

# **WAVERLEY RAILWAY (SCOTLAND) BILL COMMITTEE**

Monday 27 March 2006

Session 2

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## **WAVERLEY RAILWAY (SCOTLAND) BILL COMMITTEE** **8<sup>th</sup> 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 GAVE EVIDENCE:**

Dr Mark B Brown (Halcrow)

Ross Finnie (Minister for Environment and Rural Development)

David Fox (Turner and Townsend)

Brian Frater (Scottish Borders Council)

Alison Gorlov (John Kennedy and Co)

Dr Jon Hargreaves (Scottish Water)

Erica Knott (Scottish Natural Heritage)

Derek Lawson (Homes for Scotland)

Andrew McCracken (Scott Wilson Railways Ltd)

Blair Melville (Homes for Scotland)

Karen Raymond (Environmental Resources Management Ltd)

Mr Iain Rennick (Scottish Natural Heritage)

Bruce Rutherford (Scottish Borders Council)

Tavish Scott (Minister for Transport and Telecommunications)

Damian Sharp (Transport Scotland)

Ian Wilkie (Scottish Borders Council)

David Williamson (Midlothian Council)

### **CLERK TO THE COMMITTEE**

Fergus Cochrane

### **LOCATION**

Committee Room 1



## Scottish Parliament

### Waverley Railway (Scotland) Bill Committee

*Monday 27 March 2006*

[THE CONVENER *opened the meeting at 10:34*]

### Waverley Railway (Scotland) Bill: Consideration Stage

**The Convener (Tricia Marwick):** I welcome everyone to the eighth meeting of the Waverley Railway (Scotland) Bill Committee in 2006. We have three papers before us today relating to our continuing consideration of the bill. We have a very full agenda, so we will ask succinct questions and expect succinct answers. I ask witnesses to say simply yes or no if that is all that is required. No opening or closing statements will be made.

Gordon Jackson is not with us at the moment, but he will join us later.

Item 1 on the agenda is the further consideration of evidence arising from the committee's preliminary stage report. Our first topic is housing and water and drainage infrastructure. We shall hear first of all from Blair Melville and Derek Lawson, the witnesses from Homes for Scotland.

**Christine May (Central Fife) (Lab):** Good morning, gentlemen. Has there been any direct dialogue with Scottish Borders Council or Midlothian Council since October 2005 to discuss housing and the railway?

**Blair Melville (Homes for Scotland):** As stated in our evidence, the councils have had no direct dialogue with Homes for Scotland on the issues that relate to the Waverley railway line. The promoters and Homes for Scotland have set out in our evidence the occasions on which we have had dialogue in the normal course of events in the planning system—through the housing land audits and discussions on the development plans that are emerging in the Borders and Midlothian—but since October there has been no meeting with Homes for Scotland specifically to discuss the Waverley railway line.

**Christine May:** Is it feasible that house completion rates will increase by the required amounts between now and 2011 to reach the targets that the promoter has set? What do you see as being the major difficulties in achieving that? What changes to the political decision-making structures, the schemes of delegation and the structures of the councils' planning

departments are designed specifically to speed up completion rates?

**Blair Melville:** Our view remains that there are obstacles within the planning system to delivering the required housing by 2011. I think that the last time we gave evidence we stated what some of those obstacles were, such as slowness in development of the new local plans to comply with structure plans that were approved several years ago. That cycle is running rather slowly and behind schedule; in both councils, local plans will not be adopted and in place until at least 2007—it might even be later, depending on the scale of objections at inquiry. Because of the time it will take for new housing allocations to come through the local plans and secure planning consents, although completions will inevitably increase over the next few years—they must do from the low base that they are at now—we have serious doubts that they will reach the levels that are required in the structure plan by 2011.

**Derek Lawson (Homes for Scotland):** The land audit is the point in the statutory process at which Homes for Scotland has engaged with the councils in the past and continually. That has been the basis on which we have presented information about completions and how they contribute to the business case. We are not involved in formulating that business case. I clarify that the land audit is based on information that is available on established sites within current local plans and windfall sites.

The process that we need to consider next and with which we have not engaged is the emergence of local plan sites in Scottish Borders Council's finalised local plan and the Midlothian Council local plan. We need to examine the sites that both councils have identified and programme them on top of the land audit. That should be done proactively, and Homes for Scotland is willing to do that.

Scottish Water will in due course be able to comment on the infrastructure issues, but it is worth noting that, in Midlothian, there have been delays since the structure plan brought through land supply in 1994. The local plan was not adopted until 2003 or 2004. We are still waiting for delivery of some of the sites that were identified, so there is still a lead-in time for existing sites, let alone the sites that are coming through from the new local plan. It is important to understand that any land that is allocated on top of what is already in the land audit has a relatively long lead-in time and that, for the marketplace, we will have to complete development of what has already been allocated before we move on to the next raft.

**Christine May:** I will ask the rest of my questions of the local authorities.

**The Convener:** Would it be fair to say that not much has changed since the committee's preliminary stage report of July 2005 raised a number of concerns about whether the promoter would achieve the required house completion rates?

**Derek Lawson:** What has changed? Scottish Borders Council has now issued a finalised local plan and is running up to an inquiry, which is due to commence in September. It has also produced an interim housing policy guidance note, which allows it to grant permissions for sites that are part of the local plan within areas in which there are housing land shortfalls of less than five years. It has delivered at least that.

The problem with the finalised plan is that there are objections to it and to the sites within it. The plan still has to go through an inquiry process. However, the council is prepared to grant consents in cases where there is not a body of substantial objection. You can ask the council representatives about that later.

As for Midlothian Council, it has brought forward a local plan, albeit that it is a bit late. The structure plan insisted that a final plan be produced by December last year, but the council will issue a final plan, I believe, by May or June, then there will be a statutory objection period. Midlothian Council has moved things forward as far as a development plan framework period is concerned, but we are still faced with a constrained land supply in some areas.

The councils are doing all that they can. From the industry point of view, we are trying to deliver the sites and to progress planning applications. The process of addressing the infrastructure constraints is continuing. There are section 75 agreements for education, there are issues around capacity and there are other requirements. We are doing all we can, but the process needs to catch up a little bit.

**Blair Melville:** The councils have made it clear—we accept this—that they have taken steps to increase their capacity for handling local planning and planning application work in their areas by increasing staffing levels. It is not disputed that the councils are genuinely attempting to increase their capacity. The problem with the system itself and its slowness remains, as Mr Lawson has described. It is lagging far behind where it should be.

**Margaret Smith (Edinburgh West) (LD):** The first question that I was going to ask, regarding what your members can do to facilitate progress, has been pretty much answered. You have given us some indication of what is happening on that. If you want to say more on that subject, I invite you to do so.

Do you think that the delay in the opening of the railway will impact on house building in Midlothian and the Borders?

**Blair Melville:** We have always said that the presence of the railway will provide assistance and a boost to the housing market in those areas. There is no question but that there is a potentially strong housing market in Midlothian, anyway and the railway will certainly assist with that. The market in the Borders, however, is more likely to respond substantively to the presence of a railway than might be the case in Midlothian; it will perhaps provide a stronger boost to the market in the Borders. There is not much doubt about that, but Mr Lawson, who works for a builder, has his own view on that.

**Derek Lawson:** For me, the Waverley line does not really matter as far as the level of house building and house completion in Midlothian is concerned. The market there is very strong. Once we go over Soutra, however, and get into north Ettrick and Lauderdale and down to Galashiels, we can see a difference, certainly in housing land prices, which is a useful indicator. Over the past two or three years, volume builders have been moving down into the central Borders. For example, Barratt Homes has acquired the former Scottish Special Housing Association land in Tweedbank, and Persimmon Homes has moved down into Hawick.

Other examples in Berwickshire are not relevant to the bill, but volume builders are now looking to the Borders as an area of increasing growth and opportunity. That is partly because the housing land prices are cheaper there than in Midlothian. By virtue of that, the houses in the Borders are a bit cheaper, and people can be pulled further. I do not think that the level of house completions will suffer from later delivery of the Waverley line. The line will act as a catalyst for a main corridor for growth out from Edinburgh. There are advantages that will come with that.

**Mr Ted Brocklebank (Mid Scotland and Fife) (Con):** Do you detect any waning of political support for the railway at local government level?

**Blair Melville:** We have been given no indication in our dealings with the councils that there is, as you suggest, a reduction in support for the railway line. Neither officers' nor politicians' support is waning as far as I am aware.

**Mr Brocklebank:** Let me phrase the question another way. Could the project be undermined by local councillors who are concerned about short-term protest from local people who are worried about new housing developments?

10:45

**Blair Melville:** That is always an issue. Local members are always sensitive to objections to individual planning applications and to large-scale housing allocations in local plans. Scottish Borders Council's final local plan includes substantial land allocations for housing and has attracted many objections, which shows that objections will always be made. However, I do not know how that will play out politically in the Borders. The actual level and substance of objections will emerge through the technical process of the local plan inquiry and a reporter on the inquiry will deal objectively with the objections. Ultimately, it will be for elected members in the Borders and Midlothian to do as they see fit with the inquiry reporter's findings. Perhaps the political stance will become clear only after the local plan inquiry.

**Derek Lawson:** The reporter at a public inquiry considers simply the terms of the structure plan and what it is bound to do under the legislation and will not think about the business case for the Waverley line. Irrespective of whether the Waverley line goes ahead, a large supply of housing land will still have to be made and delivered on time in order to meet the structure plan. It is pure coincidence that the Waverley line is part and parcel of the debate.

**The Convener:** Mr Melville said that there are obstacles in the way of achieving the housing plan. Are the obstacles insurmountable?

**Blair Melville:** The obstacles are not insurmountable. The industry is perfectly confident that it can build the houses as set out in the business case, and which derive from the statutory plans. We are perfectly confident that we can build them, given the market and the land that could come through the planning system. The obstacle is the system's being slow and cumbersome. There are undoubtedly infrastructure issues—the committee will hear more about such issues from Scottish Water and the promoter. Scottish Water has stated clearly in its evidence that it is committed to dealing with many of the physical obstacles.

The obstacle that has existed for several years and which will not be overcome for another couple of years is the lack of an up-to-date statutory planning framework in the form of a structure plan—a local plan that can release land for development. The promoter argues that it has allocated land for development, but that land is in finalised local plans and is not allocated, so it is not yet available for development.

**The Convener:** I thank the witnesses for appearing before us.

Our next witnesses are from Scottish Water: Jon Hargreaves is chief executive, and Alan Thomson

is the head of strategic liaison. I suspend the meeting to allow the changeover of witnesses.

10:48

*Meeting suspended.*

10:50

*On resuming—*

**The Convener:** Ted Brocklebank has some questions for the witnesses.

**Mr Brocklebank:** Let me begin with a general question for Dr Hargreaves. What does Scottish Water see as being the main problems in meeting the housebuilding target that has been set by both councils and in releasing suitable sites?

**Dr Jon Hargreaves (Scottish Water):** For Scottish Water, the situation has changed pretty fundamentally since our previous appearance before the committee. Now that we have in place things that were not in place previously, we have some clarity on how this market will work. Scottish Water has been funded to deliver the strategic assets, which are the water treatment works and waste water treatment works. On 1 April, regulations will be published that will determine the contributions that developers will make to the process of providing what are described as parts 1, 2 and 3 assets—basically, those are the pipes. As we are now in a different position, we can give the necessary commitments to make things happen not just for the Waverley line but throughout Scotland.

For the Waverley line, we have a constructive relationship with both councils. Our discussions with them on how matters can be brought forward are at a pretty mature and advanced level. We see a rapidly changing situation for Scottish Water, although that is not to say that everything can be fixed tomorrow. Having the money is one thing, but ensuring that the plans are laid and agreed is another. In that sense, Scottish Water is a follower rather than a leader.

**Mr Brocklebank:** Is Scottish Water confident that it can access skilled labour to carry out the planned refurbishments and upgrades to the existing water and drainage services?

**Dr Hargreaves:** Yes.

**Mr Brocklebank:** Do we have a commitment on that?

**Dr Hargreaves:** Yes.

**Mr Brocklebank:** Is Scottish Water suitably staffed to deliver on the spending and infrastructure commitments?

**Dr Hargreaves:** Yes. For us, the issue is not so much the amount of physical resource—that is, people and kit—but whether we can plan things sensibly so that it can be delivered efficiently. At the moment, we are working with all the councils throughout Scotland—and, for the railway line, with Scottish Borders Council and Midlothian Council—on when things will get done. For us, the issue is no longer whether the infrastructure will be built, but when it will be built. In that sense, it is important to phase projects sensibly so that they do not compete with other things in the economy.

**Mr Brocklebank:** If the Waverley project proceeds, is Scottish Water satisfied that it will be able to deliver its end of the bargain on time and on schedule?

**Dr Hargreaves:** Yes.

**Christine May:** We heard from Homes for Scotland concerns about the how long it is taking to get a finalised revised structure plan and the consequential local plans in place. That has an impact on knowing what land will be available, on assembly works and on the identification of subsequent works that need to be carried out. Will you comment on that?

**Dr Hargreaves:** Although the delay is unfortunate for some people, it has helped Scottish Water to clarify our position on developments throughout Scotland. As members will know, Scottish Water is moving into a new investment period. We all need as much clarity as possible on when infrastructure will be required. If facilities are needed for 10,000 houses by 2011, we need to know that well in advance so that we can work towards delivering that. As I said, we are a follower rather than a leader: we will not spend £30 million of customers' money building infrastructure just because there is a chance that somebody will build houses. We need to work closely with the councils and the developers.

**Christine May:** Given that the final plans will not be in place before 2007 at the earliest, what impact might that have on Scottish Water's ability to deliver in time to support the railway?

**Dr Hargreaves:** The longer that takes, the tighter the timescale becomes. However, as with similar developments, not all 10,000 houses will need to be delivered on 1 April 2011 because development will be phased. We need certainty on the scale of the development and the timescales over which it will be built so that we can plan for that.

Let me break the issue down into the two services that we provide. For drinking water, we are already in the process of providing sufficient capacity along that route for the volumes that are planned. The bigger issue for us is waste water. Our plans were to upgrade places such as Kelso

in the period 2010 to 2014. If the line goes ahead and everyone is committed to it, we will propose those plans. The question is about when they absolutely must be online. However, as I said before, the waste water treatment plants and water treatment plants are not major infrastructure for us. Other infrastructure—the pipes, if you like—are built at the same time as houses and so are much more tied up with the housing phase than with treatment capacity.

**The Convener:** I thank you both for your evidence. We will return to the topic later when we hear from the Minister for Transport and Telecommunications and the promoter.

The committee will now hear evidence from Scottish Natural Heritage on appropriate assessment. The witnesses are Erica Knott, Andrew Panter and Iain Rennick from Scottish Natural Heritage.

The committee invited SNH to consider and report on the appropriate assessment issue and to recommend mitigation or other steps that would bring the impacts of the scheme within acceptable limits. On behalf of the committee, I thank SNH for all its hard work, not just in considering the promoter's survey report that was lodged at the end of November last year, but in the face-to-face meetings with the promoter's environmental advisers and all its work in progressing the matter to this point. The committee is aware of the demands that were placed on SNH and the efforts it made to extract the required information from the promoter. We are most appreciative of what SNH has done.

In what areas is your advice to us less detailed than you would have preferred? Are the gaps significant?

**Mr Iain Rennick (Scottish Natural Heritage):** Excuse me, but all three of us are suffering from a sore throat; we have obviously spent too much time together and our evidence might be a bit croaky.

On whether our advice to the committee is less detailed than we would like, the issue is not about the level of information that we have received. We feel that we have sufficient detail. It is also not about the analysis that we have been able to do; we have been able to do detailed enough analysis to reach our conclusions. The issue is about the way in which we were able to present the information to the committee. We might have liked to have more time to provide the committee with more detail than we did, but obviously with the tight timescales to which the committee was working, that was not possible. We are, however, content that our overall advice is detailed and that there are no significant gaps in the analysis that we have been able to do.



**The Convener:** You touch on cumulative impacts and the in-combination effect of other plans and projects, but there is not a great deal of detail about the nature of SNH's assessment of that. What was your approach to that?

**Mr Rennick:** That is one of the areas on which we would have liked to have provided more in our evidence to the committee. Again, it is not that we did not do the work; it is simply that we ran out of time to present it to you.

You mentioned two separate issues. One is the cumulative impacts of all the various engineering solutions along the Gala water section of the River Tweed special area of conservation. We considered each individual location and the impact that the proposed engineering works would have on it. We then took an overall view on the cumulative impact. Because the solutions at which we have arrived will involve less instream working than was originally planned and will also pull engineering works away from the river bank, we were able to conclude that the cumulative impact would not impact adversely on the SAC.

The analysis of in-combination effects considered a list of other plans and projects in the Borders that might influence the SAC, and whether any of those in combination with the railway might require the promoter to do further work on the effects. Again, having considered those plans and projects, we concluded that further work was not required. It would not be reasonable for us to ask that of the promoter because the likelihood of any in-combination impact is small.

**The Convener:** Has SNH received adequate information on those matters from the promoter? On that basis, are you content?

**Mr Rennick:** Yes, we have. We were here a year ago and the promoter has provided a lot of information during the past year. We did not bring it all with us today because it would probably fill the room. We have had sufficiently detailed information on all aspects to allow us to arrive at the conclusions that we have given to the committee.

**Christine May:** You identify numerous locations in which detailed mitigation and modifications will be required to bring the impacts within acceptable limits. Has SNH had a chance to review the mitigation that is outlined in the revised code of construction practice that was issued on Friday? Are you content with its terms?

11:00

**Mr Rennick:** I should perhaps let one of my colleagues speak; Erica Knott will answer that.

**Erica Knott (Scottish Natural Heritage):** We received the revised code on Friday. At first glance, it seems to go some way towards addressing our concerns, but we would like more time to consider it in detail. We will come back with further advice as a matter of urgency.

**Christine May:** An important qualification to SNH's negative assessment relates to enforceability. The promoter suggests that the bill will confer responsibility for enforcement on the local planning authority. What is your response to that? How will SNH feed into that process and the implementation of mitigation methods during construction and operation?

**Mr Rennick:** Under the private bill process, the way in which any mitigation measures that we propose will be enforced is beyond our remit. That is why, in our advice, we stopped short of presenting a solution. We are aware that the promoter is suggesting the local planning authority route as the solution. On the plus side, that is a tried and tested mechanism. Local planning authorities enforce planning conditions in other circumstances, so they are capable of doing that and the bill can fit neatly into the existing regime.

The committee needs to bear in mind that there is a potential conflict of interests in this case because the local planning authority, wearing a different hat, is also the developer. We do not think that that is an insurmountable problem, but we advise that in setting out the issues that have to be enforced by the local planning authority, the committee should take care to ensure that the details are precise and clear. There must be no doubt about what the authority is required to enforce on the ground, just as we require planning conditions to be precise, clear and enforceable.

We do not have an alternative mechanism to suggest. We do not oppose the proposed solution, but we expect care to be taken—both in amendments to the bill and in the code of construction practice—so that there is sufficient detail and the system of enforcement is not too flexible.

**Christine May:** I am sure that the committee will take careful note of that.

If the bill is passed, the local planning authority is likely to be required to undertake a further appropriate assessment. The promoter wishes to modify the application of the 1994 regulations so that the obligation applies only to development that has not already been assessed by Parliament. Does SNH have any concerns about that approach?

**Mr Rennick:** The short answer is no. We accept that, if Parliament has carried out an appropriate assessment, it would be nonsensical to expect a second appropriate assessment to be done on the

same engineering solutions or measures. We are content with the approach. If the plans change or additional works are required, we would expect those to be caught by the Conservation (Natural Habitats, &c.) Regulations 1994 and a further appropriate assessment to be done. However, if we regard the assessed project as the information on which we based our advice to you, we are content that no further appropriate assessment is required.

**The Convener:** We would appreciate your comments on the revised code of construction practice. The deadline for comments is 12 noon on Tuesday 4 April. Thank you for coming to give evidence today.

At this point, we were going to hear from the Minister for Environment and Rural Development on appropriate assessment, along with the Minister for Transport and Telecommunications. However, I understand that Ross Finnie will not be available until after lunchtime. We intend to move on to consider the advance and voluntary purchase schemes and housing and water and drainage infrastructure. We await Tavish Scott MSP, so I suspend the meeting for perhaps five minutes.

11:04

*Meeting suspended.*

11:13

*On resuming—*

**The Convener:** Welcome back. I offer a particular welcome to the minister and Damian Sharp. We hope before lunch to get through questions to the minister on housing, patronage and revenue yield, and project costs. In the afternoon, we will cover appropriate assessment and advance and voluntary purchase schemes.

**Christine May:** Good morning. Minister, you state:

“there should be a sufficient number of affordable houses built within the 2011 house building programme to counter any potential setback to the expected patronage figures”.

Is the construction of social housing to be prioritised over private housebuilding?”

**The Minister for Transport and Telecommunications (Tavish Scott):** Good morning. You caught me slightly early—I was in the depths of something else. I am happy to deal with the committee's questions this morning. I guess that the building of social rented housing or private housing will be a matter for the local authority and those who are involved with it in making housing assessments. I am sure that Christine May would accept that neither she nor I

can judge what would be appropriate in the localities that are being developed. I imagine that there will be a mix of housing need in those areas.

**Christine May:** I will perhaps come back to that in a moment. Midlothian Council predicts the completion of just 300 houses in the social housing sector by 2011. How will that low number counter any setback in patronage forecasts?

11:15

**Tavish Scott:** The number of social rented houses in Midlothian will have to be considered in the context of general growth in housing. Patronage figures will relate to the total number of people who live in the locality. The type of housing in which there is growth is only one factor in considering overall patronage figures. However, it would be interesting to analyse that in the context of any line in Scotland. I do not have any concerns about the housing mix, given what I am led to understand are the overall projections for housing in Midlothian and the Borders.

**The Convener:** I want to return to the first answer that you gave Christine May on social housing. Paragraph 7 of your memorandum dated 17 March 2006 states:

“The Promoter has reported to the Scottish Executive, that within the house building programme there is a mixture of private and affordable housing. If the private housing programme is delayed until 2016 the Promoter has indicated that there should be a sufficient number of affordable houses built within the 2011 house building programme to counter any potential setback to the expected patronage figures.”

That suggests to me that we are prioritising social housing, particularly if private housebuilding cannot be completed.

**Tavish Scott:** The promoter might well have that view. In our assessment of the rigour of the business case, there are three important checks, which should be in the memorandum to which you refer and which I have set out in Parliament many times for other schemes. We allow for on-going work with the promoter to ensure that the balance is right. We are looking ahead and seeking to assess what will happen some years down the line. From my perspective, it is important that our on-going work with the promoter on the business case ensures that it is robust and that there are constant checks. I do not wish to repeat what I have said before, but the Edinburgh Tram (Line One) Bill Committee and the Edinburgh Tram (Line Two) Bill Committee sought assurances from me that our assessments would be appropriate, rigorous and regular.

**Christine May:** I accept that it is not your responsibility to tell councils what the balance of housing developments should be. Has your

department had any discussions with the promoter about difficulties arising in ensuring that the anticipated balance in housing can be achieved? Have you had any discussions with your ministerial colleagues as a result?

**Tavish Scott:** Damian Sharp can tell you about meetings at official level, but I know that there have been plenty of meetings at which general housing issues, as well as housing in the context of patronage figures, have been discussed. I have had informal discussions with ministerial colleagues about some of the other issues about which the committee has been concerned, such as those relating to Scottish Water and planning in general. Those discussions have all been about how we deliver the objective that we all share.

**Damian Sharp (Transport Scotland):** There are regular official meetings covering all aspects of the project, including achieving the housing targets. The specifics of the balance between affordable housing and private housing have been and remain a matter for the promoter. We have sought the assurance that if there is a delay in the private housing programme it will not impact on the business case. The assurance that we received is reported in paragraph 7 of the minister's memorandum to which you referred.

**Margaret Smith:** Good morning, minister. Do you share the concerns of the Homes for Scotland witnesses, who spoke of problems in engaging with councils and problems in the planning system? They suggested that the business case target for housing would, according to current analysis, be missed by about 35 per cent. Have you and your officials looked into that and can you reassure us?

**Tavish Scott:** We must acknowledge—as I am sure Margaret Smith does—that Homes for Scotland is just one body. As far as I know, it represents only 7 per cent of builders who are active in the Borders, and 27.4 per cent of house units in the Borders. It has a view on this issue, but it is not the only body that has a view. We have to be fair to the promoter. It has discussed these issues with major housebuilders from across the spectrum. My notes suggest that many meetings have been held. I accept that one organisation has concerns and that it is appropriate for it to present evidence to the committee. However, that organisation's significance in this part of Scotland is such that we have to say that its point of view is just one point of view. The promoter has discussed the issues with other organisations that have a much bigger role in the Borders.

**Margaret Smith:** I will move on from the organisation that has given us the view and concentrate on the view itself—which is that the planning process is not as quick as it might be and

is not delivering the levels of housebuilding that are required to guarantee the levels of patronage that we would like to see by 2011. Are the councils delivering increased capacity within the present planning system?

**Tavish Scott:** That is a rather more general question about our planning process. The Parliament will consider planning reforms over the next year or so—and rightly so. To be fair to Midlothian Council and Scottish Borders Council, we must accept that they have to work within the current planning system. The reforms will assist the councils greatly, as they will assist all 32 Scottish local authorities in their planning responsibilities. I would argue strongly that the planning reforms will help local authorities with housing issues. It is difficult for me to be more specific than that.

**Damian Sharp:** As the committee knows, the promoter has accepted that there are problems with resources for the planning departments in both Midlothian Council and Scottish Borders Council. The councils have taken action to address that. I understand that the promoter has given the committee regular updates on its action plan to address a number of the issues that Homes for Scotland has raised. The Executive is encouraged by that. We will keep a close eye on progress to ensure that it continues.

**Christine May:** I want to ask about the minister's comments on Homes for Scotland's evidence. I accept that you are correct in what you say about percentages, but do you accept that Homes for Scotland represents the majority of the volume housebuilders? It is from those housebuilders that the volume of social and affordable housing will come. Do you therefore share the slight concern that there might be delays in the planning process and that delays might have an impact on the provision of a mix of housing?

**Tavish Scott:** I would share the concern over delays in the planning process if we were not doing anything about them, but we demonstrably are. Later this year, Parliament will have an opportunity to consider planning reforms. I do not want to repeat myself, but planning reforms will benefit all local authorities.

I am sure that Christine May is right about Homes for Scotland's membership. However, as the committee is well aware, the promoter has correctly taken the opportunity in recent months to have a series of discussions with a number of developers. That seems eminently sensible given what we are trying to achieve. I am sure that there are differences of emphasis on the matter.

**Mr Brocklebank:** Notwithstanding what the minister said about the Homes for Scotland

statistics, I understand that the business case for the Borders was based on a total of 4,092 house completions in the central Borders between 1999 and 2011. The projected and actual completions for that period are now estimated to be only 2,351—a shortfall of 1,741 or 42 per cent over the period. Far from being slightly concerned, are you not deeply concerned about that falling off?

**Tavish Scott:** If that were the only criterion that we took into account when making a business case assessment of the line, then we would be deeply concerned, but that is not the case. I am sure that Mr Brocklebank is more knowledgeable than I am about this and therefore knows that it is not the only criterion.

Mr Brocklebank will be aware that it is my responsibility to keep an overview of projects throughout Scotland. We have been pleasantly surprised by positive evidence from elsewhere in Scotland—for example, the number of passengers using the Larkhall to Milngavie line since it opened is around 34 per cent ahead of the projection in the business plan. I am not in any way drawing a direct parallel between house numbers, of which Mr Brocklebank spoke, and what might or might not happen with the Borders railway. However, in the general area of encouraging more people in Scotland to use our rail network, there are encouraging signs throughout the country and passenger numbers are increasing. I ask that house numbers be considered in the context of the overall business plan and not just as the sole determinant of the business plan.

**Mr Brocklebank:** Thank you. I have other questions about patronage, but I will ask them later.

**The Convener:** Does the minister understand the committee's concern that if the houses are not built, it is not just a question of not getting bums on seats in trains, as integral to the business case is a levy of £1,000 per house that is built in the Borders and Midlothian? In the Borders alone, it is expected that £7.5 million would be realised by the levy of £1,000 per house and Midlothian hopes to achieve £1.8 million. If that cannot be achieved, not only will we not get people travelling on the railways but there will be a shortfall in the capital cost of the project. Is the Executive to meet the shortfall if the houses are not built? If the Executive is not prepared to meet the shortfall, who does the minister expect will do so?

**Tavish Scott:** I hope that the committee does not expect me to say anything other than exactly what I have said in the past about the project. We have made absolutely clear what our financial commitment is to the project and that is that. Therefore, I hope that there will be no shortfall because that would give rise to a difficult situation.

It is difficult to crystal-ball-gaze to gain specific knowledge about how housebuilding will develop over the next three to five years. It is a bit like the argument over whether the cup is half full or half empty that we face day in, day out when making planning and transport policy.

I have as much confidence as I can have, given the business case, the assessments in the business case and the mechanisms that we have put in place over the past six months for all our capital projects, which I outlined in Parliament the other day. In that way, we hope to see the promoter achieve what it wishes to achieve and what I wish it to achieve. However, I take the convener's point that there are bound to be some concerns about house numbers because we cannot be precise about such matters.

11:30

**The Convener:** We now move on to patronage and revenue yield.

**Mr Brocklebank:** When the minister's predecessor, Nicol Stephen, appeared before the committee on 14 March 2005, he said that he would consider improvements that might be made on the railway's journey times. Can you update us on any developments in that regard?

**Tavish Scott:** I will get Damian Sharp to deal with what my predecessor might have meant by what he said at that time, although I am sure that I would have agreed with him. I have no doubt that Damian Sharp was present at that meeting and can answer Mr Brocklebank's question.

**Damian Sharp:** The Waverley railway partnership has been looking hard at where it can achieve better journey times. One of the issues has been to do with the specification for the rolling stock and whether class 158 or class 170 diesel trains should be used. By addressing that issue and by tweaking the engineering in certain places, which will allow a few seconds to be picked up each time, the Waverley railway partnership believes that it can achieve an improvement in journey time of around three to four minutes on the original estimate.

It is important that we achieve such an improvement and that we continue to assess whether our proposals have got things right within the limits of deviation that the bill sets. Consideration of how we can obtain journey time improvements is a constant part of the design process. I have taken part in workshops that examined both capital cost and journey time in an effort to ensure that we get the best value within the limits of deviation that the committee has been asked to consider.

**Mr Brocklebank:** Does that improvement take into account the proposal to have a stop at Stow? Can you give an estimate of what the new overall journey time will be?

**Damian Sharp:** If a stop at Stow is incorporated, that wipes out all the improvement.

**Tavish Scott:** If Mr Brocklebank will forgive me, I would like to say something about that issue. I hope that the committee does not mind my being blunt, but my biggest concern about having a stop at Stow is that it will impact not just on the Borders line, but on the rest of the network. As someone demonstrated graphically to me this morning, it is crucial that the service that has come north from the Borders and through Midlothian hits the east coast line, and gets into Waverley, at the right time. Naively, I was of the view that a minute here or there would not make much difference but, by gosh, it makes a huge difference to the smooth operation of the main network.

It is important for me, as Minister for Transport and Telecommunications, and, I respectfully suggest, for the committee to consider the whole rail network, not just the Borders line. If having a stop at Stow were to affect the network in that way, increases in cost would be incurred straight away simply because GNER services from London would be delayed. I understand that that is simply a result of the way in which the rail financing system works. It is demonstrably the case that such an increase in costs is in no one's interests, nor is the delay that having a stop at Stow would cause.

As Damian Sharp rightly says, the times are tight anyway and there is little flexibility to accommodate the delays that will inevitably happen. That means that having a station at Stow simply creates more of a problem. My biggest concern about the proposal is the impact that it will have on the rest of the network.

**Mr Brocklebank:** If Mr Sharp is correct that a saving of three or four minutes has been identified, I presume that that would allow the train to stop at Stow and still achieve the journey time that was set out initially.

**Damian Sharp:** It would allow that journey time to be achieved, but the primary issue is the impact that having a stop at Stow would have on the operation of the network. The original journey time allowed for a turnaround of only five minutes at Tweedbank, which would have meant that every train would have had to be on time when it got to Tweedbank. I would love it to be the case that every train on Scotland's railway network arrived on time, but sadly that is not so.

**The Convener:** Please—you are talking to me, Christine May and Ted Brocklebank, who use the Fife circle line.

**Damian Sharp:** And that is a twin-track line, which is inherently more robust than a branch line, part of which is single track and part of which is twin track. There is a fundamental issue. The likely consequence is that late-running trains would have to be terminated at Galashiels and would not get to Tweedbank, which would have a very bad impact on the perception of the railway.

We are keen to improve the journey time not just for patronage reasons, but for reasons of reliability. We need the three to four minutes to improve reliability.

**Mr Brocklebank:** I still do not totally understand you, because presumably all those factors existed before there was a suggestion that Stow be brought into the equation. The fact that you are now saving time would allow for the Stow stop while still keeping within your overall timescale. Given the fact that the saving of three or four minutes means that the journey time that was going to be achieved previously will still be achieved if trains stop at Stow, what has changed?

**Tavish Scott:** I will let Damian Sharp come on to that in a minute. It is important to recognise that Stow was never part of the original plan. My reading of the project over the past six months indicates that hitting timescales, fulfilling the timetable for the service and having enough flexibility to take into account the odd hitch that will happen from time to time are the overriding concern and criterion in providing a strong, robust service that people can trust to be there on time. We are talking about just minutes here and there, but my understanding—Ted Brocklebank will keep me right—is that, even with a five-minute turnaround at Tweedbank, a stop at Stow would be for one and a half minutes on the way south and for two and a half minutes on the way north. We are talking about 30 seconds here and there. I am sorry to repeat myself, but I have considerable concerns about when the service coming north out of the Borders hits the main east coast rail line, as we know that there are capacity issues at Waverley, although we are now investing £150 million through Network Rail to improve the situation there. Those are significant issues that have to be addressed.

**Mr Brocklebank:** Perhaps Mr Sharp's response will take into account the fact that perhaps not all trains would have to stop at Stow. At key times of the day perhaps they would not stop there, but at other times they might be able to.

**Damian Sharp:** I will first answer your previous question, about what has changed. We have a five-minute turnaround at Tweedbank, with potential for improvement. If trains stopped at Stow, we would have a five-minute turnaround at

Tweedbank, but with little further potential for improvement. There is a big difference there.

If we were skip-stopping and stopping only some of the trains at Stow, we would have to allow for the journey time to cover Stow whether the train stopped there or not—unless trains were stopping at Stow only at peak times and were not stopping there for a large part of the day. Operationally, the problem is that the timescale is driven by the slowest of the stopping trains.

**Mr Brocklebank:** Perhaps other members will return to that point. I have one further question. The project is now three years behind schedule. What impact has that had on the promoter's patronage forecasts?

**Tavish Scott:** I would dispute that the project is three years behind schedule. As I said in Parliament the other week, what is important is that most committees that I have been in front of since I took on this job have wanted as much certainty as possible about our whole capital transport programme, both on the timescale and on the budget. The nature of projects such as the Waverley railway is such that there will always, until the moment when the tender is opened and the project is let, be an on-going process involving both those factors. I may not like that much, but that is the nature of the beast that we handle when dealing with large capital transport projects, particularly rail projects. My predecessor and I—and, more to the point, Damian Sharp and his team at Transport Scotland—have always been on top of the business case and have continually reappraised that business case with the promoter, taking account of the variety of criteria that we have set and the issues that have to be resolved, including the issue that Mr Brocklebank has raised.

I have no concerns about where we are now with the timescale and budget, simply because it is clear to me that the process is robust. I am sure that Mr Brocklebank wants that. It was certainly clear the other day that Parliament wants continual assessment before any public money is deployed on the project or on any other capital transport project for which I am responsible.

**The Convener:** What level of subsidy will the railway require in each of the first six years of operation and how will that be affected if the projected housebuilding and patronage forecasts are not met?

**Damian Sharp:** I do not have the precise figures to hand. The process by which that is settled involves compensation for the demonstrable additional cost to the franchise holder. Crucial to the original business case were assumptions about when the housing would be delivered and how the subsidies would decrease over time.

Delaying the opening to 2011, when it is likely that more houses will have been built, will mean that the initial subsidy is likely to be slightly lower. Part of the next stage of the business case will involve a further assessment of what that subsidy is likely to be. The likelihood is that it will have gone down rather than up since the previous minister and I gave evidence last March.

**The Convener:** I have to say that I did not understand much of what you have just said. I look forward to reading it in the *Official Report* to see whether I can make sense of it.

You mentioned the fact that the opening would be delayed. However, the minister suggested to Mr Brocklebank that we were not talking about a delay. I seem to recall that, at one point, we were talking about the railway line opening in 2008. If it opens in 2011, any arithmetic will show a delay of three years. Do you accept that?

**Tavish Scott:** The promoter hopes to open the railway a year earlier than that.

**The Convener:** That would still be two years late.

**Tavish Scott:** I will not avoid the issue of the line not being operational until 2010 or 2011, but I will not accept criticism of a process that we put in place because Parliament expected us to do so. When I came into this post, the capital programme process did not appear to have the amount of clarity, in terms of numbers and timescales, that was expected. When I appeared before the Local Government and Transport Committee, members of all parties said—very fairly—that we need to have as much clarity as possible in this process because, otherwise, we will be left with the sort of uncertainty that you have talked about this morning.

We dealt with that and have ensured that the numbers and the timescale of the capital programme are as precise as they can be, given the nature of this sort of project, in the first year of which it is impossible to say when it will be delivered. We have a 10-year planning framework. We said that we would achieve these projects within that framework and that is what we are going to do.

**The Convener:** I thank you for your answers. However, I have to say that the committee has been meeting for three years and our attempts to get clarity on these matters has not been helped by the promoter or the Executive. If we had got clarity at an earlier stage, perhaps we would not now be looking at a delay of some years.

**Tavish Scott:** That is the point. The difficulty of this sort of process—whether we are talking about this project, the Larkhall to Milngavie line or the Edinburgh airport rail link—is that the construction

of the business case involves a degree of complexity and variability. As you have had three years of this, you will know that that leads to the process stretching out over a much longer period than we would like it to. One of the reasons why we are bringing forward the transport and works bill is to do something about that.

**The Convener:** Let us see whether we can get some clarity with regard to project costs.

**Christine May:** Accepting that the process is now longer than it was originally anticipated that it would be, we can say that that in itself will have had some effect on projected costs. Can you give us an indication of the impact that the lengthening timescale has had on capital and operating costs?

**Tavish Scott:** Last year, my predecessor talked about the extent of our contributions to this project. All that I can say—while trying to be as direct as I can—is that the mechanisms that we have put in place to review and continually assess the business case of this project and all our other projects give me confidence that we are absolutely on top of the numbers. We have a quarterly review of project progress against cost and time targets. All the projects are subject to the Scottish Executive gateway review, which examines projects at each critical stage of their life cycle. Additionally, as I said to Mr Brocklebank earlier, before any significant capital expenditure is deployed, another tick has to be put in the appropriate box. I am clear that the work with the promoter is extremely rigorous in terms of capital and operational considerations, as it is on all of our projects.

11:45

**Christine May:** Does that rigour include a need for you to be satisfied that, other than the normal inflation increases that one would expect, there is nothing unexpected lurking in a woodpile or underneath a bridge?

**Tavish Scott:** That is not an unfair way to put it. It is important that we have that level of rigour in our processes; that is what Parliament expects. As far as I can, I will ensure that that is the case.

**Christine May:** Has the promoter indicated that there have been or will likely be any increase in costs resulting from engineering works that were not originally anticipated? For example, some changes have been made to the layout and the route.

**Tavish Scott:** I will ask Damian Sharp to deal with the specifics of that question.

**Damian Sharp:** I will try to be much clearer this time.

The promoter has given us assurances that the changes will be contained within the cost estimate as presented to the Parliament.

**Christine May:** Presumably, that means that consequential increases in one place will be met by appropriate savings in another.

**Damian Sharp:** That is correct.

**The Convener:** Given that the promoter has stated that and that no major design work will be started until Parliament approves the bill, are you confident that the promoter's assumptions will hold?

**Damian Sharp:** I am as confident as I can be at this stage of the scheme's development. As the minister has said, the scheme will go through several more stages of checking. As that develops, I am confident that the promoter will rise to the challenge of meeting the target.

**The Convener:** Edinburgh will undoubtedly benefit from the building of this railway line, yet the City of Edinburgh Council is contributing only £2 million. That seems to be a small amount compared to the amount that the Scottish Borders Council and Midlothian Council are contributing. Are you examining that situation?

**Tavish Scott:** I am not examining the specific issue of the City of Edinburgh Council's contribution to the project. However, as you would expect, I consider the overall scope of our capital transport plans in this part of Scotland. It would be fair to observe that the City of Edinburgh Council's investment in the tram project is significant in terms of transport interchanges and the movement of people in and around Edinburgh. One of the aspects that we must get right relates to the need to ensure that transport interchanges operate in a way that ensures that people can move easily between different modes of transport. I am sure that members with an interest in Edinburgh are acutely aware of the need to ensure that people have no trouble using heavy rail, trams and Edinburgh's excellent bus network. That is where the focus of my overview must be. The City of Edinburgh Council's contribution to the tram project is an important part of our effort to ensure that the integrated nature of our transport infrastructure and the service to the customer is constantly improved.

**Mr Brocklebank:** When will contractors be appointed and construction commence?

**Damian Sharp:** The promoter is planning to have preparatory works on site in early 2007 and to appoint a main contractor in the summer of 2007. That is, of course, dependent on the four conditions that we have set out being met and on the time that is taken by the passage of the bill—we are not taking Parliament's consent for

granted. If royal assent is achieved before the summer recess, that timescale is achievable.

**Tavish Scott:** I hope that Mr Brocklebank will appreciate that I cannot go into any detail on this matter, but I have been encouraged by what I have learned about the interest of the private sector in this project. A range of events has been held across our range of capital transport projects—Damian Sharp and his team do a lot of work in this regard.

**Mr Brocklebank:** Other major construction projects, such as the construction of the London Olympics facilities, will coincide with this one. Will those projects have any impact on the cost of or the funding for the Borders railway line?

**Tavish Scott:** I tried, rather badly, to pre-empt that question by what I said a moment ago. I have worked with the Minister for Finance and Public Service Reform on this issue, given his responsibility for the infrastructure investment plan across government. We will continue to consider that matter.

Of course, some fairly large capital projects will happen in London because of the Olympics. However, it was ever thus. Consider the scale of the terminal 5 building at Heathrow airport, for example. That is a massive project that involves 35 or 40 Scottish, British and international businesses.

I have no concerns that we will end up without good, competitive tenders for the transport projects that we are working on. It is fair to say that part of the reason for that is that Scotland is seen as being an exciting and developing place for transport projects. There is a lot of national and international interest in our construction programme. Many of my colleagues have done a lot of work at various events in the past couple of years to build that interest.

**Margaret Smith:** Do I understand correctly, therefore, that you have no concerns about the possibility that we might not have sufficient numbers of skilled workers to deliver all the projects, particularly the Waverley project?

**Tavish Scott:** That is a fair question. The European marketplace is extremely competitive and the labour force moves around according to where the projects are. Visiting a project the other day, I noticed that many of the men whom I met were from Kent and had come here to deal with a particular aspect of a particular project.

With our ministerial colleagues who have a responsibility for enterprise and various agencies, we keep a close eye on the issue that you raise. However, procurement for projects of the sort that we are discussing—including the procurement of staff—is conducted on a worldwide basis.

**The Convener:** That ends our scrutiny of the project costs. We will suspend for lunch and resume at 1 o'clock, when we will speak to the ministerial team about appropriate assessment.

11:53

*Meeting suspended.*

13:07

*On resuming—*

**The Convener:** Welcome back, everyone. We will now hear from the Minister for Environment and Rural Development, Ross Finnie, and the Minister for Transport and Telecommunications, Tavish Scott. The Scottish Executive officials who will support the ministers are Ian Hooper, head of landscape and habitats division, and Damian Sharp, head of major projects at Transport Scotland. I understand that Damian Sharp wants to give the committee a brief update.

**Damian Sharp:** In answering the question on the procurement timetable I made a mistake. I make it clear that we expect the early preparatory works to start early in 2007. In the summer of 2007 we will issue the notice on the main contract in the *Official Journal of the European Union*, with the aim of being on site early in 2008.

**The Convener:** Thank you for that clarity, Mr Sharp.

We turn to our questioning of the Minister for Environment and Rural Development. What monitoring has the Scottish Executive undertaken as principal funder since the bill was introduced to ensure that the promoter has undertaken all the necessary work to supply the committee and the Parliament with all the information that we require?

**The Minister for Environment and Rural Development (Ross Finnie):** I am not sure that that is our role, convener. There seems to be a fundamental misunderstanding of our role. I do not wish to be unhelpful, but my understanding is that the Parliament delegated to this committee the role of acting as the competent authority in preparing an appropriate assessment.

In so far as I am the minister with responsibility for the environment, my role is to decide whether certain elements of the scheme raise questions of wider public interest in respect of environmental protection legislation. I apologise to the convener if that is not the case. I hope that we explained our position to the committee clerk. In so far as the committee is the competent authority, it is not for me to influence or determine the nature or quality of the evidence to be brought before you.

**The Convener:** The committee is well aware of its role. The question related to the kind of



monitoring work that the Scottish Executive had done by way of appropriate assessment and ensuring—this might be a question for the Minister for Transport and Telecommunications—that SNH had before it all the information that was available. I include in that the relevant timescales and the information that was needed for the committee to carry out its role.

**Tavish Scott:** If it is helpful, I will make the observation that continuing assessment of the business case would include any factors that still needed to be resolved to complete the process. The working assumption is that issues such as those around nature designation and SNH would be part of the continuing assessment.

**The Convener:** I thank the Minister for Transport and Telecommunications for that answer. I thank the Minister for Environment and Rural Development for giving evidence. You are free to go, minister, along with your official. I ask Mr Scott to remain with us, together with Damian Sharp, and we will move on to advance and voluntary purchase schemes.

**Christine May:** What do you say, minister, to those objectors who await a decision by the Executive on whether their homes may be bought out under a voluntary purchase scheme, but who still face delay and anxiety?

**Tavish Scott:** I accept that the length of time it has taken to resolve the matter is a worry for people. Voluntary purchase schemes are not straightforward, not least because, as I mentioned in some of my answers this morning, the issue is not just the rail project that we are considering. A scheme would have implications and would set a precedent for the rail network as a whole.

Transport Scotland is currently working on the matter with surveying, planning and legal specialists. There are potential implications beyond transport. It is not just a matter for my portfolio; it is also a matter for other portfolios. There have been some cross-Government discussions. There are no precedents for voluntary purchase schemes in road or rail construction in Scotland. It is important to recognise that neither the recently reopened Larkhall to Milngavie link nor the Stirling-Alloa-Kincardine railway have needed voluntary purchase schemes. Although it is extremely frustrating, time has had to be taken to consider the matter carefully.

We also need to recognise the United Kingdom dimension. On the whole, major UK railway infrastructure is successfully constructed without the need for voluntary purchase schemes, therefore any such scheme would need to be justified, fair and tied into the practice that applies to other types of development. We hope to sort the matter out by the middle of May. Indeed, I am

determined to do so. At that stage, we will make the outcome clear to the committee and the Parliament. Although I appreciate that it is in no way helpful to the people concerned, it is important to recognise that it is not just a matter for rail or for this particular project. The wider implications are what worry me most.

**Christine May:** The committee appreciates the complexity of the issue, minister. Nonetheless, the countless objectors who came before us in varying states of distress could have had that distress alleviated if a decision had been reached more quickly. Will you confirm that you expect to make a decision one way or the other by the middle of May?

13:15

**Tavish Scott:** That is correct.

**Christine May:** We very much welcome that confirmation.

**The Convener:** Indeed, but I point out that on page 79 of the outline business case for the Waverley railway project the promoter says:

“The Scottish Executive has indicated support for such a voluntary scheme and may forward fund the voluntary purchases, pending the eventual sale on to willing purchasers in due course, subject to them being refunded their up front contributions over time.”

That suggests that in June 2004 you took a decision in principle to support a voluntary purchase scheme. I acknowledge that there are difficulties with certain UK aspects, but given that you have accepted the scheme in principle it cannot possibly take two years to sort out the wording for and the workings of the scheme.

**Tavish Scott:** In fairness and with respect, I must point out that we did not agree the scheme in principle. Convener, you are absolutely right to say that a fundamental principle is involved. I apologise for the delay, and I will not try to massage my way through the reasons why this has taken us so long. The straight answer is that there are implications not just for the Waverley project—I am starting to repeat everything that I said to Christine May, and there is no point in that. Let me just say that I take your point, convener, although I dispute that we made a decision in principle at that time.

**Mr Brocklebank:** You asked the promoter to provide further information on properties that would be captured by the advance purchase scheme in order to move forward from agreement in principle to agreed offer. I understand that that information was provided on 27 February. Where do matters stand at the moment?

**Tavish Scott:** That is a fair question. It might help the committee to learn that tomorrow there

will be a meeting to finalise matters and to instruct the promoter to proceed with the advance purchase scheme. I hope that everything will be concluded then.

**Margaret Smith:** Are you saying that you are going forward with an advance purchase scheme?

**Tavish Scott:** That is correct.

**Margaret Smith:** What is the likely timetable for the scheme for some of the individuals involved?

**Tavish Scott:** Damian, do we know how long it will take?

**Damian Sharp:** I expect the promoter very shortly to enter into discussions about whether the owners of properties are willing to sell early and about the valuation of the properties. How long that process will take will depend on the reaction of the person who is being offered advance purchase.

**Margaret Smith:** And I suppose that things will have to be dealt with on a case-by-case basis.

Far be it from you to tell the committee what to do but, given that this issue is so important and that it has come up time and time again in our evidence taking, do you know of any reason why the committee should wait for a decision on the voluntary purchase scheme—which you say you hope to sort out by the middle of May—before it concludes its consideration stage report? Would that create any difficulties for you?

**Tavish Scott:** I suspect that all of us, especially the committee, would like these matters to be concluded. However, it is up to the committee to judge whether this issue is any more significant than the other matters that have been considered this morning and at previous meetings. We feel that it would be helpful for the committee if the process were concluded.

**Margaret Smith:** I take your point about the potential for introducing a voluntary purchase scheme. Would there be any problem with people seeking to make the scheme retrospective? You have already said that that has not happened in other projects, so have you examined the legal aspects of the matter?

**Tavish Scott:** I dare say that we have. However, I do not think that we are in that particular area.

**Mr Brocklebank:** I want to avoid doubt. We have heard that decisions on the VPS will be taken in May. Will you have decided how the VPS is to be formulated by then, or will you simply be reporting on whether to have such a scheme?

**Tavish Scott:** One obviously follows the other. If we decided to have a voluntary purchase scheme, I hope that we would be in a position to say how it

would operate. We would have to discuss that with the promoter. We will be reporting on whether to have such a scheme.

**The Convener:** On the APS, if approval is given tomorrow—and if Parliament approves the bill—would you expect the promoter to make offers as soon as royal assent is given? Is that the timescale that we are talking about?

**Damian Sharp:** Given that we are talking about an advance purchase scheme, I would expect the promoter to make offers before royal assent is given, with suitable safeguards in place about protecting the public interest should royal assent not be given.

**Tavish Scott:** An advance purchase scheme is being used in relation to the trams projects in Edinburgh, with the caveat to which Damian Sharp referred.

**The Convener:** Thank you. I return to the voluntary purchase scheme, on which you hope to make a decision in mid-May. What is the significance of the next couple of months? What do you still have to do between now and mid-May?

**Tavish Scott:** We have yet to conclude our discussions and deliberations throughout Government departments. We have to consider the precedents that such a scheme might set in areas other than rail.

**The Convener:** We have no further questions for you, minister. I thank you and Damian Sharp for coming along.

We will now have a change of witnesses. The witnesses for the promoter are Alison Gorlov, Andrew McCracken, Andrew Young, Jude Nutter and Karen Raymond.

We start with the appropriate assessment. For the avoidance of doubt, can the promoter confirm whether it accepts the advice of SNH on the appropriate assessment?

**Alison Gorlov (John Kennedy and Co):** I am not the promoter, but I can confirm that.

**The Convener:** That answer was nice and succinct. I am sure that we will keep that up all afternoon. What impact will the promoter's appropriate assessment engineering solutions have on project costs and the timetable for completion?

**Andrew McCracken (Scott Wilson Railways Ltd):** I think that that question falls to me. We have to review the recent changes that we have had to make. We submitted a bill based on a series of engineering solutions, some of which we have had to reinvent over the past six weeks. We have to recalculate the costs of the new solutions and compare them with the base estimate.

**Margaret Smith:** You have experienced difficulties, which the lay person might say is understandable, given the designation of the Gala water. Did you do enough from the outset to anticipate those difficulties and to take action to address them?

**Karen Raymond (Environmental Resources Management Ltd):** It probably falls to me to answer that. Yes, we did what we normally do when we undertook the environmental impact assessment work for the project. Three or four years ago, appropriate assessment was at an early stage in its application. We were all still finding our way through the process. Our expectation when the environmental impact assessment was published was that the requirements for appropriate assessment could be met at a later stage in the design process. That was the approach that we were following.

**Christine May:** You will have heard the minister say that he did not anticipate an increase in project costs that could not be met by consequential savings in other parts of the project. First, would an increase be offset by the decrease across the project? Secondly, where in the project have you managed to find savings?

**Andrew McCracken:** Linked with appropriate assessment, a considerable number of engineering solutions were proposed. We have reassessed those solutions, and probably have less in the way of engineering works than we did previously. Without doing the sums—we need to confirm this—my gut feeling is that the cost for the particular riverbank protection works that we are considering will now be less.

**Christine May:** Thank you. That is reassuring.

**The Convener:** Let us now move on to advance and voluntary purchase schemes. I call Christine May.

**Christine May:** Thank you, convener.

**The Convener:** Excuse me—we need a change of witnesses. [*Interruption.*] I am sorry. I ask the witnesses to hold on for just a minute. Could you explain briefly the access issue, as highlighted in the letter that we received from you today?

**Alison Gorlov:** That is probably a matter for me to address. The committee might recall that we had a similar problem in relation to the surveys that were required for appropriate assessment. The law requires certain assessments to be made and certain surveys to be undertaken. The mitigation framework has been agreed, as members have seen, and it now needs to be implemented. To do so, one needs, broadly speaking, to carry out initial surveys to see what is there. As members will note from our letter to the clerk—I hope that members have seen it—there is

a lot to find in the way of otters, badgers, newts and so on.

The areas to be surveyed vary depending on the species. The point is that the surveys need to be carried out in areas that are outwith our limits. At the moment, the promoter has no powers to go on anybody's land. After the bill receives royal assent there will be powers to go on to land for survey purposes if that land lies within any of the bill limits. However, there is an immediate problem as long as the promoter has no such powers, which is on a par with what happened over appropriate assessment.

There will still be a problem even after royal assent is received, as SNH—quite understandably—requires surveys to be carried out in an extensive area outwith the limits. There are no powers in that respect. There is a lacuna in the general law, although not in the bill. Those surveys require to be done but, unfortunately, no powers are afforded to do them—at least, no powers are afforded to third parties.

On the appropriate assessment surveys, deals were struck with the landowners concerned. We knew who they were, because we knew the land, which was largely located within the limits, and we came to arrangements with them. In the case set out in the letter, not only is the area involved much more extended, but I do not think that we know who all the people involved are, although we will obviously have means of finding out. We have a similar access problem in this case, which might have to be dealt with in precisely the same way as previously—by private arrangement.

13:30

We asked SNH if it could assist with that. It agrees that there is a peculiar lacuna in the law that requires the promoter to do things that legally it cannot do. SNH has access powers of its own, but there is disagreement between the counsel who advised us and SNH's own lawyers, who believe that SNH's powers of entry are limited to a second wave, as it were—the power to go in and review what somebody else has already done. That clearly does not get us very far if we have not been able to go in and do it. We are saying that we have a problem now, before royal assent, and we know that nobody can give us much assistance. Similar surveys will have to be redone at a later stage, so we are also looking at the need for surveys after royal assent.

Two possibilities present themselves to us. One is that, in theory, the bill could be amended, which carries all kinds of implications that the committee might prefer not to deal with. After all, it would be a fairly wide-ranging amendment, although it could be done. The alternative is for the committee to

assist, if possible, in persuading the Executive that it might clear up the matter. We believe that the Executive is aware of the problem and that it is sympathetic. Indeed, I believe that it once indicated that it planned to do something about it at some point. However, it is clearly fairly low down on the Executive's agenda—or so it seems to us—so it would be helpful if the committee could persuade the Executive to move it up a bit.

**The Convener:** Thank you. My next question was going to be about what action you wanted from us and from the Executive. What can the Executive do? Is legislation necessary?

**Karen Raymond:** I should add to Alison Gorlov's comments that a meeting with the Executive has been arranged for April, when there will be further discussions, but that obviously does not help immediately.

**Alison Gorlov:** For the Executive, the question might be—I am speculating—whether the problem can be dealt with by means of delegated legislation or whether primary legislation in the form of an act of the Scottish Parliament is required. I do not know; the answer may come out of discussions with the Executive, and the timing of any change, if there is to be one, might well depend on those discussions.

The other possibility is an amendment to the bill, and it would be for those advising the committee to form a view as to whether that approach could be taken without service of notices. We entirely accept that anything other than a textual amendment that could simply be lobbed into the bill is clearly not on, but if the lawyers—I have not focused on this from a legal point of view—were satisfied that such an amendment would not result in notice requiring to be served on third parties, there would undoubtedly be scope for providing the necessary access powers purely in relation to the surveys required for the works.

**The Convener:** I understand that there are question marks over the ability to put such an amendment into the bill. I am sure that it would be helpful if the committee were to write to the Scottish Executive to try to push it on a wee bit. I am also quite sure that the Executive will listen to the evidence that you have given today, and we shall ensure that it receives a copy of the letter that you sent to the clerk. The committee will, of course, write to the Executive to impress upon it the urgency of the matter.

**Alison Gorlov:** That would be much appreciated.

**The Convener:** Thank you for your evidence.

We now have a change of witnesses, as we move on to consider advance and voluntary purchase schemes. The promoter's witnesses are

Ian Wilkie, David Fox, Bruce Rutherford, Alison Gorlov and Andrew Rosher.

Unfortunately, Gordon Jackson could not make it to our previous meeting on 13 March. In line with rule 9A.5.6 of the standing orders, I sought and received the agreement of the promoter and the objectors who gave oral evidence at that meeting that they were content for Mr Jackson either to view a recording of the meeting or to read the *Official Report* of it, which would allow him to participate in future consideration of the objections. I invite Gordon Jackson to confirm that he has read a copy of the *Official Report* of the committee's meeting of 13 March.

**Gordon Jackson (Glasgow Govan) (Lab):** I did not view a video of the meeting, but I read the *Official Report*.

**The Convener:** Thank you. We will press on to the advance purchase scheme and the voluntary purchase scheme.

**Gordon Jackson:** If the bill were to be passed in June, when would the promoter commence acquiring properties and land? How quickly would it purchase all the properties and land that the advance purchase scheme would cover?

**Ian Wilkie (Scottish Borders Council):** On the advance purchase scheme, if we get approval from the Scottish Executive in the next few days—we have a meeting fixed for tomorrow—the promoter intends to make early contact with all the affected property owners and to start negotiations as soon as possible. It would then be a question of the terms being agreed by the legal people, the house owners and the surveyors.

**Gordon Jackson:** This might be a how-long-is-a-piece-of-string question, but how long is the process likely to take? I appreciate that people can have legal arguments, but, assuming that there is no huge stand-off, how long will it take from the start of the process until people have the money in their hands? I know that there might be cases in which people argue forever about the price, but if we assume a normal process, how long will it take?

**Ian Wilkie:** If we assume a normal process, it is fair to say that the promoter would set aside the time that conveyancing transactions normally take, which we all know about, and try to move on as quickly as possible. Within a matter of several months, we would hope to get to the stage of getting keys in exchange for money.

**Gordon Jackson:** You are saying that you would hope that that would happen some time later this year.

**Ian Wilkie:** That is the promoter's hope.

**Gordon Jackson:** Does the advance purchase scheme cover agricultural land or units?

**Ian Wilkie:** I will ask Mrs Gorlov to answer that.

**Alison Gorlov:** I was just reminding myself what the scheme covers. I do not think that it covers agricultural land. The object of it is to catch private residences. It also catches commercial property, but not agricultural land.

**Gordon Jackson:** So it would cover only land that is linked directly to residential properties, such as gardens.

**Alison Gorlov:** Yes. It would cover more than the bricks and mortar and would include the garden, if that is what you mean.

**Gordon Jackson:** No—I was just confirming the point. My question was really about truly agricultural property.

**Alison Gorlov:** The scheme would not cover that.

**Gordon Jackson:** I understand that the voluntary purchase scheme is not as far down the road as the advance purchase scheme. The Scottish Executive told us that a number of properties have been identified as potential candidates for such a scheme. Are you in a position to tell us which properties those are?

**Alison Gorlov:** I do not think that that would be an awfully good idea.

**Gordon Jackson:** Will you elaborate on that?

**Alison Gorlov:** Identifying those properties would be a purely objective judgment. Quite a lot of people might say that they thought that they were so badly affected that their houses were uninhabitable, but others might disagree. It is arguably not helpful for the house owners to have somebody stand up and say in the public domain, “I happen to think that number 3 Acacia Road is going to be so terribly blighted that it will not be worth living in.” Do you see what I mean?

**Gordon Jackson:** I follow that. Could you clarify something for me? Let us say that someone asks to have their property acquired under a voluntary scheme. If they are unsuccessful or if, heaven forbid, no such scheme is ever put in place, is it open to those people to pursue any other remedy, as far as you are concerned?

**Alison Gorlov:** In a sense, that is probably more a question for Ian Wilkie to answer. Working strictly from the bill, there would be no obligation to buy such properties, and there would be no scope to do so under the project. However, there would be a potential compensation bill for those people. As the committee has heard, there is scope to claim compensation for property the value of which is reduced because of physical factors

resulting from the operation of infrastructure works.

For example, somebody could successfully claim that, because of noise, vibration or other physical factors, the value of their house was reduced, and they could claim compensation for that reduction in capital value. That is not the same thing as buying the property out, of course. It is not that the people concerned would have no remedy at all; they would have that potential remedy or recompense.

**Gordon Jackson:** If I have understood correctly, they would have a remedy for their commonsense loss—I use the word “loss” loosely, not legally—but they would still need to retain the property.

**Alison Gorlov:** Under the compensation code, there is no scope to require one’s property to be bought in those circumstances. I am hesitating slightly because, although that is true for the compensation code and the bill, I do not know—this is where Mr Wilkie might be able to help—whether there is any wider scope for property purchase in the Borders for other, more general reasons. I suspect that the answer is no, but perhaps Mr Wilkie can help.

**Ian Wilkie:** The short answer is that I go along with what Mrs Gorlov has said. Councils do not generally have an obligation to buy property that they do not need. The scheme that concerns us is discretionary. We have been working fairly closely with the Executive over a number of years now to bring in the scheme, but I do not think that I can really add anything more to what Mrs Gorlov has said.

**Gordon Jackson:** Perhaps I should know the answer to this. I take Mrs Gorlov’s point about things being objective. Let us say that a voluntary purchase scheme is in place and some people come along and say that they should benefit from it. Their claim might be ridiculous, however: the railway might be 10 miles away from the property in question. It would be an objective judgment, but who would make it?

**Alison Gorlov:** Ultimately, the decision lies with the acquiring authority—with the authorised undertaker—whoever that is going to be. At this stage, we are assuming that it will be Scottish Borders Council.

**Gordon Jackson:** If a voluntary purchase scheme is in place and someone comes along and says that they think that they should qualify for it but Scottish Borders Council disagrees, would there be an arbiter to resolve that dispute? Would there be a method of arbitrating the decision? Is it totally discretionary on the part of the council?

**Alison Gorlov:** It is important to emphasise that it is a discretionary scheme. It goes beyond the scope of the general law. For better or for worse, the compensation code does not require the purchase of properties under such circumstances. The scheme goes beyond that general obligation. It is quite important to emphasise, in the context of everybody being sympathetic to property owners who find themselves in the position that we are discussing, that the Waverley project follows the policy of the general law, which is to buy in the circumstances that the committee has been hearing about and, in other cases, to compensate.

**Gordon Jackson:** Assuming that there will be a discretionary voluntary purchase scheme, I understand that decisions will be made by Scottish Borders Council acting as judge and jury with no arbiter. Would you expect the council to publish some qualifying criteria that it will follow, or will the scheme publish criteria?

13:45

**Alison Gorlov:** The scheme will indeed publish set criteria, to which we will be working.

**Gordon Jackson:** I noticed Mr Wilkie nodding just now. Would you like to add something?

**Ian Wilkie:** I will pick up on the question that was put to the minister a few minutes ago, on what could happen between now and the middle of May. Hopefully—from the promoter's point of view—the wording for the scheme will be put together and agreed with the promoter. To answer Mr Jackson's point, any applications under the scheme will be dealt with under the criteria that will be fixed between now and the middle of May.

**Gordon Jackson:** I understand. Thank you.

**Mr Brocklebank:** Forgive me, convener. Mr Jackson is obviously in very fresh form, but the minds of some of us are disintegrating slightly under the weight of the evidence. Perhaps the witnesses can keep me right about this. My understanding of the written evidence was that the Scottish Executive had stated that a number of properties had already been identified as potential candidates for a voluntary purchase scheme. Perhaps Mr Rutherford could remind those of us who are finding it difficult to remember which properties those were.

**Bruce Rutherford (Scottish Borders Council):** There are two schemes. The APS is more solid than the VPS. We cannot really identify the candidates for the VPS until the criteria are agreed with the Scottish Executive. Hopefully, the meetings that we will hold with the Executive tomorrow will develop that a bit further. Any announcement made in May will underline what

the criteria are, which will determine the number of properties concerned.

**Mr Brocklebank:** So any indications that you might have given us previously in evidence and elsewhere that certain properties might be subject to a VPS were given only in passing, and the matter has yet to be decided.

**Bruce Rutherford:** Until the final criteria are set, there is no certainty about which properties will fall within the range that will be offered the VPS.

**The Convener:** Perhaps you could write to the committee this week and give us an update following your discussions with the Executive on the voluntary purchase scheme. We will of course seek the same information from the Executive, but it would be useful if you could also get in touch with us. Thank you for that in advance.

We turn now to housing and water and drainage infrastructure. I welcome the promoter's witnesses, Brian Frater and David Williamson.

**Margaret Smith:** Good afternoon, gentlemen. In previous evidence, the councils indicated that there was a capacity issue for the planning departments. Are you content that the planning departments of both Scottish Borders Council and Midlothian Council are sufficiently resourced to progress the work to complete 10,000 or more new homes by 2011?

**Brian Frater (Scottish Borders Council):** I confirm on behalf of Scottish Borders Council that we are very confident that we are sufficiently resourced for that. Since we last met the committee, we have put measures in place, including the recruitment of additional staff to our development control section. We are employing further staff to deal with strategic land issues. We are also considering further delegation to officers to ensure that applications can be dealt with at an appropriate speed.

**David Williamson (Midlothian Council):** We certainly have the staffing in place. We have been focusing on the work of a group of officers dealing with section 75 agreements, which is an area that we think needs particular resource. We have put in place some extra resources in the revenue budget for 2006-07. That package will ensure that we have property, legal and planning staff in place to move the work along more quickly.

**Margaret Smith:** I took on board the Minister for Transport and Telecommunications' comment that Homes for Scotland represents a small percentage of the active house builders in your areas. However, the views of Homes for Scotland might reflect the views of other house builders. In its written evidence Homes for Scotland suggested that there is a projected shortfall in house completions of between 30 and 40 per cent. How

many houses have been built in Midlothian and the Borders since the committee published its preliminary stage report in July 2005?

**David Williamson:** The audits that were completed for 2003-04 and 2004-05 recorded 87 and 92 house completions respectively in the Waverley corridor—and many more in the rest of Midlothian Council's area.

**Brian Frater:** I am sure that we included the figures in our submission but I cannot put my hand on them.

**Margaret Smith:** Will you get back to us on that?

**Brian Frater:** Yes.

**Margaret Smith:** That would be useful.

Can the witnesses alleviate the concerns that committee members have after reading Homes for Scotland's written evidence?

**Brian Frater:** Homes for Scotland's evidence is perhaps incomplete; it certainly makes an unduly pessimistic assessment of the situation and gives undue weight to the recent relatively low rate of house completions. We should bear it in mind that during the past few years in the Borders we have been dealing with relatively aged local plans and a depleted housing land supply. We have also been going through the regulatory process for producing a new local plan and we have been producing new guidance. In that context, it is hardly surprising that completion rates have been relatively low—I would be surprised if they had not been low.

There have also been water and drainage constraints, which were mentioned. I am confident that completion rates will increase significantly as such impediments and constraints are removed. The new local plan is nearing completion and there is additional guidance in the form of development briefs and supplementary planning guidance. Homes for Scotland has indicated how it will take matters forward.

Paragraph 4.9 of the Homes for Scotland evidence says that the business case was based on the central Borders housing market area. However, the business case also refers to house completions in the north and south Roxburgh housing market areas, so Homes for Scotland's evidence is incomplete in that regard.

We have largely reached agreement with Homes for Scotland on the 2005 housing land audit, which anticipates that completion figures will be in the order of the figures in the table in paragraph 4.9 in the Homes for Scotland submission. An important point is that the 2005 housing land audit takes no account of the sites that will be made available through the emerging local plan, as Derek Lawson confirmed, or of

potential windfall sites that become available in future. In recent years there have been about 100 completions per annum on windfall sites.

For all those reasons and given the removal of water and drainage constraints, we confidently expect completion rates in the next few years to be significantly higher than recent completion rates and the completion rates that the Homes for Scotland submission anticipates.

**David Williamson:** Margaret Smith asked about low completion rates and I gave her a factual answer about the situation in Midlothian. Those low rates were predicted in the two most recent audits, but the audits, in particular the 2005 audit that Midlothian Council and Homes for Scotland worked on jointly, forecast a step change.

The area of dispute between Homes for Scotland and Midlothian Council is not very great. We dispute some of Homes for Scotland's figures. It predicts that housebuilding in the Waverley corridor in Midlothian will be 194 this year; 330 in 2006-07; 485 in 2007-08; 662 in 2008-09; 731 in 2009-10; and 820 in 2010-11. Members can see that, even if we go only on Homes for Scotland's figures, a step change is coming. The reason is that the current local plans have already allocated all the land in Midlothian and Shawfair. Planning briefs are in place for all the sites and planning consents either are already in or are at an advanced stage with section 75 agreements. However, we are now on the threshold of a step change and we are confident that the figures are robust.

The difference between Homes for Scotland's figures and Midlothian Council's figures is just under 10 per cent. Homes for Scotland omitted 900-odd houses that we have given details for in the promoter's memorandum. I am happy to go over the figures if committee members wish. The 10 per cent difference relates to the rate of programming in two sites only—one site in Gorebridge, and the Shawfair development. In both cases, Midlothian Council has been in touch with landowners and developers and we have had a much more favourable response from them than we had from Homes for Scotland. Midlothian Council is confident that the figures are robust and that we are still on target for 5,000 houses by 2011.

**Margaret Smith:** Does Mr Frater share that confidence? Will 10,000-plus homes overall be built by 2011? Are you confident that you are still on track?

**Brian Frater:** Yes, I am.

**David Williamson:** Even if Homes for Scotland were right in their Midlothian figures and there was a 10 per cent shortfall, all it would mean is that the Midlothian component of the 10,000 houses would

not be delivered until 2012. In other words, there would be only a one-year delay. If Homes for Scotland is right, the target will be reached in 2012; if it is wrong, the target remains 2011.

**Mr Brocklebank:** I am sure that we could bandy figures about all day, and I hope that you will keep me right if my figures are wrong. My figures might be for Midlothian as a whole rather than simply for the railway corridor.

My figures suggest that, in 2005-06, a total of 214 houses have been completed. Do you recognise that figure?

**David Williamson:** I am afraid that I do not have the figure for the current year.

**Mr Brocklebank:** Okay, but bear with me—this is information from our research staff. In 2005-06, a total of 214 houses have been completed; yet in 2009-10, you plan to complete 1,016 houses. That is an increase of nearly 480 per cent. Do you still believe that that is feasible?

**David Williamson:** The figure that you quote is not the figure in the evidence that the promoter gave in its memorandum of 17 March. We show the figure going up to just over 900 houses per annum at the high point. The key to whether that is achievable lies in the Shawfair development in particular. Shawfair is part of one of the two largest developments in Scotland—the other is Ravenscraig. Shawfair will be part of a new community of 4,000 houses. The project manager at Shawfair gave evidence to the committee and was confident that 400 houses per annum would be built in the new community. A substantial amount of them will be in Shawfair alone.

Whether the housebuilding can be achieved comes down to the landowners in Shawfair. They intend, having secured section 75 agreements by the end of this summer, to divide the land into a number of tranches and to have as many housebuilders as possible working at one time. They are confident that they can achieve that.

**The Convener:** Perhaps I can be helpful here. Mr Williamson said that he did not recognise the figure of 214 that Ted Brocklebank quoted. It comes from paragraph 38 of Midlothian Council's written evidence, which gives by way of illustration the housing audit forecast for increases in the annual building rate in the Waverley corridor in Midlothian. The figures are 214 completions in 2005-06; 429 in 2006-07; 754 in 2007-08; and 997 in 2008-09.

**David Williamson:** That is the forecast of the 2005 audit. I thought that the question was how many houses had been built in 2005-06.

**Mr Brocklebank:** So you have not actually reached that audit forecast.

**David Williamson:** The audit process runs slightly behind. For example, the 2005 audit, which was completed only in December 2005, runs to March 2006. The 2006 audit will be completed by December 2006.

14:00

**Mr Brocklebank:** We interviewed water industry officials this morning. Their view was that they were in a fairly healthy position to deliver what they have to deliver.

Mr Frater, why has your council allocated only 105 new units in the Melrose waste water treatment works catchment area when Scottish Water has begun to upgrade the works to enable them to deal with an increased capacity of 350 units?

**Brian Frater:** There are already existing sites allocated in the Melrose area. They have to be accommodated by the waste water treatment works.

In making any planning decision, we have to consider all the environmental issues, and there might be other environmental issues that act against allocating more land in the Melrose area. We have to consider the views of the local communities and others. If, at the end of that process, we feel that it would be more appropriate for land to be allocated elsewhere, that will be our recommendation.

**Mr Brocklebank:** Why were two sites for approximately 120 units that were allocated in the second draft local plan removed from the finalised version when those sites are, supposedly, effective and have the requisite Scottish Water investment?

**Brian Frater:** I must give you the same answer again. We are producing a new local plan at the moment, which involves various stages of public consultation. It is only right that, if we receive views that suggest that those sites should not be included, we listen to those views and come up with an alternative solution. We feel that the alternative solutions that we have come up with still meet the requirements of the Waverley project but are appropriate in all other environmental respects.

**Christine May:** The forecast of 300 social housing units in Midlothian by 2011 is lower than the figure of 750 that was predicted by the promoter last year. Why is that so?

**David Williamson:** I apologise if there has been some confusion. The table that we submitted in our memorandum of 17 March gives a global housing prediction for the corridor. The format in which the information is presented makes it



difficult to determine which of the units are affordable housing.

There are two components to affordable housing in Midlothian. One is the affordable housing that is coming forward through the allocated local plan sites. For example, the housing audit figure before you shows more than 3,000 houses being built by 2011 in the local plan sites. In the Midlothian area—Gorebridge, Bonnyrigg, Dalkeith and so on—between 5 and 10 per cent of every housing site is affordable housing. Some of that is social housing for rent and some of it is discounted housing, designed to get people into the market. However, in the Shawfair local plan, 20 per cent of the 4,000 new houses will be affordable housing. All of that is subsumed in the housing audit figure.

The figure of 300 units that is mentioned in that table is slightly misleading, as those houses make up only the first component of Midlothian's programme to build 1,000 houses in a five-year period. After the local plans were adopted, Midlothian Council discovered that they did not go far enough—a pan-Lothian housing study identified that fact—and decided to fund a programme worth £83 million to build 1,000 houses.

**Christine May:** You spoke about the Shawfair development, new houses in Dalkeith and other areas and Midlothian's proposals. How much of that is overlap? How many units are we talking about?

**David Williamson:** At a previous meeting, the committee asked how much housing was being built in the period up to 2030. The figure for Midlothian was just over 13,000 houses, of which 17.5 per cent—or about 2,200—would be affordable. However, I can provide the committee with the specific figure for the period up to 2011.

**Christine May:** That would be helpful.

When will the draft local plans for your respective authorities be adopted? Will they have any impact on the availability of housing land supply and, if so, what will be the timescale in that respect? You have already told us about your proposals for land that has already been allocated; however, the land that we are talking about will just be coming on to the scene.

**David Williamson:** Before I pass the question to Brian Frater, I should say that the two main local plans for Midlothian were adopted at the end of 2003. Homes for Scotland's suggestion that we have somehow been remiss in that respect is a bit mischievous. Our next local plan will be adopted by the end of 2007—in other words, within four years of adopting the previous plans and well in advance of the Executive's five-year target. The two plans that were adopted in 2003 already cover all the sites for housing land at Shawfair,

Gorebridge, Dalkeith, Bonnyrigg, Mayfield and so on. Homes for Scotland was right to suggest that there would be a further batch of housing; the replacement local plan that we will introduce by the end of 2007 will provide another 1,350 houses in Midlothian, although only a very small percentage—perhaps fewer than 100 houses—will be constructed by 2011. We are not claiming that the housing set out in the next local plan will greatly impact on the Waverley business case. As I have said, the bulk of the Midlothian sites are already included in adopted local plans.

**Christine May:** What about Scottish Borders Council?

**Brian Frater:** Since we last gave evidence on this matter, Scottish Borders Council has met its deadline and published its finalised local plan. The period for objections to the plan expired at the end of January, and a public local inquiry will begin in the autumn.

Given that the programming of sites released through the local plan will be a matter of discussion with Homes for Scotland and others as part of the 2006 audit, I cannot say at this stage what is likely to come forward in each year. However, the figures will be realistic.

**Christine May:** When do you expect those local plans to be finalised and to form part of your council's policies and procedures?

**Brian Frater:** The plans are already finalised and are material considerations in determining applications. We expect the Borders plan to be adopted in early 2007, although that will depend on the length of the inquiry, how long the reporter takes to report back and how long the council takes to decide on his recommendations.

**Christine May:** Do those local plans comply with the previous structure plan?

**Brian Frater:** Absolutely.

**Christine May:** I understand that you also have a fresh structure plan on the go.

**Brian Frater:** No, we have a structure plan that was approved in 2002. It is important to point out that the structure plan sets out the housing land requirements, which the local plan then must translate into land-use allocations. The structure plan is critical, because it sets out the housing land requirement that must be provided. We will meet that requirement through the local plan.

**Christine May:** When do you intend to revise the 2002 structure plan?

**Brian Frater:** When the plan was approved, we undertook to review the housing land element from 2006 onwards. We intend to begin the review this autumn.

**Christine May:** What changes, if any, have your councils made to schemes of delegation and other political mechanisms to ensure as far as possible that you are able to bring forward all these developments?

**Brian Frater:** Since we last gave evidence, the scheme of delegation in the Borders has been extended and six additional members of staff now have delegated power to approve planning applications. We will shortly go back to the council to obtain further delegated powers on planning matters.

**David Williamson:** Midlothian Council has also extended its scheme of delegation. However, it would be wrong to suggest that that related to major housing applications. The scheme simply frees up more time to deal with major applications, all of which require the compilation of planning briefs and community involvement. We must also ensure that the housebuilders' schemes comply with those planning briefs. Often, that does not happen to begin with, and we have to take things further. Such matters are almost always reported to committee. Moreover, the section 75 agreements that accompany all our major schemes are reported to our cabinet because they have substantial financial implications. Such matters are not delegated.

**Gordon Jackson:** The Parliament is currently scrutinising the Planning etc (Scotland) Bill, which will make changes to the planning system. Will that legislation have any impact on the delivery of housing associated with the project, or will any impact be neutral?

**Brian Frater:** The Planning etc (Scotland) Bill should have two positive impacts. First, the statutory requirement to review the development plan should ensure that we in the Borders do not have to make decisions based on aged local plans. In future, those plans should be up to date.

Secondly, the bill recommends a very significant increase in delegation to officers, which is likely to speed up decision making.

**David Williamson:** I echo the point that the bill's intention is to speed up decision making. However, I suspect that, by the time its provisions are enacted, most of our housing applications for the proposed sites supporting the Waverley line will have gone through the planning process.

**Gordon Jackson:** So the bill will have no negative impacts on the project.

**David Williamson:** No.

**The Convener:** I thank Mr Williamson and Mr Frater for their evidence. We move on to patronage forecasts and revenue yield. The witnesses for the promoter are David Fox, Mark Brown, Douglas Muir and Bruce Rutherford. I

suspend the meeting for a couple of minutes to allow the witnesses to change over.

14:11

*Meeting suspended.*

14:14

*On resuming—*

**The Convener:** Welcome back. Gordon, do you have any questions for the witnesses?

**Gordon Jackson:** I do when I can get the biscuit out of my mouth.

It is projected that there may be a delay in the opening of the railway since we first started this exciting journey a long time ago. What impact will that projected delay have on passenger and revenue forecasts? Will it change them in any way?

**Dr Mark B Brown (Halcrow):** It will not have any material impact on passenger and revenue forecasts; it will have a small but significant impact on the economic value of the scheme. Shall I talk about that?

**Gordon Jackson:** Yes, you will need to explain that point.

**Dr Brown:** As has been explained, we have taken a cautious approach to forecasting the business case, and the business case does not rely on the early years for its positive benefit. There are three detailed points to make in answer to your question.

First, a delay will affect costs. Instead of spending money between 2005 and 2008, the money will be spent between 2008 and 2011. Costs are discounted to give a net present value, and the further into the future that costs will be incurred, the lower the net present value of those costs is. That is why, given the choice, we should try to spend money as far into the future as we can. The net present value is improved when the scheme is delayed, as the £130 million or so of capital cost is spent three years later. That is the first area of economic improvement.

**Gordon Jackson:** You will need to go through that again. I did not catch that; it is just too difficult for me to understand. Can you explain that again for me? My eyes just glazed over.

**Dr Brown:** Sure. I will stick to costs for the time being. In order to reduce—

**Gordon Jackson:** Are you talking about capital costs?

**Dr Brown:** At the moment, I am talking about capital costs. I will talk about operating costs in a minute.

**Gordon Jackson:** That is all right. I was going to ask about capital costs later, but talk about capital costs now.

**Dr Brown:** A delay affects the economic value of the scheme. In order to generate a net present value—a single sum that summarises the economic value of a scheme—we discount both costs and benefits that are incurred in future years as the scheme progresses.

**Gordon Jackson:** What do you mean by “discount”?

**Dr Brown:** We divide by something called a discount rate, which reflects our preference to consume benefits now and defer costs into the future. The discount rate is 3.5 per cent, which is the Government rate by which future benefits are reduced. For every year into the future, we reduce the value of an economic benefit or a cost by 3.5 per cent; so, for every year for which we defer incurring the £130 million of capital costs, we reduce the value of that £130 million by 3.5 per cent.

**Gordon Jackson:** I am sorry about this, but when you say that you reduce the value, what does “value” mean?

**Dr Brown:** The value refers to the value that we—sitting here in 2006—ascribe to the capital cost, the revenue or the operating cost that is incurred at some future point. For example, if the capital cost is £130 million incurred in five years’ time, that is worth less to us than a cost of £130 million that is incurred now. Likewise, revenue of £6 million a year in 2014 is worth less to us than £6 million that is generated now. It is a process that economists apply to a stream of future costs and benefits in order to reduce them to a meaningful current-year value.

The basic point is that costs that are incurred in the future are valued progressively less the further into the future that they are incurred. If you have the choice of paying for a car now or paying for it in 10 years’ time, you should want to pay for it in 10 years’ time, as the given sum that you pay for it will be worth less to you in 10 years’ time than it is worth today.

**Gordon Jackson:** That is true, but in 10 years’ time, things will cost more. I once bought a house and if I had bought it 10 years later for the same price, it would have been a bargain but, in fact, 10 years on, it would have cost me a fortune.

**Dr Brown:** That is why the costs have also been reviewed and changed by a small degree. However, the review of the costs indicates that the total cost will not change appreciably as a result of either general movements in the economy or the delay to the scheme. What will change is that, instead of putting our hands in our pockets now to

pay for the scheme, we will not start paying for it for another three years. That delay will reduce the net present value of what we pay for the scheme, which is one reason why the value will improve.

**Gordon Jackson:** But do not things go up in price? Does not steel get more expensive? Or are we hoping that it will not?

**Dr Brown:** Prices may rise through inflation, but because we have that money in our pocket for an extra three years, we can do something with it—we can use the money for other purposes. That different use is reflected in the discount rate.

**Gordon Jackson:** Right. Okay.

**Dr Brown:** That is the first reason why the economic value of the scheme has improved.

**Gordon Jackson:** So you are basically saying that the longer we wait, the cheaper it gets.

**Dr Brown:** Yes. The longer that we defer paying for something, the lower the value of the scheme is.

**Gordon Jackson:** We are sitting in a building that is living proof of that.

**Dr Brown:** That is the cost side. We trade off costs against the value that we get from a scheme. The sooner we implement a scheme, the more value it starts to generate. That is the other side of the equation, but the small delay will work in our favour in that respect, too. The big increase in demand and revenue will not occur until after 2011. Between 2008 and 2011, as per our previous conservative forecast, the rate of growth will be quite low; it is only after 2011 that the impact of the new housing will start to kick in and demand will start to accelerate. So, in addition to delaying the cost, although we will lose three years of benefit and revenue, the growth during those three years would have been relatively low and we will lose only three low-growth years. That is the second reason why the economic value of the scheme will not be unduly affected by the delay.

Thirdly, prior to 2014, the annual operating costs of the scheme will be greater than the revenue that is generated from the scheme. It is only as the effect of the new housing kicks in and demand starts to grow that patronage and revenue will grow, so that, in 2014, the revenue will begin to exceed the operating cost. In the three lost years, we will lose an element of revenue but we will not incur the operating costs. During those three years, the operating costs would have been higher than the revenue; therefore, we will have escaped a period in which the cost of operating the railway would have been more than the benefits that it would have generated.

Taking all those factors together, delaying the scheme for this short period will be beneficial. We will delay incurring costs; the lost revenue will not be so great, as the effect of the new housing will not have kicked in; and we will have escaped a period in which the costs would have been greater than the operating revenue. That is why the net present value of the scheme will increase as a result of the delay.

**David Fox (Turner and Townsend):** Albeit in transport economic benefit terms, the delay may be better for the scheme. If the scheme is delayed by two or three years, there will be more housing in place and the patronage pool will be greater when the scheme opens. More people will be available to use the scheme; hence, there will be higher patronage figures from year 1. That is why there is an economic benefit to the delay.

However, we should not leave the room thinking that it is good news that the Waverley scheme will be delayed. There are many benefits over and above transport that we are keen to mobilise for the good of Midlothian, the Borders and Edinburgh. Although there appears, on paper, to be benefit from a delay to the scheme, the sooner we get the scheme in place, the better.

**Gordon Jackson:** I am glad that you said that. I was about to ask why you did not just wait until the houses were built. Dr Brown says that it would have been better to wait until the houses had been built, but there are other factors, I suppose.

**Dr Brown:** There are other factors. The growth begins to accelerate and the risks grow into the future. That is another reason to complete the scheme as soon as possible, while the level of risk and uncertainty is lower.

**The Convener:** What is the current net present value of the scheme and what do you expect the net present value to be in 2011?

**Dr Brown:** The current net present value—based on all the information that we have available to us today—is £101.6 million.

**The Convener:** What will it be in 2011?

**Dr Brown:** Sorry?

**The Convener:** What do you expect the net present value to be in 2011?

**Dr Brown:** That figure is the whole value of the scheme reduced to present-day prices, so it discounts the costs and benefits through the construction period and right through the operating period back to what is called a price base, which for this scheme is 2002, because it is consistent with what has been used throughout the development of the scheme. The net present value of the scheme, as it is recognised by the

project developers and the Executive, is £101.6 million.

**The Convener:** Is that the same figure that you put in the original business case?

**Dr Brown:** It is higher. The original business case that we quoted a year ago was £75.3 million. It has increased because of the factors that we have just been speaking about.

**The Convener:** Okay. I will think about that.

**Gordon Jackson:** We will all have to think about it.

Can I just make sure that I am not getting my wires crossed? Two or three weeks ago, the promoter gave us a supplementary memorandum that stated that any delay will lead to “increases in capital costs”. Is that consistent with what you have been telling us?

**David Fox:** There are a number of questions in that and we do not want to confuse things. I am sure that Mark Brown will explain it much more comprehensively than I can, but I understand that if the railway is delayed by three years, the capital costs will increase because of inflation; the patronage will increase because there is more housing so we will get greater revenue; and the operating costs will be higher because of the effect of inflation. However, in effect inflation is taken into account in the models that Mark Brown has created to bring the figures back to the 2002 baseline. Correct me if I am wrong, Mark, but all the numbers that we have talked about are net of inflation.

**Dr Brown:** I am sorry; I did not realise the question was about inflation. You are quite right and have described the position far more eloquently than I would have. We take the effect of inflation out of our economic models to calculate the net present value, which crystallises the value of the scheme. Although the Government will be paying more for the scheme because the costs will have been inflated, it will also be receiving more in tax revenue during that period, for example, again because of inflation. Therefore, the effect of inflation on revenue and costs is nullified to produce a figure that is net of any inflationary effect.

**Gordon Jackson:** I wish that I had heard all this when I was arguing about the Parliament building; I could have pointed out that we should have got it for virtually nothing.

**Dr Brown:** Yes, you should have asked.

**Gordon Jackson:** To be very specific, what are the costs? I understand why they do not matter and why it all comes to nothing at the end of the day, but nevertheless the memorandum does

mention “increases in capital costs”. What are those?

**Dr Brown:** I believe—David Fox will correct me if I am wrong—that the increase in capital costs, as estimated over the past year, has been very minimal. There has been a small increase in the risk provision within the scheme,

**David Fox:** That is fair. Because the scheme is still going through the parliamentary process, we have not progressed major design works or geotechnical and topographical surveys that will all affect scheme costs. Much of what would come out of those aspects is covered in quite a comprehensive risk analysis. The baseline cost of the scheme has not changed as such. Since the last time we were before the committee, a much more comprehensive risk analysis has been costed to quite a high degree and has been put through a number of independent audits by outside organisations. They are reasonably comfortable that we have done what we should be doing. Therefore, the only non-inflationary scheme costs are due to that more comprehensive risk analysis, and our paper sets out the changes.

14:30

**Gordon Jackson:** You remain confident that the Waverley line will cover its operating costs within six years, especially given the delay in the scheme. What other reopened lines currently cover their operating costs? Do any of them do so? I am thinking about the Edinburgh to Bathgate line or the Robin Hood line, for example.

**Dr Brown:** I cannot say which lines cover their operating costs because, in general, data are not produced line by line, but I can say that throughout the United Kingdom an increasing number of train operating companies generate a surplus, which means that they make a payment to the Treasury rather than take a subsidy from it. In 10 years’ time—by 2015—more than half the railways in Britain will generate an operating profit and will thereby pay a premium to the Exchequer rather than take a subsidy from it.

**Gordon Jackson:** Right. I am exhausted.

**Margaret Smith:** I have a question about patronage at Stow station. It might well be the case that we have already had the figures, but I would like to be reminded of them. This morning the minister was quite exercised about the increase in journey time that having a stop at Stow would cause. Will you bring us up to date on progress with any modelling that you have done on the impact on patronage of having a stop at Stow? We should bear in mind that Mr Sharp told us this morning that there was scope to find a reduction of three or four minutes in the overall journey time.

**Dr Brown:** Following the committee’s report of last year, we were asked to re-examine the Stow proposal. We carried out additional analysis and took a more optimistic view of what the population catchment of the station would be. We took into account possible patronage from east of Walkerburn, from Lauder and from the area north-west of Galashiels; previously, our analysis had focused on the village of Stow itself. We identified a larger population catchment, which was the result of the possibility of people walking further to the station or driving to it from the surrounding area and using it as a park and ride. We have estimated that, in the opening year, there is the potential for about 20 passengers a day to use the station, 14 of whom would go to Galashiels and 6 of whom would go to Edinburgh.

We also took a more optimistic view of the wider catchment area, as a result of which we identified the potential for another 15 to 20 people to be attracted to take the train to Galashiels or Edinburgh rather than to drive or to take the bus. In that optimistic, high-demand and high-revenue scenario, between 20 and 40 passengers per day could use the station. That contrasts with the figure of 12 passengers per day that was used in the more pessimistic scenario that we put to the committee 12 months ago.

We put those more optimistic figures through our model, taking into account the fact that although a stop at Stow would give people in the locality the opportunity to catch the train, it would also slow the journey and thereby act as a disincentive for people from Galashiels and Tweedbank to use the service. The result was that we found that the proposal would still not be good value for money. From a cost-benefit perspective, having a stop at Stow will reduce the net present value of the scheme—its economic value—by about £1.5 million, even if the additional patronage that we have forecast is taken into account. We concluded that one could take a more optimistic view and generate a higher patronage forecast but that, even with significantly more passengers, we could not recommend the station on the basis of economic value for money.

**The Convener:** Thank you.

We move on to consider project costs with the same witnesses: David Fox, Mark Brown, Douglas Muir and Bruce Rutherford.

**Margaret Smith:** If you get royal assent for the bill this summer, when will construction commence?

**David Fox:** Construction will commence in summer 2008. That is based on the assumed design and build construction route. As you will have noted from our paper, we are considering

alternative routes with the Executive, but currently construction is due to begin in 2008.

**Margaret Smith:** Has anything happened during the past 10 months, as the project has developed, that will lead to an increase in project costs?

**David Fox:** I refer to the previous session. Apart from inflation due to the delay, the only changes to the project costs have been as a result of the more comprehensive risk analysis. However, even within that, the only change that affects the overall cost is the more conservative optimism bias. The risk itself has remained largely the same.

Project costs are constantly under review, as they should be. We are in the throes of a review with the Executive and its advisers of all aspects of costs. However, there have been no changes except to those that relate to the risk analysis.

**The Convener:** The projected cost of the railway, excluding the optimism bias, has not changed since the bill was introduced on 11 September 2003. Since then, there have been major increases in steel and oil prices, above-average inflation in the railway industry and serious cost overruns on other projects. Do you still consider your estimates to be robust?

**David Fox:** The changes that you identify are taken into account in the risk analysis, which covers construction-related items, design-related items, resources—that is, labour, plant and materials—and resource shortages. We have even taken into account the effect of the Olympics in 2012. We have treated those aspects as risk areas and built the potential increases into the risk analysis. We consider the potential cost and the probability of each risk. That information has been built up into an overall value, which has been added to the base cost.

**The Convener:** Forgive me if I appear sceptical, but the costs of the Stirling-Alloa-Kinross railway went up by some £30 million. That project is a walk in the park compared with the proposals for the Borders railway. Are you absolutely confident that there will not be huge cost increases as soon as the project is approved?

**David Fox:** I have two points to make in response to that. First, escalation will happen. The assumed level of escalation has been 3.5 per cent since the base cost estimate in 2002. We are discussing escalation with the Executive so that we can agree an escalation factor that reflects all the different types of escalation that you mentioned. Signalling costs escalate at a different rate from steel costs, labour costs and so on.

My second point is about the assumed costs as they stand. Because we have not completed the ground investigation and the more detailed topographical survey, there is still risk attached to

the cost estimate and it is still possible that it will rise at a rate higher than the rate of inflation. To some extent, that is why we carried out the more detailed risk analysis and are applying expertise—not only from our team but from the wider rail industry—in coming up with the numbers.

**The Convener:** That concludes our meeting. I thank the witnesses for the promoter for coming to give us evidence.

The committee will reflect on the evidence that it heard today as well as the written evidence that we have received. We will set out our conclusions and recommendations on the issues in our consideration stage report, which we still aim to publish in early May.

14:40

*Meeting continued in private until 14:57.*

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