

WAVERLEY RAILWAY (SCOTLAND) BILL COMMITTEE

Wednesday 12 May 2004
(*Afternoon*)

Session 2

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WAVERLEY RAILWAY (SCOTLAND) BILL COMMITTEE

3rd Meeting 2004, Session 2

CONVENER

*Tricia Marwick (Mid Scotland and Fife) (SNP)

DEPUTY CONVENER

*Christine May (Central Fife) (Lab)

COMMITTEE MEMBERS

*Mr Ted Brocklebank (Mid Scotland and Fife) (Con)

*Gordon Jackson (Glasgow Govan) (Lab)

*Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED :

Jeremy Purvis (Tw eeddale, Ettrick and Lauderdale) (LD)

CLERK TO THE COMMITTEE

Callum Thomson

SENIOR ASSISTANT CLERK

Fergus Cochrane

LOCATION

Committee Room 3

Scottish Parliament

Waverley Railway (Scotland) Bill Committee

Wednesday 12 May 2004

(Afternoon)

[THE CONVENER *opened the meeting at 16:15*]

The Convener (Tricia Marwick): I welcome everybody to the third meeting of the Waverley Railway (Scotland) Bill Committee. I welcome Jeremy Purvis, who attended the meeting last week, and I hope that he has received the letter that I sent to him yesterday. It referred him to rule 9A.8.7 of standing orders, which states:

“Only members of the Parliament who are members of the Private Bill Committee shall be entitled to participate in the proceedings of the Private Bill Committee at Preliminary Stage.”

I am also guided by paragraph 4.30 of the guidance on private bills, which concludes that in respect of participation by non-committee members,

“Private Bill Committees differ from other committees of the Parliament.”

I am sure that Jeremy Purvis recognises the quasi-judicial nature of private bill committees and the importance of the committee being seen as neutral and impartial, which is why any MSP whose constituency, or any part of it, falls into the area that is affected by the bill may not be a member of the private bill committee. While I am happy that you attend future meetings of the committee, Jeremy, you will be able to participate in the committee's public proceedings only at my discretion as convener, as provided for under rule 12.2.2.

Finally, on the committee's meeting of 29 April, at which Jeremy Purvis participated at my discretion, I state that the committee did not agree with Mr Purvis's view that the committee could begin its preliminary stage consideration of the substance of the bill without the business case, and resolved to progress matters as laid out in the papers that the committee considered at the meeting and as previously agreed.

The committee is now moving to consider the bill and objections to it, and it is only fair to advise Jeremy Purvis or any other members who have a constituency interest that I cannot see that I will exercise my discretion to allow members with an interest in the bill to participate in the proceedings and deliberations of the committee. I am happy to

discuss the matter with Jeremy or any other member outwith the committee meeting.

Interests

16:17

The Convener: As we have a new member, agenda item 1 is declaration of interests, which is a statutory requirement. In that context, and as intimated previously to other committee members, it would be advisable to err on the side of caution by declaring any interests that would prejudice, or give the appearance of prejudicing, the member's ability to participate in a disinterested manner in the committee's proceedings.

I invite Margaret Smith to make any declarations.

Margaret Smith (Edinburgh West) (LD): My understanding is that I have no relevant interests. I discussed with the committee clerk my minor concerns about the fact that I was the transportation spokesperson in the City of Edinburgh Council for a two-year period some years ago. I cannot remember what I ever said about the Borders railway but, as far as I am aware, I have no relevant interests in the Waverley Railway (Scotland) Bill.

Item in Private

16:18

The Convener: Agenda item 2 is consideration of whether to take item 6 in private. One of the reasons for taking that item in private is to allow the committee to consider tenders that have been submitted for a possible peer review of two chapters of the environmental statement. Are we happy to take item 6 in private?

Members indicated agreement.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): I want to make a general statement that I am usually opposed to taking items in private. Fresh air and the oxygen of publicity should be allowed to flow through as many decisions as possible. Item 6, which concerns a tender, would probably be better dealt with in private. However, on other matters I prefer to see things done in public.

The Convener: Are members happy with that?

Members indicated agreement.

Late Objections (Consideration)

16:19

The Convener: Agenda item 3 is consideration of late objections. The committee is required to consider the five late objections that were lodged against the bill, and decide whether each objector has shown good reason for not lodging their objection within the specified period. I invite comments from committee members on each of the five objections.

Gordon Jackson (Glasgow Govan) (Lab): I will deal with the objections, all of which I have read, en bloc. Whether or not the objectors have perfect reasons for objecting, it would be churlish, in a transparent, open and proper consultation process, to tell those people that their objections are late. I would let them all in.

Christine May (Central Fife) (Lab): I support that.

Members *indicated agreement.*

The Convener: The committee has agreed that we will consider the objections.

Petition

16:20

The Convener: Agenda item 4 concerns a petition that was lodged by Stow station supporters, who have also lodged an objection to the bill. I invite comments from committee members. In particular, what further action, if any, do we wish to take on the petition?

Mr Brocklebank: I am opposed to the petition, on the basis that there are other ways in which we can examine the issue about Stow station. I am not sure that the petition is the right way to go ahead. The group has recourse to other ways of examining whether there should be a station at Stow. We will be looking at that as part of our evidence taking.

Christine May: I support that view, on the grounds that the petitioners will not be adversely affected by our decision not to proceed with the petition. The matters that they raise are likely to be considered by the committee as the bill goes through its stages. I support the proposal that we do not consider the petition.

The Convener: I will clarify one matter in relation to paper WAV/S2/04/3/2 on the petition. Petitions that relate to private bills may still be admitted. However, my understanding is that the Public Petitions Committee is unlikely to recommend that any further action be taken on such petitions when a private bill is before us. I take it that the committee does not want to consider the petition further, because the merits and demerits of the provision of a railway station at Stow could be part of our consideration during the process of the bill. Is that agreed?

Members *indicated agreement.*

Objections (Preliminary Consideration)

16:22

The Convener: Agenda item 5 is preliminary consideration of objections. The committee is required to undertake preliminary consideration of objections to the bill that have been lodged and to consider how they might be dealt with at the preliminary stage. I refer members to paragraphs 9 to 17 of paper WAV/S2/04/3/3, which set out the committee's role in undertaking preliminary consideration of the objections, and invite comments.

Christine May: In the first instance, I seek guidance on whether it is possible for the committee to consider its approach to the objections as a whole—en bloc, as it were—or are we required to consider each objection individually?

The Convener: It is my understanding that we need to consider each one individually.

Christine May: Thank you. I am comfortable with that.

In that case, the clear question for us in considering each objection is whether the individual or individuals will be adversely affected, because I believe that that is the criterion on which the objectors have lodged the objections against the general principles of the bill.

Gordon Jackson: There are a lot of objections to specified provisions in the bill, rather than to the whole bill, which I rather think we will have to consider if and when we get to the consideration stage. I find it difficult to see that those who are objecting to the whole bill have a legal standing. Their objections to the whole bill are much more to do with general principles or with speculative effects of the bill. However, it is important that people in that category understand that that does not mean that they are not going to be heard, because they raise issues that we will consider when we investigate the general principles of the bill and decide whether to recommend to the Parliament that it proceed as a private bill.

If, when we come to the objections, we feel that individual objectors cannot be heard at that stage because their objections do not meet the criteria, we should also, as a separate matter, make it clear to them that given that their concerns raise matters that relate to the general principles of the bill, we will of course consider what they have to say when we discuss the general principles. That would make the position clear, given that, technically, their objections do not meet the criteria. I know that we will have to rubber-stamp a

decision on each objection when we agree the overall position, but I consider that that applies to all the objections to the whole bill.

Mr Brocklebank: I agree with that. Although I accept that we have to respond to each case individually, there is a remarkable degree of similarity in what the objectors suggest. They are all talking about what will be, in their view, the adverse effect on the Borders generally. I am not sure that any of them has a sustainable argument on that at this stage. The objections are far too general; they would have to be much more specific before we would accept any of them.

Margaret Smith: I am happy to go along with the general drift of the committee on that, on the basis that we will have to return to all the issues that the objectors raise in our further deliberations. The points that the objectors raise will all be considered in due course.

The Convener: Thank you for that.

I refer members to paragraphs 18 and 19 of paper WAV/S2/04/3/3, which refer to the objections that relate in whole or in part to specified provisions. I invite the committee to agree that they should be allowed to proceed to substantive scrutiny at consideration stage. Is that agreed?

Members indicated agreement.

The Convener: I take it that the committee is unanimous in its view that the interests of those who object to the whole bill are not clearly adversely affected by the bill. Does the committee agree with that and does it agree that it is more than likely that the issues that are raised in some of the objections will be part of our consideration of the bill as it progresses?

Members indicated agreement.

The Convener: I invite the committee to take a decision on each of the seven objections that relate in whole or in part to the whole bill.

Does the committee agree that the objection from Mr and Mrs Street should be rejected because, in the committee's opinion, the objectors' interests are not clearly adversely affected by the bill?

Members indicated agreement.

The Convener: Does the committee agree that the objection from J S Dun & Partners should be rejected because, in the committee's opinion, the objector's interests are not clearly adversely affected by the bill?

Members indicated agreement.

The Convener: Does the committee agree that the objection from Mr and Mrs Rae should be

rejected because, in the committee's opinion, the objectors' interests are not clearly adversely affected by the bill?

Members indicated agreement.

The Convener: Does the committee agree that the objection from Mr and Mrs Sandie should be rejected because, in the committee's opinion, the objectors' interests are not clearly adversely affected by the bill?

Members indicated agreement.

The Convener: Does the committee agree that the objection from Stow community council should be rejected because, in the committee's opinion, the objector's interests are not clearly adversely affected by the bill?

Members indicated agreement.

The Convener: Does the committee agree that the objection from Stow station supporters should be rejected because, in the committee's opinion, the objectors' interests are not clearly adversely affected by the bill?

Members indicated agreement.

The Convener: Does the committee agree that the objection from Nicholas Watson should be rejected because, in the committee's opinion, the objector's interests are not clearly adversely affected by the bill?

Members indicated agreement.

The Convener: The committee is now agreed that all the above objections should be rejected. However, although we have rejected the objections, we consider that many of the issues that they raise appear to be relevant to the committee's consideration of the general principles of the bill at the preliminary stage. The committee will consider inviting evidence from some objectors in that context on issues such as whether the project represents value for money, the impact that it might have on other public transport services and the impact that it might have on the local environment. The committee will consider how it wishes to take forward those matters following the receipt of the business case for the project, which I have to advise members that we still have not received.

Gordon Jackson: In informing the objectors of our decision, will we make it clear that their concerns will be taken into account and that they will be heard in the broadest sense, albeit not as objectors?

The Convener: That is the general view of the committee. We expect that that information will be conveyed to the objectors as quickly as possible.

Christine May: I realise that the response to the objectors has to be couched in the appropriate legal language, but I hope that we will use ordinary language to tell them that we will take on board their interests and concerns at a later date.

The Convener: We have that clearly on the public record, through the *Official Report*.

Margaret Smith: We could send the objectors a copy of the *Official Report*.

The Convener: We will send them a copy of the *Official Report*. You expressed the point well, Christine, but I will ensure that letters to the objectors are written in clear language that everyone can understand.

As agreed, we now move into private session to consider our approach to accompanying documents.

16:31

Meeting continued in private until 17:07.

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