has been put forward by way of proposed amendment other than option 4, with which we are all now familiar and which could alleviate the objector's problems.

15:30

The Convener: I am obliged, Mr Thomson.

Kenneth Carruthers: By way of a closing submission, I would like to make two broad propositions. The first is that, on behalf of HYL, I invite the committees to reject the parliamentary alignment in the vicinity of Haymarket Yards and to endorse the promotion of the alternative alignment, which is referred to as option 4. I make that recommendation on the basis that steps are to be taken by the promoter to take forward option 4, as an amendment to both bills, so the committees would effectively have before them two alternatives. They would therefore be in a position to express a preference in respect of the two possibilities.

My second proposition is that if, for any reason, the promoter abandons option 4, Haymarket Yards would request that the committees recommend to the promoter that it makes every effort to mitigate the impact of the parliamentary alignment through exploring fully the scope to take the access road that serves the Haymarket development on to the transportation corridor to the south.

I will make one or two brief additional comments on each proposition. On the first proposition—the adoption of option 4—I will make three simple

points. First, option 4 uses land that is set aside in the development plan for that purpose and it has always been seen by the objector as the natural location for the tram route. Secondly, the adoption of option 4 would have no impact on the ability of Haymarket Yards to implement the consented scheme. As Mr Thomson has said, it is unlikely that any material objection would come forward from that source upon the adoption of option 4 and the consented scheme could be implemented exactly as planned. Option 4 has clear advantages for Haymarket Yards for that reason. Thirdly, on the basis of Mr Oldfield's evidence, the parliamentary alignment should be rejected in favour of option 4 on the basis that the parliamentary alignment gives rise to more noise and vibration and to the need to provide replacement car parking, is more expensive, is less flexible in its scope to accommodate layover and turnback facilities and involves a longer run time. For all those reasons, I submit that, on the basis of today's evidence, option 4 is clearly preferable to the parliamentary alignment. The parliamentary alignment should be rejected for those reasons.

On my second proposition, the need to explore fully Mr Robinson's route B, we welcome the evidence given today that the promoter is prepared to examine the solution in more detail. Haymarket Yards Ltd sees route B as having clear advantages over the arrangements shown in document P5/19. My client would welcome further dialogue on the matter, but I sincerely hope that such dialogue will be unnecessary in the light of the promotion of option 4, which is my client's primary objective.

That concludes the submissions for this objector.

The Convener: Thank you, Mr Carruthers. That concludes the oral evidence for group 5.

We now move on to group 42—CGM (Edinburgh) Ltd. I suspend the meeting briefly to allow Alan Robertson and Neil Clarkson, the witnesses provided by CGM, to take their places at the table.

15:34

Meeting suspended.

15:35

On resuming—

The Convener: We will now resume. Before we commence taking evidence, Mr Alan Robertson and Mr Neil Clarkson are required to take the oath or make a solemn affirmation.

ALAN ROBERTSON and NEIL CLARKSON took the oath.

The Convener: Thank you, gentlemen. Alan Robertson will speak first, but before I invite questions, I ask Mrs Farquharson-Black to indicate briefly the witnesses' disputed issues in relation to the impact on Citypoint.

Elaine Farquharson-Black: The issues are simply that my clients do not accept that there will not be an impact on the building and the letability of the building and we are not satisfied with the assurances from the promoter. The issues that were explored with the promoter's witnesses will now be explored with my witness. I intend to put some additional points to him that have come out of the evidence this morning.

The Convener: Mr Thomson, am I correct in thinking that the only disputed issue from the witnesses concerns the light well in Mr Robertson's evidence?

Malcolm Thomson: Yes. There is also a general difference in view about whether the tram, at least in the medium to long term, would have a beneficial value to premises such as those that are mentioned or would have the opposite effect, as is contended by the objectors.

I would like to ask at least one of the witnesses about the matter that is raised in the rebuttal statement that concerns the sale of the property by CGM (Edinburgh) Ltd. To poach my learned friend's expression, there is a Delphic reference to a financial interest that has been maintained in the property. I would like to explore exactly what that means.

Elaine Farquharson-Black: I am not used to sitting quite so close to my own witnesses. Mr Robertson, you heard evidence this morning from the promoter's witnesses that they do not believe that the fixings were going to cause any problems for window cleaning. Reference was made to cradles being used and their making matters more difficult. Will you clarify whether those could be used at the Citypoint building?

Alan Robertson (Jones Lang LaSalle (Scotland) Ltd): The Citypoint building has a window-cleaning system that relies on using long brushes for the ground and first-floor windows and metal gantries that are fixed to the external walls of the building for all the upper floors. The fact that there will be an unknown number of wires fixed to the building concerns us from the point of view of building maintenance in that it will make it much more difficult to use the long brushes and, with the electric overhead wires in close proximity, it might be dangerous to use the long brushes. The same goes for access to the gantries if people have to clamber over wires on their way round the gantries. The suggestion that a cradle system could be used might have had credibility if the building had not already been built, but it would be

very difficult, if not impossible, and certainly expensive to retrofit a cradle system. That is not a sensible proposition in this instance.

Elaine Farquharson-Black: We also heard evidence that the building contract could take between 30 and 36 months, but that there would be short bursts of activity and periods when nothing would be happening. Mr Mitchell suggested that if somebody were looking to take on a lease over 20 years, the fact that there will be some construction work going on at the start would not affect that. What are your comments on those points?

Alan Robertson: The leases are likely to last 10 or 15 years rather than 20 years. The prospect of living beside a building site for up to three years near the beginning of the lease would be a strong turn-off for potential Citypoint occupiers. One has to remember that they would be considering Citypoint and two or three other available buildings, so it would be seen by potential occupiers as a strong disadvantage for Citypoint if there were a prospect of such a long period when the road beside it was effectively a building site over which they had no control.

Elaine Farquharson-Black: You have now seen Mark Bain's detailed rebuttal statement on the light well and the lack of impact that he believes it will have on the Citypoint building. What are your comments on his evidence?

Alan Robertson: We heard more about the proposals just last week. The impact will be greater than I had thought. That light well is the largest light well of three. The lower ground floor of the building relies on the light wells for a view out to small landscaped areas and, more important, for natural daylight coming into the building. The light well in question is the largest single source of daylight that reaches that floor. Six windows would be impacted.

As I understand it, the new pavement, albeit one that might be made of glass blocks, could come as close as 1m to the building. That would mean that the benefit of the landscaping would disappear altogether and most of the light that comes into the building through the light well at the moment would no longer reach the building. The lower ground floor is one of the floors that are let to Analog Devices. It was necessary to give a rental discount to reflect the fact that that space was on the lower ground floor. I think that it would be treated more as storage space than as office space if the light well was, in effect, taken away.

Elaine Farquharson-Black: Those were the additional points that came out of the evidence from this morning.

Malcolm Thomson: Mr Robertson, in your rebuttal statement you say that the Citypoint

building was sold on 24 May 2005 by CGM (Edinburgh) Ltd, but that

"CGM nonetheless retain a continuing financial interest".

What does that mean?

Alan Robertson: The building was sold, but the development site was not sold. CGM still owns the development site beside the building.

Malcolm Thomson: But the building itself has been sold.

Alan Robertson: Yes.

Malcolm Thomson: So CGM (Edinburgh) Ltd has no continuing financial interest in the building itself.

Alan Robertson: I was not involved in negotiating the sale, but my understanding is that CGM (Edinburgh) Ltd has an obligation to the new owners of the building to continue the process that was started for the committees.

Malcolm Thomson: I presume that that is subject to what the committees have to say about that.

Alan Robertson: I am not sure that that is my area of expertise. I was not involved in that contract.

Malcolm Thomson: At the moment, apart from some contractual arrangement with the purchaser, your clients would maintain the objection to the bill despite the fact that your clients have no continuing financial interest in the Citypoint building.

Elaine Farquharson-Black: Mr Robertson was not involved in the deal of the transfer. I can confirm what the position is, but the matter of the on-going financial interests is not something of which Mr Robertson would be aware.

The Convener: I appreciate that, but the question is about how your clients would be prejudiced by the potential of the tramline operating along the proposed route.

Elaine Farquharson-Black: Indeed, but I do not think that Mr Robertson knows the answer to that. He was not party to the deal.

The Convener: His firm no longer has a financial interest in the building.

Elaine Farquharson-Black: The firm does, however, have an on-going financial interest in terms of the deal that has been struck.

The Convener: On what basis does Mr Robertson not know the answer to my question?

Alan Robertson: I am not from CGM; I am from Jones Lang LaSalle. We were the letting agents for CGM, and we have been appointed as its consultants for this exercise. I was not involved in the sale of the building.

15:45

The Convener: Perhaps we could extricate ourselves from this difficulty if some written statement can be made by the appropriate party, indicating what the exact situation is.

Elaine Farquharson-Black: Thank you.

Malcolm Thomson: I wonder whether that clarification could also highlight the land that is retained by CGM.

The Convener: Yes—that would be appropriate.

Malcolm Thomson: Thank you.

Mr Robertson, do you know whether your clients are the landlords of Analog Devices Inc?

Alan Robertson: They are no longer the landlords.

Malcolm Thomson: Have you seen the lease between what was originally CGM and Analog Devices Inc?

Alan Robertson: Yes.

Malcolm Thomson: Can you help us on the terms of the break provision?

Alan Robertson: Yes. I will explain the history of the situation. Two floors in the building were under offer to Analog Devices when the bills were published. When people at Analog Devices heard about that, they said that they would not want to go ahead and sign a lengthy lease for the building when they might be living beside a tram site, with the loss of all the car parking space. The only way to rescue that deal and to stop it falling through was for the landlords to say that, if Analog Devices took the space, it would be given a break option so that, if and when the tramline contract proceeded, the company could break the lease without penalty if it did not like the look of it. The deal was concluded on that basis.

Malcolm Thomson: Am I right in understanding that Analog Devices Inc was the first tenant to come along?

Alan Robertson: Yes.

Malcolm Thomson: The first prospective tenant?

Alan Robertson: It was not the first prospective tenant. Others had viewed the building, but the people from Analog Devices were the only ones who signed up.

Malcolm Thomson: How long had you been marketing the building before the news of the tram came along?

Alan Robertson: We had been marketing the building for about nine months before the news of the tram came along.

Malcolm Thomson: Am I right in thinking that there is a degree of uncertainty about the future of Haymarket, because of various master planning exercises that have been discussed for some time?

Alan Robertson: There is uncertainty. From an office occupier's point of view, I would say that the uncertainty is generally positive. It is perceived that Haymarket will become a better area, rather than a poorer area, in which to have an office.

Malcolm Thomson: Does that perception extend to life with a tram?

Alan Robertson: Yes, I would say that for those who are not detrimentally affected by it, the tram would generally be viewed as a positive thing.

Malcolm Thomson: The tram might enhance the value not only of leases but, through them, of the capital value of the land there.

Alan Robertson: For buildings that suffer no detrimental effect, that would be the case. If a building was 50m or 100m from the tram, I would say that it would be more attractive to occupiers.

Malcolm Thomson: Is there any health and safety legislation that could prevent the lower ground floor being used as an office if there was to be a developed tramline that incorporated glass bricks of the type that have been described?

Alan Robertson: Not that I am aware of.

Malcolm Thomson: If you felt that the capital value of the property had been adversely affected, and if you were still involved, would you be advising the owners to make a compensation claim?

Alan Robertson: Yes.

Malcolm Thomson: As part of that compensation claim, would there be an element of offsetting for any enhancement in value that might result from the development, flowing from the use of the powers?

Alan Robertson: From the use of what powers?

Malcolm Thomson: From the use of the compulsory acquisition powers.

Alan Robertson: In this case, that would probably be limited. I had marketed Haymarket buildings before the tram was announced. It is always one of the selling points of the area that communications there are very good, with the railway station and the buses and the fact that the area is within walking distance of Princes Street. As a result, although the impact of the trams on Haymarket will be broadly beneficial, it will be more marginal than it will be for more outlying areas such as Murrayfield or Granton.

Malcolm Thomson: Am I right in thinking that in principle any diminution in value that would be attributable to the works—in this case, the tram—

would be offset by any enhancement of the value that would flow from their benefits?

Alan Robertson: I would not, in principle, disagree with that. However, if you asked me to value it, I could not say that we would get 25p per square foot more in rent because a tram was running alongside the building.

Malcolm Thomson: I was not asking you to put a value on it; I was simply asking about the general principle.

Alan Robertson: Right.

Malcolm Thomson: Because of the offsetting that we have just discussed, if you were involved in such negotiations, would it be in your clients' interests to play down any appreciation in value that was attributable to the tram?

Alan Robertson: I do not know the answer to that question. I have to say that I am not a compulsory purchase expert.

Malcolm Thomson: I am grateful for your answer.

Are there any break provisions in the lease with Analog Devices other than the one that you have told us about?

Alan Robertson: Yes.

Malcolm Thomson: How soon does the first break provision kick in?

Alan Robertson: I think that the first break provision kicks in six years after the entry date.

Malcolm Thomson: And when would that be from today?

Alan Robertson: That would be in about five years.

The Convener: Do you have any questions, Mrs Farquharson-Black?

Elaine Farquharson-Black: No.

The Convener: I should have asked first whether committee members have any questions.

Jeremy Purvis: In the light of Mr McIntosh's evidence about the likely connections of cables to the side of the building, I wonder whether Mr Robertson still holds the view that the proximity of live electrical overhead wires could make access dangerous.

Alan Robertson: To be frank, I have not heard anything from the witnesses that makes me any more or less comfortable about that. The details are not available.

Jeremy Purvis: Did I hear correctly that there is a development site where your building is situated?

Alan Robertson: Yes.

Jeremy Purvis: Is it fair to assume that that site will be developed?

Alan Robertson: Yes.

Jeremy Purvis: Is it fair to say that in the process of that development major construction will take place?

Alan Robertson: Yes.

Jeremy Purvis: Is it fair to say that that will have an impact on existing tenants?

Alan Robertson: Not as far as Citypoint is concerned. As you might remember from the site visit, the development site is at the far end of our long car park.

Jeremy Purvis: So access and egress for lorries and construction vehicles will not be an issue.

Alan Robertson: I thought that you were talking about noise intrusion.

Jeremy Purvis: I am talking in general.

Alan Robertson: Site traffic would use the same access road as the car park traffic, but no car parking spaces would be lost.

Jeremy Purvis: No, but I think that I am correct in saying that site traffic will pass the offices where tenants' delicate and sensitive computer equipment is kept.

Alan Robertson: Yes.

Jeremy Purvis: Does not that concern the landlords of the building?

Alan Robertson: No, because the landlords view an occasional vehicle passing on the road, which is what happens at the moment, as being different from heavy plant building a tram line 1m from the building.

Jeremy Purvis: Is that different from heavy plant building an office building?

Alan Robertson: Yes, because the office or residential building will be 100yd away at the end of the car park.

Jeremy Purvis: Yes, but I think that the question is whether the construction equipment will be teleported to where the building will take place.

Alan Robertson: Construction equipment would travel past Citypoint on its way to the building site.

Jeremy Purvis: Thank you. That was what I wanted to know.

I see that you have extensive experience in the Edinburgh office market. Have you or any of your clients been involved in compulsory purchase of buildings for other developments?

Alan Robertson: No I have not. It is not my area of expertise.

The Convener: Thank you. Do you want to raise anything at this stage, Mrs Farquharson-Black?

Elaine Farquharson-Black: No thanks.

The Convener: That is all that Mr Robertson has to offer at this stage. We turn now to Mr Clarkson, who will address alternative alignments at Haymarket. Mrs Farquharson-Black, do you have any questions for Mr Clarkson?

Elaine Farquharson-Black: No.

The Convener: Mr Thomson, do you have points of issue?

Malcolm Thomson: As in my questions for the previous witness, I want to pursue the question whether there is an adverse effect and, even if there is, whether it is not purely a compensation matter.

The Convener: Let us proceed to questions. I take it that you have no issues to raise. Proceed to cross-examination, please.

Malcolm Thomson: Mr Clarkson, I take it that you know no more than we know already about who owns the building now.

Neil Clarkson (PWP Consulting): That is correct.

Malcolm Thomson: Are you concerned that the alignment in the bill would have an adverse effect on the value of the property?

Neil Clarkson: The alignment in the bill certainly comes much closer than do the alternatives.

Malcolm Thomson: Do you regard option 4 as being preferable in that respect to whoever the owners of the building are?

Neil Clarkson: Yes, definitely. That was the basic premise of option 4 when we put forward the alternatives. I apologise to the committees for the wasted time. I altered the drawing some time ago.

Malcolm Thomson: Thank you, Mr Clarkson. I have no further questions.

The Convener: Mrs Farquharson-Black, do you have any questions?

Elaine Farquharson-Black: I have no questions.

The Convener: We come to closing speeches of up to five minutes.

Malcolm Thomson: I start with the preliminary procedural matter that I raised—namely what interest CGM (Edinburgh) Ltd now has in the property. I am thinking particularly of the building. Most of the evidence about the brackets, the

wheel-squeal and the position of the tenants is particular to whoever owns the property. On the face of it, if the owners have sold the building, then they do not have that interest. They might have entered into some contractual arrangement with the person who has acquired it, but that is not a matter that affects the simple question whether they have title to pursue the objection. The simple point of fairness is that at the point where there is a transfer for value one would assume that the new purchaser had acquired the property at a price and in full knowledge of the prospective effects of the tramline.

If there was a loss, it might rest with the person who sold the property, but that is a matter for compensation; it is not a matter that enables the sort of objection that we have been hearing today to be advanced. That said, if CGM (Edinburgh) Ltd were the owners and did not have that trouble to face, the matters that they raise, apart from the alignment issue, are matters of detail that would not torpedo the scheme but would figure ultimately in compensation.

We have heard evidence that attempts have been made to minimise the impact; the full impact will not be known until detailed planning has been carried out and detailed mitigation measures can be seen.

As far as the alignment is concerned, it appears that option 4 would be preferable for CGM, not least because the bend that concerns CGM would not be pronounced—if it were to exist at all—albeit that as an offsetting factor the line might pass slightly closer to the building. I submit that the points that CGM raises are not materially different whether we consider the parliamentary bill alignment or option 4, and that it is essentially a matter of compensation.

16:00

Elaine Farquharson-Black: On the first point that my learned friend Malcolm Thomson raised, we will submit a written statement to show CGM's on-going interest in the building. My clients were the building's owners when objections to the bill had to be lodged but, in the process of the sale, the new owners asked whether they could take over the objection and then submitted an objection that was rejected. It seems to be unfair if the building—if I can refer to it on its own—does not have an opportunity to be defended because my clients no longer own it and the new owners are not allowed to object to the bill. That raises some human rights issues.

On the alignment and the objections, my clients oppose what I term the parliamentary alignment of the Edinburgh tramline on the basis of the detrimental impact that the route would have on

the ability to let space within the Citypoint building, the impact on the operation and maintenance of the building and the impact on the ability to develop the land at Citypoint and the land that my client owns adjacent to the building. It is most galling to my client that planning consent for the Citypoint building was granted as far back as 1991 and varied in 1998: the council—and, as a consequence, the promoter—should have been aware of the location of the building. My clients were certainly aware of the reserved Lothian Regional Transport corridor in the local plan and were aware of the tramline route that was preferred during the public consultation, which ran between Rosebery House and the main railway line and then on to the corridor.

It seems that the last-minute change in the alignment has been made to accommodate Network Rail and no other party. There was no consultation of the parties who are likely to be affected by the change. The witnesses for the promoter have confirmed all the advantages of the preferred public consultation route, and it is clear that that would still be the preferred route had Network Rail not indicated that it needed to add the bay platform at Haymarket station while it carries out works at Waverley.

My clients have made suggestions as to how option 1 can be retained and accommodate Network Rail's needs, but the promoter seems to have discounted those suggestions, partly on the basis of cost, although we have had little evidence on those costs, and partly because of the impact on Verity House, which is the headquarters of TIE, the promoter of the route.

Although a considerable amount of work might have been done on assessments and feasibility studies, Steve Mitchell confirmed that no specific noise assessment has been done at the Citypoint building to show that my client's property and its occupiers would not be seriously affected by the construction works or the operation of the tram. Mr Mitchell acknowledged that we could be talking about levels of some 13db above the 75db limit at which significant impact would occur, and that what limited mitigation measures can be taken will not be of any help to the building's upper floors.

We have no information on how the tram infrastructure will be fixed to my client's building or, therefore, the consequent difficulties in maintaining the building and potential health and safety issues for workers such as window cleaners, as Mr Robertson said.

We do not know how close the route will be to the building. Only in the rebuttal statements has the promoter indicated that a glazed footway will be constructed adjacent to the tram route, thus bringing the structures even closer and impacting, as Mr Robertson says, on the light well and the use of the floor that it serves.

We have only general information on all those issues, but my clients are meant to be satisfied that they will not be affected by the tram route. That is not good enough. You have Mr Robertson's evidence that the Citypoint building's marketability has already been affected, simply by the potential that the tram route might run past the building. The one tenant that my client has in residence has a break option should they feel that the construction and operation of the tram route is impacting on them.

Neil Clarkson has floated four different options. He has admitted that they would require further work, but the promoter's witnesses have confirmed that they are all technically feasible and my clients have confirmed that they would withdraw any objection to the tram route should it follow any of those four proposed options. It is now my understanding from what Mr Bain and Mr Thomson have said that the council and TIE propose to substitute CGM option 4, as proposed by my clients, for the parliamentary route. It seems clear from the evidence that we have heard today that, although option 4 does not exhibit all the advantages of the original consultation option, it has all the advantages that TIE and the council attach to the parliamentary route without having the impact on my client's premises that the parliamentary alignment would have. Option 4 also appears not to have the impact on Verity House that is of concern to the promoter.

Option 4 appears to be a win-win route and, therefore, I request that the committees reject the parliamentary route.

The Convener: That concludes oral evidence for group 42. The hour is getting late and the committees have been sitting for a considerable time. We propose to take group 44, but that will conclude the public part of this afternoon's meeting. Any witnesses or solicitors who were to be involved in the subsequent business may now leave.

We now move to group 44, which concerns the Institute of Chartered Accountants of Scotland—ICAS. We will take a break to allow Des Hudson and Craig Wallace, the witnesses whom ICAS has provided, to take their places at the witness table.

16:06

Meeting suspended.

16:10

On resuming—

The Convener: We will now hear from objector group 44, which is ICAS. Before we commence the evidence taking, Des Hudson and Craig Wallace are required to take the oath or make a solemn affirmation.

DESMOND HUDSON and CRAIG WALLACE *took the oath.*

The Convener: Mr Hudson will address the issue of operational impact concerns that would affect CA House and ICAS during and after construction of the tramlines. I ask Mr Currie briefly to indicate the issues that are in dispute with this witness.

Heriot Currie: We are debating the parliamentary line. Both witnesses will give evidence on why it should be rejected.

The Convener: Thank you. Please proceed with the examination-in-chief.

Heriot Currie: Mr Hudson, we can take your statements as read. In the light of the evidence that has come out today, I will raise with you only a few points of clarification.

First, we have heard evidence and statements from counsel for the promoter in relation to option 4. With regard to CA House, is option 4, for all practical purposes, identical to the ICAS amendment?

Desmond Hudson (Institute of Chartered Accountants of Scotland): That is correct.

Heriot Currie: Before today, had you ever been advised by the promoter that option 4 was its preferred option?

Desmond Hudson: No, not on any occasion. Indeed, last Tuesday, I phoned the chief executive of TIE to raise that very issue with him and I still await the courtesy of a response. I have spoken subsequently to the project director and have indicated to him that, after reading on the City of Edinburgh Council website the publicly available information about the meeting that the council held on 2 June at which TIE put option 4 before it, my understanding of the situation is that our suggestion is now TIE's preferred route. I simply wanted to invite TIE to discuss how we might short-circuit the committees' work and this process and save everyone's time; I was not raising any questions about the committees' procedural or legal advice. As I said, the chief executive has never returned my call and the project director with whom I spoke, who was due to call me back, has not done so despite my chasing him on two separate occasions.

Heriot Currie: With regard to the noise assessment study that was provided by ERM late in the day, will you confirm that ICAS received that document on Friday of last week?

Desmond Hudson: I can indeed confirm that. I can also say that it arrived after countless attempts by ICAS to secure a noise assessment study at CA House. I noted with considerable surprise that Mr Mitchell said, I think, that they proposed that the study should be carried out. I entirely reject that claim.

Every promise that TIE made to ICAS with regard to delivering that noise assessment study was not met. Indeed, so many such promises have not been met that we have filed a request under the Freedom of Information (Scotland) Act 2002 to secure that information from TIE. If I may say so, it seems odd that although TIE has been working on the project for at least four years it has been allowed to submit a document on Friday that we can all talk about. However, we cannot talk about its proposals to change the route, which have been approved by the City of Edinburgh Council.

I understand the legal advice and I do not want to be contentious, but I hope that committee members understand my concerns about TIE's failure to proceed with the study in a timely fashion and to deliver it when it said that it would; the fact that I have had to go to the expense of making a request against it under the Freedom of Information (Scotland) Act 2002; and the fact that we finally received the study on Friday. After all that, I learn this morning that the study has been proffered to the committees on the basis that we have agreed its scope of works. Again, I reject that statement absolutely—we did not agree that.

Moreover, we have pointed out to TIE that we want to carry out our own noise assessment study. However, it is difficult for us to do that when we do not know what the tram will be like. We do not know what size of wheels or engine it will have, what rails it will run on or what the track bed will consist of; we are surprised that conclusions can be drawn on how we can mitigate the noise problem on the most sensitive side of our building when the basic design work has not yet been done.

16:15

Heriot Currie: On a matter of detail, are the windows on the north side of the building kept open or shut during warm weather?

Desmond Hudson: They are kept open, because the air-conditioning system in the building has never worked since the building was erected. The evidence that I heard from TIE about the comments from my building manager was, to be fair, probably correct and the maintenance work that was referred to has been done, but we are now told that the system is underrated for the building and, short of reinstalling air conditioning in the building—which, as I am sure you can imagine, would be nigh on impossible—I will have to have those windows open.

You will recall the comments that were made about the fact that the north side is the quieter side of the building. We applied for planning permission for the building, which was granted in February

1999, in the full knowledge that there was what I understood to be a light railway reservation strip running alongside the railway. We planned and organised our building by reorienting it, moving it as far back from the reservation strip as we could and putting all the non-sensitive operations of the building adjacent to what we were told would be the tram route, so our print room, storage room, kitchens and plant room are all on that side. The ground and first floors of the northern side house our lecture rooms, all the areas for our education department and the areas in which we run examinations. We run more examinations than any other accountancy institute in the world.

Heriot Currie: I have a final point on noise. Have you had any concrete or convincing offer from the promoter on mitigation measures?

Desmond Hudson: I have had no offer, concrete or otherwise. Today is the first time that I have heard the suggestion that the promoter would mitigate the noise and would do that work beforehand. We have had no confirmation, either orally or in writing, prior to the statements that were made today. Moreover, when we talked to Mr Mitchell—I think that he is the correct individual—who is the acoustics expert retained by TIE, we could not ask how we would work out mitigation measures because, as we said, we do not know anything about the tram. We do not know what the tram's wheels, motive system or tracks will be like because, under the bill, the promoter does not have to make those decisions until after they have been granted the power to run the tram through my building.

Heriot Currie: You will remember the discussion that I had with another witness about the land that the institute has earmarked for extension. Have you been concerned to find out what the promoter's attitude would be should ICAS wish to develop that land in accordance with its long-term plans?

Desmond Hudson: Yes, I have. I would like to add a point of context that is vital to the objections that we have made as far as the expansion area is concerned. Over the past five years, ICAS has secured the fastest growth in students of any accountancy institute in the world. We have secured that growth because we have broken into the English market and we now train more accountants in England than we do in Scotland. We embarked on that process in about 1999-2000. Therefore, when we looked for and bought the site, it was critical to us that we had expansion land, given that we hoped for, and have now delivered, a doubling of our student numbers in five years.

I was disturbed by what I heard as I listened to the evidence. There was a meeting on site that was attended by, among others, Kevin Murray,

who is an employee of TIE. Mr Murray was asked about our plans—I accept that they were not yet in the form of an application for planning permission—to extend at some point on the western edge of the building, where we have organised the structure of the building so that we can tack on an extension and have left land to do that. Under the parliamentary alignment, the tram would run within 1.4m of where we expect the line of that extension to be to follow the elevation of the building.

We raised that point, and the representatives of TIE said two crucial things to us. They spoke about an undertaking—you will have heard a lot from them this morning about undertakings. They said that we must make a distinction between undertakings that are given by TIE and undertakings that are given by the tram operator. TIE said that it cannot tie the hands—if you will forgive the pun—of the tram operator. Even if TIE were to give an undertaking not to object to our applying for planning permission, it cannot speak for the tram operator.

Kevin Murray went on to tell us that, in his view, it was highly likely that the tram operator would have to object. The proposed line is 1.4m away from the line of the building. An extension of the building would inevitably have some impact on the operation of the tram. Kevin Murray's final point was put almost jokingly: that TIE would be relying on the powers that objectors have under town and country planning legislation, not under the current process. The Town and Country Planning Act 1990, as members will be aware, gives an objector far more powers than the current process does.

When TIE talks about whether it will give an undertaking, qualified or not, from whom does that undertaking come? TIE tells us that it cannot give an undertaking that would bind the tram operator, and that it thinks that the tram operator will use its powers under the Town and Country Planning Act 1990 to oppose our extension.

We compete in almost a unique market. Only in the United Kingdom is there competition for the provision of accountancy training. Five bodies compete with ICAS to train accountants. We have doubled our number of students, and we need to keep on growing that number. In due course, I will need more space. I will probably not be able to enjoy that space on the basis of the proposed alignment. We must take TIE's use of the word "undertaking" with a very, very large pinch of salt.

Malcolm Thomson: I would like to ask a little more about the extension plan. How far developed is it? Is it shown on any drawing?

Desmond Hudson: No. As I said a moment ago, we are not at the point of making formal application for planning permission. However,

when the site was acquired and the building was designed and laid out, that was done with the anticipation that we would need the space. If I cannot use that space, we will have to leave Edinburgh or Scotland.

Malcolm Thomson: Is that space currently used for a landscaped area, to the west of the building?

Desmond Hudson: It is. It is a garden. As you will recall, you have identified it as the most severely affected area according to the noise assessment studies that you finally did.

Malcolm Thomson: Have you been advised about the parking implications of seeking planning permission for an extension?

Desmond Hudson: By whom?

Malcolm Thomson: By your planning advisers.

Desmond Hudson: No, I have not.

Jeremy Purvis: I see from your evidence that you moved to your current site knowing about the heavy rail there, but that your lecture rooms, libraries and teaching space are located on the quieter side, away from the busy traffic. Where were your lecture rooms and teaching space when the institute was located on Queen Street?

Desmond Hudson: I do not know. I joined the institute only at the beginning of this year. My guess is that, towards the latter part of its occupation of the Queen Street premises, the institute used lecture rooms in commercially available buildings. I think that those were rooms taken from the University of Edinburgh. Market conditions are dramatically different now compared with then. Then, I was not competing to sell training services to the big four firms, who have a choice of five other suppliers.

Jeremy Purvis: Queen Street is a noisy, busy street.

Desmond Hudson: That is true. However, we left Queen Street in 2000. With respect, I am not sure what relevance this has to the merits or otherwise of the proposed tram route before us.

Jeremy Purvis: That is for the committees to decide, and—

Desmond Hudson: Indeed it is—I accept that.

Jeremy Purvis: No doubt we will do so. May I—

Desmond Hudson: If I may, I would like to make an important point. Forgive me for interrupting you. We went to the site knowing that there was a heavy rail line there, and knowing where the presumed route of the light railway would go. We organised our buildings in such a way as to move all the quiet stuff away from that. We would have no problem if that presumed route

was the one that was opted for. We went to the site in full knowledge of the proposed route, and we planned on that basis.

Jeremy Purvis: Yes, I read that in the information that you provided, for which I thank you. Do you know whether there is comparable noise and traffic for the various legal trainers and medical professions that are based in Edinburgh?

Desmond Hudson: No, I am afraid that I do not. However, I suspect that they are not involved in a competitive market, as we are.

Jeremy Purvis: I want to ask about the potential plans for development at the side of your building. *[Interruption.]*

Desmond Hudson: I am sorry.

Jeremy Purvis: The convener mentioned telephones and pagers early in the meeting.

Desmond Hudson: He did indeed, but we are all human.

Jeremy Purvis: On the potential for tacking on or building at the side of your building, how will you configure training and examinations during the construction process?

Desmond Hudson: The plans are speculative—I stress that we have not yet formally applied for planning permission—but we think that we would try to do extensions in the quieter periods, as teaching does not take place in all 52 weeks of the year. We would try to mitigate as far as we could. We would have a window of around 12 weeks or so, although I suspect from the basic work that we have done that that would be insufficient to cover the entire build period. I am not an expert on the matter, but am making a guesstimate from the limited work that we have done so far.

Jeremy Purvis: Would it be unreasonable to say that there could be a similar window when a tramline is being constructed?

Desmond Hudson: There is certainly a 12-week period in any year in which limited teaching is done—I accept that entirely and make no bones about it. However, it is worth noting that the limit of deviation means that the area of land that would be taken for the building period would go under our building's entrance canopy. Other parts of the building—for example, the library—that were sited on its north side are used for 52 weeks of the year, and a series of rooms is used for continuing professional development, not to mention external meetings, committee meetings and so on. I fully accept that the lecture rooms have a fallow period, but the rest of the building on the northern, quiet side—if I may call it quiet—does not have such periods.

Jeremy Purvis: But building at the side of your building, which could well be in your plans—

although they are speculative—would be disruptive and noisy, and a construction period would be involved.

Desmond Hudson: You are absolutely right, but the design and planning of that building must be considered with reference to the route that we all expect.

Jeremy Purvis: I acknowledge that you will not be party to any of the discussions on the property that leads off Devon Place, I think, which is behind your property and behind a wall.

Desmond Hudson: That is right. I think that a planning application has been submitted to build flats or apartments.

Jeremy Purvis: That would mean major construction work. To use a ballpark figure, the site is roughly twice the size of your current building.

Desmond Hudson: Yes.

Jeremy Purvis: There would be major construction.

Desmond Hudson: There would indeed. However, I make it absolutely clear that our objections to the parliamentary alignment are not based on disruption during the construction period. Someone from TIE made the fair point that people who own buildings must take the rough with the smooth. I do not want to be unreasonable or precious—one must accept that, from time to time, buildings will be developed in city centre locations. Our primary concern is that a route decision has been taken without a proper process. It seems to us that no assessment of the environmental impact on our building was done. A decision was taken that is contrary to how the whole Haymarket Yards development has been laid out. I will not have a problem if the tram goes where we all thought that it would go, as we bought the building and the site knowing that route. It would be unrealistic and churlish of me to object on that basis, and we do not object on that basis.

Rob Gibson (Highlands and Islands) (SNP): You feel strongly about your objections and have remarked that you might have to move outside Edinburgh or even out of Scotland. Will you elaborate on that remark?

Desmond Hudson: We have discussed that at the highest level, as the proposals are very significant to us.

Rob Gibson: Will you elaborate on your remark, beyond saying that the proposals are significant?

Desmond Hudson: We contend that the route on the north side of the building will render the building unusable for the function for which it was designed. That function is absolutely critical to the institute's success. If we do not have students, we

will not have new members and our income will go down by 40 per cent. The route is one of the most significant things that could happen to the future of the institute, which is in its 151st year. For those reasons, not because we seek to be alarmist, we debated at the highest level the options that we should consider.

16:30

Rob Gibson: The options could include mitigation, including proper soundproofing on the north side of the building.

Desmond Hudson: Yes—if that is possible. I accept the spirit of fairness in your question, but I reiterate that we have no design information about the noise or vibration footprint of the trams, because work on that has not yet been done. TIE has told us not to worry, because mitigation will be sorted out, as it has done a noise study. However, we have been offered no specification of the noise mitigation or how effective it will be and we have been shown nothing at all about how long it will take to do or what it will cost. I heard this morning the proposition that an offer had been made in relation to mitigation, but that is not entirely accurate—I choose my words carefully.

Rob Gibson: As there have been similar tramline developments in other cities, one would expect the proposals to be based on experiences from other places of dealing with similar situations through mitigation of sound levels. One would expect that those who promote the tramline would have a good deal of experience of such matters.

Desmond Hudson: I accept that one would expect that the promoter would have experience of that. However, the promoter has not offered you or us detailed information about the specifics of that experience. Moreover, we are told that the matter will be dealt with through the code of construction practice, but I presume that that will be a contractual arrangement between the City of Edinburgh Council, as the master and owner of TIE, and the XYZ construction company. I will not be party to that arrangement and will not be able to enforce the code; instead, I will have to go to TIE and/or the council to ask them to enforce it. On the basis of my direct experience of TIE's failure to do what it says it will do or to respond to calls, I say with reluctance and disappointment that I have no confidence that TIE would respond appropriately to any concerns that I might have in those circumstances.

Is the process appropriate and reasonable if I have to rely on experience that has been built up but which is as yet unspecified? If TIE has the experience, why has that not been disclosed and put in front of everybody? Why has TIE not given the material to you or me?

Rob Gibson: As you have now admitted, it is not an event; it is a process of moving from development to reality. We would expect that similar situations have occurred before. We await developments with interest—and with frustration in your case, but with anticipation in ours—to see how well the system can work.

Desmond Hudson: I take that point absolutely.

Jackie Baillie: I want to clarify an issue. I understand entirely your desire to expand and the description that you have provided of the success that the institute has had as a result of its move from Queen Street. Will you remind me of the likely timetable for any such expansion? What are the key milestones? So that we can get a sense of the reality of your proposals, will you say when you envisage submitting a planning application and achieving project completion?

Desmond Hudson: At this stage, we do not expect to make an application for planning permission before 2007—probably not before the end of 2007. On that basis, let us take January 2008 as the base point at which we agree to start the process. After that point, we will have to appoint advisers, make an application, deal with the planning process, let a contract and have the builder come in and do the work, so we are probably talking about completion by 24 months after January 2008. We should remember that, if TIE's proposal receives parliamentary approval, it will have 20 years to develop the tramline along what I say is the wrong side of my building.

Jackie Baillie: I would not dare to speak for the Executive, but I suspect that the money will not be available for 20 years.

Desmond Hudson: I am sure that you are right. Nevertheless, that power and the blight effect on my building will exist for that time.

Helen Eadie: We are obviously concerned when you say that you may move out of Scotland, but that raises the issue of how, in that case, you could describe your organisation as the Institute of Chartered Accountants of Scotland.

Desmond Hudson: The reason is that we take the view that "of Scotland" is much more important than in Scotland. As I said, for every 10 students that we recruit this year six will be in London. We have CAs—members of the institute—operating in almost every country of the world. We therefore see it as vital that we talk about the Institute of Chartered Accountants of Scotland. I do not want to ignore the fact that to leave Scotland would be the final, final, final option, because that has a significance that we would not easily give up, but leaving the current premises may be something that we have to consider.

Helen Eadie: I ask you to go away with this thought in mind: Scottish Executive policy

encourages its own establishments, and any establishment, to relocate outside Edinburgh. I highlight the fact that my colleague Marilyn Livingstone has the great privilege of serving—as I do—in a constituency that has Gordon Brown, the chancellor, as its MP. He reminded us forcibly, when Alan Greenspan came to Kirkcaldy, that Fife College of Further and Higher Education will be renamed Adam Smith College—you might want to think of a connection there.

Desmond Hudson: I will give that very serious thought.

The Convener: Before everybody else makes their bid for the itinerant chartered accountants, Jeremy Purvis wants to make a final point.

Jeremy Purvis: I appreciate that the plans for the building are speculative at this stage, but would part of the plan be to reopen consideration of the air conditioning in the building?

Desmond Hudson: I am a long way from being a builder, but my understanding is that to retrofit air conditioning into the old part of the building—if I can put it that way—as opposed to the extension, would be ruinously expensive. I cannot claim—I do not want to mislead the committees—that we have done any detailed work on, or assessment of, the matter. The comment is highly speculative on my part.

Jeremy Purvis: Before taking the nuclear option of moving out of Scotland, it might be fair to consider fixing the air conditioning.

Helen Eadie: Come to Fife.

Desmond Hudson: I would not need to fix the air conditioning if they put the tram on the right route.

Alasdair Morgan: You said that there is plant on the south side of the building. I presume that there are also a fair number of offices on that side of the building.

Desmond Hudson: That is right. Unfortunately, my office is on the south side of the building. It is not the quietest office that one could hope for. It is very noisy—particularly during peak periods in the morning and evening. I would not want to mislead the committees, so I repeat that we went to the site knowing that the trains were there and that there could be a tramline alongside the track. We lived with that. We have organised the building in such a way as to put all the quiet or sensitive activity on the north side.

Alasdair Morgan: I presume that the south side, even in Scotland, tends to be the warmer side of the building.

Desmond Hudson: Yes. On warm days such as today, I cannot open the windows in my office because it is too noisy. I just need to use the blinds.

Alasdair Morgan: Does the air conditioning work sufficiently well to mean that you do not have to open the window?

Desmond Hudson: It is not comfortable on the hottest days.

Alasdair Morgan: But it is the same air conditioning that works on the cooler northern side of the building.

Desmond Hudson: Except that we have an open plan area on the northern side. The enclosed offices for senior executives are generally on the south side of the building. For some strange reason, the air conditioning seems to operate better there than it does in the open plan area.

Marilyn Livingstone: I am interested in the consultation with TIE on the bigger question. You talk about recent consultation and discussions, but what happened prior to that? What has been your experience of the process?

Desmond Hudson: My experience has been disappointing, disastrous and a matter of real concern. There has been no effective attempt to consult us. If TIE runs trams like it runs a consultation process, we will all be using our cars.

The Convener: There are no further questions.

Heriot Currie: There is no re-examination.

The Convener: Thank you very much, Mr Hudson.

That takes us to the last witness of the day, who is Craig Wallace. Mr Wallace will address us on car parking, access, health and safety, building operational issues—including reconfiguration—and alternative route selection.

Mr Currie, will you please briefly indicate the issues in dispute?

Heriot Currie: In general they are the issues that Mr Hudson covered. I propose simply to stand on Mr Wallace's statement and what was said in the rebuttal statement. I want to raise only one, minor matter of clarification with the witness.

The Convener: Please proceed with the examination.

Heriot Currie: Mr Wallace, you will remember that during the evidence taking this morning Mr McIntosh said that the proposed tramline would have a positive effect on the value of CA House. Given that ICAS owns and occupies the building, will you comment on the validity of Mr McIntosh's claim?

Craig Wallace (Jones Lang LaSalle (Scotland) Ltd): The appointment of Jones Lang LaSalle as adviser to ICAS was based on a variety of issues, including the need for advice in future on impact on value in relation to the statutory

compensation process. To date, we have received no concrete evidence that substantiates the claim that Mr McIntosh made that there would be an increase in the overall value of the building.

Heriot Currie: Do you agree with the recent evidence from CGM's adviser, who said that in general there will be a benefit to the Haymarket area from the tram, but that the buildings that are directly adversely affected by the works and the tramline are unlikely to benefit from an increase in value?

Craig Wallace: I reiterate the points that were made by CGM's witness. ICAS undertook a lengthy search to identify an appropriate location for premises and a key factor in the search was location and accessibility. The Haymarket area is already very accessible by a number of modes. The tram will improve accessibility, but we strongly believe that the adjacency of the alignment to the building will have a significant detrimental impact on the long-term success of CA House as the institute's headquarters.

Heriot Currie: From the evidence that you heard today, are you satisfied that the tramline's adverse effects on the building are likely to be easily mitigated?

Craig Wallace: From the evidence that I have heard today, I must say that at this stage the degree of mitigation that will be required is very uncertain. As Mr Hudson rightly pointed out, the mitigation strategy that is developed by the promoter is based on a concept design that has not been tested in the vicinity of the building. Indeed, during the site visits last week, it was pointed out to us that the proposed alignment shows the limits of deviation, so we do not yet know exactly where the alignment will be, due to the lack of site investigation. It would be premature to base mitigation on a notional scheme and significant additional effort on the part of the promoter will be required to satisfy the concerns of ICAS.

Heriot Currie: Let us suppose that ICAS has to relocate within Scotland. How easy would it be to find a building that met all the institute's requirements?

Craig Wallace: That is a difficult question to answer, given the range of locations and buildings that ICAS could consider. ICAS is an owner-occupier and would need to find a building that met its space and quality requirements, given the organisation's long-term growth plans, as well as its specific locational requirements. It is difficult to comment further on specific locations, without undertaking a detailed search exercise.

Malcolm Thomson: Have you carried out research to ascertain the effect on property values of the development of tramlines in other areas?

Craig Wallace: The evidence that I present to the committee today does not deal specifically with the numerical values associated with the valuation of CA House in the long term. I am co-ordinating the efforts of colleagues in Jones Lang LaSalle in that regard and we can respond directly to the committee if we are required to do so.

Malcolm Thomson: You have not carried out that research yet.

Craig Wallace: We have not yet done so.

16:45

Malcolm Thomson: On the question of noise and mitigation, your statement lists a whole range of things that you say could and should be done. To your knowledge, has any investigation been made into the practicality of upgrading the air-conditioning system?

Craig Wallace: Not in detail at this stage. We have revisited the thoughts of the original architects for the building and the quantity surveyors who were involved in the original design and build of the facility. They have commented on the physical issues relating to the siting of noise-sensitive premises on the northern elevation and on whether those could be relocated. They have also suggested measures that could be incorporated to mitigate noise on that elevation. We have not, at this stage, looked at the plant issues.

Malcolm Thomson: So far as the air conditioning is concerned, you do not know whether it is a ducting problem or a problem with the machinery for cooling the air.

Craig Wallace: I know for a fact that it is to do with the capacity of the machinery that feeds the ducting into the various elements of the building. It is under capacity for the design of the building.

Malcolm Thomson: Do you agree that, in principle at least, it ought to be possible to improve the noise insulation of the building substantially by secondary glazing of the type that was described by Mr Mitchell?

Craig Wallace: In principle, yes, but I should say that I am not a noise expert and do not pretend to be one.

Malcolm Thomson: So far as the expansion plans are concerned, am I right in thinking that the planning authority's parking requirements for office property have changed since planning permission was granted for the building, and that the planning authority now imposes maximum rather than minimum parking requirements?

Craig Wallace: I imagine that that is correct, in line with national planning policy.

Malcolm Thomson: Am I also right in thinking that the number of cars per square metre of floor area—or however it is measured—is less now than it was at the time when planning permission was granted?

Craig Wallace: Indeed.

Malcolm Thomson: Are you aware that, if planning permission was sought for an extension, the planning authority would seek to impose the new standards not only on the extension but on the whole building?

Craig Wallace: I am aware that we would be required to re-evaluate the parking and transportation considerations for the operation of the building as a whole.

Malcolm Thomson: So it could not be guaranteed that, if an extension was constructed, there would be any more parking spaces.

Craig Wallace: It could not be guaranteed, but I would envisage that, at that point, ICAS would seek to justify the overall number of car parking spaces required with reference to the operational requirements and the number of visitors and visiting students.

Malcolm Thomson: Bearing in mind the council's parking standards.

Craig Wallace: Clearly, but there would be an opportunity at that point to put forward a justification for any number of spaces on behalf of the applicant.

Malcolm Thomson: In those discussions, if there was a tram running through Haymarket, that might be an argument that a planning authority that was seeking to reduce the level of parking provision would use against you.

Craig Wallace: That might be used against us but, as I mentioned earlier, the Haymarket area is currently well served by a number of modes of public transport.

Malcolm Thomson: Thank you.

The Convener: I invite questions from members of the committee.

Jeremy Purvis: I would like to hear Mr Wallace's professional view on other areas where there have been transport developments that have affected the asset value of properties. Is being close to a tram stop of benefit to a building such as the one that we are considering, given the increased accessibility for staff and students?

Craig Wallace: It is recognised that the presence of a tramline and the adjacency of tram stops can bring benefits, but those benefits must be balanced against the detrimental impacts of the immediate adjacency of an alignment in terms of noise, amenity and the quality of environment of the office building itself.

Jeremy Purvis: Have you done research on that?

Craig Wallace: I have not personally undertaken research in that area, but I am aware that research exists.

Jeremy Purvis: You say that you are aware that research exists. Where would that research be?

Craig Wallace: In today's committee discussions we have been made aware of that research from Mr McIntosh's evidence.

Jeremy Purvis: I see that you are retained to give advice on the potential impact of the development. That potential impact would not necessarily be all negative, as you have just said.

Craig Wallace: That is one of the considerations that would have to be taken into account in the calculation of any impact on value.

Jeremy Purvis: But the calculation would also take account of any positives. Has that been done?

Craig Wallace: It has not been done yet. As I mentioned earlier, one of my colleagues in Jones Lang LaSalle is retained specifically to consider impacts on value relative to the CPO process.

Jeremy Purvis: You have not done that work yet, but work will be done that will bring in the positive impacts.

Craig Wallace: To date, all matters of detail relating to compensation have been deferred to the statutory process for which the bills provide.

Jeremy Purvis: But you will be bringing into consideration the positive impact.

Craig Wallace: That will be one of many factors that will require to be taken into account.

Jeremy Purvis: Have you considered the impact on the value of buildings or on teaching in other areas of the United Kingdom where tram schemes have been built close to seats of learning or other institutions? I am thinking of Nottingham, where the modern tramline, which the committee has visited, bisects the university.

Craig Wallace: It will be relevant to consider that situation in our future calculations of the impact on the value of CA House.

Jeremy Purvis: But you have not done that yet.

Craig Wallace: No.

Jeremy Purvis: Is there any reason why not?

Craig Wallace: We have sought to discuss the issue of compensation with the promoter. We understand that the promoter is not currently empowered to negotiate on levels of compensation; that is being left to the statutory processes through the CPOs and so on.

Jeremy Purvis: I accept that—it was the answer to the previous question. The second question was whether, regardless of the scheme that we have in front of us, research has been carried out on the impact of comparative schemes on the asset value of buildings in areas where there are seats of learning, such as Nottingham.

Craig Wallace: No, we have not carried out such research, but that would be one of many points that we would need to take into account in assessing the impact on value in future.

The Convener: Are there any further questions from the committee?

Members: No.

The Convener: Any further re-examination?

Heriot Currie: No re-examination.

The Convener: That concludes the evidence. We now have closing speeches.

Malcolm Thomson: One cannot help but have great sympathy for ICAS which, having configured its building to take account of where it thought the tram was going to go, found that the tram was going on the opposite side; that must have been galling and frustrating. However, one should not let the sympathy that one cannot help but feel for ICAS colour an assessment of the problem, which is that ICAS now has its teaching and examination rooms on the side of the building that would be closest to the tramline as proposed in the bill. Steps can be taken to mitigate that noise impact. Those steps are being investigated and pursued. On the advice of Mr Mitchell, an offer has been made by the promoter—albeit in general terms at this stage—to provide secondary glazing at the earliest stage so that it can afford protection for the ups and downs of the property owner during the construction phase as well as in the longer term.

Then there is the air-conditioning problem. Clearly, no matter how good the glazing is, if the windows are open it will not be as effective as if the windows are closed. That means getting to grips with what is wrong with the air-conditioning system and making it work. No satisfactory steps appear to have been taken by ICAS to investigate the problem or to attempt to put it right. Mr Hudson eloquently described the difficulties of retrofitting an entire air-conditioning system. However, if the problem lies simply in the size of the cooling plant, rather than in the ducting, there is no reason to fear that a wholesale rebuilding may be required.

One has not seen from ICAS a positive approach towards mitigating the problem but, rather, a throwing of the hands in the air and a serious and sustained attempt to persuade the Parliament and its tramline committees to favour an alignment that would move the tram route back

to the railway side of the ICAS building. Obviously, such a move would have great attractions for ICAS but, even without that desirable move, I submit that the problems for ICAS are not insurmountable. Furthermore, given its plans for expansion, the proximity of the ICAS building to a railway station that will be improved by means of the interchange facility with a tramline that will reach out, on one side, possibly as far as the airport and, on the other, down to Granton and Leith must, I submit, be a clear advantage to ICAS.

Taking all those factors into consideration, I invite the committee to have regard purely to the bill alignment and to see that it presents no insuperable problems. Ultimately, this is a compensation issue.

The Convener: Thank you, Mr Thomson. I ask Mr Currie to make his closing speech.

Heriot Currie: I submit that the Scottish Parliament should be concerned to safeguard the interests of the Institute of Chartered Accountants of Scotland. As the committee has heard in evidence, the institute's training and education function faces fierce competition from five other institutes in England. Its ability to compete should not be compromised unnecessarily. I emphasise the word "unnecessarily".

As the committee has heard, CA House was designed and built to accommodate a tram route to the south. The institute became aware that that route would not be used only when the bill was published in December 2003. I invite the committees to accept that the proposed route is likely significantly to compromise the institute's training and education function, especially given the resulting noise and vibration and the loss of land for future expansion. I submit—with all due respect to those who gave the evidence—that the evidence on mitigation was so general as to be virtually worthless.

It might be one thing if the proposed route, with all those disadvantages, was the only feasible route that the committees could approve, but that is not the case. On the evidence, the proposed route is not even the best route. I submit that the committee should recommend refusal of the proposal unless it is amended by either the ICAS or the promoter's amendment, which for present purposes are identical. As members will have seen from the documents, if the committees decide to approve the route, the alternative is that they should do so only on the basis that the promoter is obliged to purchase the whole site.

The Convener: Thank you very much indeed.

Ladies and gentlemen, the hour is now late and the committees have been sitting since 9.30 this morning. My colleagues share my frustration that

we have been unable to conclude this matter today, but that has clearly been impossible due to the volume of evidence, much of which has been complex. Our apologies go to those whose evidence was not heard today. The clerks will be in communication with them as to when their evidence will come before the committees. I thank the witnesses who gave evidence. I also thank counsel who appeared for the promoter and for the objector and for all others who have been involved.

Committee members will recall that, at the previous meeting of their respective private bill committees, they agreed to discuss in private the key points that have arisen from each oral evidence-taking meeting. We now move on to agenda item 2, which is in private, so this public part of the meeting is now closed.

16:59

Meeting continued in private until 17:23.

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