TRANSPORT AND THE ENVIRONMENT COMMITTEE

Wednesday 10 November 1999
(*Morning*)

£5.00

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now trading as The Stationery Office Ltd, which is responsible for printing and publishing Scottish Parliamentary Corporate Body publications.

CONTENTS

Wednesday 10 November 1999

TRANSPORT AND THE ENVIRONMENT COMMITTEE
6th Meeting

CONVENER:

*Mr Andy Kerr (East Kilbride) (Lab)

COMMITTEE MEMBERS:

*Helen Eadie (Dunfermline East) (Lab)
*Linda Fabiani (Central Scotland) (SNP)
*Robin Harper (Lothians) (Green)
*Janis Hughes (Glasgow Rutherglen) (Lab)
*Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab)
*Mr Kenny MacAskill (Lothians) (SNP)
Des McNulty (Clydebank and Milngavie) (Lab)
Nora Radcliffe (Gordon) LD)
*Tavish Scott (Shetland) (LD)
*Mr Murray Tosh (South of Scotland) (Con)

*attended

WITNESSES:

Simon Brooks (Scottish Natural Heritage)
Dr Richard Dixon (Friends of the Earth Scotland)
Graeme McAlister (Friends of the Earth Scotland)
Jean McLeish (National Union of Journalists)
Iain Ross (Royal Town Planning Institute in Scotland)
Bill Sinclair
Elsa Sinclair
Betty Stevenson (Edinburgh Tenants Federation)
John Thomson (Scottish Natural Heritage)
Graham U'ren (Royal Town Planning Institute in Scotland)
Andy Wishart (Edinburgh Tenants Federation)

COMMITTEE CLERK:

Lynn Tullis

ASSISTANT CLERK:

David McGill

Scottish Parliament

Transport and the Environment Committee

Wednesday 10 November 1999

(*Morning*)

[THE CONVENER *opened the public meeting at 09:37*]

Telecommunications Development

The Convener (Mr Andy Kerr): I welcome members of the public and of the press and the witnesses who will give evidence this morning. We are examining the implications of planning as part of our inquiry into telecommunications development, and today we will be hearing from Scottish Natural Heritage, the Royal Town Planning Institute in Scotland, Friends of the Earth Scotland and a panel representing local and community interests.

I welcome John Thomson and Simon Brooks of Scottish Natural Heritage to the table. We are pleased to see you here this morning. I offer you the chance to make short, introductory remarks, after which members of the committee will ask questions.

John Thomson (Scottish Natural Heritage): Thank you. I should say at the outset that we welcome the opportunity to give evidence to the committee and think that this inquiry is timely. We realise that many of the concerns that are prompting the current debate about telecommunications arise from possible health risks, a matter that does not lie within our sphere of responsibility as an organisation.

We believe that telecommunications development has an important natural heritage dimension. Our concern is not just about the masts, but about their impact on the landscape and on people's enjoyment of the landscape; we are concerned about the access tracks, the buildings associated with the masts and the power lines that are required. We have been worried for a number of years about the proliferation of that infrastructure across the country and its impact not only on some of our special designated landscapes, but on the countryside as a whole.

Our organisation recognises the social and economic benefits that arise from improved communication; we are not trying to frustrate those improvements or deny people the benefits that they bring. However, sustainable development has an environmental strand and we are concerned that that perspective has not been adequately taken into account in the industry's dramatic development in the past couple of decades.

I have emphasised the impact on the landscape, but there are also ecological impacts associated with the track infrastructure rather than with the masts themselves. In the attempt to achieve complete, or near complete, coverage, we could end up with man-made intrusions into areas in which there are few other signs of human activity and which are widely viewed as unspoilt areas. Locals often resent the imposition of masts.

The presence of that sort of infrastructure can certainly influence people's perception of the quality of the landscape. It may also affect Scotland's appeal as a tourist destination. The presence of masts in some remoter parts of the country can be seen as detracting from the particular qualities of remoteness that people often seek out.

Those are the problems. In practice, a mutually acceptable solution can be found in almost every case. A site can be found that is acceptable from a natural heritage standpoint as well as from an operational standpoint. Greater sensitivity on the part of the industry is required, as well as a willingness to share infrastructure. We have identified a problem with the present regulatory regime, which does not adequately encourage that. There are signals in that direction in the licensing regime and in the arrangements for notifying local authorities, but we do not feel that the regulations have enough bite to influence the industry. Furthermore, the regime that has been established is so complex and convoluted that people can easily become lost in it. I do not exclude myself from that number; I find it difficult to get my mind round exactly how the regulatory system is supposed to operate.

We feel that the time has come to cut through all the complexities and to rationalise and simplify the system. We should bring the activity within planning control. The planning system has many advantages. It is not just a mechanism for control; it can be a mechanism for guiding through development plans. It is a mechanism for promoting dialogue between the developers and the planning authorities. Also, regardless of its imperfections, it makes provision for community input from the outset.

The planning system makes specific provision for the enforcement of any conditions that are imposed on a licence. Until now, there has been a deficiency in that area. There is evidence that the operators have not always adhered to the conditions that local authorities have suggested in a consultation process. I think that that is a thoroughly unhealthy state of affairs. The

environmental concerns that underlie our involvement in this area could be better addressed by bringing the development of communications infrastructure under the control of the planning system.

The Convener: Thank you very much, John. I shall open up the discussion to the committee.

Janis Hughes (Glasgow Rutherglen) (Lab): Thank you for your comprehensive introduction, which answered the first question that I was going to ask. Your submission stressed the importance of Scottish scenery and its contribution to the quality of life in Scotland. Do you have a view about its importance to the economic prosperity of Scotland? What kind of relationship does the telecommunications infrastructure have with that?

09:45

John Thomson: It is difficult to pin down the specific impact of telecommunications development. It is a contributory factor to what may be a decline in that resource. We know from past surveys that about 83 per cent of visitors to Scotland identify the scenery as a prime attraction—it is a big draw. Tourism supports a large number of jobs, particularly in rural areas, and that industry is becoming increasingly competitive worldwide. It is becoming more difficult to secure a market, let alone expand a market.

There is evidence that tourists, especially foreign tourists, are becoming increasingly discriminating. In Europe, people have become accustomed to high environmental standards and so it is important that we do not degrade the environment. There is no doubt that the qualities of seeming unspoiltness, remoteness and tranquility form a part of Scotland's appeal as a holiday destination.

The emergence of many masts in prominent positions could have a significant impact on that. It would be difficult to state the case more strongly than that, but such masts contribute to people's feeling that this is not an unspoilt country but a country where people do not care about developments.

Many of the people who visit would, no doubt, want to use mobile phones—they are not necessarily fleeing from the mobile phone. Many of them would, however, expect sensitivity to be shown in the way in which the infrastructure of mobile telephony is put in place.

Janis Hughes: Thank you. You said that you felt that the regulations were complex. What are their specific deficiencies in that regard?

John Thomson: There are some real oddities and anomalies in the regulations. For example, there are differences in the regimes in scenic areas for microwave and non-microwave systems, which means that different mobile phone operators who use different systems are subject to different rules. More generally, there is confusion between the role of the planning system—which kicks in when a mast is higher than 15 m—and the licensing system. There is also confusion about the periods required for notification to be given to local authorities and the periods within which they must respond.

We welcome the intention behind the proposals to introduce a prior approval regime for cases with permitted development rights. However, those proposals will serve only to confuse things further. Our instinct is that people recognise that there is a problem; they are trying to tackle the problem, but are avoiding the obvious way of doing so, with the result that the system becomes more confusing and convoluted.

Mr Murray Tosh (South of Scotland) (Con): The ninth paragraph of the written submission from Scottish Natural Heritage says that there are deficiencies in the enforcement of environmental safeguards and licences. Although we are familiar with the difficulty of enforcing planning conditions, I wish to pursue the suggestion that licences are difficult to enforce. Can you explain the implementation of the safeguards and illustrate the specific aspects of implementation that cause you concern?

Simon Brooks (Scottish Natural Heritage): Sorry, did you say paragraph 9?

Mr Tosh: Yes. The sentence reads:

"Yet these safeguards themselves are notably deficient in a number of aspects".

Simon Brooks: We are concerned about the fact that the final decision on a large number of applications is made by the operator, especially in relation to the 28-day notification period in the licence. The operators are required to take on board certain conditions that have been suggested by the local authority. However local authorities have said, in our discussions with them, that they feel that their hands are tied—if the operator wants to go ahead, it, rather than the local authority, determines the final decision. That mixes the roles of regulator and regulated.

We are also concerned about the safeguards that we identified for certain designated areas, which are limited to a few sensitive sites, such as national scenic areas, the national nature reserves and the sites of special scientific interest. SNH has a clear role in final decisions—which are subject to appeal to the Scottish ministers—on such sites but there are other sensitive areas where this relatively weak 28-day procedure favours the operator. We have highlighted areas such as regional parks and country parks, and areas of

great landscape value, which have been awarded their designations because of their sensitivity—where a strong bias in the system favours the operator, who has the final say.

Mr Tosh: You seem to imply that the deficiencies are more to do with lack of planning control than with licences.

Simon Brooks: I am sorry—I am not clear about your point.

Mr Tosh: I am not very clear about your answer. Are you saying that it appears that planning considerations—if they apply—and licence conditions regulate the environmental impact of the operator's licence to develop? You seem to suggest that there are deficiencies on the development side of the issue. What impact would there be if planning regulations applied?

Simon Brooks: If applications fell within the full planning regime, the planning authority would have a stronger role and would be clearer about the extent to which it could influence such applications.

John Thomson: In cases where planning permission is not required and where special sites are not involved, the system is self-regulating. Although local authorities can suggest amendments and conditions, it is up to the developer to decide whether to adopt and comply with those suggestions.

Mr Tosh: So no one has a duty to monitor the application of the licence and to assess whether the developer has complied with the environmental safeguards in the licence.

Simon Brooks: Our understanding is that the director-general of telecommunications does not have that role.

Mr Tosh: So your point is that there is an absence of regulation. What are the practical consequences of the deficiencies?

Simon Brooks: I can offer some examples. As John mentioned in his introduction, it is rarely the case that a compromise cannot be found—that the telecommunications operators cannot site a mast that meets both their requirements and the natural heritage concerns that must be addressed.

I give as an example a case that involved a full planning application because it was in a national scenic area. SNH objected to the application and the reporter found in favour of our position—the planning authority refused planning consent. It was found that the operator had not given due regard to alternative sites and had been strongly influenced by the availability of the one site that had been discussed at an initial stage with the landowner. The operator had discussed the possibility of using alternative sites only with some of the other landowners, not all of them, and had not looked at alternative options—different design of masts and so on—for getting coverage. That is one example where we feel that the environmental considerations were not given due weight in what was a designated area.

Mr Tosh: You are seeking to apply a fairly burdensome standard. A standard that tests alternative locations and puts a burden of proof on the applicant is the sort of standard that is applied to a major strategic location, such as a major land release in an urban setting. It is not really a standard that would be applied to development and control, which tend to be more reactive. Would a system of development and control for masts really lend itself to choosing between disputing sites or demanding that the applicant consider other sites? That is likely to be a time-consuming, expensive and burdensome process, both for the applicant and for the local authority.

Simon Brooks: The licence requires that alternative sites are considered. What we are saying is no different from what is required under the present system. On paper, it appears that there is an adequate regulatory framework to ensure that operators take environmental considerations on board. However, our experience is different. In some cases the system works and we can resolve the issues, but in many cases a proposal is not acceptable and gives rise to significant concerns, and we have to ask the operators whether they have looked at alternatives x, y and z. That debate is all part of the process. However, we feel that the operators are not, from the start, taking the environmental considerations seriously.

Mr Tosh: So, under the licence, the developer is supposed to be looking at specific locations, and the alternatives, with a view to justifying them.

Simon Brooks: Yes. That is a condition in the telecommunications code.

Mr Tosh: Does the licence require an operator to go through this process with the local authority?

Simon Brooks: Yes, or, in some cases, with Scottish Natural Heritage.

Mr Tosh: I would like to probe more deeply into the issue of prior approval vis-à-vis full planning control. I think that John Thomson said that a prior approval system would simply confuse things still further. Both prior approval and full planning control can be based on a policy framework, and would seem, to the layman, to offer broadly the same sort of context. What are the differences between those two alternatives in practice? Can you give some examples of your concerns over the prior approval option? I understand that you prefer full planning control.

John Thomson: I think that I said that prior approval seemed a rather unsatisfactory halfway house. What happens if the local authority objects because it is not happy with a particular proposal? The developer does not require planning permission, so he is not actually being refused permission by the local authority—he seems to be in some sort of limbo. A similar system has been in place for some time for agricultural buildings. That bears out the point—you create a limbo and nobody quite knows what they can do. One of the effects of that is to discourage local authorities from taking the issue seriously, because, at the end of the day, they are not the decision makers.

The proposal seems rather odd to us. We are aware that such a regime has existed south of the border for some time. We do not have detailed knowledge of how it has worked there, but it seems inherently odd if the outcome can be uncertainty all round. It is much better to have a certain outcome and, in the long term, a clearer and more definite system is likely to be in everyone's interest. In my experience, developers like to know where they stand in the system within which they are operating; they do not want to be confronted with uncertainty.

10:00

A clear-cut extension of planning control would provide some certainty. I take your earlier points about the costs of searching for appropriate sites and so on. However, the extension of planning control would also encourage a more strategic approach on the part of the developers. They would sit down and try to work out what sites they would need in order to secure adequate coverage. They might then discuss that with the local authority at some length. The local authority would consult SNH and other relevant statutory bodies. It might be possible, not to give a blanket approval, but to allow the developer to go forward with individual applications, with the strong expectation that there would be no opposition to them. That seems to me to be a better way forward than the current system of dealing with individual cases, with all the possibility of delay and hassle.

Mr Tosh: You have said twice that it would almost always be possible to find a mutually acceptable site. There must be circumstances where that will not happen. In the regime that you propose, how do you see the conflict being resolved when the developer and the local authority cannot or will not agree? Should the matter be resolved through the appeals process or should there be some other way of breaking the deadlock? There will be some conflict between good planning and the desire to develop the network.

John Thomson: The appeals system is well-established as the means of resolving such conflicts, as it enables a national perspective to be brought to bear. One of the developers' arguments is that we need to take such a perspective—the appeal mechanism provides the scope for that. I agree that, occasionally, there will be such cases, but SNH would find it surprising—other interests may have different views—if there were many of them.

Linda Fabiani (Central Scotland) (SNP): From what you have said, it is clear that you do not feel that the current planning system is sufficiently flexible. In answer to Murray Tosh's question, you said that the developers should have a national perspective. Do you think that planning should take a national perspective, rather than a local one? Should a national plan be introduced?

John Thomson: There has to be a national policy framework. It would not make sense to have a national plan in terms of a map that identified sites. The density of coverage that is required does not lend itself to that approach. A national policy framework would need to have the scope for a more strategic approach at a local authority level. An authority area as large as that of Highland Council might need to be broken down.

An attempt was made to follow that approach in the Highlands and Islands. There was a useful dialogue, although the outcome was not entirely satisfactory from our point of view, which reflected the weakness of environmental and other interests in relation to the interests of the developers. Simon Brooks was involved in that process and he might have something to say about it.

Simon Brooks: The Highlands and Islands is the largest area in which we have tried to take a joint approach, in terms of seeking European funding. One of the frustrating things that we and the planners—and from reading the press, local communities—found was that at the same time as we were having what were often useful discussions with the two joint developers, under the objective 1 project for masts, one of the other operators was developing its own sites. Although we encouraged the operators to talk to each other, we learned some lessons about persuading them to agree to combined sites. A planning framework had been set up and the intention was there, but that was not always successful in practice, when we were dealing with the different operators.

Another example is Loch Lomond, where at an early stage we managed to discuss quite a sensitive site with the operator that first came to us. We got the other operators to consider whether they could utilise that site to minimise the number of masts and eventually managed to get three of the operators to use it. They recognised the environmental sensitivities and were willing to accept a slighter lower coverage of the area, but

one of the operators was still keen to go to another site that was of more concern to us. The planning framework exists and we tried to put it in place to cover the area, but ultimately we still rely on the operators agreeing to work together more positively.

To return to the question about whether there are sites that would not be acceptable, it is a matter of whether the operators will accept lower coverage. It is not a case of their having no coverage, but a case of the level of coverage that they are willing to accept. The operator that insisted on going to the other site was clear that it was not willing to accept the level of coverage that the other three operators accepted.

Linda Fabiani: Would you like more enforcement of that within a national framework?

Simon Brooks: Yes.

Linda Fabiani: From what you have said—and by the very nature of what you do—you obviously feel that there are sensitive locations in which we should not put such developments. How would you define them, and what do you think should be the criteria for definition?

John Thomson: The first sift is the designation system. The sensitivities might be different between national scenic areas, national nature reserves and sites of special scientific interest. They are ecological rather than landscape sensitivities. At the local level, we have areas of great landscape value. The Government had indicated that it would like to see further refinement and rationalisation of that system of national and local landscape designations.

That system provides a basic sensitivity test, but we need to go beyond that with this sort of development. There are quite detailed locational issues, which can probably be described in broad terms as avoiding certain types of location and choosing others. However, that can take us only so far and, in many cases, the sharing of sites and infrastructure could significantly reduce impact. There are ways in which key sensitivities—on both the designated sites and the types of location—can be highlighted. Beyond that, there has to be some sort of dialogue, and we are willing to enter into that dialogue.

The question is how earnestly the developers will enter into that dialogue, which is where the underlying regulatory framework is important. If developers feel that they need those discussions and that they have to find mutually acceptable proposals, those discussions will happen. However, that necessary balanced dialogue will not happen if developers feel that they are going through the exercise on sufferance and that the need to expand the telecommunications system will prevail anyway.

The Convener: If you manage to define those sensitive locations, will the rigour with which the planning process is applied in such areas be any different?

John Thomson: The process will not necessarily be any different. The planning system will be extended to all applications. However, the bodies involved in the process might be different. For example, we would expect to be involved in any site located in a national scenic area. Although the process will not be any different, the tests of what is environmentally acceptable will be stricter in the more sensitive sites. That is a standard part of the planning system.

Simon Brooks: In the case that went to appeal, the reporter concluded that, given the area's significance, the operator should have treated that mast site as a special case. The issue is the sensitivity with which the operator treats those concerns. To give perhaps a perverse example, one operator went for a location outwith a designated site; unfortunately, the site that was chosen was visually intrusive. In that case, we were more keen for the operator to move the site down the hillside into the national nature reserve, to reduce the visual intrusiveness. We need to be aware that designated sites represent only a broad-brush approach; they indicate sensitivity, but do not provide a blueprint.

Linda Fabiani: I would like to put you briefly on the spot. Would you like to see some sites designated nationally as: "No masts are going here, developers, so there is no point in applying"?

John Thomson: No, we would not like to go that far. Whereas, for example, ecological interests can be very site specific and small scale, sensitive landscapes tend to be much larger and it would be wrong to refuse any telecommunications development in those areas. We need to make it clear that certain areas are sensitive and that developers should take particular care about the design of sites in such areas. That requires consultation with the local authority and the relevant statutory bodies.

Linda Fabiani: I suspect that you have already answered my last question. We have had submissions from developers that have made great play of the fact that they are environmentally friendly. Furthermore, they have provided documents as proof of that. What weight do you give to such claims?

Simon Brooks: One of the underlying themes of our submission is that, on paper, the regulatory system looks great. We have had many positive discussions with operators, which seem to be taking our concerns on board. However, in practice, things do not turn out as they should.

Many times, we have agreed on a site outwith a

designated area, and have asked the operators not to encroach on that area, only to come along when the mast is being installed to find that, because there has been sloppy management, the operators have encroached on the site and caused damage. We may have agreed to the undergrounding of power lines to sites, which have not been undergrounded. There are many such examples, and it is the detail of the practice that is important. We always feel quite positive after meetings with the operators. However, after the past four or five years, during which time we have had much involvement with them, we are more cautious in believing that they will keep their promises.

10:15

John Thomson: There are differences within the industry, although I do not want to name anyone specifically. Some operators are more cavalier than others. The problem is that, if there is not a strong regulatory system that bites, the matter is left in the hands of—perhaps calling them cowboys is going too far—the more cavalier operators. The other competitors then feel that they will lose out if they do not behave in the same way. That is the problem that we face. There are many good intentions and there is a lot of hype about those good intentions, but they are not always translated into practice, as Simon said.

Robin Harper (Lothians) (Green): I return to something that you said earlier, to make it clear in my mind. Some operators will—to put it bluntly—push their luck. They will try to obtain the best site in the full knowledge, having read the guidelines, that you will object. Do some operators begin with such bargaining?

Simon Brooks: Certainly.

John Thomson: The Loch Lomond site that Simon mentioned is a good example. Three operators were prepared to accept less than the ideal, but a fourth felt that it could push for it.

The Convener: Members have no more questions. I thank John and Simon for attending the meeting. The discussion has been most interesting, and I thank them for the straightforward answers that they gave.

We will now take evidence from the Royal Town Planning Institute in Scotland. I understand that Graham U'ren is here in addition to Iain Ross. I ask them to join the committee. We are in the middle of a series of evidence-gathering sessions on telecommunications. I welcome Iain and Graham. You have the chance to make a short opening statement, if you want to do so. We will allow you to do that before members begin to ask questions.

Graham U'ren (Royal Town Planning Institute in Scotland): Thank you, convener. We will be brief.

Thank you for inviting us. I am the director of the Royal Town Planning Institute in Scotland. Iain Ross is a senior officer for planning in Dundee City Council. I would like to expand on the paper that we have submitted, which I assume that we can take as read. One or two supplementary points might be usefully made. As we tried to point out, we are concerned not only about the close-up problems that arise from telecommunications development, but about the wider picture for the planning system in Scotland.

We feel that there should be greater planning control over such developments, but we are aware that there should also be more directional national planning policy guidance to ensure that the needs of the industry are met. The institute accepts that the purpose of the planning system is to ensure that development is delivered to meet the needs of the nation. Nowadays, in the context of sustainable development, that should be consistent with the constraints imposed for environmental or other reasons. There must therefore be a positive view of where we are going in the future.

That is not what national planning policy guidance gives us at the moment. In the mid-1970s, Scotland was in the forefront of national planning policy development, and we ought to go back and look at the guidance that was issued then. Although there is still development now, there was a more forward-looking approach in those days. One of the characteristics of those national planning guidelines was that they were accompanied by land use summary sheets. They were purely for information and advice, but they were written by the Government following consultation with the appropriate industry, looking at the needs of the industry in the foreseeable future and setting out a view as to what the demands and pressures would be.

For example, there was information on electricity and how the national grid would develop. There are similarities between the electricity and telecommunications industries, because both are covered by a permitted development or deemed approval process. We would commend such an approach, to ensure that additional control was not seen as added regulation or negative development.

We have pointed out that the proposed prior approval procedures already exist in relation to agricultural buildings and that application of those procedures across the country is inconsistent and generally disliked by planning authorities. In England and Wales, a prior approval procedure has been introduced for telecommunications

developments. When there was consultation on such a scheme last year, our institute indicated that it is opposed to it. Although our information is only anecdotal at this stage, we are maintaining our opposition now that the scheme is in operation.

Because the operation of planning control is dependent on secondary legislation—the general permitted development orders—the Welsh Assembly has the power to depart from the England and Wales scheme that is overseen by the Department of the Environment, Transport and the Regions. If it was regulated by primary legislation, the Welsh Assembly could not do that. As it is, Wales could well consider going a different way if it wanted to, just as Scotland can.

I have a final quick comment about the health issue. Again, you can see from our paper that we are far from convinced that that is a matter that planning should consider. There are a number of reasons for that view. We are concerned about an example of case law that is quoted in the draft circular on the impacts of electromagnetic fields, which was issued by the Scottish Office last year. It could give the impression that that case law proves the case for including health issues in material planning considerations.

The case established that a public perception of significant danger was a material planning issue. We have examined the case closely and we find that that was not the issue that determined the appeal case that went to the House of Lords. It was the case that determined the decision to reject the award of expenses that the inspector had agreed to give.

The inspector's view was that the authority had been wrong to take health into account and, by doing so, had created a trumped-up excuse for taking the matter all the way through the appeal process; therefore, expenses should be awarded against the authority. Their lordships said simply that health might have been considered, but they did not say that it was particularly applicable in that case—the argument is that health is not ruled out, but the case does not establish that it is ruled in. There is an important difference. Too much could be founded on that one case.

Iain Ross (Royal Town Planning Institute in Scotland): The committee helpfully listed some issues for us to consider. As an introduction, I will comment on them from the perspective of a local authority inspector who has frequent meetings with mast operators and is asked to make judgments on pre-application negotiations and so on.

The first issue that was raised by the committee was the effectiveness of current planning policy for telecommunications. It is perceived as being weak. As Graham said, there is not sufficient national planning policy guidance. The Scottish Office development department circular 25/1985 has not responded to modern concerns. Telecommunications is a competitive, growth industry. That was not anticipated back in 1985.

Class 67 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 is regarded by experienced officers and members, and certainly by members of the public, as complex, confusing and sometimes difficult to understand. People ask councils why they have to apply for planning permission to change their window or erect a garden shed, but a mast up to 15 m high can appear in their view without warning. The obligation for prior notification—if that is the right term—under the code for operators is useful. However, ultimately, it is the operators' decision—taking into account planning and the cost-effectiveness and reasonableness of what the authority asks them to do—so planning officers and members may feel helpless.

The second issue raised by the committee was the effectiveness of prior approval procedures, into which the Scottish Office research unit carried out research in 1998. In answering your questions, I will be happy to discuss the research findings.

There are three categories of prior approval: for agricultural developments; for forestry developments; and for the demolition of residential buildings. The profession is sceptical about the effectiveness of those prior approval arrangements, particularly for the demolition of residential buildings. It was a confusing path that led to the present arrangements, which are only rarely used.

The difficulty with a local authority prior approval mechanism is deciding the circumstances in which we ask for an application. Members and the public would have to understand the basis for such a mechanism. It would have to be founded on clear planning principles that are devised locally, and on criteria that can be explained as material considerations. Those principles and criteria would inevitably vary from authority to authority.

If a mechanism were to be implemented through local structure plans, the difficulty would be that such plans tend to be unwieldy and long-winded and can take a number of years to be approved or adopted. Non-statutory guidelines are, perhaps, a better option, although for them to have any weight, there would have to be local consultation.

The third issue raised by the committee was the policy basis for planning for telecommunications. There should be better communication with and understanding of the industry, and strategy should be planned ahead. My authority has embarked on

a methodology for that, which I would be happy to share with the committee as a guide to best practice.

The next issue is the relationship between the local planning authorities and the operators. My experience of the past weeks and months has led me to believe that there is genuine willingness among operators and the consultants who act for them—particularly those with a remit for planning and chartered surveyors—to understand the planners' point of view and local concerns, and to consider the options. That dialogue can be quite fruitful. The bottom line, however, is the 15 m rule and the related complexities of the permitted development orders.

10:30

The setting of parameters for material planning considerations was one of the final issues raised by the committee and is linked to the previous issue of visual impact and the effect on local amenities. Many masts are in sight of residential property, and the public are concerned about how they look. National planning policy guideline 1, together with a commentary from planning lawyers, give a fairly comprehensive list of what constitutes a material planning consideration that must be taken into account when determining planning applications. The list includes local amenity, visual amenity, noise and siting.

I am happy to answer any questions.

The Convener: Thank you for those comprehensive opening remarks. Are there any questions?

Mr Kenny MacAskill (Lothians) (SNP): Mr Ross suggested that the Government's objectives, as set out in circular 25/1985, have not been met. Can you tell us, in a nutshell, why that is?

Iain Ross: British Telecommunications and Mercury Communications are mentioned in that circular. I am not sure whether it was envisaged in 1985 that the industry would grow at such an exponential rate. There has been a follow-up circular, but the profession has not found it particularly helpful in dealing with the health issue. There is a great deal of confusion and uncertainty in the minds of local residents about whether health should be a material consideration. There is a crying need for national guidance. Work was done on that prior to the Scottish Parliament coming into being, so there is guidance in waiting.

Mr MacAskill: You mentioned the prior approval procedures in England and Wales and suggested that some aspects were not working successfully. Which aspects would it not be appropriate to replicate here?

Graham U'ren: I am not certain that there is any difference in the circumstances in the two countries. It boils down to the practicalities of broadly similar planning systems and how they work. We are as concerned as our colleagues down south. They may have a little more experience and are continuing to indicate their concern, particularly regarding local authority planners. Our feeling is that the public do not fully understand how the system operates.

At the end of the day, there is an added decision-making element to the process. In the first instance, the authority must decide whether to require an application, rather than saying that everything needs consent. The current regime also allows authorities to decide whether to advertise or notify and whom to consult. In many ways, there is an added part to the process, apart from the fact that a policy framework is also required. At the moment, the Government allows that to be dealt with at local level. Therefore, one authority might be dealing with notifications and deciding whether to take applications on different criteria from the authority next door.

Mr MacAskill: The operators suggest that they would be happy with a code of practice. Why do you think that that would not be successful in Scotland?

Iain Ross: The public must be confident that codes of practice that are outside their control and enforcement are working. The issue was raised under previous evidence to the committee as to what enforcement powers a local authority might have. There is great doubt as to whether there would be enforcement powers.

For example, the permitted development order allows an operator, in an emergency, to roll in a mobile mast to fill a gap for up to six months. Does that mean that if the six-month period elapses and there has been no application—if one were required—that the authority could take enforcement action? I suspect that in that case it could.

Codes of practice are all very well, but they require a great deal of public understanding that the local authority, the elected representatives, have had a major input into that process. If it would be helpful to the committee, on the issue of the prior notification arrangements I can do no better than refer to a particular paragraph in a research report from the Scottish Office research unit entitled "Research on the General Permitted Development Order & Related Mechanisms". I understand that the Convention of Scottish Local Authorities and the Scottish Executive are taking this report forward and discussing the outcome at the moment. The quote is very brief, but it encapsulates the whole issue. Paragraph 5.11 on page 26 says:

"There is a clear perception among planning officers that prior notification is unnecessary in principle and unsatisfactory in practice."

The prior notification procedures

"are seen as representing a halfway house between permitted development and a planning application. The procedures are unpopular with planning authorities, which regard them as complicated, their powers circumscribed, time consuming, and with reduced fees. Planning authorities perceive that prior notification has complicated, rather than streamlined, development control. A clear preference is for such development to be permitted development, and therefore requiring no formal approval, or that it should not be permitted development, and that all developments covered by the prior notification procedures should be omitted from the PDO and require a planning application in every case."

The researchers identified a methodology—I do not know whether this recommendation will be adopted—for what they call a prior notification procedure but what seems to me to be akin to making a planning application. I saw no difference other than that there was no advice about whether fees would be applied if an appeal mechanism were brought in. It may be that there is a methodology that would avoid planning applications, but the public know what a planning application is. They are used to getting involved in planning applications, and officers and members of the RTPI know what they are.

Mr MacAskill: I am not a town planner, so I would like to clarify what you have said. It seems that you are suggesting that a code of practice is not acceptable and that prior approval has problems. Are we veering towards a non-statutory guideline system that will beef up prior approval or change it in some way, or should there be statutory guidelines?

Iain Ross: We are looking towards a model where planning applications would be required in a majority of cases for telecommunications antennae or apparatus that are very clearly defined in an order, whether a procedural order or a permitted development order. There may be scope for the most minor of apparatus, however defined, to be exempt from planning control.

There is a variant that would say that there should be planning applications for certain cases of development and a strictly defined and controlled prior approval mechanism for a middle group. The institute favours the model recommended by the Scottish Office research report: a planning application with acceptable minor-scale developments outlined in a revised and simplified development order. That would be the simplest approach.

Robin Harper: You are already worried about inconsistency in the application of guidelines, are you not?

Iain Ross: We are worried not so much about the inconsistency as about the lack of clarity and specificity in what is available to planning authorities at the moment.

Robin Harper: If we go for full planning control and we do not have consistent application of the guidelines, could that make the situation worse?

Graham U'ren: Yes. If we do not have the necessary guidance, that might make things worse in some ways. Our case is based on more directional guidance.

Robin Harper: That clarifies the point.

We understand that telecommunications developments move at a very fast pace. Given that, will not full planning control lack the required flexibility?

Iain Ross: I think that procedures could be built in to cope with that. We are obliged to decide on planning applications within a two-month period, which is not unreasonable. However, the industry is moving at such a speed that there will need to be a debate about where permitted development should stop. I do not think that we will end up with no permitted development of telecommunications apparatus—that would probably not be acceptable to the industry—but we should aim to have a dialogue with the operators at national and local level. We need to agree a strategy for their rollout programmes, with flexibility built in, and to devise an agreed statutory or non-statutory planning regime or guidelines locally.

In Dundee, the committee has charged the director of planning and transportation with preparing non-statutory planning guidelines to supplement the existing adopted local plan, which refers to telecommunications, to assist members in their deliberations on this matter. Those guidelines are being prepared. In that way, we can devise certain restraints locally and advise operators that the location of a mast or other apparatus in a particular part of the city would not be looked on favourably and would probably not receive planning permission. The guidelines will be fed through into a review of the local plan, which will eventually be adopted.

I think that non-statutory guidelines should be prepared in consultation with the operators. We have already embarked on a series of meetings with all the code operators working in Dundee, to find out what their rollout programmes are and to try to prevent applications to locate masts in particular areas appearing on the authority's table without warning. The aim is to know that applications are going to be made and what options have been considered. In such cases, we will know that the authority has considered mast sharing and ruled it out for technical or other reasons. The operator will already know our

feelings about locations in conservation areas and listed buildings. From that, we may be able to build up a dialogue, so that, if an application is submitted, it can be processed by delegated powers. That would mean that it does not need to be reported to members and can be discharged by the director after 14 or 15 days, in the best circumstances.

The Convener: That is obviously an example of good practice. Did your local business community and the chamber of commerce get involved in the process?

Iain Ross: Although the authority is still to receive the report, I would recommend a period of public consultation on the guidelines, so that any interested party, such as community councils and the industry, can have an input.

Robin Harper: You have begun to answer my next question. I believe that the Scottish Executive is currently reviewing the national land use planning guidelines. Is that correct?

Graham U'ren: The former Scottish Office issued its land use planning under a Scottish Parliament consultation paper at the beginning of the year, and we anticipate a resumption of the exercise by the Scottish Executive very shortly.

10:45

Robin Harper: How would a more flexible national planning framework, taking ease of telecommunications development into account, cascade down into other parts of the planning system to structure plans and local plans which operate on longer time frames?

Graham U'ren: The key to this is the national planning guidance. It is arguable as to whether planning for telecoms developments is a particularly significant issue at structure plan level, but it certainly is at a local planning level.

There are some issues on which you go directly from national guidance to the local level. There are other issues, housing land supply and so on, where it is important to resolve what the overall requirement is before the local plan proposals are put in place. The nature of the national planning framework that we have in mind is an issue that we are working on with our working party, which involves a range of interests in industry and the public sector.

To encapsulate what I am saying on this issue, I will go back to what I said in my introduction. We are looking for national planning guidance that gives more direction as to what we can expect in the future in the market place, so that we know what we have to plan for instead of just having criteria that allow us to react when a matter arises. That principle applies as much to telecoms as it does to land supply for key areas of development.

Robin Harper: How long will those negotiation talks go on?

Graham U'ren: We hope to produce information that will be a useful input into the next programme of development from the Scottish Executive on the planning system.

Helen Eadie (Dunfermline East) (Lab): You have already touched on some of my points, but you may be able to expand on them. What is the process for settling the parameters for what is a material planning consideration? Who determines what is, and what is not, a material planning consideration?

Iain Ross: Authorities are obliged, under section 25 of the Town and Country Planning (Scotland) Act 1997, to determine planning applications in accordance with the development plan, that is, the structure plan and local plan in force at the time, and other material planning considerations.

Those considerations are listed in paragraph 43 of NPPG 1, "The Planning System". Since the publication of that document, the list has been developed and commented on by planning lawyers, in particular Neil Collar in his book on planning law and procedure.

The material considerations are listed as follows. First, on Government policy and guidelines, it is necessary to go to the national planning policy guideline series and look for Government statements of policy and circulars under that heading. Secondly, the views of statutory and other consultees must be taken into account. There are statutory consultees that an authority must go to on a planning consultation. There are also other consultees in some instances, such as the Royal Fine Art Commission, the Scottish Executive, the agricultural department and so on. Third, as all applications are exposed to public debate and opinion, those representations from the public must be taken into account as a material consideration.

The planning history of a site can have a bearing on the decision. The availability of infrastructure such as drainage works mostly relates to larger developments other than telecommunications. The impact on the locality, including means of access, parking provision, landscaping and overall setting, is a strong material consideration of members in dealing with mass developments. The impact on the natural and built environment relating to the layout, siting, design and external appearance is also relevant to the instances that we are talking about.

Another issue is incidental effects relevant to planning. There are codes and legislation, which are related to planning, and the influence on those

is a material consideration. The degree to which an unacceptable proposal might be made acceptable by imposing conditions is another aspect of this. The list of material conditions is a fairly long and growing one. On the health issue, it is generally taken by planning officers that that is not a material planning consideration, unless it is in exceptional circumstances as defined in the earlier circular, 25/1985. The outcome of appeals and case law may bear that out.

Helen Eadie: You began to answer the next question that I was going to ask. What would it take for health to become a material consideration?

Iain Ross: That is an extremely difficult question and lies at the heart of the public's concerns about this issue. It would take strong guidance from central Government, but we do not have that guidance at the moment. Research is under way, and once the outcome is known, the planning regime will have to analyse it and ask, "Do we want to make health a material consideration, not only in relation to telecommunications but in relation to other developments?" I have already stated that case law will be relevant to those considerations.

If health is to be a material consideration, how is it to be measured? How does the officer deal with an application for planning permission when someone says, "There is a health issue, but I cannot be sure what it is"? Are we talking about cordons sanitaire around areas, thereby taking a belt-and-braces approach? If that approach were applied to the telecommunications regime, there would be no rollout of the networks at all.

It is not good enough to say that a material planning consideration should be whether a mast is a given distance away from residential property. It is done with regard to schools, but why? What is the difference between a living and a working environment? Those questions need to be answered or, before you know it, entire areas will be covered with cordons sanitaire. It is a difficult problem, and I do not have the expertise to answer your question.

Helen Eadie: You have done very well.

In the conclusion to your submission you talk about the

"widespread and unsatisfactory visual and local amenity impact of masts".

Can you comment on that with regard to urban areas, and on the longer-term implications of further demands?

Iain Ross: There is concern about the visual effects of masts, particularly where they are close to housing and impact on the visual amenities of residents who are trying to enjoy the comfort of their own homes. Instances of that have recently been in the press. The matter is of concern to RTPI members who have applications before them.

The cumulative impact of the next phase of roll-outs is also of concern. That phase is not designed to provide coverage but to improve the quality of the service provided by the operators by boosting signals and by accommodating the demands of a growing customer base. Those developments tend to be on a smaller scale; for example, a box measuring 4 ft by 2 ft on a converted lamp post on a footway. One operator might need several of those in a locality. A different operator might be rolling out a similar programme with similar requirements but with a different design.

The cumulative effects of a number of operators with permitted developments, and with rights under the New Roads and Streetworks Act 1991, to install kit on the highway, are potentially horrendous. As a local authority, we are not capable of dealing with that at the moment, other than by persuasion: talking to the operators, finding out what their requirements are, asking them if they have considered mast sharing and if they have considered the alternatives. I have found such discussions to be very useful.

The Convener: I wish to pursue the definition of "very useful". We have had the operators in and they talked about the third generation of mobile phones with faxing and other features that technology can provide and which people want, which is the other side of this matter. From your discussions with the operators, what are they saying about the scope of the rollout? What lessons have they learned from the rollout of phases 1 and 2? Are they being more amenable about the environmental and visual impact of equipment?

Iain Ross: I think that they are. My discussions with them are only partially complete. It seems that consultants who appreciate the local authority's point of view might advise the operators.

There have been developments in the design of the apparatus and there is a need for the control side to be involved in that. We need to learn about the technical aspects of the design. We should ask for a package of information in the assessment period. That might include a justification of why a particular rollout design is technically required, under other legislative obligations. We should also know why they have gone for a particular design: what are the alternatives and why have they been ruled out? We need to know whether they have considered other locations that might be better suited in environmental terms. Finally, we need to know if they are aware of the rollout programmes of other operators, so that they can at least

investigate mast or apparatus sharing. We need to know how technology is developing in order to reduce the scale of such programmes.

The objective is to agree a code, through persuasion and negotiation. That is the theory, and we are making every effort to see that delivered in practice.

Mr Tosh: I would like to raise a point that the industry raised with the committee at the previous meeting. You will be pleased to know that they have the interests and welfare of planners close to their hearts. A consistent theme of their evidence was that the poor, overburdened and resource-starved planning authorities would struggle to cope with a full planning regime and that it would be in their interests not to be burdened with such an onerous task. I am sure that you appreciate the sympathy that underlay those statements. Could you comment on that?

A full planning regime would add to the local authority's range of activities. I have been a member of a planning committee and I have heard the regular plea for more resources, which are never given. How do you feel about the additional work load that prior approval and a full planning regime would entail?

Iain Ross: I previously mentioned the balance between permitted development and the need for authorities to work hard on devising local circumstances and how to determine planning applications. We are burdened by an ever-increasing work load, but that represents the tip of the iceberg. Much work is done behind the scenes, behind planning applications and pre-application negotiations and discussions, which can bear fruit. That is promoted as good practice. We talk to the applicant before they submit their application.

If we build up the good working relationship that both sides appear to want, it will be simpler to process an application when it comes in, given that it was founded on sound local policy. I am not one for decrying the burdens that are placed on planning authorities and officers; it is all in the interests of a better and more sustainable environment. We would bear the burden to secure a better outcome.

Mr Tosh: I am sure that that will be immensely reassuring to all the people we took evidence from last week.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I have a brief question. You mentioned basing things on sound local policy. We heard concerns from some of the operators that decisions would be made on the basis of local politics, which would not be good. They questioned whether you could balance local policy with a national framework. Do you have any comments to make about dealing with that problem, if a full planning regime was introduced?

Graham U'ren: That goes back to the point that we are making about the nature of national planning guidance. For a long time, we have taken a deregulation and disengagement approach, which has resulted in a reactive planning system. That makes local authority politicians somewhat defensive and unsure. We think that there should be far more common ownership of what planning is trying to achieve, based on a set of policies to which everyone subscribes. The committee is essential to those policies being adopted in the name of the Parliament. In that situation, the idea of local variation and inconsistency would be more exposed against the expectation of the general public. We are not there yet. It will take a change of ethos before we can say with confidence that what we are suggesting today would actually work.

Iain Ross: I think that the term "local politics" was used, rather than "local policies", but the planning control process is a quasi-judicial process into which party politics should not enter. Decisions should be made on the basis of sound planning judgment and policies and other material planning considerations.

11:00

The Convener: Are you satisfied that, if we had a policy platform from which local authorities could operate, the variations between one authority and another that the operators talk about would be resolved?

Graham U'ren: We would be quite confident. I am trying to think of an example of a consistent approach being engendered by national policy. When I think of one, I will tell you.

The Convener: I thank you, Graham and Iain, for coming.

I invite the representatives from Friends of the Earth Scotland to come to the table. We appear to have one half of a double act. Where is Graeme McAlister?

Dr Richard Dixon (Friends of the Earth Scotland): Graeme has popped out to the loo.

The Convener: He is a fortunate man. I do not have the opportunity to do that.

Will you make the opening statement in the absence of Graeme?

Dr Dixon: Yes. I am Dr Richard Dixon, head of research with Friends of the Earth Scotland. I am glad to be here today and I am glad that you are considering this issue. My role today is to introduce my organisation and Graeme, who will answer most of your questions. I might answer a few questions myself.

I will introduce Friends of the Earth Scotland as this is the first time that we have appeared before an inquiry. We like to think that we are the leading environmental campaigning charity in Scotland. We have 5,000 members and many more supporters. We have about 10 groups around Scotland that work on local issues and some of the issues that concern us nationally.

One of our key ideas is to interpret science into policy. My role as head of research is to consider science that is emerging, sometimes in quite obscure places, and to examine what that might mean for us in Scotland. We will then try to develop a policy response.

That led us to consider the issue that is under discussion today. About 18 months ago, we decided that there might be a health issue related to telecommunications masts. I asked Graeme McAlister to find out what the international research was saying. Some studies suggested that there was no problem, but others suggested that there was a significant problem. We decided to adopt a precautionary approach to the issue as it might have serious implications for health. The precautionary principle is important to us, but we do not feel that it has its full place in policy making in the UK. I cannot think of a committee of this Parliament that should be keener on the precautionary principle than this one. The message that we will be giving you today is that this should be the home of the precautionary approach.

We decided to put the research that we had gathered together into a briefing to try to help communities that had problems either with existing or with proposed masts. We have been working constructively with local authorities. They feel that there has been a lack of direction from Government. The RTPI evidence this morning seemed to confirm that.

I ask Graeme McAlister to make some further introductory remarks and indicate some of the ways forward.

Graeme McAlister (Friends of the Earth Scotland): We realise that the most interesting part of any meeting is when committee members can ask questions. With that in mind, I will try to keep my presentation as short as is humanly possible.

When we first became involved in this area of work, we decided to carry out a survey of all 32 Scottish local authorities to try to determine how the issue was being dealt with nationally. Our main reason for doing that was that there appeared to be great differences in application locally. Some local authorities had already introduced precautionary policies to prevent masts being sited on schools or in residential areas, others appeared to be pursuing lease agreements with mobile telephone network operators.

When we carried out our survey last autumn, we determined that, for health reasons, three local authorities had adopted precautionary policies and that three more were developing such policies. We are now in an unprecedented position; 16 of the 32 local authorities—50 per cent—have felt compelled to introduce policies independently of Government advice. Those authorities perceive a complete lack of regulation and official guidance, particularly with respect to health.

The main reason we became involved was that members of the public were concerned that they could not raise objections based on health grounds. Despite the existence of three Government consultation papers last year, health was still not deemed to be a planning consideration. As a result of working closely with local authorities, we became aware that planning staff felt similarly frustrated—they were unable to hear objections raised on health grounds and the public wanted them to be able to do that. An untenable situation developed, which has resulted in the present position.

There are a number of points in our submission that we see as the way forward. We share the concerns of the Royal Town Planning Institute and Scottish Natural Heritage that permitted development rights are not working to protect the public interest with regard to health. We ask that the committee suggest taking transmitter developments out of the system of permitted development rights and making them subject to full planning control. In that way, the public would have access to adequate consultation and the planning departments would have the control that they clearly need. We also urge the committee at least to examine the idea of introducing health as a material planning consideration. If that is not done, we will get no further forward.

We are in the current position because members of the public cannot have objections that are based on health grounds heard. That must change.

Tavish Scott (Shetland) (LD): I share Murray Tosh's fond memories of planning committees, so I will start with local authorities and the points that Mr McAlister made about 50 per cent of them having adopted precautionary policies. What would you define as precautionary policy, Mr McAlister? How would those policies relate to the authorities' roles as planning authorities?

Graeme McAlister: Local authorities are now coming to us for advice because they want considered, independent advice on the subject. We have passed on to them much detail on published scientific peer-reviewed literature. So far

there has not been a record of such material emanating from the National Radiological Protection Board. The main reason for that is the debate that is going on in the international scientific community.

Only one possible biological effect that results from exposure to microwave radiation is acknowledged in this country. It is known as the thermal, or heating, effect. It is generally recognised that that effect will tail off 2 m—or 6 ft—from a mast. We do not contest that for one minute.

The problem is that in a number of other countries, a second biological effect, known as the non-thermal effect, is recognised. It relates to extremely low levels of microwave radiation emissions that do not even feature in this country's current guidelines.

Several other countries have introduced precautionary policies at national or local levels of government because they feel that the non-thermal effect should be recognised and urgently requires further research. Because the current guidelines in the UK relate only to the thermal effect, no account is taken of those low levels of radiation. That is why local authorities are very concerned.

Emissions from masts are technically within NRPB guidelines, but as the guidelines do not even relate to the low levels about which we are concerned, I hope that members share the local authorities' concerns. They feel that there is no regulation, clarity or guidance about how to address the issue. There are reputable scientists in other countries who are 100 per cent convinced that the non-thermal effect exists.

Local authorities are considering the scientific and medical data and wondering what they can do to give the public some say. The only thing that they can do under the current planning system is advocate a policy for their own land, as landlord or landowner. They are basically setting a precedent, specifying that they will not conclude any lease agreement with network operators for their own property. That specifically concerns schools and residential homes. Local authorities are wanting to extend that to cover tops of high-rise blocks of flats, and they are interested in considering hospitals.

I am not sure whether committee members are aware that there is a full meeting of Perth and Kinross Council today to approve a formal planning policy to introduce a precautionary approach into local plans. It would apply to private and council land.

The council is aware that the Scottish Executive will attempt to overturn the decision, but the authority is frustrated. It is asking how it is that it will not site masts on its schools, yet an operator may come along and site a mast within 60 m of a school. It feels that that is unacceptable and that its duty as a local authority is to try to take the matter further.

Local authorities are trying to introduce such steps into the planning framework, but without clear guidance it will be very difficult to achieve. They are examining a large number of factors and taking informed decisions for introducing policy.

Tavish Scott: Perth and Kinross is the only council where that broad approach is being taken. I understand from your research that that was not the case with other local authorities, which are considering what they can do with their own buildings and other assets.

Graeme McAlister: Because of the permitted development rights system, local authorities are technically powerless to stop masts under 15 m being erected on private land close to their properties. Their only power is to say, "As an individual local authority, we are not willing to enter into commercial lease agreements to site masts on our own property." They are creating a precedent. They are powerless to extend that to the full planning process until the Government issues some clear guidance. That is why Perth and Kinross is leading the way, and recognising that we must attempt to change the planning system.

The Convener: I have read—albeit via the media—reports of other local authorities doing their own tests. I understand that Glasgow City Council has carried out independent testing. Do you know whether that covered non-thermal effects?

Graeme McAlister: Two types of apparatus for monitoring emissions from masts are available on the market. One is known as a broadband microwave meter. To all intents and purposes, it looks like a gun, which an environmental health officer would point at a mast. The problem is that the equipment is manufactured in line with NRPB guidelines and is not sensitive enough to pick up the low, non-thermal levels that we are concerned about.

A couple of local authorities in Scotland have decided to engage consultants with more sensitive equipment that pick up the non-thermal levels. They have been able to supply some information about those levels. When one considers published scientific literature from abroad, it is clear that biological change takes place at those low, non-thermal levels. Monitoring is therefore becoming less important.

Industry representatives in the United States have now publicly recognised that biological change is taking place at non-thermal levels. Until

now, they had declared that the only recognised biological effect was the thermal or heating effect. They are now saying that biological change is taking place that can no longer be attributed to that effect, and they are urgently calling for further research. If the industry itself has recognised that biological change is taking place, we think that that is enough to warrant a precautionary approach.

11:15

Cathy Jamieson: I have not been on a planning committee, so I may be approaching the issue from a slightly different angle.

Last week, we heard evidence from the Department of Trade and Industry that suggested that the economy of Scotland will suffer if we cannot compete internationally with a good telecommunications network. You have mentioned the precautionary approach, in general terms and in health terms, but what is your view of the effect on jobs and livelihoods?

Dr Dixon: Our response is quite simple: our view is common sense. We are not saying that we cannot have mobile phones, pagers, e-mail, faxes or access to the internet; we are saying that because there are serious concerns, we must play safe in the short term until we are sure about the placement of masts. We will still have masts, but we have to resolve where they will be located and whether there will be a few big masts or a lot of small ones. There may also be a way to ensure that there is more sharing. Graeme may want to say more about that.

We are not saying that we cannot have the technology or that Scottish businessmen cannot use their mobile phones. We recognise that the technology is here to stay and that it is on a sharply rising curve, but we should have guidelines that ensure that we can play safe when we put up masts. All we are saying is that we should put them in the planning system and keep them away from sensitive individuals—but we should certainly embrace the technology.

Cathy Jamieson: You have already mentioned the health issue and the fact that health has never been a planning consideration. You have mentioned that, in your view, health is an issue that should be considered in connection with telecommunications development. Why should health concerns be addressed through the planning system rather than through other measures such as health and safety legislation or the regulation of telecommunications licensing?

Graeme McAlister: Over the past 12 months, when we have approached the Health and Safety Executive about this matter, we have been concerned that it is now deferring completely to the National Radiological Protection Board. There used to be a lot of confusion: the Department of Health, the Department of Trade and Industry and the Department of the Environment, Transport and the Regions in England, and the Scottish Office development department in Scotland, were all involved, as was the NRPB. Now, all those departments defer totally to the NRPB.

Because the problems in the system cannot be addressed by other means, the NRPB guidance is deferred to. We feel that the issue must be addressed through the planning system because, as with other types of development, health can be a planning consideration. I am aware that one of the members of this committee has stated that it seems strange that the current planning system makes it necessary to apply for planning permission to add a porch to a house, while no such permission is required to erect a mobile phone transmitter mast.

Given the uncertainty about long-term health implications, we feel that health considerations must be introduced to the planning system. I received a report today that came, ironically, via an Australian senator. It concerns a local authority association in England, the Association of Hampshire and Isle of Wight Local Authorities. A report is to be published on 26 November in which that organisation will advocate the introduction of a 200 m precautionary zone around housing, schools, hospitals and health centres.

What that body is recognising is that health authorities have an important role to play by becoming actively involved. That is in line with the Government's white paper, "Towards a Healthier Scotland", which recognises that there should be an increasing role for public health authorities in local areas.

At the moment, we cannot expect planners to consider all the health implications; we need the involvement of the health boards. It should be a standard requirement, as part of the consultation process, that planning staff approach health boards, which will give them advice that is based on medical experience, not just on the scientific interpretation of organisations such as the NRPB and on epidemiological studies. An epidemiological study, or a study of a human population, would take about 20 or 30 years to show whether a pattern of ill health was developing. The technology that has given rise to mobile phones is so new that such studies have not been undertaken yet. We simply do not know what is happening.

The Convener: Is not that the nub of the problem? The local government planning committee would have to consult the proponents—those who are applying for planning permission—and those against it, and health experts from both sides would say very different things. The NRPB

and other bodies are saying that masts are safe, within limits, et cetera, et cetera. Other organisations are saying the opposite. How can we decide between those contradictory positions?

Dr Dixon: That is the kind of decision that planning committees make every day. On a different subject—environmental impact, for example—a developer's expert might say that an installation would have little impact, whereas a local community might say that it would be awful. It is the job of planning committees to make those decisions. Local authorities have been the guardians of public health for more than a century. They have environmental health departments and have access to local health boards. People who are present today have been members of planning committees. We should respect the intelligence of members of planning committees and trust them to listen to both sides and make a rational decision.

The Convener: There is a difference of opinion on impact, between the views of communities, et cetera, and the evidence of the advocates of certain developments. Everybody is consulting experts and saying that their experts are right. That is the difficulty that members of local planning committees face, in the absence of some sort of policy platform from which local authorities can take guidance.

Dr Dixon: That is right: we need a central framework that makes those decisions, but the issue will eventually rest with a planning committee that is sitting in a room, listening to two sides. If that committee does not make the decision, the debate will be conducted in the press and communities will feel that their concerns are not being taken up. It would be much better to have that discussion in the planning committee.

Graeme McAlister: The other concern is that the NRPB is approaching the issue from a scientific angle. Science requires 100 per cent categorical proof of change before it will recognise it. The precautionary principle is completely different, and is alien to many scientists. Many scientists feel that it is a threat to science, because the precautionary principle says, "Wait a minute. We do not have to wait for 100 per cent categorical scientific proof before we act." The precautionary principle states that when significant, but not yet categorical, scientific evidence emerges, we can take a more precautionary approach—we do not have to wait for 100 per cent proof.

Take, for example, the tobacco debate. For decades, scientists knew that there was a link between smoking and cancer, and they were trying to prove it. It takes a long time to obtain 100 per cent scientific proof. We are not saying anything radical. We are saying that sufficient scientific evidence of a potential problem is emerging to suggest that we should be taking precaution. As I said, there is a problem when a scientific body is charged with monitoring that.

We have written to the NRPB, which recognises that a precautionary approach takes more into account than a purely scientific approach. It is a societal decision: we must decide what is an acceptable level of risk; we must take into account potential health implications. We cannot realistically expect scientists to do that. In 10 or 20 years' time, there could still be two groups of scientists that publish studies with contradictory results. It takes a long time to achieve scientific consensus.

To all intents and purposes, the one group of people who are being forgotten about are the public. The public do not know what is going on. The industry in the US now uses the term post-market surveillance to describe the monitoring of the effect of this technology on the public health.

The public are being exposed to a large-scale trial; we are simply saying that slightly more caution should be exercised. Health committees would have to consider the matter from a medical as well as a scientific point of view.

The Convener: Probably all of us have had members of the public at our doors about this, so we are looking after the public's interests.

Cathy Jamieson: Perhaps I should confess my interest in porches and telecommunications masts. As I said earlier, I do not have experience of serving on a planning committee; perhaps that is why I ask that kind of question.

Your submission mentions the reduction in exposure levels by a factor of five. What impact will that have on the siting and enclosure of existing and future telecoms developments?

Graeme McAlister: The fairly simple answer is that the reduction will not make a great difference to the operators. Thermal emission levels are well below the maximum level allowed, so in a practical sense there will be no great difference. A few masts around the country might need to be altered slightly.

The one thing for which we wanted to applaud the Science and Technology Committee was its recommendation that the level should be revised downwards. Soon after we started researching this area about 18 months ago, we came across a NRPB report on the biological effects of exposure to radio frequency and microwave radiation written by biologists employed by the NRPB. That report specified that there had to be two separate public exposure levels, which were different by a factor of four. The higher level is the current UK level that the select committee suggested should be revised

downwards.

The report stated that the lower level was required to protect people with compromised health, such as those with thermoregulatory problems, infants, pregnant women and the elderly. That advice was rejected when the guidelines were put in place in 1993. We asked the NRPB why the advice was rejected. Its written reply—I will happily supply a copy to the committee—was that that was the advice of its biologist colleagues. As the report concerned biological effects, we would have thought that biological advice would have been of paramount importance to the NRPB.

The material contains a grave number of inconsistencies and contradictions. I am not attacking individuals in the NRPB; I am simply saying that the contradictions give rise to concern. That is why, when the Science and Technology Committee decided to revise the figures downwards, it said that it was taking a precautionary approach although it did not really have a reason for doing so. There are reasons why this has taken place.

The Convener: We will take up your offer to supply a copy of the NRPB's response. The NRPB is coming to our meeting next week.

Graeme McAlister: I am happy to supply a copy.

Cathy Jamieson: My final question has been covered, to an extent, by questions from the convener and others. How should this committee prioritise the health evidence? We will hear much more of that evidence. You have mentioned the difficulties of weighing it up. What should we take into account?

Graeme McAlister: The problem lies in the uncertainty. No one—the NRPB, the industry, scientists or medical experts—knows what is happening. We all know that biological change is taking place; we feel that that is sufficient basis for the committee to think that the siting of masts needs to be treated with slightly more caution.

Our main advice would be to consider sensitive areas such as schools and residential areas. In the formative years, children's' bodies are still developing and can be particularly susceptible to this type of radiation. We urge the committee to recommend not siting masts in such sensitive areas, where possible, and to introduce the fact that there must be a facility where the public can raise objections on health grounds. At the moment, the public cannot do that. That is not acceptable.

Helen Eadie: You have covered the first two questions that I had planned to ask, so I will go straight to the third. We understand that a policy framework can be applied equally to prior approval and to full planning control. Specific policy issues aside, do you think that prior approval will be adequate as a procedure for consideration of telecommunications developments?

11:30

Graeme McAlister: No, we feel that it would be completely inadequate. The main weakness in the prior approval procedure, as put forward by the Executive, is that it is a discretionary system. The term prior approval is suggestive of greater public consultation, but in essence all that will happen is that the mobile phone network operators will give written notice to planning authorities of their intention to locate a mast.

During the first period of that two-stage procedure, it will be up to individual planning authorities to decide whether the mast is likely to be in a contentious area. If they think that the application should be advertised, they can do so. However, we will just have the same piecemeal approach that exists at the moment, and there will be inconsistencies across the country. Some authorities feel strongly about that; others do not. We feel that prior approval does not address the issue; full planning control is needed, so that the public can be involved in proper consultation.

Mr Tosh: I read your paper this morning. You suggest that we should pay much closer attention to a whole variety of health risks, and you are looking into the idea of having a cordon sanitaire, or an exclusion zone, around masts. What sort of technical recommendations should the committee be considering? What distance should we specify? Should the distance be the same in different areas?

Earlier, the difference between working and residential areas was pointed out. To what extent should we take that into account? Would we find, as we were warned earlier, that if we had blanket cordons sanitaires in built-up areas, it might be difficult to locate masts? We need a bit of a steer on the technical aspects of having cordons sanitaires. How would they work in practice?

Graeme McAlister: I would like first to make it clear that we are not advocating that there should be, for example, a 300 m zone or a 400 m zone. We have not specified that. There is still a difficulty in achieving a scientific consensus on the exact distance that would be appropriate. For example, parts of New South Wales in Australia have 500 m exclusion zones. Other parts of Australia have 300 m zones. Clackmannanshire Council in Scotland has decided that there should be a 100 m exclusion zone around property that it owns, because it does not want the public to be exposed.

The committee is looking at the matter from a

planning angle, so consideration of the issue is like looking at a planning application, and getting agreement in principle that there is a need to take preventive action when the siting of masts near schools is considered. We are not saying that blanket areas of cities should not be covered—we are not trying to do that at all. When Orange gave evidence to the committee, it said that Scotland was a potential communications desert, with entire cities wiped out from coverage. That is not the case.

We have been working closely with Dundee City Council, which is considering the matter. We went through various stages of wondering whether we should have a 400 m zone or a 200 m zone. We had to be honest with the council and say that there was no point in pursuing a 400 m exclusion zone, because the technology in use can send its signal only 400 m.

Similarly, following a high-level seminar with Liverpool City Council earlier this year, we were also aware that one network operator, which I will not name, threatened to take legal action if the council went ahead with a 400 m zone, because doing so would interfere with the operator's requirements and capabilities.

We are not specifying exact distances; it is difficult to do so. We are saying that there should be a forum in which scientists, different technological experts and engineers can get together. We can work with the industry to discuss how to minimise the effect on the public.

Dr Dixon: I fully endorse those comments. Between the two of us, we cannot come up with the right distance. We can look at examples from around the world, and we can talk about the effective transmission range of the current technology. If the committee were to establish the principle that there should be, where possible, an exclusion zone around certain types of buildings—schools, residential areas, hospitals and so on—that would be enough. It would then be up to Scottish Executive planning guidance, which could be updated every so often depending on changes in technology, to say what the exclusion zone should be.

Mr Tosh: Would local authorities have a role in determining the extent of the exclusion zones?

Dr Dixon: I agree with Graeme that those experts should be sitting round the table. Local authorities should certainly be included in discussions as they appreciate the difficulties of administering the process and know what such measures mean in their own rural or urban areas.

Graeme McAlister: Dundee City Council is taking a positive approach. The council wants to work with the industry and with bodies such as ours and to represent the public's concerns. As an authority, it can carry out a site selection survey in its area to determine suitable places such as elevated sites. With this technology, a tall tree or building can block the signal, which means that the taller the mast, the further the signal can be sent. As a result, Dundee City Council has started to consider industrial sites away from populated areas, where slightly taller masts can be erected to send signals further. We are working with authorities to suggest more appropriate sites instead of inappropriate sites such as schools.

Mr Tosh: Is the industry happy with Dundee City Council's co-operation? Furthermore, is the network there developing in the way that the industry wants?

Graeme McAlister: The industry is never happy with any precautionary approach taken by local authorities. Last night, I briefly downloaded the *Official Report* of last week's meeting of the Transport and the Environment Committee. I was gravely disappointed to find that, despite the presence of three representatives from the Department of Trade and Industry and six representatives from the industry itself, not one person mentioned a concept called roaming, which not only could help to redress some imbalance but could address the problem of geographical black spots where there is no coverage. Roaming could improve coverage to rural areas overnight, if the industry were so minded.

The committee may already be familiar with the concept of mast sharing, where part of an operator's mast will be sublet to another operator for its antenna. We find the fact that no one mentioned roaming surprising. In 1997, the DTI's white paper on third-generation mobile licences, which is an issue that we are also discussing today, explored roaming and could find no technical reason why that scheme could not be put into operation. The problem was that there was no commercial inclination to get involved. We will be happy to supply the committee with that paperwork.

I will try to give a basic explanation of roaming. Although there are parts of the UK where a person with, for example, an Orange handset will get very good coverage, there are other parts with very poor coverage. However, that does not happen on the continent, as rival operators can access each other's networks. People could use their Orange handsets in an area where Orange has very poor coverage, but where, for example, Cellnet's coverage is very good, and receive a perfectly clear call.

Roaming is much more than a concept. On Monday, I glanced briefly at the websites of the four network operators. The icon for roaming is very significant on those sites. It is clear that the

operators want people who are going abroad to know about the advantages of roaming. From those websites, I can reveal that Orange has concluded agreements for 166 networks in 87 countries; Cellnet has agreements in more than 100 networks; Mercury One 2 One has 114 networks in 68 countries; and Vodaphone has networks in more than 103 countries.

However, in the UK, it seems beyond the four companies to conclude roaming agreements with each other, which would prevent situations such as having four sets of masts in one geographical area. For example, two schools in Edinburgh have two sets of masts from rival operators on their roofs. That does not happen with roaming agreements. Next year, with the auctioning of the third generation of mobile licences, there will be a fifth operator, which might mean a fifth set of masts in certain areas. That will compound the problem.

The DTI advocated roaming in a press release earlier this year—I am surprised that the DTI did not mention that interesting development. A fifth operator is to be introduced with the third generation of licences and the DTI decided, in the interests of competition and commercial activity, that it wanted to give that new operator a level playing field.

I think that most industry analysts will agree that the four companies that are operating at the moment are likely to regain the licences that they already hold, but there will be a new, fifth company, which the DTI decided would be allowed to use the Mercury One 2 One network. The network took the DTI to the High Court in London and won the case on two counts. First, the network felt that it was being commercially disadvantaged by the DTI's decision to introduce roaming only on its network and not on the other three networks. Secondly, the DTI took that action without prior consultation. As the licences for third-generation mobile phones have not yet been auctioned, the DTI could reassess the situation and introduce roaming as standard for all companies.

I had a meeting with the industry in June 1999. We were asked to give a presentation to a House of Commons seminar, which Mr Phil Willis MP sponsored. A number of MPs and senior Government officials were able to come along to the seminar and learn of our concerns.

I need to backtrack slightly. Before we went to London for that seminar, 12 local authorities in Scotland had already adopted precautionary policies or had stated that they would develop such policies, although that did not motivate the industry to contact us. However, as soon as it became apparent that we were to be speaking at the House of Commons, we were approached by a lobbyist acting on behalf of Cable and Wireless on a global basis and on behalf of Mercury One 2 One in the UK. At a meeting between representatives of Mercury One 2 One, Orange and Friends of the Earth, we laid our cards on the table, explained our concerns and brought up the subject of roaming. We were met with disbelief—"What is roaming? Can you explain it to us?" As can be seen from the companies' websites, roaming is a well-developed concept—the companies are simply not willing to consider that concept in the UK.

The companies also said that roaming would cause a capacity problem. If there is to be such a problem, why did the DTI decide to introduce roaming earlier this year, only to be subsequently taken to court by Mercury One 2 One? The problem is the way in which the DTI has tried to apply roaming. It must be done in an even-handed way, to ensure equal commercial competition. We are not trying to stop it as, if roaming was encouraged, the problem of geographical black spots would be resolved and coverage to remote and rural areas would be increased. We are keen for that to happen, as people should not be disadvantaged in that way.

Mr Tosh: I suspect that many of your comments—however interesting—go a wee bit beyond the remit of our inquiry, which is planning oriented.

If we were to recommend the introduction of a full planning regime and our recommendation were accepted, and if due recognition were to be paid to health issues, would that resolve the situation, or should further areas be pursued? Do you think that the full planning regime is adequate? This is an opportunity for you to say anything that you think is pertinent on planning regulations.

Graeme McAlister: I apologise if the discussion on roaming did not appear to be pertinent, but we feel that it is very much within the remit of the Transport and the Environment Committee's inquiry. It is in the committee's remit to make recommendations to Westminster or to the independent expert group on mobile phones, which will hold a public meeting in Edinburgh on Thursday evening and a closed session for evidence on Friday, to which we have been invited.

A number of inquiries are going on and all the problems could be addressed before the new licences are issued, which will have a direct bearing on the planning system in Scotland. Where will the new masts be sited? If such problems are not addressed now, we will have a fifth set of masts and the planning system will become overloaded. We believe that roaming is a planning issue.

With regard to how the planning system handles the situation, we believe that full planning control is the way forward. However, if we go down that path, the issue of health must be addressed as well, by taking into account potential health implications as a material planning consideration. If that is not done, we will be no further forward than we are today.

11:45

Mr Tosh: So an adequate solution would be to have full planning as well as a health consideration?

Graeme McAlister: Yes.

The Convener: Can you clarify the position on the next rollout of network equipment, which will involve much smaller pieces of equipment than are currently used? How does such equipment fit into the planning process? Should it be subject to the full planning control powers that we have discussed this morning?

Graeme McAlister: It is a grey area at the moment. The Scottish Executive appears to make a distinction between ground-based masts and masts or antennae on buildings. There are two different types of equipment on buildings: small microcells, which can be attached to the sides of buildings; and masts that are, in essence, ground-based masts that have been placed on the tops of hospitals or high-rise blocks of flats. We feel that there should not be a distinction between ground-based masts and equipment on buildings.

Dr Dixon: I agree with Graeme McAlister, but we need to examine the technical issues. The Royal Town Planning Institute in Scotland said earlier that, although mobile phone technology could be included in the full planning system, there might be a case for having delegated powers for minor equipment. When we have examined the technology and seen exactly what people propose to install, it may be that we will agree with that view. It will depend on the level of emissions.

The Convener: Could you also clarify your position on industrial sites, where you said that it might be appropriate to erect larger masts that can send signals further? What about employees and others who spend eight, 10 or 12 hours a day on industrial sites?

Graeme McAlister: That is a valid point. We have tried to get to the root of the issue with the industry, and planning officers have approached it for further details of where signals go from such masts. For example, the antennae on those masts are omnidirectional—they can transmit in many directions. From the nature of the cell structure that they use, mobile phone companies know the direction in which the signal goes, but they are not willing to provide detailed diagrammatic evidence to local authorities. If local authorities had such evidence, they would know where the beam was going and could determine whether people were likely to be affected. There are various technical ways of trying to minimise exposure.

Obviously, increasing the height of masts is a positive development; by the time signals hit the ground, the effect on members of the public is less.

The Convener: My question is about your distinction between residential and industrial zones.

Graeme McAlister: The main reason for that distinction is that in residential areas people are exposed to emissions from masts 24 hours a day. Although there are similar concerns over working environments in industrial and office areas, we have to take some initial action and develop it from there—that is our interim approach. We are trying to eliminate what we consider to be worst cases—schools and residential areas. We will gradually reduce exposure to emissions by doing that.

Helen Eadie: One factor to consider is the topography of an area. Whether people are at home or at work—this goes back to what you said about thermal and non-thermal aspects—what we are concerned about is the length of absorption. For example, there will be particular health issues for a pensioner in a high-rise flat who is sitting at the level at which signals are being transmitted. That raises the issue of trying to remove clusters of masts. If clusters of masts are all directing signals at the same places, the intensity is multiplied.

Graeme McAlister: The NRPB recognises that there is a cumulative effect. The problem is that, in its view, the non-thermal effect is so negligible that even when it builds up, it is almost immaterial.

A person in a high-rise flat who lives directly underneath a transmitter will be slightly safer if the beam goes out horizontally. Our main concern about high-rise flats relates to the close proximity—perhaps only 60 m or 70 m—to each other of blocks of flats in parts of Glasgow, Edinburgh and other cities where there is a high concentration of blocks of flats. Therefore, the transmitter mast on top of one block beams directly into the top few floors of the block opposite for up to 24 hours a day. That is why we are concerned.

The cumulative effects must be taken into account, but until the Government and the NRPB recognise the low-level effects, that is difficult. Although the report of the Select Committee on Science and Technology concluded that the problem was not the masts, it said that there was some suggestive evidence and that the matter

required more research. However, of most concern to us is the concluding paragraph, which states that the research programme in the United Kingdom is completely inadequate to underpin the policy decisions that have been made. From our point of view, that invalidates much of the work that has been done and shows that much more research must be done urgently. It is a sad state of affairs if our own research programme cannot underpin the policy decisions that have been made.

Helen Eadie: When did the NRPB last change the threshold limits?

Graeme McAlister: In 1993. The NRPB regularly issues updates, but they are generally in response to published literature that shows a possible biological change at non-thermal levels. We do not often receive updates from the NRPB, however, that more evidence is starting to emerge of non-thermal levels and that the issue should be addressed. There is a reactive approach to pieces of literature that do not fit in with the thermal effect process.

The Convener: Thank you for coming along. It has been a most interesting session. We appreciate your taking time out to speak to us.

We will now take evidence from a panel representing local and community interests. I welcome Mr and Mrs Sinclair from Kinross, Mr Wishart and Ms Stevenson from the Edinburgh Tenants Federation and Ms McLeish from the National Union of Journalists in Aberdeen. We appreciate the fact that a number of you have travelled some distance to come to speak to us. We are keen to hear your views. All members of the committee have been approached by organisations in our communities about the issue. It will be good to hear the community viewpoint. We received an enormous response to our written consultation exercise. We thought that it would be appropriate to invite people who are in the front line to discuss the issue with us and to tell us their views.

I am Andy Kerr, convener of the committee. The other members have nameplates, which will save having a long introduction. I will say simply that the committee is pleased that you are here.

It would be good if you could take a couple of minutes each to give an overview of your involvement in the process. I will start with Andy Wishart. The committee will then ask questions about the written evidence that you submitted and your presentation.

Andy Wishart (Edinburgh Tenants Federation): I am involved through the Edinburgh Tenants Federation. In addition, I live in Dumbiedykes where there is a planning application for a transmitter mast on one of the high-rise blocks. Last year, an application was received to install masts on all the high-rise blocks in Edinburgh. Twenty-two blocks in Edinburgh now have masts on them.

I was aware that there were implications of living in close proximity to electromagnetic fields and I began to ask questions. Concerns were raised in other areas of Edinburgh, so we started a campaign. We contacted Friends of the Earth and we have started to read the scientific stuff. We have found that there are two opposing opinions on the matter and we have learned some of the implications of the planning restrictions.

City of Edinburgh Council currently operates what it calls a precautionary policy, which entails the telecommunications companies making their planning applications and satisfying all the technical stuff. The last stage in the process is the consultation of residents. We are slightly unhappy about that, because it is difficult to get people to turn out for anything and many consultation meetings have not been properly publicised. Edinburgh claims that it has a precautionary policy and that residents have the final say in the matter of masts being erected on buildings.

We had a meeting with the council leader in Edinburgh at the end of October. Until then, there had been a moratorium on building masts while the council examined the issues. Acting on what it felt was the best scientific advice, the council decided that it would cease the moratorium and allow Vodaphone to start installing masts on lamp standards in the west end, or disguised as trees. I discovered this morning from the planning applications that Vodaphone is also intending to return to site further masts, particularly in clusters on high-rise blocks.

The Convener: Betty, are you happy with what Andy said?

Betty Stevenson (Edinburgh Tenants Federation): I am happy with that.

The Convener: Mr and Mrs Sinclair, I welcome you to the committee. Would you like to make your presentation now?

Elsa Sinclair: I have had to write out my evidence; it is about legislation and I must be precise.

We are not opposed to telecommunications masts if they are discreetly situated. The high street in Kinross is a designated conservation area and this hideous 27.59 m mast is only 30 in—not feet, but inches—away from our garage and adjoining house, and it is directly opposite a secondary school. It dominates the area, and it is almost double the height of permitted development masts. Perth and Kinross Council says that it is a replacement mast.

Our concern is that we had no letters at all from Orange, the police, or the council's planning department informing us of that massive installation. We had a visit from a police telecommunications officer. He arrived unannounced on 1 April and informed us that a replacement mast would be erected on 6 April. We were not unduly concerned. By the way, the previous mast is now at Brechin police station, so it is not past its sell-by date. On the site are also two equipment housing units, each of which could garage a small car. No planning permission was sought for either the mast or the housing units.

Our correspondence with Orange has resulted in the following replies. In June 1998 and in November 1998 it wrote to say that a member of Mr Hall's team would contact us. I do not know what happened to Mr Hall's team, but we have seen no one. In September 1998, we were told that a member of Mr Parker's team would contact us—again, no one did. However, we did get one interesting statement from Orange:

"As the Police Authority owned the original tower, Orange were required under the terms of the licence to transfer ownership of the new installation across to the Police Authority, and therefore Orange do not own this tower. As a consequence if Orange were to remove their equipment from the tower we would have no control as to whether the tower was removed or reinstated to its original height."

Here is the proof that the mast is higher: the consent form from Orange requested a mast of 25 m in height. A Scottish Office letter says that the previous apparatus was 24.4 m high, and a statement from Perth and Kinross Council says that the current apparatus is 27.59 m high, which it is. That is more than 3 m higher than the original, which is contrary to legislation. Ian Sleith, head of planning at Perth and Kinross Council, said that the mast is "offensive and overbearing", yet he gave consent for it.

The police do not need this gigantic mast, as the constabulary does not use mobile phones. We understand that Orange gave the police a sum of money.

12:00

We went to the ombudsman, and eight months after we had made an official complaint he stated in a letter to us:

"It is not the Commissioner's role to arbitrate on any difference of opinion as to the correct interpretation of the relevant legislation. This is a matter which could only be decided by the courts".

The response should have been immediate, as the delay has cost us valuable time and money. It is completely unacceptable.

Our councillor was leader of the council and we felt that he was being controlled. In November 1998 he wrote to the chief executive:

"Dear Harry . . . I must formally request that the Council consider dismantling the mast and removing it to another site."

We heard nothing. However, in March 1990—after a lot of pressure—he asked us in a letter:

"Can you give me a form of wording that would satisfy your requirements? Thereafter I will consider whether it would be appropriate for me to raise a formal motion, providing of course I can find an individual who would be prepared to second such a motion."

There seem to be contradictions, which must be addressed.

There was a terrific delay in Perth and Kinross Council's replies to us—sometimes it took up to 13 weeks. Occasionally we had to resort to filling in one of the council's complaint forms and taking it to the local office to be signed and dated by a member of staff.

We have correspondence to substantiate our claim that planning permission was required and that that was ignored. The Scottish Office's interpretation of its own legislation is that class 67(5)

"was intended to apply conditions to the development permitted by class 67 not to extend the permitted development rights to any type of development excluded elsewhere in the class".

However, Perth and Kinross Council claims that class 67(5)

"states how that development may be undertaken i.e. by giving the Planning Authority at least 8 weeks notice of the installation of the development."

That is absolutely ludicrous. It makes a nonsense of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

In a letter to Martin O'Neill MP, John Robertson, states of Perth and Kinross Council planning department:

"I agree the mast differs".

A mast in a conservation area cannot differ when it is to be replaced.

The council has also disregarded the Conservation Act 1974. We have been listening to what has been said about the health issue. Time and again, that has been raised. Perth and Kinross Council has acknowledged that there is a health risk and has refused to allow a mast on Kinross High School's roof or an extension to the mast at the Green Hotel. The mast at the police station is directly opposite the school and only about 30 m away. In 1997 the council issued a policy document that defers

"siting masts on council properties in continuous public or staff usage on a daily basis"

and on

"Education properties".

There is certainly inconsistency there.

Of course, our house has grossly depreciated in value. This huge mast casts a massive shadow over our garden, which we had hoped to enjoy during our retirement. It is pretty awful, and we can now hardly use our garden.

We wrote to a number of other agencies, including the Office of Telecommunications, which said:

"I am sorry on this occasion we are unable to be of further assistance to you."

At a very low estimate, this affair has already cost us £2,000. We had to issue a writ, which was time barred, and to spend at the very least another £1,000 on further litigation.

Scottish Office legislation adequately covers masts in conservation areas, but if our experience is repeated—in Brechin, for example, where the old mast has gone—the future is bleak for anyone in Scotland with a radio mast next to their property. It appears that planning authorities can do whatever they like, irrespective of legislation. There is no public body to mediate and protect us from their awful decisions without spending huge sums of money.

We also spent money on an advocate's opinion, which was as follows:

"It appears to me probable that the planning authority erred in holding that planning permission was not required. It is axiomatic to say that a public law administrator must correctly apply and understand the law that governs his decision. If he decided that planning permission was not required when in law it was, then this decision should be subject to review."

Thank you for giving us this opportunity to give evidence today.

The Convener: Thank you for giving us that evidence. It is most appreciated.

Jane McLeish (National Union of Journalists): I am from the BBC in Aberdeen, where I work as a journalist. I am a member of the National Union of Journalists. Our concern relates to the BBC transmitter mast in the former Beechgrove garden. The BBC is having new headquarters built in Aberdeen and the transmitter mast that carries mobile phone transmission gear is only a few yards from the new building.

The BBC's transmission masts were privatised some years ago. They are owned by a company that was formerly known as Castle Transmission, but which is now known as Crown Castle International. It is not within the BBC's gift to remove the mobile telephone transmission gear, even if it wished to do so.

The BBC has responded to our health concerns by organising monitoring of the emissions at an early stage. There have been no conclusive results but, as the committee heard from Friends of the Earth, those emissions are in line with NRPB guidelines, which refer to the thermal effects. Although those measurements are being taken, we are not being reassured about our health concerns about non-thermal effects. The evidence that we have heard suggests that the effects might range from sleep disturbance to cancer. Moreover, a psychological burden is placed on people who work in places where they are concerned about their health and where they do not know what will happen.

I have photographs of the mast—it is quite high and the mobile phone gear is above the level at which we will be working. We do not know whether there is a cone effect, whether we will be hit by the arc of those emissions or whether we should go in to our work every day under the emissions. We are not just saying "not in my back yard"; we are also concerned about the local community. We want the planning authorities to take on board those health considerations. People's concerns about their working environments should be taken seriously.

I know that this is a multi-billion pound industry and that there is concern that jobs will be lost in Scotland. We hate to see unemployment in this country, but we are talking about people's lives. People's lives and health are sometimes more important than their jobs.

The Convener: Thank you. Rest assured that we do not think that this is simply a not-in-my-back-yard issue—your correspondence to us demonstrated that you were aware of the broader principles.

Linda Fabiani: Something you said, Andy, reminded me of an earlier contributor, who argued that the prior approval situation could result in inconsistencies between local authorities. Could Andy Wishart clarify for the committee the level of consultation of residents that was undertaken by the City of Edinburgh Council? I gather that it consisted of a public meeting. Was that the extent of the consultation?

Andy Wishart: Yes. It was not very well publicised.

Linda Fabiani: How was it publicised?

Andy Wishart: The industry put a glossy brochure through every door in the high-rise block, which said that there was to be a meeting to address the issue. I raised the issue with my residents association because of the way I felt about it, but a lot of applications have been nodded through by one person attending a meeting and agreeing that a mast should be put up.

Linda Fabiani: Do you feel that you have been ignored?

Andy Wishart: We have serious concerns about Edinburgh's so-called precautionary policy. I had a strange meeting in a broom cupboard in Muirhouse—Vodafone's bottom line was that we should prepare a shopping list. We have concerns about local consultation.

The Convener: I am glad we can offer you something bigger than a broom cupboard.

Andy Wishart: This is very comfortable.

Robin Harper: I have a lot of general concerns about local consultation, not just in relation to masts. On a point of clarification, did you not have an opportunity to put your tenants federation's view through the same letterboxes? The time scale would have been such that you would have had no opportunity to sit down, prepare your questions and push them through people's letterboxes, highlighting the real concerns and suggesting that people attend a meeting.

Andy Wishart: That would have been a very difficult task.

Robin Harper: Given the time scale.

Andy Wishart: Yes, given the time scale. Consultation of residents comes at the very last stage of the process. The industry has been jumping through hoops, perhaps for 18 months, before the residents are involved. Then, the process just goes through very quickly.

Robin Harper: Do you have a budget for that kind of thing?

Andy Wishart: No.

Cathy Jamieson: I frequently meet people who tell me that local communities, even when they have to apply for planning permission, do not always feel fully involved. You are advocating a requirement for full planning permission. Would that be enough from the community's point of view?

Betty Stevenson: We are left in the dark about everything. We know nothing until the tenants federation gets in touch with us. We find the information from a wee bit in the newspaper, and we have to jump on it or write to doctors to find out their views. I got the Edinburgh weekly planning list from Andy only this morning, and I am the chairperson of nine blocks—which is a lot. This is a case where my blocks were being affected, but I knew nothing about it until this morning. The area is a few strides away from a primary school, where there are young children.

Cathy Jamieson: Are you suggesting that you want a method by which the people most directly affected can fight such situations?

Betty Stevenson: Definitely.

Linda Fabiani: I would like some further clarification from Mrs Sinclair—I forget your first name.

Elsa Sinclair: Elsa—or call on my husband, and I will answer the questions. [*Laughter.*]

Linda Fabiani: So it is a double act? [*Laughter.*] Can you confirm that there was already a mast and that the company then came along and replaced it? When was the original mast installed?

Bill Sinclair: 1985.

Linda Fabiani: Is your view that the council mucked up and does not want to admit that it made a mistake?

Bill Sinclair *indicated agreement.*

Linda Fabiani: It seems to be a case of planning controls going wrong—the council has mucked up with the planning system.

Bill Sinclair: We objected to the mast going up in 1985. It was a slim affair, but we objected to it. My solicitor wrote to us to say that he had made objections to the planning people, and was sorry, but the mast was for police communications, and there was nothing that I could do about it. Now, there is a new construction, and it should come under planning regulations.

Linda Fabiani: And it should have been the same height?

Bill Sinclair: Yes.

Robin Harper: I have friends in Beechgrove Terrace—they are going to start ducking below their windows when I come round.

I would like to ask Jean McLeish whether the BBC employees have been consulted. Do you know any details of the strength of the emissions of the mast, the direction of the cone or any such information?

Jean McLeish: Some of my colleagues have accompanied other people who have gone to find out about the emissions. Early indications are that the emissions are within the limits set out in the guidelines. However—as I pointed out—if those guidelines are not referred to by the scientific concerns, they are not of much interest.

12:15

Robin Harper: You do not get any further information than that the emissions are within guidelines.

Jean McLeish: We have not moved into the building yet and are in negotiation. The matter is being treated seriously at the moment.

The Convener: Are there any other questions

before I put my tuppence in? I wish to ask each group about the question that faces the committee regarding the planning process. Are you in favour of full planning strictures being applied to the erection of masts? I start with Jean.

Jean McLeish: The views of a local community must be taken into account, as should health considerations. Rigour must be applied to the scientific and medical evidence and we must consider the source and reliability of the scientific investigations. Rigour should also be applied to the planning procedure.

The Convener: Thank you. Bill?

Bill Sinclair: In our case—I cannot speak for others—the planning people, who are there to protect us, have admitted that they allowed a commercial company to put up a new mast on council ground in a conservation area. Planning permission should at least have been applied for. The mast should not have gone up there, as there is a school across the road.

Elsa Sinclair: All masts should have planning permission. We are heavily involved in the aesthetic value of our countryside—it is important. We know that mobile phones are needed—they are marvellous for allowing women to feel secure on their own in a car at night. Going around the countryside—we came back from Gloucester on Monday—one sees mobile phone masts everywhere. They spoil Scotland and the rest of the country.

The Convener: Thank you. Andy or Betty?

Betty Stevenson: Most of our concerns have been covered, but my main one is health, especially among the many children and older people in high-rise flats. In addition, there are many schools about—the kids are a big worry.

Andy Wishart: I agree with the other speakers that there should be rigorous full planning applications.

The Convener: As no committee member is indicating that they have further questions, I thank the witnesses for coming along. It has been useful to hear about how the process has worked—or not worked—for those at the sharp end.

Erskine Bridge (Temporary Suspension of Tolls) Order 1999 (SSI 1999/116)

The Convener: This instrument was laid on 15 October 1999 and is subject to annulment until 3 December 1999. The Subordinate Legislation Committee considered the order on 27 October and requested that the Executive provide further information, which is attached to our papers today.

At its meeting on 2 November, the Subordinate Legislation Committee accepted the points of clarification raised in the Executive response and had no further comment to make. If members wish to follow up the report of that committee, I can advise them of the relevant documents.

Is the committee content with the instrument and the briefing note from the Scottish Executive? Are there any matters relating to the instrument that the committee wishes to report to the Parliament?

I take it that we are content and that there are no matters to report.

That closes the formal part of the meeting.

Our next meeting is in the Signet Library, which is adjacent to the Parliament building. We will get a map with our papers to ensure we do not get lost. Please bear that in mind. I appreciate another hard working meeting, which I think has been useful. I hope everybody agrees. I look forward to our next meeting. I therefore formally close the meeting and thank members for their—

Linda Fabiani: I just want a bit of clarification. A few meetings ago, we talked about prior approval. It was suggested that the Executive was already working on a form of prior approval wording. Where has that now gone? Is it being postponed, put on hold or—

The Convener: The minister said in the chamber that the Executive continues to pursue the prior approval procedure and that we should expect the document soon. That is my recollection from the minute. My understanding is that the Executive is still working on it.

Linda Fabiani: So it is still working on prior approval while we are deciding whether we think it is appropriate?

The Convener: Yes but, to be fair, the minister is also well apprised of the committee's work. I therefore imagine that the timings will coincide with our deliberations.

John Gunstone is hiding at the back there. Perhaps Linda could have a word with him after the meeting. I close the meeting and thank you very much.

Meeting closed at 12:22.

Members who would like a printed copy of the Official Report to be forwarded to them should give notice at the Document Supply Centre.

Members who would like a copy of the bound volume should also give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the bound volume should mark them clearly in the daily edition, and send it to the Official Report, Parliamentary Headquarters, George IV Bridge, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Friday 19 November 1999

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5
Annual subscriptions: £640

BOUND VOLUMES OF DEBATES are issued periodically during the session.

Single copies: £70

Standing orders will be accepted at the Document Supply Centre.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £2.50
Special issue price: £5
Annual subscriptions: £82.50

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £2.50
Annual subscriptions: £80

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 0171 242 6393 Fax 0171 242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 01232 238451 Fax 01232 235401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF12BZ
Tel 01222 395548 Fax 01222 384347

The Stationery Office Scottish Parliament Documentation Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by The Stationery Office Limited

ISBN 0 338 000003 ISSN 1467-0178