

WAVERLEY RAILWAY (SCOTLAND) BILL COMMITTEE

Monday 13 March 2006

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2006.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

CONTENTS

Monday 13 March 2006

Col.

WAVERLEY RAILWAY (SCOTLAND) BILL: CONSIDERATION STAGE	819
--	------------

WAVERLEY RAILWAY (SCOTLAND) BILL COMMITTEE **7th 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:

Andy Coates (Environmental Resources Management Ltd)

Nathan Edwards (Environmental Resources Management Ltd)

Alison Gorlov (John Kennedy and Co)

Albert Hegarty

Andrew McCracken (Scott Wilson Railways Ltd)

Thomas McCudden

Steve Mitchell (Environmental Resources Management Ltd)

Steve Purnell (Environmental Resources Management Ltd)

Bruce Rutherford (Scottish Borders Council)

Graeme Sandie

Bill Sandland (Scottish Borders Council)

David Wright (Scott Wilson Railways Ltd)

CLERK TO THE COMMITTEE

Fergus Cochrane

LOCATION

Langlee Complex, Galashiels

Scottish Parliament

Waverley Railway (Scotland) Bill Committee

Monday 13 March 2006

[THE CONVENER *opened the meeting at 10:51*]

Waverley Railway (Scotland) Bill: Consideration Stage

The Convener (Tricia Marwick): Good morning. I open the eighth consideration stage meeting of the Waverley Railway (Scotland) Bill Committee. The meeting is our seventh in 2006 and the sixth at which objectors will give oral evidence. I welcome the witnesses, their representatives and members of the public.

On 28 September 2005, the Parliament agreed to the general principles of the bill and agreed that it should proceed as a private bill. During the consideration stage, the committee considers the detail of the bill and the objections to it. Our job, which we take very seriously, is to listen carefully to the arguments of the promoter and the objectors and, ultimately, to decide between any competing claims.

The committee is in receipt of all the written evidence that was submitted by the objectors and the promoter. I thank all parties—in particular, the objectors—for all the assistance that they have given us in accommodating our timetable for evidence taking and complying with the deadlines for the submission of written evidence. We are conscious of the demands that we have placed on the objectors and we greatly appreciate their efforts.

Today, we will hear oral evidence on five groups of objectors. Before we begin, I will set out the broad steps that we will follow in hearing the evidence. Every witness who contributed fully to the written evidence process will face the same three-step process. First, he or she may be questioned by their representative. Secondly, they may be questioned by the opposing side. Thirdly, and finally, they may be questioned again by their representative. During that third and final step, witnesses and their representatives should restrict themselves to matters that were covered in cross-examination. The committee can, of course, ask questions whenever and of whomever it wishes.

I want to make it clear that questions will be restricted to issues that remain in dispute. I mentioned earlier that the Parliament has agreed in principle that there will be a railway. Questions on the merits or otherwise of the railway are

therefore not admissible; we are now concerned with the detail of the objections. The committee does not expect, and will not permit, documents to be circulated that we have not previously seen, except in exceptional circumstances. If an objector or the promoter needs to give the committee an update, I will invite them to say a few words at the commencement of their oral evidence. Following the completion of evidence taking on each group, the representative of the group and the promoter will each be offered a maximum of five minutes in which to make any closing comments. We intend to complete our evidence taking in respect of the five groups today.

As I indicated, we have all the written evidence before us. I therefore ask witnesses to refrain from repeating points that they have made in their written evidence. We recognise that some objectors are represented at committee today by lay members of the public and that others are not represented. I am sure that all parties would welcome brevity and clarity in the questions and answers. The use of overtechnical language is discouraged, as are lengthy preambles to questions.

We want to ensure that fairness is shown to the promoter and the objectors. This is, of course, not a court of law, and we will carry out our proceedings in a more informal manner. The procedures that we follow have a degree of flexibility that allows us to take account of the backgrounds of witnesses and their representatives. The committee requires all parties to act respectfully to one another and, indeed, to the committee.

Members of the public are, of course, welcome to watch our proceedings. Equally, they may leave the meeting at any time. If they do so, I ask them to leave 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 co-operation of members of the public in ensuring the proper conduct of our business today.

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

I urge parties, in particular the promoter, to maximise their efforts by entering into open and constructive dialogue with a view to reaching agreement, which is what will lead to the withdrawal of objections. It is the strong and continuing desire of the committee that all efforts

be made to reach agreement. Further to that point, the promoter should pay heed to the use of plain English and should minimise the use of legalistic and technical language when corresponding with objectors. It is vital that the issues can be clearly understood by objectors, so that they know exactly where matters stand.

I inform all witnesses that once they have taken the oath or made an affirmation, the effect of having done so will apply throughout the proceedings. For example, witnesses for the promoter who have appeared previously are still under oath today.

I ask everyone to ensure that mobile phones and other such devices are switched off.

We move to the consideration of evidence in respect of objections to the bill. I welcome Alastair McKie, who will ask questions on behalf of the promoter. I also welcome Steve Purnell, Alison Gorlov, Bruce Rutherford and Douglas Muir, who will answer questions about the draft code of construction practice.

In reply to question 1 in the clerk's letter of 8 February, the promoter states:

"It is to be expected that suspected infractions"

of the code of construction practice

"may initially be investigated by the relevant local authority departments, with the contractor being required to respond."

That is woolly. We are of the view that the code of construction practice should be supplemented so as to make it clear to members of the public who they need to complain to. Do the promoter's witnesses accept our view on the wooliness of the document?

Bruce Rutherford (Scottish Borders Council):

I could turn to my lawyer to answer that. If it is the committee's wish that we sharpen up some of those areas, we are open to doing that and will accept your opinion that it is woolly.

The Convener: That is fine. Perhaps we shall explore those points further.

Question 2 of the clerk's letter sought clarification of the timescales within which any complaints will be investigated and follow-up action taken. Again, the response is woolly: the promoter simply notes that the precise details will be worked up once the contractor is in place. That is not at all helpful to members of the committee, and it is not clear to us why the detail that is specified in the promoter's response to our question is not included in the draft code. What is the difficulty with including in the code minimum standards for how complaints will be handled and investigated, which will then be binding on whoever may be appointed as a contractor? That is a fairly common approach.

Alison Gorlov (John Kennedy and Co): It is indeed, convener. Perhaps I might deal with that point. First, I should say that there is no intention to be woolly, in the sense of being evasive. The scheme is a colossal project, certainly for the Borders and Midlothian, which do not usually have projects of the size of the Waverley railway project. It will produce a lot of generic issues that will have to be dealt with generically as well as locally.

The committee has seen part 1 of the draft COCP, which addressed the generic issues; of necessity, it did so somewhat generally. The specific matters will be signed off only when they are approved by the local authorities, which will work with the contractor to produce part 2 of the draft COCP, which will be site specific and detailed. You have not seen part 2 because it is not there to be seen, but it will be a site-specific document that will be worked up by the contractor and the local authorities and will not be signed off until it has been approved by Scottish Borders Council in relation to the works in its area and by Midlothian Council in relation to the works on its patch. The document will deal with site-specific issues and with precise details of when helplines will be open, when there will be an answerphone and so on.

The reluctance to go into that depth at this stage is simply because we want to ensure that, when we get there, we have the flexibility to build in whatever is needed. It is not an attempt to evade a properly rigorous supervision of the works—not at all. You might ask Scottish Borders Council to build in minimum requirements, and that could certainly be done. However, it would be premature for the council to say what the precise fine detail of the supervisory scheme is going to be.

11:00

The Convener: I do not find the response terribly convincing. The committee has made it clear that we would like the maximum protection to be put in place to reassure the public that work on the project, and the works surrounding it, will be done to the highest standard. Personally, I do not see any difficulty in putting as much detail as possible into the draft code. I fully accept that it will have to be signed off but, as an article of good faith—that is what I think the draft code of construction practice is—we need to see a bit more detail than the promoter is prepared to give at the moment.

Alison Gorlov: I honestly do not think that there is any substantive issue between my client and the committee. It is simply a question of how the promoter can provide you with the assurance that you feel that you need in a way that makes it clear that the draft code will be adjusted to suit, should

the need arise. The promoter is not trying to duck and dive, but it is difficult to produce the words in a way that is right for you.

Christine May (Central Fife) (Lab): I want to pursue the issue. I hope that you accept that there is an argument for having in part 1 of the draft code as much broad detail as possible. If I were a member of the public living in an area that was likely to be affected, the minimum that I would expect is a 24-hour hotline, no matter who the eventual contractor was. I hope that you accept that part 1 of the draft code is the place where that minimum standard should be set out.

Alison Gorlov: I think that it might be in there.

Steve Purnell (Environmental Resources Management Ltd): I am one of the authors of the original document, which, as you will appreciate from reading it, makes reference to an emergency hotline. In answer to previous questions, we have also said that the hotline would be in operation 24 hours a day.

The document is still evolving as we speak. Each time that the committee makes suggestions about what it would like to be included in the document, people back at our office pick those up. In a few weeks' time, we will have a more comprehensive document than this, which will take on board all the committee's suggestions as well as those that have come through our discussions with the various objectors.

In the response that we gave to the clerk's questions a week or so back, we referred to the fact that we fully expect that complaints will be dealt with within a few days. I believe that that can get worked into part 1 of the document—that is my view, anyway.

Christine May: Thank you for reminding me of what is in the document, as I do not have my copy with me. I apologise for that.

I have a couple of other questions on the hotline. It is fair enough that you are going to get back to us on that. What consideration is being given to having a freephone number? Will the hotline be staffed for 24 hours a day, or will it sometimes use an answering machine? On what basis will you make those decisions?

Mr Purnell has just spoken about the response time, for which you have allowed up to seven days. The code for the Edinburgh tramline 1 project—which I accept is a different project—has a response time of within 48 hours. Why are you suggesting that the response time in this project should be up to seven days?

Bruce Rutherford: I will address the question about the hotline. Local authorities are open all hours nowadays. Winter maintenance is a particular issue. Staff in our offices during the day

cover all the phones, but we also have facilities at night. There is winter standby and summer standby. It is surely not beyond the wit of man for us to adjust our systems to suit the 24-hour response time that you are after.

Regardless of whether or not we set up a special hotline for the Waverley line, there is a fallback position, as it is within the local authority's gift to ensure that calls involving inquiries from members of the public are taken. I do not view the setting up of a hotline in the future as an issue. We have already given such a commitment in the draft COCP. We need to work up the detail and the best way to arrange it.

Christine May: Do you wish to comment on the possibility of having a freephone number?

Bruce Rutherford: We certainly do not have freephone numbers at the council's offices. Everybody who phones up tends to have to pay for their call. That tends to stop the hoax calls that can come through, which can be distracting and send our resources off in different directions. However, we can certainly consider the matter.

Christine May: And the question on 48-hour response—

Steve Purnell: Earlier, you referred to the period of seven days. I am not sure whether I misunderstood the question, but in our response we mention the period of seven days, which relates to the period within which we will inform the member of the public—or whoever it is that gets in touch with us—of action taken. It does not relate to the time period for actually undertaking that action, which is a lot shorter. That approach will ensure that we get back to the person and fully inform them of what was done as a result of their raising the concern in the first place.

Christine May: Is that the same as applies to the Edinburgh tramline 1 project, or have I got that period of 48 hours from—

Steve Purnell: We did not prepare the code of construction practice for the Edinburgh tram.

Christine May: In that case, I draw your attention to the fact that a response time of 48 hours is being promised for the tram scheme, and I ask that you consider something similar for your code.

Steve Purnell: I will ensure that we look at that.

Christine May: Have you looked at the code of construction practice for the Edinburgh tramline 1 project, which is slightly more advanced, to see what you might learn from it and adapt for use in your project?

Steve Purnell: To be perfectly honest, we have not. We prepare an awful lot of codes of construction practice. The people who prepared

the Edinburgh tram code took ours as a model to build on, as our codes have been very successful in the past. Given that this is a unique scheme, and that it is similar to the Edinburgh tram scheme probably in some ways only, we wanted to develop the code in a way that we felt was appropriate to this particular project. Having said that, we would be perfectly happy to revisit the Edinburgh tram code. If it contains anything significantly better than the promoter would be happy with, we could take that on board.

Christine May: The Edinburgh tramline 1 code will have been adapted as a result of evidence given to the Edinburgh Tram (Line One) Bill Committee. I welcome your undertaking at least to take a look at that code to see whether anything in it could be incorporated in the Waverley code.

Margaret Smith (Edinburgh West) (LD): I welcome some of the promoter's responses so far. We appreciate the fact that the situation is evolving, but at the same time we are trying to ensure that there is something in front of us at the end of the parliamentary process that is seen as reasonable and can give people some comfort.

The promoter states that contractors will report regularly to the authorised undertaker with details of logged complaints and action taken. Could you indicate how often "regularly" is? What does the term actually mean?

Bruce Rutherford: In the local projects that we are running with in the Borders—one is not that far away from here, in Galashiels town centre—I believe that there are weekly reports. I would envisage that as a reasonable length of time for regularly reporting progress on how complaints are being dealt with.

Another aspect is the considerate contractors scheme, to which we have referred. That is a voluntary scheme that contains a framework to which contractors should adhere—it sets a good standard for contractors when they enter into contracts with us.

Margaret Smith: What publicity will the log of complaints have and how often will it be updated? Will it be a public document?

Bruce Rutherford: It should be updated every time a report, comment or complaint comes in from a member of the public. The local authority or resident engineer staff can raise the issue at progress meetings and, if the contractor is not dealing with it quickly, the resident engineer staff or the local authority can use their influence to try to change the situation. We want to ensure that the public are dealt with fairly and properly.

Margaret Smith: Will the log of complaints be a public document?

Bruce Rutherford: That depends on how it is tied into the contract. Obviously, some of the

contract documents between the authorising party and the contractor will be confidential. However, I do not envisage that the log will fall into that category. If a member of the public wanted to have a look at it, we would be open to that.

The Convener: How will the workmen on the ground be made aware of the code of practice? Will you require contractors and subcontractors to ensure that all their workers are regularly informed about the code?

Bruce Rutherford: Potential contractors will not get the work unless they have good quality-assurance systems in place, part of which will be about the training of on-site operatives. The voluntary CCS scheme is a toolkit that is handed out to staff at various levels. In part, that will ensure that staff are aware that the COCP is in place.

The Convener: Mr McKie, do you have any questions for the panel on the draft code of construction practice?

Alastair McKie (Counsel for the Promoter): I have none at this stage but, during lunch, I will discuss the points that the committee has raised, particularly the request to sharpen up the document by reference to minimum standards. If I may, I will report back to the committee orally on that.

The Convener: Thank you.

We now move to group 61, which is the only group that is represented at today's meeting. The objectors in the group are Mr and Mrs Sandie, Glenfield residents association and Waverley Housing. I welcome Albert Hegarty, Graeme Sandie and Thomas McCudden, who will ask questions in relation to the Sandie and Glenfield objections. Waverley Housing has chosen to rest on its written evidence.

It will not have escaped anybody's notice that Gordon Jackson is not here today. Unfortunately, he cannot attend today's meeting. Under rule 9A.5.6 of the Parliament's standing orders, a member may not participate in the consideration of the merits of an objection or in any further proceedings that are relevant to that objection unless all the evidence that is directly relevant to the objection has been given orally in the presence of the member or, with the agreement of the persons who gave such oral evidence and the promoter, the member has viewed a recording or read the *Official Report* of the meeting.

Accordingly, I ask Albert Hegarty, Graeme Sandie and Thomas McCudden, who will ask questions and be witnesses in respect of the objections, whether they are content for Gordon Jackson either to view a recording of the meeting or to read the *Official Report*, to allow him to participate in the future consideration of their objections.

Albert Hegarty: I am.

Thomas McCudden: I am.

Graeme Sandie: I am.

The Convener: Similarly, I ask Mr McKie whether the promoter is content with that arrangement.

Alastair McKie: The promoter is content.

The Convener: At our next meeting, I shall ask Gordon Jackson to state on the record that he agrees to the undertaking. I thank the objectors and the promoter for their assistance.

The first issue on which we will hear evidence is loss of amenity, which is a substantial topic that is covered in various parts of the written evidence. We will cover the black path, privacy, visual impact and reduced daylight. The witnesses for the promoter are Bill Sandland, Nathan Edwards, Steve Mitchell and Bruce Rutherford.

NATHAN EDWARDS *took the oath*.

11:15

The Convener: Mr McKie, you may invite one of your witnesses to give a brief outline of where matters stand and then you may ask questions of the panel.

Alastair McKie: First, I confirm that Nathan Edwards is standing in for Sam Oxley, who could not be here today. Nathan Edwards is a fully qualified and chartered member of the Landscape Institute.

Committee members should have before them plans 11 to 17. I invite Mr Rutherford to provide an update to the committee. There are a number of objections relating to this section of the line and it is important to deal with them in detail.

Bruce Rutherford: In group 61, we have three main objectors. Objection 4 is from Mr Sandie, who resides at 30 Glenfield Crescent, a house that is within about 27m of the proposed route of the railway. The objector is concerned about the proposed height of the railway and its proximity to his home and about the loss of the amenity path, known as the black path, which runs along the length of the former railway through Galashiels.

While confirmation has been received that a replacement path will be provided in accordance with the plans that were approved in principle by Scottish Borders Council, the objector remains concerned about certain aspects of the proposals, principally: the feasibility of taking a cycleway over the Tweed bridge next to the railway; and the durability of the cycleway, where it runs next to Gala water, in times of flood.

As regards the location of the railway, it has not proven possible to alter significantly the line and

its level in the vicinity of the objector's property. Two recent meetings with Mr Sandie and 10 items of correspondence have not resulted in an agreement with the objector on how best to address his concerns and all the issues identified in the objection still stand.

Objection 110 is from the Glenfield Road East residents. All the houses in the Glenfield Road East area were built some time before the Scottish Executive feasibility study was published in February 2000. Scottish Borders Council's local transport policy, which contained a reference to the return of the railway, was approved in December 2000.

In 1999, extensive consultation took place on the local transport strategy and on the draft structure plan. The draft consultation, which has been widely circulated, included comments from councillors, community councils, members of the south-east Scotland transport partnership, other authorities, MPs, MSPs and about 70 other interested groups and members of the public.

The draft structure plan, which contained reference to the railway, has also been circulated. On 9 March 2000, following the publication of the feasibility study, the council resolved, as an interim measure, to support the re-establishment of the railway link between Edinburgh and the central Borders and, where possible, to protect the former railway line for future transport and recreation use. That formed the basis for the subsequent approval of policies I2 and I3 in the approved structure plan.

Alastair McKie: Can I stop you there, Mr Rutherford? Is it your position, as the promoter, that the information concerning the potential coming of the railway was in the public domain during the critical time from March 2000 onwards?

Bruce Rutherford: Yes. The draft structure plan was available from 1998 onwards and, around 1999, there was about a year of consultation on the local transport strategy. I gave evidence on that issue during the preliminary stage.

Although the promoter will no longer use the garden of number 51 Glenfield Road East, which belongs to Mr and Mr Dickson, as a temporary storage area, or take permanent access through the gardens of Mr Scott and Mr Connachie for maintenance purposes, all the other issues in the objection still remain.

The main concern of all the residents is the height of the railway and its close proximity to their properties. Unfortunately, the raising of the rail embankment on top of the black path is required to meet the 5.3m road clearance under the railway bridge at Currie Road. The height is greatest at that point and is at its lowest at the end of Glenfield Road East.

We have an alternative to the black path, which Sustrans approved of when it gave evidence. It is in our capital programme—number 15 of 80—and it was approved in principle on 28 June 2005. On Friday, the south-east Scotland transport partnership will consider our bid to build the alternative to the black path. We are as certain as we can be that the new alternative will be provided.

The objectors have proposed the realignment of the railway closer to the Gala water. However, that is not feasible because of the potential for flooding. Our last public meeting with the Glenfield residents was held on 16 February 2006 at St Peter's church, and our correspondence with them to date includes 21 e-mails and letters, nine telephone calls and four meetings, on 25 August, 9 September, 13 October 2005 and 16 February.

Alastair McKie: Are the residents represented by a community council?

Bruce Rutherford: They are represented by the Galashiels and Langlee community council.

Alastair McKie: Is that the community council that you previously indicated was consulted on the project from 1998 onwards?

Bruce Rutherford: That is correct. All community councils were consulted.

Alastair McKie: Thank you. You may proceed.

Bruce Rutherford: The third objector in group 61 is Waverley Housing. Its objection was late—the objection was deposited with the committee clerks on 3 June 2005. The promoter met Waverley Housing on 26 September 2005.

Waverley Housing is not opposed to the railway, but all issues in its objection still stand. It is concerned that the railway will have a negative effect on the social housing stock that is held in Langlee Drive and Woodstock Avenue in Galashiels. It is concerned about stabilisation problems during and after the construction of the railway, the possible difficulty in letting properties that are adjacent to the railway and any subsequent loss.

Our last contact with Waverley Housing was by letter on 8 March 2005. In total, seven letters have been exchanged, and there have been four telephone conversations and one meeting.

Alastair McKie: Thank you, Mr Rutherford.

I turn to Mr Edwards to talk about the loss of amenity and tree loss. Mr Edwards, could you confirm your evidence on tree loss at this location, and say whether there is the potential for tree replacement? If there is, what type of trees will be used? It might be useful for the committee to look at plan 12, which shows a belt of trees. Will you confirm which of the trees will be lost along that former railway corridor?

Nathan Edwards (Environmental Resources Management Ltd): The evidence states that there will be tree loss along both sides of the black path. Specifically, there will be tree loss along the residents' side of the black path. Following the construction of the embankment on which the railway will sit, replanting will be possible along the side of that embankment to the toe of the slope.

Plan 12 shows the planting situation at Glenfield Road West, where there is more space between the residents and the train line. There is a verge adjacent to Glenfield Road West and a line of mature cherry trees along that road. The promoter plans to extend that line of cherry trees along the full length of the scheme and to replace native trees and shrubs to the rear of that planting along the slope.

Alastair McKie: Is there any potential for mitigatory planting at Glenfield Road East?

Nathan Edwards: A level of planting might be possible at Glenfield Road East. I refer the committee to plan 14. The space available between the existing boundary and the noise barrier that is indicated on the plan is limited, so the planting there would not be as substantial as that in Glenfield Road West, but it would be enough at least to limit views between the properties and the rail line.

Alastair McKie: Whom would the promoter consult about replacement planting?

Nathan Edwards: The promoter would consult Scottish Natural Heritage to agree which species would be appropriate in this particular location. That is particularly significant because of the proximity to Gala water and the type and level of planting already in this location.

Alastair McKie: Would it be possible to consult some of the objectors?

Nathan Edwards: Indeed. A detailed landscape design would be required as part of the scheme and, in order to draw that up, the objectors would have to be consulted on the depth of the planting to the rear of their properties and on the species.

Alastair McKie: That completes the promoter's evidence on that chapter.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): I have one or two questions on the objection. We visited this scene and I think that it is fair to say that our general view then was that this objection would be one of the most difficult ones to accommodate. My first question is at what height will trains pass Glenfield Crescent and Glenfield Road?

Alastair McKie: That question might be better put to Mr McCracken, our engineer, who is here but who is not on the current panel. I apologise for

that. If that question could be deferred to the next panel, we would be happy to answer it.

Mr Brocklebank: That is fair enough. Mr McCracken's absence from the panel probably also impinges on my next question, which is about how the promoter intends to reduce the height at which the trains will pass. The feeling was that the promoter would try to do that. Perhaps we should leave that question too for Mr McCracken.

Alastair McKie: Correct.

Mr Brocklebank: Given what the promoter proposes, what impact would plant screening and/or noise barriers—even transparent barriers—have on the amount of daylight going into the ground floors and back gardens of the properties?

Nathan Edwards: If we were to plant trees to the rear of Glenfield Road East that would be of significant height on maturity, the houses would lose a good percentage of the light to their back gardens. However, given the limited space that is available to us in which to plant and the fact that Network Rail does not accept certain species, particularly if the trees will be adjacent to embankments, the number of species available for us to plant in this location is limited. It is most likely that the species will include hawthorn and birch, for example, which do not gain a great deal of height and which have a more open canopy. It is acknowledged that they will not fully screen the train line, but they will soften the views and limit them. They will also permit a level of light to reach the back gardens and lower floors that full vegetation screening would not permit.

Mr Brocklebank: So the dilemma is that you cannot plant something that will be dense because it will obliterate the light totally but, with the trees that you suggest, the residents will still see the trains thundering by from their back windows.

Nathan Edwards: They will have a limited view.

The Convener: I have a couple of questions. I hate using the word “woolly”, but I thought that what you said earlier was a bit woolly. You said that you could—or would—consult the residents on screening and the like. Can we get an assurance that you will indeed consult, rather than an assurance that you could do that?

11:30

Nathan Edwards: We will do that, if the residents wish us to do so.

The Convener: Thank you for that. This question is for Mr Rutherford or Mr Sandland. Is voluntary purchase being considered for these properties?

Bruce Rutherford: The voluntary purchase scheme is currently with the Scottish Executive, so

it will be difficult for the promoter to say whether the properties will qualify until the criteria have been agreed with the Scottish Executive. However, as Mr Brocklebank has said, this is one of the worst sites along the length of the railway. I therefore suggest that there is more than a strong chance of the properties coming under the VPS.

The Convener: As you know, we continue to correspond with the Executive. Also, the Minister for Transport and Telecommunications will be at our next meeting, when I hope he will answer questions about the voluntary purchase scheme.

Mr Sandie, have you any questions for the witnesses on loss of amenity?

Graeme Sandie: Yes. My first question is simple: will Mr Sandland confirm that the existing path from Tweedbank to the west of Galashiels is a completely off-road amenity?

Bill Sandland (Scottish Borders Council): The path is off-road and will be off-road from Tweedbank to Anderson's Chambers in Galashiels—

Graeme Sandie: No, I meant the existing path—the black path as it is just now.

Bill Sandland: I am sorry. The existing path is off-road from Tweedbank to Wheatlands Road.

Graeme Sandie: This is a general question on the black path. The promoter states that the alternative amenity has been approved “in principle”. Can you confirm the completion date of the path, and the commencement date? I am concerned about the words “in principle” and would like to know the hard and fast date when the path will be put in place.

Bill Sandland: As Mr Rutherford has said in evidence, the application for substantial funding for the work will be made to the board of SESTRAN and ultimately to the Scottish Executive. If the money is approved, the programme is for the work to be carried out during the financial year 2006-07. Obviously, there may be slippage, but the financial facility would be available.

Graeme Sandie: Your written evidence mentions

“a projected cost of £700,000”.

Is that part of the Waverley funding, or is it completely separate?

Bill Sandland: That is extra to the Waverley funding.

Graeme Sandie: Okay—it is extra to the Waverley funding.

I will ask some more specific questions on the black path. At the meeting of this committee on 8

March, you freely admitted that the Ladhope Vale area is a problem for the promoter with regard to the provision of an alternative path. Will you highlight the implications of the new road layout on the alternative shared path?

Bill Sandland: The present expectation is that we can put a shared path on the south side of Ladhope Vale.

Graeme Sandie: At the moment, we have a completely off-road section in the Ladhope Vale of 800m. It is proposed to put in a shared amenity that will go through one set of traffic lights, two road junctions—one of which will lead to the bus station—and perhaps three roundabouts. I cannot understand how the promoter can regard that as being anything like the existing path.

Bill Sandland: There is an aspiration to take a path adjacent to the Gala water through the centre of Galashiels. That is problematic, but I believe that the council intends to proceed with it—or to plan for it at least.

Graeme Sandie: So the new path on the maps is not the path that will be put in place. The promoter hopes to put the path adjacent to the Gala water. Is that correct?

Bill Sandland: The plan shows what we believe can be achieved and delivered at the moment. Clearly, a number of landowners and other interests would be involved if we were to put a path adjacent to the Gala water. Nevertheless, that is an aspiration. It is not yet council policy, but we would be keen for the council to consider it.

Graeme Sandie: In principle, the council would be happy to go down that line.

Bill Sandland: I cannot speak for the council, but I have no reason to suppose that it would not support that.

Graeme Sandie: I do not want to harp on about the issue, but would the funding for this super-duper alternative next to the Gala water come from council funds as well as SESTRAN funds?

Bruce Rutherford: When we built the black path, which is off the roads, it became a huge facility for the whole of Galashiels. I use it regularly. We are trying to put something back that can be used immediately, and that is what Mr Sandland has touched on. It is an aspiration of the council to put back as much off-road track as possible over the next several years. Such things do not happen immediately, but we are genuinely trying to do that.

I earlier touched on the fact that the black path is number 15 out of our 80 capital projects. The council is making it a high priority. The council sees it as something that should be promoted to ensure that something goes back into place as

quickly as possible. If the SESTRAN money fails—we do not think that it will—the council has attached a high priority not only to the black path but to the railway as a whole. It is one of the principal projects that the council is trying to drive through just now.

Graeme Sandie: Further down the track, as they say, there was some confusion at our meeting about whether the path would go over or under the new Tesco bridge. The plans for the road that I have seen state that the path will go over the road; the plans for the railway show that the path will go under the road. Can you confirm whether you have managed to solve that problem?

Bill Sandland: I can confirm that the cycleway goes up on to the road and round the new roundabout.

Graeme Sandie: Does it not go under the bridge, as the submitted plans state?

Alastair McKie: Convener, it may be useful if the witness could focus on the plans that have been submitted, which show the alternative alignment. It can be a little difficult to follow. It is shown on plans 4A to 4C.

Graeme Sandie: This is the first time that we have seen those plans.

The Convener: It is the first time that we have seen them as well, Mr Sandie. If you have any further questions, please continue.

Graeme Sandie: The path will go over the road. That means that we will have to dismount and go round the roundabout to get back on to the black path.

Bill Sandland: It is anticipated that you will be able to cycle up on to a shared-use path round the roundabout. However, to cross the legs of the roundabout, you will have to dismount. I am pretty sure that these plans do not show the line of the path going either under or over the bridge.

Graeme Sandie: I do not want to say that that is not correct, but I have seen a plan on which the facility was shown to go under the bridge.

Bill Sandland: That is right. That is part of the redevelopment for access to the Asda store.

Graeme Sandie: Let us go further down the path to the Glenfield Road area. At our meeting, we discussed the positioning of the path on the flood plain, but we could not get an answer about what height the path would be on the flood plain. I realise that there are difficulties. If the path was too high, it would affect the flood prevention area; if it was too low, it would get washed away every time there was a flood. Have you managed to get some more information regarding the height of the path?

The Convener: Mr Sandie, we are going to address the issue of flooding once we have dealt with the path.

Graeme Sandie: This is about the path as well. The path is on the flood plain.

The Convener: Okay. Continue for the moment.

Bill Sandland: It is anticipated that the path will be built at grade—at the same level as the flood plain—thereby avoiding any effect on the flood prevention area. I am assured that it can be built sufficiently robust to withstand reasonable flooding—that is the term that I would use.

Graeme Sandie: So, in the Glenfield Road area, the track will not be raised up but will be built flat.

Bill Sandland: Yes.

Graeme Sandie: Okay. I find it very difficult to accept that, given the number of floods that we have had in the Glenfield Road area—it was between three and five in the year. I am pretty sure that Scottish Borders Council will find that it will cost it a lot of money to repair that part of the track, if it is laid on the flood plain.

Bruce Rutherford: I go down to the north-east of England quite a lot. There is a causeway that runs from the mainland to Holy island; it gives vehicular and pedestrian access to the island. Although the causeway has to suffer the tide coming in two or three times a day, it is still in place. Obviously, when the tide comes in, the causeway cannot be used. There are ways in engineering to safeguard a black path or causeway.

Graeme Sandie: The last part of the black path that I want to mention is the Redbridge viaduct over the Tweed. At our meeting on 8 March, you said that you were unaware of the exact width of the bridge. Can you confirm the width now?

Bill Sandland: Our engineers have advised me that it is 8.2m from parapet to parapet.

Graeme Sandie: The aspect of the black path that concerns me most is the cycle path that is to go on the bridge, adjacent to the railway line. You said that the width of the bridge is 8.2m. I understand that the minimum width of a path is 2m. That leaves 6m for the railway line. I was also informed that a safety barrier should be put in place and that any path has to be 3m from the barrier. Surely that does not leave much room for the railway line. What kind of path will Network Rail install on the Redbridge viaduct?

Bill Sandland: I refer Mr Sandie to drawing 16 in the set of drawings that we circulated this morning. The drawing, which is a cross-section of the Redbridge viaduct, was prepared following the meeting with Mr Sandie. It shows the outline of a train, the width of the track and the proposed

cycleway. It illustrates the feasibility of installing the cycle path on the viaduct.

Graeme Sandie: What speed will a train be running at when it crosses the bridge?

Bill Sandland: I think that it will be quite a low speed, but I cannot recall the exact speed. Mr McCracken may be able to give exact figures in the evidence that he gives later in the meeting.

Graeme Sandie: Given that the bridge is owned by Network Rail, can you confirm that the path will be put in place prior to the reinstatement of the railway?

Bill Sandland: It will be constructed with the railway works in mind. Is the question whether that will be done before the railway line is built?

Graeme Sandie: I believe that section 9(2) states that no stopping up can take place until an alternative is open to the public.

Bill Sandland: That is the case.

Graeme Sandie: As I read it, if the bill is passed and the line begins to be built, the path has to be constructed before the work commences on the viaduct.

Bill Sandland: Yes, that is an undertaking that we would give.

Graeme Sandie: Is the undertaking one that Scottish Borders Council or Network Rail can give? As I said, Network Rail owns the bridge.

Bill Sandland: From an engineering point of view, I think that there is no difficulty in building the path and in having it open and isolated from the construction works. We may have to give thought to the detail of how that is done.

Graeme Sandie: But do you have confirmation in writing from Network Rail that it will put the path in place?

Bill Sandland: I do not have that.

Graeme Sandie: You do not have it. So, Network Rail might turn round and say, "No, we are not going to put in the path."

Bill Sandland: Network Rail is aware of the proposal. It has reviewed it and has made no objection. I have received nothing from Network Rail to suggest that it has any difficulty with this.

Graeme Sandie: I think that you can see where I am coming from—

11:45

The Convener: Mr Sandie, we note the point that you are trying to make. Please move on to your next question.

Graeme Sandie: I have finished asking questions on loss of amenity.

Margaret Smith: Mr Rutherford, you said that a decision on Scottish Borders Council's funding request is imminent. What is the process and when will the council find out whether it has funding from SESTRAN or the Executive? If funding is not granted, when will the council make a decision on what to do about funding?

Bruce Rutherford: The SESTRAN steering group will meet on Friday, so we will find out then whether funding has been approved. Early indications suggest that it will be approved. The decision must then be ratified by the Scottish Executive.

Margaret Smith: How long will that take?

Bruce Rutherford: I cannot tell you. However, about £9 million per year is available to SESTRAN during—I think—the next three years. We put in a bid for the first year and Midlothian Council made a similar bid and we are fairly confident that the money will be allocated. We do not anticipate that our bid will fail, but if it does, I will have to speak to councillors about how best we can fund the work. The costs of some of the work are included in the capital costs of the railway, but we have taken the opportunity to enhance the walkway and cycleway in other areas. We want to provide suitable access to Clovenfords and a link between that village and Galashiels.

Margaret Smith: How much capital is available for the Waverley project? How much more are you requesting from SESTRAN?

Bruce Rutherford: You will know about the vagaries of a council's capital programme. I would have to ask whether work could be accelerated, but the work must compete with every other priority that the council has set. As I said, the work is a high priority, but we would have to approach the council for additional money only if our submission to SESTRAN was unsuccessful.

Christine May: I want to clarify a matter. I understood that your application had been made to Sustrans, the organisation that campaigns for sustainability in transport in Scotland, not to SESTRAN.

Bruce Rutherford: No, the application was to the south-east Scotland transport partnership—SESTRAN. The Scottish Executive made £9 million available over the next two or three years.

The Convener: Thank you for that clarification. We are trying to distinguish between our Us and our Es.

Mr McKie, do you have further questions for the witnesses?

Alastair McKie: I do not.

The Convener: Andrew McCracken, Andy Coates and David Wright are the witnesses on flooding.

DAVID WRIGHT took the oath.

The Convener: Mr McKie, do you want to invite one of the witnesses to give us a brief update on the current position with regard to flooding?

Alastair McKie: I do, convener. It might be useful if Mr McCracken interpreted for us the two plans that show the alignment that is proposed in the bill and the proposed realignment, and dealt with the question of the exact height of the railway bed at Glenfield Road East.

Mr McCracken, will you please interpret plans 11 and 13, dealing first with the gradient or height of the rail line at this location as proposed in the bill?

Andrew McCracken (Scott Wilson Railways Ltd): Certainly. On plan 11, we have shown in red the current alignment that is proposed in the bill. By way of background, I should explain what we have had to do to the alignment vertically, which has driven the height issue. In the middle of the plan, we show the line crossing Glenfield Road West. Scottish Borders Council's highways department has made it clear that as part of its roads strategy we have to maintain a full 5.3m high road clearance under the rail bridge. As a result of that, we have falsely raised the railway higher than its previous alignment. We have then applied a near maximum vertical gradient from that point. As we travel along Glenfield Road West to Glenfield Road East we have applied a falling gradient of 1:100.

I will explain the result of that, which might answer Mr Brocklebank's earlier question, and refer briefly to plan 12. At Mr Sandie's property, which is 30 Glenfield Crescent, the proposed track is somewhere between 4m and 4.5m higher than the current black path—that is with a 1:100 limiting gradient. Mr Brocklebank asked what we could do here: 1:100 is normally a limiting gradient, but we could probably steepen that to about 1:70. I did a quick calculation while I was sitting in the audience. We could probably lower the railway about 0.6m from what we have currently proposed by going from a 1:100 to a 1:70 vertical gradient.

As we move further along the plan, we get to 52 Glenfield Road East. The section shown in plan 14 indicates the height differential there. We have dropped the track considerably by the time we get to that property. As we move along Glenfield Road East we get down to the current black path level.

When we first consulted the residents, through Mr Rutherford and Mr Rosher, there was concern about a horizontally moved and vertically raised alignment. I am sorry for jumping between plans, but on plan 13 we show an alternative alignment in blue. We have tried to push the railway as far over as we can horizontally. I think that there is a maximum 10m shift in the alignment. I hope that you can see from the plan that there is not a lot of

room between the old railway corridor and the Gala water. That pinchpoint is shown on the right hand side of the plan. We considered all that, but the issue of concern was not really railway alignment but flooding.

Alastair McKie: Thank you, Mr McCracken. That moves us conveniently on to Mr Wright. Good morning, Mr Wright. Have you assessed the potential realignment shown on plan 13 from the point of view of flooding?

David Wright (Scott Wilson Railways Ltd): Yes.

Alastair McKie: Could you confirm to the committee what your findings have revealed?

David Wright: Okay. Good morning. I have been asked to respond to the flood issues associated with the proposed rail alignment where it would run between Glenfield Road East and the Gala water. I have considered two aspects of that.

Certain residents are concerned that the rail embankment on the proposed alignment in elevation might result in raised flood levels in that vicinity. The other issue is that if the alignment were to move 10m or so towards the river, what would be the effect on flooding in general in the vicinity of Glenfield Road East.

We carried out a preliminary flood risk assessment using a numerical model. We considered the flood effect of the existing topography, the proposed rail alignment and an alignment closer to the Gala water. I will not go into the details. I can take questions on the details of the modelling that was carried out, for which we used industry-standard software.

The modelling showed that the proposed railway works in the red alignment would not cause an adverse change in flood levels upstream of that reach, in that reach or downstream, but if the alignment were shifted south, as can be seen in blue on the section in plans 13 and 14, the embankment would encroach quite substantially into the flood plain and would therefore restrict the river's ability to convey the flood waters in an elevated flood, which would cause a rise in flood levels.

As for the conclusions that I can draw from the modelling, particularly with regard to Glenfield Road East, members should note that the Glenfield Road underpass that is shown on plan 13 links the river hydraulically to the area on the other side—the landward side, as it were—of the embankment, so that when the flood is high enough, flood waters can pass through it and flood on the other side.

I looked at models up to a one-in-200-year flood, which is quite a large flood. At that level, the flood waters would be able to get through the underpass

and spill in two directions, both east and west. They would flow down the rear gardens of properties in Glenfield Road East, towards the houses, and towards Glenfield Road West. If the flood was long enough, the water level in that area would come to the same level as on the river side, so there is an existing flood risk to those properties in the event of a large flood. Shifting the railway embankment towards the river would increase the level and risk of flooding in Glenfield Road East and Glenfield Road West, because of the link through the underpass. That is one local, or specific, conclusion that can be drawn.

Another, more general, conclusion is that Scottish planning policy 7 provides a policy framework for dealing with flooding and its effects. I believe that a copy of SPP7 is available to the committee. Under bullet point 4 of paragraph 15, the first and third lines state that new development should not

“materially increase the probability of flooding elsewhere”

or

“affect the ability of the functional flood plain ... to attenuate the effects of flooding by storing flood water”.

The functional flood plain is taken to be the level within the one-in-200-year flood extents.

In conclusion, if the railway embankment remains on the proposed alignment, there will be little further encroachment on to the flood plain and no material increase in flood level or flood risk, but if the embankment is shifted closer to the river, there will be a notable increase in flood levels and in flood risk—the probability of flooding—both at Glenfield Road East and further down the river on the other side at Dale Street.

I spoke to Scottish Borders Council's flood liaison officer a couple of days ago. I understand that a flood prevention scheme was put in place some years ago to protect the Dale Street area. Any appreciable increase in flood levels in that area would have an effect on that scheme. On the basis of those considerations, it could be concluded that a shift of alignment would be contrary to SPP7.

12:00

The Convener: Are you satisfied that your questions have been answered?

Mr Brocklebank: I wish to clarify a little further the question of height. What is the maximum height that will be reached in the original alignment? How high will the line be behind those houses?

Andrew McCracken: At the next stage of design, we could probably increase the gradient from the new bridge at Glenfield Road West to try

to lower the line more quickly. A 1:70 gradient would normally be the maximum—it is the maximum gradient used elsewhere on the line. If we applied a 1:70 gradient, I reckon that we could probably lower the embankment at Mr Sandie's property by about 0.6m or 0.7m. I apologise for calculating that quickly and crudely—I can confirm it later. When the gradient is steepened, train performance can be compromised, so we would have to consider the timetabling, to ensure that we do not compromise speed too much. That is part of the iterative design process with operations.

Mr Brocklebank: You are saying is that there is no way of dramatically reducing the height of the embankment and that people will still be able to see virtually the whole of the train from their back windows?

Andrew McCracken: Yes. Unfortunately, it comes down to train performance and traction of steel wheels on steel rails. That is the limiting criterion. A 1:70 gradient is approaching the absolute maximum on which rolling stock can accelerate and decelerate. That is the problem.

Mr Brocklebank: To confirm what Mr Wright said, it is not really feasible to change the alignment. You really have to stick where you are.

Andrew McCracken: Horizontally, for the reasons given.

The Convener: Did you consider flood prevention measures alongside the alternative alignment? Did you do any modelling on how much it would cost to do that?

David Wright: No. The modelling that has been done assessed the quantum of change that would take place in one alignment rather than another. You are right: if you are proposing a scheme, you can consider offsetting elements to bring the flood levels back down to their existing levels. That can be done where there is more room to move and store flood water, but this area is rather like a funnel and little can be done to provide compensatory flood storage anywhere else to offset change.

The Convener: I do not know whether we need to call Mr Rutherford forward for this one. How could the alternative alignment impact on the appropriate assessment issue?

Alastair McKie: I was going to put that to Mr Coates, who I think has had discussions with SNH on the issue.

The Convener: How would you like to answer that, Mr Coates? Tell me about how the alternative alignment would impact on the appropriate assessment.

Andy Coates (Environmental Resources Management Ltd): We have spent some

considerable time recently in discussion with SNH about moving the line further away from the edge of the watercourse. One of SNH's concerns is flooding. On the appropriate assessment, the alternative alignment would bring the line closer to the river. You can see from the plan that there is a pinchpoint that looks close to the edge of the river—probably closer to the river than SNH imagined. SNH has not yet been out to look at the area, so its comments relate purely to the plans.

SNH feels that the alternative alignment would be a significant encroachment into the flood plain and that it is likely to restrict flood waters. It says that that could cause problems that might have an effect on the river. SNH's initial thoughts were that it might object to such a proposal, subject to seeing further information.

Margaret Smith: I ask for your guidance, convener. In response to Mr Brocklebank's question about the height of the embankment, there was some discussion about the impact on the rolling stock's performance. Could we return to a discussion of any noise impact from that change?

The Convener: We will come on to noise and vibration shortly.

Mr Sandie, do you wish to make any points to the committee or to ask any questions on flooding?

Graeme Sandie: Yes, I have a few. Much of the information that we are hearing now is new to us—as are many of the plans, which we have not seen before today. Has any consideration been given to closing off the underpass? No flood water would get through the underpass if it was closed off.

David Wright: I will leave that to Andrew McCracken.

Andrew McCracken: We always assumed that the underpass had to remain open. I think that that was to keep the existing right of way open, although I would have to refer that point to Mr Sandland.

Graeme Sandie: So closing it off could be an option?

Andrew McCracken: There is one other thing: I think that an electrical substation is located where there is a sign on plan 13 saying "flood plain". Access to that for maintenance, inspection and servicing is from Glenfield Road East through the underpass, so that might have to be addressed with the owner of the substation.

I do not know whether the idea of closing the underpass links into the bigger footpath and right-of-way issue. Mr Sandland would have to help us on that point.

Graeme Sandie: The 10m move was news to my colleagues, as the discussions that we had

were about a move of 4m, but any number of metres away from the existing alignment would be of benefit. Is any work being done on moving the track less than 10m?

Andrew McCracken: We considered the impact on flooding of moving the track 10m. I suppose that it would be possible to do a series of permutations from 1m up to 10m, but the flooding issues are generic. The point is that, if we slew to the south at all, we will encroach on the flood plain. Although the increase in flood water would be less if we moved the track less than 10m, the issues that Mr Wright discussed would apply generically and the concerns of SNH and Scottish Borders Council's flood prevention officer would remain the same.

Graeme Sandie: The movement of the track would be of major benefit to us. Would it not be cheaper to improve the existing flood prevention methods in Dale Street and Nether Road if the track encroaches on to the flood plain?

David Wright: Do you mean to offset the effects of moving the track to the blue line on plan 13?

Graeme Sandie: If you moved the track to the blue line, what impact would it have on the existing flood prevention measures?

David Wright: I could not give chapter and verse on how many millimetres the walls would have to be raised but, if such an alignment were in place, the frequency with which they would overtop would increase from once in 200 years—the level of protection is probably less than that; the walls were built some time ago and the flood standards were lower, so it is probably a one-in-100-year standard—to, say, once in 75 years. To regain the one-in-100-year level of protection, the walls would have to be raised. It is difficult to say how much they would have to be raised, but it would be millimetres not metres. Usually, a slice of material would go on top.

Graeme Sandie: So it is a possibility.

David Wright: It is, but I understand that the walls are quite old and we would not be able to add a bit of material. That is the case in other schemes that I am considering, in which the whole thing needs to be replaced just because an element is being added.

Andy Coates: Andrew McCracken made an important point about SNH. Having been through several difficult meetings with SNH—which you do not have to hear about—we have been trying desperately to move engineering works away from the watercourse. From the meetings that I have attended and the feedback that we had on Friday, I think that we would have a real problem with SNH if we suggested pushing the track towards the watercourse at all.

Graeme Sandie: I have a final question on flooding. The promoter's response states that

“a Flood Risk Assessment study was carried out in this area. Negligible flood level alterations were realised as a result of the proposed alignment.”

Can you confirm why flood prevention surveys were carried out in the Glenfield area in the weeks commencing 20 and 27 February this year?

Andrew McCracken: No. Were the surveys carried out by the promoter?

Graeme Sandie: I believe so. They carried out surveys for two weeks.

David Wright: Preparations for other flood prevention schemes are under way in the Galashiels area, but they are not part of what we are doing.

Graeme Sandie: Work could also be done to improve the existing flood prevention schemes.

The Convener: Does Mr McKie have any follow-up questions for his witnesses on flooding?

Alastair McKie: No.

The Convener: I ask Mr Rutherford, who is not at the table, to confirm to the committee who carried out the work that Mr Sandie mentioned. We would appreciate a note being provided on the matter to the clerk to the committee.

We move on to noise and vibration, consultation and impact on value of property and structural damage. I will pause for a few seconds to allow a witness changeover.

The witnesses on the panel will be Steve Mitchell, Bruce Rutherford, Alison Gorlov and Andrew McCracken.

Would Mr McKie care to invite one of his witnesses to provide a brief outline of where matters currently stand? He can then question his witnesses.

Alastair McKie: Mr Rutherford has given the committee a lengthy statement about the level of consultation, so on that issue the promoter would wish to rest on its evidence, as it would with respect to the impact on property values. Mr Rutherford has said that the properties at Glenfield Road East might qualify for the VPS, but that we will not know the full answer until we hear from the Executive. I suggest that we leave those matters to one side at the moment, although if the objectors and the committee desire to ask questions about them, they can be answered.

I invite Mr Mitchell to confirm whether he has assessed the railway proposals at the relevant locations in respect of noise and vibration. Can he confirm whether mitigation is required and whether the promoter's policy on noise and vibration thresholds will be adhered to?

Steve Mitchell (Environmental Resources Management Ltd): I will briefly summarise the evidence and add to it where I can.

There are three objectors in the group; I will deal with one at a time. We did noise assessment and prediction work at Mr Sandie's residence at 30 Glenfield Crescent. The predicted night-time noise level is 44dB, which is just below the thresholds that we have set ourselves for noise mitigation.

The Glenfield Road East residents association is represented by the numbers up to number 52 Glenfield Road East. We assessed the levels there in the environmental statement. They are a shade higher and just go over the noise targets that we set for ourselves. The solution would be to have a lowish noise barrier approximately 1m to 1.5m high, as shown in the cross-section in plan 14. Such a barrier about 200m long would provide sufficient attenuation to meet the noise targets for all those properties.

Finally, we did the noise assessment for the Waverley Housing Association. We do not predict a noise impact on any of its properties in the two roads, so there is no mitigation for that part of the scheme.

12:15

Alastair McKie: And in terms of vibration?

Steve Mitchell: All those properties are sufficiently far away for me not to have a major concern about vibration. However, as I said previously, that will be reviewed in due course just to confirm that the targets that we set ourselves in the noise and vibration policy will be met. I expect them to be met, given a standard track form going through this area. It is probably worth reminding the committee that the approach to noise and vibration is through the policy targets.

I should pre-empt a question that I think will come to me shortly, which is whether the noise levels will change a little bit if the scheme should change slightly—for example if the track gradient should change a little bit. It is because of the possibility of such change that we do not commit to a certain dimension of noise barrier or noise screening at this stage. What we would rather commit to is the targets that we have set. The noise barriers can be only approximate at this stage of the project.

Alastair McKie: Mr Mitchell, can you confirm whether the levels of vibration that you expect to emanate from the rail line once it is in operation would give rise to structural damage?

Steve Mitchell: Yes, I can. The targets for vibration are to do with annoyance and disturbance to people who feel the vibration. Because we will meet those targets, we will meet

the thresholds for damage by some margin. I would not expect a risk of damage to any of the buildings in this area.

Alastair McKie: Turning to Mr McCracken, on the issue of health and safety, are you—

The Convener: You have moved on a bit too quickly.

Alastair McKie: Sorry.

Christine May: I have a question for Mr Mitchell. You gave the figure for night-time noise thresholds for Glenfield Crescent, but you did not give a figure for Glenfield Road East. Can you give us that figure, please?

Steve Mitchell: Yes. The night-time figure for Glenfield Road East is 48dB plus. It is right on the margin of needing noise mitigation, so we have provisionally outlined a noise barrier there at this stage. It is not a high one because we do not need a high performance there.

Christine May: Thank you. I recall that when the committee visited the area and saw for itself the layout at Glenfield Road East, we were particularly struck by how close the railway would be to the backs of the houses and by its height, even with the mitigation of which you have spoken. Can you say how far the nearest track would be from the back of the houses in Glenfield Road East, rather than from the garden fence?

Steve Mitchell: Approximately 15m. We are talking about the numbers up to number 52, which is the eastern portion.

Christine May: Will you carry out structural surveys on those properties prior to the commencement of construction?

Steve Mitchell: We have in the bill provision to carry out structural surveys or to gain access to do them. In chapter 13, I think, of the code of construction practice we say that we will draw up a schedule of properties that need the surveys. If it is felt that they are at risk of damage through the construction works, which is the main objective of this exercise, they will be surveyed. The properties are not as close to the track as are dwellings that we have seen elsewhere.

Christine May: That is not a particularly clear answer, Mr Mitchell. The question was specific. Will you carry out structural surveys of these properties prior to the commencement of construction?

Steve Mitchell: We have certainly given that undertaking for one or two properties that will be 6m or 7m away from the line. My personal view is that the construction work in the area concerned is unlikely to cause any damage. The distance may sound small, but the construction activity that will be undertaken will not be particularly high energy.

Personally, I do not know whether the properties will fall into the category that the member mentions.

Christine May: So if, at a later date, residents wish to produce evidence of an effect, they will have had to commission their own structural survey prior to the commencement of the work?

Steve Mitchell: They certainly have that option.

Christine May: Right. Mrs Gorlov, do you want to add anything?

Alison Gorlov: I could give my client a hint that it might care to instruct its consultants on the issue. One option is to carry out surveys of the properties. When the time comes, it may be thought that an element of safeguarding is desirable for those properties. As the committee will know, the bill provides for pre-work and post-work surveys to be done. I do not know whether that is appropriate in the present case—the committee may have been told that we do not know the answer to that—but we will certainly consider the issues and give the committee more information on them.

Christine May: The committee would welcome further information.

The Convener: We undoubtedly would.

Mr Hegarty, do you have any questions for the witnesses on noise, vibration, consultation and the impact on the value of property?

Albert Hegarty: I will ask questions on noise. We are told that an ambient background noise measurement was taken in the Glenfield Road East area. If so, when and where was that done?

Steve Mitchell: I am not sure that I said that.

Albert Hegarty: The last time we met the promoter, nobody could tell us when the readings were taken.

Steve Mitchell: If you give me a moment, I will look up the information. I did not say that to you, but I will check the paperwork. The reading in the Glenfield Road East area, at our receptor R55, was taken on 21 and 22 June 2004, between 11 o'clock in the morning and a similar time at night. That is reported in our supplementary memorandum of 23 August 2004.

Albert Hegarty: As our original objection points out, the bill states that the distance from the boundary of our properties to the proposed track will be between 6m and 10m. Measurements made by our committee show that the actual distance will be 8m. We understand that the promoter intends to place a noise barrier between the railway and 32 to 52 Glenfield Road East. For safety reasons, the noise barrier must be at least 3m from the track and cannot be situated on

sloping ground. However, the promoter's plan of the area shows the noise barrier on the slope.

Steve Mitchell: I see no reason why it cannot be situated on the sloping ground; it just needs a slightly larger foundation.

Albert Hegarty: We have been told that the barrier must be on solid ground, not sloping ground. We must also consider the safety aspects that arise from the height of the barrier combined with the volume of wind that comes down the valley. If the noise barrier were to take off, it could cause structural damage.

The Convener: Mr Hegarty, do you have a document that suggests that noise barriers should not be on sloping ground?

Albert Hegarty: We were told originally that the sound barrier had to be 3m from the track and on flat land.

The Convener: Who told you that?

Albert Hegarty: I think that that came from—

Steve Mitchell: Convener, Mr McCracken is keen to answer the question.

The Convener: Go ahead, Mr McCracken.

Andrew McCracken: Putting a noise barrier on a slope is a fairly easy engineering matter. A slightly deeper side-bearing foundation would be required to resist the lateral wind load, but that is often done when building railway infrastructure.

The Convener: So there is absolutely no reason why the barrier cannot be on the slope?

Andrew McCracken: Absolutely none.

The Convener: Mr Hegarty, do you have any further questions?

Albert Hegarty: Yes. Will noise measurement be undertaken regularly after the trains start running? Will we be informed about the results?

Steve Mitchell: Yes. The final chapter of the noise and vibration policy is about monitoring noise levels from the operation of the railway. There is a clear commitment to measure noise levels, to check that the design works as planned. There is a commitment to make the noise levels and recordings public.

Albert Hegarty: If operational noise levels are severe, who or what will trigger mitigation and when will that happen?

Steve Mitchell: The purpose of monitoring is to check compliance with the targets that we set ourselves, so noise levels will be judged against those targets, which might differ from your view of what is severe. If the targets are not met, we will take remedial action, if it is practicable to do so, to bring noise levels back into compliance with the targets.

Albert Hegarty: Another concern is construction noise. We understand that the compulsory purchase orders on land at 52 and 32 Glenfield Road East have been rescinded. Will you give an undertaking that no rail construction traffic will use Glenfield Road East as an access route?

Steve Mitchell: I am afraid that I cannot give that assurance. Perhaps Mr Rutherford can help.

Bruce Rutherford: The objection from Mr Scott and Mr McConnachie has been withdrawn and it is unlikely that we will need access. We told those objectors that we will not go through their gardens at any time. When work is going on to the structure at the end of the road near number 52, there might well be vehicles in the area and vehicles might occupy part of the verge, but the traffic between the two rows of houses at Glenfield Road East will be much less than was envisaged.

Margaret Smith: I appreciate that Mr Mitchell cannot come up with a definitive answer to this question at this stage, but can he give an indication of the likely impact of noise, particularly on Mr Sandie's property, if the gradient were steeper?

Steve Mitchell: I will not attempt the back-of-an-envelope calculation that Mr McCracken just performed. I cannot do that calculation here—

Margaret Smith: I am disappointed.

Steve Mitchell: The noise change would be very small. The railway will be on a gradient in any case and a change from 1:100 to 1:70 would not have a big impact on noise output from engines. Such a change would make only a slight difference. The anticipated noise levels on Mr Sandie's property are currently a few decibels under the threshold for mitigation and I suspect that it is unlikely that the change in noise levels would be sufficient to trigger a requirement for mitigation at that location.

The Convener: Mr McKie, do you have follow-up questions for the witnesses?

Alastair McKie: I do not.

The Convener: On health and safety, the witnesses for the promoter are Steve Purnell and Andrew McCracken. Mr McKie, before you ask questions, please invite one of the witnesses to summarise how matters stand.

Alastair McKie: Mr Purnell, will you describe how health and safety will be enforced during the construction phase of the project?

Steve Purnell: Certainly. I think that health and safety issues were raised in relation to construction traffic, principally in the Glenfield Road East area. Specific safety measures, noise levels and air quality arising from traffic movements are explicitly mentioned in the code of

construction practice, which has been the subject of discussion during the meeting. As the committee heard, the code will be binding on the contractors. All safety measures that require to be put in place as part of the contract will have to be agreed with the local planning authority before any works can be undertaken.

12:30

Alastair McKie: Thank you, Mr Purnell.

Mr McCracken, on health and safety during the operation of the railway—if it proceeds—can you confirm whether there are any particular safety issues at this location?

Andrew McCracken: As I have stated in previous evidence, we refer to a rail regulation policy paper that clearly outlines the safety procedures, approvals and so on. In previous oral evidence, I have referred to severe geometry and things like that. You will see on plan 11 the section of track from Glenfield Road West as the train clears the bridge. All the way along there is a section of straight track—there are absolutely no features on the route at this location that would cause me any safety concerns.

Alastair McKie: Okay. Can you confirm how rail safety will be enforced during the railway's operation?

Andrew McCracken: The design and approval will have to comply with the policy guidance of Her Majesty's railway inspectorate.

Alastair McKie: Do you have any reason to doubt that approval will be given by HMRI?

Andrew McCracken: No.

Alastair McKie: Thank you.

Margaret Smith: Having been on a site visit, I think that there is a general sense among committee members that the track is very close to, and will be very high behind, the properties that we are talking about. Would the promoter seek to install any kind of safety barrier at this stretch of track?

Andrew McCracken: There is no design standard or approvals process that requires that a safety containing barrier be put in place there, so there are no proposals to put in such a barrier.

The height is not relevant, but is a slight aside. In terms of whether trains come off, I have given evidence on several occasions. There are properties that are closer to the track than Glenfield Road East, such as Dr Wyllie's, for example. The point that we have made in evidence is that trains tend not to come off tracks.

Margaret Smith: Can I play devil's advocate for a second? All things being equal, trains tend not to

come off tracks. However, let us say for the sake of argument that some nasty little sod has decided to put a great big piece of concrete on the line. What would be the impact of that on a train that was travelling along a raised piece of track? Would the train manage to deal with that without derailing?

Andrew McCracken: If there was such an obstruction on the track and a derailment was to occur, it would have occurred because of the concrete block. If the track was on a raised embankment there would be potentially more risk that the train would come off the tracks and go more to one side than the other. To answer your question, the derailment would probably have a worse consequence if that was to occur.

Margaret Smith: The derailment would have worse consequences if it were from raised track than it would from track that was on the level.

Andrew McCracken: Correct.

Margaret Smith: Thank you. That is all I have on health and safety.

The Convener: Mr Hegarty, do you have any questions for the witnesses on health and safety?

Albert Hegarty: Yes—I hope that my questions are suitable.

We have health and safety concerns regarding the introduction of the line, its proposed height and its proximity to properties. We are aware of paragraph 51 of the promoter's response; however, the train will just have completed a tight curve on an elevated portion of the track. Should anything untoward happen, the train would topple one way or the other. Perhaps you could answer that question.

Andrew McCracken: I am sorry, but I must have missed the question. I heard your statement.

Albert Hegarty: We are saying that the train will just have completed a tight curve on an elevated portion of the track. Should anything untoward happen, the train would topple one way or the other.

The Convener: Is there a question there, Mr Hegarty? Are you asking Mr Cracken whether he agrees with you?

Albert Hegarty: Not really. I am just asking for more clarification, but I think we have already got that.

The Convener: Could you perhaps clarify matters a wee bit more, Mr McCracken?

Andrew McCracken: As I said in my answer to Ms Smith, the train will be on a section of raised track. If the train were to come off that track, it is undoubtedly true that it would have height to lose.

However, I reiterate that the train will be on a section of straight track. Once the train has cleared the bridge, which will be some distance from the train, it will enter a section of straight track. In infrastructure terms, it will be safe.

Albert Hegarty: I have no more questions.

The Convener: Does Mr McKie have any follow-up questions on health and safety.

Alastair McKie: Mr McCracken said that there will be no safety restraining fencing. Will any fencing be provided along the rail line?

Andrew McCracken: Yes.

Alastair McKie: What will be the specification of that fencing?

Andrew McCracken: The fencing will be the full specification because the line will be in a built-up area. It will be 1.8m high palisade or chain-link fencing.

The Convener: The issues of acquisition of land and the impact on the viability of a letting business are raised in the Waverley Housing objection. Witnesses for the promoter are Andrew McCracken and Alison Gorlov. I ask Mr McKie to invite one of his witnesses to give a brief outline of where matters stand. He may then question Mr McCracken and Mrs Gorlov.

Alastair McKie: The promoter's position remains as outlined in its policy paper on compensation and compulsory purchase, which states that the existing law should be applied.

Margaret Smith: What is the up-to-date situation on the correspondence between the promoter and Waverley Housing? I think that Waverley Housing wrote to the promoter at the end of December, but had to wait a while for a response. In his earlier remarks, Mr Rutherford said that a letter had been sent to Waverley Housing at the beginning of March. What did that letter say and what is the up-to-date position?

Bruce Rutherford: Our letter to Waverley Housing confirmed our position on compensation, which Mr McKie has outlined. We thought that we had answered all the questions and we suggested the possibility that Waverley Housing might feel able to withdraw its objection. However, Waverley Housing has said that it will, on the advice of its lawyer, maintain its objection because it wishes to discuss further the terms of compensation.

Margaret Smith: Can you confirm that the distance between the proposed railway line and Waverley Housing's nearest property to the proposed line is about 40m?

Andrew McCracken: I will confirm that at a later date—I do not have the information with me.

Margaret Smith: Confirmation of the distance between the proposed line and the nearest Waverley Housing property would be helpful.

The Convener: Does Mr McKie have any follow-up questions for Mr McCracken or Mrs Gorlov on this issue?

Alastair McKie: No.

The Convener: We will now hear evidence on group 61 from witnesses Albert Hegarty, Thomas McCudden and Graeme Sandie.

ALBERT HEGARTY, THOMAS MCCUDDEN AND GRAEME SANDIE *took the oath.*

The Convener: We turn to loss of amenity—the black path, privacy, visual impact and reduced daylight. Mr Hegarty, as you do not have a questioner, perhaps one of your group would like to comment on whether you accept the promoter's evidence about where matters stand on those issues.

Albert Hegarty: All three of us are here today as objectors in our own right. We also represent the residents of Glenfield Road East. I do not know what more I can say at the moment.

The Convener: Do any of your colleagues have anything to say about privacy, visual impact and reduced daylight that has not been said earlier?

Graeme Sandie: Everything has been said on my behalf. I am quite happy with that.

The Convener: Do you have anything to add, Mr McCudden?

Thomas McCudden: We are still concerned about the height of the track at the Glenfield Road West end. We understand that the height will decrease as the railway comes towards Glenfield Road East. The houses along Glenfield Road West are in darkness for 90 per cent of the day already. If the promoter is going to put trees of any magnitude on that embankment, the amount of daylight will be reduced even further.

The promoter says that it cannot put trees on the line when it reaches Glenfield Road East because there is insufficient access between the track and the boundary fencing of the properties there, so it would have to be blackthorn or something like that. If a noise barrier was to be put in as well, it would have to be at least opaque; otherwise our gardens will be in total darkness.

The Convener: Do any of you have anything to say about flooding? We will deal with all the issues surrounding loss of amenity together.

Thomas McCudden: I am sorry, convener—I did not quite catch what you said. I am suffering from a head cold.

The Convener: On the issues surrounding loss of amenity, I separated out the issue of flooding

during the earlier session. Do you have any comment to make on loss of amenity and flooding and on where you see the issue going?

Thomas McCudden: I do not think that we do.

The Convener: Okay. Thank you.

Mr McKie, do you have any questions for the witnesses on the black path, loss of privacy, reduced daylight, visual impact and the risk of flooding?

Alastair McKie: I do not. The promoter stands by its evidence.

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

Members: No.

The Convener: We turn to noise and vibration, consultation and impact on value of property.

I invite one of the witnesses to say whether they accept the promoter's evidence about where matters stand on those issues.

Albert Hegarty: We accept the promoter's evidence.

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

Alastair McKie: I do not.

The Convener: Do members have any questions?

Margaret Smith: Mr Sandie, what is your view on what we have heard about potential changes to gradients and the knock-on impact that they might have on noise?

Graeme Sandie: I heard what the promoter said about dropping the embankment's height by 0.6m. It is still going to be approximately 7m high, which is 4m on top of the existing embankment, plus a train on top. That will obviously drastically affect our privacy, as well as our natural daylight and so on. I do not know what more I can say about that. If the promoter is not able or willing to move the track even 4m further across, we will probably have to live with it.

Margaret Smith: Thank you.

The Convener: I have a question for all three of you. If it was possible for a voluntary purchase scheme to include your houses, would you seek to have your house purchased?

Graeme Sandie: I would not.

Albert Hegarty: That question would have to be put to the residents of the 21 houses that are involved. Some might want to do that. I would not want to have to move if it were possible for me not to.

12:45

The Convener: Are you of the same view, Mr McCudden?

Thomas McCudden: It would depend on the circumstances. With house prices in the Borders, the question would be where to move to if the houses were purchased in such a way. Furthermore, a lot of old people have moved to the area on their retirement because it is on the flat and all the other houses in the valley are up the side of the hills. Where would they move to that is flat?

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

Alastair McKie: I do not. The promoter stands by the evidence that has been given.

The Convener: On health and safety, I ask the witnesses to comment on where they stand and to say whether they accept the promoter's evidence on where matters stand.

Albert Hegarty: I accept the promoter's evidence.

The Convener: Mr McKie, do you have any questions on health and safety?

Alastair McKie: I do not.

The Convener: Mr Hegarty, Mr McCudden and Mr Sandie, do you have any further comments to add at this point, taking into account the questions that you have been asked on the various topics today? I remind you that, in a few moments, you will have the opportunity to make a five-minute closing statement.

Graeme Sandie: We do not have any comments to add at this point.

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

Alastair McKie: In my submission, there is extensive consultation of the objector groups, as Mr Rutherford has said. The objectors ought to have been aware of the scheme when it emerged from its embryonic stages through the publication of the draft structure plan and the council resolution in 2000, which Mr Rutherford talked about. The community council, which represents the whole of Galashiels, will have been consulted about those documents, which means that there will have been an early warning that the scheme might be coming.

In terms of the railway proposal at this location, the rail alignment is required in order to meet the 5.3m clearance under the rail bridge. The railway has, therefore, had to be raised. However, it loses height from the underbridge moving towards Glenfield Road East. Mr McCracken has indicated

that there might be the possibility of reducing the height by 0.6m as the rail moves in a south-easterly direction.

With regard to the impact that the proposal has on flooding, I invite you to accept Mr Wright's evidence that it will have a neutral effect.

On the realignment that is shown on plan 13, I invite you to accept that that is not a practical solution because it will bring the rail line much closer to Gala water and will remove the operation of the existing flood plain, thereby exacerbating flood risk, which Mr Wright has indicated would be contrary to the general principles of paragraph 15 of SPP7.

Mr Wright has indicated that some of the flood risk issues of the realignment might be overcome by flood defence measures. However, there is a further and, perhaps, insuperable problem. In recent discussions, SNH has indicated to Mr Coates that bringing the railway that close to the Gala water, which is a constituent of the River Tweed, might have negative implications for the Tweed, in terms of its candidacy for special conservation area status, because there might be an adverse impact on its integrity. Mr McCracken has indicated that, in readdressing the engineering operations, he has been tasked by SNH specifically with avoiding siting railway works next to the rivers and the Gala water, where possible.

With regard to the alternative to the black path, I invite you to accept that that alternative, although it is, perhaps, not as desirable as the existing black path, is acceptable. It is acceptable to Sustrans, which said in its objection to other elements of the loss of its rights of way that it actively supports that realignment. Mr Rutherford has indicated that there will be a decision on 17 March by SESTRAN in relation to a bid for £700,000 to fund that alternative. He also indicated that the proposal has strong political support, even if the application is unsuccessful, and that it is currently number 15 out of 80 of Scottish Borders Council's current capital projects. It is therefore a high priority.

In order to mitigate the visual effects of the railway, particularly at Glenfield Road East, shrub planting is proposed, which will soften the views. Consultation will be undertaken with SNH and the objectors on choice of species.

On health and safety, I invite members to accept Mr McCracken's evidence that there is no particular safety issue at the location, either for construction or for operation. During construction, health and safety will be ensured through the code of construction practice, and during operation it will be enforced by Her Majesty's railway inspectorate. Mr McCracken said that he had no reason to expect anything other than approval of the scheme from HMRI.

On noise and vibration, the promoter has undertaken to adhere to the specified limits and a noise barrier will be provided at Glenfield Road East. I can, having discussed the matter briefly with Mr Rutherford, confirm that the promoter will undertake structural surveys at Glenfield Road East residences, as is indicated on plan 11. There will be an impact on residents at that location, and the promoter understands how strongly the objectors feel. However, as with any other public project that involves impacts one way or another, someone will inevitably be adversely affected. Regrettable though that is, it is the promoter's view that that is a consequence of policies that promote the use of public transport and the reopening of railways such as the Waverley line. I invite the committee to accept that the impacts on the objectors have been properly investigated and assessed and that, with mitigation, they will be acceptable and will be in accordance with adopted standards and best practice.

The Convener: Thank you, Mr McKie. Mr Hegarty, Mr McCudden and Mr Sandie now have a maximum of five minutes in which to make a closing statement. Any one of you may do so.

Graeme Sandie: I have prepared a statement.

Despite all the promoter's guarantees and commitments to the residents of Glenfield Road East and to me in response to the objections that we have raised, the simple fact is that the proposed reintroduction of the Waverley line will adversely affect our lives. The promoter freely admits that noise and vibration will increase, that a completely off-road walkway/cycleway will not be replaced by a comparable facility, that natural daylight at all properties will be greatly reduced and that loss of privacy will occur.

The promoter continues to rely on monetary compensation and the meeting of regulatory standards as the panacea for our concerns, but I hope that the committee will agree that, although monetary compensation is a welcome backstop, it can in no way compensate for the multitude of detrimental and on-going social downsides that reintroduction of the railway will bring to the residents of the area.

The Convener: That concludes oral evidence for group 61. I thank the witnesses for coming to the committee to give evidence and for highlighting to us the problems when we visited them last year. We shall reflect on all that has been said today when we write our report. I can tell Mr McKie and Mr Rutherford that the committee is pleased that surveys are now to be carried out in Glenfield Road East. That is something that we wanted and expected, so I thank you for that.

12:55

Meeting suspended.

13:32

On resuming—

The Convener: Welcome back everyone. Our second group of objections today is group 52, from Gala Fish Farming Ltd and Torwoodlee and Buckholm Estates Company Ltd. The group has chosen to rest on its written evidence.

On the topic of acquisition of land, the witnesses for the promoter are Andrew McCracken, Bill Sandland and Alison Gorlov. Mr McKie, will you invite one of your witnesses to provide a brief outline of where matters stand on the acquisition of land, and will you then question Mr McCracken, Mr Sandland and Mrs Gorlov?

Alastair McKie: Convener, would it be convenient if I were first to make a short statement from the promoter on the code of construction practice? It should take only a moment.

The Convener: That would be fine.

Alastair McKie: The promoter takes very seriously the comments and questions from the committee this morning. It will examine the terms of the existing COCP and will assess the COCP for the tram schemes. It will take into account all the committee's comments on the COCP and will sharpen up the application of baseline minimum standards in that COCP. It will report on those matters with an iterative version of the COCP. The committee will appreciate that that code will still be in draft form, but it will be moved to the next level by 24 March.

The Convener: Thank you for that statement, Mr McKie; it has certainly found favour with committee members, who I think were unconvinced by the draft that we had. We look forward to seeing the newer draft very soon indeed.

Would you now like to question your witnesses?

Alastair McKie: Mr Sandland, will you update the committee on where matters rest with group 52?

Bill Sandland: Mr James Pringle occupies Torwoodlee estate on the outskirts of Galashiels. His objection identifies two main issues of concern: the hitherto proposed purchase of four plots of land totalling just under 1.2 hectares, which it was suggested by the objector could be accessed via a grant of servitude; and the requirement for compensation for disturbance to the objector's fish farm, which is located adjacent to the proposed railway.

The first issue has been under active consideration and negotiation for some time. Two

recent meetings and 21 items of correspondence have resulted in our advising the objector that two of the plots in question—plots 583 and 584—will not now be required; that access to plot 585 will be required only to facilitate the erection of a fence at its boundary with the railway; and that it is now proposed to access plot 586, the fourth plot in question, by means of a grant of servitude.

The objector has indicated that his objection will be withdrawn when the terms of a grant of servitude have been agreed. Network Rail, as the prospective operator of the rail infrastructure, has been asked to provide a suitable grant of servitude template that could be presented to the objector for consideration. The promoter acknowledges that compensation could be due for disruption to the objector's fish farming business. Discussions are continuing with the objector to ascertain the likely impact of the railway on that operation.

Alastair McKie: Are you optimistic or hopeful of reporting back to the committee shortly that the objection can be resolved?

Bill Sandland: Yes.

Mr Brocklebank: In the written evidence that it submitted in early December 2005, the promoter states that it is seeking the approval of Network Rail with respect to a servitude right of access. The promoter's objection report that was submitted on Thursday 9 March states that that approval has still not been received. Why is that?

Alison Gorlov: It is not for the want of trying. The first thought was that we would write a deed of servitude and submit it to Network Rail for approval, hence the report in December. We then rapidly formed the view that, for all practical purposes, Network Rail would be satisfied with its own version—it has templates for such documents and we thought that it would not readily take to anything else. The company was approached in December—or perhaps in early January—and asked whether it would be good enough to produce something for us. We had thought that Network Rail might have something suitable on its back shelf. The person whom we contacted certainly thought that that was the case and I know that he has pestered his property people about it since—I have seen the e-mails. Every so often, I chase him and he chases them.

So far, we have received nothing. As nothing has materialised, we are left to conclude that perhaps Network Rail does not have a template after all. It now says that it is not so sure that it has one. That having come to light, I guess that we are back to square one, so we will write our own deed. Network Rail still has not told us whether it has such a document. If it has, the instructions are for it to release the document to us.

Mr Brocklebank: Has Network Rail been informed of the committee's often-stated view

about the need to settle such objections and to make speedy progress?

Alison Gorlov: I think that Network Rail is very well aware of that.

Mr Brocklebank: When did you last approach Network Rail to remind it of that?

Alison Gorlov: If recollection serves me correctly, I last spoke to my contact on Wednesday of last week, when I saw the chap. If I did not mention the matter then, I certainly mentioned it at a meeting the previous week.

The Convener: If the committee agrees, I will ask the clerk to write to Network Rail to pass on the committee's concerns about its failure to give the information that we need to allow consideration of the objection to be concluded.

Alison Gorlov: Perhaps I might give Mr Cochrane the contact name.

The Convener: That would be much appreciated. Thank you, Mrs Gorlov.

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

Alastair McKie: I do not. The promoter simply rests on its existing written evidence.

The Convener: Do you wish to make a closing statement?

Alastair McKie: I will not trouble the committee with that.

The Convener: In that case, that concludes the oral evidence for group 52.

Our third group is group 54, which consists of objections from Sheila Campbell, Andrew Brown, David Fowler, Fiona Morrison and the residents of High Buckholmside, all of whom have chosen to rest on their written evidence.

On the acquisition of land, which relates to the objection from Andrew Brown, the witnesses for the promoter are Alison Gorlov, Andrew Rosher and Bill Sandland. Mr McKie, will you invite one of the witnesses to provide an update on where matters stand and then question Mrs Gorlov and Mr Sandland?

Alastair McKie: I invite Mr Sandland to give an update for the committee's benefit. Plans have been lodged in relation to the group. Plan 1, which is drawing 5A, is the relevant document that shows all the objectors' properties.

Bill Sandland: Andrew Brown resides at Plumtreehall on Plumtreehall Brae, Galashiels, which is one of the houses that are closest to the railway. It has been found necessary to schedule a 172m² area of his garden ground for acquisition. That will allow for temporary access for railway

construction and a permanent link to the replacement black path, which will be provided separately and additionally to the proposals in the bill. Mr Brown has agreed to the sale, subject to price. He has been advised that compensation may be claimed if he believes that detriment has resulted from the railway. With that in mind, he advised us that he had had a valuation of his property.

Three meetings and 11 items of correspondence resulted in the objector indicating his agreement to the railway proposals on Friday 10 March 2006, when he also said that he intended to withdraw his objection, subject to discussions about compensation and to putting in place a legal agreement.

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

Alastair McKie: I do not. It would be useful to deal with each objector, as the group contains quite a few objections. Each objector might have specific issues that the committee may wish to hear about.

Christine May: Mr Sandland, for the sake of clarity, will you say whether the promoter intends to purchase all of Mr Brown's property or just the portion of the garden that is needed for the construction site?

Bill Sandland: Just the 172m² that I mentioned are to be purchased.

The Convener: On the impact on the value of properties, the witness for the promoter is Alison Gorlov. Mr McKie, will you invite Mrs Gorlov to comment on where matters stand and then question her?

Alastair McKie: It might be more useful to hear Mr Sandland's update on the other objectors. As I said, issues that relate to each objector are being negotiated separately. It might be useful to complete that before moving on to other issues.

The Convener: Mr Sandland?

Bill Sandland: Sheila Campbell resides at Jasmine Lea in Wheatlands Road, Galashiels. Her house lies some 22m from the proposed railway track, but construction work will take place within 3m to 4m of her garden. Mrs Campbell is concerned about noise and vibration, the effects of the railway on the value of her property, health and safety and loss of privacy. She has been advised that compensation for physical factors such as noise and vibration could be claimed if those factors reduce the value of her property. At a meeting on 8 September 2005, Mrs Campbell said that she did not wish to continue to live in Jasmine Lea should the railway be built. The property has been included in a list of properties that could be considered for purchase under any

voluntary purchase scheme that the promoter effected.

David Fowler of 198 Magdala Terrace was represented by his wife at a meeting that was held at her home on 22 November 2005. The property at 198 Magdala Terrace is approximately 50m from the proposed railway track. Concerns were expressed about a loss of trees to the south side of the track, which screen Mrs Fowler's property from the railway and commercial units beyond; about trains running at night; and about the speed of trains that would pass her property. The objector has been given assurances that only the minimum number of trees would be felled. However, felling of the belt of trees on the south side of the track is unlikely to be avoided. Assurances were given that trains were unlikely to run at night and that their speeds would be relatively low.

A meeting with representatives of the residents of High Buckholmside was held on 14 September 2005. Concerns that were addressed were loss of the black path, noise and vibration and the stability of the embankment between High Buckholmside and the railway. Assurances were given on all counts: the black path would be replaced; embankment stability would be ensured through the geotechnical design; and compensation might be claimed if the effects of noise and vibration were found to be unacceptable when the railway ran. Since the issues were discussed and assurances were given to the objector at the meeting, unsuccessful attempts have been made to contact the objector, with a view to confirming that the issues that were raised have been dealt with satisfactorily. At the meeting, the residents of High Buckholmside were represented by Shirley Yilmaz and her daughter.

Although Fiona Morrison is concerned that the proposals in the bill will deny her ownership of part of her principal residence, it has not proved possible to establish a meaningful dialogue so far. On 9 March, her agent undertook to examine her title deeds, with a view to confirming that the objector is part owner of plot 671—communal land—which is believed to be the property that is causing concern. Four letters have been sent and eight telephone calls have been made in an attempt to arrange meetings to discuss the objector's concerns. The promoter intends to continue efforts to resolve the objection.

13:45

Alastair McKie: The promoter chooses to rest on its policy paper on the impact of the proposals on the value of properties.

The Convener: Do members have any questions on that matter?

Margaret Smith: I would like to ask a general question about compensation. Would someone be eligible for compensation if their property insurance premium increased as a result of the railway?

Alison Gorlov: I do not think so. I will come back to the committee. I ought to know the answer, but I am afraid that I do not.

Margaret Smith: Where do matters stand in relation to the promoter's discussions with the Executive about general property surveys?

Bill Sandland: I am afraid that I cannot answer that question. I will have to come back to the committee on the issue.

Margaret Smith: That is fine.

Christine May: The maps are very helpful. As you deal with specific objections, could you indicate where the locations to which they relate appear on the maps? I have been hunting backwards and forwards. You know the subject better than I do.

Bill Sandland: I apologise.

The Convener: We have finished discussing the impact of the railway on the value of properties. Mr McKie, would you like to move on to health and safety issues?

Alastair McKie: Yes. In its written evidence, the promoter deals at least partly with the question of increased insurance premiums. I direct the clerk to that evidence.

Mr McCracken, are you aware of any particular safety issue at the location in question?

Andrew McCracken: No. Generally, this is a section of straight track, so there are no particular infrastructure concerns in respect of safety.

Alastair McKie: Do you wish to adopt your earlier evidence on how safety will be enforced during the operation of the scheme?

Andrew McCracken: Yes.

Alastair McKie: Will fencing be placed along either side of the track at this location?

Andrew McCracken: Yes. It is an urban location, so the high-spec fencing to which I referred previously—palisade or chain-link fencing—will be used.

The Convener: The committee has no questions on health and safety.

We move to the issue of noise and vibration, which may have been covered in the opening statement. Mr McKie, would you like to question Mr Mitchell or ask him to provide a brief outline of the issue?

Alastair McKie: Some particular noise effects will have an impact on this objector group. I ask Mr Mitchell to move along the line from plan 1, which is headed "5A. Group 54", to plan 2. He should identify the objectors and those properties that we believe will be most affected by noise. He should also indicate what measures the promoter intends to implement, should the scheme proceed.

Steve Mitchell: In his introduction, Mr Sandland indicated that four objectors in the area had expressed concerns about noise and vibration. I will not touch on the issues that were raised by the fourth objector, whose property is 50m away from the proposed route, but I will deal with the concerns of the other three.

At the extreme left of plan 5A, which is also labelled plan 1 for group 54, is a property called Jasmine Lea. It has "Campbell" written next to it on the plan. The property was assessed in the environmental statement and, although the levels are close to the targets, the targets are not predicted to be breached so no specific mitigation measures are expected there. Close to the centre of the plan is Mr Brown's property on Plumtreehall Brae. A noise barrier will be needed there. It will be approximately 50m long and 2m high, subject to final details of the levels at that location.

I ask the committee to jump ahead two pages to plan 6, which is also labelled plan 2 for group 54. Close to the centre of the plan, shaded in, are property reference numbers 123 and 125 at High Buckholmside and immediately to the right are numbers 109 and 127. Those properties are very close to the railway and they are three or four storeys high, depending on how we count the storeys in a property. We will place a noise barrier in the area to protect those properties. Again, the barrier will be about 2m high, but the top storeys will look over the top of the noise barrier and I predict that the peak noise levels will be high enough to trigger noise insulation for the upper floors of the two or three properties there. The barrier will extend some distance to the south to cover Brewery Brig, which is shown on the plan next to the yellow above ordnance datum area. The barrier will be approximately 200m long. With those mitigation measures in place, we predict that we will meet the requirements of our policy.

Alastair McKie: Thank you. Could we go back to plan 5A and focus on Mrs Campbell's property? You told the committee that a noise barrier will not be required there, but one is shown on the plan. Is that an error?

Steve Mitchell: I am afraid that it is an error. The barrier is shown next to the wrong property. A noise barrier should not be shown next to Jasmine Lea, but a barrier is required next to Mr Brown's property.

Alastair McKie: I think you said that noise insulation will be required at High Buckholmside at property numbers 109 and 127.

Steve Mitchell: Yes, and also at numbers 123 and 125.

Alastair McKie: Will you confirm the nature of that noise insulation and tell us when it is likely to be installed?

Steve Mitchell: The noise insulation will be a secondary sheet of glass located inside the existing window façade so as to increase the noise attenuation of the overall window set. It will be offered and installed before the railway is opened.

Alastair McKie: What is your professional opinion on vibration at the properties?

Steve Mitchell: The properties that I mentioned on plan 1 are a little more distanced, but at High Buckholmside there will be a need to examine the track form because the properties will be 7m or 8m from the nearside track. There is a need to look carefully at the design of the track; as I have mentioned to the committee in similar situations, the track might need to be modified to meet the targets that we set in the noise and vibration policy.

Alastair McKie: Thank you, Mr Mitchell. That concludes my questions.

The Convener: Can we be clear about the disappearing noise barrier outside Mrs Campbell's property? I assume that there is simply a genuine mistake on the map and that Mrs Campbell has not been advised that she is to have a noise barrier.

Steve Mitchell: Yes. I believe that that is the case. It is the map, which was drafted last week, that contains the error.

The Convener: Perhaps you could confirm that Mrs Campbell is not expecting a noise barrier, only to find out from reading the *Official Report* that it is to be whipped away from her.

Steve Mitchell: I will check that.

The Convener: Thank you.

Mr Brocklebank: I want to take you back to an answer that you gave this morning in relation to the promoter's noise and vibration policy. I am aware that the policy sets out the ways in which you will mitigate noise and vibration, but it is less specific about how the policy will be enforced. How will you ensure that any noise levels that you have worked out and mitigation that you have recommended will be enforced?

Steve Mitchell: The noise and vibration policy commits us to using the best practicable means to achieve the targets that we have set ourselves.

That form of words has been tested in similar situations in other projects.

I am looking for my copy of the policy, because I wanted to refer to the monitoring section towards the end, which requires a commissioning survey to be done to show that we have achieved what we intended to achieve. Obviously we cannot do that until the railway is up and running. The intention is to monitor the noise and vibration levels and report them publicly. If for some reason the design has gone wrong, there will be an opportunity retrospectively to put it right, if it is practicable to do so. That commitment is in the policy.

Mr Brocklebank: You will set that out in detail, but I presume that the local authority will have a duty to ensure that the commitment is made good. If, subsequent to the railway being built and the barriers being installed, it is seen that what you hoped would be achieved is not being achieved, will it be incumbent on the local authority to ensure that that is redressed?

Steve Mitchell: Yes.

Alastair McKie: I am sorry to interrupt, convener, but I believe that Mrs Gorlov has been considering the issue of enforceability, which is the nub of the question. It might be useful if she were to give us an update on her discussions with the committee's legal advisers.

Alison Gorlov: There are two levels to enforceability. First, there is the practical level of what goes into the contract and how the contractor is tested to see whether he has delivered what the authorised undertaker is obliged to do. That is what Mr Mitchell has just described.

I have touched before on the question of a higher level of supervision. We have considered how best to deliver environmental mitigation, not just as regards noise. We are aware of the Edinburgh tram approach, but for a variety of reasons we cannot adopt that approach in exactly the form in which it appears in the Edinburgh Tram (Line One) Bill. What we have in mind to produce—and what I am in the course of producing for the committee—is a set of provisions that will operate like planning conditions and which will require that the criteria are met.

That is very much the regime that obtains in the normal planning situation where there are planning conditions dealing with the environmental effects of a particular development. Planning conditions are enforceable by the local planning authority and, in turn, the local planning authority has access to the environmental health officers, who are in a position to deal with noise issues.

When the railway is commissioned, the bill will be in a shape such that it provides for the local authority, in its planning capacity, to see whether

the noise mitigation works and whether best practicable means have been used to achieve that end, which is a slightly different issue.

There has to come a point at which there is closure. Somebody will have to reach a view on whether best practicable means have been used; if the conclusion is that they have been, one has to live with whatever that produces although it might not be 100 per cent satisfactory. I am not being a doom and gloom lawyer, but I have to sound that note of caution.

Mr Brocklebank: If it can be seen that best practicable means have not been used, is it up to the promoter to ensure that that situation is fixed?

Alison Gorlov: That is right.

Christine May: Will the revenue costs of the operation of the railway be adjusted to take account of the staff who will be needed to carry out that work?

14:00

Alison Gorlov: You are talking about after the railway has been commissioned?

Christine May: Yes.

Alison Gorlov: I do not think that that has been addressed.

There is another tricky issue—I am thinking aloud here—that relates to what happens once the railway is running. As we have heard, one cannot work out whether one has succeeded until the railway is up and running. If planning conditions are breached at an early stage when a development is in progress, there is a procedure through which the planning authority has the power to do various things, including stopping the development until a condition is complied with—Mr McKie will pick up on anything that I have not described correctly. However, I confess that I have not got to the bottom of how to resolve potential slight conflicts involving people who want a railway to run, once the railway line has been built and is running, so that it will generate revenue not least to pay for further works that might be needed. Therefore, I have no instructions to give on that.

The Convener: The promoter's noise and vibration policy paper says about monitoring and maintenance:

"The monitoring scheme will include initial surveys within 6 months of opening of the railway to confirm the effectiveness of the noise mitigation measures."

That does not quite chime with what you have said about difficulties once the scheme is up and running.

Alison Gorlov: I am not saying that the scheme cannot be monitored—of course it can and will be

monitored to find out what needs to be done. I am not considering the authorised undertaker, but the level of supervision by the local authority. The local authority and the authorised undertaker are unlikely to disagree—the scheme will either work or not work; it is likely that they will agree about what can be done about things. However, there is a theoretical question—I hope that it is theoretical: what will happen if they disagree? What I am saying does not depart at all from the noise policy. Monitoring will take place.

Bill Sandland: The obligation in question will be placed on Network Rail with several other obligations as part of the transfer deal. The issue will have to be dealt with as part of the agreement to take over the network.

Andrew McCracken: I return to the earlier question. In respect of the annual operating case, components of annual costs that cover general maintenance and reviews have been added into the business case. Such costs should be priced into our annual review.

The Convener: As no one else on the panel wants to have a stab at the issue, do you have any further questions, Mr McKie?

Alastair McKie: No.

The Convener: Okay.

We come to pollution. I refer to the objections in the names of Mr and Mrs Fowler and the residents of High Buckholmside. Steve Purnell is the witness for the promoter. Mr McKie, is there anything that you would like Mr Purnell to outline?

Alastair McKie: I simply invite Mr Purnell to confirm the position on the control of pollution at the location.

Steve Purnell: The type of pollution that is being referred to is not clear, but we have assumed that it is air or ground pollution. In the past few weeks, I have answered questions on the number of trains that would be likely to pass any given point and the very low levels of pollutants that would be emitted to the air, which will readily disperse and not cause air quality or health problems. Modern diesel railway systems are not a source of ground pollution, so we do not believe that ground pollution is a concern. If a construction issue is being referred to, I spoke earlier about there being a specific part of the code of construction practice that deals with dust and air quality. Problems in that respect will be dealt with through the normal code of construction practice means.

The Convener: Does Mr McKie have any further points to put to Mr Purnell?

Alastair McKie: No.

The Convener: We will pause for a few moments to allow the witnesses to change over.

On the topic of access, the witnesses for the promoter are Bill Sandland and Andrew McCracken. I ask Mr McKie to invite one of his witnesses to provide a brief outline of where matters stand. He may then question them.

Alastair McKie: The two issues concerning access relate to the severance of Plumtreehall Brae and the alternative to the black path. Will Mr Sandland confirm what the impact will be of closing Plumtreehall Brae—as shown on drawing 5A, plan 1—by changing the bridge from a vehicular bridge to a pedestrian bridge?

Bill Sandland: The proposal is that Plumtreehall Brae will be closed to vehicular traffic but remain open to pedestrians and cyclists. At present, the bridge is steep and narrow. Some inconvenience would be involved for residents of Plumtreehall Brae, especially if they travel to and from Edinburgh, as they will need to go round the one-way system in Galashiels. We calculate that the maximum deviation for them will be approximately 3km. In our discussions with him, the lead objector, Andrew Brown, accepted that such a price would be involved in reopening the line.

The question arises why the current bridge cannot be replaced with another vehicular bridge. The difficulty is that the railway needs a certain elevation to clear Wheatlands Road, which is to the north of the line, that would result in the bridge at Plumtreehall Brae being too steep to get vehicular traffic over it. Pedestrian traffic will still be accommodated, as shown on drawing 5B. Residents of Plumtreehall Brae who travel west of Peebles or east of Melrose will experience minimal or no inconvenience.

Alastair McKie: Turning to drawing 6, plan 2, will you confirm that another pedestrian bridge will take account of the severance caused by the implementation of the railway?

Bill Sandland: The footpath that is marked "Footpath to be closed", which has steps going down from High Buckholmside to the existing amenity path, will be closed, but an alternative bridge is available 100yd to the right on the plan. Pedestrians will be able to walk across that bridge to gain access to the amenity path.

Alastair McKie: Convener, I will turn to the loss of amenity.

The Convener: That is fine.

Alastair McKie: Loss of amenity may arise from the closure of the existing black path. Mr Rutherford gave evidence for group 61 on the alternative to the black path. Does he wish to adopt that evidence for this afternoon's purposes?

Bruce Rutherford: Yes.

Christine May: Will Mr Edwards confirm when the promoter will discuss with the objectors issues

such as tree and shrub planting around the black path?

Nathan Edwards: I believe that some of those conversations have already taken place, specifically with objectors Mr and Mrs Fowler. I believe that the promoter has given a promise of some advance planting in that particular location. I cannot give an answer about planting around the alternative alignment, but I will provide an answer in due course.

The Convener: Mr McKie now has a maximum of five minutes in which to make a closing statement on the objections in group 54.

Alastair McKie: I will rest on the evidence as given, but I want to put a question to Mr Coates, who is the promoter's witness on wildlife issues. Group 54 objectors expressed concerns about the impact of the line on the environment. Will Mr Coates give his professional opinion on the quality of the environment in the location and whether any natural regeneration will take place if the railway proceeds?

Andy Coates: In certain areas along the route, there will be loss of existing trees. The small corridor alongside the black path provides some wildlife habitat, although it contains nothing of particular note either for the locality or for wider than that. Some trees will be lost on both sides of the path but there will be scope for additional planting in those areas. Particular loss of trees will occur only in one stretch. On most of the other parts of the route, the scope is quite wide so existing vegetation will probably be retained there. As the committee has heard, the additional planting that will take place will be discussed with locals. We will look to introduce native species so that, even in some of those areas where loss occurs, new habitats will be created to maintain the corridor in the medium and longer term.

The Convener: We will now move on to group 57, for which we will hear evidence from Ian Wilkie, Alison Gorlov, Andrew McCracken, Bill Sandland and Steve Purnell. I suspend the meeting for a minute to allow the witnesses to come to the table.

14:12

Meeting suspended.

14:13

On resuming—

The Convener: Group 57 relates to the objection on behalf of McLagan Investments Limited. The objector has chosen to rest on its written evidence.

The first issue is acquisition of land, subsequent impact on planning, expansion plans, economic

development and loss of revenue. The witnesses for the promoter are Ian Wilkie, Alison Gorlov and Andrew McCracken. I ask Mr McKie to invite one of the witnesses to provide a brief outline of where matters stand on this issue. He may then question the witnesses.

Alastair McKie: I invite Mr Sandland to update the committee on new developments relating to group 57.

Bill Sandland: I refer the committee to plan 8. The Asda development will take place in the area of the heavy pink line on the left of plan 8. Asda intends to build a new store in Galashiels adjacent to the railway on land plots 726, 728 and 731. The area is initially scheduled to be acquired for temporary acquisition to facilitate railway construction.

Scottish Borders Council granted Asda planning consent for the construction of the store in July 2004, provided that Asda contributed £1.8 million towards the necessary road infrastructure alterations. Asda submitted an objection to the bill on the ground that some of the site for its store—some of the area within the heavy pink line—is scheduled for temporary acquisition. Although the completed railway will be able to operate comfortably within a 5m-wide corridor between the steep bank below Borders College and the Asda site, it has not been possible to confirm to Asda that the railway could be built from within that same corridor. In other words, some of the construction plant and equipment may go outwith the corridor.

The objector requires an assurance in that respect as a condition of withdrawing its objection, but it will not be possible to ascertain what plant and equipment will be needed to carry out the necessary slope-stability works until the detailed design of the railway has been completed. The objector was advised on 5 October 2005 that an additional 5m strip might be required to facilitate construction of the railway.

On 22 February this year, Asda lodged a fresh planning application that has yet to be determined. That the application shows the Asda store building further encroaching towards the 5m railway corridor and thereby further restricting the potential width that would be available for construction operations is regrettable. The Waverley project team has been consulted on the matter and is due to provide comments on it to the planning department in the very near future. The consultation and negotiations, which have included two meetings and 17 items of correspondence, have so far resulted in no agreement with the objector, but the promoter is optimistic that some form of agreed joint working will enable the railway and the Asda store to be constructed in a co-ordinated way.

14:15

Alastair McKie: Thank you, Mr Sandland. The promoter will simply rest on its written evidence on whether compensation is payable by applying the compensation code to the bill. The issues between the parties have narrowed considerably, although the new application has complicated the negotiations.

The Convener: It seems to have done so. I wonder what the outcome will be if no agreement is reached in the near future.

Bill Sandland: We have to reach an agreement somehow. Crucially, the detailed design of the slope-stability works would enable us to determine the size of the plant and how work could be done. Undertaking those works in advance could be the best way forward, but that might be inappropriate with the committee still debating the issues.

The Convener: Do you have a plan B?

Bill Sandland: Plan B is doing everything possible to ensure that we can build within the 5m, but at the moment we cannot say that that can be done. Building within the 5m could be much more expensive.

The Convener: Thank you very much, Mr Sandland. Does anybody have any other points to make?

Alison Gorlov: In the final analysis, if the bill as it is currently drafted is passed and issues with Asda have not been resolved, the scheme will provide what it currently provides for. We do not want to say that Asda will have to live with that, but whatever is in the bill is the bottom line.

The Convener: That is exactly the point. Thank you very much, Mrs Gorlov—that is very helpful.

I invite Mr McKie to sum up.

Alastair McKie: The promoter will rest on its written and oral evidence. However, it will obviously be able to let the committee have its consultation on the application, which may reveal a potential for joint working to bring the objection to an end.

The Convener: Okay. We now turn to access. Bill Sandland and Andrew McCracken are the witnesses for the promoter. Mr McKie, do you want to invite one of the witnesses to provide an update on where matters stand in relation to access or are you happy to rest on what has been said?

Alastair McKie: The issues of access and health and safety as a result of increased traffic are largely covered by the promoter's proposal to ask for only the 5m strip. We are not taking the land for temporary works, so the issue is being resolved.

The Convener: Okay. That concludes the oral evidence in relation to group 57. I will allow a few moments for the witnesses to change over.

Our final group is group 59, whose evidence pertains to the objection on behalf of Beechbank Place Proprietors Association. The objectors have chosen to rest on their written evidence.

We will deal first with land acquisition and the effect of the railway on the viability of letting properties. The witnesses for the promoter are Ian Wilkie, Andrew McCracken, Bruce Rutherford and Alison Gorlov. Mr McKie, would you like to invite one of the witnesses to provide a brief outline of where matters currently stand in relation to the issue? You may then proceed to question the witnesses.

Alastair McKie: Certainly, convener. I invite Mr Rutherford to give the committee an update on where matters stand with this objector group.

Bruce Rutherford: Group 59 consists of an objection from residents of Beechbank Place. The objection centres on the compulsory purchase of 14 properties that have six tenants. To date, we have had extensive correspondence with the owners and tenants. We have sent and received 53 letters and e-mails, had 10 telephone conversations and arranged four meetings. I refer members to drawing 10, which shows clearly our proposed alignment for the railway. You will no doubt have noticed that work on the new road proposals has started in the town centre. Those proposals and the alignment of the railway are a mirror image of each other, to ensure that whoever comes in first builds first. As part of the Asda development, work on the Gala inner relief road has started first.

Although the proposals retain many of the important buildings that are marked on the drawing—the health centre, the church and the hotel—it was not possible to realign the railway further to the east, because of the steep slope between Beechbank Place and High Road. We have squeezed it as far across as we can, but unfortunately Beechbank Place will have to be acquired and demolished in the long term.

At a meeting of residents on 16 November last year, it was confirmed that the Beechbank Place properties would be included in the advance purchase scheme, if the Scottish Executive approves that, and that the promoter would provide the residents with information on housing associations in the area. We have tried to give them as much assistance as possible in their rehousing. At the meeting of 2 December 2005, it was confirmed that the partnership would be prepared to talk to planners at the local authority or to make informal inquiries with prospective developers on behalf of the residents, some of

whom are quite elderly. A meeting with the developer that is involved with the future conversion of the old nursing home was arranged for 20 February and was received positively by the owners and tenants. Ian Wilkie, our head of legal services, has been assisting the objectors by offering guidance on the heads of claim and on compensation.

The Waverley railway partnership is continuing to talk to local developers, with the intention of brokering a constructive relationship between developers and residents, in order to resolve any issues regarding the provision of alternative housing. However, the residents have not indicated that they will withdraw their objection.

Alastair McKie: Thank you, Mr Rutherford.

Christine May: Given the volume of new housing that the promoter expects to come into the area as a result of the bill, do you think that it will be difficult or easy to find alternative accommodation for the residents of Beechbank Place?

Bruce Rutherford: There are two issues. The residents are a fairly disparate body, and it is not always possible to get everyone in the same room at the same time. There is a huge range of views. The residents asked us to examine a site similar to the one that they have within 100m of Tesco, the church and the cinema. The only such site that we could find is the one that they currently occupy. That was the starting point.

We have tried to introduce the residents to any planning application that is made in the area. In the past year or two, there has been a rapid increase in the number of such applications in the Borders and, in particular, in Galashiels. There are huge opportunities for residents who want to move. However, they are concerned that such accommodation will not be affordable.

Christine May: Is it possible to provide the residents with assistance in dealing with the affordability issues?

Bruce Rutherford: My legal adviser can tell you about the compensation packages that are available.

Alison Gorlov: The compensation that landowners receive is the market value of their property, which of course is not the same as the price of what they regard as an alternative. I am not qualified to say what might be available through housing assistance more generally, which is outwith the compensation code. Mr Rutherford and Mr Wilkie might have more information on that.

Christine May: I know enough about local authority housing to be able to guess what they might say.

The Convener: Mr McKie, do you have further questions on acquisition of land?

Alastair McKie: I do not.

The Convener: On loss of amenity, the witness for the promoter is Alison Gorlov.

Alastair McKie: The properties that we are considering are required because they are within the limits of the proposed railway, so they will have to be demolished and compensation will be paid. The promoter's view is that there will be a significant impact on amenity but that compensation will mitigate that impact. The promoter wants to rest on the position that has been set out in writing.

The Convener: That concludes oral evidence for group 59 and indeed all oral evidence on objections to the bill—we should wait for applause for the committee. I thank all the witnesses and participants for their assistance in the smooth running of this and previous meetings. The committee appreciates your help.

The committee's next meeting will take place on Monday 27 March in committee room 2 of the Scottish Parliament. We will hear oral evidence on housing and water and drainage infrastructure, railway patronage, project funding costs, appropriate assessment and the proposed advance and voluntary purchase schemes. I am sure that, like members of the committee, many objectors will be particularly interested to hear what the Scottish Executive Minister for Transport and Telecommunications has to say about the final item in that list.

We still have to address a considerable number of issues as part of our consideration of the bill. It remains our intention that proceedings on the bill be completed before the summer recess, which is a tight but achievable timetable. We will set tight deadlines for the submission of further information, mainly from the promoter. Such deadlines are not arbitrary but are set to allow us properly to consider the issues. They must therefore be adhered to and there will be no scope for extensions. Recent requests to the promoter for evidence have not been met; that is not acceptable to the committee and we will not be inconvenienced in that way.

I give objectors information about what will happen next. The committee will carefully consider all the written and oral evidence in respect of the outstanding objections, to inform the preparation of our consideration stage report. I cannot give an exact date for the publication of our report, but we aim to publish it in early May, given that it is our intention that consideration of the bill be completed before the Parliament's summer recess begins in July. The clerk will write to objectors nearer the time to confirm publication and other

dates. We are conscious of the stress and uncertainty for many objectors, some of which has been caused unnecessarily, and we will do everything possible to keep to our timetable. We still have much work to do but we take seriously our responsibility to keep objectors informed of progress. If any objector has questions about what happens next, they should contact the clerk to the committee.

The fact that we will have no further meetings at which we consider objections does not mean that the promoter and objectors should relax for one second in their endeavours to reach settlements. That work must continue and we expect nothing less than the maximum effort to reach agreements. We will of course reflect on such issues in our report—please be assured that we will name and shame in our report. The promoter should submit weekly reports to our clerk on progress on objections and the clerk has our authority to pursue the promoter and objectors if it is evident that sufficient progress is not being made. In that context, the clerk wrote to five objectors last Thursday in response to requests in the promoter's most recent report, to clarify how matters stand given that there appeared to be little sign of recent activity.

Finally, I thank everyone at Langlee for their help and their hospitality in accommodating this meeting. In particular, I thank Carol Inglis and John Davidson—I understand from press reports that John Davidson might soon be well into an illustrious film career and the committee wishes him well in that. The committee will now consider in private the evidence that we heard today.

14:30

Meeting continued in private until 14:35.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Friday 24 March 2006

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop
53 South Bridge
Edinburgh EH1 1YS
0131 622 8222

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh

Blackwell's Scottish Parliament Documentation
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

RNID Ttypetalk calls welcome on
18001 0131 348 5412
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron