

# **TRANSPORT AND THE ENVIRONMENT COMMITTEE**

Wednesday 7 March 2001  
*(Morning)*

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## TRANSPORT AND THE ENVIRONMENT COMMITTEE 7<sup>th</sup> Meeting 2001, Session 1

### CONVENER

\*Mr Andy Kerr (East Kilbride) (Lab)

### DEPUTY CONVENER

\*John Farquhar Munro (Ross, Skye and Inverness West) (LD)

### COMMITTEE MEMBERS

Bruce Crawford (Mid Scotland and Fife) (SNP)

\*Robin Harper (Lothians) (Green)

\*Maureen Macmillan (Highlands and Islands) (Lab)

\*Fiona McLeod (West of Scotland) (SNP)

Des McNulty (Clydebank and Milngavie) (Lab)

\*Bristow Muldoon (Livingston) (Lab)

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

\*attended

### THE FOLLOWING ALSO ATTENDED :

Helen Eadie (Dunfermline East) (Lab)

Dr Elaine Murray (Dumfries) (Lab)

Nora Radcliffe (Gordon) (LD)

### CLERK TO THE COMMITTEE

Shelagh McKinlay

### SENIOR ASSISTANT CLERK

Tracey Haw e

### ASSISTANT CLERK

Alastair Macfie

### LOCATION

Committee Room 1



## Scottish Parliament

### Transport and the Environment Committee

Wednesday 7 March 2001

(Morning)

[THE CONVENER opened the meeting at 10:05]

**The Convener (Mr Andy Kerr):** Good morning, colleagues. I welcome those on the public benches to the seventh meeting in 2001 of the Transport and the Environment Committee.

Today we will consider several public petitions, which have been circulated to members, as well as the next steps of our inquiry into the management and maintenance of trunk roads.

I have received apologies from Des McNulty, who is attending the Enterprise and Lifelong Learning Committee this morning, and from Fiona McLeod, who will join us later. I have received no other apologies.

Agenda item 1 invites the committee to agree to take agenda items 5 and 6 in private. Item 5 is a review of the evidence that we have gathered in the water inquiry and item 6 is consideration of the names of possible advisers to the committee on this year's budget process.

Is it agreed that we take those items in private?

**Members indicated agreement.**

## Petitions

**The Convener:** Agenda item 2 is consideration of public petitions.

The first petition is no stranger to us; it is PE8, from the Scottish Homing Union, on the impact of the number of birds of prey on the sport of pigeon racing. I suggest that we consider PE8 in conjunction with PE187, from the Scottish Gamekeepers Association, which calls on the Scottish Parliament to allow limited licensed culling of raptors. Members have received a cover note, TE/01/7/1, which deals with those matters.

Helen Eadie, who is a former member of the committee, has been a reporter on this issue. She has produced a report, which is attached to the cover note on the two petitions. Comments on that report by RSPB Scotland have also been attached and circulated to members. The cover note outlines various options for action; those are not exhaustive and I am happy to hear about any other options that we could take.

Maureen Macmillan has volunteered to take on the role of reporter on this matter; she would re-examine the evidence, reconsider the issues and report to the committee within a limited time scale. It is for the committee to determine whether that is the appropriate action to take.

I invite comments from colleagues.

**Helen Eadie (Dunfermline East) (Lab):** I underline how important this issue is perceived to be by pigeon men throughout Scotland. The sport does not tend to be on television or radio all the time, but we should not underestimate the strength of feeling on the issue. The sport takes place not only in Scotland; it is a pan-European sport. The Welsh and Irish pigeon men are as concerned about the proposal as are the Scottish pigeon men.

A key issue that emerged from my consultation on the matter is that the pigeon men do not feel that they have had real involvement in the consultation process. The representatives who were taken on to the raptor working group at a national level were not elected representatives from the Scottish Homing Union. That was outwith their hands and there was no mechanism for reporting back. That was viewed as critical throughout the process.

I will give the committee a lead as to the position that the pigeon men would be happy with—the bottom line that would, to some extent, satisfy them. There is a list of birds—raptors—that cannot be culled. Sparrow-hawks are included in that list. There seems to be consensus—according to a meeting that I attended last month with John Markland, Alex Neil, representatives of RSPB

Scotland and members of the Scottish Parliament—that consideration should be given to whether sparrow-hawks could be dropped from that list. It was felt that they were approaching an ecological balance.

Also at that meeting was Allan Wilson, the Deputy Minister for Environment, Sport and Culture, who was supportive of the pigeon men. If the committee were to write to Scottish Executive ministers, I hope that it would write not only to Sam Galbraith but to Allan Wilson. I am sure that he would have a contribution to make. At the meeting, I got a sense that there was a will to find a compromise that would bring comfort to the pigeon fanciers across the country.

Dr Elaine Murray will, presumably, speak about the songbirds in a moment. I have learned that the issue goes much wider than pigeons. It is felt that the raptor working group did not take account of that fact.

The pigeon men had strong feelings about the EU directive. When the directive was presented to the committee, the final sentence of article 2 was not included. I am pleased that that text has been reinstated. It is worth while highlighting it because, while the directive is about conservation issues and says that member states should take measures to maintain the population of the species at a level that corresponds to ecological, scientific and cultural requirements, it says that that should be done

“while taking account of economic and recreational requirements, or to adapt the population of these species to that level.”

With that in mind, I ask the committee to give credence to the feelings of the pigeon men. Pigeon fancying is a major recreational activity across Europe and prized pigeons change hands for more than £50,000. We should not underestimate the strength of feeling, not only in Scotland but in Ireland and Wales. People there are aggrieved by the fact that our policy has resulted in their pigeons being slaughtered in Scotland.

If the committee is not persuaded by the arguments that I have put forward on behalf of the pigeon men, I ask the committee to support the establishment of an independent inquiry. Pigeon fancying is part of the culture and way of life of many communities, especially former coal-mining communities such as the one that I come from. We owe it to the communities that have been kept alive by the sport to give it serious consideration, while taking account of the wider ecological issues.

**The Convener:** Clearly, you have done a lot of work on this, but the committee wants to ensure that it has heard a balance of views before it

makes a considered decision. Nonetheless, your opening comments have been useful.

**Robin Harper (Lothians) (Green):** I declare an interest as I have been a member of the RSPB for 30 years, off and on.

As someone who worked in Fife for a long time, I am well aware of the depth of feeling around the issue of homing pigeons, and of the relationship that people who engage in the sport have with the little birds that they train.

I am glad to hear, from what Helen Eadie has said, that many aspects seem to have been toned down.

The RSPB submission states:

“under domestic and European law and the Birds Directive, the principle applies that no lethal measures to prevent wild birds causing damage should be used until all non-lethal measures have been tried and found wanting. We suggest that non-lethal measures have not been tested in any proper way, and it appears that the RPRA (the principal pigeon racing union in England) agrees with this in that it is proposing research into these measures.”

It continues:

“Under the Scotland Act 1998, the Scottish Executive cannot change Scots law without compliance with the relevant EU Directives. There is no provision in the Birds Directive for the protection of domestic pigeons by removing or killing protected species.”

That is an important fact to recognise in this debate. Paragraph 10.4 of the RSPB submission states:

“Current law s provide the framework to permit the control of wild birds, but the grounds for control do not extend to the protection of racing pigeons.”

10:15

I am not against holding an independent inquiry. However, an awful lot of work has already been carried out. I support the appointment of Maureen Macmillan as the committee's reporter to take the matter further, but I am not persuaded that we need to set up a further independent inquiry.

The independence of the RSPB has been called into question, but it makes a robust defence of that in its report. Eighty-five per cent of its income comes from members, not from the Government; in that sense, it is independent. If members read the report carefully, they will see that, time and time again, it comes back to that.

The RSPB is a non-governmental organisation. It is not required to be neutral; it exists to get good science on birds and to protect them. The evidence that it has submitted, therefore, is worthy and sound. The RSPB presents it as the best evidence that can be gathered together to suggest that we should at no stage consider the culling of raptors. Yes, pigeons are valuable, but what price

would the committee want to put on a peregrine falcon? In fact, there is a value on peregrine falcons, which is why people try to catch them to sell them in other parts of the world; their value is very high indeed.

**The Convener:** Thank you. I understand that the Executive will today announce proposals with regard to the theft of eggs and falcons. However, that is another matter entirely.

We are here to discuss the petition, and I invite members to comment on it, as appropriate. If we agree to appoint Maureen Macmillan as our reporter, it will be her responsibility to examine the evidence that is available to us. No decision will be taken on that matter at this meeting.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** I want to add to what Robin Harper said. I understand that there is a lot of concern in Helen Eadie's constituency. I have also received several representations. My wife comes from Fife, and I have heard all about the pigeons and the culture in the mining communities. I understand and appreciate what Helen was talking about.

At the same time, looking at the wider picture, I wonder how much support there is for having more curbs and controls on raptors in the wider geographic area of Scotland. Anything that we suggest to control or curb the raptor population will have to be carefully considered, as that is a much wider issue. The matter could be considered parochially, and measures could be introduced in locations where there is a high population or established culture of racing pigeons, as in the east of Scotland. However, if we were to give approval for blanket curbing of raptors throughout Scotland, we might find ourselves in some difficulty.

**Dr Elaine Murray (Dumfries) (Lab):** I am here as one of the reporters from the Rural Development Committee. I replaced Cathy Peattie, who was the previous reporter on this issue from that committee.

I am encouraged by what Helen Eadie said—that there might be some areas of agreement. I was unable to go to the meeting to which Helen referred, because of constituency business, but at the meetings that I have attended there has seemed to be little common ground between the two sides. I can understand that the issue would be difficult to solve.

Helen Eadie referred to songbirds. Perhaps that issue relates slightly more to the Scottish Gamekeepers Association petition, rather than the Scottish Homing Union petition. People in my constituency have raised concerns about the decline in the songbird population. One of the arguments is that the decline is a result of

changes in farming methods. The point was made to me that the area in question is a sheep farming area. The methods of farming had therefore not really changed, so the argument probably did not apply there. The finger of suspicion was being pointed at some of the raptors.

Other birds, including members of the crow family, predate songbirds and steal eggs. Perhaps it is unfair to single out the raptors as responsible, but if concerns about pigeons are being considered, the decline in the songbird population should perhaps be lumped in with that.

**The Convener:** Maureen Macmillan has been listening closely and taking notes. I mentioned earlier that Maureen was happy to assist the committee in developing the petitions and acting as a reporter. I have not heard anybody say that they are against that strategy of moving forward, so I suggest that we give powers to Maureen Macmillan as reporter on behalf of the committee, with support from the clerks and others to carry out her task. We hope to have a response by the end of May. If that is agreeable, let us proceed on that basis.

**Mr Murray Tosh (South of Scotland) (Con):** I am quite happy to go along with that. Some of the evidence showed that there is some uncertainty about this matter. Many people talk about an acceptable ecological balance, and it would be useful for the inquiry to identify whether there is any definition of that term that commands universal acceptance. It would also be pertinent to look into the comments that have been made about licences for controlling birds, to find out whether there are any solutions.

The practical difficulty is that, if we agreed to control populations, we would have to find some mechanism for regulation. We would want to investigate how that would work in practice. It strikes me that that would be very difficult.

**Helen Eadie:** I want to clarify a couple of points that were made by Robin Harper and John Farquhar Munro. I do not think that the pigeon men are arguing for one moment that we should control the peregrine falcons. The sparrow-hawk is the biggest culprit—that is the fundamental point. All sides—Scottish Natural Heritage, the RSPB and the Scottish Homing Union—agree. I can see common ground beginning to emerge on the idea that, if we could get the sparrow-hawk removed from the list, we would go a long way towards satisfying the pigeon men in a way that would not necessarily require legislation.

If the committee was minded to make those representations, that might be one way of getting some compromise without necessarily having full-blown legislative changes. Perhaps Maureen Macmillan could take that on board in making her

report. I think that removing the sparrow-hawk from the list is what the pigeon men are arguing for. They appreciate that we need to protect the very rare birds—no one is arguing about that. The pigeon men feel victimised by the fact that their views have not been listened to anywhere. They appreciate that the committee and the Parliament as a whole are, at long last, taking the matter seriously.

**Robin Harper:** If we focus on sparrow-hawks and the idea of acceptable balances, we need to recognise that nature does not work in acceptable balances. A predator population will expand to the point at which it begins to reduce the population of its target. The predators will then begin to die out and the target population will start to grow again. Those patterns happen in a wave form. It is difficult to identify the precise meaning of an ecological balance.

**Mr Tosh:** I think that that is understood. However, we also understand that, if a population of grouse or of pigeons is provided, the predator population is likely to grow in turn. If the argument is that we should try to create a natural balance to justify controlling the population levels, we must separate out man's impact, which has produced the food supply, and try to establish what nature would do. If we try to manage the population of birds of prey to replicate nature, which is what we are being asked to do, we have to do that on the basis of clear science.

**The Convener:** We are straying into the territory in which the reporter will be working. We can all have an obvious impact on that work. Do we agree to appoint Maureen Macmillan as the reporter for the petition?

*Members indicated agreement.*

**The Convener:** We move on to petition PE68, which is from the National Farmers Union of Scotland and calls for the agriculture sector to be exempted from the proposed climate change levy.

We last considered the petition on 6 December 2000, when we agreed to write to the Department of the Environment, Transport and the Regions to seek further clarification of the basis on which a decision was taken to limit eligibility for a rebate to those sectors that are covered by the integrated pollution prevention and control directive. A response has been received and circulated to the committee.

I invite the views of committee members on the petition.

**Mr Tosh:** It is difficult for us to deal with the petition in any satisfactory way because it concerns a reserved matter.

The NFUS has some strength behind its argument, because our climate is clearly different

from that of, say, East Anglia. Scottish farmers need to dry grain to a greater degree and our glasshouse industry needs more energy than competitors in more favoured and more temperate parts of the United Kingdom.

There is a legitimate argument that a one-size-fits-all approach to the climate change levy might do significant damage to the competitive position of Scottish agriculture. The Executive ought to argue that case. The way for us to deal with the petition might be to draw those concerns to the Executive's attention and to urge it to raise them at the highest level, so that what is ultimately put in place might be seen to protect those vulnerable sectors of Scottish agriculture that the levy could damage.

**Robin Harper:** It might be difficult to draw a border between where the climate change levy does and does not apply. It might be more sensible to suggest that some kind of wet-weather and cold-weather payment, similar to the one that is given to pensioners, be given to farmers when the weather is very wet or very cold.

**The Convener:** We have a useful way forward in those two suggestions. They are not mutually exclusive; we can approach the Executive with both. However, as Murray Tosh said, there is not much more that we can do about the petition.

We will write to the Executive about the matters that members have raised and seek its assistance to highlight those matters, to the Treasury and others, to ensure that they are considered and to highlight the fact that Robin Harper's helpful suggestion of triggered payments would be an appropriate way to proceed.

Are we agreed?

*Members indicated agreement.*

**The Convener:** We move on to petition PE227, from Alistair MacDonald, on the actions of the National Trust for Scotland in Glencoe. The Public Petitions Committee has not referred the petition to us formally; it has asked us only whether we are interested in pursuing the issues that the petition raises.

**Mr Tosh:** I read the papers carefully, including the *Official Report* of the Public Petitions Committee. There is not a lot for this committee in the petition, with regard to planning issues. It is clear from the papers that the planning application, which was approved, accorded with the local plan and that there was therefore no requirement for notification.

There could have been a significant argument over the archaeology issue, but the local authority seems to have taken that fully into account. The change in the latest plan is, according to the explanation of the development control officer, a



series of non-material variations. I do not see any planning issues that we need to consider.

The argument over planting in Glencoe shows that there is legitimate environmental debate and that management issues—such as the degree of culling that should be permitted and whether trees should be fenced—must be considered. However, I do not regard those as pollution issues that the committee would consider; rather, I regard them as land management issues that are probably not untypical in much of rural Scotland. The issues may be more for the Rural Development Committee than for us.

10:30

I was interested in the economic impact study. On the assumption that the market would be static, the study concluded that setting up the new visitor centre would create jobs in the centre but take them from other businesses. The point has been made that, usually, enterprise companies would not support businesses that simply displaced employment. There could well be a case for the Rural Development Committee or the Enterprise and Lifelong Learning Committee to consider the level of support that the business has attracted.

At the moment, this is not a matter for us. However, if there were to be adverse comment—if, for example, Scottish Natural Heritage had supported a business venture that did not stand on its own without substantial public funding, or if it had been party to something that had killed off other jobs—we might have a role in scrutinising what SNH does with its budget. That role would emerge only if someone else detected a problem in the use of public money.

I am interested in accountability. It is significant that the public meeting was addressed by Ian Mitchell from Islay and Kirsty Macleod from Spean Bridge, rather than by local people. The issue raised in the petition seems to have become caught up in the bigger issue of the regulation of agricultural land in the Highlands and Islands. That bigger issue may merit consideration by someone in future but, from the evidence that we have heard, I do not think that the issue raised in this petition is a good example of that bigger issue. The woodland management scheme may be a good example, but what seems to be driving this petition is the concern that the new visitor centre will affect employment in existing businesses in Glencoe village. That concern is more for the Rural Development Committee than for us.

**Robin Harper:** I declare an interest as a member of the National Trust for Scotland, but I am not trying to put a specific case for it here.

The petition raises the general planning issue of

consultation with local communities. All businesses, including the National Trust, should give that issue as much attention as possible. The petition might not have come to us were clearer guidance on consultation with local communities issued to everyone who is concerned with managing our countryside and, for that matter, our towns. This is an issue for local government.

**Maureen Macmillan (Highlands and Islands)**

**(Lab):** I agree with Robin Harper. What has struck me most is that people have felt that there was a lack of consultation—even though consultation seems to have been going on for about five years. There must be better ways of advertising the fact that something is happening and that a planning application has been lodged. Such situations do not arise only in Glencoe; they arise throughout Scotland all the time. In the local press and in my postbag, I have seen lots of similar instances. We could perhaps consider the general issue in future, but I do not think that this specific case is really for us.

**Robin Harper:** No, it is not.

**The Convener:** In the past, we have studiously avoided becoming involved in detailed planning matters on which the correct body has taken decisions. If there is no flaw in the process, it is really not our business. That is what local accountability is all about. Going along with what Murray Tosh said, I feel that we should avoid getting involved on this occasion.

A number of issues have been raised that we could report to the Public Petitions Committee—especially issues connected with economic impact and land use. As Murray Tosh suggested, it may be appropriate for the Rural Development Committee or the Enterprise and Lifelong Learning Committee to consider those issues.

Consultation is a matter for the Executive—I understand that the Executive is considering consultation during the planning process. A satisfactory way to report back to the Public Petitions Committee would be to say that there are issues that concern consultation—although not necessarily planning issues, which are dealt with by the appropriate body—that we will address through correspondence with the Executive. I am sure that the Public Petitions Committee will advise the Rural Development Committee and Enterprise and Lifelong Learning Committee that there may be issues of interest for them in the petition. Do we agree to proceed on that basis?

**Members indicated agreement.**

**The Convener:** Our final petition is PE238, by Mr James Mackie, on behalf of the Forth Fishery Conservation Trust, calling for the Scottish Parliament to investigate a range of environmental issues relating to salmon and sea trout fishing

stocks. Members have received the usual documentation to accompany the petition, and I seek their views on the matter.

**Mr Tosh:** Many of the issues in the petition would more properly be directed to the Rural Development Committee. The non-commercial netting of sea fish, the effects of fishing for shellfish by nets, the seal commission and restocking programmes are not matters for us. A couple of the issues impact on us if we take the widest possible understanding of the investigation into fish farming that we have asked the Executive to undertake. The effects of chemicals on fish stocks, and the effects of discards and fish offal on fish stocks in the Atlantic, might usefully be considered within that investigation. I suggest that we consider the petition carefully and add any relevant issues to what we have already asked the Executive to do. Any other issues should be investigated by the Rural Development Committee, as it deals with fisheries management issues.

**Robin Harper:** Murray Tosh has made a sensible suggestion.

**The Convener:** We will be selective in our approach to the matters that are raised in the petition. We will tag on the two issues that Murray Tosh mentioned to our correspondence with the Executive on the independent inquiry and refer the other issues to a more appropriate committee.

**John Farquhar Munro:** The proposed inquiry into sea cage fish farming will answer many of the issues in the petition.

**Robin Harper:** It is important that the Executive is asked not to make the remit of the inquiry too narrow. It must be expanded to take on board our recommendations resulting from the petition. We do not want to set up two inquiries. The issues are so closely related that it would be far better if our recommendations on the petition were included in the sea cage fish farming inquiry.

**The Convener:** I will write to the Executive on that. Are we agreed on how we will deal with the petition?

**Members indicated agreement.**

## Trunk Roads Inquiry

**The Convener:** The next item of business is our inquiry into the management and maintenance of trunk roads in Scotland. Members will recall that we agreed to appoint reporters on the issue to undertake preparatory work for our inquiry. I was appointed as reporter, along with Bristow Muldoon, Bruce Crawford and Murray Tosh. The four of us have met and have agreed the proposals that are set out in the paper that has been circulated to members. We must agree on a number of issues today, but in the first instance, a general discussion may be useful.

**Bristow Muldoon (Livingston) (Lab):** As one of the members who were responsible for drawing up the proposals, I think that they are very wise. They set up a good framework for the committee to develop a full analysis of the issues surrounding trunk roads, and the tendering and valuation processes that are associated with them. The proposals mention all the appropriate people who should give evidence to improve our understanding of the way in which the process works from the perspective of the Executive, the bidders and the wider community.

The proposed work plan also gives us the opportunity to consider any of the findings from the Auditor General for Scotland's report, which I understand will be ready in mid-June. Provided that the Auditor General's report is concluded in the time scale that is envisaged, we will have the opportunity to consider his analysis of the value-for-money aspects of the process. That analysis will certainly be robust and I hope that the committee will endorse the proposed timetable.

**The Convener:** I ask members to agree to the terms of reference that are outlined in the report. They are fairly exhaustive and go back to square one, so to speak, covering provision of the current service right through to the position that we find ourselves in now. Is that agreed?

**Members indicated agreement.**

**The Convener:** Do members agree to annexe A of the report, which contains proposals for approaching the matter and for the sessions that we shall hold?

**Members indicated agreement.**

**The Convener:** Members are asked to submit to the clerks by Wednesday 14 March proposals for specific witnesses who are to be invited to give evidence, so that we can discuss them at our meeting on 21 March.

I want to discuss further the appointment of an adviser. It will be fairly difficult to find an independent adviser on this matter. If we agree to try to find one, we must seek someone who is

outwith the process and, because it is such a specialised field, that might be quite difficult. Is there general agreement among members that we should seek an adviser on this fairly technical matter?

**Members** *indicated agreement.*

**The Convener:** I am open to suggestions as to who the adviser may be. As I said, it may be a difficult task to find someone to take on that role who we can be fully assured is independent of the process. I look forward to receiving suggestions from members in the near future.

Do members agree to note that the Auditor General for Scotland and Audit Scotland are conducting a study and that there will be a continuing role for the reporters in relation to the inquiry? Do members also agree that a further paper on the arrangements for that inquiry should be submitted on 21 March?

**Members** *indicated agreement.*

## Subordinate Legislation

**The Convener:** I refer members to the Smoke Control Areas (Exempt Fireplaces) (Scotland) Order 2001 (SSI 2001/16) and to the cover note on that order. The order was laid on 4 January 2001 and we have been designated the lead committee for consideration of the instrument. The Executive note, as usual, accompanies the order. The order was laid under the negative procedure, which means that the Parliament has power to annul the order by resolution within 40 days, excluding recess. The time limit for parliamentary action expires on 10 March 2001. If members wanted to lodge a motion to annul the instrument, they should have done so in advance of today's meeting. All members were notified of that, but no such motion has been lodged. We are now required to report on the instrument.

The Subordinate Legislation Committee considered the instrument at its fourth meeting on 30 January 2001 and agreed that no points arose from it. As no motion to annul has been submitted, do members therefore agree that we have nothing to report on the order?

**Members** *indicated agreement.*

10:43

*Meeting continued in private until 11:31.*



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