

WAVERLEY RAILWAY (SCOTLAND) BILL COMMITTEE

Wednesday 27 April 2005

Session 2

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WAVERLEY RAILWAY (SCOTLAND) BILL COMMITTEE

6th Meeting 2005, 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:

David Cullum (Scottish Parliament Directorate of Clerking and Reporting)

CLERK TO THE COMMITTEE

Fergus Cochrane

LOCATION

Committee Room 3

Scottish Parliament

Waverley Railway (Scotland) Bill Committee

Wednesday 27 April 2005

[THE CONVENER *opened the meeting at 10:05*]

Item in Private

The Convener (Tricia Marwick): Good morning and welcome to the meeting. I remind everybody to switch off their mobile phones and pagers. We have received no apologies and the meeting is quorate.

Under agenda item 1, the committee must consider whether to take in private item 3, under which we will consider our approach to the preliminary stage of the bill, including timetabling of another oral evidence session and suggested topics and witnesses. The minutes of today's meeting, which will be published, will record any decisions that are taken in private. Do members agree to take item 3 in private?

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): What is your reasoning for the committee's taking item 3 in private? I am in favour of most items being taken in public.

The Convener: It has been normal practice for us to take in private discussion of timetables, witnesses and our suggested approaches to future stages of the bill. All our decisions are, of course, recorded in the minutes.

Mr Brocklebank: So the reasoning is that it is probably not appropriate to discuss in public the merits or demerits of witnesses.

The Convener: Yes.

Mr Brocklebank: Okay—I am happy with that.

The Convener: Are members happy to take item 3 in private?

Members *indicated agreement.*

Bill Notification Arrangements

10:07

The Convener: There is no paper for agenda item 2, which concerns the bill notification arrangements. I want to update the committee on what has happened with the promoter's notification arrangements since our most recent meeting in Newtongrange on 21 March, when the promoter's witnesses appeared before us. At that meeting, the promoter said that the report on the assessment of its referencing process would not be available until 25 April. The clerk has now received that report and has distributed copies of it to members. A copy has also been put on the committee's homepage on the Parliament's website. Given that we did not receive the report until Monday, there has not been adequate time for us to consider it fully.

Under agenda item 3 we shall consider our approach to the preliminary stage and the scope for having another meeting to take evidence. Such a meeting would perhaps provide a better opportunity to consider the report and to hear from witnesses for the promoter. The clerk will give us an oral update on the promoter's notification arrangements.

Fergus Cochrane (Clerk): Further notices have been issued in the light of the referencing assessment by the promoter. Since the committee's most recent meeting on 21 March, about 180 more notices have been issued in two batches, which means in effect that two objection periods are running. The first objection period will conclude on 23 May, but the second will not conclude until Monday 20 June.

The Convener: Thank you for that. What implications do the further failures to notify and the two objection periods have for our timetable for consideration of the bill?

David Cullum (Scottish Parliament Directorate of Clerking and Reporting): Given that objectors have until 20 June to lodge objections, it has become virtually, if not totally, impossible to conclude the preliminary stage this side of the summer recess. The committee would need to consider any objections that are lodged up to and including 20 June, so a meeting would have to be held after that date. The committee would then have to write, agree and publish its report and have scheduled the preliminary stage debate in a plenary meeting. Bearing in mind how long the preliminary stage has taken, to squeeze all that into the short period that is available would not do justice to everybody, nor would it allow proper consideration of all the evidence. As a regrettable consequence, it seems that it is inevitable that the

preliminary stage debate will have to be deferred until at least September.

The knock-on effect of that will be that, if Parliament supports the general principles of the bill, it would not be possible to start consideration stage evidence taking for at least 12 to 14 weeks after the debate. We would be looking to start such evidence taking no earlier than the beginning of December.

Margaret Smith (Edinburgh West) (LD): What happens in that 12 to 14 week period?

David Cullum: The Edinburgh Tram (Line One) Bill Committee and the Edinburgh Tram (Line Two) Bill Committee are going through the process at the moment. The objectors will be invited to prepare and give evidence to the committee in support of their objections. If the committee chooses to take the same approach that the tram bill committees have taken, the process will become front-loaded on paper. First, there will be identification of the objectors. We could ask the committee to consider grouping objectors who have similar objections and who perhaps live in the same locality. Thereafter, the objectors will have to be briefed on how they will interact with the committee.

If we take the approach that the tram bill committees have taken, the objectors will be invited to submit statements that set out in general terms what evidence they will provide to support their objections, together with a note of the witnesses that they propose to bring. The promoter would be under the same obligation. The committee would then produce a rough timetable for hearing evidence and objectors, and the promoter would be invited to produce witness statements—in effect, full details of what the witnesses are going to say in their evidence. There would then be an opportunity for the other party to comment on the witness statements.

That sounds like a fairly lengthy process, but our experience is that it will short-cut the evidence taking a little bit, make it more focused and reduce the amount of time that the committee has to spend hearing evidence.

Mr Brocklebank: Will you remind me of the number of objections? What was the initial number of objections and how many subsequent objections have come to light during our evidence taking?

Fergus Cochrane: The original number of objections, following the original objection period after the bill was introduced, was about 126 or 127—I cannot remember the exact number. The current number of admissible objections is about 124 or 125. That number is the result of some objections having been withdrawn and of the committee's having rejected objections on the

ground that no adverse effect was shown by them. The number of notices that have been issued since last September is around the 300 mark. The original 130 or so were issued back in September and 180 or so more have just been issued.

Mr Brocklebank: That is on top of the objections that were identified when we started to take evidence in Galashiels. Another 180 have subsequently been identified, which is considerably more than the 126 objections that were originally received back in September.

Fergus Cochrane: I referred only to notices that have been served, not to objections that may result from serving those notices. We will have to wait until 23 May and 20 June to see whether the objections actually come in.

Mr Brocklebank: Yes.

The Convener: Do members have any further requests for clarification from the clerks?

10:15

Christine May (Central Fife) (Lab): I have just one question to ask about the impact of the delays on costings. Will the revision of the costings form part of the evidence that we receive, and will we ask the Executive what impact that will have on its capital investment plans?

David Cullum: It is a bit early to assess that. We will have some discussion with the promoter to see whether there is any significance in the delay; the net delay may not be as bad as I indicated. On the basis that the bill will proceed, my estimate—given a fair wind from now on—is that the net delay might be no more than a month or two from where we were before the recent batch of notices was served.

Christine May: Okay—although you accept that members see the delays that we have experienced as perhaps being evidence of a lack of efficiency that might lead us to undertake much more detailed scrutiny of other aspects of the promoter's case.

David Cullum: Absolutely.

Fergus Cochrane: The committee could, under its next agenda item, in thinking about topics and witnesses, consider whether it wants to seek further reassurances from the Executive—as it did on 14 March—regarding the impact of the delays on the overall cost of the project.

Christine May: That might be helpful.

Mr Brocklebank: The committee might alert the Executive in order to ensure that the Executive is aware of what is going on in the process.

The Convener: I thank the clerks for giving the committee that clarification, and I invite comments from members in response to it.

Mr Brocklebank: I reiterate what I said previously. Frankly, I find it breathtaking that at this late stage we have found another 180 notices. Given what we have been through and what we have heard—including the various explanations, excuses and claims that it is not a perfect science and that we have never been down this road before—I do not think that any of us imagined that we would at the end of April be dealing with another 180 notices or objections. I cannot fathom how this situation can have arisen.

It is important that we take up the suggestion that we have another meeting with the minister, his officials or whoever in order that we can alert the Executive to this situation, which could result in considerable further delay. As Christine May suggested, the situation calls into question the competence of much of what has been said to us so far, if things can be so far wrong. What else might we discover?

Margaret Smith: I share Ted Brocklebank's view. How many times do we have to say this? This amount of non-notification of people of what is a very important project indicates breathtaking incompetence of the highest order. The people of the Borders and Midlothian seem, for the most part, to want the project to go ahead, and we are all trying to do our best to come up with an answer, but we seem to be battling continually against the promoter's incompetence. There have been many delays to the project and I am disappointed that we do not seem to have any alternative but to allow the process to go on beyond the summer recess. That is highly disappointing for the people in the Borders and for members of the committee.

As I said at our most recent meeting in Newtongrange, the parliamentary agent for John Kennedy & Co has given the excuse that it was very difficult, if not impossible, to find everyone whose interests might be affected by the project, but I believe that other things could have been done through Registers of Scotland. The suggestions that I outlined seemed to me to be perfectly reasonable ways in which to progress. I am disappointed that we are—yet again—facing a delay because of incompetence.

Christine May: I do not disagree with any of what Margaret Smith has said. Today feels like groundhog day, because we have made the same comments at almost every meeting. The situation is disappointing. As far as I am concerned, many questions remain about how the project, especially the housing elements, will be supported. If I were asked today whether we as a committee could make a recommendation to Parliament on the bill,

I would say that we could not; it is extremely disappointing that we will not be in a position to do so until September. However, if we are to do our duty by the project's supporters and objectors and keep in mind Scotland's interests, we have little choice but to accept what we have been told by the clerk and legal advisers: we will need to put up with the delay.

The Convener: I add my voice to those of my colleagues in expressing disappointment about the position in which we have yet again been placed. Despite the evidence sessions in which we expressed our concern to the parliamentary agent for John Kennedy & Co, and despite the assurances that we have received all along, we now find that there have been another 180 failures to notify. I am sure that we will call the parliamentary agent to our next meeting, not least to ask about the memorandum that has been sent to us. I share members' concern and disquiet about the further delay.

As I recall, our original timetable last year aimed to have hearing of evidence completed by the previous summer recess, with the hope that our preliminary stage report could be laid before Parliament by last September. The one-year delay in reaching that first stage could have a knock-on effect. However, I want to make it clear that the committee and its clerks have worked tirelessly to progress the bill. All the delays have been entirely at the hand of the promoter. I hope that the issue can be resolved and that no further reasons to delay are found, but the knock-on effect of the current delay will be quite considerable. As this debate will be a matter of public record, I am sure that the promoter will take note of our comments when the *Official Report* of the meeting is published.

As previously agreed, we now move into private session. I invite members of the public and the broadcasting and official report staff to leave the room.

10:22

Meeting continued in private until 11:43.

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