

# **TRANSPORT AND THE ENVIRONMENT COMMITTEE**

Tuesday 4 March 2003  
*(Morning)*

Session 1

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## TRANSPORT AND THE ENVIRONMENT COMMITTEE

### 5<sup>th</sup> Meeting 2003, Session 1

#### CONVENER

\*Bristow Muldoon (Livingston) (Lab)

#### DEPUTY CONVENER

\*Nora Radcliffe (Gordon) (LD)

#### COMMITTEE MEMBERS

\*Bruce Crawford (Mid Scotland and Fife) (SNP)  
\*Robin Harper (Lothians) (Green)  
\*Angus MacKay (Edinburgh South) (Lab)  
\*Fiona McLeod (West of Scotland) (SNP)  
\*Maureen Macmillan (Highlands and Islands) (Lab)  
\*John Scott (Ayr) (Con)  
Elaine Thomson (Aberdeen North) (Lab)

#### COMMITTEE SUBSTITUTES

\*Helen Eadie (Dunfermline East) (Lab)  
David Mundell (South of Scotland) (Con)  
Iain Smith (North-East Fife) (LD)

\*attended

#### THE FOLLOWING ALSO ATTENDED:

Susan Deacon (Edinburgh East and Musselburgh) (Lab)

#### WITNESSES

Elspeth MacDonald (Scottish Executive Legal and Parliamentary Services Department)  
Fiona Mackay (Scottish Executive Environment and Rural Affairs Department)  
Jim Mackinnon (Scottish Executive Development Department)  
Des McNulty (Deputy Minister for Social Justice)  
Kevin Philpott (Scottish Executive Environment and Rural Affairs Department)  
David Wallace (Scottish Executive Environment and Rural Affairs Department)  
Allan Wilson (Deputy Minister for Environment and Rural Development)

#### CLERK TO THE COMMITTEE

Callum Thomson

#### SENIOR ASSISTANT CLERK

Alastair Macfie

#### ASSISTANT CLERK

Rosalind Wheeler

#### LOCATION

Committee Room 1



## Scottish Parliament

### Transport and the Environment Committee

*Tuesday 4 March 2003*

*(Morning)*

[THE CONVENER *opened the meeting at 09:32*]

**The Convener (Bristow Muldoon):** Welcome to today's meeting of the Transport and the Environment Committee.

Before moving to the first agenda item, I advise members that the Surface Water (Fishlife) (Classification) (Scotland) Amendment Regulations 2003, which we will consider at the end of our agenda, are also being considered at this morning's meeting of the Subordinate Legislation Committee. Prior to our consideration of the instrument, we expect to receive a report from one of the clerks on the view that the Subordinate Legislation Committee took. If members find that to be unsatisfactory and wish further consideration of the instrument, it will be necessary for us to have a further meeting next week, as Parliament must conclude its consideration of the regulations by 17 March. I draw that to the attention of members.

Helen Eadie is present as a committee substitute for Elaine Thomson, who has given her apologies. I invite Helen Eadie to confirm that that is the case.

**Helen Eadie (Dunfermline East) (Lab):** Yes. I am here to substitute for Elaine Thomson. Please accept my apologies for the fact that I must leave at about 11.15 to attend the Public Petitions Committee.

### Item in Private

**The Convener:** Item 1 on the agenda concerns an item in private. We have already agreed to take items 5 and 6 in private. I ask members to agree that we also take in private item 7, which is consideration of a legacy paper to provide advice to our successor committee after the elections. Is that agreed?

**Members** *indicated agreement.*

## Subordinate Legislation

### Landfill (Scotland) Regulations 2003 (draft)

**The Convener:** For item 2, I welcome Allan Wilson, who is the Deputy Minister for Environment and Rural Development. I also welcome the Scottish Executive officials Kevin Philpott, Fiona Mackay, Alison Crowe, and Elspeth MacDonald.

The first instrument that we will consider is the draft Landfill (Scotland) Regulations 2003. As with previous practice, I will give the minister the opportunity to make some introductory remarks, after which members may ask questions. I remind members that they should only ask questions at this stage, as there will be an opportunity to debate the instrument later.

**The Deputy Minister for Environment and Rural Development (Allan Wilson):** As members will know, last week we launched Scotland's national waste plan. Sustainable waste management demands that as a nation we reduce the volumes of waste that we dispose of at landfill and that we manage waste disposal safely. The regulations are an important step in ensuring that the disposal of waste does not threaten human health or our environment. The Landfill (Scotland) Regulations 2003 will also fulfil Scotland's obligation to implement the European landfill directive. Members will be aware of the importance that is placed on the expeditious implementation of our European Union obligations.

The regulations will ban the disposal of corrosive and liquid waste to landfill. They will also classify landfills to ensure appropriate management of sites that accept hazardous waste and improve the standard of landfill to avoid the escape of harmful gases and liquids. Everybody would agree that all those measures clearly advance environmental protection. Since last summer, the Scottish Environment Protection Agency has worked with the commercial landfill sector to prepare for the onset of the regulations.

The regulations will also bring agricultural waste into the regulatory framework for landfills as the first element in a series of measures to bring such waste within the mainstream waste regulatory regime. We have sought to minimise the disruption to farmers by, for example, allowing the longest possible transition period. We have also initiated research by independent consultants on how best to bring farm dumps within the regime and how best we might inform farmers of the changes and of their implications for farmers and for farming practices.

I am grateful for the contributions that representatives of farming and land-owning interests have made to that process. We have set up a working group specifically to deal with those interests as that process continues. That is all that I will say at this stage, but I will be happy to answer any questions that members may have.

**The Convener:** Thank you. Have members any questions?

**John Scott (Ayr) (Con):** I, too, have concerns about some issues. In particular, I am concerned about sites that are nearing the end of their life and sites that, because of financial difficulties, may go out of business. The new regulations with their increased on-going costs will put many more sites in jeopardy.

The minimum aftercare period is to be 30 years, which is a huge liability and potential burden. As most landfill operators are limited liability companies, what will happen if an operator goes out of business? As the land will be contaminated land, no one will want either to own the land or to take responsibility for it. What will happen to such contaminated land if an operator goes out of business? Who will have responsibility for the land on abandonment and for the period thereafter until it has been classified as safe by SEPA?

**Allan Wilson:** Obviously no one wants anyone to go out of business. We intend that landfill sites should be run professionally.

Often, smaller landfill operators are less likely to comply with the full range of environmental protection requirements. However, we acknowledge that sending waste from remote areas to larger landfills could have negative environmental consequences. We will therefore make full use of the permitted derogations for island sites and more remote areas for example.

One of my officials will pick up John Scott's point about the doomsday scenario.

**Fiona Mackay (Scottish Executive Environment and Rural Affairs Department):** SEPA will require that all operators prepare financial outlooks and risk assessments that take account of the aftercare and how the operators will pay for aftercare provisions. If operators were not able to make such provisions, it would be SEPA's responsibility to provide aftercare of a site if it had accepted the operators' financial outlook and risk assessment.

**John Scott:** It would be SEPA's responsibility. Rather than face the increased burden of cost and regulation, many of those small limited companies will go out of business and SEPA will have to pick up the tab for looking after those sites for the next 30 or 60 years. Is that correct?

**Allan Wilson:** We are discussing possible scenarios with representatives of the farming

community, the Scottish Landowners Federation and the Crofters Commission. I do not recognise the scenario that you are painting, but obviously the Executive, SEPA and any other agency involved will be taking a very close interest in any small landfill operator who sought to move away from their obligations to protect the environment by those means.

**John Scott:** With respect, I am not thinking of farming site operators but of small landfill operations outside farming. The farming operations will just close down rather than face the £4,000 or £5,000 cost of the regulation. You and farming will have to accept that that is going to be a burden of £1,000 per farm.

**The Convener:** You are drifting towards debate rather than questions. If you have a further question, I will allow it.

**John Scott:** If I may, I will come back with another question.

**The Convener:** Do any other members have a question? Members will have a chance to debate the issue when we move into the debate on the motion.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I want to tease out the issue that John Scott picked up on because it is very interesting. Setting aside the farming community, any company—whether small or large—involved in landfill, could declare itself bankrupt. If that were to happen, who would pick up the tab?

**Fiona Mackay:** SEPA requires a financial and risk assessment from the operators. It will not give permits for those operators who do not have the relevant insurance. Operators will have to be covered or they will not be given the permits in the first place.

**Bruce Crawford:** Are you talking about insurance or will a bond have to be put down?

**Fiona Mackay:** We have decided against bonds. The operators will take out insurance policies.

**Bruce Crawford:** How will those insurance policies operate? What kind of company gives that kind of cover?

**Fiona Mackay:** I do not have that information to hand. I could send it to you later, but one of my colleagues might have more information.

**Kevin Philpott (Scottish Executive Environment and Rural Affairs Department):** I am not exactly sure either how the insurance will work. Presumably it will work in the same way as a 10-year building guarantee for a house or a 15-year guarantee for double glazing. In the same way, landfill operators will be able to obtain insurance for their landfill sites. The smaller

landfills must decide whether to go through all that or whether to give up their business now. If they give up their business now, without being bankrupt, they will have to pay the necessary restitution costs.

The question of who picks up the tab arises only when the landfill operator does not have a permit that includes the insurance and other financial provisions and is bankrupt now. It is difficult to determine who would pick up the tab in that situation. One suspects that in extreme cases the usual organisations that engage in environmental clear-ups, such as SEPA and local authorities, would have to take action.

09:45

**Allan Wilson:** We should not discount the role of the planning process in this matter. Landfill operators will need to obtain planning permission from local authorities, as well as permits from SEPA. I suspect that, in return for granting planning permission, local authorities would seek to impose the conditions to which the member refers. They may already have done so.

**Bruce Crawford:** You are right, particularly about applications that are made once the regulations are in place. However, there are 263 landfill sites in Scotland that already have planning permission.

**Allan Wilson:** John Scott asked whether, because of these stringent regulations, a raft of sites would go out of business. Planning departments will have considered that matter when deciding whether to grant initial planning permission.

**Bruce Crawford:** Some of the older sites were established before regulations were tightened. I refer to places such as Paterson's dump and the landfill site at Greengairs. The planning guidelines for those sites are not as tight as the guidelines for more modern sites. Has a budget allocation been made to deal with situations in which, to avoid incurring additional costs that would eat into its profits, a landfill operator intentionally puts itself into liquidation or bankruptcy? In such instances the usual authorities—the local authority and SEPA—might have to pick up the tab. I accept that I am talking about hypothetical situations, but it is important for us to ensure that proper arrangements have been made.

**John Scott:** The national waste plan foresees a reduction in the number of landfill sites. I presume that the Executive, as a conscientious Government, will have made provision for that. What provision has been made?

**Allan Wilson:** It is a matter of public record that we have increased substantially the resources that

are available to SEPA and local authorities to implement the national waste plan. We envisage a reduction in the number of landfill sites because we envisage an overall reduction in landfill. We are moving away from a reliance on landfill and are tightening up regulations to improve health and safety and to protect the wider environment from the dangers of landfill. The national waste strategy provides resources that are more than adequate for dealing with eventualities such as those to which Bruce Crawford has referred. There is a danger that we will enter into hypothetical discussion of a hypothetical situation that is unlikely to arise as a result of these regulations.

**Kevin Philpott:** I remind the committee that big landfills such as Paterson's dump are unlikely to close down if the regulations are approved. Smaller landfills tend to be operated by local authorities, so the situation that the member has described would not arise.

**John Scott:** I would like to make a small point.

**The Convener:** You must ask a question, rather than make a point.

**John Scott:** Regulation 19 does not include the Scottish law entity of partnerships. Can the minister and his officials make the situation clearer, for the avoidance of doubt in the future?

**Allan Wilson:** Yes, as we have indicated, ideally the regulations should have made provision for partnerships. However, we feel that they are not defective in not so doing, in so far as individuals within a partnership will become liable. It is our intention to tidy up the situation at the first available opportunity. Indeed, it may be possible to do so in advance of or during the period of purdah that is about to be imposed. An oversight was made, but it should not preclude the passage of the regulations per se, as members of the partnerships are individually liable. We want to tidy up the situation as quickly as possible by amending the regulations following their passage through the Parliament.

**John Scott:** What would the process be for doing that during the period of purdah, as the minister puts it? Would a statutory instrument be used and if so would it be made by the negative procedure?

**Elsbeth MacDonald (Scottish Executive Legal and Parliamentary Services Department):** We would have to check that, but I think that, because the instrument creates or amends an offence, it would be introduced by the affirmative procedure. That is what the Pollution Prevention and Control Act 1999 states. The instrument could be laid during purdah, as that period would not count in terms of parliamentary procedure, but it would mean that it was before the Parliament when it returns. To do that would enable as much

expedition as possible to be attached to the amendment.

**The Convener:** We will move into the debate on the affirmative motion in the name of Ross Finnie. I invite the minister to speak to and move the motion.

**Allan Wilson:** We are interested in the points that the committee has raised. As colleagues said, we will perhaps come back to the committee on the detail. I welcome what I detect is the committee's general support for the regulations. I think that everybody can see the beneficial effect that they are liable to have in protecting the environment and improving the regulation of landfill sites. As members have mentioned, there has been a greater laxity in such regulation in the past.

I accept that regulation 19 makes no reference to partnerships, but I confirm again for the record that proceedings can still be taken against individuals in the partnership. That provision will ensure the proper enforcement of the regulations. Regulation 19 is therefore sufficient for the purpose although, as I said, we would wish to introduce amending regulations at some future point following the outcome of the events in May.

I move,

That the Transport and the Environment Committee recommends that the Landfill (Scotland) Regulations 2003 (draft), be approved.

**The Convener:** Do members wish to speak to the motion?

**John Scott:** I thank the minister for his answers to the points that I raised. In addition to those concerns, I am also concerned about the cost to waste producers, which represents yet another burden on industry. The cost of compliance ranges from £17.5 million to £112 million and the construction industry will be particularly badly hit.

If the minister will forgive me for saying so, it is not good enough for the Executive to say that where an industry faces a huge increase in costs due to regulation, those costs provide a stimulus and even an incentive to reduce or recycle waste. It is self-evident that most of the cost is not going to go away and that all businesses, from offices through to farms, face extra costs.

Once again, an additional layer of cost to industry is being added by the Government's implementation of an EU directive. Although the minister might rightly say that that is unavoidable, I repeat that the Parliament is once more heaping extra costs and red tape on to businesses and industries that can ill afford it.

The regulations will lead to more fly-tipping in more parts of the countryside and I ask the

minister to tell the committee who will be liable for the additional burden of fly-tipping. What provisions will be made to stop an increase in a practice that, as the minister and his officials are well aware, is already a problem at the moment? What will be done to address fly-tipping?

**Bruce Crawford:** I support the regulations. They are an inevitable consequence of the EU landfill directive, which was signed up to by a Conservative Government that, quite rightly, decided to introduce measures to protect the environment.

Nobody can deny that the costs are real. We have a choice: either the polluter pays or the taxpayer pays. Does John Scott suggest that the taxpayer should pick up the bill for the elements that the regulations will introduce? That is the only way in which the costs could be avoided. The taxpayer would have to bear the burden over the greater part of the UK. We do not have the power to do anything about that.

What John Scott said about fly-tipping might be the case if all landfill sites were to close, but I guess that larger landfill sites will gradually be used as the smaller sites that are surrounded by less technical engineering close. Perhaps we will need to examine that as part of strengthening regulation on fly-tipping. It will be interesting to see what arises from the Executive's consultation on litter. We might need regulation on fly-tipping to be strengthened, greater fines, an attitude much more of zero tolerance and a climate in which we take pride in our country.

If we are to implement the regulations to improve our environment, a cost will be incurred. Taxpayers or business and consumers will have to pay. We cannot escape that fact.

**Helen Eadie:** I, too, warmly welcome the regulations. For too long, landfill has been allowed to continue unchallenged. The situation is unsustainable. Although John Scott talked about cost to farmers—

**John Scott:** I am not—

**The Convener:** Excuse me, John—you have had your say.

**Helen Eadie:** We all recognise that the industry will incur costs, but communities and people have incurred costs from environmental pollution, and some of us believe that their health could be affected by the spin-off from landfill sites. In our patch—Mid Scotland and Fife, and Dunfermline East—Bruce Crawford and I are dealing with the fact that the poorest communities always seem to be dumped on. I am glad that the minister and politicians throughout Scotland are beginning to recognise that, for social justice, we must do everything that we can to minimise the use of



landfill sites and to ensure that more recycling takes place, because that allows local villages and local people to enjoy a better environment. I argue that their health is at risk in some instances and that benefits could accrue in the longer term from what is proposed. I welcome the regulations.

**The Convener:** I will briefly add a few comments, although I do not normally do that when we consider statutory instruments. I warmly welcome the regulations, because they are part of an overall strategy in which most members believe, which involves a move away from landfill and towards better control of the pollution that arises from landfill sites. I think that the measures that the Executive has introduced will have widespread support in the Parliament and throughout the country. Like other members, I have experience of difficulties in dealing with landfill operators who might not have adhered even to lax controls in the past. The regulations are to be welcomed and I think that they will receive a widespread welcome throughout communities in Scotland.

10:00

**Allan Wilson:** I welcome your support, convener, and that of Bruce Crawford and Helen Eadie, who put the issue into perspective. I do not think that John Scott's contribution, which might be paraphrased as, "Landfill is good for you," would be recognised by the average Scot. We certainly do not subscribe to that point of view, and Bruce Crawford was correct to propose that, if the taxpayer is not to pay, the polluter should pay. As members know, we subscribe to the view that the polluter should pay. Helen Eadie was equally correct to point out that environmental pollution itself is a cost to the nation and we must recognise that dumping waste also has an environmental cost. I welcome the broadly based support that has been expressed for the measures, which will tighten up the regulation of sites in the public interest.

Fly-tipping was one of the issues raised. We are considering an environmental resource management report on the present regulation of littering and fly-tipping in general, and we will comment shortly on that, as we said that we would when we were in Aberdeen. There will, necessarily, be costs to SEPA arising from the guidance on assessing the site-conditioning plans of small operators and others. In the main, those costs will be recovered from the fees charged to the polluters. We have provided for a flexible approach for the small operator, and we have extended the derogation on bringing forward plans. The regulations will ensure that the fees charged by landfill operators cover the full cost of running sites to the new standards laid down by SEPA.

We have adopted that flexible approach for small operators such as the farmers to whom Helen Eadie referred. At the same time, we have ensured that the regulatory costs and additional burdens are recovered in fees charged to the polluter.

*Motion agreed to.*

That the Transport and the Environment Committee recommends that the Landfill (Scotland) Regulations 2003 (draft), be approved.

**The Convener:** I thank the officials who were assisting the minister on that instrument. I understand that there will now be a change of team for the second instrument.

### **Road Traffic (Vehicle Emissions) (Fixed Penalty) (Scotland) Regulations 2003 (draft)**

**The Convener:** The second instrument is the Road Traffic (Vehicle Emissions) (Fixed Penalty) (Scotland) Regulations 2003 (draft). We will follow a similar procedure to that which we followed for the first instrument. I invite the minister to make some introductory remarks, after which I will give members the opportunity to ask questions.

**Allan Wilson:** I am happy to answer any questions that members might have on my introductory remarks.

The regulations will provide local authorities with powers to help them to reduce the number of polluting vehicles on Scotland's roads and, in so doing, will help to improve air quality. The powers are optional. Glasgow City Council has used them successfully in a trial and we hope to encourage a number of other local authorities to use them.

The regulations will provide two sets of powers. The first will enable local authorities to carry out vehicle emissions testing at the roadside and to issue fixed penalties to drivers of vehicles that do not meet prescribed standards. The offence of failing to meet emissions standards already exists, so the regulations will impose no new burdens in that regard. They will simply allow a much higher proportion of vehicles to be tested than is possible under the current arrangements.

At present, compliance is checked only at the annual MOT test, or as part of the limited programme of random testing that is undertaken by the Vehicle Inspectorate. Unfortunately, many drivers pay little attention to the maintenance of their vehicles until it is time for their MOT. The National Audit Office estimates that, at any given time, up to 20 per cent of vehicles on our roads exceed legal emissions limits.

We hope that the threat of roadside tests and the possibility of a £60 penalty will encourage more drivers to take proper care of their vehicles.

The purpose of that provision is not to target unnecessarily the vast majority—the 80 per cent—of law-abiding motorists. Anyone who has a defect corrected within two weeks and who is in possession of a valid MOT certificate will have the fixed penalty waived. That is in recognition of the fact that some people might be driving around in vehicles that they believe to be compliant, but which have deteriorated since the MOT test.

Local authorities will be required to give wide publicity to the new powers and the Executive will issue comprehensive guidance on how penalties and other aspects of the scheme should be operated. The result will be that no driver should be surprised at being stopped for an emissions test or be in any doubt about how to avoid the fixed penalty charge that could be levied.

The publicity that local authorities give to the scheme should act as an incentive to vehicle owners to look after their vehicles better; we hope that few fixed penalties will need to be issued in practice. That was the case with the trial scheme that was run in Glasgow. The effectiveness of Glasgow City Council's publicity meant that people complied with the regulations and did not incur penalties.

When we consulted on the proposals for emissions testing, there was a widely held view that Executive funding would be essential if the powers were to be widely used. Therefore, we will provide additional financial support for local authorities—£0.5 million will be available for each of the next three years. Interested authorities will be invited to bid for a share of the money.

In England and Wales, where similar schemes have been introduced, the powers have been restricted to local authorities that have declared air-quality management areas. Under our regulations, the power will be available to all local authorities in Scotland.

The key aim of the scheme is to provide authorities with an additional tool for managing air quality. We believe that local authorities are best placed to decide whether the powers will be appropriate for their particular circumstances and we want to give them as much flexibility as possible in making that decision. Eight local authorities have already expressed interest in making use of the powers and it is clear from what they tell us that they welcome the regulations.

The second set of powers will enable local authorities to request drivers to switch off engines that are left running in parked vehicles and to issue fixed penalties in the few cases in which people might refuse to co-operate with a reasonable instruction to do that. Examples of drivers who leave their engines running for a variety of reasons are coach drivers in busy town

centres or people who are waiting outside schools or railway stations. The cumulative effect of that is detrimental to our air quality and is unpleasant for the people who experience it or who live nearby. That second set of powers is also important.

We expect both sets of powers in the regulations to make a valuable and welcome contribution to improving air quality in Scotland. On that basis, I trust that members will welcome them.

**The Convener:** Bruce Crawford and Maureen Macmillan can ask the first questions.

**Bruce Crawford:** I welcome the regulations, but I have a few questions about them, one of which is about testing. The MOT test is the only time of year that domestic cars or other vehicles are tested, but I believe that the traffic commissioners regularly test output from lorries by stopping them at the side of the road. If that is the case, what consultation has been held with the traffic commissioners to ensure that the regulations complement the commissioners' work?

The issue of parked vehicles is interesting. Will a traffic warden or another named person from the local authority have the power to tell lorry drivers or other people to switch off their motors while the vehicles are parked? I want to understand more about how that matter will be dealt with.

The minister mentioned £0.5 million of extra resources. I realise that there is not a bottomless pit of money and I suppose that not all local authorities will want to be involved in the scheme, which will be voluntary. However, if all the local authorities became involved, even if we assume that each local authority will require £20,000 to implement the scheme—I am being as conservative with a small "c" as I can—more money will be required. The figure would certainly be closer to £650,000 or £700,000. If local authorities employed one person to carry out the activity, £20,000 would not be enough to pay them and to provide a uniform and travel expenses. How will the scheme be rolled out? Will the authorities in which there is particular congestion be able to secure the resources ahead of those in more rural areas?

**Allan Wilson:** I asked my officials about the division of resources. It is self-evident that we wish to prioritise the areas in which there is the greatest threat to air quality. That could involve testing on the fringes of the cities in which we have declared air-quality management zones. As a consequence, it is important that we extend to local authorities the power to test outwith those areas.

We costed the proposals at about £120,000 a year for each authority on the basis of 200 days of testing each year. Consultation with local authorities suggested that they were likely to test for only a fraction of that time, possibly for as few

as 10 to 20 days. That comes down to a number of factors, such as the availability of personnel. Costs are therefore liable to be lower than estimated, but they could be reduced further if local authorities were to share equipment and organise their affairs to minimise cost. That would release more resources to other local authorities to carry out further testing. The funding will enable testing to be extended significantly beyond the existing levels.

As Bruce Crawford mentioned, the existing testing is undertaken by the Vehicle Inspectorate. The inspectorate currently tests through random roadside checks but, as Bruce said, it focuses mainly on heavy goods vehicles and public service vehicles—only about 0.5 per cent of private vehicles are tested in that way. The regulations represent significant extension of testing of private vehicles and we expect local authorities to co-operate with the Vehicle Inspectorate on that matter.

The question of who is responsible for telling drivers to switch off idling engines is obviously for consultation between local authorities and the Vehicle Inspectorate. David Wallace might want to give members more detail on that matter.

**David Wallace (Scottish Executive Environment and Rural Affairs Department):** Currently, the police can ask drivers to switch off idling engines. The new regulations will allow local authority personnel to do that, who will follow common sense in applying the regulations. If an engine is idling for a short time, local authority personnel might let it lie, but if it continues for longer, it will affect air quality so there will be a reason for the local authority to ask people to switch off their engines. There are parts of cities and towns where buses tend to congregate and leave their engines idling. There is, perhaps, no reason for that, so in such situations local authority personnel could go in and ask the drivers to switch their engines off.

10:15

**Maureen Macmillan (Highlands and Islands) (Lab):** The questions that I was going to ask have been answered. I wanted to know about the mechanics and Bruce Crawford's questions have dealt with that.

**John Scott:** My question is about engine idling. Will there be exceptions? I imagine that, for example, most bus drivers who leave their engines idling want their buses to be warm. If drivers have to stay with the bus, they want to keep themselves warm. An extreme case of that happened on the M11 recently, when drivers were stuck in snow and kept their engines idling to keep themselves warm and preserve their lives. Can you comment

on that? I assume that you do not mean that in such cases people should be forced to switch their engines off.

**Allan Wilson:** We certainly do not envisage any bus drivers dying of hypothermia as a consequence of the introduction of the regulations.

**John Scott:** There could be grounds for debate between officials and bus drivers if the bus drivers say that they are cold and that they want to keep their buses warm when they have to stay with it.

**Allan Wilson:** As David Wallace said, common sense would be exercised in the unlikely circumstances that John Scott outlines. We will obviously publish guidance on that issue and on other aspects of the powers. We envisage that the vast majority of motorists, bus drivers and others will be co-operative and will understand the rationale behind the request to switch off an idling engine. As I said, I do not envisage many bus drivers being affected by hypothermia as a consequence of the regulations.

**John Scott:** The minister will not have to sit in one of those buses.

**Nora Radcliffe (Gordon) (LD):** In a similar situation, a friend of mine was killed by exhaust fumes while trapped overnight in a snowdrift at the Lecht. Dangers are also involved in keeping engines running.

**John Scott:** I have a question about a problem in my constituency, where train engines are left idling overnight for very long periods, which causes air pollution and noise pollution. Does the minister plan to introduce similar legislation with regard to diesel train engines being left idling?

**Allan Wilson:** Are the engines left idling to keep the train drivers warm?

**John Scott:** Yes. That is probably why the whole engine is left running. I dare say that if the minister was sitting through the night for two or three hours he would keep his engine running.

**Allan Wilson:** My engine is currently running, but I will ask David Wallace to answer that question.

**David Wallace:** There are two points in John Scott's question: one is about air quality and one is about noise. All local authorities review and assess their air quality and have started another review and assessment exercise. If there is a problem in John Scott's area, the review and assessment should pick that up. That issue has not been raised with us before, but now that John Scott has mentioned it we will look out for it when the report comes in from the relevant area.

A new directive on noise has just been agreed and we are taking steps to implement it. It will cover noise from a variety of sources, such as

roads, railways, ports and airports. If the running of the railway engines is causing too much noise, that should be picked up in the mapping exercise that all local authorities will have to carry out under the directive. We have noted the point and we will look out for it as we implement the directive.

**Allan Wilson:** I undertake to discuss with officials the issues that John Scott has raised. We will, in the guidance that we produce, aim to strike the right balance between the health and safety of the individual bus driver—in the case of the regulations—and the public interest in improving air quality in our city centres, the immediate environment of schools and other built up areas.

**The Convener:** We will end questions before John Scott comes up with a more widely drawn question. I invite the minister to move the motion, which is in the name of Ross Finnie.

*Motion moved,*

That the Transport and the Environment Committee, in consideration of the draft Road Traffic (Vehicle Emissions) (Fixed Penalty) (Scotland) Regulations 2003, recommends that the Regulations be approved.—[*Allan Wilson.*]

**The Convener:** Do any members want to contribute to a debate on the motion?

**Nora Radcliffe:** I welcome the regulations because I understand that more people die because of the effects of air pollution from motor vehicle emissions than die in road traffic accidents. That is an issue that has not previously been fully considered. When people understand that, they will understand the need for the regulations.

*Motion agreed to.*

**The Convener:** I thank the minister and the Executive officials. I look forward to taking evidence from the minister in the future.

### **Domestic Water and Sewerage Charges (Reduction) (Scotland) Regulations 2003 (SSI 2003/65)**

### **Road Traffic (Permitted Parking Area and Special Parking Area) (Aberdeen City Council) Regulations 2003 (SSI 2003/70)**

### **Road Traffic (Parking Adjudicators) (Aberdeen City Council) Regulations 2003 (SSI 2003/71)**

### **Parking Attendants (Wearing of Uniforms) (Aberdeen City Council Parking Area) Regulations 2003 (SSI 2003/72)**

**The Convener:** We have four negative instruments to consider. No members have raised points on the instruments and no motions to

annual have been lodged, so do members agree that we have nothing to report on the instruments?

**Members indicated agreement.**

## Petitions

### School Playing Fields (PE422, PE430 and PE454)

**The Convener:** Agenda item 4 is on public petitions. We must consider four petitions, which are in two groups. The first group has petitions PE422, PE430 and PE454, on the provision of playing fields in Scotland. At our meeting on 8 January, we agreed to write to the Minister for Social Justice to ask for the Executive's views on sportscotland's comments about guidance on standards for the provision of playing fields.

The minister's response indicates that two days after sportscotland wrote to the committee, the Executive met sportscotland and said that it does not object to the proposal to prepare guidance. In view of the Executive's correspondence, the committee might feel that it would be fitting to conclude the petition by writing to the petitioners, stating that the committee's policy is to not take a view on individual local planning decisions, and providing them with the correspondence that the committee has received on the issue, which includes reference to the fact that the Executive has no objections to preparing guidance on the provision of playing fields. Do members agree with that course of action or does anybody want to suggest another?

**Bruce Crawford:** I am glad that the committee decided to push on with the petition, which has had a good outcome. The Executive has considered what was said and has acted promptly on it. I am happy with the convener's suggested course of action, but I am not sure what "preparation of guidance" means. Guidance can be prepared, but is the Executive prepared to accept and implement such guidance? Does the word "preparation" mean that? It might be okay to prepare guidance, but the guidance could just sit in the stocks and nothing could happen. Does the Executive intend to follow the matter through?

**The Convener:** I cannot answer for the Executive, but if it is comfortable about guidance being prepared, I take it that that implies that the Executive would pursue and issue such guidance. That is what I would take from the minister's response.

**Bruce Crawford:** That is good. I am quite pleased with that.

**John Scott:** I, too, am happy with the option that is outlined in paragraph 8. If the Executive went to the trouble of preparing guidance, I would expect it to follow it through.

**The Convener:** Are members agreed that we will correspond with the petitioners as suggested.

*Members indicated agreement.*

### Water Treatment Plants (PE517)

**The Convener:** The second petition for our consideration today is PE517, from Mr Rob Kirkwood, and concerns water treatment plants. In correspondence with the committee, the Executive asks us to note that the petition deals with wastewater treatment plants, as opposed to water treatment plants. I think that we were all aware of that, but I am happy to put that on the record.

We are joined for this item by Susan Deacon, who is the constituency MSP for the area concerned. I welcome Susan to the committee—I will give her an opportunity to comment on the petition in due course.

The response from the Minister for Environment and Rural Development indicates that the Executive will undertake consultation on alternative approaches to dealing with odour nuisance from public sewers and sewage treatment works. That shows recognition of the fact that current regulations are perhaps insufficient to deal with such problems.

There are two ways in which we could take the matter forward. We could see fit to acknowledge the action that the Executive has taken and conclude our consideration of the petition, or we could refer the petition back to the Public Petitions Committee so that further consideration could be given by a committee at the start of the next parliamentary session.

My inclination would be to pursue the latter course of action, because I do not think that we have had sufficient time to give the petition full consideration. We could, as an interim measure, correspond with the petitioner to say what action the Executive intends to take. It would be appropriate for the committee that holds the environment brief in the new session to take another look at the issue and ascertain whether it is satisfied with the action that the Executive has taken to progress the issue. I invite committee members' views, after which I will invite Susan Deacon to comment.

**Maureen Macmillan:** Odour nuisance is a serious pollution problem, so I agree with the convener. We should recommend that our successor committee keep an eye on the matter.

**John Scott:** I endorse and agree with what the convener and Maureen Macmillan said. It is vital that consideration of the petition continue and that we consider potential future guidance on such matters.

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** I am grateful for the opportunity to say a few words on the subject,

especially because I was unable to attend the previous meeting at which the committee considered it. I wrote to the committee prior to that meeting and prior to today's, so I will not repeat all the points that I made in that correspondence.

I record my appreciation and that of my constituents for the way in which the Transport and the Environment Committee and the Public Petitions Committee have handled the issue. Their consideration has been extremely thorough and constructive, and I am delighted to hear members' comments this morning. I very much hope that the committee will decide to continue to take the issue forward.

As I said, I will not repeat the full background to the case, but I should underline the fact that residents who live in close proximity to the Seafeld sewage works—or the Seafeld wastewater treatment plant, to give it its Sunday name—have experienced odour problems for many years. A genuine expectation was raised—not least by Scottish Water itself—that the substantial investment programme that has taken place at the plant over the last few years would result in a marked improvement to the odour problem. It should be recognised that the investment has resulted in substantial improvements to the wastewater quality, yet the odour problem has not been resolved. As recently as last week, residents in the area were experiencing very bad smells, and had occasion to call in the City of Edinburgh Council once again to look into the matter. I believe that a report is currently being compiled.

It is important to note that the problem has not been resolved, despite the fact that after sustained campaigning by local residents, the local MP and me, Scottish Water has put an action plan in place and penalties have been imposed on the plant's operators. Having examined the matter carefully over the past couple of years, I have reached the firm conclusion that the regulatory regime that covers the matter is a complex tapestry of statutes, regulations and different organisations. In other words, there is no lack of machinery—it has simply been ineffective. I have consistently argued that the regime is, at best, overly complex and confusing and, at worst, inadequate.

As a result, I am absolutely delighted by Ross Finnie's response to the committee, in which for the first time of which I am aware, he has acknowledged explicitly that there are inadequacies. I believe that the problem of odour, which the committee has previously examined in other contexts, has received insufficient attention in the past. The Scottish Parliament now has a real opportunity to make a difference in this matter, which impacts on the lives of many people not only in my constituency, but in other communities throughout Scotland. I thank the

committee for allowing me to have the opportunity to put my comments on record.

**The Convener:** I take it that there is broad agreement for the action that we have proposed, which is that we continue consideration of the petition by referring it back to the Public Petitions Committee. That will enable our successor committee to consider the issue in more detail. We also welcome the Executive's proposals for action to address the problem; our successor committee can ensure that that is followed up on. We will also correspond with the petitioner to that effect. Are members agreed?

**Members indicated agreement.**

**The Convener:** We will now move into private session. I should point out that if we have not managed to conclude our consideration of the three items in private by 11:15—when we will receive a planning briefing from Des McNulty—we will have to do so later.

10:31

*Meeting continued in private.*

11:27

*On resuming—*

## Planning

**The Convener:** I move the meeting back into public for agenda item 8, which is a planning briefing. I welcome back to the committee the Deputy Minister for Social Justice, Des McNulty, who will lead the briefing, and Jim Mackinnon, who is the chief planner with the Scottish Executive. In order to assist members in the course of the presentation that the minister is about to give, we have circulated a document called "Towards A National Planning Framework". I invite the minister to give an initial address, after which members will have an opportunity to ask questions.

**The Deputy Minister for Social Justice (Des McNulty):** As a former member of the Transport and the Environment Committee, I know that there was a perception that the committee might not have had enough time to pay sufficient attention to the issue of planning, given the weight of its legislative work and its other responsibilities. I expect that the successor committee will devote more attention to planning issues, because considerable work undoubtedly needs to be carried out on the system in Scotland. As we are in the process of considering how to take forward that agenda, it is perhaps particularly appropriate to have this dialogue here and now.

I have been asked to discuss in some detail the proposed national planning framework for Scotland, which needs to be considered in the context of a wide-ranging modernisation of the planning system in Scotland. The key components of that modernisation are a review of strategic planning, improving participation and raising standards of design. All those are laudable objectives, but it is important that we take them forward in a sensible, considered and consultative way.

The Executive has proposed that there should be a national planning framework. In our view, the process of drawing up that framework must be inclusive and must involve the key institutions so that we can try to take account of their aspirations for the Scotland that we all want to see. I emphasise that the national planning framework is not about the Executive making decisions that are more appropriately made by councils. As an old local government hand, I am fairly clear about where the boundaries between the Executive's responsibilities and councils' responsibilities should be.

11:30

We need to have a genuinely national framework that begins to address the choices that lie before us not only about Scotland's economic development, but about social issues and the built environment. Planning brings together all those different strands. If we can get an appropriate national planning framework, it will guide and influence the decisions and, we hope, make them more rational and systematic than they perhaps were in the past.

I hope that beginning the preparation of a national planning framework will send out a positive message about what we want to do. We need to look forwards, but we must also take on board some of the good lessons that can be learned from south of the border and from other countries. We can then begin to identify best practice and build it into the way in which planning decisions are made in Scotland. The framework is emphatically not about short-term fixes; we need a longer-term strategy for planning in Scotland.

We need to identify the issues that are crucial to Scotland's long-term development and consider what kinds of planning arrangements and what kinds of infrastructure stemming from planning need to be put in place to meet those challenges. As I have emphasised, I see the national planning framework as an attempt to make the process of decision making more rational and more systematic than has hitherto been the case.

Establishing a stronger planning framework will undoubtedly help us in developing a more systematic method of approaching, for example, infrastructure decisions or decisions about the balance of development between different kinds of use. Nobody benefits if we have ill-defined structures and proceed by a process of unco-ordinated incrementalism, as has perhaps been the case with some decisions in the past. At the same time, we do not want a rigid blueprint for Scotland that is set down at a particular point in time and then becomes a constraint on development.

The framework that we establish must be flexible, but it must also be coherent. By establishing a reasonable framework in the broadest terms, we allow local authorities, developers, public bodies and others who need to make development proposals to work within the context of rules that everyone knows and understands.

As part of the process, we need to achieve a better understanding of the current state of Scotland's development and infrastructure, the factors that drive change and the policy levers that are genuinely open to us. There may be differences of view among different agencies and

different strands in the equation. There may even be some differences in approach between political parties. However, it is important that we do what we can to analyse the evidence to enable us to reach a shared understanding of what the issues are and how they might be taken forward.

Some of the proposals are likely to be controversial. I would not expect to achieve uniform agreement across the board to everything that the Executive proposes. A lot of the planning system relates to legislation that has been in existence for a considerable period. Therefore, if we are to move the planning agenda forward, I expect significant discussion and debate between different points of view and different structural and statutory interests. It is important that, in charting the way ahead, we listen to different views and perspectives and try to include as many of them as possible.

One key strand of what we want to achieve is greater public involvement in the planning system and in decision making. However, that involvement has to be meaningful. It cannot be partial and for show; we have to make the process genuine. We also have to recognise—those of us who have been involved in difficult planning decisions will be aware of this—that some views on planning issues are irreconcilable and that it is not possible to get everybody to agree about the rights or wrongs of a particular process. In such circumstances, planning decisions have to be taken in the context of the wider public good. The issue is how we arrive at those decisions and how we involve people in a genuine and meaningful way, while recognising that decisions have to be made and that those decisions will not all be unanimous.

The framework will involve hard choices, as will the decisions that have to be made in the context of it. There may well be circumstances in which everybody is on board and we can achieve a win-win outcome, but undoubtedly there will be instances where some people feel themselves to be beneficiaries of a planning decision or framework while other people feel that their interests have not been adequately addressed. Being realistic about that, we have to try to make everybody think that the process of arriving at the planning framework and the application of the framework is as transparent and fair as possible.

If we can establish a clear structure to advance planning and planning decision making, we can perhaps cut out some of the resentment that people feel about procedural issues, such as the way in which planning decisions are made. We must try to remove the frustration that key agencies—whether they be business, environmental or other interests—feel about the system, especially if they think that the system

does not work for them. If there are to be real differences of view, let them be differences of view about the substance of the issue at stake, rather than about the procedures. That is what we want to achieve.

Inevitably, if we get the national planning framework right, it will set out a vision for Scotland as a place and begin to colour in how different parts of Scotland or different interests in Scotland can achieve their objectives. It is important that we make progress systematically. We should emphasise the deliverability of what we want to achieve. There is no point in having grand plans that are undeliverable in resource terms or unrealistic in terms of the balance of interests. We need to achieve the best that we can achieve, taking into account all the relevant factors and different issues involved.

We also want to speed up the process of development and change in the best sense, so that the time scales that are involved in reaching decisions and establishing frameworks are cut, at least in terms of the unnecessary bureaucratic elements. As far as possible, we want to ensure that decisions on planning applications or on streams of planning applications are right first time. The more transparent and realistic we can make the front end of the planning system, the more we will cut out the prospect of lengthy and tortuous appeals which, ultimately, are symptoms of failure. That is what we want to do.

Some people have questioned the inclusion of planning in the social justice portfolio and argue that it should belong in another portfolio. From my perspective—I have been a minister for only two and a half months—there is considerable value in having planning within the framework of social justice, because that enables social justice considerations to be taken into account from the earliest stages of the planning process and it makes us think of the overall balance of what we want to achieve. Planning in a social justice context is perhaps less driven by the special interests of the economy or the transport providers. It is about needing a social conscience from day one.

The inclusion of planning in the social justice context has acted as a spur to the planning officials; they have to think about how they fit into the social justice agenda. It also gives pause for thought about how we can make the planning system more responsive to the needs of minority groups and interests and perhaps more responsive in the broader framework of accessibility with which we want to proceed. For example, I have just signed off some guidelines in which I have tried to influence the provision of facilities for walkers and cyclists. I suspect that, in an economically driven agenda, that would be less



likely to have happened. However, there are senses in which, in a social justice perspective, what is in one's mind influences how one makes planning decisions.

Planning is already important and will become increasingly so in the work of the Scottish Executive. From whatever perspective, if we are to make a better Scotland, how we plan that, how we gather the different elements of our vision, how we make decisions and how those are carried forward will all be crucial to our success. We will embark on a systematic review of the planning process, looking at issues such as increasing public involvement and how decisions are made, as well as establishing the proposed national planning framework. That is an important signal of intent. Whatever happens on 1 May, I anticipate that the committee's successor will end up dealing with those issues systematically and comprehensively over the next two or three years.

I do not know whether committee members want to ask me questions immediately or to hear Jim Mackinnon's presentation first.

**The Convener:** It would be best to hear Jim Mackinnon's presentation first.

**Jim Mackinnon (Scottish Executive Development Department):** I will talk members through the book of slides that we have circulated.

What is driving us towards a national planning framework for Scotland? First, there is a rather strange document called the "European Spatial Development Perspective", which is a strange mixture of Eurospeak and planning theology. Although terms such as "balanced polycentrism" are not the talk of sitting rooms in Scotland, the document is important, because it has put issues of space and place back on the policy agenda. It is also important for the practical reason that the Commission is showing a lot of interest in spatial frameworks as a context for resource allocation in Europe post 2006. One must bear that in mind.

The committee will be aware of the pathfinders to the Parliament initiative, which set out a business agenda for the Parliament and referred to the need for a high-level vision for infrastructure and land use in Scotland.

The minister referred to the review of strategic planning, to which the responses were published in June 2002. The review was essentially about the statutory planning systems, structure plans and local plans. It also gave us the opportunity to propose a national planning framework for Scotland. Only 4 per cent of the respondents were against that proposal.

There is a perceived gap in Executive policies over a wide range of policy initiatives, such as "A Smart, Successful Scotland" and social justice

action plans. There is a feeling that insufficient attention has been paid to issues relating to space and geography. Spatial planning is not a policy panacea. It is about looking at issues in a different way, although it does not make them less problematic. As the minister said, it is also about Scotland looking forwards and outwards.

It is important for us to understand the wider European context. There is no doubt that the economic centre of gravity has moved east since the late 1980s. Our fixed position at the extreme north-west of Europe represents a major challenge to us. Some parts of Europe have considered the implications of that geographical shift. One example is the Øresund fixed link between Copenhagen and Malmö, which was an attempt by the Danes to reposition Copenhagen in the light of the change in economic geography.

11:45

We have a lot to learn from our continental European and Scandinavian counterparts. That does not mean that we would take the approach of importing policies directly from continental Europe—what one could call the Delia Smith here-is-one-that-I-made-earlier approach. We have to recognise that the geography of Scotland is distinctive and that our institutional framework and the approaches that we take to infrastructure provision are also distinctive.

The next slide shows some of our best places and spaces. I want to get across the point that space and place are not abstract concepts; we are talking about the spaces and places in which we work and live or which we visit. As I said, Scotland has some of the best of them. The next slide shows that, although other areas have a lot less going for them, they clearly have potential. I suppose the point that we want to make is that geography affects economic and social outcomes and that places shape us.

The next slide shows the impact of Executive policies. There are spatial implications to Executive policies and decisions, even if that was not the primary intention. Let us take ferry services as an example. Our lifeline services to the islands and remote rural Scotland offer major social benefits. We now also have a direct ferry service to Europe from Rosyth. I understand that Irish hauliers are showing an interest in the alternatives to the Hull crossing. Development interest around Rosyth is growing as a result.

Members will be familiar with the debate on national parks; one park has already been established and another will be established later this year. There is a key interest in the boundaries, partly because of natural heritage issues, but also because of the anticipated benefits to the local

economies, which could raise the level of development in those areas.

Another example is affordable housing. If the priority were to be changed from one that supported urban regeneration to one that supported economic development, there would be significant spatial implications and a shift from west to east.

The next slide relates to the consultation on strategic planning and shows the issues that we thought the national planning framework would address. The first issue was settlement pattern. Although we have recognised the importance of our cities through the cities review, almost two in five Scots live in small towns, some of which are part of city regions and some of which are not. Some of those places are seen as idyllic, but others, particularly the mining towns of South Ayrshire and South Lanarkshire have suffered significant economic change and have experienced a substantial decline in population.

The next slide emphasises the fact that most of Scotland is rural. The future of our rural areas is a major issue. In recent times, we have seen significant structural changes in agriculture and fishing. The next slide is an exciting image of a sewer being laid: it is clear to us that infrastructure capacity, including drainage, is a big issue in some parts of Scotland. We are now aware of those problems and of the fact that a distinctive geography is involved. The fact that the population is declining and aging has very real geographical implications. I will say a bit more about population and households later.

The next slide concerns economic prospects. The different parts of Scotland have different rates of performance and potential. The average household income in the city of Edinburgh is almost 30 per cent above the United Kingdom average. No doubt there are positive aspects to that in terms of employment, but significant issues also arise in relation to affordable housing, traffic congestion and pressure on the green belt. Important environmental issues are also involved, such as natural heritage designations, flooding and coastal erosion.

We also felt that we needed to look at long-term strategic priorities for the transport system. We wanted to consider what Scotland's transport system would look like in 20 years' time. When we consulted on the review of strategic planning, we talked about the areas that we thought were important in terms of national interest and for which a co-ordinated approach was required.

One such area was west Edinburgh. As members will see from the map on the slide, most of the population of Scotland lives within a 50-mile radius of that area. The area is remarkably

accessible—it is the gateway to the capital. A lot of economic activity takes place there and a lot of planning permissions have been granted. There is a debate around whether Edinburgh airport will grow to two, three or four times its present size. The clear prediction is that the airport will grow substantially. The area is becoming a victim of its own success. Major congestion is a problem, but there are also opportunities because of the railway lines that run through the area. There are tensions with green-belt policy, which is why we work with colleagues from the city council, the enterprise agency and other organisations to prepare a vision.

As the minister has said, the draft vision is about making hard choices that will not please everyone. When we consulted on the draft in 2002, we received strong support for our approach. We held a stakeholder seminar last month to reflect on the consultation and we hope to publish the final version shortly.

Other areas might benefit from such an approach. For example, much development activity is under way in the Clyde, although we have to take into account major issues such as transport and flooding in that area. Indeed, the Clyde conurbation working group is trying to take stock of those issues. Although hard choices have to be made there, there is also high market and developer interest.

Not so much development interest is being shown in the east side of the Clyde conurbation, with its concentration of vacant, derelict and contaminated land, sites of multiple ownership and social inclusion partnerships, as well as—as the evidence now suggests—its drainage constraints. However, the area has significant long-term potential. The construction of the M74 extension and its linking with the M8 through the east end regeneration route will make the area more accessible. As the minister said, we need to take a more systematic approach to planning in that area instead of simply reacting to proposals as they come in.

There is also talk of other areas. For example, I know that colleagues in Aberdeen would like us to adopt our approach in that city. However, we must be clear about the national issues in that regard instead of taking decisions on matters that are really up to the local authorities. The approach could also be adopted in rural areas such as the Western Isles, which suffer from substantial rural depopulation and economic deprivation.

Changes to areas raise difficult policy issues. Do we want to support prosperity? Are we sustaining rural or urban areas that are in decline? Are we promoting investment to meet future needs? The emphasis rests on the first two questions, because even where we support prosperity—for example,

in west Edinburgh—investment in infrastructure tends to lag behind. That is why one academic has coined the term “planning backwards”.

The minister highlighted the issue of long-term decision making not just on transport but on water and drainage. It is clear that not all issues and trends are susceptible to policy influence and that we cannot build our way out of every problem. Although planning must be flexible and responsive, physical infrastructure provision is just not like that. Planning, design and construction take time. The unavoidable truth is that any decisions to chop trees, remove hedges and lay bricks or concrete are essentially irreversible, which is why they must be careful, coherent and considered.

The national planning framework is based on two fundamental principles: information—or, to be more precise, information analysis—and inclusion. For example, as far as population change is concerned, there has been very pronounced growth in the east of Scotland, Stirling and Renfrewshire, whereas there has been major decline in Aberdeen, Dundee, two of the island groups and Inverclyde. There is also a pattern of modest decline in Dumfries and Galloway, East Ayrshire, Argyll and Bute, Angus and Moray.

The key factor is not so much population change as household change, which determines expenditure patterns and service provision. A family of four who live in a house will want one fridge and one washing machine, whereas four single-person households will require four of those appliances. Again, there are pronounced east-west differences in that respect. Although a major increase in the number of households is forecast in Edinburgh and the Lothians—twice as big as the increase that is forecast in the west of Scotland—the reservoir of vacant and derelict land lies in the west of Scotland. That means that we have to make hard decisions about where development will go, particularly on the east side of the country.

Employment change is also an interesting factor. Few people appreciate that the biggest increase in employment in Scotland over the past five or six years has been in Glasgow, although we should remember that only one in two of those jobs goes to Glasgow residents. Edinburgh, West Lothian, Perth and Kinross and Angus have also experienced increases.

An arc of job losses runs from Ayrshire up to Renfrewshire and West Dunbartonshire, taking in Dundee and Aberdeen. Highland is seen as an area that is experiencing employment decline but, because it is an enormous area, there are local differences. Areas such as the inner Moray firth and parts of Wester Ross and Skye may have seen increases in employment. Any analysis that

we do needs to be more sensitive to those local issues.

The combination of economic geography and demographic change determines the pattern of social justice in Scotland. As a result, 22 of the 32 social inclusion partnerships lie in the west. The 2001 census will reveal differences between areas. The pattern may have shifted within Glasgow or North Lanarkshire, but the basic east-west split will be broadly the same.

I mentioned inclusion. We had bilateral discussions with Executive departments, enterprise and environmental agencies, business organisations and councillors, as well as a session with MSPs. However, we were also keen to have regional seminars. We wanted to know what the take was in different parts of Scotland. Therefore, we went to Stirling, Newtown St Boswells, Inverness, Inverurie and Ayr. I will try to summarise some of the key points that came out of those seminars. I emphasise that the seminars were not just for planners; they were for a wide range of people, including representatives of the enterprise agencies, Scottish Water and Scottish Natural Heritage.

In the central belt, the issue that emerged was whether we were supporting growth or addressing need. Clearly, people saw some scope for decentralising economic activity, but there was discussion about the levers. The Scottish Executive has a relocation policy to address some of those issues. The importance of land recycling and compact cities came out clearly once again. Infrastructure deficits, particularly in relation to transport, were also mentioned. For example, an anomaly arises around Perth. It is easy to get to the city from the Forth road bridge, but travelling from Perth to Edinburgh by train is another matter.

In southern Scotland, which is really East Lothian, the Borders and the south-west, there was a strong feeling of isolation and a feeling that the area was neglected. Transport issues inevitably came up, not surprisingly given the strong feelings about the Borders railway and the dualling of the A1. There was a concern, which was also reflected in the north-east, that rural problems in the area should not be seen to be the same as rural problems in the Highlands. There is a need to recognise the diversity of Scotland. Access to broadband was seen as an important issue for economic development.

In the Highlands and Islands, it was felt that the distinctive settlement and transport pattern had to be recognised. The population is sparse and there are issues about peripherality. There was also talk about enterprises that are based on natural resources and there was an interesting discussion on the approach to renewable energy. One council said that renewable energy could be a threat to its

tourism industry, although it conceded that, if supporting investment was forthcoming—for example, investment in manufacturing wind turbines—it was prepared to make that trade-off. Not surprisingly, the trans-shipment terminal in Scapa Flow was mentioned, as were concerns about affordable housing.

In the north-east, concern was expressed about Aberdeen. Aberdeen is a city of fewer than 200,000 people, but it is the headquarters for many international companies—we should not forget that its international role is disproportionate to its size. The fact that the north-east has a distinctive pattern of small towns was raised, as was the issue of transport links—inevitably, the western peripheral road was mentioned. There were also issues about connections to the central belt. The journey from Aberdeen to Edinburgh takes two and a half hours by train. The distance is the same as from Edinburgh to Newcastle, but that journey takes only one and a half hours by train. There is a feeling that connectivity issues need to be addressed. Issues were also raised concerning rural depopulation and diversification.

We had a session in the south-west in Ayr, taking in Inverclyde, Ayrshire and Dumfries and Galloway. Unemployment was a major issue in that area. The area was seen as one with potential for economic activity, but improved transport links were felt to be vital, even if economic development did not follow from them directly. An important requirement was for a fairly seamless journey from Gourock, Greenock or Ayr to Edinburgh, without the need to change trains. Other issues included the potential of Prestwick's role as an international airport and Hunterston's role as a terminal. Renewable energy was seen as a large and significant resource.

What came out of those seminars? A lot of support for the exercise. The people to whom we spoke are looking for a vision to be supported by action. They are looking for the hard choices to be made. There has been a strong welcome for the inclusive approach that we have taken to preparation. There is widespread recognition that the task is difficult and it is clear that there are sensitivities. The all-Scotland focus was welcomed. The key themes that came out related to economic development and regional policy, transport, drainage, affordable housing and energy. I reinforce what the minister said—yes, the framework has to be aspirational, but it also has to be realistic. It should be about delivering long-term, sustainable solutions.

An ad hoc ministerial group has been assembled to oversee the production of the document—the group is meeting in two weeks' time. We will of course continue bilateral discussions and there will be a second round of

stakeholder consultations in June. We hope to present the national planning framework to Parliament later this year.

12:00

**The Convener:** I thank Des McNulty and Jim Mackinnon for their contributions. We move to a question-and-answer session. I am sure that members want to ask a wide range of questions.

**Bruce Crawford:** I need to go at about quarter-past 12, so it is useful that I can ask my questions first. I thank the minister for coming along with Jim Mackinnon to speak to us; it has been a worthwhile exercise and it has given us a good overview.

The minister said that the framework was crucial to the long-term development of Scotland, which I think is right. He also said that it might be controversial. I hope that it flaming well is controversial, because we need to start challenging some of the orthodoxies that exist, break out of current thinking and create paradigm shifts, so that we can start to make a difference, because we have a falling population and low growth. Unless we start to use the planning process to address those issues, we will be in deep trouble.

I want to understand a bit more about the work that the Executive is going to do in relation to renewable energy. I cannot remember whether it was the minister or Jim Mackinnon who said that renewable energy is about the front end of the process—if ever there was an area that was about the front end of the process, that area is renewable energy. There is a need for planning guidelines and a planning strategy that say quite clearly to the industry, communities and local authorities that the process must be planning led, rather than developer led.

We have the opportunity to sort out the issues around the infrastructure and the grid. I would like the minister to say more about that specifically. Does he envisage issuing new guidelines to tell local authorities to make available the advisory plans and the local plans that say, "That is where the masts are going to be; that's a good place to have them," or, "That's where you'll not get permission"? In that way, we could speed up the process, but in a way that allows communities to feel that what they have said has been taken on board and that they have been consulted.

Another issue is affordable housing, which blocks the development of growth in places such as the Highlands and other rural parts of Scotland where there is a lack of mobility of labour and where employers cannot therefore set up. We need a planning process that takes into account the way in which we zone housing areas. I am not

sure what affordable housing means to most people. We have to have a planning process that says, "There's going to be social housing in this part of Scotland, on that little bit of land." That approach would drive down the cost and build both the right type of housing and a market for which rented accommodation would be provided. I hope that that approach will be part of the process.

The third area that I want to ask about is the democratisation of the planning process and involvement of the ordinary person—for want of a better term. Third-party rights of appeal are a big issue. Will they be covered in the consultation process? Do you envisage proposals being made about them? Do we need to make good neighbourhood agreements statutory, so that they will go beyond what is required and would cover, for example, a factory that pollutes a community?

One of the biggest travesties that I have come across recently for councillors is the issue of sub judice in planning processes. Sub judice rules cut councillors out of the discussions with their communities about what is good for them and what will be bad for them in future on specific applications. We need to sort out those processes, because too many councillors have been hamstrung by it.

I know that we must get the regulation right. However, it cannot be good for democracy if a community's leader is not able to say, before an application comes up, whether they are in favour of it or against it. We must unpick that if we intend to democratise the system properly. I have mentioned three areas; I am sorry that I have taken such a broad approach.

**Des McNulty:** I made it four areas.

I will begin with renewables. As the UK energy strategy was published only last week, we will need to look at it in some detail to identify the parameters and to assess the implications from a Scottish point of view. The link between renewables and other forms of energy needs to be examined systematically, over a long period of time. Energy systems cannot be put in place in one or two years—they have to be planned over a period of 15, 20 or 30 years.

On the issue of whether the process should be planning led or developer led, I think that planning must have more of a role in making the allocation, or framework, decisions within which the specifics of a renewables strategy are developed. Above and beyond that, there is a decision to be made about the mix between different energy sources and how far it would be realistic to go down any particular route, given the implications of that for other routes.

At UK and Scottish levels, we have made a strong commitment to renewables. We need to

identify the planning implications of following that commitment through. That will form a significant part of the development of the national planning framework. We will consider that in the context of guidelines and once we have sorted out the general questions of principle, we will need to give careful consideration to the planning issues.

I accept that we need to have a clear framework for affordable housing, which will involve a housing strategy and a planning strategy. There needs to be a better balance between the two. In establishing our overall framework for planning, it is important that we do not take away from local government more detailed decisions about what happens where in particular council areas. Highland Council, Perth and Kinross Council and East Dunbartonshire Council, for example, are more intimately in touch with locational decisions that take place in their areas.

It is important that the councils take their decisions within a national policy framework but we must get the right balance between that framework and allowing space for local authorities to make the decisions that are right for their areas. Within that, there is a set of issues about affordable housing in areas such as the Highlands, which Bruce Crawford mentioned. There is also a set of issues about the quality of housing, particularly in the older industrial areas in the west of Scotland. We must make planning decisions about what happens to some of those areas. We need to consider more systematically than has been done before which type of regeneration would be viable and feasible.

On the democratisation of the planning process, making the whole planning process more transparent is one of the big drivers for what we want to do through the consultation and the action that will follow it. That will involve improvements in participation, in the amount of information that people have and in the points of access to planning decision making.

We will look at the appeals mechanism, which is an important strand. As far as the front end of planning and the decision-making process are concerned, I attach a lot of weight to getting them right in the first place.

My biggest single objective is to move towards a more differentiated and more accessible planning system, so that people's views are taken into account at the time a decision is being made by a local authority. In redesigning the planning system, we have three big objectives that we want to drive forward: we want to make the system more understandable, more accessible and more transparent.

I am sympathetic to the points that Bruce Crawford made about the sub-judice element of

the planning process, especially as I have recently been subjected to it in relation to a planning application in my own area. The fact that community leaders cannot speak about planning applications is a problem, but there is not always an easy way round that, given the quasi-judicial nature of the planning process.

If people feel that decisions are made before the evidence is properly considered, there is a risk that the process itself might be seen to be contaminated or reduced. I am open to suggestions about how we can square that circle. We have to examine that carefully and ensure that the decision-making process is seen to be properly done and constructed. At the same time, we have to give democratically elected representatives as much scope as possible to articulate their views and the views of the communities that they represent. We will pay considerable attention to the rules for that.

**Nora Radcliffe:** I will ask an extremely broad-brush question. Diagrams such as the map make me very nervous. Is the underlying philosophy that we target our thoughts and efforts on that area, or is it that we use the planning system and the provision of infrastructure to move people and prosperity out of that targeted area, which is almost choking on its own prosperity, to further-flung parts of Scotland?

**The Convener:** The map that Nora referred to is the one that is centred on Edinburgh.

**Des McNulty:** The issue is not just about the further-flung parts of Scotland. Some of the other maps that Jim Mackinnon produced show that there are issues to do with prosperity in areas that are not far from here—they are probably within the outer ring on the map to which Nora Radcliffe pointed. Planning must not concentrate on one particular part of Scotland to the detriment of others.

Although west Edinburgh raises particular planning issues, that does not mean that other areas in Scotland will not be considered within a similar framework. However, the rate of development in the western part of Edinburgh and the various problems associated with managing that are such that the Executive and the councils most closely concerned feel that they need to get together to think through how the pattern of development might be better managed. That approach does not privilege Edinburgh; it recognises that there needs to be particularly close co-ordination in that area. Other areas of Scotland may be considered for similar close co-ordination in the months and years to come.

**Nora Radcliffe:** I would just like to get a handle on whether the basic philosophy is one of embracing the fact that, given modern technology

and good infrastructure, business and development can be spread much wider than in the past. Does that underlying philosophy inform your thinking, or are you still stuck with the old idea of centralisation?

12:15

**Jim Mackinnon:** We talked about the national planning framework identifying other areas where that approach might be appropriate, and about the benefits of new technology in trying to achieve dispersal. There are issues to do with how successful some of those levers are, but we want to consider those issues as part of the national planning framework. I mentioned that Aberdeen is looking for a similar approach. However, we want to be absolutely satisfied that a national interest is involved, or we would simply be doing what the local authorities should be doing anyway. That is a big issue.

It is important to remember that we are talking about planning permissions that have already been granted in west Edinburgh, such as the permissions for the Royal Bank of Scotland headquarters in Edinburgh Park and various redevelopment sites in Newbridge. We are not saying that more planning permissions need to be granted for business and industry in that area. The council has ambitious plans for the waterfront and for the redevelopment of the city centre. We are not trying to overload the area with development; rather, we are trying to respond to permissions that are already in place. Ministers are talking about access to Edinburgh airport, where growth is anticipated. The area is one of the fastest growing development areas in Scotland, yet it is served by one road.

The minister talked about solutions from continental Europe, which, by and large, would approach such problems differently; circulation and connection—putting in the transport system—would be considered first, then spaces and then buildings. We tend to approach the situation very differently. We put in buildings first and think about transport later. A key priority for us is to try to get people to think in reverse. However, we are talking about a problem that is already with us. As I said, we are not trying to encourage more development in west Edinburgh; we are talking about how we manage the growth of development in the area in a sustainable way.

**Angus MacKay (Edinburgh South) (Lab):** I am encouraged by what Jim Mackinnon has just said, because he is talking about putting the horse before the cart, rather than the other way round. However, I disagree with the use of the term “problem” for what is happening in Edinburgh—I see that not as a problem but as a tremendous opportunity.

I hope that the Executive's approach will be driven by a view that explicitly acknowledges that all cities and city regions in Scotland—but Edinburgh and Glasgow in particular—are the key engines of economic growth. When those economies are healthy, by and large, the rest of the Scottish economy is healthy; when they are not healthy, by and large, neither is the rest of the Scottish economy.

I do not share what I think is the Liberal Democrat view that is being expressed, which is that Edinburgh is choking on its own success—far from it; Edinburgh is a very successful economy. The question is how we link that success into surrounding economies.

For example, we have a burgeoning economy in Edinburgh and a tremendously buoyant labour market, with lots of job opportunities. The real challenge is not to move those jobs to other parts of Scotland but to ensure that the populations of Fife, the Borders and West Lothian have, as Jim Mackinnon said, appropriate transport links that allow them not only to share in that economic development but to remain part of their own local community, earn a living and export their income back to their community. Growth in house prices should not force them to compete with Edinburgh home owners. That economic development should be shared more widely. The challenge is then how we do that for each of the city regions of Scotland and ensure that Aberdeen, Dundee and Glasgow get a fair kick at the ball in order to compete with Edinburgh and complement what Edinburgh is doing.

That takes us into broader issues, such as the economic and academic specialisations in the development of biotechnology, for example, that are clustered round the key academic institutions. How do we ensure that appropriate support is given to developing such clusters, as opposed to the support that is given to our light industrial economy and the areas where it might be developed? It would be a nonsense to say that we need to share the benefits or successes of aquaculture in our fish farming communities by ensuring that some aquaculture and fish farming takes place in the Firth of Forth. Other communities would benefit far more from support in those industries. Equally, I am not sure that we should simply decentralise throughout Scotland other sectors of the economy. We need to think about where we are strong and build around that to ensure that nobody misses out.

**Des McNulty:** I would broadly agree with the thrust of Angus MacKay's comments. Our economic strategy is defined by "A Smart, Successful Scotland", but it makes no sense to consider that strategy without considering planning or infrastructure issues reasonably systematically.

There has to be a sense that the planning framework that we establish matches the economic strategy, which links into the overall social justice strategy that we are trying to develop. If those strategies do not hang together or are not interdependent, each is likely to fail. Planning has a considerable role to play in laying the foundations and providing the structural support for successful strategies for economic development, social inclusion, rural development or whatever else we might try to do in Scotland.

**The Convener:** I will give you the chance to come back in later, Nora. However, all the committee members want to ask questions, and we have to deal with some questions on petitions, which I will put to the minister.

**Maureen Macmillan:** I will be brief. I was interested in the proactive-reactive balance. You talked about how there was a great range of economies in the Highlands. There is no unemployment in Lochaber, for example, but there is no prospect of bringing more people into the area, because there is nowhere for them to live. That is a miniature picture of what is happening in Edinburgh, because of its success. I cannot help remembering that when big industries came to the Highlands, such as the pulp mill in Fort William or British Aluminium in Invergordon, hundreds of houses were built at the same time. If a small industry goes into a remoter area and wants to employ half a dozen people, there seems to be no way of providing accommodation for those employees. I would like the minister to think on a small scale, as well as on a large scale.

I also have something to say about transparency and consultation, which are the key to getting things right in advance. We have to be careful about who we consult, particularly in small communities, because there is often a complete dichotomy. Some people want industrial development because they want a livelihood, but others, who have perhaps retired to the area, want a nice view and a quiet life.

My third point is about what happens if we make the wrong decision and whether we can revisit decisions. As Des McNulty will remember, the committee has talked about making wrong decisions—that is, finding out that a decision had an environmental impact that was not envisaged at the time. How do we revisit decisions that we wish had not been made?

**Des McNulty:** I will take the last point first. One of the objectives of the process of revisiting the planning system is to reduce the circumstances in which information comes to light after a planning decision has been made that demonstrates that the basis on which the decision was made was flawed in some way. Our focus must be on doing everything that we can to ensure that the planning

system works efficiently and effectively, is inclusive and gives all the relevant information at the time that the decision is made.

We have to consider mechanisms for revisiting decisions and for appeals. However, there has to be a balance between that and the time lag that can be associated with a protracted appeals mechanism, which could, in certain circumstances, slow down dramatically the pace of development or become a barrier to certain types of development. The objective is to try to get things right first time as far as possible, and to establish a robust appeals mechanism that deals with the circumstances in which we do not get it right first time. We need to consult on how we do that and where the points of access are. We also need to ensure that we have taken on board all the strands of opinion of which we need to take account in devising such a mechanism in the appropriate way.

Jim Mackinnon might want to talk about the issue of affordable housing in the Highlands. I am not sure whether that it is a planning issue alone, because planning overlaps with housing and economic development.

**Maureen Macmillan:** Transport is involved, too.

**Jim Mackinnon:** I will pick up on a couple of those points. Maureen Macmillan asked what would happen if we get things wrong. The minister made the point that we are not talking about a master plan or a rigid blueprint. We would need to review things. However, we need to be careful because, once bricks have begun to be laid, the decision has been taken and things will happen. It is important that we build in some review mechanisms.

I agree entirely about the need to exercise care in consultation. A great deal depends on whom one happens to listen to. We are alert to that. We would like to broaden the base in the second round of stakeholder consultations on the framework, so that we get a wider spectrum of views. That work will be important and will apply to development plans and development control. Councils have to make very difficult decisions about applications on which there are strongly opposing views.

We take the point about affordable housing. As the minister said, there is an issue about what is the role of housing policy and what is the role of planning policy. That is discussed in "Regulatory Impact Assessment for Scottish Planning Policy 3: Planning for Housing", which was published last week. One of the points that we want to make is that there is a need to take a long-term view of housing land releases, for example, so that areas are reserved for affordable housing. When developers bid for land, it should be clear that the

development will have to include an element of affordable housing. Developers should not find that out late in the day.

That is the way in which we have approached the issue. As the minister said, the delivery of affordable housing is very much a question of getting a coherent view that is based on planning policy and housing policy. Maureen Macmillan made the point that a lack of housing acts as a constraint. The lack of affordable housing for key workers is perceived to be a constraint in Edinburgh, where we might be talking about substantial numbers. In rural communities, we might be talking about only a handful of workers, but those workers are terribly important for the local economy.

**John Scott:** I want to raise three points. The first is a general point about marine planning. "Towards A National Planning Framework" makes no mention of that. The time has probably come for us to look at the areas off the coast of Scotland as well. We should aim to put in place a framework that says that we intend to do fish farming in that part of the north-west, conservation somewhere else and renewable energies in those places. Bruce Crawford mentioned the need to get the grid systems in place for that. We should consider a strategic marine plan. I would be interested to hear comments on that.

As we have all gone local, my second point is about the regeneration of the west of Scotland. The importance of implementing an effective transport infrastructure in the west of Scotland should be emphasised, because that has not been as good as it might have been. That is reflected in one of Mr Mackinnon's slides, which showed the decline in jobs from which Ayrshire in particular is suffering. Getting in place the right transport infrastructure has to be a key priority.

Jim Mackinnon referred to the rapid growth of Edinburgh airport, but the traffic at Prestwick airport is projected to grow by multiples of four, six and eight in the next six, eight and ten years. At the moment, 30 per cent of Prestwick's passengers travel to the airport by rail. We must address the upgrading of that line. Significant upgrading might be necessary to cope with passenger growth.

My third point is about the green belt. I am not sure how the Executive wants to address that. In Ayrshire, I am aware that a green belt was put around Ayr, Prestwick and Troon some 20 years ago. In effect, that stopped the development of those areas. The intention was to increase the development of Glasgow and to drive industry towards Glasgow. I wonder whether Mr Mackinnon or the minister has any comments on the continuation of green belts or their removal.



12:30

**Jim Mackinnon:** The Ayr and Prestwick green belt was originally designated as an airport safeguarding zone for Prestwick, which covered a very small area. It is only in the past two years that the green belt has been extended right round Ayr.

John Prescott said that the green belt was an achievement that the Government meant to build on. Although I would not say that, the Executive has a firm commitment to green belt policy. It is also important to recognise that the green belt was the outcome of a long-term settlement strategy that looked at the demand for development in the longer term.

In some ways, the situation in Ayr is similar to that in Edinburgh. There is no supply of vacant and derelict land in Ayr and development in the town is therefore constrained. That poses difficult choices about whether to expand into the green belt on the north, east and south of the town, or whether to go beyond that.

We take John Scott's point about Prestwick airport. We specifically mentioned the airport as needing to be identified as an asset, not only for Ayrshire, but more broadly. His point about transport is also well made. That is one of the themes that has come through. Angus MacKay made a point about connecting into city regions. Ayrshire has a distinct identity, but we look for Ayrshire to connect not only with Glasgow and the Clyde valley, but with Edinburgh and the Lothians.

We do not have a great deal of experience of marine environment planning, because planning controls end at the low water mark, although they will be extended in due course to cover marine fish farming. We will have to consider the issue, perhaps not in the current national planning framework, but in future versions, because there is a degree of interest in how the marine environment is planned and in how strategic contexts for offshore wind farms, for example, are set.

**Fiona McLeod (West of Scotland) (SNP):** My question is on a theme arising from what a number of people have said. We are discussing "Towards a National Planning Framework". How will you move from the reactive to the proactive? Everybody has mentioned the 1960s, when we went in for big plans, built towns in the middle of nowhere and moved people to them. I do not think that the Executive—or any Executive—would want to do such big social engineering anymore. However, I am conscious of and—as Nora Radcliffe did—I keep coming back to the point that you are reacting to the phenomenal growth in Edinburgh. We have a nice picture of the growth potential on the Clyde, but because that is only potential, your efforts seem to be directed towards

reacting to where the growth is already and where problems are arising from it rather than how we make the planning framework national so that, where the potential exists, we achieve it.

**The Convener:** That was not an attempt to get any slogans in, was it?

**Fiona McLeod:** No. I tried to get Clydebank in.

**Des McNulty:** I am sympathetic to what Fiona McLeod suggests, whatever her use of language. We must move from a developer-led planning system to one that recognises the actuality and the potential of the space in Scotland. There perhaps might be different strands to that.

The west Edinburgh planning framework is, to some extent, semi-reactive, in that, as Jim Mackinnon says, we are responding to the density of economic growth and to the fact that planning permissions have been granted. It is semi-reactive also in that we want to find better ways of handling that growth. On the Clyde, there is an area in which work is going on, but there is also considerable potential along the Clyde's full length. Perhaps we ought to consider that in terms of managing and balancing actuality with potential. In other areas of Scotland, the planning requirements will be different again.

We are keen not to say that one size fits all or to use what could be called an industrial model, of rolling out planning with new towns being designated and the various bits of the jigsaw being put in place to achieve an original vision. We need a model that recognises long-term trends, that is realistic about what can be achieved, that works towards getting the best outcome by working with the grain of the changes that are taking place in Scotland and that links—or is at least aware of—the strands of policy that the Executive is putting in place, whether economic, social justice or broader environmental strategy. All those have planning implications. We need a flexible planning system that allows them to be delivered better than they are at the minute.

**The Convener:** I have some questions that concern not a local interest, but a petition that the committee has been considering. We thought that today would be a good opportunity to put questions to the minister and to Jim Mackinnon. Petition PE508 concerns a planning development in the minister's constituency, but we will not ask the minister to comment on the specific planning application. Rather, our questions concern the implementation of environmental impact assessments and planning advice note 58.

In particular, the petition raises three points. First, paragraph 27 of planning advice note 58 highlights the importance of public consultation early in the construction of any environmental impact assessment, but that is not being properly

adhered to. In the view of the petitioners, the result is that the planning process lacks transparency and speed. Secondly, the current system whereby a developer employs a consultant to carry out the EIA creates a conflict of interest for the consultant, who may possibly be biased towards the developer. Thirdly, the EIA process, and the site selection process in particular, is not properly overseen.

Having put those issues to the minister, I invite him to respond. If he cannot give a full response just now, I would accept a response at a later stage in writing.

**Des McNulty:** As at least two of those questions are of a technical nature, it might be appropriate to refer those directly to Jim Mackinnon. If it seems reasonable to the convener, I will respond after Jim Mackinnon's professional response.

**Jim Mackinnon:** There is no statutory requirement to consult the public on environmental impact statements, but our advice note gives a strong hint that public consultation should take place and is important. In part, that is because the public can identify issues with which a consultant who comes from a different area may not be familiar. There is strong advice to involve the public in the drawing up of environmental statements. We also advise that the results of the environmental statement should be made available in a form that is easy to understand. As some issues in environmental statements can be very technical and complex, we are keen that people work to present the material in a clear and coherent way.

The environmental impact statement is only one element in the decision-making process. I know that there are feelings that environmental impact statements may be biased because they are commissioned by the developer, but the developer is required to consult organisations such as Scottish Water, the Scottish Environment Protection Agency, Scottish Natural Heritage and others in drawing up that statement. Those organisations will have views on the extent to which the impacts are properly and adequately addressed in the document.

When the planning application is submitted with its accompanying environmental statement, the public will of course be consulted. Community consultants are statutory consultees. Neighbours are formally notified. In addition to that, developments that involve an environmental impact statement will be widely known about. To put the issue in context, in the past 10 to 15 years there have been about 0.5 million planning applications, but only about 350 environmental statements. Environmental statements are for big projects that are widely known about.

People will make their views known, not only on the quality or relevance of the environmental statement, but the other issues that the planning application raises. When the environmental statement is received, views will be expressed by the statutory consultees, which include the community council and others who have a view on the planning application. The planning authority itself will come to a view on whether the environmental impact statement properly addresses the issues involved. If the planning authority feels that an issue has not been sufficiently addressed, it can ask for more information.

One must then consider the weight that needs to be attached to the application in coming to a planning decision. Unless material considerations indicate otherwise, planning decisions must be made in accordance with the development plan. That is the law. When the council receives a planning application that has an environmental statement, the law requires that the first thing that the council must do is check whether the proposal is in line with the development plan. A whole range of material considerations then have to be taken into account. The environmental statement will be a very important material consideration, as will Government policy, as set out by the Executive. So will the views of statutory consultees and those of the public.

The system is designed in such a way as to allow all the issues to be aired and discussed. It is not just a matter of granting planning permission on the basis that the environmental statement says something is okay. Before reaching a decision, the planning authority has to adopt a systematic approach, taking into account what is said in the environmental statement, the views of a range of consultees on the environmental statement, and a whole range of other considerations.

To reiterate, it is not a matter of the environmental statement saying that a proposal is acceptable and planning permission being granted as a result; the statement is one of a range of things that must be taken into account in reaching a planning decision. Furthermore, the statement would be taken into account not just by the planning authority. If planning permission were refused, a Scottish Executive reporter or a minister would also take it into account in arriving at a view on how to dispose of a particular case.

**Des McNulty:** One particular issue that arises out of this and other cases relates to local authority boundaries and to the consultation of people living in adjacent local authority areas who might be affected by a projected development. There might be a question whether the existing arrangements enforce their right to be consulted

on the nature of the development and on its impact on them. Would the environmental impact study cover the impact on adjacent local authority areas? Those questions must be examined in the context of any overriding review of the way in which the planning system works.

Common sense should prevail and, where the project concerned would affect people in more than one local authority area, both the developers and the planning authority should take account of that impact in how they conduct their procedures. The present way in which the requirements are set out does not equate to a statutory requirement to take that into account. We perhaps need to focus some attention on that.

**The Convener:** I think that both John Scott and Fiona McLeod wish to speak—or is it just Fiona?

**John Scott:** No, I would like to speak, convener—but I think that Fiona McLeod wishes to make some remarks on the same subject.

**The Convener:** In that case, I invite John Scott and Fiona McLeod both to ask their questions, after which the minister and Jim Mackinnon may respond to them together.

**John Scott:** But mine is on a different subject—I meant that Fiona McLeod's point is on the same subject as the current discussion.

**The Convener:** In that case, I call Fiona McLeod.

**Fiona McLeod:** Jim Mackinnon went through the process and explained how systematic it is, or is supposed to be. In reference to the questions raised by the petitioners, which Des McNulty and I know about fairly intimately, what aspects need to be reviewed? Where does the balance need to be addressed? Does the process that you talked us through work as it is, Mr Mackinnon, and should it be left as it is, or are there areas that we need to examine?

**Jim Mackinnon:** We are only aware of this issue arising in relation to the petition. It does not seem to have been raised as a general problem to do with environmental impact assessments. If the committee feels that there is a general issue to do with the role of community involvement in environmental impact assessments, then we would be happy to consider that for research. Some of the matters that the committee has raised, including opencast coal mining and issues around telecommunications, have had an influence on our research budget and on our research programme for next year.

If the committee's view is that there are environmental impact assessment issues to be considered in respect of the effectiveness of procedures, transparency, ease of access to procedures and what Des McNulty said about

consultation with neighbouring authorities, it would be perfectly possible for us to mount a research project to consider those issues. Our research budget is committed for 2003-04, but I would be happy to factor in such consideration to future research priorities, if the committee thought that that would be worth while.

12:45

**Fiona McLeod:** Considering the matter would be useful. I would like to take the issue a bit further and also consider the other petition that we will discuss—petition PE377 on Carntyne. In petitions, many issues seem to arise that relate to environmental impact assessments, their standing within the planning procedure and who has expertise on the environment. There are three levels—the scoping, the study and the EIA itself. A thorough investigation of how EIAs, for example, work within the planning process would be worth while. The issue is not so much how the process works, as whether it works and has the effects that it is supposed to have.

**Des McNulty:** Certainly, if the committee recommends research on the matter, that recommendation will be carefully considered.

**Jim Mackinnon:** Fiona McLeod raises an interesting and important point about expertise. Environmental impact assessment raises difficult issues relating to noise and discharges to air and water. The right expertise for analysis is important. The issues are difficult, technical and complex.

**The Convener:** I realise that we are running short of time, but I will allow John Scott to ask a question, if it is brief. He should not give a long introduction to his question.

**John Scott:** I want to ask about managing tourism through planning. Angus MacKay spoke about looking after clusters where specific groups of expertise exist. Can that be done in a tourism context? Although tourism is our biggest industry, it has not been mentioned once today. Can we enhance our tourism industry through planning?

**Des McNulty:** Undoubtedly, planning and planning frameworks will influence the environment, which our tourism industry all too often sells. It is difficult to give a general answer to your question, as many issues are specific. For example, the impact of planning in Edinburgh—which is our number one tourist destination—will be different from the impact of planning on tourism industries in Skye, for example, where the landscape and the environment are the issues. I hope that, in our proposing a national planning framework, key industries such as tourism will have the opportunity to ensure that their legitimate concerns about the operation of the planning system are adequately taken on board and

factored in at an early stage. Factoring those concerns into the national plan would give much more scope for local people—whether in local authorities or individuals involved in the tourism industry—to make representations against a framework that is in place, rather than having to make individual and sometimes lone representations on specific planning decisions.

**John Scott:** I appreciate your answer and thank you.

**The Convener:** I draw consideration of the issue to a close.

I thank the minister and Jim Mackinnon for the presentations that they have given and their participation in the question-and-answer session. This has been a useful evidence-taking session. I hope that it will provide a useful starting point for the consideration of future planning issues by those members who are returned to Parliament on 1 May.

## Petitions

**The Convener:** Item 9 on our agenda is the consideration of three petitions.

### Planning Process (PE508)

**The Convener:** The minister and Jim Mackinnon have already given some answers on the first petition, PE508. I suggest that we postpone consideration of the petition until our final meeting, to give us an opportunity to reflect on those answers. We can then decide whether to conclude consideration of the petition or to refer it back to the Public Petitions Committee. Is that acceptable?

*Members indicated agreement.*

### Polluting Activities (Built-up Areas) (PE377)

**The Convener:** The second petition is petition PE377. We have finalised the report that Fiona McLeod produced on the issues raised by the petition concerning Carntyne and polluting activities in built-up areas. After today's meeting, the report will be sent to the Minister for Environment and Rural Development. It is suggested that we conclude consideration of the petition by sending a copy of that report to the petitioners. I place on record my thanks, on behalf of the committee, to Fiona McLeod for putting together the report. The committee is in full agreement with the recommendations that the report makes. I look forward to receiving a positive response from the Scottish Executive in due course.

On behalf of the committee, I thank Ros Wheeler for the support that she has given Fiona McLeod. I recognise the local interest that was shown in the issue by Dorothy-Grace Elder, in her role as a Glasgow list MSP, and by the constituency MSP, Margaret Curran. If Fiona McLeod would like to say a few words, she may do so. I ask members to agree to conclude consideration of the petition in the terms that I have set out.

*Members indicated agreement.*

**Fiona McLeod:** A few concluding remarks for the *Official Report* would not go amiss. Convener, can you confirm that we will send the report to both the Minister for Social Justice and the Minister for Environment and Rural Development?

As is our practice with petitions on specific cases, we examined the case to which petition PE377 refers in order to learn about the generic issue that it raises. We considered the issue in terms of environmental and planning regulation. We also considered how the current legislative

framework is being implemented. We reached the conclusion that the current legislative and regulatory framework has allowed an incinerator to be built in a built-up area and our recommendations relate to the legislation and regulation that have allowed that to occur. For the sake of environmental justice, the powers that be must examine the legislation and regulation that applies in this area. They must find a way of getting round a table to provide a satisfactory outcome for all parties in the specific case of Carntyne.

**The Convener:** I confirm that we will send the report to both relevant Government departments.

### **Telecommunications Developments (Planning) (PE425)**

**The Convener:** The final petition to be considered is petition PE425, which relates to telecommunications developments.

Given that we have concluded a letter to the Executive on the review of planning for telecommunications developments, I propose that we end action on this petition by sending the petitioner a copy of that letter. I also propose that we advise the petitioner of the on-going review of the planning regulations that the Scottish Executive is undertaking and indicate the timeframe in which the Executive intends to conclude that.

**Fiona McLeod:** Can we give the petitioner information about how to access the answer that the Executive gives to the committee on those points? That would satisfy the petitioner.

**The Convener:** Certainly.

**John Scott:** Will the petition be considered in the Executive consultation? Perhaps the committee should make sure that it is.

**The Convener:** The petitioner could certainly submit the petition directly to the Executive.

**John Scott:** Could consultation be something further that the committee does on behalf of the petitioner?

**The Convener:** If the committee did that, attention would potentially be drawn to a particular petition. Members may or may not fully agree on some aspects of the petition once they have conducted their own work, but the committee will have forwarded a letter about it. If the petitioner wants to submit their petition directly to the Executive it is open to them to do so.

**Nora Radcliffe:** There is no harm in informing the petitioner that such action is available to them and telling them how to set about it, just to be helpful.

**The Convener:** Is that agreed?

**Members indicated agreement.**

## **Subordinate Legislation**

### **The Surface Water (Fishlife) (Classification) (Scotland) Amendment Regulations 2003 (SSI 2003/85)**

**The Convener:** I said earlier that the Subordinate Legislation Committee was considering this instrument today. The only issue that was raised at that committee was technical, and I do not think that it is significant. The Subordinate Legislation Committee felt that the instrument contained a superfluous definition that did not need to be part of the regulations. I am advised that it is not believed to affect the legality of the instrument. Therefore it is not a significant enough issue over which to have too much concern. The issue is more to do with consistent drafting of legislation.

On that basis, and as no members have raised any points on the instrument and no motions of annulment have been moved, is the committee agreed that it has nothing to report on the instrument?

**Members indicated agreement.**

*Meeting closed at 12:57.*



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