

TRANSPORT AND THE ENVIRONMENT COMMITTEE

Wednesday 23 May 2001
(Morning)

Session 1

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TRANSPORT AND THE ENVIRONMENT COMMITTEE

† 15th 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:

Mr George Reid (Mid Scotland and Fife) (SNP)

CLERK TO THE COMMITTEE

Shelagh McKinlay

SENIOR ASSISTANT CLERK

Tracey Haw e

ASSISTANT CLERKS

Alastair Macfie

Neil Stew art

LOCATION

Committee Room 1

† 14th Meeting 2001, Session 1—held in private.

Scottish Parliament

Transport and the Environment Committee

Wednesday 23 May 2001

(Morning)

[THE CONVENER *opened the meeting at 10:02*]

The Convener (Mr Andy Kerr): I welcome everyone to the committee's 15th meeting of 2001. I have received apologies from John Farquhar Munro and Bruce Crawford. Des McNulty is attending a meeting of the Enterprise and Lifelong Learning Committee and will join us as soon as he can. George Reid joins us because he has an interest in one of the petitions that will be discussed.

Item 4 on our agenda concerns our second draft report into the water industry and item 5 concerns a draft report on the budget process for 2002-03. In line with normal practice for our discussions on draft reports, I ask for the committee's agreement that we take those matters in private. Is that agreed?

Members *indicated agreement.*

Petitions

The Convener: The first petition for consideration is PE225, from William Ackland. It calls on the Scottish Parliament to take steps, and legislate if necessary, to protect the human rights of those who have homes that are adjacent to quarrying operations, so that they may live in peace and be free from vibration, noise and environmental threats.

Members will have received a cover note from the clerk, which outlines the fact that, at our meeting on 6 December 2000, we considered the petition and agreed to write to the Executive. Members should have received a copy of the Executive's response. One of the options set out in the clerk's paper is to seek further advice from the Scottish Parliament's legal office. I emphasise that, in line with our usual approach to petitions, we would not seek advice on the particular situation that the petitioner raises; we would seek a more general, authoritative interpretation on the range of options that are available under the relevant act. The advice that we have received so far from the clerks and from the Scottish Parliament information centre is not on the specifics but on how the general principles relate to the petition. Bearing that in mind, do members wish to raise any points about the petition?

Robin Harper (Lothians) (Green): I prefer the first option, as I believe that we should take some action rather than refer the petition back to the petitioner, as it is clear that he feels that he has pursued matters as far as he can. It would be useful to look into the system of planning applications in Scotland because, as far as I know, no records are kept and there might be many hundreds, if not thousands, of sleeping applications. The petition is about something that residents did not know existed; a housing estate was built and then mining operations commenced. There are probably many other areas in Scotland where something similar could happen. We should be seen to be taking action and to be getting the best advice possible.

The Convener: I concur with Robin Harper's view that we should seek further advice from the Scottish Parliament's legal office so that we can examine the implications of the petition. Are members happy with that course of action?

Members *indicated agreement.*

The Convener: We will proceed on the basis of the first option. We will pursue the issue of possible payment of compensation and seek advice on the relevant provisions of the Town and Country Planning (Scotland) Act 1997 from the Scottish Parliament's legal office.

Robin Harper: We should tell the petitioner that

our action will not prevent him from pursuing matters further with the Executive directly.

The Convener: I am sure that the petitioner is well aware of that, but we will set out the position and the result of our discussion clearly in correspondence.

The second petition is PE327 from Mr Duncan Hope—who is present—on behalf of the Blairingone and Saline action group. The petition calls on the Scottish Parliament to request that legislation be revised to ensure that public health and the environment are not at risk from the current practice of spreading sewage sludge and other non-agriculturally derived waste on land in Scotland. Members should have received a copy of the clerk's note.

George Reid, who has shown a particular interest in the subject, raising it in committee and in other forums, is with us. With the committee's agreement, he would like to make a short statement in order to set the context and to update members on more recent events. Do members agree to hear George Reid first, following which I will seek members' views on the petition?

Members indicated agreement.

Mr George Reid (Mid Scotland and Fife) (SNP): Thank you, convener. Although this issue is local in origin, it is of national importance. We should all be grateful to the Blairingone and Saline action group—which is represented here today by Duncan Hope and Diane Johnson, who both have a farming background—for identifying what Tricia Henton, the chief executive of the Scottish Environment Protection Agency, called an issue of

“considerable public concern in terms of disease transmission, nuisance and environmental pollution.”

Members have received a detailed memorandum from the group, which provides an overview. I want to touch on two points only.

The end of dumping at sea and stricter controls on discharge of sewage has led to a significant increase in the application of sludge to land. The SEPA soil quality report, which was published in the spring, states that the amount of sewage sludge applied in Scotland is expected to rise from 185,000 tonnes at present to 858,000 tonnes by 2005-06.

In addition, the following wastes can be applied to land: blood and guts contents from abattoirs; chicken blood and guts; waste food and drink; paper waste sludge; textile waste; sludge from biological treatment plants; distillery waste; and waste hair and effluent from tanneries. Those wastes are currently exempt from licensing and, what is more, they can be applied at the rate of 250 tonnes per hectare in any 12-month period.

One of the problems is that the existing statutory framework—the Sludge (Use in Agriculture) Regulations 1989 and the Waste Management Licensing Regulations 1994, which deal with exempt wastes—are, to be frank, badly dated. The non-statutory framework consists of “The Safe Sludge Matrix” and the code of practice on the prevention of environmental pollution from agriculture activities. Although the latter gives good advice and is certainly glossy enough, experts have regularly said that it is ignored, unknown, ineffectual and unenforceable. The problem is that SEPA cannot act proactively—it can act only reactively after an incident has occurred—and that the fines available for big contractors are, frankly, buttons.

I am not suggesting that people are acting outside the law. The problem is that the law is lax. With permission, I would like to give an example of that and pass round a photographic sheet. The photographs, which were taken in February at the start of the foot-and-mouth outbreak, show liquid blood being spread on frozen ground outside Doune by a small contractor. Members should note the large spray of blood.

I intervened on Ross Finnie in a rural affairs debate. To his credit, the minister announced immediate action. The next day, the High Court granted an interdict and SEPA declared the practice an “illegal act”. That is good, but my constituents inform me that the blood has simply been shipped a few miles down the road to Forest Mill, where it remains stinking in tanks. We should not act in such piecemeal fashion.

I will say a quick word about the work of the action group. It was set up in 1997 because of the spreading of waste within yards of the group members' back doors. First, they considered petitioning Westminster, but we know what happens to petitions there. Then they concentrated on the Scottish Parliament. They have seen MSPs from all parties, who have been sympathetic. They have gathered evidence from SEPA, the Scottish Agricultural College, universities and other experts.

An important breakthrough was the BBC documentary in March 1998, “Fields of Filth”. In that programme, Professor Brian Austin of Heriot-Watt University took samples, which he identified as containing E coli, E coli 0157, salmonella and hepatitis A. That brought results: the next month, Lord Sewel commissioned SEPA to undertake a review of the spreading of organic waste on land. In November that year, SEPA published its OWL report—the “Strategic Review of Organic Waste Spread on Land”. It concluded:

“The current approach to the regulation and management of organic waste spread on land is inadequate and inconsistent, leading to practices which pose a risk to the

environment and pose potential public, animal and plant health risks."

However, there was no action. Members lodged questions. I facilitated a two-hour symposium, as Robin Harper will remember, in the committee chambers with members of all parties, the action group, SEPA and East of Scotland Water, but again there was no action.

Therefore, on 12 December last year, we brought the petition to Parliament to seek redress. Interestingly, on 22 December, the first day of the recess, in response to a written question from Maureen Macmillan, Sam Galbraith made some statements on organic waste spread on land. The general tenor of the minister's remarks is certainly to be welcomed, in particular his steer towards a more consistent legislative framework, the requirement of agricultural benefit from the spreading of waste, the need for an audit trail, the carrying out of chemical analysis and a wider review of exemptions.

Members should note that the minister's answer is qualified by two little words: "if adopted". Although I do not doubt the minister's good intentions, in reality the commitment is to further consultation along those lines and to no specific time scale.

I would like the committee to concentrate its attention as I finish. SEPA and a number of other experts, including the action group, have expressed their disappointment that a number of key recommendations have yet to be addressed. What is missing from Mr Galbraith's answer? There is no mention of sewage sludge. It is true that the water authorities, after years of underinvestment, are now constructing enhanced treatment facilities, but there must be substantial doubt that those can handle the predicted rise from 185,000 tonnes now to 858,000 tonnes by 2005.

The way forward on blood and guts contents is not clear. Mr Galbraith promised a study by the spring. It is now early summer and I understand that the study is delayed. There is an extremely interesting letter to the Scottish Executive rural affairs department from Malcolm Snowie—the managing director of Snowie Ltd, which has acted responsibly over the period of the foot-and-mouth outbreak—in which he says:

"There is sufficient rendering, incineration and processing capacity—and landfill if necessary—available to dispose of all blood and meat and poultry sludges effectively.

The option to spread this waste on agricultural land should never have been considered and I believe that course of action is fundamentally wrong, bringing both the agricultural and re-cycling industries into bad repute."

Without naming the civil servant, I quote the response on consultation:

"Unfortunately, like a lot of other issues, we are having to deal with matters pretty much on the run and inevitably this cuts down the opportunities to consult as widely as we would otherwise have wished."

The issue of land drains has been sidestepped. SEPA regrets that there is no prohibition on the injection of liquid waste into land. That practice is a common cause of water pollution. All that happens is that, under pressure, the liquid is inserted 10in nearer drains that are designed to extract moisture. Members need only read the Blairingone evidence on chicken blood running down the neighbouring burn. That burn, I assure the committee, heads towards the water supply for Alloa.

Mr Galbraith's answer does not mention a prohibition on the ground of excessive odour. It does not mention a prohibition on spreading waste outside daylight hours—I ask the committee to imagine the small villages of Clackmannanshire and Stirlingshire with heavy lorries full of waste trundling through them in the wee hours. The answer does not mention a mandatory requirement to have a certificate of competence, as would happen with pesticides. It does not mention the introduction of land management plans or the adoption of a fully integrated regime from producer to application site.

10:15

Finally, what is to be done? I hope that the committee will refer the petition to the Health and Community Care Committee, as suggested by the Public Petitions Committee, for a second opinion.

There is no doubt from the experts that wastes such as those spread at Blairingone can harbour potentially toxic elements, pathogen organisms, organic contaminants and enteric viruses. Although I make no causal connection myself, I refer the committee to Duncan Hope's harrowing account in evidence to the Public Petitions Committee of the wee boy in Blairingone who went from a newly sludged field to Stirling royal infirmary with simultaneous rubella, measles with encephalitis, viral meningitis with photophobia, general metabolic breakdown, blisters and other viruses including E coli 0157. Virtually every villager will tell stories of blisters, rashes and other ailments—although in fairness I have to say that, in recent years, since the campaign began, there has been a marked reduction of such complaints.

Lastly, I hope that the committee will consider a limited study by a committee reporter into the gaps in Mr Galbraith's answer. Such a report could be time and subject-limited and involve a visit to Blairingone and to the other community at Doune, as well as collation of existing published papers from SEPA and the SAC. Those papers could be put to the Executive before the summer for further

comment and to inform the process of introducing a waste management strategy that is safe, sustainable and enforceable.

The Convener: Thank you very much, George, for that synopsis of the situation.

Mr Murray Tosh (South of Scotland) (Con): Convener, I do not know whether you have worked out a course of action that you would like to pursue. It strikes me that a serious gap has been identified in our system of environmental controls. It is ironic that, although the committee has spent a lot of time examining the high standards that regulate the waste water industry so tightly and has had presentations on landfill and on municipal waste and recycling, there appear to be an awful lot of loopholes in the spreading of waste, which clearly ought to come under some form of effective environmental regulation.

I do not know whether the committee is ready to appoint a reporter to investigate the issue, but in the first instance we should certainly obtain the views of SEPA on the gaps in the framework and consultation. We should press the Executive on its intentions on the matters on which it has not so far signalled a willingness to move. We want to put the pressure on and we need a time scale from the Executive.

I agree that we should send the petition for information to the Health and Community Care Committee, but we should also take some relevant evidence. I do not know exactly from whom we would take such evidence. There must be some specialist in environmental or public health who could give us a neutral evaluation of the issue. Perhaps, with the literature review that George Reid referred to, that could be a subject for the committee to discuss subsequently to see how it could be developed on all fronts. Some limited evidence taking might be preferable to looking at a report, although we would probably want to consider that when we have seen the evidence.

I congratulate George Reid on his presentation and on signalling that he was going to close twice before he got to "lastly". I recommend that, when he is in the chair in Parliament, all members adopt the same approach.

Robin Harper: I agree with everything that Murray Tosh has said except about appointing a reporter. The advantage of appointing a reporter would be that we could keep the impetus going until we are in a position to take evidence from SEPA and other organisations—that would avoid things going a bit cold. We have just heard a detailed and excellent presentation; any investigation that we instituted would have to be based closely on the Blairingone and Saline action group's recommendations. I am happy to back what has been said so far.

Maureen Macmillan (Highlands and Islands)

(Lab): I think that we should give the petition all the help that we can. I am particularly concerned about noxious smells. I spent a long time campaigning to get a badly run knackery in my neighbourhood closed down. It can be difficult to prove that there is a bad smell, but it can be absolutely debilitating if you live near it. In the case of the knackery, the smell came from blood and guts that were spilling out on the forecourt of the rendering plant. I can therefore appreciate what is going on in the Blairingone case. We must close any loopholes that make life intolerable—and indeed dangerous because of the risk of bacterial infection—for people living in that area or in any area of Scotland. As George Reid said, such cases happen all over the country. I live in a farming area and I know where sewage sludge is spread, so I would like it to be regulated.

Fiona McLeod (West of Scotland) (SNP): We are all saying the same thing, but I would like us to act with a little more urgency than Murray Tosh called for. The written parliamentary answer was received in December, which is six months ago. Everything is taking too long. Lord Sewel got involved in 1998 and there was an OWL report a year later. We have to close the issue and produce something. Many things were missing from the written answer. I notice that it hedges by saying that the issue would be the

"subject of consultation in due course."—[*Official Report, Written Answers*, 22 December 2000; Vol 9, p 296.]

Given that such practices have been going on across the country for all that time, and that many areas of legislation need to be tightened up, the committee should get on top of the issue right away.

Bristow Muldoon (Livingston) (Lab): I congratulate George Reid on his presentation of the case, which set out the basis of the petition cogently. It is important to encourage the Executive to make prompt progress because, as other members have said, reports have been undertaken since 1998. The other issue that lends urgency to the matter is that, as George Reid pointed out, it is intended that the practice of spreading organics on land should be expanded in the near future. We should therefore urge the Executive to move swiftly on the recommendations that it has already received. However, I would also be comfortable with the proposal that we appoint a reporter from the committee to consider all the issues that have been raised today.

The Convener: There is clearly some uniformity in our views. The public health issue causes me concern, and the Health and Community Care Committee will obviously have to be involved. We do not want to step outside our remit into that committee's remit, so some liaison is required.

I tend to the view that we should appoint a reporter or reporters on the issue. Although we can do a desk exercise with correspondence to the Executive, a broader approach is required in gathering further evidence and advice and we will need to go into the matter in more detail. I therefore seek a willing individual or individuals to carry out that task, but I do not want to press-gang members into action.

I have a particular interest in this subject and had some experience in the waste industry in my previous occupation, so I would be happy to act as a reporter. I do not know whether there is a precedent for a convener doing that, but I have read the paper and have some understanding of the issues. Perhaps, with other reporters, I could draw up terms of reference for a short inquiry and a list of relevant individuals and organisations to consult. The committee could then form a view on how we should proceed within, I hope, a fairly short time scale. Do members have any comments?

Fiona McLeod: That is an excellent idea. Given the complexity of the issue, I think that it is best that one person should do that work. If more than one reporter got involved in working their way through all the statutory instruments, the exercise would be very complicated. One person should follow that trail.

The Convener: I have volunteered to be that one person. Are members content with that?

Bristow Muldoon: It is admirable for the convener to press-gang himself.

The Convener: Indeed. This is an interesting area. A loophole in the regulations has been identified and it would be useful to act on the issue as quickly as we can. The Executive also has to respond to the matter.

Robin Harper: Perhaps members of the committee might like to accompany you on a site visit, just to give it extra weight.

The Convener: I hope to draw up terms of reference and the scope for action. That would include listing the organisations that would be invited to submit evidence and the site visits that would be undertaken. Committee members would therefore be fully aware of what was going on and I would be happy for them to participate in any of the activities that we take up.

Mr Reid: I am grateful to you, convener, and to members of the committee. The Blairingone group has already done a vast amount of work. We have all the reports and can move things forward at a fair speed.

Members of the Blairingone group have never been NIMBYs. They have always recognised that the problem will not be solved by moving it out of their back yard—this is a national issue. They have acted extraordinarily responsibly. Shock-horror pictures such as those that we have seen today could have been given to the national press at any time, but they have deliberately not been, because of the damage that that might do to the agriculture industry. It would be nice, in the petitions tradition, to have a short hearing in Blairingone and Doune—the helping hand of the Parliament working in partnership with the people, according to our principles.

The Convener: We shall consider all those factors as we scope the terms of reference.

The next petition for consideration is PE3, from the Hospitalfield area residents committee, on commercial oil-seed rape crushing. Members should have received a covering note from the clerk indicating that, as the petition has now formally been concluded, there is no requirement for us to take any further action. However, members may wish to note that, as a result of the committee's consideration of the petition, the Executive has acknowledged that there is a loophole in the law that needs to be closed. That is a positive outcome, which should be welcomed.

The petitioners are to be congratulated on bringing that important issue to our attention, and consequently to the attention of the Executive. I have circulated a press release, which I think highlights the role that the committee and petitioners have played in closing the loophole. Are members happy with that response?

Members indicated agreement.

10:28

Meeting continued in private until 12:32.

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