

TRANSPORT AND THE ENVIRONMENT COMMITTEE

Wednesday 26 April 2000
(Morning)

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TRANSPORT AND THE ENVIRONMENT COMMITTEE

8th Meeting 2000, Session 1

CONVENER

*Mr Andy Kerr (East Kilbride) (Lab)

DEPUTY CONVENER

*Nora Radcliffe (Gordon) LD)

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)

*Tavish Scott (Shetland) (LD)

*Mr Murray Tosh (South of Scotland) (Con)

* attended

WITNESSES

Councillor Basil Dunlop (Convention of Scottish Local Authorities)

Ian Fernie (Royal Town Planning Institute (Scotland))

Ian Jardine (Scottish Natural Heritage)

Peter Rawcliffe (Scottish Natural Heritage)

John Rennilson (Scottish Society of Directors of Planning)

Mick Stewart (Scottish Society of Directors of Planning)

Tim Stone (Convention of Scottish Local Authorities)

Councillor Gillie Thomson (Convention of Scottish Local Authorities)

CLERK TEAM LEADER

Lynn Tullis

SENIOR ASSISTANT CLERK

Richard Walsh

ASSISTANT CLERK

Alastair Macfie

LOCATION

Committee Room 2

Scottish Parliament

Transport and the Environment Committee

Wednesday 26 April 2000

(Morning)

[THE CONVENER opened the meeting in private at 08:53]

09:02

Meeting continued in public.

Subordinate Legislation

The Convener (Mr Andy Kerr): I welcome members of the public to this meeting of the Transport and the Environment Committee. I also welcome the minister back to the committee. We appreciate the time and effort that she and her colleagues put into attending the committee's meetings.

We have two affirmative instruments to consider. The first is the Special Grant Report No 4 on Grant in Aid of Expenditure on Rural Public Passenger Transport for 2000-01 (SE/2000/17). Committee members will be aware that we have three papers on the subject: the report, the Scottish Executive covering note and the committee covering note.

The committee is required to consider a formal motion for approval of the report and recommend to the Parliament whether the instrument should be approved. The Subordinate Legislation Committee considered the report at its meeting on 4 April and did not highlight any technical problems. We will follow our standard procedure for dealing with affirmative instruments. We will allow time for discussion and for members to question the minister, who will then move the motion, which may be debated for no longer than 90 minutes before members make a decision. I remind members that the committee has no power to amend the motion or the report, only to recommend whether the report, in its entirety, shall or shall not be approved. I ask the minister to make her opening statement.

The Minister for Transport and the Environment (Sarah Boyack): This is the first such report that we have laid before the Scottish Parliament, but it is the third time that such a report has been prepared. It would therefore be useful for me to outline the nature of the report. The report is made by Scottish ministers under section 108A of the Local Government Finance

Act 1992, as inserted by section 167 of the Local Government etc (Scotland) Act 1994. It enables the Scottish Executive to pay a grant to the 28 local authorities for rural public transport services as part of the rural transport fund.

Members will recall that we have given additional support of £14.2 million over three years for rural transport. In the first two years of funding, local authorities have received £7 million to enable them to sponsor new rural transport services; that has helped to provide additional rural bus services. The funding allows local authorities to subsidise non-commercial routes, and more than 350 new or improved services were introduced in the first year. Although those improvements mainly relate to bus services, there have also been improvements in ferry and air services.

We are conducting an audit report that sets out how local authorities have used the grant in the second year. That report is required by 30 June this year. Local authorities have made a sound start in using the grant. Consequently, in considering the distribution for 2000-01, we have recognised the need for stability and continuity in the level of funding provided. That is something that the Convention of Scottish Local Authorities lobbied for strongly during the consultation exercise. Many of the new services were introduced only in the latter part of 1998, and we appreciate that it can take some time for knowledge to build up among the public about new additional services. It can also take time to maximise the use of those services.

We recognise the view of local authorities that inflation has an impact and that an increase in the cost of providing new or improved services in the third year could result in some of those services being withdrawn. The grant report for 2000-01 will therefore propose that both the total amount to be distributed to local authorities and the individual council allocations be increased by 6 per cent to reflect the approximate rate of inflation over the past two years.

It is not just scheduled public transport services that we want to help; the rural transport fund targets other aspects of travel in rural areas. For example, we are providing a further £600,000 this year towards community transport projects, and more than 70 projects up and down Scotland are already being supported to the tune of £1.5 million. Another round of applications will be invited in the summer.

We are continuing to channel assistance to the rural petrol stations in remote areas to help to meet the cost of replacing old tanks, pumps and pipework, and to meet ground water protection needs. That recognises that for many rural dwellers public transport may not be a viable option and that car ownership for them is a

necessity and not a luxury. So far, we have supported 15 petrol stations; another 19 applications are in the early stages of consideration. Virtually all those petrol stations are in the Highlands and Islands. As part of our commitment to rural motorists, we have recently extended the scheme so that it can meet the cost of installing dispensers and tanks for the supply of liquid petroleum gas, which will give people in rural areas a cheaper and more environmentally friendly alternative.

That explains some of the background. I now turn to the detail of the report. The purpose of the grant is to provide additional public transport services in rural areas. In many cases, I expect the grant to be used to maintain and develop the new services introduced by the local authorities in the latter part of 1998. Local authorities will also have the opportunity to revise or introduce further new rural services. The conditions set out in the report are designed to achieve that aim. Provision has also been made to enable local authorities to spend the grant on a variety of transport modes in recognition of Scotland's geographical needs, to allow aid to be given to ferry services and, if local authorities consider them necessary, rail and air services.

The purpose for which a grant can be used is set out in paragraph 6 of the report. We have defined the purpose for which the grant can be used in a way that we believe leaves the local authorities with considerable flexibility to spend money in ways that best meet the needs of their areas. The grant can be spent on rural public passenger transport services and related facilities. I shall say a little about what we mean by related facilities. It enables local authorities to spend their grant on such things as information services to increase the knowledge of local residents about the new transport services. Any additional awards following the grant will also help towards encouraging increased use of public transport. The definition also takes account of the fact that local authorities can spend a small proportion of the grant as capital expenditure, if that can be justified as a kick start for local interest in bus services.

There is a clawback provision in condition 6 to cater for any circumstances where Scottish ministers may need to take back the grant. An example would be where the grant paid was in excess of the eventual needs of an authority, or where the grant was not used for the intended purpose.

Members of the committee will also note that the report, principally at paragraph 5, enables grants for the Strathclyde Passenger Transport Authority area to be passed on to that authority, which is responsible for securing public passenger services

in that area. That is necessary because under the Local Government Finance Act 1992 the SPTA is not a local authority and cannot receive grants directly.

Annexe A of the report sets out the amount of grant to be paid to each local authority and annexe B sets out how the grants to councils wholly or partly within the SPTA's area should be divided. Annexe C lists the conditions for the issue of the grant.

Annexe D describes how the grants to individual local authorities were determined. The distribution excludes the four city councils, as the grant is a rural one. We allocated a base amount of £25,000 to each of the remaining 28 councils, all of which had some element of rurality within their boundaries. That base amount was increased by a further amount determined by two factors: the council's share of Scotland's rural population and how dispersed that rural population is from the nearest town or village that could reasonably be expected to provide services for the community. A further increase of 6 per cent was added for each council to meet the costs of inflation. The grant will be paid in two instalments: 75 per cent will be paid by 30 June.

We have commissioned research on the impact of the rural transport fund—the report will be published in October this year. However, we wanted to ensure that the resource allocation for the first two years was being used effectively, so we asked for an interim report on the local authority grant element. That shows that the amount of funding is about right and has been put to good use by local authorities; it is reversing the steady decline in rural services and the services being provided are truly additional to services before the introduction of the grant. We consulted COSLA about the proposed allocations; it has said that it is content with the proposals for 2000-01.

I hope that that gives the key features of the special grant. The grant gives local authorities stability and continuity of funding and I am sure that it will help to provide continued improvements to public transport in rural areas and to reduce social exclusion. I commend the report to the committee. It is vital that we aid rural communities, and the grant is an important way of doing so, as part of the Executive's on-going programme to support rural areas and to increase transport choices.

The Convener: Thank you, minister, for those insights and that information. The committee will be interested to see the future report on the impact of the rural transport fund. Are there questions for the minister?

Tavish Scott (Shetland) (LD): I welcome what the minister said about liquid petroleum gas, which

is an important development and is now even available in the northern isles. As a former councillor, I welcome the commitment to continuity of funding; that is an important principle that should be maintained. I was on the transport committee in Shetland when the grant was introduced; we were told that it was only for a year—meaning that one set up a bus service that disappeared after a year.

The minister mentioned the areas that grant could be used for. Could local councils consider, for example, funding help for people on the islands who are partially sighted and wish to travel by plane? The concessionary proposals are only for boat travel and other means of travelling on the islands.

How will the rural transport fund fit into the research project on the proposed Highlands and Islands transport authority? What is the overlap? If the Executive and Parliament finally conclude that a transport authority for the Highlands and Islands is the right way forward, that authority should have control over rural transport funding in its area.

Is the structure of this fund competitive? Will local authorities have to compete for funds as they did when I first dealt with this issue? Does the minister think that that is the best way in which to allocate resources?

09:15

Sarah Boyack: Tavish Scott asks about partially sighted people. The rural transport fund supports the service, not the individual. There would be scope to support air services, but that would not attach to individuals.

In our consideration of whether there should be a Highlands and Islands transport authority, it will be helpful to look at the consultant's report that we will get later this year, to see how the rural transport fund has worked over the three years and to see what broad lessons can be learned. For example, are the issues in the Highlands and Islands different from those in other parts of rural Scotland? It is too early to answer such questions, but I will certainly make the commitment that the issue will be considered in the work on the Highlands and Islands.

The rural transport fund is not competitive—the public transport fund is, but the rural transport fund is not. Local authorities will receive a set amount of resources based on the calculation that I have outlined. Thereafter, it is up to them to identify the best way in which to spend those resources. They have to justify what they are doing, but the award is not competitive.

Robin Harper (Lothians) (Green): Like Tavish, I welcome the report, especially the assistance

that it offers to rural petrol stations. I hope that that can be extended as far as possible. Will local authorities be able to spend some of their money on traffic integration measures—for example, the development of through ticketing and the provision of assistance for bus and rail services?

Sarah Boyack: To clarify what I have said, I should add that assistance for rural petrol stations is part of our overall package to rural authorities, but it is not part of this rural transport fund. It is not allocated per authority; it is additional assistance. However, thank you for your support.

You asked how local authorities could support integration. There are some good examples. In East Lothian, the Gaberlunzie service—which is more community transport oriented—acts as a feeder service to allow people to connect to other public transport services. In Aberdeenshire, the council has used its resources to provide extra train facilities. The funding will allow authorities to integrate their services. I am not aware of any authorities that have investigated ticketing measures, which is something that we want to consider in our work on the integrated transport bill. We want to open up ticketing, not only in rural areas, but across Scotland. Jim Richardson will clarify what Aberdeenshire Council has done.

Jim Richardson (Scottish Executive Development Department): Aberdeenshire has used some of its grant for the first year for through ticketing and public transport information systems.

Mr Murray Tosh (South of Scotland) (Con): I have a follow-up point on paragraph 2 of the Executive note, which lays out the policy objectives and sums. Do I understand you correctly, minister, that the £3.5 million for public transport services is allocated to councils on an objective-criterion basis, that is, by some kind of indicator system, but that the rest of the funding—the money for community transport projects and the help for rural petrol stations—has a degree of competitive bidding?

Sarah Boyack: Yes.

Mr Tosh: Is there a minimum amount that must be claimed from the £0.6 million for community transport projects? Is there a threshold that you have to cross? I have received representations to the effect that there is a minimum amount and that projects sometimes have to be built up to reach a threshold of, I think, £50,000.

Sarah Boyack: There is no threshold whatever. Some of our grants have been for small amounts, whereas others have been much more significant. The proposals submitted by local authorities are looked at carefully. That might explain the perception that there is a threshold to be reached, but there is not. In some cases, local authorities or community groups have had to look at their figures

again and at the funding proposals for clarification, or they have not been given the full grant for their initial submission, but there is no threshold for calculating grants.

Mr Tosh: That is helpful. I will feed that back.

Sarah Boyack: It may be helpful if David Eaglesham says a few words on that.

David Eaglesham (Scottish Executive Development Department): May I clarify by way of an example? A grant of £300 was given to a community in Wanlockhead to enable youngsters to access a swimming pool that was elsewhere. There is a range of grants from £300 to the highest one, which was something like £70,000 or £80,000.

Mr Tosh: That is reassuring. Assuming that grants are provided in subsequent years, which I realise are decisions that are still to be taken, I believe that it would be useful in the interests of stability and continuity if the explanatory note profiled the expenditure over the previous years as normal financial statements do. That would allow us to see how the amounts varied on a council-by-council basis and also whether there were any reallocations between the headings under which the expenditure is allocated, so that we would be aware if the department changed its priorities or policies and could ask about that—obviously, it is at the margins, where figures change year on year, that much of the interest lies.

Sarah Boyack: We would not have a problem with that. We are presenting this year's report to you, but the figures are available for the previous two years.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I wish to follow up a point that David Eaglesham made. How much encouragement will be given to local authorities to ensure that the use of grants is linked to some of the Government's other key priorities, particularly social inclusion and health promotion? Will the effectiveness of grants be assessed or monitored in any way in relation to those priorities?

Sarah Boyack: In a sense, it is up to local authorities how they use the grants. Some of the projects that are now in place meet those social inclusion objectives. In the report later this year, we will be able to assess how grants have been used across the country, what services have been supported and which are most effective. The criteria for funding and the amount of money that each local authority gets will aim to address social inclusion issues, in terms of geographical dispersal and access to services, so there is a link between funding and social inclusion issues. We can certainly look at the impact of services as we come to the end of the three years.

The Convener: As no one else has indicated that they wish to speak, I ask the minister to move the motion formally.

Motion moved,

That the Transport and the Environment Committee in consideration of Special Grant Report No 4 - Special Grant Report on Grant in Aid of Expenditure on Rural Public Passenger Transport for 2000-2001 recommends that the Report be approved.—[*Sarah Boyack.*]

Motion agreed to.

The Convener: The next item is the second affirmative instrument this morning, which is "Special Grant Report No 5 – Special Grant Report on Grant in Aid of Expenditure on South Fife to Edinburgh Rail Services for 2000-2001." I refer members to the committee papers that they have in front of them, which are the report itself, the Executive cover note and the committee covering note.

We know the procedure, because we have just carried it out. Again I report to the committee that the Subordinate Legislation Committee considered the report at its meeting on 4 April and did not highlight any technical problems with it.

Does the minister have any opening remarks to make?

Sarah Boyack: My comments will be shorter than they were on the rural transport fund.

This report will allow the Scottish Executive to pay a special grant to Fife Council, in support of its contract with ScotRail, for the provision of additional rail services between south Fife and Edinburgh, as part of a package of measures, which has been under preparation for some time, to improve cross-Forth rail services and to ease congestion on the Forth road bridge.

Under the contract ScotRail will, in the morning and evening peak periods from Monday to Friday, provide additional seating capacity of 280 to 290 seats in excess of the Office of Passenger Rail Franchising Director's requirements, which were determined in the ScotRail franchise. The variation in additional capacity depends on the class of train. The agreement also commits ScotRail to continuing the off-peak services on weekdays and Saturdays between Edinburgh and Markinch and between Edinburgh and Cowdenbeath. That means that there are half-hourly services between 9 am and 3.30 pm on those days.

The procurement costs of the additional rail services between south Fife and Edinburgh total more than £2.3 million over the financial years 2000-01 to 2003-04. The special grant for the current financial year is £312,455. That will be reduced on a pro rata basis, since the latest information from Fife Council indicates that the additional services are likely to commence on 28

May. The council has already received £3.2 million in additional capital consent from the Government, mainly for the construction of two new stations at Dalgety Bay and Queen Margaret in Dunfermline.

That further support for the improvement of rail services between south Fife and Edinburgh sits readily with the Scottish Executive's policy of encouraging increased use of public transport. It represents the culmination of many exchanges over the past few years between Fife Council, ScotRail and the Executive. I am sure that the provision of extra seats on the trains between south Fife and Edinburgh, which this grant from the Executive secures, will be warmly welcomed by members of the committee.

I am pleased to commend the report to the committee.

The Convener: Thank you. Do members have any questions?

Robin Harper: May I make one cheeky observation?

The Convener: It depends how cheeky it is.

Robin Harper: The people of Aberdeen would really appreciate it if at some time in the future they were able to catch a train in Aberdeen to do a morning's work in Edinburgh occasionally and get one back again. The service to Aberdeen needs to be improved.

The Convener: That was an interesting link to south Fife and Edinburgh rail services.

Robin Harper: The issues are linked, because it is the same railway line. I assume that there are problems with the amount of traffic on it.

Sarah Boyack: I will note that question, without specifically responding to it today.

Mr Tosh: I expect that Helen Eadie will be here at 10 minutes to 9 when the additional services are running.

Sarah Boyack: I declined to make specific comments on those aspects.

Motion moved,

That the Transport and the Environment Committee in consideration of Special Grant Report No 5 – Special Grant Report on Grant in Aid of Expenditure on South Fife to Edinburgh Rail Services for 2000-2001 recommends that the Report be approved.—[*Sarah Boyack*]

Motion agreed to.

The Convener: I thank the minister and her colleagues for attending the committee this morning.

We now move on to agenda item 3, which is a negative instrument. I refer members to committee paper TE/00/8/7, which is the Scotland Act 1998 (Agency Arrangements) (Specification) Order

2000. I also refer members to the papers TE/00/8/8 and TE/00/8/9, which are an Executive covering note and a committee covering note on that order.

I remind members of the rule governing our consideration of negative instruments. The order that we are considering came into force on 1 May 2000; it was laid under a negative procedure, so the Parliament has power to annul the order by resolution within 40 days. The time limit for parliamentary action on this order is 18 May 2000. Any MSP may lodge a motion to propose to the lead committee that the order be annulled.

We are required to report on this by 15 May 2000. Should an annulment be required, under rule 10.4 of the standing orders, the Transport and the Environment Committee will have to debate the issue and report to the Parliament with its decision.

For members' information, the Subordinate Legislation Committee and the Health and Community Care Committee, the secondary committee, have both considered this instrument and neither committee has anything to report to us.

Do members have any comments on the orders? As there are no comments, can we confirm the agreement of the committee with the report?

Members indicated agreement.

The Convener: We will now move on to agenda item 4, which is the National Parks (Scotland) Bill. I suggest that we may wish to take this item in private, simply to discuss our areas of questioning for the witnesses that we will see at 10 am. I advise the members of the public and the press who are in the galleries that we will take this matter in private.

09:30

Meeting continued in private.

10:07

Meeting resumed in public.

National Parks (Scotland) Bill: Stage 1

The Convener: I welcome members of the press and the public back to the eighth meeting of the Transport and the Environment Committee. We have been discussing other matters since 8.50 am, but we are pleased to get to the meat of today's events, which is oral evidence on the National Parks (Scotland) Bill.

The committee has been designated the secondary committee for stage 1, and we have to report on the general principles of the bill to the lead committee, which is the Rural Affairs Committee. As part of our consideration, we invited organisations and individuals with an interest in the bill to submit their views to the committee. All the submissions that have been received have been circulated to members.

To supplement the written evidence, the committee has decided to take oral evidence from several organisations. Today, we will hear from Scottish Natural Heritage, the Convention of Scottish Local Authorities, the Scottish Society of Directors of Planning and the Royal Town Planning Institute. We are joined for this part of the meeting by the rapporteur from the Rural Affairs Committee, Dr Elaine Murray.

I welcome Ian Jardine and Peter Rawcliffe. I appreciate your taking time to meet us. You have an opportunity to make a short statement before we put questions to you.

Ian Jardine (Scottish Natural Heritage): Thank you. My statement will be very short. I am aware that Scottish Natural Heritage has had a lot of time to state its views on national parks, so all I will do now is summarise our involvement to give some background to the committee.

We carried out a consultation exercise on proposals for national parks in Scotland for the Government in 1998, and early in 1999 we published the advice that we gave to Government. We have commented on the draft bill, and have responded to the questions from the committee that Lynn Tullis sent to us. Those responses contain the bulk of what SNH has to say on national parks.

Ministers have asked us to conduct a further consultation this year in Loch Lomond and the Trossachs and in the Cairngorms, on representation, powers, and the areas for the proposed national parks. We are currently

involved in that work.

Robin Harper: Can we presume that SNH is content with the definition of national parks that is set out in the bill?

Ian Jardine: Do you mean the definition in section 1?

Robin Harper: Yes.

Ian Jardine: We commented on some of the purposes of the national parks that are set out in section 1. We think that one of the purposes might be better phrased, but we are generally content that the principles that we proposed for the purposes of national parks are reflected in that section.

Robin Harper: We will come to that.

A submission that the committee received suggested that SNH and the Executive had departed from global practice in not identifying conservation and recreation as the prime purposes of national parks. Would you like to comment on that?

Ian Jardine: What is proposed is probably different from the majority of national parks in the world. However, in Europe, where national parks are in heavily populated countries, the recognition has grown that regarding national parks as isolated, protected and independent from what is happening in the rest of the community and the rest of the country does not work.

One cannot have a purist, isolationist view of conservation and recreation as being set apart from everything else that is happening; therefore, I do not think that we are departing from all international practice. I would like to think that we are setting a good example of the way in which large protected areas will be dealt with in future in the rest of Europe. We are not wildly out of line with European practice. North America is perhaps not comparable.

Robin Harper: Several organisations have suggested to us—I have asked the minister about this several times—that the phrasing of section 8(6) is not strong enough and that the implementation of the Sandford principle requires the conservation principle to prevail rather than carry "greater weight". Does SNH have a view on that?

Ian Jardine: As you may have read, we have a view on the phrasing of the balancing duty. We are keen that there should be such a duty for national parks, as it is intended that they should be areas of the highest natural heritage value and, therefore, on balance, that objective should be favoured.

We feel that the phrasing of how that duty should be exercised is important and have

suggested slightly different wording: that a precautionary approach should be taken in favour of the long-term protection of the natural resources of the area. We believe that having a narrow definition of the overriding interest would be counterproductive and would not send the right messages about the role of a national park.

10:15

We should bear in mind that designations are already in place with regard to the park areas. For example, the core area of the Cairngorms is largely designated under European conservation legislation already, which means that strict conditions already apply to the area. With that in mind, we favour wording that allows a wider view to be taken of the assets of the area. Although we still have a hankering after the words that we originally thought of, we would be content with what is said in section 8(6).

Robin Harper: To summarise, you would like something slightly stronger than “greater weight” but not a lot stronger.

Ian Jardine: That is correct. We would also like a slightly different balance than that which is in subsection (3)(a) of section 1.

Mr Tosh: Would it be fair to say that, while you want something stronger than “greater weight”, you are conscious of the fact that, in certain areas of the national park, greater weight should have a sense of overwhelming importance? An area where that might be the case would be the central area of the Cairngorms. I am sure that you would be more amenable to economic and social development on the fringes of the national park such as the built areas.

Ian Jardine: That is entirely right and lies behind what we are saying about zonation. If the areas are large and have people living in them, there cannot be a blanket proscription. We would expect the park plan to deliver a balance. As I said before, existing designations and legislation tip the balance in favour of conservation in some areas.

Robin Harper: In your evidence, you welcome the emphasis on collective achievement but suggest that that overarching consideration would be better if it were directly attached to the four aims of section 1. Would you like to say anything specific about that?

Ian Jardine: Our opinions have evolved through consideration of the two drafts of the bill that we have seen. It would help if the aims of the park were addressed at the beginning of the bill rather than in section 8(6). The balancing clause—what is sometimes called the Sandford principle—could be applied at that point as well. Along with that, there should be a duty on all public bodies to

support the aims of the park. That is the sort of structure that exists in the Environment Act 1995 for English and Welsh national parks.

Robin Harper: You suggest that all relevant bodies should be required actively to seek to meet all the proposed aims wherever possible. How do you define relevant bodies? Are we talking about public bodies, private bodies or informal bodies?

Ian Jardine: It would be difficult to list all the relevant bodies. I might get Peter Rawcliffe to remind me about the details of the Environment Act 1995 but I think that it talks about relevant bodies. We had in mind public bodies but we also raised a question about whether some duty could be placed on the public utilities, which are a major influence on the landscape in some areas, on issues such as water abstraction.

One approach could simply talk about relevant public bodies and allow public bodies to work out for themselves whether they thought that they were relevant. Another approach would be to define them in the legislation. My recollection is that the Environment Act 1995 defines a relevant body as any minister of the crown, any public body, any statutory undertaker or any person holding public office. That is where we are starting from and that is our idea of what relevant bodies would be in Scotland.

Robin Harper: Would you like that definition to be included in the bill?

Ian Jardine: We would like a slightly stronger duty to be placed on those relevant bodies. At the moment, there is a “have regard to” section in the bill, and we have doubts about whether that is quite strong enough to do what we proposed in our original advice. We would like wording that means that public bodies are encouraged to do something positive to help, rather than saying, “We’ve had regard to it and we’re doing our best—honest.”

We had suggested a form of words that tried to encourage relevant bodies to support the purposes of the park. We accept that one might need to include the phrase “where possible and appropriate” because all public bodies would include the tax office and the fire brigade, which may not be entirely relevant. One has to accept that, which is why a phrase such as “where appropriate” ought to be inserted. If you will give me a moment, I shall try to find our suggested wording.

The Convener: Are you saying that the wording should be more directly linked to the core aims for the area, as set out in section 1(3)?

Robin Harper: Your submission says that

“this safeguard should be applied more generally to all ‘relevant bodies’ rather than just the NPA, and should be

directly linked to the aims for the area”.

Ian Jardine: That would link them to the aims of the park. Our proposed wording says that a public body

“must ensure that the exercise of its functions in relation to the National Park is consistent with, and where possible, promotes the aims of National Parks as set out in subsection 1(3), and implemented through the Park Plan.”

That is more positive than “have regard to”.

Robin Harper: It is slightly stronger.

Ian Jardine: We understand that the parliamentary draftsman has some problems with that wording, but we would still like him to try to make it a bit more positive.

Robin Harper: Are there any other means by which the Government could ensure that UK bodies take the approach that you have outlined?

Ian Jardine: UK bodies are different. For Scottish bodies, it is fairly clear that either ministers could put something like that in the bill or could direct the Scottish bodies. I am not quite so clear about what they can do in terms of UK bodies. It would be odd, however, if there were an inconsistency that meant that UK bodies in England and Wales were obliged, under the Environment Act 1995, to support the aims of the national parks, but had no such obligations in Scotland. That is a problem for the Scottish Executive to consider, but we would be concerned if there were any disparity between Scotland and England in that regard.

Robin Harper: To your knowledge, does the Ministry of Defence have to comply in England and Wales?

Ian Jardine: My reading of the Environment Act 1995, which refers to any minister of the crown and any public body, is that that definition includes the Ministry of Defence.

The Convener: It does not, however, cover the utilities question that you mentioned.

Ian Jardine: The act also includes any statutory undertaker in its definition of a public body, and that would include public utilities.

Nora Radcliffe (Gordon) (LD): I would like you to clarify what you said in the consultation exercise about creating a safeguard by establishing a role for Parliament or for a parliamentary committee to consider a designation order. Did you mean that statute or policy would provide for Parliament to be consulted prior to the formal laying of the order before it and, if so, do you have a view on the time scale and on whether people outside Parliament should have the opportunity to comment on a designation order prior to its being laid?

Ian Jardine: We felt there was some concern

about proper scrutiny of the secondary legislation. If it is possible for something more to be done on that, it seems to us reasonable to ask a parliamentary committee to scrutinise the designation order at a final stage. I am not sure what distinction you are making between statute and policy.

Nora Radcliffe: You say “either in statute or policy”. Do you have a view on the preferable route?

Ian Jardine: I do not think that we do; it could be either. It is for Parliament to decide what degree of scrutiny is needed as a safeguard.

Mr Tosh: I have a supplementary question on consultation. The paragraph in your submission on further consultation through a relevant committee, which might well be us, suggests that you envisage that consultation as only on national park boundaries.

The committee has talked about variations—different planning arrangements, possibly different memberships for park authorities. I think that we wonder whether we have taken the wrong route in the two-stage approach that you initially argued for. What is your view on the committee pursuing the route of primary legislation, with full consultation, for each of the proposed parks, and Parliament taking responsibility for variations in planning powers and membership rights? Given the argument in your submission for the procedure that, by and large, the Executive proposes to follow, would that be disadvantageous?

Ian Jardine: To clarify the paragraph where we seem to be referring only to boundaries, we did not mean only boundaries, but I can see that it might be read that way.

On the question of primary legislation for all parks, in proposing that route SNH was responding to the remit it was given and was focusing on the need for a tailored mechanism to suit each individual park in relation to planning and perhaps other powers. The answer we came up with, primary plus secondary legislation, was a way of achieving that. However, we are dealing with new circumstances. Parliament is going to have to decide what it wants the balance between primary and secondary legislation to be. We are used to a Westminster model of that balance but we should not assume the same balance here.

There are a number of reasons why we felt it was a good idea to have primary legislation in place before individual national parks were considered. One was to establish a common basis for national parks. The bill sets out the criteria for having national parks. We argued strongly for that, because in other countries legislation has not set out those criteria, which has led to terrible difficulties over the definition of what a national

park was in the first place, and difficulties over decisions on whether an area should or should not be a national park. A way of avoiding such difficulties was to have the criteria set out in a piece of primary legislation.

Having a piece of primary legislation in place would also allow people in areas that were being considered as national parks to know the details of what the parks could mean for them. Even if there were local variations, it would allow people to know more generally what sort of creatures the parks were going to be. If every national park has its own piece of primary legislation, there is a danger that we would, in effect, have not only variation in the national parks, but a whole series of new and different types of designation.

For those reasons, we felt that having a national parks act in place that set out the basic principles, and then considering each area under those principles, was a good idea. That was our argument, although it may be that Parliament feels that there are overriding considerations.

10:30

Nora Radcliffe: Thank you. That was useful extra clarification. A lot of submissions have raised concerns over the adequacy of transferring existing powers under the Civic Government (Scotland) Act 1982. They have also raised the desirability of having self-contained and comprehensive byelaw powers that were specific to the national park authority. What are your views on that?

Ian Jardine: We would be concerned about simply transferring the powers of the Civic Government (Scotland) Act 1982 to national park authorities. During the almost 20 years since that act was put in place, it has been clear that there are problems with some of its powers. Those problems could be sorted out now. Particularly in relation to Loch Lomond, it has been brought to our attention that the powers of the act in relation to water-borne activities apply only to pleasure craft. Questions as to what is and is not a pleasure craft could be sorted out. It has also been pointed out that the powers apply only within 1,000 m of the shore. If we considered the longer term, we would wonder why we needed that kind of restriction on the byelaw powers. Rather than simply importing the 1982 powers, it might be more sensible to give national park authorities their own byelaw powers.

In our response to consultation on the bill, we have made some suggestions as to how the current proposals could be strengthened. Subsections could be added to schedule 2 relating to managing the informal recreational use of land and water, and to regulating the right of access or

navigation within specified areas for the safe and orderly exercise of recreation on water. Those suggestions are an effort to plug some of the gaps in the 1982 act.

Nora Radcliffe: Do you think that your points could be covered by giving national park authorities specific powers to create their own byelaws?

Ian Jardine: Yes, by giving them their own byelaw powers and not tying them too closely to the 1982 act.

Nora Radcliffe: You talk about having the means to influence. Are you convinced that national park authorities will have sufficient means to influence the general activities of local authorities, public bodies, owners, users and managers of land and water, within the provisions that are set out in the bill?

Ian Jardine: In general, yes. We have been considering this bill, and considering what the enabling legislation or the designation order might say. We have also been considering the powers that ministers have to offer guidance through policy and procedure guidance notes. Those are all ways in which the national park authority can be given an influential role.

In general terms, we are happy that the national park authority would have a strong influencing role in relation to the public bodies concerned. The issue about private owners of land is more difficult. Previously, we floated the idea that owners of land might be required to produce management plans, but that is a difficult matter. We have accepted that, by and large, the influence on private owners will be exercised through an incentives scheme.

Existing schemes might be amended, or the national park authority might be able to influence through awarding grants and incentives, with a certain degree of cross-compliance on the incentives. A power—other than, as has been suggested, a last-resort power—in relation to private interests is unlikely. However, in general, we are content that the national park authority could influence the public bodies in the area through those three stages.

Peter Rawcliffe (Scottish Natural Heritage): It is important to emphasise that part of the plan and the issue that we touched on earlier about the strength of the duty on other public bodies in implementing and positively contributing to a park plan.

Nora Radcliffe: You mentioned the power of last resort. Could you expand on how that might be built into the bill?

Ian Jardine: Last-resort powers are difficult because they are the powers that one hopes never to use. We recognise that there is

considerable apprehension about any public body having last-resort powers and the way in which those can be exercised. However, there is an argument for a last-resort power, particularly in the case of poor stewardship in the management of land. In the Cairngorms, for example, there are very large areas under private ownership. Although unlikely, it is quite possible for a wealthy private owner simply to wish to have nothing to do with a national park whatsoever, and it will not be possible to influence him through incentives. If that owner was managing his land so badly that it affected the appearance of the countryside, its attraction to visitors, its amenity and recreational value, and raised access issues, we would need to do something about that.

In those circumstances, to have a last-resort power to stop an activity or to intervene would, on balance, be justified. It would have to be very carefully phrased. It may be that it would be better for the national park authority to be required to apply to ministers before it could exercise that power, in the way that SNH does in relation to nature conservation orders. We cannot make an order; we can only ask the minister to make an order. However, some form of last-resort power to stop a damaging action would be a weapon that it would be advisable to have in the armoury of national park authorities. Nevertheless, the clear expectation would be that it would be used rarely, if ever. On balance, we think that a last-resort power would be justified for use in extreme cases.

Linda Fabiani (Central Scotland) (SNP): Do you have any views on whether the Government's future decisions on land reform and access will affect matters that are already included in the National Parks (Scotland) Bill?

Ian Jardine: They could. One of the difficulties that we have in giving advice on the National Parks (Scotland) Bill is that we know that there are other bills that will influence the issues. One would have to keep in mind what is happening with those pieces of legislation. For example, the land reform bill could certainly affect stewardship of land and, therefore, it could affect the extent to which the national park authority may need to influence that issue. The legislation on access could have a big influence over byelaws and, if it is to address access to water as well as access to land, that will change the committee's recommendations.

The Convener: Before we move on from the last-resort issue, you mentioned the checks that could exist—that is, reference to the minister and orders—which is an interesting area. Are there any international examples of how checks and balances are used elsewhere?

Ian Jardine: The example that I know best is that of the nature conservation order, with which SNH is involved. We apply to the minister to make

the order, so that creates a check, as we cannot simply impose an order ourselves. That is followed by an appeal process and an inquiry process, which are standard checks in such orders, before an order is confirmed.

Nora Radcliffe: We have talked about access. Do you think that the bill adequately provides for powers for the park authority to regulate traffic and to designate, or redesignate, footpaths?

Ian Jardine: I will pass that question to Peter.

Peter Rawcliffe: At a general level, the bill gives the park authority existing powers that are available to most local authorities. However, access legislation is being introduced because there are concerns about the adequacy of those measures. Therefore, while we expect the park authority to inherit many of the provisions of the access legislation, we have yet to see that legislation, so we cannot comment on whether it will be adequate.

We highlighted traffic in our advice and in our response—it was the major issue in Loch Lomond and the Trossachs. People want a park authority that can influence traffic management within its area. At present, the bill says nothing about transport, and in our response we suggested three areas in which the bill could have an influence, including the provision of specific powers under the Road Traffic Regulation Act 1984. We expect the national park plan to say quite a lot about traffic, if relevant to the park area, and it is clearly relevant in Loch Lomond and the Trossachs.

Nora Radcliffe: I think that you partially answered this question already but, with respect to powers over public bodies and private statutory undertakers, you note that the operations of many of those bodies lie outwith normal planning control. What suggestions do you have for clarifying the legislation to ensure that the national park authority has adequate influence over those bodies? Would you recommend any changes to the legislation?

Peter Rawcliffe: One obvious suggestion, on which we have touched already, is the inclusion in the legislation of the term "statutory undertaker", which is absent at present, although it features in the Environment Act 1995. There is reference to some of the legislation on statutory undertakers in schedule 5, but that establishes consultee arrangements for the national park authority.

Ian Jardine: By and large, we think that the strengthening of the "have regard to" power would result in those bodies coming under a duty to support the national park authority generally. We do not see that as a model by which the national park authority is able to lay down the law to other public bodies—that is not the sort of model that we were working on. Our model was to provide clear

encouragement in the legislation for co-operation and for an integration of policies. Therefore, the drawing up of the park plan would enable all those bodies to co-operate. The legislation would give them a bit of encouragement to do so, through the rewording of the "have regard to" section.

10:45

Tavish Scott: I have a minor question. Would your response to the last question include the Crown Estate? In the submission to the Executive that the Crown Estate made through its solicitors, the Crown Estate says that it

"would wish to ensure that the delegation of powers does not encroach on Crown assets or on the exercise of the powers and duties of the Commissioners under the Crown Estate Act 1961".

Ian Jardine: Section 30 of the bill now binds the Crown Estate, which is important because of its interests as a landowner. For example, the Glenlivet estate in the Cairngorms is clearly a Crown Estate asset.

The Convener: In his response to the question of footpath designation and redesignation, Peter Rawcliffe seemed to be quite comfortable with the current situation. However, as it has been suggested that we do not assume powers in this area, are we absolutely convinced that the issue will be dealt with by other legislation, particularly on land reform?

Peter Rawcliffe: We are comfortable with the situation inasmuch as the issue will be partly resolved under the designation order. Some of the powers concerning footpaths are planning authority powers, and there is a safeguard in that such powers would be specified for the national park body in the designation orders.

The Convener: We will now move on to the issue of planning matters.

Mr Tosh: I have a few questions about the planning matters section in SNH's written submission. Many organisations have raised concerns in their submissions about the separation of planning powers. However, you have suggested that the planning regime should vary according to the national park area, which presumably means that you envisage the separation of planning powers in some areas. Could you expand on that? Furthermore, will you give your reaction to the concerns that a number of people, particularly in the planning world, have raised about the practicality of separating out the different tiers of planning?

Ian Jardine: I will start at the more general level of what we are trying to achieve, then I will address the question whether the bill achieves that and is practical.

We are very concerned to examine experience elsewhere. For example, certain national parks in England have become bogged down in development control issues, and as a result we feel that it should not be automatically assumed that national park authorities should also be the development control body. That should be an option, not a necessity.

As for the two proposed national parks, we have recommended that the Loch Lomond and Trossachs national park authority should also be the development control body; however, we do not recommend the same for the Cairngorms national park authority.

One of the key issues about separating planning powers is the concern held by professional planning bodies about splitting such powers between the body that writes the development plan and the development control body itself. SNH takes that view very seriously. Perhaps such powers are not separable: either the national park authority is responsible for the local development plan, which means that it is also the development control body, or it performs neither function. The concern is that the national park authority might perform one function and not the other, and SNH will listen to professional advice on that matter.

Mr Tosh: Can you envisage a situation in which the local plan and the structure plan are separable?

Ian Jardine: Yes. It has been suggested that it might not be sensible to see national parks as structure plan areas in their own right, because of the many issues and the size of the areas that are covered by structure plans. Our assumption has been that it is not sensible to think of national park authorities as structure plan authorities, but it is credible to think of them as local plan authorities, so that could be separated.

Mr Tosh: Local plan areas tend to have a distinct community of interest, following settlement patterns and routes of communication. I appreciate that you are not bound by the indicative boundaries but, to take the example of Balloch, which at the moment is contained within the indicative area for Loch Lomond, it may more logically belong with Alexandria, Renton, Bonhill and Dumbarton rather than with Aberfoyle and Glendochart, areas that are quite distant from it.

Geology is being imposed on communities. I find it difficult to grasp the idea that plans should disrupt long-established community ties. The structure and local plans say follow the logic of communities so, little though you may like it in the Loch Lomond context, the development control function should probably go with the more theoretical approaches as well. In other words, are you coming at it from the wrong angle?

Peter Rawcliffe: I would not disagree with the case you have made for Balloch, but that reinforces the argument for flexibility. There is no one size fits every situation here—the area must be looked at in detail.

Mr Tosh: But you looked at the area and have come up with the view that Ian just repeated, that for the Loch Lomond and Trossachs area you see it as appropriate that the national plan authority should be the development control authority and therefore the local plan authority. You have not followed that in Cairngorm and, by implication, do not think it is appropriate in the unnamed third national park either. You have singled out this area.

Why, in the case of Loch Lomond and Trossachs, do you think you should detach Balloch from the community to which it belongs to include it in a more amorphous grouping that is based not on the traditional planning imperatives but on the superimposed concept of a national plan? I am not against the idea of a national plan but I wonder where the decision-making should lie—whether it would be better within the democratically elected local authority, with consultation and referral powers for the national plan authority if it feels that the council is not following the spirit of the national plan.

Peter Rawcliffe: Detach is a rather odd word to use in the sense that the planning function of a park that assumes development control and the local plan function would have to comprise a majority of local elected members, so you would not be detaching the planning function from the community you are talking about. Whenever lines are drawn on a map you can argue about the areas that should be included. The bit of Balloch that is currently included is fairly small and does not have a large resident population. You could argue that its character and employment, in boat yards for example, looks towards Loch Lomond and not Alexandria. There are arguments for and against what you have said.

Ian Jardine: We need to consider whether the national park authority would be planning in isolation from the other local plans. I do not think that it would. If you think about the process by which a plan for the area might be drawn up, given the local authority role in relation to the park authority, there is a fairly close connection. We have speculated on their sharing planning officials and so on to ensure that close connection. It is therefore unlikely that the national park authority will plan for Balloch without knowing what is happening in the local plans immediately adjacent to it.

One can imagine a situation in which local authorities would produce local plans for their areas and the national park authority would take

the appropriate sections from those local plans to make them into a park plan. Wherever one draws the line on the map, there is a danger of making an artificial line between communities. However, I do not think that it is impossible to get round that. The process by which one arrives at the plan and the involvement of local authorities should ensure that it can be done.

Mr Tosh: I was using Balloch as an example rather than as a critical focal point for the whole debate. We could turn your argument on its head, however. The Royal Town Planning Institute or the Scottish Society of Directors of Planning—I cannot remember which—argued that, although planning is divided among a number of authorities and the plans may not look coherent, when one looks beyond the superficial aspects one can see that local authorities talk to one another and submit their plans to the Scottish Executive. The overall strategies and themes of the plans are remarkably similar for the affected areas. The witnesses felt that there was therefore no need to give planning powers to the national park authorities if the existing plans are relatively coherent.

You seem to have accepted that point of view in relation to Cairngorm and the potential third national park. I do not understand what is different about Loch Lomond and the Trossachs that makes you advocate the separation of the planning powers in that area.

Ian Jardine: It is different because of the extent to which exercise of planning powers is seen to be a key aspect of managing the area. There is also a question as to whether a national park authority could effectively influence what is happening in Loch Lomond and the Trossachs without having development control powers.

The distinction that we have made arises from a difference in perception of a number of issues in Loch Lomond and the Trossachs that relate to planning matters. If one analyses the issues in the two areas that we have commented on, the conclusion is that a lot of the issues in Loch Lomond relate to planning and to development pressures in the area. Those pressures are less in the Cairngorms area, where many of the pertinent issues relate to land management and land management practices. That is the distinction that led us to conclude that development control was more of an issue in Loch Lomond and the Trossachs.

Mr Tosh: You began by saying that you did not want the national plan authorities to become bogged down in development control. Now you are telling us that you want development control powers in precisely the area in which development control is likely to produce a large volume of work.

Ian Jardine: Our concern was about not getting

bogged down in development control unnecessarily. Perhaps I should have made that qualification.

Mr Tosh: So you do not mind being bogged down when it is necessary?

Ian Jardine: If it is necessary, it is necessary, whether one gets bogged down in it or not. The distinction that we made in relation to the Cairngorms arises from the danger that development control issues could dominate. In terms of the overall issues that are relevant to the Cairngorms, development control does not seem to be the key issue. There does not seem to be a need to transfer that power to that national park authority.

Nora Radcliffe: It is not fair to frame this point as a question; it is just a pertinent observation. Local plans are usually drawn up and development control is usually exercised by elected bodies. That is a consideration that would have to be taken into account.

Cathy Jamieson: I hope that we do not get bogged down in my few short questions. Some of the points that I am going to raise concern matters that you have already touched on, and I shall try not to invite a repetition of previous answers.

My questions concern the section of your submission that refers to national park plans. You mentioned the effectiveness of the duty on public bodies to "have regard to" the national park plan and commented on whether that duty should also extend to private organisations and individuals. I understand from your submission and your earlier answers that you support a strengthening of that duty. What will be the consequences of not extending that duty to bodies other than public bodies?

Ian Jardine: We are talking about only those bodies that we have described as the relevant authorities, which are essentially public bodies and statutory undertakers. We are not talking about extending the duty to private individuals or owners.

You ask about the consequence of not strengthening the duty. There would be a greater risk that public bodies could opt out, to a greater or lesser extent, under a "have regard to" duty than under the duty we propose. We accept that it is unlikely that such a duty could be applied to private individuals. We therefore accept that the involvement of private individuals is more likely to be achieved through appropriate incentive schemes or cross-compliance measures.

11:00

Cathy Jamieson: In your submission you have suggested an alternative wording. If your suggestion was not taken up, and the wording was

left as it is, what would be the effect?

Ian Jardine: We are concerned that the "have regard to" wording is not strong enough. A public body would not have to do anything positive to support the national park or its aims, provided that it could argue that it had had regard to those aims.

Using the words "have regard to" is, if you like, a time-worn tradition in legislation. I understand that the Scottish Executive feels that they are strong enough. We think that using those words carries a risk that the national park would not be taken as seriously as it should be. We feel that a degree of extra encouragement would be helpful. That is why we use words such as "promote" rather than "have regard to".

Cathy Jamieson: Do you think that it is critical that that section be strengthened?

Ian Jardine: Yes, we think it important.

Cathy Jamieson: You also recommend a statutory provision for the review of national park plans, but you have not specified a time scale. What was your rationale, and do you think that there is an optimum review time?

Peter Rawcliffe: Experience tells us that management planning for an area is as much about the process of planning as about the end product. If you set a timetable in legislation, the timetable becomes a preoccupation, and we would prefer the emphasis to be on the process. Government would have to offer guidance on whether a review should be, for example, every seven years or every 10 years. That would depend on the nature of the park plan, which may vary dramatically between parks.

Cathy Jamieson: You recommend a general duty to keep plans up to date. Is there not a danger that, without strong guidance, plans would drift and not be kept up to date? What do you think would be a suitable time scale for reviews?

Peter Rawcliffe: We have issued advice that is based primarily on experience in England and Wales. The figure that we had in mind was about seven years. However, we have deliberately held back from recommending a figure, because that would come to dominate proceedings.

Cathy Jamieson: The last-resort powers have already been covered, and I do not want to repeat questions that have already been asked. How would you feel if a last-resort power for the national park authority was not included in the bill?

Ian Jardine: That is not a dying-in-ditches issue. Our advice is that such a power is justified and that, on balance, it is better to have it available in case of emergencies. It is about the degree of risk; it is not about absolutes or principles.

Linda Fabiani: Back in 1999, your agency

made an estimate of what funding would be necessary for the national parks. Your submission states that consideration should be given to how much of the money should be new money rather than existing funds. Do you have a further view on that?

Ian Jardine: We have not taken the costings any further. In 1999, we felt that we had to produce a guide, which is what we tried to do. We examined costs of national parks in England and Wales, regional parks in Scotland and came up with figures that we still think are in the right order of magnitude.

We have not gone through those in detail because, without being clear on issues such as boundaries and powers, it was not easy to be more precise about the costs. On the Cairngorms, we are talking about additional core costs of about £1 million and gross costs in the order of £3.5 million to £4.5 million—that is core costs plus programme expenditure, grant funding and so on. We have not tried to undertake a more precise analysis of those figures; they were intended to give an indication of the numbers that would be involved.

Linda Fabiani: Although the bill does not state the sources of funding, the minister has confirmed that the money will be national funding straight from the Executive. As Scottish block funding is fixed, how would your agency view some of its funds being taken away to fund initiatives within the park that you are not involved in? For example, how would you feel about some of your funding being diverted to local authorities for initiatives within the national park?

Ian Jardine: We must keep an open mind on that issue. In our analysis, we considered the total costs and where we thought the national park was substituting for existing expenditure—that is money that existing agencies are already paying but that will be paid through the national park authority. That assumption includes expenditure that SNH is undertaking at the moment—perhaps our grant aid in the national park areas, our funding of ranger services or whatever. I do not think that we can be too precious about saying that that must be substituted by new money. Our realistic expectation would be that that money might be transferred to a national park authority, which would undertake those functions.

Linda Fabiani: You mentioned the development of a specific support scheme. How do you think that that should be approached? For example, should it be done through legislation?

Ian Jardine: I am not sure that there would have to be legislation for a support scheme. The key issues include the agriculture industry's contribution to the general appearance and

attractiveness of the area, the natural and cultural heritage and agri-environment schemes.

An interesting statistic is that, of the environmentally sensitive areas schemes, the area that has benefited most in terms of payments per head is the Cairngorms Straths ESA. That demonstrates the importance that those schemes already have. If we are saying that national park areas are important, we should give priority to targeting such schemes. The schemes would not necessarily be new ones that required new legislation. This is a question of targeting the countryside premium scheme or whatever replaces ESAs and having special schemes that are tailored to fit those circumstances.

Linda Fabiani: Would that be your response to the concerns of others, such as the National Farmers Union and the Landowners Federation, that doing this would divert money from other areas of need?

Ian Jardine: That could happen if the overall funds for agri-environment were not increased. However, with another hat on, SNH would argue that agri-environment support in Scotland compared with support in most parts of Europe is a bit disappointing. Perhaps the issue is not about spreading support more thinly, but about seeing what we can do to increase it. I must confess that I am not up to date with the debates on modulation, but we have also suggested that that route might be used to target funds in these areas.

The Convener: Do members have questions on marine national parks?

Tavish Scott: Section 29 of the bill says:

"In relation to an area comprised wholly or mainly of sea, this Act applies with such modifications as the Scottish Ministers may by order prescribe."

The SNH submission to the Executive says:

"Provided that Section 8(2)(d) of the Bill provides for the provision of a range of powers that might be required, we are content with section 29."

Do you think that section 8(2)(d) provides enough powers, because your submission goes on to give three examples of areas where further change might be necessary? I will not read them out because you know them, but I can think of any number of issues arising from those examples that would require detailed consideration.

Ian Jardine: Our comment on section 8(2)(d) represents a question. We do not know the answer. We look to the Scottish Executive to provide assurances about the type of powers needed and the extent to which they could be applied. As you mentioned, there is an issue about the scale of powers that could be transferred simply in secondary legislation under such a catch-all measure. We are genuinely asking what

size of powers could be transferred. If our three bullet points do not illustrate the sort of powers that section 8(2)(d) could transfer, further consideration should be given to whether the primary legislation should incorporate those powers.

Tavish Scott: Does that explain why marine national parks were not included in the first run-through of the national parks issue? Did that reflect SNH's thinking at the time that other issues needed to be addressed relating to the sea, not least European fisheries legislation and regulating orders?

Ian Jardine: Marine national parks have moved up the agenda considerably since we started the process. We have to admit that, when we started, we probably had not considered them in great depth. Our approach was to say, "We are not really looking at this at the moment because we are being driven by Cairngorms and Loch Lomond." However, in principle it seems sensible to have a general provision for the creation of marine national parks. As the debate has gone on, marine national parks have continued to be a serious and topical issue. The submission represents our consideration of the sorts of powers that a marine national park should have. It is a development from the position in 1999.

11:15

Tavish Scott: I agree that it is a development from where you were in 1999. It is also a development in terms of the bill. The consultation exercises on national parks on land are detailed, but those that would need to be carried out for areas on sea, or partially on sea, might have to be different. The Executive has received more than 300 responses, which, as far as I can see in the compendium, do not include many fishing organisations or other organisations that would have a considerable interest. Have you put any thought into that matter?

Ian Jardine: No detailed thought has gone into that, but I accept in principle that the consultation list for a potential marine national park would have to include fisheries organisations. The list of key organisations that would have to be consulted would be different from those that have been consulted on Loch Lomond and the Cairngorms. Is the matter sufficiently different that it would be a concern if it were left to secondary legislation? I do not think that I can answer that question, as it requires a judgment about what it is comfortable to leave to secondary legislation.

Tavish Scott: This refers to the questions that my colleagues have asked about secondary legislation as opposed to primary legislation. Some of the representations about land national

parks have expressed concerns about the process that is being established. It could be argued that those concerns would be greater for marine national parks, which I agree with in principle, but we have to get them right. Is there an SNH view about whether marine national parks should be addressed separately in primary legislation?

Ian Jardine: There is not an SNH view on that. Our assumption so far has been that it would be nice for the bill to include a general recognition that the provisions could apply to marine areas. The implication for the bill as it stands is that, although such a recognition would be fine, the national park authority would have no great powers in relation to marine areas. Therefore, further primary or secondary legislation might be needed to give it those powers.

The Convener: I apologise for revisiting an issue, but I did not have the chance to ask about it. Cathy Jamieson asked about the statutory duty on landowners to implement the national park plan, which was your original advice. On page 5 of your submission, you say that you are content that the bill makes no provision on that. What was the thought process that led you from one position to the other?

Ian Jardine: We accepted that a duty compelling all landowners—whether they be owners of large estates or of small farms—to do something that no landowner outside a national park was compelled to do would be unfair.

The European convention on human rights raises issues on passing legislation to compel only one group of people to do something; that is something that one must be careful about. We therefore accepted that any kind of compulsion, in terms of requiring a landowner to produce a plan, even if they were paid to do so, would raise an issue of fairness. It would be better to achieve the same end by means other than compulsion, such as encouragement and incentives. We were content to rely on a system that encourages and assists landowners to be part of the planning process rather than on a system that in any way obliges them to be part of it.

The Convener: Based on earlier comments on incentives, however, that may need to be underpinned by the power of last resort.

Ian Jardine: That comes into it. That is the extreme backstop if there is a problem of sufficient magnitude that it warrants the use of that kind of power.

The Convener: Are there any other questions? If not, I thank Ian Jardine and Peter Rawcliffe. That was an interesting and fulfilling session. We now need to decipher the *Official Report* to decide which areas we should die in the ditch for. I appreciate your help and welcome your evidence.

Thank you very much.

I ask the representatives from the Convention of Scottish Local Authorities to join us. I welcome Tim Stone, who is a frequent visitor to the committee, and thank Councillor Gillie Thomson and Councillor Basil Dunlop for coming along. As you will have seen, we try to keep the meetings as informal as possible. None the less, we have to ask the questions to which we need answers. I thank you for your written submission, which we found interesting and thought-provoking—hence the invitation to give oral evidence this morning. As happened with SNH, I will give you the opportunity to make a short opening remark if you feel that that is appropriate.

Councillor Gillie Thomson (Convention of Scottish Local Authorities): My opening remark will be very short, convener. As members can see, we are three. Basil Dunlop comes from Highland Council—the Cairngorms—and I come from the Loch Lomond and Trossachs area. Tim is holding the jackets for us all. We do not need to say a great deal by way of a statement. The shortness of our submission reflects COSLA's contented, relaxed attitude to the legislation. We do not feel it necessary to be critical of the legislation. We invite questions. It may be appropriate for either Basil or Tim to provide the answers.

The Convener: Thank you. I open the discussion to the committee.

Robin Harper: Concern about the Sandford test—the primacy of conservation over all other issues—is a theme that runs through many submissions. You raise concerns about unqualified application of the Sandford test under section 8(6) and about the effect that that might have on the co-ordinated delivery of the aims. Will you expand on that?

Councillor Thomson: I will come back to that question, but Tim Stone may be the best person to answer it.

Tim Stone (Convention of Scottish Local Authorities): Our concern, which to some extent has been alleviated by the changes made to the proposals since the consultation, is that the bill still gives primacy to environmental and cultural aspects. That could result in a proposal for development that the park authority felt was appropriate, in the round, for the overall development of the park and that met the overall objectives being seen as having environmental or cultural disadvantages under the terms of the bill. The provision that says that, if there is a conflict, additional weight will be given to the aim set out in section 8(3)(a) could mean that social and economic sustainability as well as environmental sustainability would not be achieved.

I have read carefully what the Scottish Executive

has said about the changes to the bill and I understand the attempt that has been made to highlight the co-ordinated approach, but we were concerned that the bill did not tie up to the national park plan sufficiently well to achieve that. It is a difficult area.

Robin Harper: Can you envisage a practical example of where a conflict might arise?

Tim Stone: We understand that if the national park authority identified an area where economic development would be appropriate but others felt that environmental or cultural aspects of that area should be preserved, there would be an opportunity to challenge the authority.

Councillor Thomson: The key to the avoidance of conflict is to have a park plan that is written with wit and is accepted by all concerned. The national park plan will try to avoid conflict at all costs. We realise the importance of the Sandford principle, but everything that national park authorities do should be with an eye to avoiding reaching a point of conflict at which the principle would have to be invoked.

Robin Harper: Do you think that it would be a good idea to include an element of internal zoning?

Councillor Basil Dunlop (Convention of Scottish Local Authorities): Zoning is an all-important principle, as specific land-use policies must be prioritised in certain areas. In the core of the Cairngorms, the priority would be nature conservation, but the priority on the periphery of the area might be development with environmental safeguards.

Nora Radcliffe: I would like to talk about consultation over designation. In your submission, you suggest that there should be scope for comment on a proposed designation order before it is laid before Parliament. What changes would be required in the bill to provide for that?

Tim Stone: We set that out on page 3 of our submission, which deals with section 5 of the bill. We identify the fact that it would be possible for the Executive to receive a report that made recommendations and then to bring forward a designation order that went contrary to those recommendations. The bill says that ministers have to "have regard to" a report, but it does not say that they have to follow it completely. It is appropriate that the minister can change the recommendations, but we are concerned that there would not be time to allow those who have expressed interest to the reporter to make further comment on what the minister is proposing before those proposals are laid before Parliament. We are suggesting an extra six weeks of delay to allow that to happen. That would not be a formal consultation process, but it would allow comment

to be made. There should then be a requirement on the minister to provide the Parliament with a summary statement of what comment had been made.

11:30

Mr Tosh: I would like to ask about consultation. In paragraph 3 of your submission, you properly point out the risk that, if we go down the primary legislation path, it may be difficult to programme sufficient time to designate the subsequent national parks—although we understand that ministers may have only one more national park in mind. Is there not a reverse difficulty? Some of us feel that if the process goes through the secondary legislation route, this committee will have little input. We are concerned that the people who are affected by the designation orders, and who will make representations to us, will have little handle on the process through us. How strongly do you feel that the secondary legislation is important? SNH indicated that it had accepted that that is the route that would be taken—largely because that is what it is used to with Westminster legislation, rather than because of any first principles. Is that something that you expect to happen, but do not feel all that strongly about, or do you feel that it is critical that we should go through this two-stage procedure?

Councillor Thomson: In Loch Lomond and the Trossachs, it is difficult to divorce the COSLA stance from a more local or personal stance. We have lived with the idea of there being a secondary process for so long that local people, businesses and farmers now expect the designation order process to be gone through. Lots of people have been keeping their powder dry because of the importance of the boundary issues and so on. Whether or not we are convinced that that process is the proper one, it has been so well heralded that it would be almost impossible to withdraw from it—certainly in the Loch Lomond and the Trossachs area. Personally, I welcome it.

Mr Tosh: The trouble is, you might keep your powder dry and find that the battle is over before you got your guns loaded.

Councillor Thomson: Yes, that is true.

The Convener: There are far too many military analogies in the committee this morning.

Tim Stone: We bow to the committee's greater experience, but we thought that there would be scope for you to invite the minister to explain the Executive's position and for you to take an interest in the secondary consultation exercise. That process could be quite extensive; we do not expect that it will be short, unless there was general agreement. The nature of the exercise, as we see it, is not to introduce national parks over

the dead bodies of the interested parties around the national park area. The process that has been outlined gives plenty of scope to include anything up to public inquiries. We expected that that would allow scope for the committee to take a deep interest in what was going on.

Nora Radcliffe: What powers do you understand will be available to the national park authority through proposed byelaw powers over land and water? Will those powers be adequate, or can you see deficiencies?

Councillor Thomson: That may be a general question for local authorities. It is my council's belief that the whole permitted development issue needs to be reviewed. It has been a long time since we have had such a review. Additional considerations in relation to telecommunications masts and so on have been a thorn in the side of most authorities—rural ones in particular. I believe that there should be a review of permitted development powers.

Tim Stone: You will see from our submission that we are saying that it is not clear to us precisely what the powers are. From a COSLA perspective, I can say that—with the exception of telecommunications masts, on which we have made specific proposals—there has not been a push from authorities for significant changes in the byelaws and planning powers. How that relates to the specific interests of national parks is another thing. I listened with interest to what SNH had to say this morning. I cannot say that COSLA sees a particular difficulty here. Of course, we do not yet have experience of national parks.

Nora Radcliffe: Would COSLA have a view on the desirability of having self-contained and comprehensive byelaw powers specific to the national parks authority and setting them in the bill?

Tim Stone: No.

Nora Radcliffe: My next question has already been answered in part. You suggest that controls over the public bodies could be built up in the first instance via concordats, via the Executive and by voluntary negotiation with individual national park authorities. How would that work in practice where a conflict emerges? Do you think that additional powers might be necessary? Can you outline what they might be?

Tim Stone: The starting point for our response was that many of these issues are reserved matters and they would have to be dealt with as *realpolitik*, by trying to get negotiated solutions. We do not regard it as inappropriate to go down that route. We also made the point that where the Scottish Executive or, for that matter, the UK Government have influence over bodies, one would expect them to use it, given that they have

gone to the trouble of setting up the national parks in the first place. That balance of interests struck us as the appropriate starting point, but it is not to say that down the line we will not find difficulties that can be resolved through Scottish legislation.

Des McNulty (Clydebank and Milngavie) (Lab): I want to raise the vexed issue of speedboats, jet-skis and other light craft. I was interested by what you said about them in your submission. You said:

"We believe the NPA should have the scope to take powers over speed boats and other powered navigation on water. It is not clear to us however that these powers are not available through proposed byelaw powers."

There is an interesting double negative there. Would you like to be a bit more definite than that?

Tim Stone: The double negative is there because, to be honest, we do not know. We discussed this issue in our working groups and there was a feeling that in the case of Loch Lomond there were some powers. However, we were not entirely clear to what extent those powers have been fully utilised and to what extent they have been found wanting.

Councillor Thomson: The committee probably knows that the Loch Lomond Park Authority, as was, had limited byelaws. The park authority and others recognised that those byelaws did not go far enough. However, the problem in Loch Lomond and the Trossachs is that the emphasis tends to be on Loch Lomond, even though there are many other lochs in the Trossachs area. We must be careful not to introduce very strict byelaws for Loch Lomond but not for other lochs. Any byelaws must be universal. We must have the power to introduce universal byelaws for all national park areas and we believe that byelaws should be stronger than they are at the moment.

Des McNulty: I accept that. There are special circumstances that apply to Loch Katrine.

Councillor Thomson: Loch Katrine is very restricted because of West of Scotland Water's policy towards it.

Mr Tosh: I would like to touch on planning. We have already referred to the representations that have been made by the Royal Town Planning Institute and the Scottish Society of Directors of Planning about the possible separation of planning powers. Paragraph 5 of your submission does not address that issue in particularly elaborate form, but it implies that you are content with the separation of powers because you envisage a different regime in different park areas. I will make you a tempting offer and ask you to tell us why you think the planners are wrong.

Councillor Thomson: This is one issue on which Basil Dunlop and I probably have a totally

different view. We are meant to be here representing COSLA, but I keep talking about Loch Lomond and the Trossachs, where development control matters are already being dealt with by the interim committee. So far, there has been no problem. We never thought that there would be.

We are very open minded about the national park becoming a separate local plan area or, heaven forbid, a separate structure plan area. The designation order could allow for a staged response so that at some point Loch Lomond and the Trossachs might become a separate local plan area. It would help if the order allowed for that. Saying now that the park should definitely be a separate local plan area might cause a problem. I listened to the point that was made about Balloch, which may be a unique case, as it is part of a built-up area. Nowhere else in Loch Lomond and the Trossachs do we encounter that.

Mr Tosh: That is why I picked it.

Councillor Thomson: It is a unique situation. I am sure that Basil Dunlop has something to say on this issue.

Mr Tosh: Before we hear from him, Councillor Thomson, are you saying that, based on your current experience, you do not see any difficulty in the local plan continuing to be the responsibility of the local authority and development control being a function of the park authority?

Councillor Thomson: In my opinion, it would be logical and sensible to consider the national park area as a separate local plan area. I do not see any problem in operating through the three authorities that exist in that area at the moment, but I am quite sure that in the fulness of time the national park will become a local plan authority.

Councillor Dunlop: I have no problem with the COSLA position, which is the same as that set out in the bill—that there should be different planning systems for different parks. Local wishes come into this, and there is perhaps a difference of opinion between people in Loch Lomond and the Trossachs and people in the Cairngorms area. The local authorities in the Cairngorms area are of the same mind and believe that planning powers should be retained by the authorities. That may be because the possible boundaries of any national park in the Cairngorms would cut through five local authority areas. There are quite large differences in the populations and social set-up of the various areas. There is, for example, a great difference between the Aviemore area and the Braemar area. However, we are quite happy for this issue to be debated at the designation stage.

The Convener: Tim, would you like to add anything?

Tim Stone: I am quite happy with what has been said.

Mr Tosh: In the light of the answers that have been given so far, I will direct my next question at Gillie Thomson. It relates to local accountability. One of the strengths of planning is that it is done by committees composed of elected councillors.

Is there concern that if responsibility for planning were removed from elected people and given to appointed boards, albeit appointed boards containing elected people, there might be loss of accountability? I am not thinking about the integrity of the individuals who are part of the process; I am thinking of the consultation procedures, the scrutiny procedures and the amount of information that is available.

In local government, one cannot help but be aware that local newspapers and local people are much more aware of what a council's planning or housing committee does than they are of the work of police boards or other boards that are more detached. I am interested in whether there really is a strong sense of local accountability through your current joint operation that you feel would play into any new authority that is created.

11:45

Councillor Thomson: What is set up at the moment has not been the subject of any criticism so far, but I might take issue with the idea that it is the public's perception that planning authorities are accountable. I could point you to at least 50 community councils that would say exactly the opposite.

You made a serious point about someone on a council planning committee being directly elected. There is obviously a concern. With the structure plans, the development plans and a good, robust national park plan, the possibility of fingers being pointed at the way in which development control issues are handled should be lessened. They will be lessened, but not completely done away with. As we know, planning is one of those subjects that not everybody is always happy with.

Mr Tosh: I do not know this as a matter of fact so, if I am wrong, please forgive me, but I get the impression from some of the evidence that I have seen that the Grampian partnership body is made up of councillors for the wards in the area. In the Loch Lomond area, however, councillors from areas in the national park would not necessarily be the council's representatives on the park authority. Is that a possible discontinuity that could give rise to some discontent?

I do not imagine for a moment that councillors would want all the elected councillors on the national park authority to come from wards outwith

the park authority area, but there is a risk that some people may be involved in the process who do not have the interest in the park that they would have if they were elected by people who lived in it. Is there an issue of democratic accountability there?

Councillor Thomson: The short answer is yes, of course there is. However, if the national park authority saw fit to appoint nobody but elected councillors to make up the proposed 50 per cent of the planning sub-committee, I think that it would be asking for trouble in any case. If the planning process is to be kept open, there must be people on the planning sub-committee who are not elected members from the component councils. That is the model that we have adopted at the moment, and it seems to be working pretty well.

Mr Tosh: Part of the planning argument might be that planning is part of a much more integrated process that goes well beyond the narrow confines of town and country planning. Planners are deeply involved in transport and housing strategies and in a range of different local authority activities. Are councils concerned that some input from the people and some of the connectivity of the whole system might be lost by taking development control and local planning out of council responsibility and giving it to a national park authority? That would mean that the local authority would cease to integrate those areas into the council's work, services and forward planning.

Councillor Thomson: That is possible. However, I believe that if the park authority became a local plan authority in the long term, robust structure plans would always be the guide. The structure plan, the national park plan and all development plans must be integrated.

Mr Tosh: I was thinking more of the role that planners play in relation to the rest of the council. Other departments and committees give a perspective on planning matters. If one removes the planners, puts them under a different employer, relocates them and gives them different imperatives, does one lose the role that planners can play in general terms in relation to the rest of the council?

Councillor Thomson: I do not think that that will happen, nor should it. I concede that there is a possibility that it could happen, but I do not think that it will. The networks exist.

Mr Tosh: I am interested in your perspective, from the point of view of experience.

Councillor Thomson: I am sold on it, but Basil Dunlop may have a different opinion.

Councillor Dunlop: We have a different system in the Highland region, where we have local area planning committees. For instance, there is a

committee for Badenoch and Strathspey that would have an interest in the Cairngorms area.

One of the reasons we feel it would be best for local authorities to work to an agreed park plan—with referral powers retained by the park authority—is that, as I mentioned before, five different local authority areas could be involved. If the set-up of any national park authority is restricted to 20 members, 10 of whom would be local authority members, there could be as few as two members from Highland Council. That is not local planning democracy and we feel that planning powers will be taken away from local control. We believe that local authorities should retain those powers. Democracy and accountability are required: local needs are all-important and should be recognised.

Linda Fabiani: I would like to return to the previous question that Murray Tosh asked. When I read COSLA's submission, I was surprised that no reference was made to the make-up of the board of the national park authority, or to the fact that it will be a quango. What are your views on that?

Tim Stone: We have commented on that in our submission to the Rural Affairs Committee, but we have not commented on the fact that the national park authority board will be a quango. We have accepted that and that there will be a 50:50 split between council-nominated appointees and directly appointed persons.

Linda Fabiani: You have accepted it?

Tim Stone: In the context of the parks' being centrally funded.

Linda Fabiani: I was interested in your comment, Gillie, that a local authority allocating all of its 50 per cent of places to councillors would be asking for trouble. Is that what you said, or did I misunderstand?

Councillor Thomson: No. If the board comprises as few as 20 members, of whom only 50 per cent would come from councils, it is a stone-cold certainty that councils will put elected members on that board.

Linda Fabiani: I misunderstood. You reckon that the 50 per cent will be made up of elected councillors?

Councillor Thomson: That is the proposal in the original legislation, which is the only model that we have to go by.

Linda Fabiani: You have that option, but you do not have to fill all your places with elected councillors. How do you feel about local accountability? Local councillors are elected and are therefore accountable locally, but if the council chooses which councillors to place on the national park authority board could that board be said to be

accountable?

Councillor Thomson: The only concrete model that we have is the interim committee for Loch Lomond and the Trossachs. Stirling Council ensured that all members who have a ward in the national park were automatically appointed to the interim committee. Whatever proportion of nominations Stirling Council will be allocated in the long term, if we follow that model I foresee nothing different happening. Within the council, we have always guaranteed that we will appoint to the board members whose wards are within the national park. I cannot speak for any other authorities, but they will probably go down the same road.

Linda Fabiani: Is your authority likely to follow that example, Basil?

Councillor Dunlop: No, not entirely. It is difficult to anticipate who Highland Council would nominate for the national park authority. We would hope that it would nominate local councillors who live and work in the Badenoch and Strathspey area—that is, within the park area—because of the clause that states that board members should have specialist interests and specialist knowledge of the area.

Linda Fabiani: I am concerned about local community activists and so on, who may feel that they could have an input and that the council should perhaps consider them. However, as you say, it is up to each individual council.

Councillor Dunlop: We feel that the local authority nominations should all be elected councillors, but that the other nominations could be open to members of local community groups.

Linda Fabiani: So we are talking about 20 people being placed on the board.

Councillor Dunlop: Yes.

Linda Fabiani: None of them will be directly elected.

Councillor Dunlop: No.

Tim Stone: I would like to qualify my previous answer on the membership of the board. We have a leaders' meeting on Friday. What I have talked about are recommendations that we will put forward at that meeting as our policy position.

We expect that, in the foreseeable future, council nominees are likely to be councillors. We have suggested that there be a specific provision in the bill that from the directly appointed side, the minister should appoint 20 per cent of the total membership—if there were 20 members, that would amount to four people—from people who are active in the community. We have not specified that they should come from community councils as there are not always community

councils in an area, but they should be active in the community.

We agree with the comment, in the Scottish Executive's response, that a council would not necessarily seek to appoint local councillors. It might think it more appropriate to appoint someone who had expertise in particular aspects—planning aspects or whatever—or who was a senior member on the appropriate committee in the council, whom it thought it would be appropriate to have on the national park board as a link and a dual influence.

Linda Fabiani: Would it be fair to say that COSLA is happy with the proposal of a quango as half of that board is guaranteed to be made up of councillors who have been picked by the appropriate councils?

Tim Stone: No. It would be fairer to say that we accept that the board will be a quango, in the context of the largest part of the funding coming from central Government.

Cathy Jamieson: I have a fairly straightforward question on the national park plans. In its submission, COSLA suggests that the national park plans should be identified as "a material consideration" in paragraph 15 of schedule 5. For the uninitiated such as me, who are not planners, could you outline the benefits of using that phrase and the potential consequences of failing to define the plans in that way?

Councillor Thomson: I am not a planner either. The phrase is recognised language rather than anything else. Tim will have a better explanation.

Tim Stone: "Special attention" is not a phrase that is familiar to planners; "material consideration" is a well understood phrase, meaning that people have to take proper account of something. If we duck that question now, you will be able to ask it of the SSDP and the RTPi, from whom you will receive evidence after us. They would be better able to go into the detail.

Janis Hughes (Glasgow Rutherglen) (Lab): You mention in your submission that you

"believe that it would be appropriate to include in the legislation a requirement for five yearly reviews on National Park Plans."

Why do you think that that should be included in legislation rather than as part of the plan itself? Why should reviews be every five years?

Tim Stone: The period of five years is a suggestion or a sighter. The English legislation specifies five years. If, judging from the English experience, somebody could suggest why five years is not appropriate we would be happy to listen to them. The reason for including the reviews in legislation harks back to the discussion

that we had before. If they are in legislation, they should happen; if they are not in legislation, and are simply an aspiration, they are likely not to happen.

Janis Hughes: Do you not think that each national park plan should be left to define itself according to its own circumstances? We have already discussed horses for courses and why every park should be different.

Councillor Thomson: This is possibly a recognition that we have a movable feast: the park plan, in the first instance, will be written by first-timers—people with no experience of writing a national park plan. It is only right and proper to secure a specific time to revisit what has been written and ask whether it is relevant, or whether it is a load of nonsense in places. I do not think that it is a crucial part of the legislation—but it is right and proper—if the designation of national park plans is contained in the designation order. In that case, the review period should also be included, to provide a fall-back position, in a sense.

12:00

Tavish Scott: Among the other matters that you covered in your submission, the question of VAT caught my eye. What are your concerns about that? You suggest, about section 19 of the bill, that national park authorities

"should be given the same VAT status as Councils."

What would be the disadvantages for NPAs were they not to have such VAT status?

Tim Stone: We are not clear about whether they would have to pay VAT. If they do, and if they enter into joint agreements with councils, VAT would have to be loaded on to any agreements about cost transfers to do work. Essentially, we aim to get clarity on that. We have come across examples of organisations that have paid VAT, whereas councils do not. That complicates life.

Tavish Scott: So this is a practical financial issue for local government?

Tim Stone: Yes. We raised the matter in the hope of clarification.

The Convener: Are there any more questions to our colleagues from COSLA? If not, I thank Gillie Thomson, Basil Dunlop and Tim Stone for coming. I know that you have many hats to wear, but you have worn them well.

I now welcome Mick Stewart and John Rennilson, representatives of the Scottish Society of Directors of Planning. I appreciate your making a written submission and coming along this morning to give the committee oral evidence. You now have the opportunity of making a short introductory comment.

John Rennilson (Scottish Society of Directors of Planning): As members will be aware, Mick Stewart and I represent the two candidate national park areas—I am from Highland and Mick is from Stirling. The SSDP's position is very clear: we believe that a park-by-park, secondary legislation approach for the delivery of town and country planning is the appropriate way forward.

We are aware of the Edwards committee report made for England in the early 1990s, but we think that Scotland deserves and justifies a different solution. The physical size of the two candidate national parks in Scotland is much larger than national parks in England; the populations are smaller; the geography is different; the geography of the two candidate areas is different—Loch Lomond is concave whereas the Cairngorms are convex. The geography and the bringing together of people justifies our seeking a separate conclusion.

It is also relevant that, although two thirds of the respondents to the draft bill who commented about where planning should be placed favoured the national park authority, there are differences between the areas. In the Cairngorms, the majority favoured the area remaining under the local planning authorities. That is not a justification or conclusive evidence for national parks, but I would argue that it justifies considering the matter on a park-by-park basis.

We view national park plans as very important documents and think that they perform a valuable, co-ordinating function. They will differ from local plans and from community planning. Circumstances could, however, develop over time in which those three different elements of planning could be brought together in a single document. That point needs to be examined.

National park plans could come in two stages. One would deal with the medium to long term, setting out the objectives and aims and the basic direction. The other could be a much shorter-term document, say with a three-year shelf life, which would be reviewed annually—it would be the bidding document to the Scottish ministers for funding and it would also serve as an annual review of what the park had achieved. We therefore see the national park plans differently from some of the other people who have made representations.

We believe that zoning has a potential role. We therefore believe that the four aims of the national park and the Sandford test should, in due course, help the national park plan play an important role. The plan could play a parallel role with the Sandford test with regard to achieving the aims.

It depends partly on how widely we draw the

boundaries. If we draw wide boundaries, we could expect, as Councillor Dunlop said, very different policies to apply in the montane zone in the Cairngorms and in Aviemore. In that economic and social situation, we are dealing with a living national park in which people have to earn their living. Different policies in different areas, which have been the subject of consultation and have been approved by ministers—as is envisaged in the bill—should give the national park plan an important status.

Robin Harper: You have introduced some of these issues already, but I would like to be more specific. In your written submission, you raise concerns about the need for legislation

“to spell out clearly the relationship between Section 1(2) and Section 8(6)”.

Can you expand on that, and on your concern about possible misinterpretation?

John Rennilson: For example, Aviemore is still a community at the crossroads, despite the considerable amount of public money being directed there. Part of the development in Aviemore is in Dalfaber. Dalfaber is right on the edge of the River Spey, which is a Natura 2000 site under the European designation.

We do not want the opportunities for development, which have gone through the local plan process, and which in future would be likely to go through the national park plan process, to be torpedoed by the argument that, because we have an adjacent Natura 2000 site, development cannot take place there. In such a situation, if there has been full public consultation and, in the end, if the park plan is approved by the appropriate minister, we believe that that plan should take precedence.

Robin Harper: You raise concerns about the priority given under the Sandford test, and you suggest an amendment to section 1(2)(c). Could not that undermine the protection of the natural heritage of the national parks?

John Rennilson: No—we are very much committed to the natural heritage. That is, after all, one of the primary reasons why the candidate areas have so far been identified and why future national parks will be identified. We are fair and square behind the Sandford test, but we believe that the national park plan should also have a part to play. It is for that reason that we invite the committee to consider the insertion of the additional words that we have proposed at the end of section 1(2)(c). That paragraph reads:

“collectively achieved . . . in a co-ordinated way”

and the additional words are:

“through the National Park Plan.”

We believe that the amount of time and effort

that will be devoted to the national park plan, the public consultation and the ministerial approval mean that the plan should be considered a major document. It should have the appropriate status, which will have been argued, discussed and, I hope, agreed locally. That status should be better than or at least equal to that of a theoretical test.

Robin Harper: You say that legislation should make

“provision for mechanisms for canvassing local opinion.”

Could you explain how you consider the bill to be inadequate? If it is inadequate, do you not think that a review of the planning system as a whole could take care of the canvassing of local opinion? In other words, is the way in which we canvass opinion inadequate with regard to all other planning developments?

John Rennilson: No, I see this as a specific circumstance of the national park. There is no doubt, from everything that I hear from colleagues and everything that I read, that the Loch Lomond and the Trossachs candidate national park has considerable public support. In parts of the Cairngorms, the jury is still out. Public support should be part of the requirement and SNH is beginning to take the matter seriously—all credit to it for that—in the preliminary work that it has been asked to do by Scottish ministers. I hope that, if it were to be the reporter for the purpose of section 2, it would consult widely in the community in the Cairngorms before reporting to ministers.

At the moment, we are in limbo. As the COSLA representative said, the secondary legislation will be the proof of the pudding. At this stage, we are not in the position—nor is SNH—to discuss powers, boundaries or representation with members of the public. The public must have a major role in the debate on those crucial issues, as it is their lives that will be affected. They might see the national park as increased bureaucracy, but we hope to persuade them that there are more pluses than minuses, that it is in the national interest, that it is an accolade and that it has the potential to do good for the area and the individuals who live and work there.

Nora Radcliffe: Your submission notes concerns about the lack of opportunity for further comment between the making of a draft designation order and its confirmation by Parliament. Will you explain the approach that you would prefer, bearing it in mind that once a designation order has been laid before Parliament under the affirmative procedure, it has no power to amend it—it can only approve or not approve?

Mick Stewart (Scottish Society of Directors of Planning): Our approach is similar to that which had been proposed for the approval of the park plan. One goes through a due process to

arrive at what the designation order will be. The final decision on the designation order lies with the Scottish minister, but that could be quite different from the designation order that went through the consultation process. Therefore, if the Scottish ministers intended to increase the area and include a village that was not previously included, there would be no opportunity for the village to have its say in that it had not been consulted. Our proposal is to provide the opportunity for comment to be made before the designation order is confirmed, where it deviates to a great extent from the draft.

Nora Radcliffe: This comes back to the underlying question about whether there should be primary legislation at the second stage. Will you comment on that?

Mick Stewart: The matter could be dealt with through secondary legislation as long as there was the opportunity to comment. There is due provision for a public inquiry into the designation, but at the final decision-making stage, if the Scottish ministers decide to move a long way from the recommendation, there is no second opportunity to comment on it—our approach is to provide that second opportunity to comment.

Nora Radcliffe: Would that be sufficient?

Mick Stewart: Yes.

Mr Tosh: I will touch on the planning matters that have recurred during the discussion.

Your submission accepted, in principle, that there would be different solutions in different parts of the delivery of planning functions. You expressed serious concerns about the sharing, or division, of statutory planning powers. The specific quotation from your document is that that division would be

“inoperable and damaging to the concept of National Parks in Scotland.”

We heard earlier from COSLA that, in practice, development control seems to work reasonably well in the Loch Lomond park area. Your document suggests that there is consistency in decision-making there and you did not find a problem, but in another part of the document, you argue that there would be a damaging effect if development control and local planning were to be separated. Could you square that circle and tell the committee why you think that that is such a serious proposal?

John Rennilson: The society is clear that it does not feel that the middle option in section 9 is appropriate. The planning powers should lie with either the park or the existing local authorities, with the exception of structure plans, which we believe should remain the responsibility of the existing local authorities.

The experience in England since the Environment Act 1995 is not comforting. I worked for 11 years as the county planning officer of North Yorkshire, with two national parks. I have checked within the past seven days and, since the national parks became joint structure plan authorities with City of York Council, in four years they have reached the stage of consulting on alternative strategies. In that same period in Highland, we have submitted a new structure plan to the minister. The process has been a levelling down and has caused delay and expense. Each of the authorities will still have to agree the text before it can be jointly submitted to ministers, so the situation at structure plan level in England and Wales has not been comfortable. That has certainly been the case in North Yorkshire.

12:15

We feel that the elected member or the park authority member who makes the local plan should also be the person who implements the decision. Therefore, the local plan and development control should go together. The feeling in Loch Lomond and the Trossachs—Mick Stewart will expand on it—is that that might be comfortably delivered by the park authority. The feeling in the Cairngorms, among the five local authorities and the five sets of local authority officers, is that it should remain with the local authorities.

Mick Stewart: As John Rennilson said, it is important that there is a link between policy makers and those who make the implementation decisions with regard to granting or refusing planning permission, which is development control. That link is essential. It is also essential for the close link between the officers who are advising the decision makers on policy and development control.

With regard to Loch Lomond and the Trossachs, it is early days, but we have an interim committee, which is making decisions on the basis of the policies that were made by the previous planning authorities; it does not yet have its own policy-making position. There might be growing frustration with regard to the interim committee as it cannot generate the policies that it would want to, because it must make the development control decisions under policies that have been handed down from earlier structure plans and local plans, and from the local authorities that set the policy framework. The tensions that arise from development control being separated from policy making are starting to show.

Mr Tosh: Councillor Thomson indicated that his preferred solution in the Loch Lomond and the Trossachs area would be for the local plan function to go with the development control

function, perhaps in the not too distant future. Does that raise potential difficulties at the edges of the national park boundary? Could there be conflict between the local plan for the surrounding areas and areas within the local plan, which might have stronger connections in most respects with the rest of the local authority area rather than the rest of the local plan area? How do we resolve those difficulties?

Mick Stewart: The resolution has to be through the structure plan, because it is all-important. It is important to recognise the contribution that national parks will make to meeting the development strategies of the local authorities around them.

In an area such as Loch Lomond and the Trossachs, which is part of Stirling Council, there is a large landward area of the park, and the assumption is that major settlements such as Callander could be in it. When the housing requirements for the area are considered, it could be suggested that some could be met within the national park. That would form a strategic settlement policy for the Stirling and Clackmannanshire structure plan area, which would state that there was a requirement for the larger settlements in that part of the national park to carry some of the burden for the local authority and accommodate some of the housing growth in the area.

Stirling Council is one of the authorities in the east of Scotland in which it has been identified that there will be growth. It is important that the structure plan addresses that. There will then be the resolution between the two local plans: one which includes the national park—and perhaps some of those bigger villages—and the other which includes the rural area of Stirling that is outside the national park. They will both work to the same framework; they will have to bear their fair share of the housing requirements, arising, for example, from the natural growth in the Stirling Council area—if the strategy were decided in that way.

The local plans have that framework in which to resolve their differences. Different authorities do the approving, but they will work jointly and there will be common elected members on both authorities—particularly if they are council nominees. They are different authorities, but if there is close working, there should not be differences.

John Rennilson: Because the bill is primary legislation, it has to anticipate further national parks in Scotland, some of which could be wholly in one local authority area—Ben Nevis, Wester Ross or north-west Sutherland. If the parks became the structure plan authority, we could be in the crazy situation in which there might be four

or five participants in a Highland structure plan, all with very different objectives. Conversely, if they were structure plan authorities in their own right, we would revert to the pre-1975 planning situation, when, for example, Lanarkshire was a county council, but Airdrie, Coatbridge, Hamilton, Motherwell and Rutherglen were all white areas with different planning policies. We need to keep a measure of co-ordination, and that is provided by the structure plan.

The parks would be important consultees in the same way as Highlands and Islands Enterprise is a very important consultee on the economic development of the Highlands. Ultimately, if there are unresolved issues, it is for Scottish ministers to approve a structure plan. That is the final safeguard for the national park, if it did not think that it was getting a fair hearing.

Mick Stewart: Similarly, if the national park plan had been approved by Scottish ministers and the proposed structure plan did not agree with the park plan, it would be up to ministers to modify the structure plan to take account of the park plan or to ask the planning authorities to modify the structure plan. Conversely, ministers could suggest to the national park authority that the park plan be modified to take account of the structure plan, which would reflect the strategic direction of a larger area and would be trying to meet other objectives.

Mr Tosh: Ruling out the middle option of a division of control and responsibility, is the Scottish Society of Directors of Planning neutral on the alternatives of continued local authority control or national park authority control?

John Rennilson: Yes. It is horses for courses.

Mr Tosh: Fair enough. Would you clarify a comment in your submission that struck us as potentially significant? In your submission, you welcome the expansion of sections 10 and 11 of the bill, which are about improving consultation. However, you then say that

"the relationship of the National Park Plan to the Town and Country Planning (Scotland) Act 1997 remains unsatisfactory."

I am not clear what you mean by that.

John Rennilson: I had hoped that I had clarified that in the following three paragraphs. It is a point that you took up previously with COSLA about the question of introducing a new definition: "special attention". You have had a useful debate with other witnesses about the phrase "have regard", which has a track record, and section 25 of the 1997 act includes the phrase "material consideration"; we think that it is inappropriate to add a further phrase. People will want to know how "special attention" differs from the other two and why we are not following one of the two, well-

trodden paths.

Mr Tosh: We understand that. Our confusion relates to the introductory sentence on sections 10 and 11. The meaning was not particularly clear. Thank you for that clarification.

Nora Radcliffe: In the final paragraph, you introduce the idea of a flexible three-year rolling programme as part of the national park plan. Would it be a good idea to build that into the legislation?

John Rennilson: That would show the clear commitment to national funding and responsibility for the parks—they are national parks. The society sees the park plan as having a medium to long-term life; a reporting document would provide an opportunity for members of the Parliament or one of its committees to debate and clarify whether the park was going in a direction appropriate for Scotland. It would be a reporting mechanism and a bidding mechanism. In our view, that would be beneficial.

Linda Fabiani: Although we have been promised national funding, I am concerned on behalf of local authorities about their funds being diverted to other agencies or being used directly to fund aspects of the parks. I noticed that you raised concerns about additional costs for local authorities in your submission. What might those costs be?

Mick Stewart: There might be additional costs on the road infrastructure, for example if there is increased traffic or higher design standards. There will be additional costs for buildings, because the quality of development in the national park is expected to be better than it is at present, so any building work that the authority is engaged in will incur additional cost for design and so on. There could be a similar effect on the cost of housing in the area. Scottish Homes might have greater costs in relation to higher design standards and so on. Those are some immediate costs.

John Rennilson: I would expect there to be some staffing costs because officers cannot be subdivided. There are specialist officers covering the whole local authority area, and unless the park were to buy those services back, the council would continue to bear the costs.

In a modest way, the quality of service delivery would be reduced, because many of us deliver development and building control through common administrative systems. In general, the monitoring of planning conditions is carried out by building control officers when they go out to look for completions on building warrant conditions. There would be additional costs for us if building control stayed with the council and development control was given to a national park. Those costs would be modest, but they can add up and at a time of

financial stringency, that is unwelcome.

Linda Fabiani: That would be coupled with the inability to reclaim VAT. What effect do you think that that will have?

John Rennilson: Quite simply, it would add a 17.5 per cent cost to anything that the national park did. The grant in aid from central Government would not go as far as had been anticipated.

Linda Fabiani: What about the fact that local authorities do not have that problem and that they might be sharing some services with the national park authority? Could that create problems?

John Rennilson: Indeed. As Tim Stone from COSLA said, that is one of the things that adds complications, further administration and bureaucracy—we do not get anything more for the money.

Cathy Jamieson: I want to ask a question about your comments on schedule 1 of the bill, particularly the revised wording of paragraph 5(2)(b). Could you expand on that and on your concerns about the omissions regarding community representation?

John Rennilson: That is primarily a matter for the politicians, rather than for council officers. Our concerns relate to the membership of the national park. It would be useful to ensure that there was local representation, perhaps from a community councillor or from business interests. There are obvious leaders in most groups of communities. Those people could come from different strands of the community; they need not be appointed simply because they have been nominated as community councillors. Most people would be able to tell which people in a community have that sort of status—that would be in addition to elected councillors, who have a clear democratic mandate.

The danger in the narrow definition of
“representative of any particular interests”

is that someone would be involved in the park with a narrow remit; they would be concerned only about protecting the remit of the organisation from which they came. Someone from the National Farmers Union or the Royal Society for the Protection of Birds could have either a very narrow or a very wide set of tramlines. If that person had wide knowledge, they would be very welcome and could make a significant contribution to the work of the national park.

However, narrowing down the range of people who are eligible to those who represent particular interests could lead to a situation in which individual organisations can say to the minister that they have a right to have a person on the board. That will not necessarily bring the breadth of experience that is required. The national

interest is supposed to be represented by the up to 10 members that the minister will appoint. It is important that those people should not only have knowledge of and interest in the area, but be able to contribute holistically and not down narrow tramlines.

12:30

The Convener: As there are no other questions, I thank the Scottish Society of Directors of Planning for its oral and written evidence.

Our next witness is Ian Fernie, representing the Royal Town Planning Institute. Ian is flying solo this morning; he is a brave man. Welcome to the committee. We appreciate your coming along. We have until 1 o'clock, and I am sure that we will be able to cover the areas that we wish to by then.

Ian Fernie (Royal Town Planning Institute (Scotland)): I would like to take two or three minutes to make some additional points and to introduce myself as a member of the Scottish executive committee of the Royal Town Planning Institute. I am now retired, but for nine years I was the director of planning for West Dunbartonshire Council and Dumbarton District Council. During that time I was heavily involved with the park authority and Sir Peter Hutchison's working committee. I am a member of the SNH west areas board, which has asked me to point out that that appointment was very recent and that I was not involved in producing SNH's advice to Government. Now that I have got that out of the road, I can start.

The institute welcomes the opportunity to speak directly to the committee. We have generally been very pleased with the consultation procedures to date. We would like to refer members to our two previous submissions, which were made in February. The institute strongly supports the principle of national parks in Scotland and the principle of sustainable development as the policy premise for national parks.

As indicated in the introduction to our written evidence, we also broadly welcome the amendments that the Scottish Executive has made to the consultative draft bill. We would like to take this opportunity to express our strong support for an amendment that was not listed in our written evidence. It relates to the make-up of committees, which is referred to in paragraph 14 of schedule 1. The paragraph now stipulates that committees are required to have a majority of national park members, rather than just one member, as was indicated in the draft bill. That is particularly important, should national parks eventually be given planning powers. However, the institute feels that there should perhaps be a further stipulation, ensuring that any committee

determining planning matters—I know that this has already been touched on—should have a built-in majority of democratically elected councillors.

I would now like to take the opportunity briefly to underline one or two of the main points of our submission. The institute remains concerned that there is no substantive declaration of the purpose of a national park. Similarly, although the application of the Sandford principle in section 8(6) is welcome, we are still concerned that there is no relative weighting as regards the achievement of the aims of the park. Under the bill as it stands, we feel that national park plans will be heavily relied on to expand on purpose. In the absence of any clearer statement of purpose, it is vital that full and early Government guidance is provided to elaborate the policy content of national park plans.

The vexed issue of planning powers has been debated throughout the morning. The institute believes that the bill provides too wide a range of options in this area. We seek a more definitive approach, based on the premise that effective operation of the system depends on full and integrated access by a planning authority to all the powers and duties that are provided for in the Town and Country Planning (Scotland) Act 1997. Our position is similar to that of the Scottish Society of Directors of Planning—that powers should not be split. It is well put by the Edwards committee report, which states that the committee

“favoured the common sense principle that, as far as possible, those who make policies should be responsible for their implementation”.

We would like to make a minor correction to our written submission, in which we ask for section 9(1)(c) to be deleted. The section in fact allows for the retention of planning powers by a local authority. We say that there should be a simple choice—although it may not be that simple—between the options of all the powers going to a national park and their being retained by a planning authority. The institute’s view is that planning powers should not be split, but retained as an entity, regardless of which body delivers them.

The institute is generally content with the provisions for the national park plan. However, we feel that clarity is needed, particularly on the statutory development plan links and relationships.

Paragraph 15 of schedule 5 has already been spoken about this morning. The novel phrase that is noted is the requirement on planning authorities to pay “special attention” to the national park plan when exercising any powers at all under the Town and Country Planning (Scotland) Act 1997. We believe that there is still some uncertainty about whether that is a more onerous requirement than the normal requirement to “have regard to” statutory or non-statutory plans. Obviously, it is not

an instruction to comply with the plan, of the sort that is made in other legislation. Until there is further clarification, the institute takes the view that the primacy of the statutory development plan must make that document the key consideration for any authority, be it a national park or a local authority, determining a matter under the planning legislation. Until it is decided otherwise, the national park plan will be one of a number of material considerations, albeit an important one.

We would like to emphasise the importance of determining national park boundaries, in particular the role of gateway settlements and buffer zones around the core park zone. Scotland’s national parks cannot exist in a vacuum. As has been mentioned, Loch Lomond and the Trossachs national park could have its southern boundary a matter of yards from the greater Glasgow conurbation, next to an area of severe deprivation. We feel strongly that we must ensure that national parks are for all Scotland’s people, not just for those who have a special interest or better access facilities. That is why the boundary selection criteria must be fully analysed and the subject of the widest consultation.

The Convener: Thank you very much. You have raised some issues that I am sure we will want to pick up on.

Robin Harper: You have indicated that you are concerned about the fact that there is no stated purpose for a national park in the legislation. Has the institute come to a view on the sort of headings that it would like to be included in a stated purpose?

Ian Fernie: The institute is headed by a committee, and—as we all know—committees are made up of people with different views. With some trepidation, I would point members back to the Edwards report, which was an English report. It mentioned going back to the first principles of the National Parks Act 1949—preserving and enhancing natural beauty and promoting its enjoyment by the public. The Edwards committee said that it was particularly impressed by the striking quality and remoteness of much of the scenery, the harmony between man and nature that it displays, and the opportunity offered for suitable forms of recreation in a national park. That last point brings us close to the issue of the social and economic well-being of areas and of the people who live in and immediately adjacent to the park. Without proposing something formally on behalf of the institute, I would say that the Edwards report and similar documents offer us ideas and a more substantive purpose than what the bill contains at present.

Mr Tosh: In the evidence this morning, everybody has argued that the policy and the development control aspects of planning should

remain united. When you say that all the planning functions should be kept intact, are you arguing that structure planning should remain connected to local planning and to development control, or would you accept the point that was made earlier that structure planning can be treated separately, as long as the local plan and development control are kept together?

Ian Fernie: We endorse the view that the structure plan still has the umbrella role of providing strategic guidance for a larger area, which would include a national park authority and other authorities. How the national park plan fits into the structure plan is important.

Our view would be that the operation of the strategic planning legislation should not alter, although we have touched on the possibility of altering boundaries, to try to ensure that a national park can sit within one structure plan area. Parks will be too small to have their own structure plan area—we are not advocating that. However, we think that it would be helpful if each park was within one structure plan area.

Mr Tosh: As that has clarified the matter, some of my questions can fall.

You have touched on the Edwards committee—evidence we heard earlier suggested that the division of responsibility in North Yorkshire had led to confrontation between the planning authorities and had, in effect, reduced the quality of the whole process. Is that the RTPI's judgment as well? Is that part of the case that you are making for not splitting the planning functions?

Ian Fernie: That is correct. We make reference to the Edwards report on two or three occasions and we indicate that in certain circumstances the English experience may have been less than happy. The institute feels, in representing the planning profession, that it is imperative that the policy makers and the people who are doing development control work or enforcement, or are deciding on blight notices, conservation areas, listed buildings and so on, are all delivering the service under the one authority.

We have taken a neutral view on whether that authority should be the park authority or a local authority. Again, the phrase "horses for courses" comes to mind. The institute takes the view that, in its approach to each of the national park designations, the Government should decide where that authority should best lie.

Mr Tosh: I accept that.

Let me pick up on your point about the potential difficulty of national park areas lying across a number of local authority areas. Your call for boundary changes recognises that there is still an inherent risk of conflict among the constituent local

authorities. How seriously are you putting those arguments for revised boundaries forward? Clearly, Braemar fits in with Aberdeenshire, while Aviemore goes the other way. You would be making serious and significant changes to local community ties if you changed the boundaries for the purpose of coherent planning. Are you arguing that, in those circumstances, the desire not to have the conflict is an argument for keeping planning powers generally with the local authorities?

Ian Fernie: We would not go as far as to say that the powers should stay with the local authorities, but there are areas—especially the more remote ones—where there is a better case to be made that the powers should be with them.

On the boundary question, especially in relation to structure plan boundaries, no boundary serves all the correct requirements. The current structure plan boundary is some cause for concern; for example, the Argyll structure plan comes right up to the boundary of Dumbarton, so that communities such as Helensburgh, which look to the south and west, are planned for strategically through Argyll. We think that a similar problem may occur wherever the boundary is drawn.

However, it is possible that a small alteration to the boundary, as is suggested, would put Loch Lomond and the Trossachs into the Stirling and Clackmannan structure plan area. While we accept that that might not be the perfect solution, it might be better than having the area lie in two structure plan areas.

Mr Tosh: That is a tailored response, then, to the Loch Lomond situation—

Ian Fernie: In that particular case, yes.

Mr Tosh: I understand.

In paragraph 16 of your submission, you call for four provisos to be inserted into the legislation unless the necessary powers already existed. Will you talk about that and suggest what the consequences might be of neglecting to include those provisions, always on the assumption that the existing legislation does not convey those powers or obligations already?

12:45

Ian Fernie: Your legal advisers may indicate that those powers already exist. The institute went through some of the current legislation to ensure that, built in to the legislation from the start, there would be a requirement to consult or a minister who could be approached as an arbiter and so on.

We are speaking about boundaries that may, as I have said before, bring the Vale of Leven cheek by jowl with another planning authority or another

authority preparing a document and making decisions. There should be built-in requirements for consultation by adjoining authorities and the requirement for third-party arbitration through the secretary of state—sorry, the First Minister. I am showing my retirement position.

Mr Tosh: We all make those mistakes.

Cathy Jamieson: To return to my previous question, some organisations have suggested that national parks should be a material consideration and that that would require amendment to planning legislation. You may have heard me say that I am not a planner, so I seek some clarification in easily understood layperson's terms. Will you confirm that your understanding of the current planning legislation is that the national park plan would constitute a material consideration and that no change would be required to the Town and Country Planning (Scotland) Act 1997?

Ian Fernie: The institute's interpretation of the bill is that the national park plan would become a material consideration. A planning authority is required to determine a planning application first and foremost in terms of the statutory development plan, and then in a sort of pecking order with regard to any other material considerations, of which there is a list. Our interpretation is that the national park plan would be one of those other material considerations, albeit an important one. There may be another school of thought that the national park plan should sit alongside or in some cases above the statutory development plans. If that is the case, that should be clarified and some indication should be given of where that would fit into the statutory planning system.

Mr Tosh: Is it likely that we would need to change existing town and country planning legislation in order to make the national park authorities statutory consultees in those circumstances where they were not the planning authorities?

Ian Fernie: Through the general development order there are a number of statutory consultees. National parks do not exist in Scotland at present and I would anticipate that a national park authority would at the very least become a statutory consultee. That would require changes, although I am not sure whether that would be through primary or secondary legislation.

The Convener: On behalf of the committee, I thank you for presenting the RTPI's case to us. Your written and oral evidence is appreciated.

I thank members of the committee for their endurance today and I thank Lynn Tullis and the team; the information with which they provided us in such a short period is appreciated.

Our next meeting, to discuss lines of questioning, will begin in private. Is it agreed that the meeting on 3 May, at which we will discuss the draft report, be held in private?

Members indicated agreement.

The Convener: There will be a short private session at the meeting on 2 May. The meeting on 3 May will be fully in private. The times will be intimated as soon as possible.

Meeting closed at 12:50.

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