

WAVERLEY RAILWAY (SCOTLAND) BILL COMMITTEE

Monday 23 January 2006

Session 2

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WAVERLEY RAILWAY (SCOTLAND) BILL COMMITTEE **2nd Meeting 2006, 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:

Alastair McKie (Counsel for the Promoter)

THE FOLLOWING GAVE EVIDENCE:

Alison Gorlov (John Kennedy and Co)

Andrew McCracken (Scott Wilson Railways Ltd)

Berend Meijer

Steve Mitchell (Environmental Resources Management Ltd)

Douglas Muir (Midlothian Council)

Graham Muir

Sam Oxley (Environmental Resources Management Ltd)

Angus Pretswell

Carol Pretswell

Steve Purnell (Environmental Resources Management Ltd)

Bill Sandland (Scottish Borders Council)

Ron Street

Ian Wilkie (Scottish Borders Council)

David Williamson (Midlothian Council)

CLERK TO THE COMMITTEE

Fergus Cochrane

LOCATION

Scottish Mining Museum, Newtongrange

Scottish Parliament

Waverley Railway (Scotland) Bill Committee

Monday 23 January 2006

[THE CONVENER *opened the meeting at 10:43*]

Waverley Railway (Scotland) Bill: Consideration Stage

The Convener (Tricia Marwick): I welcome witnesses, their representatives and members of the public to the third consideration stage meeting and the second meeting in 2006 of the Waverley Railway (Scotland) Bill Committee.

On 28 September 2005, the Parliament agreed to the bill's general principles and that the bill should proceed as a private bill. At this stage, the committee's job is to consider the detail of the bill and objections to it; to listen carefully to the arguments made by the promoter of, and objectors to, the bill; and ultimately to decide between any competing claims. We take that task very seriously.

The committee has received all the written evidence from the groups of objectors and the promoter. I thank all parties and, in particular, the objectors—especially those who do not have any, shall we say, professional support—for their assistance in accommodating our timetable for evidence and for complying with the deadlines for submitting written evidence. We are aware of the demands that have been placed on you and appreciate your efforts.

Today, we will hear oral evidence on 12 groups. Every witness who has contributed fully to the written evidence process will face the same three-stage oral evidence process. First, he or she may be questioned by their representative; secondly, the witness may be questioned by the opposing side; and, finally, the witness may be questioned again by their representative. The latter step should be restricted to matters that have been covered in cross-examination. Of course, the committee can ask questions whenever and of whomever it wishes.

There is no need for witnesses to state their name, job title or qualifications in oral evidence, because we have already received that information in the written evidence. The written submissions and the oral evidence have the same value.

I make it clear that questions will be restricted to the issues that remain in dispute. Because, as I

have already said, the Parliament has agreed in principle that there shall be a railway, questions on the merits or otherwise of the railway will not be admissible. We are now concerned with the detail of objections. The committee does not expect—and will not permit—documents to be circulated that it has not previously seen. If objectors or the promoter need to give us an update, they will be invited to say a few words at the commencement of their oral evidence.

After each group has given its evidence, representatives of that group and the promoter will be offered a maximum of five minutes each to make any closing comments.

We intend to complete our evidence taking on these groups today. Because we have all the written evidence, witnesses should refrain from repeating points that have already been made in written evidence.

We acknowledge that the objectors are a mix of those who have professional representation; those who are represented by lay members of the public; and those with no representation at all. All parties—and committee members—will welcome brevity and clarity in questions and answers, and we discourage the use of overly technical language.

We wish to ensure that fairness is shown to the promoter and to objectors. This is, of course, not a court of law. Our proceedings will be conducted in a more informal manner and our procedures have a degree of flexibility to take account of the backgrounds of the witnesses and their representatives. That said, the committee requires all parties to act respectfully to one another—and, indeed, to committee members.

Members of the public are welcome to watch our proceedings. They may also leave the meeting at any time, but I ask them to do so quietly. Although the meeting is being held in public, it is not a public meeting. It is the formal work of the Parliament and I would appreciate the public's co-operation in ensuring that today's business is properly conducted.

For objectors who are following our proceedings, I state for the record that if they reach an agreement with the promoter that leads to the withdrawal of their objection they must inform the committee. A letter to the committee clerk stating that they are withdrawing is sufficient. The committee will then give no further consideration to that objection.

Finally, I inform all witnesses that when they take the oath or affirmation, it will apply throughout these proceedings. For example, witnesses for the promoter who appeared last week remain under oath today.

I ask everyone to ensure that all mobile phones and pagers are switched off and welcome to the meeting Alastair McKie, who will ask questions for the promoter. It will not have escaped the notice of the committee's regular viewers that two members are not present. Gordon Jackson is running a few minutes late and we await his appearance. However, Margaret Smith has unfortunately been taken ill and cannot attend the meeting. Rule 9A.5(6) of the Parliament's standing orders states that

"a member ... may not participate in any consideration of the merits of an objection or in any further proceedings relevant to that objection unless ... all evidence directly relevant to that objection"

has been

"given orally ... in the presence of the member; or ... with the agreement of the persons who gave any such evidence ... and the promoter, the member has viewed a recording or read the Official Report"

of the meeting. Before we hear evidence from the promoter and the objectors, I ask whether they agree to allow Margaret Smith to view the proceedings later and to take part in the consideration of objections. If they object, they must say so now.

Witnesses *indicated agreement.*

The Convener: I welcome Mr Gordon Jackson to the meeting.

Gordon Jackson (Glasgow Govan) (Lab): Sorry, convener.

The Convener: That is okay.

Group 14 relates to objections from residents at Dalhousie Mains Farm Cottages. I welcome Ron Street, who will ask questions on behalf of the group. Are you content for Margaret Smith either to view a recording of this meeting or to read the *Official Report* of it to allow her to participate in the future consideration of your objection?

Ron Street: I am quite happy with that.

The Convener: Mr McKie, is the promoter content with that arrangement?

Alastair McKie (Counsel for the Promoter): I can confirm that on behalf of the promoter.

The Convener: Thank you. At the committee's next meeting, I will ask Margaret Smith to state on the record that she agrees to that undertaking. I thank both parties for their assistance.

Dealing first with the acquisition of land, the witnesses for the promoter are Douglas Muir and Andrew McCracken. Perhaps one of the witnesses could give a brief outline of where matters stand with the objections.

Alastair McKie: Mr Muir is in a position to do that. It would also be useful if members had before

them a copy of the maps that have been circulated. The first two maps deal with this particular location and they might be useful for the whole evidential passage on group 14.

Douglas Muir (Midlothian Council): In the past few months, we have managed to make considerable progress with this group. In December, we were able to secure alternative access to the construction compound that we require to build the bridge over Hardengreen roundabout. Securing that access has allowed us to move forward considerably with the objectors on a number of other issues. At the moment, we are trying to find a form of agreement that will be acceptable to the objectors and which gives the promoter's undertaking only to use the access road for the purpose of repairing the bridge and for future visits by Network Rail.

The Convener: Thank you, Mr Muir. You probably noticed that I was jumping about a bit. I am finding it a bit difficult to hear—I think that that is because of the surround-sound effect. I have asked for that to be dealt with.

Mr McKie, do you have any questions for Mr Muir and Mr McCracken on land acquisition?

Alastair McKie: Mr McCracken, could you confirm the point about the future maintenance of the access road if access is to be exercised by Network Rail or any other authorised undertaker?

Andrew McCracken (Scott Wilson Railways Ltd): Yes. I can confirm that Network Rail will upgrade the access track as required by its maintenance regime. Network Rail will also be responsible for making good any damage that is inflicted by gaining access for maintenance purposes.

I believe that, through Ms Gorlov, we have requested the standard servitude template used by Network Rail.

Alastair McKie: That is all, convener.

The Convener: Thank you. Mr Street, do you have any questions for Mr Muir or Mr McCracken on land acquisition?

Ron Street: We had discussions with Mr Muir during the Christmas period. I ask him to confirm that the requirement for plot 233 is purely for the purpose of access to maintain the small bridge that crosses the track and that it will not be used as an entrance to the construction compound.

Douglas Muir: I am happy to confirm that.

Ron Street: We are looking for that to be put into a legal form that is binding on the promoter.

The Convener: Are you asking—

Ron Street: I am sorry. I am looking for a legal undertaking from the promoter. Until now we have had conflicting information and yesses and noes have been flying backwards and forwards. I am looking for a legal undertaking that removes the restrictions that were placed on the original notices.

Douglas Muir: I will be happy to provide that. It is just a case of agreeing the wording—we can do that.

Ron Street: I am happy.

The Convener: Thank you. As the committee has no questions, Mr McKie do you have any further questions for your witnesses?

Alastair McKie: No, convener.

The Convener: On access, the promoter's witnesses are Douglas Muir, Andrew McCracken and Steve Purnell. Perhaps one of the witnesses could give a brief outline of where matters stand with the objections on that issue.

Alastair McKie: I believe that that is covered in the evidence that we have given you.

The Convener: In that case, Mr Street, do you have any questions for Mr Muir, Mr McCracken or Mr Purnell?

Ron Street: The only item that is outstanding on acquisition of land and access is the triangle of land for the oil tank at number 3. The promoter has indicated that it is happy to take that outside the curtilage of the railway and to pass it across to Mr Pendlebury. Again, we are looking for that to be firmed up in writing. Can the promoter's witnesses confirm that that will be done?

Douglas Muir: That will be done as well, yes.

The Convener: Mr McKie, have you any questions for the witnesses?

Alastair McKie: None.

The Convener: Do committee members have any questions on the issue of access?

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): Can we be brought up to date on where matters stand with the alternative access to the construction compound?

Douglas Muir: Certainly. We have agreed with one of the bits of Grange Estates that we can get access from a road known as the Bonnyrigg distributor road, which is a major road skirting the south of Bonnyrigg, directly into the construction compound. We require the construction compound for the building of the bridge that will cross over the A7 at the Hardengreen roundabout. We need a fair bit of working space around that to construct the bridge. We have managed to secure that

alternative access, which avoids the objectors' cottages.

Mr Brocklebank: Can you identify where you are talking about on any of these maps that we have in front of us?

Douglas Muir: Yes. Could Mr McCracken deal with that? He has a map in his head.

Andrew McCracken: On the first plan that committee members have in front of them—plan 0235—we have shown in grey an alternative access road that comes off the B-road. Previously, we proposed to come up via the yellow track at the top of the plan, through the bridge and along to the construction area. What we have shown in grey is the alternative access track that we will use to access the bridge area.

Mr Brocklebank: I can follow that. Thank you.

The Convener: Mr McKie, do you have any further questions for the witnesses?

Alastair McKie: None, convener.

The Convener: In that case, we move on to the tarmac road. The witnesses for the promoter are Douglas Muir and Andrew McCracken. Mr McKie, perhaps one of your witnesses could give a brief outline of where matters stand with the objectors on this issue.

Alastair McKie: I believe that the tarmac road is the access road—they are one and the same, are they not?

The Convener: I take it, then, that you have no questions.

Alastair McKie: I have none.

The Convener: Mr Street, do you have any questions for Douglas Muir and Andrew McCracken on the access road?

Ron Street: I think that we covered the tarmac road in previous questions.

The Convener: I heard a noise a few minutes ago—I keep hearing noises this morning. Can everyone please check that they have switched off their mobile phones? Thank you.

On noise and vibration, the promoter's witnesses are Steve Mitchell and Steve Purnell. Mr McKie, perhaps one of your witnesses could give a brief outline of where matters stand with the objectors on this issue.

Alastair McKie: Certainly. Good morning, Mr Mitchell. I wonder whether you could provide the committee with your assessment of the noise and vibration impacts at the objectors' properties. Can you confirm whether you have visited them and what distance they are from the intended railway line?

Steve Mitchell (Environmental Resources Management Ltd): I have visited the four properties more than once and they are, at the closest, about 30m from the railway. They are also at a lower level than the railway tracks will be, so they will benefit from a bit of noise screening off the edge of the railway formation—the noise has to go over that ridge to drop down to the properties. They are also in fairly close proximity to the A7, so they are exposed to road traffic noise from that road.

In the environmental statement, the predicted noise level during the daytime is 46dB, which is lower than the target level of 55dB. The predicted night-time level is 41dB, which is less than the standard of 45dB that we have set ourselves. The predicted maximum noise level is about 70dB, which is less than the impact standard that we set ourselves of 82dB. We conclude therefore that we do not expect a significant noise impact at these properties. Clearly, the trains will be audible as they pass through. They will do so at approximately 50mph, so this will not be one of the fastest sections of the track by any means. The predicted noise levels are less than the standards that we set ourselves, so I do not expect significant noise impacts at this location.

11:00

The Convener: Mr McKie, do you have any questions for Mr Mitchell or Mr Purnell on noise and vibration?

Mr McKie: I have none. The promoter simply rests on its written evidence on pollution.

The Convener: Okay. Mr Street, do you have any questions for Mr Mitchell or Mr Purnell on noise and vibration?

Ron Street: Do the noise levels equivalent to 41dB and 46dB that Mr Mitchell mentioned take into account an impact in addition to the road traffic noise from the A7? If not, are they purely what you expect of the railway as a standalone entity?

Steve Mitchell: We predict those noise levels from the railway itself. Because they are below what we call the thresholds, our assessment is that there will simply not be enough railway noise to have a significant noise impact, irrespective of the background noise. The fact that the background noise is, in my opinion, relatively high for a semi-rural location does not really affect that assessment.

Ron Street: I take it that the railway will have an impact and will uplift existing noise levels. Road traffic noise levels on the A7 have increased over the years—the Eskbank bypass introduced greater noise. There is a continual increase in noise

sources and the railway will project further noise. Some of the current vegetation in the location will be removed. What will be the impact of that?

Steve Mitchell: First, the A7 may well have become noisier in recent years—I do not know, but I am happy to take your judgment on that. You live there and I am sure that you are correct. Of course, one of the railway's objectives is to try to take some traffic off that road. There is at least an intention to move in the right direction, in that respect. However, as I said, the trains will be a new source of noise and they will add to the noise climate.

Secondly, I have noticed that the area is heavily vegetated with trees and other forms of vegetation. I do not know precisely how many trees will have to be removed, but I know that the intention is to minimise that and, indeed, to replace them if they are removed. However, even if there was a net reduction in vegetation, the noise change would be extremely small. It is misleading to think that removing trees will increase noise levels. When measurements are taken, we find that that is not the case.

Ron Street: We are not considering only trees as vegetation. There is quite an amount of shrub-type growth there also. I assume that some of that is likely to be removed.

Steve Mitchell: Yes. Sam Oxley can help us later with more details on that. However, on whether trees and vegetation stop noise, it is a scientific fact—it is not intuitive, which is why I put it like that—that noise attenuation through vegetation is actually very small.

Ron Street: With the committee's permission, I just want to touch on the issue of freight. I know that the promoter is not considering freight, but the bill covers it. Is there any reason why freight has to be covered in the bill?

The Convener: Mr Street, the bill does not cover freight, so I do not think that that line of questioning is appropriate.

Ron Street: The bill allows for freight to travel on the track. The bill does not label it as a passenger railway only.

The Convener: The bill provides for a railway to be built. At this stage, it is a passenger railway only, which is what the environmental statement covers. I will not allow you to continue to question the witnesses on issues to do with freight, as that is not covered by the bill. If you have a further question on a different subject, I am happy for you to ask it.

Ron Street: May I just respond on that subject?

The Convener: No. Can we move on, please?

Ron Street: I will come back to the committee on that after the meeting.

The Convener: Do you have any further questions for the witnesses on noise and vibration?

Ron Street: I will continue on the subject of noise. Property number 3 is the closest one to the railway. It is well shielded from the A7 and does not suffer any adverse effects from noise from it. Are you happy that there is no need for additional provisions to reduce noise at number 3, either during the day or at night?

Steve Mitchell: Yes. As I said earlier, the predicted noise levels, which are below the threshold levels, are for train noise only. Under our assessment standards, the threshold levels are fixed noise levels that are not to do with the background noise at all, so it does not matter what the background noise level is. Although train noise will be there, it will not be high enough in its own right to cause a significant noise effect. Therefore, I confirm that there is no need for additional measures in that location.

The Convener: Mr Street, you mentioned house number 3. For the benefit of the committee, could you say to which property you are referring? Is it yours?

Ron Street: No, it is not—it is my neighbour Mr Pendlebury's property. My apologies.

As I am not an expert on the subject, I would like to know whether it will be possible to carry out a normal conversation, as we can at present, within the courtyard and garden of number 3. Is that what is expected or will there be disturbance from trains?

Steve Mitchell: In that respect, there will be disturbance. The maximum noise level that we predict is about 70dB. In fact, I suspect that it will be a bit lower than that because we have been conservative in what we call the screening, which is the attenuation off the edge of the railway formation. Trains will take about eight or nine seconds to pass any given point. For that duration or thereabouts, the noise level will be high enough to make people who are holding a conversation in the back garden raise their voices. That will happen potentially every 15 minutes during the daytime and perhaps every 30 minutes in the late evening.

Ron Street: Again, I accept your knowledge on the projected noise levels. If those are found to be wrong at the end of the day—I am not suggesting that they will be—what is the comeback for us if we want further mitigation put in place?

Steve Mitchell: One of the reasons why we produced a policy statement on noise and vibration is that we do not have the absolute full

detail on which to base our prediction, so the final levels could be slightly different from the levels that we have talked about today. However, the policy statement commits the promoter to the noise levels to which I referred as threshold values. The commitment is to achieve those levels. Therefore, if they should vary slightly, or if the calculations are not as accurate as I believe them to be, we will still have to achieve the noise targets that we have set ourselves.

Ron Street: Will the promoter be happy to continue such work after the event, once trains are running on the line? Who will have the responsibility then?

Steve Mitchell: The policy contains a commitment to monitor noise levels to check that the mitigation measures work. That is your check, if you like, to see whether the policy works out as we expect. I have to say that, in your location, there is some margin between the calculations and a significant impact. Nonetheless, monitoring will happen and there will be an opportunity to retrofit mitigation if it is proven to be necessary.

The Convener: Do committee members have any questions on noise and vibration?

Gordon Jackson: I am interested in the concept of cumulative noise. You do your calculations and you say, "The noise will reach 40dB. It will not reach 50dB, which is our target." I am just making the figures up. However, Mr Street seems to be suggesting something that I have not thought about before. There could be a situation in which the existing noise is 40dB, but it does not bother people much because they are used to it. However, if a further 40dB is added to that, the noise level will be pushed up. I think that Mr Street referred to that sense of cumulative noise. Do you calculate the cumulative noise or do you calculate only the railway noise, in isolation from the other noise that people have to live with?

Steve Mitchell: We calculate the cumulative noise. As soon as we predict noise levels that are above what I call the thresholds—that is, the nice round numbers of 45dB and 55dB—we consider how much noise will be added to the existing noise. In such cases, we do a survey to establish the approximate existing noise level. As a rule of thumb, if we expect the cumulative noise to increase by more than 3dB, we will look to mitigate the railway noise.

Gordon Jackson: I am not clear about why you do that only when you predict noise levels that are above your thresholds. I am trying to be logical, but I realise that that might not make sense scientifically. I can imagine a situation in which the railway noise is not above the threshold, but the cumulative noise will be. Why do you consider the

cumulative noise only when the predicted railway noise is above the threshold?

Steve Mitchell: Are you talking about a place where the noise level is on the margins, so to speak, and the addition of the railway noise will just tip the noise level over the threshold?

Gordon Jackson: What I am saying is that the relevance of 40dB might depend on what it is being added to. Why do you not always consider what the 40dB will be added to?

Steve Mitchell: There are three different cases, which I think are outlined in the environmental statement. In the first case, the background noise is comfortably below the threshold. In that situation, as long as the railway noise is also below the threshold, the cumulative level will not be above the threshold so there will be no significant effect. The second case is the one that I described. If the background noise is way above the threshold, the rule of thumb is that we should not add more than 3dB because 3dB represents a significant, noticeable increase. In the third case, if the background noise is close to the threshold—for example, if it is just 1dB or 2dB below it—and if one designs the railway exactly to match the threshold, the mathematics are such that one will not increase the cumulative noise by more than 3dB which, again, is the rule of thumb for noticeability. The cumulative effect on the margin will still not be significant or generally noticeable.

Gordon Jackson: I am sorry to pursue the point, but I am interested in it. I get the impression that I am being simplistic and that one cannot simply add together the two figures. I thought that both figures could be comfortably below the threshold but that the two figures added together might be above the threshold, but maybe that is not how one adds up sound.

Steve Mitchell: If two noise levels are equal and we add them together, the cumulative increase in perceived noise is not great, strangely enough. Mathematically, it will be only about 3dB. Although an increase of 3dB can be measured and it is perceptibly noisier, it is not dramatically noisier. Such an additional effect is not as great as one's intuition might lead one to expect. The main point is that as long as the railway noise is below the threshold, it does not really matter what else is going on. Although there might be an increase in noise, the level will still be below or close to—within 3dB of—the threshold. The impact will not be significant, as the noise will still be close to the threshold.

Gordon Jackson: I think that you are telling me that two 40s do not make 80.

Steve Mitchell: Absolutely.

Gordon Jackson: In my simple little world, two 40s made 80, but I think I now understand why that is not the case with sound.

Steve Mitchell: Unfortunately, with sound two 40s make 43.

Gordon Jackson: I might use that again.

Ron Street: May I follow up on that subject?

The Convener: You can ask a very brief question.

11:15

Ron Street: Is there such a thing as a tolerance level?

Steve Mitchell: A tolerance in what?

Ron Street: A tolerance of noise. In relation to the cumulative effect, is there a tolerance level above which such an increase would be unacceptable? If the noise from the roadway measured 70dB, for example, and the level rose to 73dB as a result of the railway, would that push it above a normal tolerance level? Is the cumulative effect a very small percentage? At 40dB, a rise of 3dB would be insignificant, but at 70dB or 80dB its impact would be much more significant.

Steve Mitchell: The final part of what you said is indeed the case, but while we are talking about thresholds we are down at the lower levels. The other perhaps confusing point that it may help you to understand is that a decibel is a very small unit of noise. To be a more useful unit, a decibel should be about three times as big, if you see what I mean. Changes of 1dB or 2dB are neither here nor there. It is only when increases of 3dB, 4dB or 5dB occur that people begin to notice the increase in noise.

The Convener: Mr McKie, do you have any final questions for the witnesses on the subject of noise and vibration?

Alastair McKie: No.

The Convener: Before we move on to the next area of questioning, I want to explain the reason for the position that I adopted when Mr Street mentioned freight. We are discussing a proposal for a passenger railway. If, at some point in the future, the promoter or the operator sought to introduce freight on the railway, another process would have to be gone through that allowed people to object to that proposal. I said to Mr Street that I would not accept questions relating to freight that might or might not be carried on the line in future because the proposal that we are dealing with is for a passenger railway only.

Let us move on to pollution. The promoter's witness is Steve Purnell. Mr McKie, does Mr

Purnell wish to give a brief outline of where matters stand with the objections on that issue?

Alastair McKie: My intention was that the promoter would simply rest on its written evidence, but Mr Purnell could provide an update if that is what the committee requires.

The Convener: Okay. In other words, you have no questions for Mr Purnell at this stage.

Alastair McKie: I have none.

The Convener: Mr Street, do you have any questions for Mr Purnell on pollution?

Ron Street: No.

The Convener: Do committee members have any such questions?

Members: No.

The Convener: Mr McKie, do you wish to ask any questions about pollution?

Alastair McKie: No, thank you.

The Convener: I turn to the issue of safety, on which the promoter's witness is Steve Purnell. Mr McKie, does Mr Purnell wish to give a brief outline of where matters stand with the objections on that issue?

Alastair McKie: It is my intention simply to rest on the written evidence.

The Convener: Mr Street, do you have any questions for Mr Purnell on safety?

Ron Street: Purely to seek confirmation. Am I correct in understanding that the intention is to change the code of construction practice to incorporate a left turn from the track out on to the A7?

Steve Purnell (Environmental Resources Management Ltd): Yes, that is correct. The latest version of the code of construction practice, which is available on the website, incorporates that element in chapter 2.

The Convener: Do committee members have any questions for the witness on safety?

Members: No.

The Convener: Mr McKie, do you have any questions?

Alastair McKie: No.

The Convener: I thank the witnesses for their evidence. I will allow a few moments for the witnesses to change over.

We now turn to loss of amenity and privacy. The promoter's witnesses are Steve Purnell, Andrew McCracken, Douglas Muir and Sam Oxley. Mr McKie, do any of the witnesses wish to give a brief

outline of where matters stand with the objections on that issue?

Alastair McKie: Yes, convener. It might be useful if I go through the three elements of the matter, because they are being dealt with by three separate witnesses. I will start with Sam Oxley. I ask her to confirm what the promoter's intention is vis-à-vis the removal, retention and replanting of vegetation.

Sam Oxley (Environmental Resources Management Ltd): The area is well wooded and has shrub vegetation as well. The requirement for vegetation removal will relate to removal along and immediately adjacent to the line itself, so it will not extend to the removal of vegetation in the wider area, which is a point that perhaps needed to be clarified. Vegetation will also need to be removed from around the planned structures so that they can be built. The exact extent of vegetation removal cannot be determined until the detailed design is in front of us and a tree survey has been done, but the landscape design for the scheme will ensure that, where possible, new vegetation is planted. It is likely that that will be underplanting of the existing woodland to try to reinforce screening within the vegetation that can be retained.

Alastair McKie: Convener, could I move on to ask Mr McCracken about masts for the global system for mobile communications for railways?

The Convener: That would be appropriate.

Christine May (Central Fife) (Lab): Before that, I have a question for Ms Oxley. At what stage of growth will you plant and approximately how many years will it take for what you plant to become useful?

Sam Oxley: Generally speaking, it is much better to plant new trees and shrubs when they are small because, at that point, they are vigorous and do not mind being transplanted. We usually put in what are termed transplants and whips, which are three or four years old at the most, with the intention that they will grow quite quickly. Where bigger vegetation is required for special purposes, it is possible to put in trees of up to 10 years old, but that is usually not worth doing, because they do not transplant well and do not get going. It is better to plant the smaller vegetation, which is more vigorous.

Christine May: Are you in a position to predict which of those two options might be picked for the location that we are talking about?

Sam Oxley: Given that it is a woodland location, it is most likely that it would be smaller, younger and more vigorous plants.

Christine May: Can you predict the length of time that is necessary for those plants to mature sufficiently?

Sam Oxley: I suppose that, after about five years, we would get reasonably dense growth from new planting, but it depends on local ground conditions and how wet it is. There is no reason why vegetation should not grow well in this area; it should have reasonably good soil and it is a damp environment.

Alastair McKie: Mr McCracken, will you explain for the committee's benefit the nature and purpose of GSM-R masts, with which the objectors have some concerns?

Andrew McCracken: The masts are part of a digital communication system that gives a continuous link from the train driver to the signalling control point. The introduction of the system across Europe has been driven by European legislation and any new or updated railway anywhere on the European continent uses it. The infrastructure for the system comprises a series of masts that are linked to the signalling control point to allow the communications signal to reach the cab.

Alastair McKie: What height are the masts and how are they spaced along the line?

Andrew McCracken: The masts are 29m high. They need to be that height to clear buildings and constructions; if they were not so high, they would have to be placed more frequently. Their positions are generally dictated by topography and ground features along the route. The masts are positioned approximately 3m off the track but within the limits of deviation.

Alastair McKie: Are the masts essential for the railway line?

Andrew McCracken: They are. They have to be positioned longitudinally along the track between 6km and a maximum of 8km apart. However, there is a degree of flexibility on their exact positioning.

Alastair McKie: Will you briefly outline what the intended bridge over the A7 roundabout might look like?

Andrew McCracken: I draw the committee's attention to one of the plans that were submitted—the third plan in the booklet. Without going into too much detail, I point out the plan layout in the bottom left of the diagram with a cross-section above it. It shows the bridge crossing the roundabout on the A7. It will be a four-span structure, with one pier in the centre of the roundabout, two piers on either side of the A7 and two smaller bank seats at the top of the slope. It is proposed that it will be a steel structure with a concrete deck and substructure.

Alastair McKie: Thank you. I have no further questions.

The Convener: Mr Street, do you have any questions for Mr McCracken, Mr Muir and Ms Oxley on loss of amenity and privacy?

Ron Street: No. I believe that Christine May has already asked my main questions, which were about vegetation, so I already have some answers. This is the first time that I have seen anything about the bridge, so it is difficult for me to ask about it.

The Convener: Okay. Do members have any questions?

Mr Brocklebank: Mr McCracken, you explained that the GSM-R masts are to be 29m high and, if I understood you correctly, situated approximately 6km to 8km apart. Is that correct? Using the map, will you identify where they might be situated in relation to the properties about which we have been hearing?

Andrew McCracken: Unfortunately, I am not in a position to pin down those positions. A specialist software package will be used at the next design stage to position the masts. As I say, topography and ground features are the main drivers. As there will be some flexibility in the masts' positioning, a sensitive approach to visual impact and receptors will have to be considered.

Mr Brocklebank: Presumably, you will consider the properties about which we are talking when you decide whether to put structures that are nearly 100ft high beside them. Those properties are on the map.

Andrew McCracken: We would have to commit to looking at factors other than the purely engineering.

Mr Brocklebank: Thank you.

The Convener: Mr McKie, do you have any final questions for the witnesses on this issue?

Alastair McKie: I do not.

The Convener: I thank the witnesses for their evidence. That concludes the evidence for the promoter in relation to the group. I will allow witnesses a few moments to change over. I invite Mr Ron Street to—

Ron Street: The one subject that was not dealt with was the footpath to Hardengreen.

The Convener: I am sorry; I have just thanked the witnesses. You have already had your opportunity to ask questions.

Gordon Jackson: Mr Street is talking about what is in the next section.

The Convener: If you have a final question, just ask it.

Ron Street: I was thrown because the issue was not brought up earlier. I offer my apologies.

I want to ask about the hard track to Hardengreen. I know that discussions are taking place with Sustrans. What is the status of the track from Hardengreen to Eskbank?

11:30

Douglas Muir: The committee heard evidence last week from Sustrans and Railway Paths Ltd about what we intend to do. In effect, where there is a black path, such as the one that runs roughly between Hardengreen and Sheriffhall, the promoter will replace that with an alternative route. A number of routes will go in, the main one of which will replace part of national cycle route 1, which ran from Hardengreen up to Dalkeith. We have put forward what we call route X, which is part of a study that we got Sustrans to carry out for us. The route goes past Jewel and Esk Valley College, along Abbey Road and through King's park to reach Cemetery Road, which is where national cycle route 1 finishes at the moment. From there, a series of paths goes through Iron Mills park and back up the A68. The easiest way to explain would be for me to provide you with a map showing the routes. It is difficult to describe them in great detail, but I am happy to provide you with a copy of the maps.

Ron Street: I will rest on that point at this stage.

The Convener: I thank the witnesses for their evidence. That concludes the evidence for the promoter in relation to this group. I will allow a few moments for witnesses to change over. Will Mr Street take his place at the witness table?

RON STREET *took the oath.*

The Convener: In dealing with the topic of land acquisition first, perhaps you could say whether you accept the promoter's evidence on where matters stand.

Ron Street: I accept the evidence that was given this morning and I accept the promoter's intention that that will be formalised into a legal arrangement.

The Convener: Mr McKie, do you have any questions for Mr Street on the acquisition of land?

Alastair McKie: I have none, convener.

The Convener: I see that committee members have no questions for Mr Street on the issue.

Perhaps Mr Street will give the committee a brief outline of where matters stand with the objections on the issue of access.

Ron Street: The promoter has lifted the restrictions on access to our properties. That is to do with the acquisition of rights, as opposed to the acquisition of land. I am satisfied that the promoter will restrict the use of the track to the upkeep of the bridge. Therefore, we can withdraw our objection on access.

The Convener: Thank you. Mr McKie, do you have any questions for Mr Street on access?

Alastair McKie: I have none.

The Convener: I see that committee members have no questions for Mr Street on the issue.

Perhaps Mr Street could give us a brief outline of where matters stand with objections on the issue of the tarmac road.

Ron Street: We withdraw our objections on the issue of the tarmac road.

The Convener: Thank you. I take it that you are satisfied, Mr McKie.

Alastair McKie: Correct.

The Convener: I see that committee members have no questions.

Perhaps Mr Street could give us a brief outline of where matters stand with objections on the issue of noise and vibration.

Ron Street: This morning, we have heard evidence from the promoter about the anticipated noise levels. I am satisfied that there is an on-going commitment from the promoter to audit the sound levels once the train system is in operation and to take further measures if those are required.

The Convener: Mr McKie, do you have any questions for Mr Street on noise and vibration?

Alastair McKie: No.

The Convener: Are committee members satisfied?

Members indicated agreement.

The Convener: Perhaps Mr Street could give a brief outline of where matters stand with objections on pollution.

Ron Street: I believe that we have already rested on that matter.

The Convener: Mr McKie, are you satisfied?

Alastair McKie: Yes.

The Convener: And the committee?

Members indicated agreement.

The Convener: We now turn to safety. Perhaps Mr Street could give a brief outline of where matters stand on the issue.

Ron Street: This morning, the promoter has undertaken to put a turn-left sign on to the A7, which was the big safety issue as far as I was concerned. There will be limitations on speed on the track. I am satisfied that the matter is now moving in the correct direction.

The Convener: Mr McKie, do you have any questions?

Alastair McKie: No.

The Convener: Do committee members have any questions?

Members: No.

The Convener: I now turn to loss of amenity and privacy. Perhaps Mr Street could give a brief outline of where matters stand with the objections on the issue.

Ron Street: I understand from the promoter that the amount of vegetation to be removed will be limited to what is necessary along the track and in its immediate vicinity. I am still concerned that it will take five or six years for the new vegetation to grow. Five or six years is a long period in which privacy will be lost.

The Convener: Mr McKie, do you have any questions?

Alastair McKie: No.

The Convener: Do committee members have any questions?

Members: No.

The Convener: Mr Street, do you want to make any further comments in relation to the questions that you have been asked on the various issues? Given that you have not been asked any questions, I take it that you have nothing to say at this juncture.

Ron Street: I have no further comments.

The Convener: Mr McKie, you have a maximum of five minutes in which to make a closing statement.

Alastair McKie: In the circumstances, the promoter will rest on its written and oral evidence.

The Convener: Mr Street, you have a maximum of five minutes in which to make a closing statement.

Ron Street: I do not wish to make any further statement. We have covered the ground adequately.

The Convener: Thank you. That concludes the oral evidence for group 14. I will allow a few moments for witnesses to change over. The witnesses to be seated are Sam Oxley, Steve Mitchell, Andrew McCracken and Alison Gorlov.

Our second group is group 15, which relates to the objection from Thomas Wilson. Mr Wilson has chosen to rest on his written evidence. The witness for the promoter on loss of amenity and quality of life is Sam Oxley. Perhaps Ms Oxley could give a brief outline of where matters stand in respect of the objection.

Alastair McKie: Convener, it might be better if Mr Mitchell is the lead witness for this panel. Issues that concern noise and vibration might well be primary to the objection. I would ask Mr Mitchell to give his update. We can proceed through the various issues, if that is convenient.

The Convener: Is everyone happy for Mr Mitchell to give us a brief update on where matters stand?

Members indicated agreement.

Steve Mitchell: Mr Wilson lives in Dalhousie Station House, which is shown on the first map that was handed round this morning, on the opposite side of the railway from Dalhousie Mains Farm Cottages, which we discussed earlier. I understand from Mr Muir that he has talked to Mr Wilson about his objection. Mr Wilson is an elderly gentleman who opposes the railway. As the name perhaps suggests, his house is close to the railway—it is about 10m from the proposed alignment. Mr Wilson is concerned about noise, privacy and loss of vegetation in the area. I will come back to noise later.

The Convener: Mr McKie, do you have any questions for Steve Mitchell on loss of amenity and quality of life?

Alastair McKie: No.

The Convener: Do members have any questions for Mr Mitchell on that subject?

Christine May: My question again relates to vegetation—it is for Mr Mitchell or, perhaps, for Ms Oxley. Will you replace, like for like, any vegetation that is removed from Mr Wilson's property?

Sam Oxley: There is not an awful lot of space between the garden and the line in that vicinity. The restrictions on vegetation adjacent to the line will prevent a great deal of vegetation being replanted. However, our suggestion is that a hedge be planted, as it would not take up too much space and it could be positioned at the top of the embankment, which would help screen the trains and the noise barrier, to which we will come in a moment. Obviously, if vegetation is removed as a result of works in Mr Wilson's garden, which abuts the railway embankment, it will be reinstated.

Christine May: To refer to my previous question, might you use more mature or faster-growing varieties?

Sam Oxley: It is possible to buy hedge material that is a bit more advanced, but in this location it would be more appropriate to plant densely with young and vigorous stock, so that there is quick coverage. We will plant predominantly native species in the area.

Christine May: Would your estimate of the time it would take to reach reasonable maturity again be up to five years?

Sam Oxley: Yes, but the hedge will be in front of the noise barrier, so it will not be possible to see the railway line or trains anyway.

The Convener: Mr McKie, do you have any further questions for Steve Mitchell or Ms Oxley on the loss of amenity and quality of life?

Alastair McKie: No.

The Convener: On the impact of the railway on property value, the witness for the promoter is Alison Gorlov. Mr McKie, do you wish Mrs Gorlov to give a brief outline of where matters stand with the objection on that issue?

Alastair McKie: The promoter rests on the compensation policy paper that is before the committee.

The Convener: As committee members have no questions for Mrs Gorlov, we turn to noise and vibration. The witnesses for the promoter are Steve Mitchell and Andrew McCracken. Mr McKie, do you wish one of the witnesses to give a brief outline of where matters stand with the objection on that issue?

Alastair McKie: Yes. The appropriate witness is Mr Mitchell. Will you confirm the noise and vibration impacts at the property, and say whether they are acceptable and whether mitigation will be required?

Steve Mitchell: Yes. As we discussed, the train speed will be about 50mph. There is certainly potential for a significant noise impact on Mr Wilson's property, given its proximity. His property is a bungalow, and it is considerably lower than the railway track will be, which makes it relatively easy to provide a noise screen. The topography is in favour of noise screening. We have confirmed to Mr Wilson that there will be a noise screen in the location. I understand from Mr Muir that Mr Wilson very much welcomed that and was grateful for that clarification. With the screen, we certainly expect to meet the noise standards that we have set ourselves, so we should be able to avoid a significant effect. *[Interruption.]* Now that the background noise is significantly louder, does it help if I raise my voice?

11:45

The Convener: You will know all about background noise and decibels.

Steve Mitchell: The noise level has certainly increased by more than 3dB as I have talked.

The Convener: Does Mr McKie have any more questions?

Alastair McKie: I have no further questions for the witness.

The Convener: Mr Mitchell, what will the promoter do to reduce noise emissions that affect Mr and Mrs Wilson's property?

Steve Mitchell: The answer is the same: there will be a noise barrier, which will, as ever, be subject to the final layout of the track. In particular, the track's horizontal alignment could change the barrier's height. The fact that a barrier will be built is not subject to the design, but the dimensions are subject to the detail. I estimate that the barrier will need to be approximately 1.5m high, but it will depend on the exact horizontal alignment past the property.

The Convener: Has the promoter discussed noise mitigation with Mr and Mrs Wilson, and are they satisfied with any proposals that have been made?

Steve Mitchell: I understand that discussions were held last week between Mr Muir and Mr Wilson, and that Mr Wilson very much welcomed clarification about the barrier. I do not know whether he was satisfied; on his general objection in principle, I suspect that he was not.

The Convener: Committee members have no questions. Does Mr McKie have further questions for the witness?

Alastair McKie: I have none.

The Convener: Mr McKie has a maximum of five minutes in which to make a closing statement.

Alastair McKie: The promoter rests on its written and oral evidence.

The Convener: That concludes the oral evidence for group 15. I will allow a few moments for the witnesses to change over and for us to see whether we can do something about the sound. The witnesses who are to be seated at the table are Ian Wilkie and Alison Gorlov.

Group 16 relates to the objection from Millers Oils Ltd. The objector has chosen to rest on its written evidence. The witness for the promoter on acquisition of land, impact on business and loss of earnings is Ian Wilkie.

IAN WILKIE *took the oath.*

The Convener: Mr McKie, do you want Mr Wilkie to give a brief outline of where matters stand with the objection?

Alastair McKie: Yes. Mr Wilkie, will you update the committee about an undertaking that the promoter has been seeking to give to this objector via his solicitors?

Ian Wilkie (Scottish Borders Council): The updated position is very much as per the response in the paper before the committee, except that the promoter has been in touch with the objector's solicitors on four further occasions since 24 November 2005. However, we are not yet in a position to ascertain the objector's views.

The Convener: Do you have any further questions Mr McKie?

Alastair McKie: None.

The Convener: Do members have any questions for the witnesses?

Members: No.

The Convener: We turn therefore to the impact of the railway on land and property value. The witness for the promoter is Alison Gorlov. Mr McKie, do you wish Mrs Gorlov to give a brief outline of where matters stand with the objection?

Alastair McKie: Convener, the promoter intends to rest on the existing compensation policy paper.

The Convener: Okay. Do committee members have any questions for Mrs Gorlov?

Members: No.

The Convener: Mr McKie, you now have a maximum of five minutes in which to make any closing statement.

Alastair McKie: The promoter will rest on its oral and written evidence. It might assist if the committee could write to the aforementioned solicitors so that we can get an answer. We have written to the objector about 10 times.

The Convener: The committee clerk will do that, of course.

Thank you. That concludes the oral evidence for group 16.

Group 17 relates to the objection from Mr and Mrs Dubickas, who have chosen to rest on their written evidence. The witnesses for the promoter on acquisition of land are Douglas Muir and Andrew McCracken.

Mr McKie, do you want one of your witnesses to give a brief outline of where matters stand with the objection?

Alastair McKie: Mr Muir, you have been endeavouring to agree with the objectors a

reduction in the size of the construction compound. Will you explain to the committee what you have been seeking to do, with reference to the last two of the plans that were circulated earlier this morning?

Douglas Muir: The second last plan in the pack reflects the limits that the promoter had originally sought in the area of the caravan park. The final plan shows a revision where we have pulled those limits right back tight to the viaduct. That will allow us enough room to repair it without impacting hugely on the caravan park. Mr Dubickas indicated last week that those limits were satisfactory and that his lawyers were drawing up a legal agreement for the promoter to sign. We have not received that yet; I hope it will come through fairly shortly.

The Convener: Do committee members have any questions for the witness on acquisition of land?

Members: No.

The Convener: Thank you. We turn to the impact of the railway on business and loss of revenue. The witnesses for the promoter are Douglas Muir, Andrew McCracken and Alison Gorlov.

Mr McKie, do you wish one of your witnesses to give a brief outline of where matters stand?

Alastair McKie: The promoter will rest on its compensation policy paper and written evidence.

The Convener: Do committee members have any questions for the witnesses on the impact on business and loss of revenue?

Gordon Jackson: I do not know whether it is important, but the objector is concerned about an increase in litter pollution from what will be the railway line above their property. Will anything be done to mitigate that? The objector stated that eventually there would be litter pollution and that that would affect their business.

Andrew McCracken: The railway has no particular mitigation in place for litter, other than the normal track maintenance regime.

Gordon Jackson: Is that because there is not thought to be a problem? Do railways not cause litter?

Andrew McCracken: There tends not to be a problem. Most litter stays within a train, to be honest. It is not generally a big issue.

The Convener: Are you satisfied, Mr Jackson?

Gordon Jackson: Yes.

The Convener: Okay. Mr McKie, do you have any further questions for your witnesses on this issue?

Alastair McKie: I do not, convener.

The Convener: You have a maximum of five minutes to make any closing statement, if you wish to do so.

Alastair McKie: The promoter will rest on its written and oral evidence.

The Convener: Thank you. That concludes oral evidence for group 17. I will allow a few moments for witnesses to change over. I indicate to witnesses, the committee and members of the public that after we dispense with group 18 I intend to call a lunch break.

Group 18 relates to Mr and Mrs Pretswell's objection. Mr Pretswell will ask questions on behalf of group 18. I welcome him and his wife to the meeting. If you were here earlier, you would have heard me say that Margaret Smith has unfortunately taken ill and cannot attend this meeting. Under rule 9A.5.6 of the Parliament's standing orders, a member

"may not participate in any consideration of the merits of an objection or in any further proceedings relevant to that objection unless—

(a) all evidence directly relevant to that objection given orally ... has been given in the presence of the member; or

(b) with the agreement of—

(i) the persons who gave any such evidence ... and

(ii) the promoter,

the member has viewed a recording or read the Official Report of the proceedings".

Accordingly, I ask Mr and Mrs Pretswell whether they are content for Margaret Smith either to view a recording of this meeting or to read the *Official Report* of the meeting to allow her to participate in any future consideration of their objection.

Angus Pretswell: Yes.

Carol Pretswell: Yes.

The Convener: Thank you. I ask Mr McKie whether the promoter is also content with that.

Alastair McKie: Yes.

The Convener: Thank you. We turn to the acquisition of land and buildings. The witnesses for the promoter on the acquisition of land and buildings are Douglas Muir and Andrew McCracken. Mr McKie, do you wish one of your witnesses to give a brief outline of where matters stand with this objection?

Alastair McKie: I think that Mr Sandland will deal with this topic. It may also be useful, convener, for committee members to have before them the last two of the plans that were circulated. I believe that recently taken photographs have also been circulated. Mr Sandland, can you update the committee on matters, particularly on

how the promoter will ensure that the stone building shown in the photographs will not be damaged as a result of construction operations?

12:00

Bill Sandland (Scottish Borders Council): Under the bill as introduced, it is intended that there should be temporary acquisition of the area that is owned by Mr and Mrs Pretswell, so that work can be carried out on the Lothianbridge viaduct. The promoter would be entitled to demolish the structures and to clear the site. We have given an undertaking to Mr and Mrs Pretswell that we will protect the white building and that it will not be damaged. The terms of the code of construction practice allow the contractor to protect the building. Clause 14.4 of the code of construction practice makes provision for the white building to be protected.

Alastair McKie: Are you referring to the building that looks white in the black-and-white photographs and appears to have a corrugated roof?

Bill Sandland: I believe so. I have colour photographs, if that is of assistance to the committee.

Alastair McKie: That is a matter for the convener. I am content to rely on the black-and-white photographs.

The Convener: Members have indicated that they are happy with the black-and-white photographs. Mr Pretswell, do you have any questions for Mr Sandland on acquisition of land and buildings?

Angus Pretswell: To be honest, we feel that we have been kept in the dark. We want to know why our property has been earmarked for a construction compound. It is not suitable for that purpose.

Bill Sandland: The property has been earmarked to allow access for repairs or whatever work may be necessary to make Lothianbridge viaduct suitable to carry trains. It is required primarily for access for the erection of scaffolding and other ancillary work that may be required.

Angus Pretswell: So it will not be used as a construction compound. As we told you at our meeting, the original information that we received suggested that the property was to be used as a compound. We have not been told anything to the contrary.

Andrew McCracken: I refer you to the plan entitled "Section Work No. 2". In cases of temporary acquisition, we use a catch-all description of

"Construction compound, working space and access for construction",

so that all three requirements are covered. It was not intended that there should be a construction compound in this location. The property was to be used merely for access.

The Convener: Are you making it clear that the property will not be a construction compound and that it will be used for access only?

Andrew McCracken: It will be used for access and walking space.

Angus Pretswell: Can we get that in writing? This is the first time that we have been given that information.

The Convener: I assure you that it is a matter of public record. These gentlemen are also on oath. That is better than any letter.

Angus Pretswell: That is fantastic. I am here today because we have been kept pretty much in the dark and have been given no answers. I would not otherwise have wasted your time.

The Convener: Mr Pretswell, are there any further questions that you would like to ask at this time? Perhaps we can help you to clarify some other matters.

Angus Pretswell: For how long will the property be temporarily acquired? I have been given no indication of how long we will be expected to be out of the property.

Bill Sandland: I understand that access will be required for about a year.

Angus Pretswell: I have spoken to some engineers about the issue, and they say that a year seems excessive. However, that is not a problem. Can the committee guarantee that, while I have to be in another location, my property will not be used as a place in which to decant someone else while their property is worked on?

Bill Sandland: If I understand you correctly, you are suggesting that someone else could be given possession of your property.

Angus Pretswell: Not possession, but use of the property once I have moved out.

Bill Sandland: The property is required only for access. There is no intention to give it to anyone else.

The Convener: You say that there is no intention to give anybody else use of the property; will you confirm that that will not happen?

Bill Sandland: May I ask Ms Gorlov to answer that question?

The Convener: Yes.

Alison Gorlov (John Kennedy and Co): I can confirm that that will not happen. The question is a

bit more than a question of intention. The bill will allow only what it will allow, which is possession of the site for the purpose that has been mentioned.

Angus Pretswell: That is okay. We have been kept in the dark about everything. To be honest, we do not know much about what is happening, which is why we are here and why I am asking rather silly questions. We feel that we simply do not know what is happening.

The Convener: Mr Pretswell, you are not asking silly questions. You are seeking answers, which you are receiving.

Angus Pretswell: I greatly appreciate those answers, but I would not be here if I had been given them before. This is great. Thanks.

The Convener: That is okay. Do you wish to ask about anything else?

Angus Pretswell: I have no more questions for Mr Sandland, but may I question other witnesses later?

The Convener: You will have the opportunity to ask questions on a series of topics. As you want to rest for the moment, I invite Christine May to ask questions.

Christine May: I have a question for the promoter. Mr Pretswell appears rightly to have asked fairly straightforward questions. Why have information and clarification not been provided to him beforehand? Even if he has not previously asked these questions, they seem to me to seek the sort of clarifications that any property owner would need. A property owner should not have to solicit answers to such questions.

Bill Sandland: We met Mr and Mrs Pretswell on 1 September 2005 and their main concern was the continuation of their business, which depends on retaining the buildings. There are two options. Either we demolish the buildings and Mr and Mrs Pretswell must be allowed to rebuild them, or we must leave the buildings essentially intact. The first option is difficult; it is inappropriate for us to confirm that the buildings can be replaced, because that is a matter for Midlothian Council's planning policy. We have taken advice from the project's engineer about the second option—which has required time and consideration. The engineer advised us that we could work around the buildings and leave them intact. We conveyed the options to Mr and Mrs Pretswell by letter. They replied that they would like a written guarantee that one or the other option would be chosen.

We have been able to draft a form of words in the code of construction practice that will protect both buildings as far as possible. The cladding will probably have to be removed from the blue lean-to building to allow for scaffolding and access to the arch barrel. I understood that we had conveyed

that information to Mr and Mrs Pretswell, but if we have not made things as clear as we should have done, perhaps another meeting is required.

Christine May: I want to pursue a point that is relevant to Mr McCracken's clarification of the purpose for which the land is required. Obviously, the objectors have been concerned about the word "compound". The explanation that was given was clear to me—use of the property would be limited to access. Could there not have been such clarification without the objectors specifically soliciting that information?

Bill Sandland: There probably could have been, but I should add something. How a construction compound is defined is important. If, for example, it is necessary to put bags of cement adjacent to the scaffolding that will be providing access, will that make it a construction site or compound? Perhaps that is a matter of semantics, but the intention is to access the arch barrel and leave the site, as far as possible, as we found it.

Christine May: Thank you. I will not pursue the matter, but there is a general point to be made about making language as clear and simple as possible for those of us who are not land use or legal experts. Following that advice might have been helpful.

The Convener: Do committee members have any other questions?

Mr Brocklebank: I have another question. We are talking about temporary acquisition of the properties. I want to be absolutely clear that compulsory, permanent acquisition of the properties is not intended now or in the future.

Bill Sandland: As Ms Gorlov said, in terms of the bill, it is temporary possession that we require to carry out work to the Lothianbridge viaduct.

Mr Brocklebank: After approximately a year, the properties will be returned to the owner in the state that they are in at the moment.

Bill Sandland: As far as possible, yes.

The Convener: They will be in no worse condition when they are returned to the owner.

Bill Sandland: Perhaps Ms Gorlov would like to take that one.

Alison Gorlov: Again, convener, I draw attention to what the bill obliges the authorised undertaker to do. Section 17(4) states that, before the land is handed back, the authorised undertaker has to take away anything temporary that he has put up. In the case of an access road, that might be fences or something—I speculate; I do not know. He then has to

"restore the land to the reasonable satisfaction of the owners".

I ought perhaps to add that the bill provides that that does not have to involve replacing a building; however, here we have had special discussions about the buildings.

The Convener: That is extremely useful. Mr and Mrs Pretswell might not have been familiar with the bill, but they will now have some of the assurances that they have been seeking for some time. Mr McKie, do you have any further questions for Mr Sandland on the issue?

Alastair McKie: Mr Sandland, do you have before you the promoter's response to objections? It says, at the top of the page:

"Waverley Railway (Scotland) Bill ... Response to Objections ... Mr & Mrs Pretswell (Objection 60)".

Do you have that?

Bill Sandland: I have that.

Alastair McKie: Please read paragraph 1 of the promoter's response to the objectors.

Bill Sandland: Paragraph 1 states:

"To undertake remedial works to the viaduct it will be necessary to access and work within the Objectors' land. The remedial works will involve masonry repairs, remedial works to the banding and any de-vegetation. To facilitate this it will be necessary to erect a method of access, such as scaffolding, to reach the viaduct piers and arch barrels."

Alastair McKie: Do you have before you the response from the objectors to the promoter's response? It says "Waverley Railway (Scotland) Bill" at the top and is entitled "Mr & Mrs Pretswell (60)". It starts:

"Topics arising from objections to be pursued—".

Bill Sandland: I have that.

Alastair McKie: I ask you to scan down to paragraph 1 under the heading:

"Detailed written evidence for Mr & Mrs Pretswell."

Please read that first paragraph.

Bill Sandland: That paragraph says:

"We fully understand why our land and buildings are noted for temporary possession. Engineers will need to do repairs etc to the viaduct."

Alastair McKie: Thank you. That is all.

The Convener: On the impact of the railway on land value, financial investment and business operations, the witnesses for the promoter are Bill Sandland, Alison Gorlov and Andrew McCracken. Mr McKie, does any of your witnesses wish to give a brief outline of where matters stand in relation to land values and impact on business?

Alastair McKie: The promoter rests on the existing evidence, as stated. Douglas Muir would be the appropriate person to give any required evidence in relation to redevelopment potential.

The Convener: Mr Pretswell, do you have any questions on the subject of land value and impact on business?

Angus Pretswell: To be honest, we can rethink our objection and perhaps reduce it. Most of our biggest fears have been addressed. The buildings were our main priority, as they have been there for a long time and we wish them to remain there for a long time. I use them for various things at various times. Much of our objection can now be reduced.

The Convener: In a few moments' time, you will have the opportunity to give that evidence, when you are called as a witness instead of as a questioner. Thank you.

On long-term use of the land and reinstatement of land as fit for use, the witnesses for the promoter are Bill Sandland, Alison Gorlov and Andrew McCracken. Mr McKie, do you wish any of your witnesses to give a brief outline of where matters stand in relation to the objection?

Alastair McKie: The promoter rests on the existing evidence. However, if the committee requires evidence on section 17 of the bill, Ms Gorlov will be able to answer your questions.

The Convener: Mr Pretswell, do you have any questions for the witnesses on land use and reinstatement?

Angus Pretswell: No. To be honest, I believe at this stage that the things that we had fears about will be quite okay. However, we have been in the dark about everything. If we had been given answers before now, we would not have needed to waste your time and ours at today's meeting.

The Convener: Do committee members have any questions for the witnesses on land use and reinstatement?

Members: No.

The Convener: Mr McKie, do you have any further questions for the witnesses on land use and reinstatement?

Alastair McKie: No.

The Convener: I suspend the meeting for a few moments to allow the witnesses to change over, so that Mr and Mrs Pretswell can take their seats.

12:16

Meeting suspended.

12:17

On resuming—

ANGUS PRETSWELL and CAROL PRETSWELL took the oath.

The Convener: We turn to the acquisition of land and buildings. I invite Mr and Mrs Pretswell to comment on whether they accept the promoter's evidence on where matters stand on the acquisition of land and buildings.

Carol Pretswell: Having heard the promoter's evidence, we understand that our buildings will not be removed. I hope that it can confirm that or, if the buildings are removed, can confirm that they will be reinstated.

The Convener: Mr McKie will question you on the acquisition of land and buildings in a moment, but is there anything else that you wish to say before he does so? If there are any points that you would like to make, you should make them now. Are you quite happy to proceed to questions?

Carol Pretswell: Yes.

The Convener: Mr McKie, do you have any questions for Mr and Mrs Pretswell on acquisition of land and buildings?

Alastair McKie: Just a few, convener.

Mr Pretswell, you have given evidence that you have been kept in the dark, but do you agree that the promoter wrote to the clerks—you will have had a copy of that letter—to confirm that the purpose of the temporary access is to repair the viaduct?

Angus Pretswell: I can confirm that the promoter wrote to me. I have been quite unclear as to the motives of the promoter or the promoter's agent. I did not answer the promoter's last letter because I felt that we were not being given the answers—indeed, I felt that we were being given the runaround.

Alastair McKie: Do you agree that the promoter wrote to you in the form of this submission to confirm the purpose of the access?

Angus Pretswell: The promoter wrote to tell us about the purpose, but the actual use of it was not made clear. If it had been, we would not be sitting here asking about it.

Alastair McKie: Is the use for temporary access not set out as Mr Sandland read to the committee earlier this morning?

Angus Pretswell: I am sorry—I do not quite understand the question.

Alastair McKie: Is the purpose for which the promoter seeks temporary access not clear from the first paragraph of the document, which you will have received?

The Convener: I must interrupt at this point. I do not think that this line of questioning is helpful. This morning the promoter gave undertakings that Mr and Mrs Pretswell have been seeking for some

time. I ask Mr McKie to question the witnesses on any outstanding matters.

Alastair McKie: Mr Pretswell, do you agree that the promoter has assured you in writing that the stone-built workshop will not be damaged in any way?

Angus Pretswell: The only assurance—or form of assurance—that we ever received in writing was sent to us by the committee. Up to this point, we have not received any assurance. The promoter sent us a letter that said that

“there appears no reason why the premises need to be demolished”,

but that comment is not conclusive and provides no guarantees. As a result, I am sorry, but I disagree with what you say.

Alastair McKie: Can we agree that you have now received those assurances?

Angus Pretswell: I did not take them to be assurances, because in the same letter—

Alastair McKie: I am sorry, Mr Pretswell—I was referring to what you have heard today.

Angus Pretswell: We have without a doubt heard those assurances today.

Alastair McKie: If that is the position, I have no further questions.

The Convener: Thank you, Mr McKie. Do members have any questions for Mr and Mrs Pretswell on this matter?

Members: No.

The Convener: In that case, we will turn to impact on land value and on business. I ask Mr and Mrs Pretswell briefly to outline the position with regard to their objection and whether they feel that any outstanding issues need to be dealt with.

Carol Pretswell: Obviously, based on what we have heard today, the issue with regard to the impact on land values will be dropped. However, if the bill is passed, our property will be possessed temporarily, which will obviously impact on us.

The Convener: Thank you. Mr McKie, do you have any questions?

Alastair McKie: No, convener.

The Convener: Do committee members have any questions on impact on land value and on business?

Mr Brocklebank: I wonder whether the objectors could enlarge on how the loss of these structures for a year will impact on their business.

Angus Pretswell: The problem is that we will need to find other premises to relocate to. At the moment, we are storing a lot of stuff in this

property, and it will have to be moved to another property and then brought back a year later.

Some of the promoter's documentation has insinuated that the property is not very secure. However, we have either rented or owned the property for 30 years now and it has only ever been entered without our permission when the promoters went in at unreasonable notice. We think that the place is very secure and we now have to find somewhere else that is just as secure. Moreover, as far as logistics are concerned, our current property is within 500yd of a major road network.

The other point is that I have a truck. In itself, that is not a problem, but to run a truck one has to have an operator's licence. To hold an operator's licence, one must have either a suitable place to do maintenance and repairs or a maintenance contract with an outside contractor. I am on the Department for Transport's register of people who can do their own work. If I lose the property and I do not get another that gives me the facilities that I need to service my vehicle, I will lose the ability to do my own repair work and I will have to contract it out to someone else. That would not be too much of a problem, but if I do that I might not get my status back afterwards. The facilities that I need are not technical; the shed contains a pit that is suitable for carrying out repairs and maintenance. The problem is simply that it will be difficult to find another building with a pit in it in the locality. That is the only problem.

Mr Brocklebank: Has the promoter been able to resolve your difficulties? Have there been any suggestions about how they could be alleviated?

Angus Pretswell: If the promoter had come up with a suitable alternative site, I would have removed my objection right away. If I had received some help with the matter, there would have been no problem, but no help has been offered. If help had been offered, I would not be sitting here. My objection can easily be removed. I have no problem with the principle of the railway; I believe in the use of rail and in the reinstatement of the Waverley railway. I have no problem with that.

The Convener: As I understand it, the bill ensures that, if you need to relocate as a result of the promoter's access, you will be compensated for that. At the moment, the situation is such that you might not have to move out.

Angus Pretswell: We have not been told that. I am being frank with you. My neighbour in the next property has already been assured that he will not have to move out. On 12 January at 11am, in front of the property, he categorically told me and my wife that he had received the assurances that he needed. If the same help had been available to us, we would not be objecting now.

The Convener: Mr McKie, do you have any questions for Mr and Mrs Pretswell on the topic of land use and reinstatement?

Alastair McKie: I have none, convener.

The Convener: Do committee members have any further questions on the issue?

Members: No.

The Convener: Mr and Mrs Pretswell, do you have any further comments to make in relation to the questions that you have been asked?

Angus Pretswell: We have no further comments to make.

The Convener: Mr McKie, you now have a maximum of five minutes in which to make a closing statement.

Alastair McKie: The promoter rests on its written and oral evidence. However, in view of what Mr Pretswell said, it would be prudent for the promoter to write to the objectors and offer to meet them to discuss their concerns about the potential relocation of their business and the question whether they can remain. That can be worked around with the scheme.

The Convener: Thank you. You took the words out of my mouth. The committee expects the promoter to get in touch with Mr and Mrs Pretswell at the earliest possible opportunity to ensure that there is clarity on all sides about what is intended.

Mr and Mrs Pretswell, you now have a maximum of five minutes in which to make a closing statement if you wish to do so.

Angus Pretswell: We have no closing statement to make. Everything that we needed to know has been answered.

The Convener: Thank you for coming to give evidence. I hope that it has not been too much of an ordeal for you.

12:29

Meeting suspended.

13:31

On resuming—

The Convener: Our sixth group today is group 19, which relates to the objection from the residents of Victoria Gardens. I welcome to the meeting Berend Meijer, who will ask questions on behalf of the objectors.

Mr Meijer, I think that you heard me explain earlier today that Margaret Smith, one of our committee members, has taken ill. Are you content for Margaret Smith to view a recording of the meeting or read the *Official Report* of it to allow

her to participate in the future consideration of your objection?

Berend Meijer: I am quite happy with that.

The Convener: Mr McKie, is the promoter also content with that?

Alastair McKie: The promoter is content, convener.

The Convener: I remind the witnesses that, in its preliminary stage report, the committee addressed the adequacy of the environmental statement and, in particular, the methodology that the promoter used to assess the noise and vibration impact. Therefore, questions on the methodology will not be admitted.

On noise and vibration, the witness for—

Berend Meijer: Excuse me, will you clarify that point?

The Convener: I thought that I had made it clear.

Berend Meijer: Are you saying that the committee has accepted the limits that are used in the environmental statement and that they are not discussable?

The Convener: At preliminary stage, the committee was satisfied with the environmental statement and by the methodology. Therefore, we will not admit questions on the methodology that the promoter used to assess the noise and vibration impact. However, if you ask your questions, we will play it by ear and I will give you a ruling at the time.

Berend Meijer: We will see how it goes.

The Convener: On noise and vibration, the witness for the promoter is Steve Mitchell. Mr McKie, do you wish Mr Mitchell to give a brief outline of where matters stand with the objection on that issue?

Alastair McKie: I have a number of questions for Mr Mitchell, but I will pass through them as quickly as I can.

Good afternoon, Mr Mitchell. Are you a member of the United Kingdom Institute of Acoustics?

Steve Mitchell: Yes, I am a member of the Institute of Acoustics. I also serve on the committee of the institute's environmental noise group. The institute has 2,500 members. That might surprise some members of the committee, but lots of people in the UK are qualified in acoustics. I am pleased to be able to represent the environmental noise group, which is the largest group in the institute, at the Waverley Railway (Scotland) Bill Committee.

Alastair McKie: Mr Meijer has challenged the average noise value that is used in the noise and vibration policy statement. That value is referred to as the L_{Aeq} . Will you confirm the source of the use of L_{Aeq} ?

Steve Mitchell: Until now, I have referred to L_{Aeq} as the equivalent noise level. Numerous documents tell us which noise levels to use for different sources of noise, but planning advice note 56 recommends the use of that. I think that the committee was handed PAN 56 earlier on. Under the heading “noisy development”, on page 10, is the subheading “Noise from Railways” under which is paragraph 22, which tells us:

“The method set in *Calculation of Railway Noise* ... will also be of assistance in predicting railway traffic noise.”

“Calculation of Railway Noise” tells us how to predict L_{Aeq} , which is the only noise metric that it gives guidance on.

Alastair McKie: You refer in the noise and vibration policy to a peak level of 82dB not being exceeded. Can you confirm for the committee’s benefit the source of that level?

Steve Mitchell: Yes. Annex 1 to PAN 56 has a table, footnote vi to which gives the value of 82dB. It is worth knowing where PAN 56 gets that 82dB figure from, so for that reason I submitted to the committee a document that I call the Mitchell report, which makes it easier for me to remember. Its more formal title is “Railway Noise and the Insulation of Dwellings”. A committee that was chaired by someone who shares my surname produced the report in 1991. The Government of the day convened the committee to recommend noise levels for insulation due to railway noise, and the committee went away and studied the matter with a group of about a dozen experts in the field at the time.

It is probably worth showing the committee the reference to 82dB in that report. The Mitchell committee’s remit was to recommend noise insulation levels and it did that in section 9 of its report. Paragraph 15, on page 48, recommends a noise level of 85dB for noise insulation. That is the noise level at the façade of a building, so there is a difference of 3dB with our figure of 82dB.

The Convener: Can I stop you just for a minute? Mr Meijer, do you have a copy of this report? It was sent to you, but I wonder whether you would find it helpful to have a copy in front of you, given the references to it.

Mr Meijer: I have a copy with me.

The Convener: Okay. You may continue, Mr Mitchell.

Steve Mitchell: The Mitchell committee gave that recommendation to the Secretary of State in

1991, along with L_{Aeq} levels. For reasons about which I am not completely clear, the Secretary of State did not adopt the maximum noise level in the regulations; nonetheless, the learned committee reported that number at the time, which was based on the available research. It was subsequently adopted in planning policy guidance 24, which is the English equivalent of PAN 56, then fed through to PAN 56.

Alastair McKie: Thank you, Mr Mitchell.

What is the source of the standards that require a daytime value of not exceeding 55dB and a night-time value of not exceeding 45dB?

Steve Mitchell: There are numerous academic research papers on annoyance as a result of noise, but they are conveniently summarised in annex 1 to PAN 56, which has a large table that contains those values, under the heading “Noise Exposure Categories”.

Alastair McKie: Are you aware of any other railway schemes that have adopted standards similar to those in the promoter’s noise and vibration policy?

Steve Mitchell: Yes. I have worked on about 20 rail or light rail schemes and have assessed the noise and vibration impact. In many cases, I was tasked with developing a mitigation strategy. In the past five or six years, at least six schemes have adopted as design targets noise levels that are similar to the ones in the policy. The precursor to those was the docklands light railway, although that is obviously not heavy rail—I think that I referred to it last week. It uses L_{Aeq} noise limits that are similar to the limits that we have talked about: 55dB for daytime and 45dB for night-time. In fact, the night-time value is a little higher than our standard, which makes our standard more stringent.

Another scheme went through a planning process rather than a parliamentary bill process, as it was a railway test track. It was a heavy rail scheme, albeit under test conditions, and the planning conditions for permission to operate the railway were a 55dB daytime limit and an 82dB peak limit. Another example is the Edinburgh tram scheme. I was the principal author of the noise and vibration policy for that scheme, which was last revised in December and which adopts exactly the same target levels and noise insulation levels as are in the present policy. The Edinburgh Tram (Line Two) Bill Committee has reported and the Edinburgh Tram (Line One) Bill Committee is due to report fairly soon. I am sure that those committees have referred or will refer to the noise and vibration policy as an element of the promoter’s case.

In my experience of noise mitigation standards, I have not come across any promoted scheme with

lower standards. Furthermore, Mr Meijer, who has researched the subject at some length, has not been able to tell me of any railway for which lower standards have been set.

Alastair McKie: To clarify, when you give evidence about “lower standards”, do you mean lower thresholds?

Steve Mitchell: Yes, I mean lower noise levels and therefore a better standard. To be clear, I am not aware of any railway that has set more stringent noise standards than those that the committee has before it in the noise and vibration policy.

Alastair McKie: In paragraph 15 of Mr Meijer’s response to the promoter’s written evidence, he mentions the noise reduction properties of single and double glazing. Do you accept his challenge that they do not provide the sound insulation that you maintain they do?

Steve Mitchell: In my evidence, I suggest that a single-glazed window would reduce noise by about 28dB and that a typical thermal double-glazed window on a modern property would reduce it by about 33dB. Mr Meijer believes that I am wrong and suggests that the value should be nearer 20dB or 22dB. I met Mr Meijer last week and showed him my reference for those documents, which is PPG 24, which is the English equivalent of PAN 56, which gives guidance on the issue. I think that Mr Meijer accepted that my figures are more accurate than his.

Alastair McKie: Do you agree with my calculation that, contrary to paragraph 16 of Mr Meijer’s evidence, which mentions “a 20 dB difference”, the difference would be 8dB or 9dB?

Steve Mitchell: That is right. The point is not trivial. Our opinions on window performance—we are talking about thermal double glazing—differ by well over 10dB. In subjective terms, that means that the noise would be twice as loud according to Mr Meijer. There is not a marginal difference, but a large difference between Mr Meijer’s description of the internal noise and my description of it when the window is closed.

13:45

Alastair McKie: Let us move on from the standards that the promoter has set to the noise and vibration conditions that exist in Victoria Gardens. Have you visited the location? You said that you went to see Mr Meijer. I assume that you visited Victoria Gardens on that occasion. Will noise mitigation be required there?

Steve Mitchell: I met Mr Meijer twice to discuss noise and vibration. Although I did not meet him at his house on either occasion, I have been to the property to investigate the lie of the land and so

on, as have colleagues of mine on other occasions.

It might be worth referring to the plan—not the first plan, but the fourth plan—because Victoria Gardens is on the edge of it. I think that the committee has made a site visit there, but I will refresh members’ memory. To the north is the Newbattle viaduct and, off to the south, the railway drops into a cutting. Opposite the northern section of Victoria Gardens, the railway is elevated slightly. The nearest property is 23 Victoria Gardens, which unfortunately is not shown on the plan, which is about 20m from the railway. The train’s speed will be about 60mph going through that point, as it accelerates away from the station. The predicted noise levels are very close to the thresholds that we have set. I would describe them as being marginal. For the sake of clarity, perhaps I should outline what they are.

It is predicted that the night-time noise level—which is nearly always the critical figure—will be 47dB; our target is 45dB, but given that we are looking at an uplift of 3dB, the noise level will be marginal. Mr Meijer raised that some time ago, certainly before I met him for the first time, which was more than a year ago. We re-examined the calculations—in particular, those for the viaduct, which could elevate the noise slightly—and came to the conclusion that the noise levels will be marginal and that we ought to undertake to have a noise barrier in place. I make it clear that the promoter will build a noise barrier opposite this part of Victoria Gardens and that its minimum height will be 1.5m. That noise barrier will deliver approximately 11dB of attenuation, which will bring the noise levels down so that they fall comfortably within the noise policy target. The maximum noise level that is predicted without a barrier is 78dB; with a barrier, it will be about 68dB.

Alastair McKie: Thank you, Mr Mitchell. Earlier this morning, you circulated a sheet of photographs of a 2m-high railway noise barrier. Is that representative of the type of barrier that you might recommend at this location?

Steve Mitchell: Yes. The sheet shows four photographs of a noise barrier that were taken at the railway test track to which I referred, which is in a village called Saxelbye, just north of Melton Mowbray. The objective of that noise barrier is to achieve the 82dB standard for peak noise level at a property nearby. On the back of the sheet you can see the property, which is called Old Station House. The barrier that is shown is a little bit higher than the one that we are talking about. If you turn back to the front of the sheet, you will see that although the barrier looks very much like a timber fence from one side, it is just possible to see black sections on the railway side. They are

the barrier's absorptive face, which make it more effective by preventing noise from reflecting off it.

Alastair McKie: You have given evidence that the standards would be met with such a barrier. For the committee's benefit, will you demonstrate what would happen if an application were made for housing in close proximity to the railway when it was operational with the noise barrier? How would such an application be dealt with under the planning system?

Steve Mitchell: As it happens, there is a bit of open land just to the north of Victoria Gardens. Hypothetically, somebody could want to build a house just to the north of 7 Victoria Gardens, once the railway was operating and we had met the noise standards. Let us suppose that we had only just met them and that we had achieved exactly the minimum mitigation to meet the noise standards. In that case, we would use a section of PAN 56 to describe the noise exposure category of the site.

There are four noise exposure categories, each representing an increasing seriousness of noise. By meeting the standards, we would ensure that the plot of land on which the new house was to be built would be in category A, which is the first noise exposure category. In that situation, noise exposure category A would tell us that noise need not be considered as a planning matter.

That is not the case that we are considering today. Nonetheless, it tells us that by meeting the noise reduction standards, we achieve a noise level that is considered very acceptable for new housing. In fact, with mitigation, new housing is accepted in much noisier situations. Although the situation that you describe is hypothetical, I hope that I have explained that the standards that we have adopted could not be considered as creating an unacceptable noise environment. If the standards were unacceptable, the planning system that we have in this country would permit us to build new houses in unacceptable situations all over the place, and that is not the case.

Alastair McKie: If Mr Meijer's proposed L_{Amax} of 60dB were to be met, what magnitude of noise barrier would be required at Victoria Gardens?

Steve Mitchell: Mr Meijer feels that the maximum noise level outside his property should be roughly 60dB. Achieving that at Victoria Gardens—some 20m from a railway that is not at full speed—would require a noise barrier approximately 4m high. Such a noise level would be achievable in that location, but it would not be necessary. Such a level would be very much harder to achieve elsewhere on the railway. We would require much larger structures to attenuate noise.

Alastair McKie: Are you aware that Mr Meijer has carried out his own assessment of noise levels at his property?

Steve Mitchell: Yes. Mr Meijer has carried out a great deal of research and has diligently looked into the noise climate that he can expect and how he may feel about it. He also made a background survey of the current noise levels. I cannot comment on which guidance he may or may not have used, but I am happy to take it at face value.

Mr Meijer reports that during the night the noise levels in his back garden showed two peaks of a little bit above the 60dB level. That is only two peaks on a particular night, but the next night there might have been no peaks greater than 60dB or there might have been half a dozen. I do not know. However, what Mr Meijer's assessment tells us is that his property and the properties around it already have noise levels above a peak of 60dB. The dozen or so surveys that we have done along the route also showed noise levels above a peak value of 60dB.

In 2000, a survey was done of England and Scotland that covered 1,160 sites. Again, measurements were taken in front gardens, which tended to be next to roads and access. Nonetheless, the measurements were representative of the whole community, across the country. Every single one indicated a noise level at night that peaked above 60dB. If 60dB is the figure at which people suffer from sleep disturbance, I am afraid that we all do. I do not believe that that is the right figure.

Alastair McKie: My last question concerns vibration. You have set out in the policy paper that standard BS 6472 will be met. What is your source for using that standard?

Steve Mitchell: Paragraph 23 of PAN 56. Under the heading of "noisy development" and the subheading "Noise from Railways" it states:

"Advice on acceptable levels of vibration can be found in BS 6472".

The noise and vibration policy adopts exactly those standards. They include the vibration unit—the vibration dose value. I have given Mr Meijer two or three sets of data that indicate that we can achieve those levels at his property. When we met last week, I think that we agreed that those vibration levels will be achieved.

Alastair McKie: I have no more questions for the witness.

The Convener: Mr Mitchell, will the noise value to which you refer extend all along the rear of the Victoria Garden properties or along only part of the length?

Steve Mitchell: It will go along only part of the length because as the railway runs south, it drops into a cutting, although if you like it is already on an embankment. It is slightly confusing as the railway will be raised relative to the ground, but as it drops south across the footpath that you may have noticed, in the builder's yard, it will begin to drop and will cut into the existing ground level. There will come a point at which the cutting and earth bunding do the same job as a noise barrier. At that point, the barrier can stop.

The Convener: Which houses will be covered by the noise barrier and which ones will not?

Steve Mitchell: All the houses to the north of the footpath will be covered either by the noise barrier or by the cutting, which will replace its function. Is that a clear enough explanation?

The Convener: We have a problem because some of the houses are not on the map. It would have been useful if all the houses that are affected had been on one of the maps that you provided to us. The map probably covers only up to something like 29 Victoria Gardens. With reference to map 0135, which you have supplied to us, can you indicate how far you would expect the noise barrier to extend?

Steve Mitchell: I am afraid that the map that you have before you stops short of the footpath to which I referred by about four properties. The cutting is shown clearly at the extreme edge of the map. Although I am not certain, I suspect that by that point the cutting would be adequate to provide the noise attenuation that we need. I can refer you to another drawing, but that will not help us very much because at this stage we are not completely clear about the dimensions of the cutting; the dimensions are subject to the detailed design. I know that that is frustrating. The intention is to continue the barrier into the cutting until the cutting provides the same degree of noise attenuation.

The Convener: The committee would find it extremely helpful—indeed necessary—for you to provide us as soon as possible with a better map that shows exactly where the noise barrier will go and where it will stop. I ask the promoter to furnish the committee with such a map as soon as possible.

Alastair McKie: That will be done.

The Convener: Steve Mitchell referred to the Edinburgh tram. Is the promoter of the Waverley line offering as good a scheme for insulating properties that will be affected by noise as that which will be available under the tram bills?

14:00

Steve Mitchell: There will be insulation, but there are other things that we will try to do. I think

that your question is specifically about insulation and not the wider package of mitigation. The simple answer is that the noise insulation standards are the same for the two schemes, although we have a more detailed description for the tram in the annex to the policy document on monitoring protocols and such like. We have not given as much detail for the Waverley scheme. We were asked some very detailed questions by experts about how the tram scheme would be monitored, who would do what, how many times and that sort of thing. We endeavoured to answer all such questions.

In this case, noise monitoring will still be done—that commitment is clear—but the details will be agreed with the technical officers in the environmental health departments of the councils, which is where noise monitoring and auditing expertise normally live.

The Convener: If that is where they normally live, I admit that I am rather confused as to why such detail about proposed monitoring was available on the Edinburgh tram bills but seems to be lacking in this bill. Is that because people have not been asked the right questions—as you suggest—or is there another reason why we do not have that level of detail?

Steve Mitchell: There is certainly no intention to adopt less mitigation; it is a matter of how much detail one puts into a policy document. We did not expect people to be as interested as they are in having so much detail on the monitoring regime for the tram scheme. We were asked many direct questions about the tram scheme, so we answered them in that way.

The Convener: Do you agree that monitoring is no less important to people who will be affected by the Waverley Railway (Scotland) Bill than it was to people who were to be affected by the Edinburgh tram bills? Will the monitoring regime for the Waverley scheme be as strict as possible?

Steve Mitchell: I do not accept that we expect monitoring to be less important. It is very important that noise mitigation measures be commissioned effectively through a monitoring exercise. There is simply a question about how much detail we have put into the document. On the Edinburgh tram scheme, three expert witnesses were interested in those details and were familiar with the terminology and protocols that are used.

The Convener: Thank you.

Mr Meijer, do you have any questions for Mr Mitchell?

Berend Meijer: Yes, I do. My first question goes back to what you said about a noise barrier. First, I point out that the drawing to which you referred does not show any of the properties along Victoria

Gardens, so your reference to the cutting on that drawing does not relate to the situation at Victoria Gardens. However, if you can give me a guarantee that, either through noise barriers or other means such as the proposed cutting, there will be a reduction in noise levels of about 11dB along the length of Victoria Gardens, I will be quite happy with that. Is that a statement that you can make?

Steve Mitchell: That is a statement that I could make, depending on the starting point. What would the 11dB reduction be relative to? I make it clear that the reduction should be relative to the calculations that we have currently done, which assume no screening at all, as I am sure you understand.

I did not see the drawings until this morning, so I apologise that they do not show your properties. Where the railway falls into a cutting, at number 41, for example, the cutting might already provide a 10dB noise reduction. We will not make another 10dB reduction on top of that—we just want to attenuate the section at the north, which is directly exposed and will be without screening, by about 11dB. The commitment is to provide a barrier that will be 1.5m high in that place.

Berend Meijer: I take it that you are saying that whether there is a noise barrier or a cutting, the overall effect will be an 11dB reduction.

Steve Mitchell: Yes—relative to the unscreened situation.

Berend Meijer: Okay. I have some questions about planning advice note 56. Do you agree that that document gives guidelines for new residential developments along an existing noise source and not for the opposite situation?

Steve Mitchell: PAN 56 gives guidance on all sorts of aspects of planning and noise. In fact, about three-quarters of the document does not relate to new housing; about a quarter of it does.

Berend Meijer: Do you agree that the limit values in that document for the different noise exposure categories are related to new housing developments along an existing noise source?

Steve Mitchell: There are four NECs—A, B, C and D—and I am sure that you are familiar with them. One would use that rating system for considering new housing. I have not used that rating system; I have used just the threshold that sits at the bottom of those categories—noise exposure category A.

Berend Meijer: PAN 56 recognises that there is a difference between people who choose to live in a noisy environment and people who are subjected to a new noise source. I read that as meaning only that PAN 56 advises the use of lower criteria for the latter case, which would be

relevant for the Waverley railway. Do you agree with that?

Steve Mitchell: No.

Berend Meijer: Why not?

Steve Mitchell: I do not agree with your opinion on that. I have not read such an interpretation of the guidance.

Berend Meijer: We have read it differently.

You are familiar with the proposed Edinburgh tramline 1 and have just referred to it. The threshold levels that were chosen for the Waverley railway and for tramline 1 are identical. Tramline 1 runs through a mainly urban environment, whereas the Waverley railway will run mainly through rural and semi-rural environments. Is not that reason enough to lower the limits for the Waverley railway, compared with those for tramline 1?

Steve Mitchell: I am trying to think of the easiest way of answering that question. Earlier today, I was asked some questions about threshold levels. I explained that, provided that the tram or train noise level is below those thresholds, the noise levels will not be high enough to cause disturbance or community annoyance.

Perhaps I can add something helpful to my previous answer. Once you get into noise exposure category A for new housing, or below a daytime L_{Aeq} of 55dB or a night-time value of 45dB, you are into the zone in which all the social surveys show that the community would not be seriously annoyed by noise. That research on noise annoyance is not to do with introducing new sources of noise or introducing new houses. It is general research that shows, fundamentally, how much noise annoys people. There are copious studies to show that if noise is below those values, the community in general does not suffer noise annoyance. That is the true reason why we have adopted the values. They are in PAN 56 as a way of endorsing them in national practice.

I am not sure whether that answers the second part of your question.

Berend Meijer: It probably does not answer it entirely, but I would like to come back to annoyance and related issues a little later.

Steve Mitchell: I have remembered that the second part of your question was to do with the rural setting of the railway, compared with the more urban setting of the tram. Some of the tramline is not urban; tramline 2 will go out towards the airport—which is noisy, I grant—but it passes other areas that are not so built up. Tramline 1, which was my particular focus of study, will also pass through a disused rail corridor called the Roseburn corridor. As it happens, that is

the section that may not be built initially, but the bill nonetheless seeks rights to build that section. The ambient noise levels in parts of the Roseburn corridor are substantially less than they are at your property. The daytime L_{Aeq} values fall into the 40s and the night-time L_{Aeq} values fall below 40dB, which is quieter than the levels at your property. The same policy has been applied for the whole tram route.

Berend Meijer: If this was all about tramline 1, I would ask you why you have used the same limit across the whole length of the route. However, since we are talking about the Waverley railway, I will not ask that.

The Convener: That is good thinking. Continue.

Steve Mitchell: We have not used quite the same standard because, as I explained earlier, once the ambient levels get above the thresholds—in places such as Princes Street, for example, noise is clearly above the thresholds—we look to control the noise increase by less than 3dB. On the busy roads that the tramline would follow, the vehicle would be allowed to make a lot of noise without having a significant effect. We have to use the same standard everywhere.

Berend Meijer: I would like to deal with peak levels. In PAN 56, you have used the end values of category B—the low-end and high-end values—as threshold and unacceptable noise levels. At night, that means that there is a difference between the two levels of 14dB. Is that correct? One is 45dB and the other is 59dB.

Steve Mitchell: I am sorry—can you repeat the question?

Berend Meijer: In the environmental statement, you have used the start and the end values of category B for the threshold and the unacceptable noise levels. That means that, in the night-time, the threshold level is 45dB and the unacceptable level is 59dB, which means that there is a difference of 14dB between the two. Is that correct?

Steve Mitchell: No, that is not correct. We have never used a figure of 59dB. You are using noise exposure category B, which we have not used. We have said that we will stay in noise exposure category A, all the while meeting the L_{Aeq} values and the peak value.

Berend Meijer: I am referring to paragraph 5.3.3 on page 60 of the environmental statement. I think that the problem is probably due more to a misunderstanding of the question than to anything else.

At the bottom of page 60, you give a threshold of noise impacts that is 45dB for the night-time. In the next line, you give an unacceptable impact level for the night-time of 59dB.

Steve Mitchell: I see where you have got the figures from. If you look carefully, the—

Berend Meijer: I am just trying to establish those values. I am not asking about where they come from.

Steve Mitchell: Yes, but I do not want it to be thought that we are using noise exposure categories. With regard to the unacceptable impact, we are taking the noise insulation levels from the noise insulation regulations that apply in England. We are using that in our judgment of what is unacceptable because we know that, in England, the builders of a railway would have to offer noise insulation at those values. As a fallback option, if we are not able to control noise at source, we would offer noise mitigation through insulation if those values were reached. I have to say that that is not expected on this scheme.

Berend Meijer: Are you saying that you have used the low end of category B—or the high end of category A—as the threshold of noise impacts?

Steve Mitchell: What we have used is the onset of community annoyance. You know as well as I do that lots of documents tell us what levels of L_{Aeq} begin to annoy people.

Berend Meijer: You refer to PAN 56 in the environmental statement. You are saying that the threshold of noise impacts is derived from the end value of category A.

Steve Mitchell: Yes—it is inside category A.

14:15

Berend Meijer: That is the same as the start value of category B. With respect to peak noise, PAN 56 gives 82dB as the end value of category B. I would have expected you to have set a value for the threshold of noise impacts based on the end value of category A which, without giving too much attention to setting an exact value, should be about 14dB less than the current level. As a result, instead of taking 82dB as the maximum desirable peak noise value, you should have set a peak noise value of 68dB.

Steve Mitchell: I think that I know where your question comes from. You are suggesting that the 14dB difference in the L_{Aeq} values should also be reflected in the peak noise values. However, I have not seen any guidance that suggests that. The rationale behind the 82dB level in PAN 56 is to highlight the fact that significant sleep disturbance might occur above such a level and that new properties should not be built in that place. If the level is below 82dB there is no sleep disturbance. There is no question of applying some strange 14dB correction to the values.

Berend Meijer: Perhaps I should rephrase my question slightly. In the environmental statement, you use the 82dB figure for the level of unacceptable impact and the threshold of noise impacts. You do not use two separate values for peak noise, which means that, in principle, insulation will be required above 82dB and that any noise below 82dB will be classed as acceptable.

Steve Mitchell: I am waiting for a question. I am not sure that I heard one.

Berend Meijer: Do you agree that you are using 82dB both as the value for unacceptable noise impact and for the threshold of noise impact?

Steve Mitchell: No, I do not agree. If a scheme would cause sleep disturbance, that would be quite serious and noise insulation would be offered. If there were to be no sleep disturbance, such insulation would not be offered.

Berend Meijer: Do you not think that, as with equivalent noise, there should be a difference between threshold values, below which there is absolutely no problem, and unacceptable impact levels, above which you are forced to implement insulation measures?

Steve Mitchell: No—I do not accept that at all. Annoyance research picks up all those factors. Someone who is woken at night by noise will report it. Indeed, I suspect that that will be the very first source of annoyance.

Berend Meijer: I think that we will have to agree to disagree on this matter.

The Convener: I am glad that you are calling a halt to this line of questioning, because I must confess that I am finding it difficult to work out the point that you are trying to make. It might help the committee if you could outline the changes that you are seeking. I should also point out that the committee has recommended to Parliament that the bill be approved and that Parliament accepted that recommendation.

As our preliminary stage report points out, a peer review that the committee commissioned from Casella Stanger

“concluded that the noise and vibration assessment has, in general, ‘been carried out using the correct prediction and assessment methodology and according to best practice’ but there is a need for assessment of ambient noise and of significance, inclusion of the numbers of receptors affected.”

Casella Stanger was satisfied—and therefore the committee was satisfied—that the correct methodology had been used. Mr Meijer, it would help the committee if you could now tell us what you are trying to achieve, the mitigation measures that you seek from the promoter and the attempts

that the promoter has made to meet your objections.

Berend Meijer: I believe that the limits that have been used, particularly the 82dB limit, are too high. In the little discussion that I just had with Steve Mitchell, I was trying to point out that there should be a difference between the level at which annoyance starts but is not necessarily extremely bad and the level at which annoyance is so bad that insulation measures are needed.

The Convener: Thank you. I point out again that the committee and Parliament have already approved the scheme in principle. What we now seek from you as an objector is an indication of what you would like to see by way of mitigation and where the promoter has got to in assisting you. It might be useful for the committee if you could point to any scheme anywhere that uses lower levels. I will leave that question for you to answer when you are giving evidence under oath. I ask you to move on to address the mitigation that you would like to see.

Berend Meijer: Okay. I will drop my further questions on noise limits.

I do not have any questions on mitigation, because I am fairly happy with the promoter's proposals for a noise barrier. The barrier will guarantee that the noise is within the limits that the promoter set itself in the environmental statement. We do not agree with the limits, but that is a different issue.

The data with which you provided us last Thursday have taken away my concerns about average vibration levels, so I am quite happy with that. I think that that was mentioned earlier. However, we are still concerned about peak vibration levels because we believe that peak vibration levels are more relevant, or at least as relevant, as peak noise levels. Since last Thursday, have you managed to consider the peak vibration levels that we can expect at Victoria Gardens?

Steve Mitchell: First, I would like to pick up on the part of your question in which you referred to average vibration levels. The levels that we discussed last week and the data that we provided use the vibration dose value, which is not an average in the sense that the committee would understand an average to mean. I am not going to give an example about school children, because I do not have the numbers at my fingertips.

Whereas for noise we use an equivalent noise level, what we use for vibration—although it is similar—is substantially more biased towards peaks. Scientifically, it is called a fourth power law. We use the vibration dose value, which is a very unintuitive metric, because it is very sensitive to peaks. By using that metric, we do not need to

consider peaks; the peaks are dealt with in that metric in its own right. There is clear guidance in PAN 56 that that is the right metric to use.

I think that your concern about peaks is that you might feel vibration for a fraction of a second; if vibration was perceptible it might cause disturbance or impact on you. If we were to apply the same rule to noise, that would mean that any noise that we heard would cause an impact, which is clearly not the cause. Perceptibility is not the trigger for impact for noise and it is not the trigger for impact for vibration.

Berend Meijer: I do not want to comment on particular vibration values at the moment. Last week you provided average vibration values, which have made us confident that we are not going to have a problem with average vibration. Can you provide similar data on peak vibration, which will allow us to say that we will step back now because we believe that there will be no problem?

Steve Mitchell: You used the word “average” again, which is misleading. A VDV is not an average; it is a metric that is highly weighted towards peaks. If you are asking me whether I have analysis of peak particle velocities that I can provide you with, I have not done that since we met last Thursday. I do not intend to do it because I do not believe that that is the necessary metric for assessing disturbance to people; it is much more commonly used for assessing damage to buildings, which is why I have talked about it in other contexts.

Berend Meijer: I think that you are aware that we are not happy with using average values rather than peak values, so I ask you to provide us with some indication of the peak values that we can expect.

The Convener: I point out—yet again—that the committee commissioned a peer review on noise and vibration, which concluded that the noise and vibration assessment has, in general,

“been carried out using the correct prediction and assessment methodology and according to best practice”.

The committee wants to find out what your concerns are and what mitigation you are seeking from the promoter. It would be helpful to move on to that.

Berend Meijer: What we are looking for, apart from the peak values, is a noise barrier. That has been agreed to by the promoter, so I have no further questions on that point. That concludes my questions.

The Convener: Mr Mitchell, I understand that on Thursday evening you had a meeting with Mr Meijer. Will you tell us what issues are outstanding?

Steve Mitchell: If you are asking me what issues are outstanding from Mr Meijer’s point of view, I do not think that I can answer that.

The Convener: Can the promoter provide any further information to Mr Meijer that will address his concerns?

Steve Mitchell: We have provided quite a lot of information, admittedly over a fairly long period. I suspect that there are further research data and references that Mr Meijer and I could discuss but, on any mitigation that the promoter is prepared to offer as part of the scheme before the committee today, I do not anticipate producing anything else that could help further.

Mr Brocklebank: I think you said earlier that the barrier that you propose will be of a size that will provide a noise level with which you will be happy, although you believe that Mr Meijer would prefer something bigger. Why cannot the barrier’s height be closer to what Mr Meijer asks for?

Steve Mitchell: There are a couple of parts to my answer, the main one being that we have to set standards for the railway and apply them fairly everywhere, to everybody who may be affected by noise. That is why we have set design targets that we intend to achieve. For obvious reasons, it would be wrong to make too many special cases. The second part of the answer relates to building a noise barrier that has visual disbenefits. I have been involved in cases in which communities have been split about whether they wanted noise barriers, although that may not happen here. However, I do not know what would happen if we were to build a 4m high structure. That is getting on for two storeys high, which would be a big thing to look at. Some people in the community may feel rather differently to Mr Meijer. There are other reasons why we want to meet the standards that we have set and that we will apply to everybody.

Mr Brocklebank: Perhaps we can come back to that with Mr Meijer later.

Gordon Jackson: I want to raise two things: one about noise; and one about vibration. If I have misunderstood you, Mr Mitchell, you will correct me, but you pointed out that part of the analysis of the figures that you used illustrates the noise level at which one would be allowed to build new houses. Mr Meijer inferred that there might be a difference between the situation of people who have lived in a previously quiet area that becomes noisy and people who decide that they will buy a house next to a railway. Anybody who buys a house after the railway has been built will know what they are buying. I get the impression that you do not see any merit in that distinction.

Do you agree that it is worse to impose noise on people who have not experienced it before than to build new houses and say to people, “If you buy

one of these houses, it will come with a certain level of noise"? As a non-scientist, which I clearly am, I see a clear distinction between those two approaches, but I get the impression that you do not.

14:30

Steve Mitchell: I think that there is a distinction. If we look a little bit deeper into planning advice note 56, we see that there are three other noise exposure categories. PAN 56 states that, if noise is in the second category, it should be considered as a planning issue. If noise is in the third category, which is nearly 20dB higher than the levels that we are talking about, mitigation measures will be essential. In the fourth category, the noise level is even higher and one would not be granted permission to build new houses. There is a distinction, but at the bottom of the scale the noise level is usually not high enough to annoy people. That is the target that we have set ourselves.

Gordon Jackson: So it would be possible to build new houses even if the noise level was much higher.

Steve Mitchell: Yes, if mitigation and other measures were applied. If people want to live in the middle of town—if they have the benefit of being able to choose whether to live there or not—they can tolerate much higher noise levels. Permission for housing would not normally be granted in noise exposure category D, but I know of lots of cases in which permission has been granted, probably for the reason that you are talking about.

Gordon Jackson: My other question is on vibration. Mr Meijer seemed to want you to calculate the peak vibration. Again, if I have got things wrong you will correct me, but your response seemed to be, "I have not calculated the peak vibration because that is not necessarily relevant to personal annoyance." I think that you added that it is more to do with damage to buildings. That seems to suggest that peak vibration matters only because it might cause damage, but I would have thought that peak vibration could be pretty annoying, even if it occurs for only a few seconds.

Steve Mitchell: If the peak value is high enough to make people jump, it will be annoying. It would go off the scale of the metric that we use—the rather confusing vibration dose value—because the metric is very sensitive to peaks. We set ourselves a target of a night-time vibration dose value of 0.13. If there was a peak of the type that you describe, the value would be way over that target and it would be picked up by the noise

metric. That is precisely why the noise metric is the right one to use.

Gordon Jackson: If you are doing the calculations, why do you not know what the peak vibration is? How can you work out the weighted average without knowing what the peak is? If you know what the peak is, why cannot you tell the objectors what it is?

Steve Mitchell: I could tell people what the peak values are, but that would not get us anywhere. People will say to me, as they frequently do, "Because the level is above the threshold of perception, the vibration will bother me." I am afraid that the peak values can be misleading. A noise might be audible but it will not necessarily be a problem because noise is around us all the time. In the same way, the fact that someone can feel vibration does not mean that it will have an impact on them. The unit that is accepted in all the guidance is biased towards peaks, and that is the standard that we use.

Gordon Jackson: Am I correct to say that you could tell us what the peak is? I get the impression that you can calculate the peak but that you do not think that it is a good idea to tell people what it is.

Steve Mitchell: Peak values are harder to predict. I have peak data, but, as I say, they can be quite misleading. Even the vibration dose value that I gave Mr Meijer shows quite a wide scatter; however, he managed to analyse it and be comfortable with it.

I suppose that I do not want to publish peak vibration levels because I do not have a standard against which to compare them.

Gordon Jackson: What do you mean by that?

Steve Mitchell: I mean that I do not have a standard or guideline that tells me that a peak noise value of X is too high. Therefore, I do not need to consider it.

Gordon Jackson: The standard is only the weighted vibration. We have not set a standard for when a peak is too high.

Steve Mitchell: That is my point. Why discuss peaks if we do not have a standard so that we can say that there is a problem? In the absence of a standard, people will tend to say that if a peak is above the threshold of perception—which is widely published—it is a problem, although that is really not the case.

Gordon Jackson: But you could tell us the peak if you wanted to.

Steve Mitchell: I could have a stab at it—with a wide margin of error.

The Convener: Mr Meijer, do you have any further questions on noise and vibration?

Berend Meijer: I have no further questions.

The Convener: Mr McKie, do you have any further questions for Mr Mitchell on this issue?

Alastair McKie: I have none.

The Convener: Thank you.

On the impact of the railway on property value, the witness for the promoter is Alison Gorlov. Mr McKie, do you wish Mrs Gorlov to give a brief outline on where matters stand with the objections on that issue?

Alastair McKie: It was my intention simply to rest on the published compensation policy paper.

The Convener: Thank you. Mr Meijer, do you have any questions for Mrs Gorlov on the topic?

Berend Meijer: Yes. I hope that I have fewer questions for Mrs Gorlov than I had for the previous witness.

Mrs Gorlov, you are aware that group 19 is worried about the absence of an early compensation scheme for people living along the railway. We assume that the railway will become operational in 2010, but the policy paper on compensation states that claims will not be accepted until 2011. Is it correct that there is a one-year waiting period after the start of the railway's operation?

Alison Gorlov: You are talking about a very specific type of claim. It might be worth our making sure that we are not talking at cross purposes. I think that you are talking about claims for compensation for any reduction in the value of property as a result of the impact of noise and vibration.

Berend Meijer: That is indeed what I am talking about.

Alison Gorlov: Those claims can be submitted after the operation of the works and for property that the promoter has not compulsorily acquired. The answer is yes—you are right.

Berend Meijer: It can be expected that people will move house before 2011, either because they are not happy with the railway being built or for personal reasons. Will a mechanism be put in place to compensate people who move before they can put in a claim for compensation?

Alison Gorlov: I can say with certainty that just because—please do not take “just” the wrong way—people want to move because of the railway, reckoning that the value of their houses will be reduced, they will not be automatically entitled to compensation.

I do not know whether you looked at the *Official Report* of last week's evidence, but in it there is mention of a voluntary purchase scheme. The

possibility of such a scheme was put forward by Scottish Borders Council to the Executive—it could not be implemented without the Executive's approval. It is not something that one embarks on as a matter of course—not all infrastructure schemes go in for voluntary purchase schemes. The law does not require the compulsory purchase of property that is not required for the purposes of an infrastructure scheme. However, the body that is acquiring the land makes available, on occasion, a voluntary purchase scheme whereby it designates particular types of property that can be purchased or identifies the circumstances under which the effects of the project are so dire that the properties affected ought to be purchased. I cannot speak for the Waverley railway project, because no voluntary purchase scheme is in place, although the Executive is considering something.

A voluntary purchase scheme is designed to catch property that is appallingly badly affected—for example, if what is going on outside the property means that it will become permanently uninhabitable but it happens to be outside the limits of the land that is to be acquired and so is not technically entitled to be acquired under the basic compensation code. The scheme with which I am familiar is the one that was developed for the channel tunnel rail link. The criteria for that were very tightly drawn—for example, if someone had to sell for job-related reasons and their property was uninhabitable. Voluntary purchase schemes are not for properties that have become a bit noisier. Please do not get me wrong: I know that a property that grows a bit noisier can be distressing, but such schemes are not designed to deal with those situations.

Scottish Borders Council does not have a voluntary purchase scheme. As Mr Rutherford said last week, there is a draft voluntary purchase scheme, which is with the Executive. I am not able to tell you whether it will be approved, but I believe that the Executive has been asked to clarify the position. I could not say with any certainty whether a voluntary purchase scheme would cover your property and those of your neighbours.

Berend Meijer: Am I right in saying that there is no way for someone whose property does not fall under the voluntary purchase scheme to claim compensation if they decide to move house before the train has been in operation for a year?

Alison Gorlov: Yes.

Berend Meijer: Do you think that that is reasonable?

Alison Gorlov: To be honest, we all have our own responses, but I have to be a dry lawyer and not a more emotional common man. I am sorry, but that is what I am here for. I do not have to

think about it—personally, I would hate to be in that position.

Berend Meijer: We have to think about it.

Alison Gorlov: Of course you do. The legal position is that that is the way in which infrastructure schemes work, and somebody will always lose out. It is not nice to be on the receiving end of it. I suggest that the policy reason why they work in that way is that, if it was decided that, because a group of people was going to lose out, the infrastructure had to be moved to somewhere else, people in a similar position in the other location would say exactly the same thing. Somebody—on this occasion, the Scottish Parliament—must decide as a matter of public policy whether the infrastructure is so desirably in the public interest that it should be in that place, notwithstanding the fact that some people will be inconvenienced.

I have always looked upon such situations as being about the greatest good for the greatest number. If one is of the lesser number, that might not be awfully comfortable. There will always be some losers, and you might be among them, in which case one can sympathise, but you cannot say that the project ought to bear the costs, because we would not have a train system in Scotland if we took that approach.

Berend Meijer: You have explained the situation quite well. Basically, the people who will pay for the railway will be, at least to some extent, people who did not want the railway in the first place.

Alison Gorlov: There will certainly be some financial losers. That is regrettable, but we say—and we hope that the Parliament will agree—that the benefits of the railway will outweigh that inconvenience for the individuals.

Berend Meijer: I realise that the voluntary purchase scheme is in its early stages and that there is nothing final—

14:45

The Convener: I can perhaps assist. Last week, we had a discussion on the voluntary purchase scheme, as a result of which the committee has written to the Executive and is pursuing the issue actively, to try to ensure that the Executive provides a policy. As Mr Rutherford said in evidence last week, the issue has been in the Executive's hands for some time. We have received an interim reply from the Executive and we are pursuing the matter further. We hope that, in the near future, the relevant minister will come to give evidence to the committee on the subject. I hope that Mr Meijer is content with that.

Berend Meijer: In that case, I have no more questions.

The Convener: As neither the committee nor Mr McKie has any further questions for Mrs Gorlov, I thank her for her evidence. I will allow a few minutes for the witnesses to change over.

BEREND MEIJER *made a solemn affirmation.*

The Convener: We will deal first with noise and vibration. Do you accept the promoter's evidence on where matters stand?

Berend Meijer: Mr Mitchell explained the situation correctly. We are happy that a noise barrier will bring down the levels to below the levels that the promoter has set. We are also happy with the average vibration data that Mr Mitchell has provided.

The Convener: Mr McKie, do you have questions for Mr Meijer on the issue?

Alastair McKie: If the witness is satisfied with the promoter's approach, methodology and thresholds, as stated in the noise and vibration policy, I have no questions.

The Convener: Do committee members have any questions for Mr Meijer on noise and vibration?

Mr Brocklebank: I would like to ask the other side of the question that I put to Mr Mitchell earlier. If you recall, Mr Meijer, he talked about a fence or barrier of about 2m in height to diminish noise and vibration, which you felt was not tall enough. Your suggestion was that a 4m-high barrier might be more acceptable, but Mr Mitchell said that not everybody in your area might be agreeable to a larger fence. Can you give any evidence on your neighbours' views? Would they like the fence to be higher?

Berend Meijer: I cannot speak for all my neighbours on that issue. In January last year, we had a discussion with Mr Mitchell and Douglas Muir, during which we talked about a 1.5m to 2m barrier. The eight objectors in Victoria Gardens were happy with that noise barrier. However, given the situation in Victoria Gardens, I do not expect anybody to have a problem with a higher barrier—I certainly would not have a problem with that—but I cannot at present speak for any of my neighbours.

Mr Brocklebank: If the promoter might be prepared to consider the proposed greater height sympathetically, perhaps you should take evidence from your neighbours on that.

Berend Meijer: I will be happy to talk to my fellow objectors and to the people in the street who have not objected to get their opinion.

Alastair McKie: If I may, I would like to make a point, convener. I have recorded the objector as

being satisfied, but if he seeks a higher barrier, I presume that he is not satisfied, because he seeks a reduction in the L_{Amax} figure toward the standard that is mentioned in his objection. Can we clarify the situation?

The Convener: We seek clarification, Mr Meijer. Are you satisfied, as it appeared from your original statement, or do you seek further mitigation measures from the promoter?

Berend Meijer: I was careful when I answered the previous question. I am satisfied that the proposed barrier of 1.5m will bring the levels down to the limits that the promoter has set. However, I still disagree with those limits. I would therefore be happy with a solution that achieved greater noise attenuation.

The Convener: So, you are seeking further mitigation?

Berend Meijer: Yes.

Gordon Jackson: I may have missed this because I turned my back for one minute. You were asking the promoter for the peak vibration values and we heard an interesting answer from Mr Mitchell. He said that such figures were not really useful because they just distorted the picture. Did I understand that you accepted that answer, or would you still like to know the peak vibration values?

Berend Meijer: I would be interested in seeing some predictions, even if they are rather inaccurate. There is a value at which people start to feel vibrations and Mr Mitchell is correct when he says that that is not necessarily the value at which vibrations should be stopped. However, it is possible to make an engineering estimate. If you are far below the value, you are guaranteed not to have a problem; if you are far above it, you might have a problem. We would like to know where we are in relation to the value at which people start to feel vibrations. I would therefore be happy to know the peak values.

Alastair McKie: I would like to ask some follow-up questions. Good afternoon, Mr Meijer. Do you accept that the L_{Aeq} average noise level that the promoter has used derives from planning advice note 56?

Berend Meijer: Yes.

Alastair McKie: Do you accept that the values for daytime and night-time thresholds—55dB and 45dB—are taken from NEC A of PAN 56?

Berend Meijer: They are the end values of NEC A.

Alastair McKie: Do you accept that the peak value that the promoter is seeking to apply—82dB—also derives from PAN 56?

Berend Meijer: That is correct.

Alastair McKie: Do you also accept that the figure of 82dB—although it is expressed as 85dB—derives from the Mitchell report?

Berend Meijer: I had heard a different explanation, but if that is what Mr Mitchell states, I am quite happy to accept it.

Alastair McKie: Do you accept that the peak value that you are seeking—the L_{Amax} of 60dB—has been exceeded twice in your own background noise assessment at Victoria Gardens?

Berend Meijer: That is true, but we should keep in mind that there were two peaks that were just on the limit in that particular measurement. That is quite different from a situation in which there are those two peaks plus 10 peaks a night at 78dB.

Alastair McKie: Mr Mitchell gave evidence about the national noise incidence survey. Do you accept that, in every location, the value of 60dB was exceeded?

Berend Meijer: I discussed that with Mr Mitchell last Thursday. I went through reports and I agree that 60dB is regularly exceeded. However, even if 60dB is exceeded only once and only slightly, the location is counted. The number of times that 60dB is exceeded is not taken into account, even though that is highly relevant.

Alastair McKie: Mr Mitchell spoke about a number of recent railway schemes and said that those schemes had the same levels as the promoter intends to seek for this scheme. Do you accept that?

Berend Meijer: I cannot comment on that because I am not familiar with any other railway schemes.

Alastair McKie: But you would accept the evidence, given on oath, that the values are similar.

Berend Meijer: I can only accept Mr Mitchell's evidence and take it at face value.

Christine May: Forgive me but I am still a little confused. At the beginning, you seemed to indicate that you were satisfied that a 1.5m high fence would mitigate to the level that the promoter said it would, and that that would be below the thresholds. Then you seemed to be saying that if the promoter was prepared to offer a little bit more, you would take it. I would like some clarification from you. Are you seeking a higher fence, or do you accept that 1.5m is adequate?

Berend Meijer: I will be seeking a higher fence, but I accept that the current proposal brings the noise down below the limits that the promoter has set itself in the environmental statement. If those limits are accepted as valid within those

constraints, I accept the noise barrier proposal as it is at the moment. Does that answer your question?

Christine May: I think so. I think that you are saying that you will leave it up to the committee to determine whether that is reasonable.

Berend Meijer: That is what it comes down to, yes.

Gordon Jackson: You said in evidence—and you were asked about it—that even in your normal life, the noise level goes about 60dB. I appreciate that that is different from noise that comes from a train every so often. Just for my interest, what puts the level above 60dB where you live? What causes those peaks?

Berend Meijer: I do not know. I did measurements but given that they were done at night, I cannot say. I was sleeping at the time so I cannot tell you exactly what caused those noise peaks. There were two noise peaks and I half suspected that they might have been caused by planes going over but I have nothing to prove or disprove that.

Gordon Jackson: Having been there, I just wondered what it was that could cause such a peak.

Berend Meijer: I should point out that that measurement was done at 7 Victoria Gardens, which is closest to the A7, so it represents the worst case for the rest of the houses. They will all be quieter than that particular house.

The Convener: Thank you. I turn to property value and the impact of the railway on property value. Perhaps you could give a brief outline of where matters stand with your objection on that issue.

Berend Meijer: It is very simple. There is no progress whatsoever.

The Convener: Mr McKie, do you have any questions for Mr Meijer on this issue?

Alastair McKie: I have not.

The Convener: Do committee members have any questions?

Members: No.

The Convener: Mr Meijer, do you have any other comments to make in relation to property values?

Berend Meijer: No.

The Convener: Mr McKie, you have a maximum of five minutes in which to make a closing statement.

Alastair McKie: The promoter will ensure that the daytime noise will not exceed 55dB and the

night-time noise will not exceed 45dB. The promoter believes that those standards are robust and are between 10dB and 11dB below the level of noise that justifies insulation under the noise insulation regulations.

The peak night-time noise will not exceed 82dB. The source for all these standards can be found in PAN 56. The standards amount to best practice and have been adopted in the three schemes referred to by Mr Mitchell: the docklands light railway; the Edinburgh trams; and the midlands railway track test. The Scottish Parliament committees that are considering the Edinburgh trams have accepted a very similar policy to that which is before this committee. For vibration, the promoter has adopted the standard BS6472, which is also referred to in PAN 56.

I believe that Mr Meijer is inviting the committee to adopt a standard that seeks to limit noise to below 60dB. In my submission, that is not justified or necessary, for the following reasons. The 82dB maximum put in by the promoter is based on robust evidence and policy and is underpinned by the Mitchell report.

The committee has heard evidence from Mr Mitchell that in the UK national noise incidence survey, noise levels at all the locations exceeded the 60dB maximum threshold, which has also been exceeded in Mr Meijer's background noise assessment.

In addition, a stricter standard than 82dB would have implications for all railway schemes. Those implications would be both visual—the size of the barriers would be an issue—and financial. In some cases, it might simply not be feasible to put in the necessary barriers, which could stop some schemes progressing. It is our position that adopting the standard that Mr Meijer advocates is not justified and not necessary.

On compensation, I make it clear to the committee that the promoter can give no commitment about whether any of the properties in question may fall within the voluntary purchase scheme, details of which are yet to be published.

15:00

The Convener: Mr Meijer, you have a maximum of five minutes in which to make a closing statement.

Berend Meijer: It will be obvious from our written evidence and from the oral evidence that we have given today that we have serious doubts about the validity of the noise criteria that the promoter uses. In our opinion, peak noise should be the main criterion for noise assessments, especially when evaluating night-time noise. We do not think that equivalent noise gives a proper

representation of a fairly constant background noise with occasional noise peaks.

The promoter takes its criterion for peak noise from planning advice note 56. To my knowledge, that document bases its peak noise criterion mainly on the 1992 Civil Aviation Authority study on the relationship between aircraft noise and sleep disturbance. There are three comments that must be made on the 82dB level.

First, we believe that the promoter incorrectly uses that value as the threshold below which mitigation is not required. According to PAN 56, that value should at best be used as the level of unacceptable impact. Secondly, PAN 56 gives two reasons why its noise criteria should be lowered for a project such as the Waverley railway. The first is that the Waverley railway will introduce a new noise source in existing residential areas and the second is that the railway will run mainly through tranquil areas. The promoter has taken into account neither of those aspects. Thirdly, sleep disturbance models predict a much higher probability of awakening than 1 in 75, which the CAA study gives for an 82dB noise peak.

It is our opinion that night-time peak noise should stay below a free-field value of 57dB and that daytime peak noise should stay below a free-field value of 62dB. Of course those limits could be adjusted for locations where the resultant noise would not have a significant impact on the existing noise climate. If those limits cannot be achieved, we believe that the hours of operation and maintenance should be limited to the period between 8 o'clock in the morning and 10 o'clock in the evening to avoid sleep disturbance.

We believe that it is not enough to set limits for average vibration, as the promoter has done. As with noise, average levels do not give a good representation of the peak levels of vibration that occur while a train is passing. People will experience the peak vibration, not a rather artificial average value.

In relation to the payment of financial compensation to house owners and landowners whose property is not subject to compulsory purchase, we ask the committee not to recommend that the bill be agreed to until compensation, advance purchase or another form of financial arrangement has been agreed in principle between the promoter and interested parties.

Last but not least, I thank the committee for giving us the opportunity to appear before it today.

The Convener: Thank you. That concludes the oral evidence for group 19. I will allow a few moments for witnesses to change over.

We will have a slight change in order: I call group 65, which relates to Graham Muir's objection. I ask Mr Muir to take his position at the side table. The witnesses for the promoter on the acquisition of land are Douglas Muir and David Williamson from Midlothian Council, and Andrew McCracken. I invite Mr Williamson to take the oath or to make a solemn affirmation. Perhaps, Dave, you could say which of those you wish to do.

David Williamson (Midlothian Council): I have the wording here with me, convener.

DAVID WILLIAMSON *made a solemn affirmation.*

The Convener: There is a man who comes prepared—well done.

Perhaps, Mr McKie, you would like to ask one of your witnesses to give a brief outline of where matters stand in relation to the group 65 objection.

Alastair McKie: That would be for Mr Williamson, whom I ask to give the committee a short outline of where matters stand. That might include a little of the planning history of the site, which is a bit unusual.

The Convener: If you would like to pour yourself some water, Mr Williamson, we will wait for you.

David Williamson: I have some water, thank you.

It has been difficult to respond to the objection, because Mr Graham Muir has specified to the promoter neither which piece of land is at issue, nor the nature of his interest in it. Midlothian Council wrote to Mr Muir, asking him to provide details of the area of land in which he had an interest, but he declined to respond.

Mr Muir refers to a heritable interest in land at Newtongrange station, but it is not known whether that interest coincides with the site for which he submitted a planning application to build a single house in 1999. If it is the same site, it is the council's understanding that the land for which Mr Muir made the planning application was owned at the time by a Mr Gallo. There is a long planning history associated with the railway cutting in Newtongrange and with Mr Gallo, who acquired a substantial part of the cutting in 1983.

That planning history is not considered to be relevant to this inquiry, although I would be happy to give the committee a summary of it, if required. What is relevant is that the Scottish ministers, in September 2001, confirmed the compulsory purchase order by Midlothian Council of Mr Gallo's land interests. It is understood that members of the committee have a copy of the CPO and of the plan showing the land that is now owned by the council. The site of Mr Muir's planning application in 1999 lies within the land that was acquired by the council by CPO.

The council owns the land under land certificate title number MID10635, the date of first registration being 10 October 2001. Searches dating back to 1955 confirm the ownership position and make no mention of land interests held by Mr Muir. The keeper of the land register would have verified the ownership position and carried out the necessary checks for other relevant interests before granting the certificate. The council is therefore the unchallenged owner of the land.

There remains an unresolved issue regarding the amount of compensation that is due to Mr Gallo for the land that was acquired by CPO. In that regard, the Scottish ministers confirmed a certificate of appropriate alternative development for the land in October 2005. If agreement cannot be reached between the parties—between Midlothian Council and Mr Gallo—the matter is likely to be referred to the Lands Tribunal for Scotland for determination. That is a valuation exercise, however, and is not a matter for the committee.

The Convener: Are there any questions for the witness?

Alastair McKie: I have no follow-up questions. Clearly, the issue for the promoter is whether the objector has any qualifying interest in any heritable property at the location.

The Convener: Do you have any questions for Mr Williamson on this issue, Mr Muir?

Graham Muir: No.

The Convener: Do committee members have any questions?

Members: No.

The Convener: In that case, I will allow a few moments for the witnesses to change over. I ask Mr Graham Muir to take a seat at the witness table.

Mr Muir, I take it that you were present this morning when I explained that one of our committee members—Margaret Smith—has unfortunately been taken ill and cannot attend today's meeting. Are you content for Margaret Smith to either view a recording of this meeting or to read the *Official Report* to allow her to participate in future consideration of your objection?

Graham Muir: Yes.

The Convener: Mr McKie, are you content with that?

Alastair McKie: Yes.

The Convener: Thank you.

GRAHAM MUIR took the oath.

The Convener: Before I invite any questions to Graham Muir, I want to say a few words. Our purpose is to consider evidence that relates to the objections. The objections must relate to the impact of the railway and show how the objector will be adversely affected. The promoter has stated that it is unaware of any land interest that the objector has, either on or adjacent to the railway. I make it clear to the objector that this committee is concerned solely with the proposal for the construction of the railway and the land take that will be required for that purpose. This is not a forum at which to air grievances that relate to any past or current planning issues that are not associated with the railway. Those matters should be dealt with under Midlothian Council's planning process.

I therefore ask Graham Muir whether he currently owns any land that will be subject to compulsory purchase by the promoter for the purpose of constructing the railway and if so, has he received notification from the promoter to that effect?

Graham Muir: Mr Gallo and I are business partners in Estondale Ltd, which owns the land at Newtongrange railway station.

The Convener: In that case, I ask you to produce proof of that to Midlothian Council by way of title deeds.

Graham Muir: I do not have the title deeds with me, but as Mr Williamson said, he checked with the keeper of the records that the land is owned by Mr Gallo and Estondale Ltd. [*Interruption.*]

The Convener: I will suspend the meeting for a few moments.

15:13

Meeting suspended.

15:15

On resuming—

The Convener: Welcome back. Mr McKie, do you have any questions for Mr Muir on the question of title?

Alastair McKie: I do. Good afternoon, Mr Muir. I think I noted your saying that the company that owns the piece of land is called Eskdale Ltd. Is that right?

Graham Muir: It is called Estondale Ltd.

Alastair McKie: Where is the registered office of that company?

Graham Muir: The registered office is at 1 Craigmillar Park, Edinburgh, EH16.

Alastair McKie: Who stays at 1 Craigmillar Park?

Graham Muir: Mr Anthony Gallo, who is my neighbour, stays there.

Alastair McKie: Is the piece of land to which you are referring the same piece of land as is identified on the compulsory purchase order?

Graham Muir: There is a problem with the compulsory purchase order, because Midlothian Council placed a CPO on the land in the deed, but the drawing that it produced does not tie up with the deed. There is a slight difference between the plan and the deed.

Alastair McKie: But it is broadly the same area, subject to some detail.

Graham Muir: Yes.

Alastair McKie: You state in your evidence that you are a partner in Estondale Ltd. Is that right?

Graham Muir: Yes—I am a partner with Mr Gallo.

Alastair McKie: When you say “partner”, do you mean that you are a director of that company?

Graham Muir: I am a financial partner.

Alastair McKie: You are not a director of the company.

Graham Muir: No.

Alastair McKie: Do you still have an interest as a financial partner in that company?

Graham Muir: That is right. That is why we went through the planning process of asking for permission to build a house on the track at Newtongrange.

Alastair McKie: Have you discussed that recently with Mr Gallo?

Graham Muir: Yes.

Alastair McKie: What is Mr Gallo's position?

Graham Muir: We have a case coming up with the Lands Tribunal for Scotland regarding the property.

Alastair McKie: Is your interest as a financial partner recorded anywhere?

Graham Muir: Yes, it is recorded with Mr Gallo. We have a contract, whereby I would apply to build a house on the railway track and find out what the council's response would be, to see whether it would give permission or whether it would keep the land for the railway track.

Alastair McKie: Would that be similar to what we would call in the development industry an option?

Graham Muir: Yes.

Alastair McKie: Is that option in writing?

Graham Muir: Yes.

Alastair McKie: Does it have an expiry date?

Graham Muir: No.

Alastair McKie: It runs without limit of time.

Graham Muir: Yes. We wanted to see the matter through, because we have had great problems with Midlothian Council and the CPO. The council put a path and street lights on the property and is trying to say that it is a public right of way.

Alastair McKie: If the promoter were to write to Mr Gallo asking him to confirm what you have told the committee today, would he say the same as you?

Graham Muir: Mr Gallo is hesitant to write to the committee, because we believe that Midlothian Council has been acting in a fraudulent manner. We have had dealings with it over a number of years.

Alastair McKie: I ask you to pause there. If the promoter or Midlothian Council were to write to Mr Gallo asking him whether you had an extant contract with him—

Graham Muir: I would have to ask him, to find out what his strategy would be.

Alastair McKie: You said that you know him quite well—that he is a business partner.

Graham Muir: That is right, but he has a strategy. We are going before the Lands Tribunal for Scotland. He has to protect his interests in certain ways.

Alastair McKie: I do not quite follow that. I cannot understand why he would have a difficulty with simply confirming what you said under oath today.

Graham Muir: He is not here today because he has a policy and agenda that he is following. The council has against our will placed a CPO on an area of approximately five acres. I did not have a problem with the promoter placing a CPO on the land, but I have a problem with the council doing so ahead of the bill for an amount that we regard as buttons.

Alastair McKie: When was the option—which, you say, maintains with Mr Gallo—signed?

Graham Muir: That was done around 1999. I also point out in response to your question that we asked the council certain relevant questions but it refused to answer us and said that not answering was an economic decision.

Alastair McKie: I am not interested in what is going on with the council—I am interested only in this option. The option was entered into in 1999.

Graham Muir: Yes.

Alastair McKie: Did you use a firm of solicitors to complete the option?

Graham Muir: No.

Alastair McKie: Who drew up the contract?

Graham Muir: Mr Gallo.

Alastair McKie: Mr Gallo drew up the contract. I have no further questions.

Gordon Jackson: Forgive me if I do not always grasp these issues. The piece of land has already been made subject to a CPO. Never mind whether you think it is legal, illegal or whatever: it is subject to a CPO.

Graham Muir: That is correct.

Gordon Jackson: The title on that piece of land is not in your or your colleague's name—it is in the name of the council.

Graham Muir: That is correct.

Gordon Jackson: At the moment neither you nor Mr Gallo have title to the land, although you perhaps think that you should—

Graham Muir: Apart from a small bit.

Gordon Jackson: Apart from a wee bit, you do not have a title to the land.

Graham Muir: Yes. I understand what you are saying.

Gordon Jackson: You might get the situation reversed at the Lands Tribunal for Scotland or you might go to the Court of Session. We do not know about that, but at the moment you do not have a title to the land.

Graham Muir: The deed is in the council's name; it took the land off us without recompense.

Gordon Jackson: That is probably all we need to know. For clarity, in whose name was the title previously?

Graham Muir: It was in the name of Estondale Ltd.

Gordon Jackson: The deed was held by Estondale Ltd.

Graham Muir: Yes. The deed is in different parts—it is not all one deed.

Gordon Jackson: You are not officially on the deed in any shape or form.

Graham Muir: That is correct.

Gordon Jackson: Your name is not on it.

Graham Muir: That is correct.

Gordon Jackson: You are not technically a director of the limited company whose name is on the deed.

Graham Muir: That is correct.

Gordon Jackson: However, you have a third-party relationship that means that if the limited company got the title you would do something in a financial sense?

Graham Muir: Yes.

Gordon Jackson: In that case, you do not really have any title for what we are doing here today, do you? As far as the committee is concerned, you do not really have a reason to appear before us.

Graham Muir: What you are trying to say is that if someone does not have their name on a title deed, they cannot come and speak.

Gordon Jackson: I am asking you what your basis for appearing is. You seem to be saying that your basis is that you have a third-party financial interest.

Graham Muir: Our interests were hurt when the council placed a CPO on the property.

Gordon Jackson: You appreciate that that might be an argument for somewhere else rather than for here.

Graham Muir: Yes. That is why we have to go to the Lands Tribunal for Scotland to sort the matter out.

Gordon Jackson: We wish you well in that journey.

The Convener: Mr McKie, do you wish to make a closing statement? You have a maximum of five minutes.

Alastair McKie: I seek to adopt what Mr Jackson has said. This particular objector does not appear to have a qualifying interest in objecting to the bill. Therefore, I submit that his objection should be ruled as being incompetent.

The Convener: Mr Muir, you have a maximum of five minutes in which to make a closing statement.

Graham Muir: I wish to object to Midlothian Council placing a CPO on our property against our will—

The Convener: I will stop you there. I made it clear at the beginning that that is an issue for elsewhere; it is not for this committee. CPOs are to be dealt with outwith the committee.

Graham Muir: Okay. Can you give me a minute to go through the list to separate one from the other?

The Convener: I am not interested in a catalogue of complaints against Midlothian Council. You may well feel that you have issues, but they are not a matter for the committee.

Graham Muir: I am disappointed that Scottish Borders Council has offered incentives to some objectors, such as the Archdiocese of St Andrews and Edinburgh. The council wrote to it on 9 February 2005 and offered it incentives.

I am disappointed that Midlothian Council is trying to say that Newtongrange railway station is now a public right of way even though it has owned it for only a few years. I have written to the council on numerous occasions asking it to produce the relevant papers under the Freedom of Information (Scotland) Act 2002, but they have never been produced.

The Convener: Does that conclude your statement?

Graham Muir: Yes.

The Convener: Group 20 relates to the objection from the residents of Dean Park in Newtongrange. The objectors have chosen to rest on their written evidence. The witnesses at the table will be Steve Mitchell, Steve Purnell, Sam Oxley and Andrew McCracken.

The witness for the promoter on noise and vibration is Steve Mitchell. Mr McKie, do you wish Mr Mitchell to give a brief outline of where matters stand on that issue?

Alastair McKie: That would be useful. Mr Mitchell, could you explain the promoter's position regarding noise and vibration impacts on the properties?

Steve Mitchell: In the environmental statement, we examined a property at 36 Station Road, which is immediately north of the Dean Park residents' area. We predicted that trains' speed would be about 50mph at that location. The properties in Dean Park are a little bit further away and the railway goes into a cutting as it goes through that area. As we know, the existing ground level will be reduced by some height at that point—the committee might remember that from the site visit. Given the separation distance and the fact that the railway is in a cutting at that point, we have not predicted that there will be any significant noise or vibration impacts at Dean Park.

Alastair McKie: I have no further questions.

Christine May: By how much will the fencing and planting that is proposed by the promoter at the Dean Park properties mitigate noise levels from passing trains, given that—as you say—the line is in a cutting at that point?

Steve Mitchell: It is interesting that we have not had to quantify the noise screening because, if we

ignore the noise screening, the predicted noise levels are still sufficiently low. As I said earlier, the vegetation would provide little noise attenuation—noise tends to go through vegetation surprisingly easily. However, the combination of distance and the speed of the trains is enough to make the noise levels low enough to mean that there would not be a significant noise impact.

The Convener: Mr McKie, do you have any more questions for Mr Mitchell on this issue?

Alastair McKie: No.

The Convener: On air pollution, the witness for the promoter is Steve Purnell. Mr McKie, do you wish Mr Purnell to give a brief outline of where matters stand in relation to that issue?

Alastair McKie: The promoter rests on the written evidence of Mr Purnell.

The Convener: Do members of the committee have any questions on air pollution?

Members: No.

The Convener: On aesthetics, the witnesses for the promoter are Sam Oxley and Andrew McCracken. Mr McKie, would you like one of the witnesses to give a brief outline of where matters stand in relation to that issue?

Alastair McKie: I simply wonder whether Mr McCracken will confirm whether there will be a signal box at this location, as the issue still appears to be vexing the objectors.

Andrew McCracken: I can confirm that there are no proposals to build a signal box at this location. All signalling control will be based at the Edinburgh end of the site.

15:30

The Convener: Thank you. Do committee members have any questions on this matter?

Christine May: Just because no proposals have been made, it does not mean that the box will not be built. Are you saying that there are no proposals to build a box and that it will not happen?

Andrew McCracken: There are no proposals to build a box and I can see no reason why one should be built.

The Convener: On health and safety, the witness for the promoter is Andrew McCracken. Mr McKie, do you wish Mr McCracken briefly to outline how matters stand with the objection on that issue?

Alastair McKie: Mr McCracken, I understand that the objectors have highlighted concerns about the adequacy of fencing to eliminate the possibility of anyone crossing the line accidentally. What is

the promoter's position on security fencing on the railway line at this location and, indeed, at all locations?

Andrew McCracken: I believe that I made similar comments last week. I can confirm that full Network Rail standards on line-side fencing will apply in this case. With regard to trespass, the urban nature of the location puts it in a higher risk category, and the fence that will be constructed will reflect that higher risk.

The Convener: What will be the height of the fence at Deanpark?

Andrew McCracken: When we introduced the bill, we proposed a 1.8m-high steel palisade fence. However, in October 2005, Network Rail changed its standards, so we will have to reconsider the matter.

The Convener: What is the standard minimum height for fences in an urban setting where the risk of trespass or vandalism is greater?

Andrew McCracken: When we introduced the bill, a 1.4m-high fence was the standard in more rural environments.

The Convener: I asked about the standard minimum in urban areas.

Andrew McCracken: It is generally 1.8m.

The Convener: What is the highest fence that you have seen or know about?

Andrew McCracken: The maximum height tends to be 1.8m.

The Convener: Thank you for that.

Mr McKie, do you have any further questions for Mr McCracken on health and safety?

Alastair McKie: No, convener.

The Convener: Andrew McCracken and Douglas Muir will address issues relating to increases in traffic. Mr McKie, do you wish one of the witnesses briefly to outline where matters stand with the objection on that issue?

Alastair McKie: Yes, convener.

Mr Muir, what is the promoter's position on the objectors' concerns about increases in traffic? I understand that Deanpark will prove an attractive place for parking vehicles if people want to access the proposed Newtongrange station.

Douglas Muir: The promoter realised early on that that could be a problem. Deanpark was the original location for Newtongrange station, but we decided that we did not want to inflict a heavy traffic burden on the narrow streets there. As a result, we moved the station to its current proposed position on the opposite side of the A7, roughly behind the museum that we are in.

We feel that there will be no big increase in traffic through Deanpark because it is not close enough to the proposed station's new location. In addition, the new station will have a sufficiently large park-and-ride site with about 73 to 75 parking spaces. Moreover, there will be no parking charge—I believe that the objectors were concerned that if we introduced high parking charges at the site, people would be tempted to park outwith it. We think that we have done everything necessary to ensure that people do not park in Deanpark.

Alastair McKie: I have no follow-up questions. I think that that explains the position.

The Convener: Do committee members have any questions? I see that they do not.

On loss of amenity, the witnesses for the promoter are Sam Oxley and Andrew McCracken. Mr McKie, do you wish one of the witnesses to give a brief outline of where matters stand in relation to that issue?

Alastair McKie: I believe that the objection relates to loss of vegetation, which is covered in the promoter's written statement. I have no questions about that, but perhaps committee members will want to question the witnesses.

The Convener: Do committee members have any questions?

Christine May: You have said that you will take steps "Where reasonably practicable" to offset any loss of vegetation. Can you be a bit more explicit about what that means?

Sam Oxley: Subsequent to our response, the footpath has been moved to the eastern side of the railway, to alleviate vegetation loss along New Star Bank, so there will now be quite a tight corridor along the side that borders the New Star Bank properties. As a result, quite a lot of vegetation will be lost, so we need to consider more detailed measures, such as putting in a line of trees or a hedge or some climbers up a fence, as a solution for the situation where there is not much space.

Christine May: Have the objectors been made aware of that change? Have there been discussions with them about what might now be offered in mitigation?

Douglas Muir: Yes, there has been some discussion with objectors. Initially, residents were concerned. The problem with Station Road—the street that runs at 90° to Deanpark—is that there is currently no footpath at all, yet it is part of a safer-routes-to-school route from the properties in Victoria Gardens and New Star Bank to the primary school. The council has always been concerned that there is no footpath there, and we have been considering putting one in. The

proposal to create a footpath at that location seems to answer all the questions. In respect of safer routes to school, the residents accept that. The downside, as Sam Oxley said, is that there could be less room for planting there, and it is a narrow corridor at that point anyway. We are considering what we can do to screen the fencing there to make it a bit more attractive.

Christine May: So is it fair to say that discussions with residents are on-going on noise mitigation?

Douglas Muir: We have had a number of discussions with the residents—we have met them on a couple of occasions and have written to them a few times. The issue is on-going, and we plan to meet again shortly to discuss it.

The Convener: Mr McKie, do you have any follow-up questions for Ms Oxley or Mr Muir?

Alastair McKie: I have none.

The Convener: On compulsory purchase, the witness for the promoter is Alison Gorlov. Mr McKie, do you want Mrs Gorlov to give a brief outline of where matters stand in relation to that issue?

Alastair McKie: The promoter rests on its existing evidence and the compulsory purchase policy paper.

The Convener: Do committee members have any questions? I see that they do not.

The Convener: On the impact of the railway on property value, the witness from the promoter is, again, Alison Gorlov. Mr McKie, do you want Mrs Gorlov to give a brief outline of where matters stand in relation to that issue?

Alastair McKie: As I said before, we rest on the compulsory purchase policy paper.

The Convener: Do committee members have any questions for Mrs Gorlov? I see that they do not.

The Convener: Mr McKie, you have a maximum of five minutes in which to make a closing statement.

Alastair McKie: I have no statement to make, other than to clarify that I referred to the compulsory purchase paper when you mentioned the acquisition of land. Again, the promoter simply rests on its existing evidence. I just wanted to clarify that.

The Convener: That concludes the oral evidence for group 20. I will allow a few moments for witnesses to change over.

Our eighth group today is group 21, which relates to the objection from Mr and Mrs McCloskey. The objectors have chosen to rest on

their objection. It is worth pointing out, however, that as far as we know the objectors have moved house. However, they have not withdrawn their objection. Perhaps Mr Muir will give the committee an update on any inquiries that have been made in respect of the matter.

Douglas Muir: As you rightly say, convener, Mr McCloskey appears to have moved from his last address, and we have been unable to trace him. However, his objection reflected almost identically the one from the residents of New Star Bank, which he also signed. He wanted to move the footpath to Station Road, which we have just discussed. The promoter is of the opinion that we would probably have satisfied Mr McCloskey's objection, had he been here. However, as we cannot find him, we cannot confirm that.

The Convener: The problem for the committee is that as the objection has not been withdrawn, we need to proceed with it as far as we are able. I would like to deal first with the siting of the footpath at the rear of Mr McCloskey's property. Does Mr Muir wish to add anything to his previous comments?

Alastair McKie: It might be useful for Mr Muir to have before him the fourth plan in the supporting information for this meeting, which shows the footpath. Perhaps he could walk us through it quickly.

Douglas Muir: The original proposal was to take a footpath through the line of trees and shrubs in the middle of the plan and towards the bottom. We agreed with the objectors of Red Star Bank and Redwood Walk that we would move the footpath to the opposite side—adjacent to Station Road—and realign one of the footbridges at the end of Redwood Walk. That has been done. We also gave the New Star Bank residents a legal undertaking that we would do that, and, on that basis, they withdrew their objection.

The Convener: Thank you. I see that committee members have no questions for Mr Muir. I take it, Mr McKie, that you have no questions for Mr Muir.

Alastair McKie: I have none.

The Convener: On loss of amenity and vegetation, the witness for the promoter is Ms Oxley. Mr McKie, do you wish Ms Oxley to give a brief outline of where matters stand with that issue?

Alastair McKie: Ms Oxley, I believe that the objector's concern is about the removal of vegetation. Can you confirm your position?

Sam Oxley: It is basically what Douglas Muir just outlined: vegetation will not be removed to the same extent because the footpath has been realigned to another site. There will still be vegetation loss along the corridor, but, given that

the corridor is quite wide at that point and that vegetation covers only the tops of the cuttings on either side, the loss of vegetation will not be significant. The loss will be minimised.

The Convener: I see that members have no questions for Ms Oxley.

On noise, the witness for the promoter is Steve Mitchell. Mr McKie, do you wish Mr Mitchell to give the committee a brief outline of where matters stand with the objection on that issue?

Alastair McKie: I do. If Mr Mitchell could proceed with an outline, that would accelerate matters.

Steve Mitchell: The situation is similar to that at Deanpark: the properties are opposite the same cutting and are at a similar depth, although they are slightly further back than those of the Deanpark residents. The predicted noise levels are some margin below the standards that we set ourselves in the environmental statement. For example, the night-time value is about 3dB lower than the threshold value, so we do not predict significant noise impacts at New Star Bank.

The Convener: I see that committee members have no questions for Mr Mitchell. Mr McKie, do you have any follow-up questions for Mr Mitchell?

Alastair McKie: I have none.

The Convener: On loss of privacy and security, the witness for the promoter is Douglas Muir. Mr McKie, do you wish Mr Muir to give the committee a brief outline of where matters stand with the objection on that issue?

Alastair McKie: Yes.

Douglas Muir: The residents were worried about a path outside their back gardens. By moving it to the opposite side of the railway, that concern no longer exists.

The Convener: Do committee members have any questions for Mr Muir? I see that they do not.

Mr McKie, you have a maximum of five minutes in which to make a closing statement.

Alastair McKie: The promoter rests on its written and oral evidence.

15:45

The Convener: That concludes the oral evidence for group 21.

Our ninth group today is group 23, which relates to objections from Steven Lyon and Lyndsay Jackson. The objectors have chosen to rest on their written evidence. The witness for the promoter on safety is Andrew McCracken. Mr McKie, do you wish Mr McCracken to give a brief

outline of where matters stand with the objection on that issue?

Alastair McKie: Very briefly. Mr McCracken, I believe that the safety issue here is in relation to the adequacy of boundary fencing.

Andrew McCracken: The response is the same as the previous one. The area in question is deemed to be an urban area, which will be subject to a higher security fence, as per Network Rail's standards.

The Convener: Do committee members have any questions for Mr McCracken?

Mr Brocklebank: Are you considering any further safety features for the property that is owned by Ms Jackson and Mr Lyon, or is that the full extent of your proposals?

Andrew McCracken: Lineside fencing is the only proposal. However, in their amplified evidence I think that the objectors referred to behaviour on platforms. I can confirm that the promoter will adopt closed-circuit television coverage at stations.

The Convener: Mr McKie, do you have any follow-up questions for Mr McCracken on safety?

Alastair McKie: I do not.

The Convener: On air quality, the witness for the promoter is Steve Purnell. Mr McKie, do you wish Mr Purnell to give a brief outline of where matters stand with the objection on that issue?

Alastair McKie: The promoter rests on the written evidence.

The Convener: I see that members have no questions on that issue.

On loss of amenity, the witness for the promoter is Sam Oxley. Mr McKie, do you wish Ms Oxley to give a brief outline of where matters stand with the objection on that issue?

Alastair McKie: The promoter's intention was simply to rest on the written evidence. We have stated that there will be replacement vegetation where that is reasonably practicable.

The Convener: Do committee members have any questions for Ms Oxley?

Christine May: Does "reasonably practicable" mean that you anticipate that there will be some portions in which it will not be possible to provide replacement vegetation? If that is the case, what discussions are you having with the objectors?

Sam Oxley: I understand that in this location the main issue is vegetation loss on the far side of what will be the railway line, as a result of the position of the platform. There is vegetation on the bank all the way down. The vegetation loss in that

area should therefore amount to areas along the bottom of the embankment where the new platform will need to be incorporated. In this instance, there might be a requirement for a bit of additional planting on that bank, but it is likely that what is there will remain and that that requirement should therefore not arise.

Perhaps your question was more general. When we use the term "replacement vegetation", we must remember that we are not replacing vegetation, as vegetation cannot be replaced. It will be removed from the track and the swept paths on either side of it. We are offering additional vegetation in the land on either side, where it is possible to plant, to reinforce the vegetation and therefore to enhance its filtering of views or screening purpose.

The Convener: As Mr McKie has no follow-up questions for Ms Oxley, I turn to property value, on which the witness for the promoter is Alison Gorlov. Mr McKie, do you wish Mrs Gorlov to give a brief outline of where matters stand with the objection on that issue?

Alastair McKie: The promoter intends to rest on the written evidence and policy paper on compensation.

The Convener: As committee members have no questions for Mrs Gorlov, we turn to noise, on which the witness for the promoter is Steve Mitchell. Mr McKie, do you wish Mr Mitchell to give a brief outline of where matters stand with the objection on that issue?

Alastair McKie: Yes. I also ask him to confirm the potential impact of noise resulting from the close proximity to the station.

Steve Mitchell: We have considered the noise levels in the location and think that a noise barrier would be useful to reduce the noise to meet the target levels that we have set. I imagine that noise from people on the platform will be audible from time to time. On the public address system, which has concerned people, we have given a commitment in the noise and vibration policy to design it to be as quiet as possible while still fulfilling its function and to deal seriously with any complaints that it generates. I also point out that the properties will be at the far end of the platform, which is some distance from the ticketing area and the area where people will enter the platform. I suspect that, for the vast majority of the time, there will be little activity on that part of the platform and that people will tend to use the other end.

Gordon Jackson: The problem that we are discussing is slightly different from the normal one of a train running at the rear of a property. Will you remind me how far away the noise source is from the garden?

Steve Mitchell: I do not have the exact figure, which is probably why I did not give it. The properties are relatively new so, unfortunately, I have not found them on any plan.

Gordon Jackson: Do you have an estimate in your mind of how far away the property is from the noise source?

Steve Mitchell: Mr McCracken is normally quite helpful in such situations. I was going to say 15m to 20m, but I am not sure that that is entirely accurate—it is possibly slightly more.

Gordon Jackson: We will get out a ruler.

Christine May: I think that in the evidence from group 24, Brian Byars states that the distance is 15m to 20m.

Gordon Jackson: So it is in that region. Am I correct that the property has an open aspect to the rear at present? Where the station will go, there is an open view.

Steve Mitchell: Yes, there is.

Gordon Jackson: The plan is to build a noise barrier on the edge of the station boundary or platform.

Steve Mitchell: The barrier would be between the tracks and the property and would be about 1.6m high, which is no higher than the security fencing will be.

Gordon Jackson: Will the station be on the other side of the track?

Andrew McCracken: Yes.

Gordon Jackson: So there will be the station, the track and then the noise barrier. I am not making a judgment, but the bottom line is that there will be a fence where, at present, there is an open vista.

Andrew McCracken: In effect, yes.

Gordon Jackson: And there will be noise, but at a level that you say is acceptable.

Steve Mitchell: Yes.

The Convener: As Mr McKie has no follow-up questions, we turn to loss of privacy, on which the witness for the promoter is Sam Oxley. Mr McKie, do you wish Ms Oxley to give a brief outline of where matters stand with the objection on that issue?

Alastair McKie: As far as I can gather, the issue relates to the loss of vegetation, which Ms Oxley covered in her earlier evidence.

The Convener: As members have no questions for Ms Oxley, we move to access and impact on services, on which the witness for the promoter is Steve Purnell. Mr McKie, do you wish Mr Purnell

to give a brief outline of where matters stand with the objection on that issue?

Alastair McKie: Yes. Mr Purnell, will you outline how the promoter intends to address the issue?

Steve Purnell: Certainly. The residents are concerned that there might be disruption to their everyday lives due to the construction activities associated with the building of the railway. At last Monday's meeting of the committee, I referred in some detail to the code of construction practice that the promoter has prepared, which is described in the policy paper on the code of construction practice. Section 2 of the code states that protection measures should be put in place to ensure that, when heavy vehicles have to access a site, access to properties is maintained. That is set out on page 5 of the up-to-date version of the code. A whole chapter of the code is devoted to the protection of services, utilities and other essential infrastructure. It describes the measures that the promoter and, eventually, the contractor will take to protect such services. They will also conduct surveys after the works to ensure that there are no defects. If there are defects, things will be reinstated and returned to their original condition.

Christine May: For the record, I state that I might have misled members in relation to the previous property that we discussed, because I was looking at the wrong piece of paper. For the avoidance of doubt, that particular property is in fact much closer to the railway—the distance is 20m to 30m. I apologise to the committee and the objectors.

Gordon Jackson: Mr McCracken has worked out the distance with a pencil.

Andrew McCracken: I think that the distance is about 20m.

The Convener: I see that members have no questions for Mr Purnell on that issue.

I return to Mr Mitchell and the issue of noise. What noise mitigation measures will the promoter install at the proposed station further to reduce noise levels?

Steve Mitchell: Do you mean noise that is specifically from the station?

The Convener: Yes.

Steve Mitchell: I tried to address that. The only clear measure to which we are committed is an examination of noise from the public address system. I know from experience that such noise can be quite obtrusive in remote locations—to be honest, it is often unnecessarily loud. These days, with directional speakers, the technology can do much better than that. The commitment to that

measure can be found in the final section of the noise and vibration policy.

The Convener: Thank you. Mr McKie, you have a maximum of five minutes in which to make a closing statement.

Alastair McKie: The promoter rests on its written and oral evidence.

The Convener: Thank you. That concludes the oral evidence on group 23.

Our 10th group today is group 24, which relates to the objection from Brian Byars and Marie Sutherland. The objectors have chosen to rest on their written evidence. The witness for the promoter on noise and vibration is Steve Mitchell. Mr McKie, do you wish Mr Mitchell to give a brief outline of where matters stand with the objection on that issue?

Alastair McKie: I would be obliged.

Steve Mitchell: I confirm that Mr Douglas Muir tried to keep the objectors involved in the negotiations with the remainder of the residents of New Star Bank, who have withdrawn their objection.

On noise and vibration, the situation is similar to that of the group that we talked about a moment ago. The predicted levels are about 3dB lower than the targets that we set ourselves. That is due to the separation of the properties and the combination of the noise from the trains at the speed at which they will be going. We do not predict significant noise impacts at New Star Bank.

16:00

The Convener: What leads the promoter to believe that a noise impact at Mr Byars and Ms Sutherland's property is "not expected"?

Steve Mitchell: With the emphasis on "not expected", the view is obviously based on a prediction. We cannot measure the noise level at the moment, but we have predicted it using the methods that I have talked about before. There is also a degree of pessimism in that predication, because we have ignored any effect that the cutting might have. Given that there is a 3dB margin as well, I have a high level of confidence in our view that noise impact on those properties should not be expected.

The Convener: Will you monitor that? If so, how will you do so and over what period?

Steve Mitchell: The commitment in the noise and vibration policy is to monitor within six months of opening to demonstrate that the measures that we have adopted are working. We leave that slightly open because, sometimes, there is a bedding-in period in the early days of a railway's

operating period in which time, strangely enough, the track can be smoothed slightly and perhaps get slightly quieter. Other things sometimes happen during the commissioning stage as well.

The Convener: Mr McKie, do you have any follow-up questions?

Alastair McKie: No.

The Convener: On the impact on property value, the witness for the promoter is Alison Gorlov. Mr McKie, do you wish Mrs Gorlov to give a brief outline of where matters stand with the objection on that issue?

Alastair McKie: The promoter rests on its written evidence and policy paper.

The Convener: I see that members have no questions on that issue.

On safety, the witness for the promoter is Andrew McCracken. Mr McKie, do you wish Mr McCracken to give a brief outline of where matters stand with the objection on that issue?

Alastair McKie: I have one question for Mr McCracken. The concerns of the objectors appear to relate to high-voltage electrical power lines. In your view, should that be a concern?

Andrew McCracken: In our rebuttal, we confirmed that diesel train units will be used rather than electrified ones. That concern should not exist.

The Convener: Do committee members have any questions?

Mr Brocklebank: What other safety features might you be considering in connection with this objection, which relates to the property of Mr Byars and Ms Sutherland?

Andrew McCracken: We are not considering any more safety features than those that we have already outlined. We will apply the Network Rail safety standards with respect to fencing.

The Convener: Mr McKie, do you have any follow-up questions?

Alastair McKie: No.

The Convener: You have a maximum of five minutes in which to make a closing statement.

Alastair McKie: The promoter rests on its written and oral evidence.

The Convener: That concludes oral evidence for group 24.

Our next group is group 64, which relates to the objection from Dr and Mrs Alexander. The objectors have chosen to rest on their written evidence. Witnesses for the promoter on the acquisition of land and access are Douglas Muir

and Andrew McCracken. Mr McKie, do you wish the witnesses to give a brief outline of where matters stand with the objection on that issue?

Alastair McKie: Yes. A lot of these topics might be covered by Douglas Muir's statement concerning the arrangements that the promoter is making with the objector. Accordingly, I invite Mr Muir to so advise the committee. It would be useful if members of the committee had before them the last two maps that were circulated this morning.

Douglas Muir: As we discussed in relation to the caravan park, the second last map shows the extent of the land that we originally intended to take for a working compound that is required for the repairs to the Newbattle viaduct. Dr Alexander's house is marked at the bottom of the large yellow area; the small yellow strip is his driveway.

As we discussed this morning, in our negotiations with the caravan park, we are aiming to pull back the limit to that which is shown on the very last drawing—members will see that that limits the extent of land to be taken to a small strip on either side of the viaduct. Subject to our reaching agreement with the caravan park, which we expect will happen very shortly, there will be no need to take access along Dr Alexander's driveway. We will also pull the working compound—or construction compound, for want of a better name—right away from Dr Alexander's property; I have written to advise him of that. I hope that if we manage to conclude the deal with the caravan park, we will be able to give that commitment to Dr Alexander.

The Convener: Do you have any questions for Mr Muir on the subject, Mr McKie?

Alastair McKie: I have none.

The Convener: Thank you. Does any committee member have a question for Mr Muir?

Christine May: I have a question for Mr Muir or Mr McCracken. If access to the compound is required over Dr and Mrs Alexander's land, will you make good any damage to property or vegetation?

Douglas Muir: Yes; we have given a commitment to do that.

Christine May: Thank you.

The Convener: On loss of amenity and security, the witness for the promoter is Andrew McCracken. Do you wish Mr McCracken to give a brief outline of where matters stand with the objection on that issue, Mr McKie?

Alastair McKie: The promoter's evidence rests on the advice that Mr Muir gave the committee on the new arrangements, which appear—certainly,

on the face of it—to be satisfactory to Dr Alexander.

The Convener: Thank you. I see that members have no questions for Mr McCracken.

Finally, on property values, the witness for the promoter is Alison Gorlov. Do you wish Mrs Gorlov to give a brief outline of where matters stand, Mr McKie?

Alastair McKie: The promoter rests on its written evidence and policy paper.

The Convener: Thank you. Does any committee member have a question for Mrs Gorlov?

Gordon Jackson: I have a question—but it may just be my curious mind at work, again. I suspect that the matter is now purely hypothetical, as everything is getting sorted out. I am concerned that someone's property could lose its value for a period of time. There will be a period of time—say a year—during which the property owner will be unable to sell their property because of the huge amount of stuff that is going on. Notwithstanding that everything will be restored and their property will be hunky-dory after the construction is finished, is there any compensation for someone who cannot sell their property during the time of temporary occupation or because of construction that is going on next door to their property? I hope that you follow my meaning, Ms Gorlov.

Alison Gorlov: If I may, I will duck the question ever so slightly. It is a theoretical possibility, but not one that has ever occurred to me. Section 17 says that the authorised undertaker has to pay compensation for loss that is attributable to the temporary possession. If somebody could prove a loss, it would be compensatable. I hazard a guess that it would be difficult to prove; it is always rather difficult to prove statements such as “I could not sell because”, “I had to sell because” or “I wanted to sell because”. I cannot see why that cannot be the case, however. If the loss can be proved, it seems to me that it should be compensatable.

Alastair McKie: If I may, I will assist. The matter is covered in paragraph 37 of the promoter's compensation policy paper.

Gordon Jackson: I thought that I had read my papers. What does it say? Please remind me of something that I never read.

Alastair McKie: It indicates that there may well be the possibility of a claim for a reduction in property value due to construction works.

Gordon Jackson: Okay. I understand that.

The Convener: Do you have any follow-up questions for Mrs Gorlov, Mr McKie?

Alastair McKie: I do not.

The Convener: If you wish, Mr McKie, you have a maximum of five minutes in which to make a closing statement.

Alastair McKie: I do not require to make one, convener.

The Convener: Thank you.

That concludes the oral evidence taking on group 64. Indeed, it concludes our hearing of oral evidence for today. I thank all witnesses and participants for their assistance in the smooth running of the meeting. The committee appreciates that. In particular, I thank the staff of the Scottish Mining Museum who hosted our visit today. Once again, the lunch was spectacular—the home-made soup was great. The committee will meet again next Monday, 30 January, in committee room 1 at Holyrood.

During the course of our oral evidence taking last week on the group 2 objections, the promoter's witness indicated that she expected agreement to be reached that week with the objectors. In this week's promoter's status report to the clerks, the committee therefore expects to see that sufficient progress has been made—progress that will lead to the withdrawal of the objections. The committee also expects to see evidence of sufficient progress having been made on the group 4 objections and the resolution of the disputes therein.

Meeting closed at 16:10.

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