

EDINBURGH TRAM (LINE TWO) BILL COMMITTEE

Wednesday 21 September 2005

Session 2

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EDINBURGH TRAM (LINE TWO) BILL COMMITTEE 11th Meeting 2005, Session 2

CONVENER

*Bill Aitken (Glasgow) (Con)

DEPUTY CONVENER

*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

COMMITTEE MEMBERS

*Marilyn Livingstone (Kirkcaldy) (Lab)

*Kate Maclean (Dundee West) (Lab)

*Alasdair Morgan (South of Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Malcolm Thomson QC (Counsel for the Promoter)

THE FOLLOWING GAVE EVIDENCE:

Barry Cross (Transport Initiatives Edinburgh Ltd)

John Hyde (FaberMaunsell)

Richard Mansfield (FaberMaunsell)

Jacky McKinney (West Edinburgh Residents Trams Action Group)

Miss Honor Reynolds

Archibald Rintoul (Royal Institution of Chartered Surveyors)

Alasdair Sim (FaberMaunsell)

James Truscott (ASH Design and Assessment)

CLERK TO THE COMMITTEE

Terry Shevlin

LOCATION

Committee Room 2

Scottish Parliament

Edinburgh Tram (Line Two) Bill Committee

Wednesday 21 September 2005

[THE CONVENER *opened the meeting at 09:35*]

Late Witness Statements

The Convener (Bill Aitken): Good morning. I welcome the press and public to the 11th meeting this year of the Edinburgh Tram (Line Two) Bill Committee. I begin with my customary request that everyone present switch off their mobile phones and pagers.

The first agenda item is to consider correspondence from Davidson Chalmers LLP, the solicitor acting on behalf of Mrs Dalwinder Kaur, an objector to the bill. They have sent the committee two letters, which are dated 22 August and 9 September and which in essence request that Mrs Kaur be allowed to submit late witness statements to the committee, having failed to meet the deadline that was set. The letters set out the reason for Mrs Kaur's witness statements being submitted late. Basically, her legal representatives say that they were given assurances by the promoter that the objection was being taken into account and that they would receive a reply before the consideration stage. The full background, including a letter that Mrs Kaur received from the promoter, is also provided.

Apart from her original objection, Mrs Kaur has not provided any written evidence to the committee, despite being sent by the clerk letters that outline the process during consideration stage; indeed, three letters were sent. Consequently, the committee decided that she would not be able to provide witness statements or oral evidence. That is the same decision that we took in respect of a number of other objectors who had not corresponded with the committee. The committee is still scheduled to take evidence on the objections that were submitted by Mrs Kaur from witnesses for the promoter. The committee will, on the basis of all the evidence, come to a decision on that objection, as it will for every outstanding objection at consideration stage.

Given the correspondence that is before us, I invite members to discuss whether we should accept the late witness statements that have been provided. If we do that, the committee will seek further written information from the objector and the promoter. If it becomes apparent that it will be necessary to take further oral evidence, that will have to be scheduled into our existing timetable. I

remind members that we are not considering the merit of the objection, but simply whether there is a compelling reason for witness statements to have been provided late. I point out to members that precedent in matters such as this is that we have not considered such objections. Should we do likewise in this case?

Members *indicated agreement.*

The Convener: The clerk will write to Mrs Kaur's representatives to inform them of the committee's decision.

Edinburgh Tram (Line Two) Bill: Consideration Stage

09:38

The Convener: We move to agenda item 2, which is oral evidence. We shall be taking evidence in relation to two groups of objectors: group 51, for whom the lead objector is the west Edinburgh residents trams action group, or WERTAG for short; and group 52, for whom the lead objector is Miss Honor Reynolds. I welcome the witnesses and questioners who will be appearing before us, and I thank them for the written evidence that they have provided.

I am aware that this is the first time that the committee will take oral evidence from household objectors who are not legally represented. I appreciate that it can be a daunting experience, but I am sure that proceedings will be conducted in a fair, courteous and amicable manner; indeed, I shall ensure that they are. That has certainly been the committee's experience to date.

The objectors and the promoter's representatives have attended meetings at Parliament at which the procedure and order for oral evidence taking was explained and agreed. I will not, therefore, go into minute detail about the process that we shall follow. Suffice it to say that at this first phase of consideration stage the committee will consider evidence from the promoter and objectors and will ultimately report to Parliament its decisions on each outstanding objection. For it to be able to do so, the unresolved issues and what the committee is expected to do to resolve the issues must be made absolutely clear.

It is helpful to bear in mind that certain issues will be dealt with elsewhere. For example, the amount of compensation awarded to objectors will be a matter for the Lands Tribunal for Scotland—that is dealt with in one of the rebuttal statements. It is important that the people who appear before us today remember that the committee has limited powers and that compensation will be dealt with elsewhere.

We have a busy meeting today, so I request that all participants make their questions and replies as clear and as close to the point as possible. The committee will take evidence on each objection in turn. For each objection we will hear from all the witnesses for the promoter and then from all the witnesses for the objector. The committee can, of course, ask questions whenever and of whomever it pleases.

Following completion of oral evidence for each objection, the promoter's representative and the

objector's representative will each be given a maximum of five minutes to make closing statements, which must not introduce any new evidence or issues. The committee already has all the witness statements and rebuttals before it, as well as a copy of all the background documents that are referred to. I assure everyone that the documents have been read thoroughly. I remind all witnesses that they should refrain from simply repeating points that they have made in written evidence. However, all issues that are raised during oral evidence must have been mentioned in the original objections and in subsequent witness statements and rebuttals. Evidence will not be taken on any new issues but only on issues that remain outstanding following the exchange of witness statements and rebuttals.

The committee is aware that negotiations might have continued after the submission dates for witness statements and rebuttals. If witnesses for the objectors or the promoter want to update the committee on any relevant development, I strongly recommend that they do so when they are first questioned by their own questioner.

We will begin by taking evidence on group 51, for which WERTAG is the lead objector. I invite the relevant witnesses and questioners to make their way to the table.

I assume that there are no last-minute changes and that the witnesses for the promoter are Richard Mansfield, John Hyde, Barry Cross, James Truscott, Alasdair Sim and Archibald Rintoul. Is that the case, Mr Thomson?

Malcolm Thomson QC (Counsel for the Promoter): That is the case.

The Convener: Mr Mansfield is a replacement for Gavin Murray and Barry Cross is a replacement for Neil Renilson. We received early advice on that. Both new witnesses will be bound by the content of the original witness statements and rebuttals.

I ask the witnesses for the promoter to take the oath or make an affirmation.

RICHARD MANSFIELD *made a solemn affirmation.*

JOHN HYDE, ALASDAIR SIM, JAMES TRUSCOTT, BARRY CROSS, and ARCHIBALD RINTOUL *took the oath.*

09:45

The Convener: Thank you, gentlemen. You are all bound by the terms of the oath and affirmation. Malcolm Thomson will question witnesses on behalf of the promoter, and Jacky McKinney will question the promoter's witnesses on behalf of group 51.

Before we hear evidence from the first witness, I will set the scene by clarifying the outstanding issues between the two parties. According to the objector's rebuttal, those issues are: works construction and the code of construction practice; patronage issues and the bus service; visual impacts; noise and vibration; and mitigation. Mr Thomson and Ms McKinney, are those all the outstanding issues, or have any of them been fully resolved and are therefore no longer relevant? If they remain outstanding, we will hear the details and any update when we take evidence from witnesses. Are those the outstanding matters?

Malcolm Thomson: Yes, sir.

The Convener: Ms McKinney?

Jacky McKinney (West Edinburgh Residents Trams Action Group): Yes, they are.

The Convener: The promoter's first witness is Richard Mansfield, who will address route choice, mitigation, transport choices and the impact of acoustic barriers.

Malcolm Thomson: Could you update the committee on discussions that have taken place with WERTAG since the date of your rebuttal statement?

Richard Mansfield (FaberMaunsell): Since the rebuttals were submitted, another community liaison group meeting was held on 24 August. A main issue that was discussed was the daylight and sunlight assessment that was undertaken to show the impact of the acoustic barrier that is to be erected at the back of Baird Drive. In addition, a representative of Transport Initiatives Edinburgh Ltd talked the community liaison group through various issues relating to construction impacts. At that meeting, we offered further consultation with WERTAG, which was followed up in writing, but that offer has been declined, so other than that community liaison group meeting no further consultation has taken place.

Malcolm Thomson: Was a representative of WERTAG present at that community liaison group meeting?

Richard Mansfield: Yes.

Malcolm Thomson: One matter arises from the rebuttal statement. Reference is made to the code of construction practice and the working hours from 7 am to 7 pm, Monday to Saturday. Did the promoter think that up, or does it reflect experience elsewhere?

Richard Mansfield: The 7 to 7, Monday to Saturday working week that is stipulated in the code of construction practice is based on experience of other tram schemes that have been built in the UK. The example that was given was the Nottingham express transit scheme. The main

aim has been to maximise the working day as far as is practicable, so that the works can be completed as quickly as possible, while not exceeding what is acceptable. The working hours were ratified by the City of Edinburgh Council, which deemed them to be acceptable without being excessive.

Malcolm Thomson: Does that reflect the views of the council's environmental health officers?

Richard Mansfield: I believe that it does.

Jacky McKinney: We have yet to receive the minutes of the CLG meeting, so it is difficult to recount what was discussed.

Mr Mansfield, our issue has always been preservation of the embankment to the rear of Baird Drive, which presents a welcome screen to the existing heavy rail line. For clarification, Mr Murray notes in his rebuttal that

"the ... proposals are not to remove the embankment but rather modify it."

Do you agree that with such modification, all greenery, shrubs and mature trees will have to be cleared for construction purposes, the embankment built out and a retaining wall constructed?

Richard Mansfield: That is correct.

Jacky McKinney: Do not you think that the term "to modify" understates or simplifies the proceedings?

Richard Mansfield: No, I do not believe that it does. We will not remove the embankment. We will remove the vegetation to widen the embankment and then replant.

Jacky McKinney: In the first instance, however, the embankment will have to be cleared and the construction work that that involves will present the great impact to the residents that we fear.

Richard Mansfield: You are correct that the embankment will have to be cleared first.

Jacky McKinney: Mr Murray's rebuttal mentions proposed new planting on a number of occasions and states that the area will be re-established in time. In your opinion, how long will it be until the vegetation reaches the level of maturity, tree height or density of shrubbery that exists now?

Richard Mansfield: I am not the best person to ask about the length of time it will take to re-establish the area. My colleague Mr Truscott, who covers landscaping issues, is better placed to answer that question. I know that a variety of planting will take place. Some of the plants will be semi-mature plants that will already be established to a certain height and others will be newer plants that will take some time to establish.

Jacky McKinney: I should address the question to Mr Truscott.

Richard Mansfield: Yes.

Jacky McKinney: I apologise.

On the proposed sound barrier, can you confirm its height, from what it would be constructed and to what extent it will screen the trams and the overhead cabling from residents' view?

Richard Mansfield: The height of the barrier that we have been discussing is 2m. The principal purpose of the barrier is to screen the area from which the noise emanates, which is where the rail and the wheel meet, so the main noise will emanate from the tram at wheel level. The barrier will be 2m high, so it will not obstruct the view of the whole tram and the overhead wires will protrude above the barrier. I do not know for certain from what material the barrier will be constructed.

The Convener: Will a witness from your side be able to provide that information?

Richard Mansfield: Mr Hyde should be able to provide the committee with more information.

The Convener: We will no doubt pursue the matter with Mr Hyde.

Jacky McKinney: Is the general point that although the barrier will not screen what the eye can see, it will lessen the impact?

Richard Mansfield: The intention is to lessen the noise impact; it is not so much a visual barrier as an acoustic barrier.

Jacky McKinney: You talked about the code of construction practice. Will local area construction plans be developed to deal with site-specific issues such as those that exist at Baird Drive?

Richard Mansfield: That is correct.

Jacky McKinney: What assurances do we have that consultation will be undertaken and acted upon?

Richard Mansfield: It is the promoter's intention that consultation with groups such as WERTAG should continue through the detailed design and construction phases. The promoter is giving assurances that such discussions will continue. It recognises that local construction plans will need to be developed and that in addition to key bodies such as Network Rail, other stakeholders in the affected areas, which include WERTAG and stakeholders in other locations, will need to be consulted.

Jacky McKinney: You spoke about the normal working hours under the code of construction practice being Monday to Saturday from 7 am to 7 pm. Although those hours may be tried and tested

elsewhere, do you really think that from ordinary residents' points of view those represent normal working hours, given the extent of the impact that the construction noise and so on will have on them?

Richard Mansfield: The construction hours are intended to minimise the length of time over which construction will take place. It is about striking a balance between the length of the working day and how long the overall construction will take. Obviously, if you shorten the week or reduce the number of hours in a working day, the disruption will go on for longer. The City of Edinburgh Council environmental and consumer services department will have been consulted on what the code of construction practice stipulates. The council has approved those working hours.

Jacky McKinney: Can you give us a clearer idea of how long the construction phase in the area will last?

Richard Mansfield: We indicated possible construction methodology in the Baird Drive report on high and low level options and suggested a timescale of six to eight months. That is a worst-case assumption. We do not have a contractor on board at this stage, but we have consulted experienced contractors to develop a worst-case programme for work in that area. However, without developing a specific construction plan, we cannot give you a certain timescale.

Jacky McKinney: Does the lack of certainty also relate to how much, if any, night-time working would be involved?

Richard Mansfield: The intention is that night-time working will, mainly for financial reasons, be minimised. Obviously, it costs more money to work at night, so the contractor would want to do as much work as possible during daylight hours. Night-time working would be reduced to the minimum possible, but because the contractor would be working in the vicinity of an operational railway, certain activities will likely require night-time work for them to be completed.

Jacky McKinney: At one of the earliest CLG meetings, a TIE representative commented that most of the work to the rear of the Baird Drive houses would have to be done at night because of their closeness to the railway lines, so you will perhaps appreciate our concern about that issue and why we are pursuing it. What you are saying departs from that earlier position, but offers us no certainties.

Richard Mansfield: It is not a departure. It is documented that as many processes as possible will be carried out during daylight hours and that, where possible, machinery and methods will be selected so that work can be carried out during the day without disrupting the railway. However,

certain activities cannot be carried out in close proximity to the railway when it is in operation and will have to be done at night. The Baird Drive report provides greater detail on that.

Jacky McKinney: On health and safety, can you advise us what steps might be taken to reassure residents? For example, relevant officers could be included in future consultation groups to reaffirm the steps that would be taken to ensure workers' health and safety and residents' health and safety, with respect to their persons and property.

Richard Mansfield: The works themselves will obviously require detailed method statements to be developed to explain exactly how the works will be undertaken and what provisions will be made to ensure the safety of all parties in the area. I cannot say exactly who—for example, Network Rail or others—will attend consultations with your group, but it could certainly be arranged for health and safety to be discussed as part of the consultations. Detailed method statements will have to be prepared; health and safety is at the top of the agenda when developing method statements.

Jacky McKinney: Again, those are issues to be addressed once—

Richard Mansfield: Those issues are more for the detailed design once a contractor is brought on board.

Jacky McKinney: Paragraph 3.3 of Mr Murray's rebuttal states:

"Although the objectors may be correct in their belief that ... the heavy rail line will increase in the future ... noise calculations can only be carried out in relation to existing and committed services."

Richard Mansfield: That is correct.

Jacky McKinney: We are surprised. Surely, with knowledge of the frequency of the anticipated new rail traffic in addition to what is current, and TIE's knowledge of the trams' frequency and their noise, it is just a mathematical exercise to calculate the L_{Aeq} and L_{Amax} levels.

Richard Mansfield: Mr Hyde can cover that in detail. He will give specific advice on why he cannot calculate noise levels for a predicted tram and why he can calculate noise levels only for existing rail services. If you direct that question to Mr Hyde, he will answer it more fully than I can.

10:00

Jacky McKinney: Okay. You may be pleased to know that this is my final question, although I apologise for its length.

We remain unclear about the number 22 bus service. Mr Murray's rebuttal states that the service was at no time about to be removed but, in

November 2003, TIE issued a report entitled "Final Patronage and Revenue Forecast Report", in which the premise of the financial case was removal of the number 22 service, which goes from the Gyle to Ocean Terminal and so would be a direct competitor to the tramline.

Mr Renilson is not here, but his statement suggests that it is too early to make firm assurances on the city's services. However, three members of our group heard, at a meeting of the planning committee in Autumn 2003, Councillor Davies say to the councillor for the new town area that bus services would be cut back to encourage tram passengers. With recent press coverage in mind, and considering TIE's backtracking on the number 22 bus service—which, I might add, is invaluable to our area—can we assume that the service will remain unchanged?

Richard Mansfield: I can advise you on what was modelled for the tram proposals; Mr Cross can provide further information on future bus services. We considered tram patronage based on existing bus services, based on the scenario in which buses are phased to be complementary to the tram or to be feeder services, and based on a scenario in which buses compete directly with the tram. We considered patronage for the tram in all those scenarios, but we in no way made a fixed assumption that the number 22 bus service, or any other bus service, would be withdrawn for the tram to be viable.

Alasdair Morgan (South of Scotland) (SNP): To clarify, will the sound barrier be between the reinstated trees or vegetation and the railway line?

Richard Mansfield: Yes. The barrier will form the boundary of the tram corridor at the top of the embankment. The vegetation will be planted between the houses and the barrier.

Alasdair Morgan: I realise that it depends on the angle from which one looks but, once the vegetation or trees are re-established, how much of the sound barrier will one see, let us say in the spring and summer?

Richard Mansfield: I imagine that one will see very little of the barrier during the spring and the summer, once the vegetation is fully grown.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): The estimated period of construction is six to eight months for the option that has been chosen. What would be the implications of WERTAG's request to have working hours of 8 am to 6 pm?

Richard Mansfield: I do not know for certain whether that would specifically affect the Baird Drive area, because the hours are generic for the scheme as a whole. When a local construction plan is developed for the WERTAG area, we may

find that, within the six to eight-month programme, we can work to a shorter working week than is in the code of construction practice. However, as has been said, some night working will be necessary, which obviously is outwith the working hours that you mention. Without a specific construction plan for the Baird Drive area, I cannot say whether the programme will change.

Jeremy Purvis: If the committee wanted the bill to state explicitly what the working hours will be in the construction period, would there be sufficient flexibility for that to be accommodated in the local construction plan?

Richard Mansfield: I cannot definitely answer that question. I was not party to the discussions about working hours, but there is a genuine attempt to ensure that the works for the scheme as a whole are completed as quickly and as efficiently as possible while ensuring that they do not impact excessively on the communities in which they take place.

Jeremy Purvis: Even basic arithmetic shows the potential for the two months between the six and eight months to accommodate easily the reduced working day.

Richard Mansfield: That depends more on the method of construction that the contractor develops. As we do not have the contractor on board to implement the works, we have estimated six to eight months based on our experience of similar schemes.

Jeremy Purvis: If a generic working day is based on experience of other projects and approved by the city council, contractors will fit around that, rather than the other way round. You do not have contractors, so you are not determining the working day according to contractors; you are suggesting the working hours for the contractors to fit into. If those working hours are changed, contractors will fit in with them.

Richard Mansfield: I guess so.

Kate Maclean (Dundee West) (Lab): The time for construction is 7 am to 7 pm. Is that just for construction or does it also cover ancillary activity, such as the arrival of plant and vehicles?

Richard Mansfield: I understand that 7 am to 7 pm is for the main construction activities when machinery is involved in undertaking works. Activities such as implementing traffic management measures, which make no noise, could occur outside those working hours. The hours are for the main activities such as digging holes or laying track.

Kate Maclean: So from, say, half past 6, heavy plant, machinery and workers could arrive. The disturbance could be outwith the hours of 7 am to 7 pm.

Richard Mansfield: No. Heavy plant, which you mentioned, should not arrive outside the hours of 7 am to 7 pm. In general, plant will already be on site and will not start to operate until the working hours have commenced. The code of construction practice stipulates that if a contractor needs to undertake such activity outside 7 am to 7 pm, notification must be given in advance and necessary approvals must be put in place. The code covers the procedure that a contractor must follow if he needs to undertake activities outside those hours.

The Convener: Will you help me with a point on the code of construction practice? It is clear that some of the work will be comparatively innocuous, but it is equally obvious that some of it will have the capacity to impact considerably on local residents' amenity. Does the construction code restrict day-to-day activities to ensure that the heavy, noisy and disruptive work is undertaken not at 7 in the morning but at what residents and most of us would regard as a more acceptable time?

Richard Mansfield: An area-by-area construction plan will deal with that. The timescale is generic. If noisy activities are to be undertaken in a sensitive area—a residential or similar area—the local construction plan will pick up when those activities can take place.

Jeremy Purvis: I understand that a local construction plan will be part of the overall construction plan and I see that the community liaison group will be involved in the consultation on that. What confidence can be felt that proper consultation will take place if the last CLG meeting took place on 24 August and minutes have not yet been distributed?

Richard Mansfield: Will you repeat your question?

Jeremy Purvis: What faith can be held in the quality of the consultation if the last CLG meeting took place a month ago and minutes have not been circulated?

Richard Mansfield: I can only give the assurances that my colleagues have given me that it is the promoter's intention that earnest consultation will continue.

Jeremy Purvis: Is that a commitment that minutes will be circulated within seven days of a CLG meeting?

Richard Mansfield: I cannot comment on that. I do not know.

Jeremy Purvis: Who would be able to give that assurance?

Richard Mansfield: Perhaps Mr Cross can provide further information on that.

The Convener: We will come back to that point.

Marilyn Livingstone (Kirkcaldy) (Lab): It is still unclear to me how much of the work will take place during the night. You say that, until you have local plans, it is hard to calculate such things. What kind of disruption will there be? Can you give us some more information on evening working after 7 o'clock?

Richard Mansfield: There will be a need for night-time working when there is work to be carried out that Network Rail, the rail operator, believes would pose a safety risk to rail operations. For example, if we have to insert a bridge deck—which we will have to do at Balgreen Road, alongside the railway—Network Rail may deem that it cannot have trains operating at the time.

Marilyn Livingstone: I understand that point well. I am asking whether any analysis has been done of how much evening work will need to be undertaken.

Richard Mansfield: We have not analysed that in detail.

Marilyn Livingstone: Okay. Are you able to answer fully questions on noise levels, or should I ask one of your colleagues?

Richard Mansfield: Mr Hyde is here to provide evidence on noise. Any questions on noise should be directed to him.

Kate Maclean: For the record, do you guarantee that night-time working will take place only at Network Rail's instigation?

Richard Mansfield: For the Baird Drive area, which is what we are considering, night-time working would be required only when, for reasons of railway operational safety, we could not undertake the works while trains were operating on the adjacent railway line.

Kate Maclean: The evidence that we are hearing at the moment is about Baird Drive, but if we include something in the bill, it will cover other areas as well, even though it might be aimed at dealing with a specific location.

Richard Mansfield: Generally speaking, the main issue will be Network Rail. We could have a similar situation when we get up to the airport, but I am here to give evidence on the WERTAG objections and I cannot comment on other sections of the route.

Malcolm Thomson: On that last point, will the period that you have indicated, of six to eight months, be a continuous period or will there be breaks?

Richard Mansfield: There will likely be breaks during that period, as some of the works involve the construction of an embankment. Usually, when an embankment is constructed, once the earth has

been laid, a period of time is allowed for it to settle before the construction work on top is completed. Disruption in that area will not necessarily be continuous during the six to eight-month programme.

Malcolm Thomson: Possessions would be required from Network Rail to enable the proposed construction work to be carried out. Will you give us a flavour of the nature of those possessions? Would there be one a month, or might there be two or three in a week? What would it be like?

Richard Mansfield: We indicated in the work that was undertaken for the report on high-level and low-level options for Baird Drive that such possessions would likely occur at weekends and, possibly, weekly. However, we are not talking about them occurring every week for the full six to eight months. It could be that, for two or three consecutive weeks, there would be a possession at a weekend, overnight, for the works.

10:15

Malcolm Thomson: Is the thinking behind that to pick the times when few trains are using the main line?

Richard Mansfield: That is correct. Weekends are selected because there are fewer services, so there is a bigger window for doing the work, which means that it can be done quicker and that the number of night-time possessions that will be required will be reduced.

Malcolm Thomson: Am I right in thinking that section 6.1 of the construction code of practice contains specific provisions on noise control and specifies decibel levels for the working day of 7 to 7 and for any activities that take place outwith that time?

Richard Mansfield: That is correct.

Malcolm Thomson: Any work that creates noise outwith that will require specific consent from the council.

Richard Mansfield: That is correct.

Malcolm Thomson: Thank you, Mr Mansfield.

The Convener: That was useful.

Mr Thomson, before we move on, I have one point. In answering Jeremy Purvis, Mr Mansfield entirely properly avoided making any commitment because he simply did not have the information on whether there could be a restriction on working hours that would operate effectively as far as the promoter is concerned. Can any of the other witnesses speak on that more authoritatively than Mr Mansfield can?

Malcolm Thomson: I understand that Mr Cross will be able to answer the question.

Jacky McKinney: If I have another query about that issue, will I be able to address it to Mr Cross?

The Convener: Absolutely. Mr Cross is down to give evidence, is he not?

Malcolm Thomson: Yes.

Jacky McKinney: Okay. It is just that I cannot speak to Mr Mansfield about it.

The Convener: I am sure that we will sort it out when the matter comes up.

The next witness is John Hyde, who will address noise and vibration.

Malcolm Thomson: One or two points arise from the rebuttal statements from group 51. Section 4 on the third page of the paper deals with Mr Hyde's evidence. The second paragraph of that section suggests that the comparative noise calculations that Mr Hyde carried out and presented in tabular form in his evidence did not take account of noise from the proposed trams. Will he comment on that?

John Hyde (FaberMaunsell): There is some sort of misunderstanding. The noise levels that are quoted in the report on the high-level and low-level options for Baird Drive refer to noise purely from trams. They also take account of the existing background noise, which is essentially the noise from heavy rail trains. The calculations take full account of the tram noise and they give values for the noise that could be heard with and without the barrier, so they show the effect that the barrier would have.

Malcolm Thomson: You have examined the background noise and then the imposition of the tram noise.

John Hyde: Yes. We have considered what the worst case could be by assuming that the current level of noise from trains will persist. I appreciate that there could be future expansion in the use of heavy rail trains, which would increase the background noise and effectively mask some of the tram noise, but by comparing the existing heavy rail noise with the future noise that the trams will make, we consider the worst case. However, that does not take account of the additional noise that would be generated by heavy rail trains.

Malcolm Thomson: Am I right in understanding that your comparison's failure to take account of future growth in heavy rail traffic produces a worse case than if you had taken account of it?

John Hyde: It does. I did not have a great deal of information available about the types of train that would be used or the frequency of any new heavy rail services, so I have compared the existing level of noise with that of the trams. If the level of heavy rail noise increased, then the

difference between the two would become smaller.

Jacky McKinney: We have struggled to make sense of this topic. Please excuse us for going over territory that is familiar to you—to us it reads like algebra. As far as we can tell, the tables that you have outlined refer to two different kinds of noise— L_{Aeq} and L_{Amax} . Is it fair to say that the L_{Amax} figure represents an immediate burst of sound?

John Hyde: Yes. The L_{Amax} figure refers to peak noise as a train or tram passes.

Jacky McKinney: So if someone were standing in a garden as a train passed, the L_{Amax} figure would be in the region of 75dB(A). I do not have the figure in front of me, but let us assume that it is 75dB(A). I think that that is lower than the figure in your tables.

John Hyde: The tables that I have inserted in my statement do not include L_{Amax} levels.

Jacky McKinney: I refer to the tables in the environmental statement.

John Hyde: The tables in the environmental statement contained an indication of L_{Amax} levels.

Jacky McKinney: Is it fair to assume that increased levels of heavy rail traffic in both directions, coupled with frequent trams travelling in both directions, will lead to a dramatic increase in noise levels for residents of Baird Drive, especially following the removal of the very effective screen that currently exists?

John Hyde: I do not think that it is—for two reasons. First, although it may appear that the existing screen of vegetation and trees provides some noise screening, the laws of physics do not support that claim. Mass is needed to attenuate noise. Any sort of sound barrier must have a certain mass and density in order to be effective. Leaves on trees do not provide the sort of density or mass that is needed to reduce noise significantly. There would be a small difference in noise levels between having and not having the trees, but not a significant difference that would be dramatic and noticeable. You would not notice a significant difference in the level of noise from heavy rail once the trees had been taken down.

Secondly, once the barrier is in place, it will produce a much greater reduction in tram noise than in heavy rail noise, because the source of the noise will be much closer to the barrier. That is why we have not really taken heavy rail noise into account. The noise reduction for trams will be very significant, but the noise reduction for heavy rail will be less so. We have examined the current situation and have assumed that the noise from heavy rail will remain constant. It is likely to increase for other reasons, but not as a result of the tram development. Such an increase may or may not occur, regardless of whether the tramline

is built. We have tried to minimise the impact of the tramline, based on the current situation. If in the future noise from heavy rail increases, that is not part of our consideration.

Jacky McKinney: Let us consider the issue in another way. I appreciate the physics of the matter, but surely to a large degree it comes down to the human perception of what is happening at the rear of Baird Drive. The issue is physics versus human experience and perception. As a noise expert, do you agree that individuals' perception of noise varies to a large extent? For example, Hazel Young and I live on either side of a rail line. Our experience is that in the winter months, when the leaves are removed from the trees and the foliage is gone, the noise is more apparent. We live there and we are telling you what our experience is. Surely the current proposals will mean that a great many individuals will experience a much more significant level of noise.

John Hyde: You have correctly observed the important point that noise is a subjective matter. Everyone perceives noise in a different way. The degree of annoyance or disturbance that is caused by the same noise source varies considerably from one person to another. That is why the criteria that are used are based on the response of an average population. On the basis of social surveys, a median point is identified, at which a noise level would become a disturbance to 50 per cent of the population. In that situation, 50 per cent of people would be disturbed and 50 per cent would not.

We cannot derive a noise level that is satisfactory to everybody, because of the wide variation in perception. Summer and winter atmospheric conditions are another factor. Winter conditions tend to bend sound down towards the ground more than do summer conditions, so there is a focusing effect over longer distances—I appreciate that Baird Drive is not a particularly long distance. Given that sound travels faster in damp air, there is a perceived increase in noise in foggy, damp, winter conditions. The measurement process does not show a dramatic change, but I believe that you are right: there is a perceived increase in noise during the winter months. Another factor is the fact that, during winter, people can see the source of noise, which they could not see before.

The Convener: I hesitate to interrupt when you are stating your case so well, but you will both recall that I said at the start that it would be helpful if, in the course of questioning, people could indicate what they would like the committee to do. That might be helpful at some stage, so that we can get some reaction from the promoter.

Jacky McKinney: I suppose that the time for that would be when I sum up. We would really love the committee to take action that would mean that the embankment does not need to be removed at all, but that is a pretty tall order.

The Convener: We could pursue with the promoter whether it would be possible for the project to proceed without the removal of the embankment.

Jacky McKinney: We have asked that many times.

The Convener: Let us ask again, for the record.

John Hyde: I am not a construction engineer.

The Convener: We will get an answer from someone in the course of the meeting.

Jacky McKinney: Mr Hyde, my final comment on construction noise levels is that although you note in your rebuttal that noise levels would have to be consistently above 75dB(A) for three months or more to justify the provision of double or triple glazing and you reckon that, at Baird Drive, mitigated construction noise levels will be below that, so window insulation for the construction phase will not be justified, when we ask questions about night work during the construction phase, we are told constantly—and we have heard again today—that the details have yet to be decided or that the construction company is not in place so there is no plan. How can you be sure that the work will not go on for three months and that the noise level will not be higher than 75dB(A)? How can you gauge in advance the real impact of night-time noise given that we have had no firm assurance or answers about the timescales involved?

John Hyde: The reference was to a provision in the Land Compensation (Scotland) Act 1973 under which sound insulation can be provided to properties that are severely affected by construction noise. As far as the construction programme is concerned, there will not be a period of three months of continuous activity at a level above 75dB(A). I cannot envisage that happening on this site under any circumstances, because there are no sufficient works to be done that would involve that amount of noise over a continuous three-month period.

We have presented the worst-case noise levels over the worst nights and worst days. The number of days at that level might be very few; they will be over a period of time. There might be two or three days of intense activity when earthworks are being carried out. There might then be a period of two or three weeks when nothing happens or nothing appears to be happening. There will not be continuous high-level noise. We are considering a site boundary—a fence or site hoarding—that will

attenuate the worst of the construction noise: we would be looking at a level of 85dB(A) going down to 72dB(A). There is a procedure to minimise the amount of noise that is likely to come into your property during either the day or night.

Jacky McKinney: What if the worst-case scenario is the one that we have envisaged and the work is noisier than your suggested levels? Surely by three months into a construction process of that sort it will be too late to do anything to help us.

10:30

John Hyde: Yes, but I really do not think that there could be any period in which day on day for three months the levels of construction noise would exceed 75db(A). There is just not enough work to entail that level of activity.

Jacky McKinney: But we would not know that.

John Hyde: Well—

Jacky McKinney: I have no further questions.

The Convener: Do committee members have any questions?

Marilyn Livingstone: Mr Hyde, you said that when the tram is in operation it will make noise above current noise levels. Can you accurately quantify that additional noise?

John Hyde: I have tried to set that out in the table of results in my statement. For example, the table indicates the ambient noise level, which is due to the existing heavy rail trains, and the predicted or calculated tram noise. The methodology used for those calculations or predictions is based on measurements that have been taken of the large number of existing tram systems. It is not that our calculations have no basis; indeed, they are based on a firm methodology. We have tried to indicate what would happen in future by examining the combined figure for the existing ambient noise and the noise of the tram. With the mitigation in place, the combined noise level is 1dB higher than the existing noise level.

Marilyn Livingstone: I am alluding to section 4 of WERTAG's rebuttal which says that you

"conceded that the decibel levels noted in the tables ... are based on the noise from the rail line currently in operation. They do not take into account noise from trams, increased volume of rail traffic (which they have already acknowledged ... will take place ...), therefore the average decibel rate ... will increase."

John Hyde: The table shows a slight increase in noise. The existing ambient noise level by day is 58dB(A) and the tram noise level by day would be 63dB(A). With the noise barrier in place, the combined noise level would be 1dB higher than

the ambient noise level. Our calculations take account of the existing noise, the tram noise and the effects of mitigation.

Jeremy Purvis: You have referred to the code of construction practice and the committee has heard about the local construction plan. Could the local construction plan for this area be more stringent about noise than the generic plan?

John Hyde: Such a proposal has been made. I should point out that there are no proposals to use mitigation during construction of other parts of the scheme. It has been proposed that on this site boundary—which would be the end of the gardens—a 2.4m hoarding will be used as a noise screen from the very start of the works.

Jeremy Purvis: We come back to the point that although the code of construction practice might well form part of the contract for tenders, it does not have any statutory footing. Do you have any problem with putting the code on such a footing?

John Hyde: Under the code of construction practice, the noise level is usually fairly closely monitored. In this case, it will be monitored by the City of Edinburgh Council environmental health people, who will deal quite firmly with anyone who exceeds the pre-agreed limits.

The Convener: Mr Hyde, much of your evidence is very technical.

John Hyde: I am afraid so.

The Convener: We fully accept that there is no way round that and that the issue of noise is subjective. However, how noisy is a tram? Obviously, it is less noisy than a train. Is it noisier, less noisy or just as noisy as a bus or a car?

John Hyde: The comparison would be more with a bus. For example, the peak noise level of a tram going past you in Princes Street would be similar to that of a bus. It would have a slightly longer profile, but its maximum noise level would be similar to that of a bus.

The Convener: Thank you, Mr Hyde.

Mr Thomson, do you wish to re-examine the witness?

Malcolm Thomson: I have just one point. For the avoidance of any doubt, let us go back to the paragraph in section 4 of the WERTAG rebuttal statement, where it is stated that Mr Hyde

"also conceded that the decibel levels noted in the tables he has supplied are based on noise from the rail line currently in operation."

That is correct. The rebuttal then states:

"They do not take into account noise from trams".

As far as the existing ambient noise level is concerned, is that correct, Mr Hyde?

John Hyde: Yes. There are two issues. The ambient noise is the noise from the heavy rail trains. The ambient noise is so high in that situation because of the presence of the railway line. The noise level of the trams is calculated separately and then added into the background noise of the trains.

Malcolm Thomson: Am I right in understanding that it would be quite wrong to say that your calculations as a whole do not take account of noise from trams?

John Hyde: The whole purpose of the calculations was to take account of noise from trams.

The Convener: The next witness is Barry Cross, who will address trams and buses. Mr Thomson, do you have any questions for Mr Cross?

Malcolm Thomson: I have no questions.

The Convener: Mr Thomson has no questions, so it is over to you, Ms McKinney.

Jacky McKinney: I have no questions for Mr Cross, except to put to him an issue that was discussed earlier, and I have forgotten which one it was. I am sorry.

The Convener: It was about the number 22 bus, as I recollect.

Jacky McKinney: Yes. I invite him to comment on that, as Mr Mansfield was unable to do so.

Barry Cross (Transport Initiatives Edinburgh Ltd): Mr Mansfield has already referred to the work that took place at Scottish transport appraisal guidance preparation stage, when assumptions had to be made about the context into which the tram fits. You heard from Mr Mansfield about the assumptions that he made, including the worst-case assumptions and the fact that the tram business case and patronage assumptions were based on a range of options that did not presume the deletion of bus services.

Nevertheless, work is continuing between Lothian Buses and other operators, not least the tram operator, under the aegis of Transport Edinburgh Ltd, an umbrella company recently set up by the council. That work focuses on what the shape of the bus network might be at the point when the tram is introduced, because there are likely to be changes.

You alluded to references in the press, and by others, that painted a nightmare scenario in which the bus network would be decimated. That is a long way from where the tram operator, the bus operators or TEL are at the moment. The issues are about what fine tuning the bus network needs. The objective of the tram is to make things better and to add transport opportunities, not to delete

existing bus opportunities. There is no commitment to wholesale removal of buses. There is no agreement, nor has Lothian Buses come to the view, that the part of service 22's route that goes out to the west would be removed. That is a particularly successful service. The reason for Lothian Buses' current view is that, although service 22 is in broadly the same corridor as the tram, it serves a different market.

My only comment in conclusion is that we are four or five years off the tram operating. Work will need to continue over that period so that if and when the tram is opened we will have a bus service and a tram network that dovetail. At this stage, I scotch any thought that the tram will bring about a wholesale removal of buses, including service 22.

Jacky McKinney: We were not discussing wholesale removal; we are concerned with the number 22 service. It seems to replicate the proposed tram route almost in its entirety, as well as route 1 to Ocean Terminal. It is a valuable service to our community and is the one in which we are most interested.

The Convener: Are you quite satisfied with the answer that you got?

Jacky McKinney: Yes, thank you.

Jeremy Purvis: If we are hearing from Mr Cross, is it in order to ask questions about the code of practice or will that happen later?

The Convener: Mr Cross, are you qualified to answer questions about the code?

Barry Cross: Yes, in general terms.

The Convener: I am not happy with that caveat, but let us proceed anyway.

Jeremy Purvis: I will start with a general question, in that case. Will the code be signed off as a contract is put together?

Barry Cross: The document has already been signed off, and not just by TIE. The input to it was signed off by agencies including the promoter and, in particular, the environmental monitoring team in the promoter's organisation.

Jeremy Purvis: I recognise that although the code can be signed off, it is not necessarily a complete document.

Barry Cross: Absolutely.

Jeremy Purvis: What would be your response if there were a request for the code to be an annex to the bill? Effectively, it would be signed off, but it would also have a statutory footing so that you, as the promoter, would not be able to amend it.

Barry Cross: There are a number of comments at this stage. There were questions earlier about

hours of construction, for example. It is clearly in the committee's remit to modify sections of the code in relation to that, but you are no doubt mindful of the cost implications of doing so—constraining the working day has a direct reflection on the cost of a project. Colleagues south of the border working on crossrail know that only too well. The committee would no doubt want to get to grips with the implications of any modification of the code.

A number of codes of practice have statutory backing, but they are nevertheless codes of practice. You would simply need to be cautious when appending the code to the bill to recognise that there might be circumstances further down the line that no one can envisage at present, the resolution of which you would need to be able to address without having to promote a variation to the legislation. The question is how you ensure that the code of practice gives security, actually means something and will be complied with. How do you ensure that the code will be appended to the contract and enforced by the appropriate agency without inadvertently painting yourself into a corner out of which it is impossible to get without serious ramifications later in the day? In principle, the promoter would have no problem with developing the code or with the committee's potential desire to make sure that it is dealt with seriously.

Jeremy Purvis: Notwithstanding that, you might appreciate that some people consider that the enforcement agency is the same body as the project promoter. A question was asked earlier about the development of a local construction plan, which you stated was put together in consultation with the CLG. Only this morning, we heard that minutes of the most recent CLG meeting have not yet been circulated; you might be able to confirm whether that is the case. How can the committee be confident that your assurances are valid?

10:45

Barry Cross: There are two components to that. The assumption is that there is some sort of cosy relationship because the enforcement agency is part of the promoter. As someone who has operated with that arrangement for more than 20 years, I have never felt that the relationship was particularly cosy. Indeed, the normal highway works that the promoter undertakes are subject to onerous controls on the hours of operation. The public can be assured that when those controls are applied to part of the promoter's organisation, they are complied with, which is not always the case with third parties.

Jeremy Purvis: Forgive me for interrupting, but—to use that very example—we have heard

that one of the big drivers in relation to the hours of working will be the ease of contractors and the potential costs of their tenders, rather than the need to protect the interests of the residents. If you develop a construction plan that stipulates hours of working that are convenient for the contractors and that reduce costs, that plan is not in the interests of the residents. What incentive is there to have proper consultation with the CLG when a local plan is put together? Given that the minutes of last month's CLG meeting, which could have been passed on to this committee, have still not been circulated, you might be able to appreciate why the committee may have difficulty in believing your assurances.

Barry Cross: I will come on to deal with the minutes, but I want to deal with the substantive issue first. Several times you suggested that the hours of operation were somehow based on the ease of the contractor's operation. That is part of the equation, but the community at large has realised that it is often better for a piece of work to be undertaken in such a way that it allows activities to be started and finished, rather than to have the operation constrained by small periods of working, with the essential gearing up and gearing down that that entails. That is why Network Rail has opted for policies of blockade, whereby the work is started and finished in a single period. That prevents the nuisance from lasting for a very long time.

The crucial bit is the hours at the beginning of the day. A number of people questioned the gearing up at the start of the day—they wanted to know whether the plant would start at half past 6—and the gearing down at the tail end of the day because, by and large, work during those periods causes the most incredible nuisance, especially if one gets woken up early every second morning.

We need to get in context the fact that although we are talking about one of the bigger works on this project, it is a relatively small piece of work. We are not talking about the construction of a runway or a building; it is a relatively small piece of work with confined activities. The live railway already acts as a serious constraint. I think that we have an effective enforcement agency in the form of the City of Edinburgh Council environmental and consumer services department, but if the committee is not convinced by such assurances or has evidence that that enforcement process is not working and does not work in the city as a whole, it is within the committee's remit to harden up the controls that we suggest.

On the issue of the CLG minutes, I must be frank and say that I do not know why they are not yet available. It is fairly inexcusable if the delay in circulating those minutes is due simply either to laziness or to process. It does not help anyone if

minutes for any meeting anywhere are not available within a reasonable time. I will certainly undertake to ensure that CLG minutes are circulated within a reasonable time of meetings. Had I known beforehand that the minutes of the August meeting have not been circulated I would have ensured that I had some justification, excuse or apology ready.

The Convener: Mr Cross is here to speak about trams and buses, so we have departed from the script somewhat. Has Ms McKinney any questions on the secondary part of Mr Cross's evidence?

Jacky McKinney: I have a question that I missed the first time round because the speakers were taken out of sequence. My question relates to what Mr Mansfield said about the code of practice, but I missed the opportunity to put the question to him. May I put my question to Mr Cross?

The Convener: Go ahead.

Jacky McKinney: In reply to Mr Thomson, Mr Mansfield commented that it is prudent to get work done at weekends, when there is a lesser rail service. Obviously, permission for such work will still need to be sought from the city council. Can we assume from those comments that, if such an application is made to the council, night-time working will intrude into Sundays as well?

Barry Cross: Yes. On the rail side of the equation, the work that will need to be done will be only a couple of miles away from Edinburgh Park station. When that station was built a couple of years ago, most of the work that was required took place during weekend possessions. In effect, after the last weekday sleeper had gone the workers were given possession of the track. Given the nature of the work and the short duration of the possession, wherever possible work is pre-prepared in advance by, for example, building the pre-cast units elsewhere. With so much detailed work to be done, we do not want to squander that scarce possession time with needless activity on site. It is a pity that we have to embark on possessions at night. Equally, it is a pity that we have to embark on them overnight between Saturday night and Sunday morning when most of us like to lie in. However, that is essentially a function of the national rail set-up.

The Convener: Does Mr Thomson want to re-examine Mr Cross—although he did not examine him in the first instance—about any matters?

Malcolm Thomson: I want to return to some of the new evidence that Mr Cross gave. Let us suppose a nightmare scenario, in which the promoter got together with a contractor and agreed a work pattern involving outrageously antisocial hours without any regard to WERTAG or to the CLG. In other words, let us imagine that the

promoter simply stopped attending those meetings. In that nightmare case, what remedy would residents such as the members of WERTAG have?

Barry Cross: I have no doubt that local residents, whether or not they were members of that group, would telephone or otherwise contact the council's enforcement agency in the environmental and consumer services department—which, incidentally, has a 24-hour access line—which would doubtless serve us with a notice telling us to clear off.

Malcolm Thomson: In your experience, does that department of the council treat contractors who are working on behalf of the council any differently from private sector contractors?

Barry Cross: It treats council contractors slightly more harshly.

Malcolm Thomson: As you have pointed out, experience suggests that such action is more likely to be obeyed if it is against the council than if it is against private sector contractors.

Barry Cross: Absolutely.

Malcolm Thomson: I want to get an idea of the scale of the work that we are talking about. How does the total work that will directly affect this group of objectors compare in scale to, say, the construction of a block of flats?

Barry Cross: I refer to some of the previous witnesses. In the creation of a block of flats, the works begin at the point at which the developer enters and clears the site, drives the piles, constructs the foundations and builds the frame. The activity is continuous for months on end. It is a relatively low-key activity for a lot of the time, during the laying of foundations and earth moving, but it is noisy. In this instance, we will pursue a relatively small number of discrete activities involving the construction of a retaining wall, embankment modification and—after a period, as we have heard—the fitting out, involving the laying of track and the positioning of masts and the overhead line electrification equipment. Each of those is a task in itself. The biggest tasks by far are the retaining wall construction and the embankment modification; however, they are really modest activities. Compared with motorway construction, the embankment modification is a relatively modest activity—it is not of the same scale.

Malcolm Thomson: How would it compare with, for example, the construction of WEBS—the west Edinburgh busways scheme?

Barry Cross: It will be a similar scale of activity. As committee members may know, the fastlink busway that was constructed last year involved the laying of a track of the same sort of length and

the construction of a couple of bridges. It involved different techniques but was built on a similar sort of scale.

Malcolm Thomson: Are you aware of any complaints about that operation?

Barry Cross: No, I am not. However, to be fair, the busway is somewhat further from residential properties than the proposed tramway.

The Convener: Thank you very much, Mr Cross.

The next witness is Alasdair Sim, who will address property values. I note that the issue of the pedestrian crossing at Balgreen Road has been resolved between the two parties; therefore, there is no need to question Mr Sim on that.

Malcolm Thomson: I have no initial questions for the witness.

Jacky McKinney: Mr Sim submitted a witness statement solely on the topic of the high-level option versus the low-level option through the area; however, his rebuttal concentrated solely on valuation. We are a wee bit curious to know how that came about, especially as Mr Rintoul would appear—by dint of his occupation as the district valuer for the south-east of Scotland—to be better placed to make those comments.

The Convener: That does seem a bit curious. Mr Sim, are you able to tell us why that was?

Alasdair Sim (FaberMaunsell): Yes. My initial evidence related to traffic matters that have since been resolved, with the high-level option being the promoter's preferred option. My rebuttal statement concentrated more on the generic issue of the impact of tram schemes on local property values, based on experience from other schemes elsewhere in the United Kingdom and Ireland. That was not part of my original evidence because I am a traffic and transportation engineer by profession. However, in writing the rebuttal statement, it was felt that my and my company's experience in tram schemes made me best placed to comment on the general impacts of tram schemes on property values. As I indicate in my evidence, generally, one can expect an increase in property values as a result of these types of schemes.

Jacky McKinney: In relation to the houses in question, Mr Rintoul does not support that argument. He seems to think that there may be a negative impact on the values of those houses that overlook the tram scheme directly to the rear.

Alasdair Sim: Mr Rintoul would be better qualified than me to comment on that.

The Convener: That matter can be pursued with Mr Rintoul.

Jacky McKinney: We have had to follow quite strict protocols about what we can and cannot submit. It seemed unusual for Mr Sim to include that information when he did not allude to it at all in his witness statement.

11:00

The Convener: I think that you will agree that you are getting a fair amount of leeway today.

Jacky McKinney: I appreciate that.

The Convener: Are there any questions from the committee? Does Mr Thomson have anything to say?

Malcolm Thomson: No, thanks.

The Convener: James Truscott will now address quality of life and visual impacts.

Malcolm Thomson: I have no initial questions.

Jacky McKinney: I have a few questions. You agree that both the high and low-level options are likely to result in significant adverse landscape and visual impacts upon Baird Drive receptors during construction and for some time after it. My question relates to the one that I asked your colleague Richard Mansfield. How long after construction is complete will the impact continue to be significantly adverse? How long will it be before the replanting reaches the levels of maturity, height and density of the current vegetation?

James Truscott (ASH Design and Assessment): Quite a few questions are rolled into one there.

First, the mitigation proposals for the landscape include the planting of semi-mature trees, which are larger trees of approximately 3.5m to 4m in height. It is envisaged that those would be planted towards the bottom of the embankment, thereby giving initial relief from the visual impact at the bottom. By way of a longer-term solution, trees and shrubs would be planted on the embankment to replicate in due course what currently exists. I estimate that it would be about 15 years before the vegetation would reach the heights that it is currently at on the embankment, although initial relief would be given by the larger trees that would be planted in the foreground.

Jacky McKinney: Would a significant impact last for about 15 years?

James Truscott: The environmental statement considered the low-level option. It concluded that the initial impact would be substantial but that it would reduce to moderate over 15 years. As the high-level option is further away there is greater scope for mitigation through planting and the magnitude of the problem would be less as the line is at a higher level and would be seen against

the existing railway infrastructure. The overall impacts would be likely to reduce from substantial initially, to moderate-slight after approximately 15 years. The reduction in impact would not happen immediately—it would be sequential. Smaller plants start off slowly but quickly rocket away when their roots get established after the first couple of years.

Jacky McKinney: In how wide an area will the planting be allowed to take place?

James Truscott: It will take place between the sound barrier, which will be at the top of the slope, and the rear of the garden fence. Planting will take place in that whole area.

Jacky McKinney: Is there a retaining wall for the embankment?

James Truscott: I recall that there is a proposed retaining wall about halfway up. The wall would become progressively more screened by the vegetation as it grew up. The initial planting of the semi-mature trees would also provide initial screening because those will be in the foreground.

Jacky McKinney: And the distance?

James Truscott: From the retaining wall? I cannot remember off the top of my head. I will need to look at the cross-section.

Jacky McKinney: Even roughly?

James Truscott: I have a drawing; it looks from the drawing as if the distance will be about 20m.

Jacky McKinney: The distance will vary.

James Truscott: Yes.

Jacky McKinney: The road takes a natural curve.

James Truscott: Yes. That cross-sectional point is midway.

Jacky McKinney: Can you comment on the effect of the construction on trees at the bottom of the residents' gardens, where the trees are in the gardens? How would the root system of the trees be affected during the clearing process? Are the trees likely to be deemed unsafe? Would their natural drainage ability be affected?

James Truscott: I hope not. There is a code of practice for trees on sites that should be adhered to. I would not have thought that there would be any particular problem. I do not recall any of the trees in the back gardens being particularly large, so there should be no problem with the roots. Most of the major engineering routes will be further up the slope away from the garden fence. That is my understanding.

Jacky McKinney: Okay. That is all.

The Convener: Perhaps I am being naive, and I fully admit that I know nothing about these things,

but you say that it could be 15 years before the growth returns to what it was. By the simple expedient of planting more mature trees or trees that are leafier, could that figure not be reduced?

James Truscott: The scheme is a belt-and-braces one. Similar mature trees are good for instant effect; however, they do not grow as quickly. Smaller, younger trees tend to grow much better and more rapidly than trees planted when they are quite large. In other words, one may plant a semi-mature tree at, say, 3m high only to find that after a few years it has not grown much. The smaller trees, however, will have grown much more quickly and will have become larger and bushier.

The Convener: One lives and learns, Mr Truscott.

The final witness for the promoter is Archibald Rintoul. He will speak about property values and compensation.

Jacky McKinney: In paragraph 3.3 of your promoter rebuttal you state that there may be an adverse effect on the value of properties on the south side of Baird Drive but that the compensation provisions of the Land Compensation (Scotland) Acts 1963 and 1973 will apply.

In paragraph 3.5 you go on to say that compensation is not given under the 1973 act for any loss of visual amenity. However, that is likely to be the major adverse effect of a tramline and it would make the properties less desirable. Does it follow that even if those properties lost value because of loss of visual amenity, no compensation would be afforded to them unless they could prove impact from another source?

Archibald Rintoul (Royal Institution of Chartered Surveyors): That is a fair summary. The 1973 act specifically provides the right to compensation for a reduction in value caused only by the physical factors associated with the scheme, which are named in the act: noise, vibration, artificial lighting and so on. Those are the only things for which the act allows compensation. It does not allow compensation for loss of visual amenity.

Jacky McKinney: We would therefore have to produce expert witnesses such as Mr Hyde, who has put forward a very robust position today, to prove any negative impact on property values. The likelihood is that no compensation would be on offer.

Archibald Rintoul: I would not say that at this stage. Usually, noise readings taken before the scheme and after it are compared, and they may show an increase in noise. Those are not the only factors, of course; other physical factors could

affect value. If no land is taken, the scheme should be up and running for a year before one makes a claim. The claim is assessed only after the first year of the scheme so that everyone can see its effects much more clearly and can judge whether there is likely to have been an effect on property values.

Jacky McKinney: But the residents would have to construct a case.

Archibald Rintoul: Yes. Normally, the residents would make a claim and we would discuss it. They would put a case together, but it would not normally be necessary for them to get their own noise experts. Usually, part 1 claims such as that would be discussed with people like me and my colleagues.

Jeremy Purvis: May I ask a technical question? The claim that is made after a year is notwithstanding any maturing mitigation methods such as planting or banking. That is not relevant to the year period, is it?

Archibald Rintoul: No. There would not be much maturing in one year, in any event. Anything in the first year would be relatively insignificant.

Jeremy Purvis: So the defender in a compensation claim would not be able to say that, as the planting will mature and have full effect in 10 years' time, the scheme will have no impact.

Archibald Rintoul: We consider a reduction in value at a particular time. We would not say that the value will have recovered in 10 years' time; we would consider the reduction in value at a particular time.

Malcolm Thomson: In assessing a claim that is made on the basis of an alleged reduction in the value of a property as a result of the proposed tramline, would you take account of whether there had been an increase in the value of the property because of its desirable proximity to the then operating tramline?

Archibald Rintoul: That factor would have to be taken into account. The bill allows us to set off against any reduction in value that is caused by the tramline or the scheme any increase in value that might be caused by the improved communications.

The Convener: That concludes oral evidence from the promoter in respect of group 51.

We now turn to the objectors' witness, who is Jacky McKinney. As she is a party objector and does not have legal representation, the system that we will adopt now is somewhat different. Miss McKinney will be able to make an opening statement to address any issues that arise from the promoter's rebuttal of her witness statements or from her rebuttal of the promoter's witness

statements. Mr Thomson will then cross-examine, after which Miss McKinney may make a statement in response.

JACKY MCKINNEY took the oath.

The Convener: I invite Jacky McKinney to make her opening statement.

Jacky McKinney: We come to the proceedings having spent more than two years trying to secure the protection of the embankment to the rear of Baird Drive. We have participated in consultation groups with TIE and endeavoured, without success, to reach compromise or workable solutions, but we probably have just as many questions still unanswered as we had at the outset of the saga. We hope that we have made it clear how worried the residents of Baird Drive are about what potentially lies ahead should the bill be passed, both for the construction phase of the project and beyond.

We wish to highlight the issues that surround the construction period, the night-time working hours, the type of vehicle that is to be introduced and the noise insulation measures, which are the issues that will impact most greatly on residents. We are given only TIE's aspirations or expectations and no clear answers—aspiring to deliver and actually delivering are two different matters.

We read conflicting stories each day in the press about issues such as bus service withdrawals and the lack of funding for projects that could result in a review of transport initiatives that are on the table. Most recently, having been invited to view the model tram in Princes Street, we now discover that the vehicle that was on display was not representative of the type that TIE aspires to introduce—they are to be wider. The situation has created a confused and chaotic atmosphere in which to pursue our objection and has made an already complicated process all the more stressful.

TIE has impressed on us that it is too early in the process to have the answers that we seek but, to us as objectors, if the bill is passed, it will simply be too late, because TIE will have permission to forge ahead. We can only wonder whether, if we are allowed input, it will be nominal, as there will be no necessity for TIE to act on residents' views or needs. Given that two years have elapsed since the first consultation, is it really too much to expect firm answers?

TIE has made an issue of high and low-level running of the trams to the rear of the properties. In its witness statements and rebuttals, it has implied that the high-level option was chosen as a concession to residents, as the low-level option was originally on the cards. That is not the case, as the residents have never been in favour of the route at all, but have always said, if pressed, that the higher option is the lesser of two evils. TIE

points out that it constructed a model to allow residents a better idea of what the area would look like. However, that was not done on TIE's initiative, but as a response to a request by Hazel Young at a CLG meeting.

Several residents have already opted to sell their properties and move out rather than endure what might happen, but many do not have that option, as they simply cannot afford to move. We learn that new residents who move in have not been warned about the introduction of trams at the foot of their gardens and are simply horrified at the prospect. That is little wonder, as the gardens will be virtually unusable throughout the entire construction phase.

11:15

We worry about vermin displacement, natural drainage and the effects on the trees in the gardens, should root systems be damaged during clearance work. Hazel Young and another member of our group were recently shown a presentation at the CLG meeting about the effects of light and shade on the properties when the tram system is in place, and how overshadowing in the winter months might affect residents. Quite simply, they found it totally depressing.

Finally, what do we hope to gain from this input? Ideally we aspire to preserve the embankment. We seek reassurance and we ask that consideration be given to the establishment of an independent body to act on behalf of the residents—a body with the power to be effective and to ensure that residents' viewpoints, interests and input are acted upon. The lack of CLG minutes was alluded to. That is not unusual; it happens every time we attend a meeting at the CLG.

On the issue of preserving the embankment, Mr Murray's rebuttal went to great lengths to outline why the various proposals we have put forward cannot be followed, most of which depends on finance, and the effect that our proposals would have on the tram operator. It takes little cognisance of the effect on Edinburgh residents. We think that that is sad. The system is supposedly for the benefit of Edinburgh residents, but not this street.

Malcolm Thomson: Who is in WERTAG and how does WERTAG fit in to the CLG meetings? In other words, do some residents happen to belong to WERTAG and go along to CLG meetings, or do those who belong to WERTAG find themselves represented by you or your colleagues, wearing your WERTAG hat, at CLG meetings? How does it work?

Jacky McKinney: WERTAG—which, as the name suggests, consists of west Edinburgh

residents—was formed at the beginning of the consultation phase. It combined members of three streets: Baird Drive, Whitson Road and Stenhouse Avenue West. As the consultation process reached its final stages and an option was selected, the residents of Stenhouse Avenue West fell away from their involvement in the group.

In terms of producing and delivering leaflets and involving the residents of the streets most affected, the group has become smaller. That might be due to a number of things. First, there is the age level of most of the residents in the street. There is a high level of elderly and infirm residents. Secondly, there is ability. Many people do not feel confident about producing written work or are unhappy about speaking out in meetings. In a situation such as this, many people—a bit like me at the moment—would be incredibly intimidated and nervous.

Over the two-and-a-half years or so since the group began, people have fallen away, either because they have been ground down or because they have deluded themselves that the tramline will not happen—just as the City of Edinburgh rapid transit scheme did not happen some years ago—or because real life has taken over and they simply cannot afford the time.

We keep people involved by producing regular newsletters, by updating them about what we are putting forward and by consulting them and inviting comments. I do not have them with me, but if we showed you the written comments that we have received from people who would not feel confident appearing before the committee, they might not give the intended impression. That is not in any way to take away from the content of the letters; it is simply that the presentation of views would not be what is expected in this scenario, which is why they rely on us to put their case forward.

Before we submitted our objection, we presented in newsletters what we anticipated would be the content of that objection. The objection was large—it was quite a number of pages long. As a small group we did not have the resource to distribute that to all the residents, so we invited them to come along and view the copies that we had.

At a well-attended CLG meeting, TIE offered to distribute it for us. I think TIE was trying to imply that we were not including everyone, that people were having their views misrepresented or that people did not know what was being said. TIE then posted out copies to people at the meeting, but there was not enough postage on the envelopes, which meant that people had to go to collect them from the sorting office and pay the extra postage themselves. If we had the money and the resources, we could have sent everyone copies, but we simply do not.

We rely to a great extent on people coming forward and getting involved. We have jobs and lives and are doing this in our spare time. I should note that, recently, when we knew that we were coming to the stage in the process at which we would go to Parliament, we visited all the residents in the street to let them know what was happening and asked them to note, by signature, that they were still happy for us to represent them, in light of everything that had transpired. I think that that answers your question.

Malcolm Thomson: It is a good start, anyway. Do I take it that the majority of the residents of Baird Drive are represented by you?

Jacky McKinney: Yes, most definitely.

Malcolm Thomson: But the residents of Stenhouse Avenue West are no longer represented by you.

Jacky McKinney: If they wanted to join in again, the group would be happy to welcome them. I think that they think that, since the alignment has gone to the other side of the railway, it does not affect them anymore. However, I think that they are in for a rude awakening.

Malcolm Thomson: When you go to a community liaison group meeting such as the one that was held in August, do you go as an individual or as a representative of WERTAG?

Jacky McKinney: I go as a representative of WERTAG because the group has never opposed the tram scheme whereas I, as an individual, have a different opinion.

Malcolm Thomson: Am I right in thinking that when the promoter was promoting the low option, your group proposed the high option?

Jacky McKinney: No. At the consultation stage, our understanding was that the high-level option was always the one that had been proposed. In September, before the options were made public in the newspaper, TIE called a meeting at the Saughtonhall reform church for the residents of Baird Drive and surrounding areas. At that meeting, the low-level option was put forward as a way of mitigating residents' concerns. Residents never requested the low-level option. At that meeting, we asked TIE and the elected representatives who were present whether option B—the Baird Drive option—was the chosen one. They said that that was not the case and that all options were still in place.

It seemed lunacy that such a meeting would take place and such work would be done on the presentation of the low-level case five days before the publication of a major document if that option had not already been selected. It was put forward as something that might seem better to the residents. The Baird Drive residents had never

asked for it and, when we asked them to indicate their preference, all of them stated that the high-level option would be the lesser of the two evils.

Malcolm Thomson: Has the promoter taken that on board?

Jacky McKinney: Yes.

Malcolm Thomson: At the end of section 2 of your rebuttal, which deals with Mr Murray's evidence, you refer to the attempt to obtain planning permission for the route for the CERT project, which is now proposed for the tramline, and mention a judicial summary. Am I right in understanding that that summary was produced in relation to a public local inquiry that was held in connection with a planning appeal?

Jacky McKinney: I think so. I am not sure about the technical legal jargon but, at the time of the CERT project proposals, the residents enlisted the help of a legal representative—a QC—to speak out for them and to battle against that particular design on the same grounds as we are talking about today.

Malcolm Thomson: In simple terms, was it an inquiry before a reporter rather than a court of law?

Jacky McKinney: It was before a reporter.

Malcolm Thomson: I may have missed it, but it has just been drawn to my attention that we are not sure whether this witness took the oath.

The Convener: Yes, she did.

Malcolm Thomson: My mistake.

The Convener: Right, that concludes the questioning for group 51. Mr Thomson now has up to five minutes to make any closing remarks on behalf of the promoter.

Malcolm Thomson: With regard not merely to the issues that have been discussed today but to the wider background to this objection, I submit that the promoter has considered—and has demonstrated that it has considered—three route options. The promoter has demonstrated that route B is clearly the preferred route, although it did not meet with popular support. Then, whatever the precise reason behind the promoter's considering the low option first, once the promoter realised that the high option was supported by the residents and was technically feasible, it chose to promote that option. Mr Murray's statement—particularly paragraph 3.34 but more generally paragraphs 3.19 to 3.38—illustrate that the promoter has attempted to work with this objector.

Noise and vibration were satisfactorily, if somewhat technically, covered by Mr Hyde. It is clear not only that he has vast experience in the subject but that he has looked at the worst-case option and that his view is conservative.

The evidence of Mr Truscott on visual impacts has been full and fair throughout. A balance has to be struck between the desire immediately to create mature cover for the modified embankment and the fact of nature that trees planted when younger will tend to thrive better. Mr Truscott's solution is the best that can be arrived at from a technical point of view. Although the initial impact in year 1 will no doubt be significant, the impact will reduce. Mr Truscott's evidence demonstrates that the impact will reduce progressively over the 15-year period.

We heard some unexpected evidence from Mr Cross on the code of construction practice; the evidence served to give greater confidence in the effectiveness of the code. Mr Cross explained fully and fairly the reasons why it is desirable that the code should not be encapsulated in the enactment—not least because of the simple practical difficulty of changing the act if that became necessary.

If, in what I call the nightmare scenario, the council and the contractor fall short of their obligations under the code, there is no reason to doubt that the enforcement arm of the council would be likely to act decisively and effectively against the council. Mr Cross thought that actions against the council were even more rigorous than against other people, and one detected the voice of bitter experience when he gave that evidence.

Evidence on compensation was given by Mr Rintoul and, in effect, it was unchallenged. At the end of the day, it would be a matter of fact whether there was sufficient diminution in value to give rise to a claim. Of course, a claim would be offset by any increase in value of the kind that Mr Sim anticipates.

In short, I invite the committee to reject the group's objection and to refrain from any temptation to amend the bill.

11:30

The Convener: Thank you, Mr Thomson. The final word will go to Jacky McKinney, who has five minutes.

Jacky McKinney: Our statement is simple. We are here to represent a street that is full of disheartened and disillusioned residents and to put that disillusionment in context.

The route that tramline 2 is set to take replicates the route that the residents of Baird Drive fought against some years ago for exactly the same reasons as we are currently opposing the tram route. At that time, those residents sought help through the legal system to combat the CERT scheme. The case was won at great personal expense for all the households that were involved,

which thought that they had preserved the embankment to the rear of the properties. The area offers a unique piece of woodland in the middle of the city and a natural barrier against the more unpleasant factors that are associated with living next to a very busy rail line. The judicial summary barely reached its conclusion in favour of the residents when the City of Edinburgh Council introduced a new scheme to travel through exactly the same route.

The group has never opposed the tram scheme throughout the objection process, even if many individuals who are involved may have strong opinions about its validity and worth. We have sought to find a compromise with TIE in order to save the embankment and thereby limit the impact on residents, but we think that we have simply been swimming against the tide at every turn. There have been no concrete answers to residents' pressing concerns; instead, TIE has told us about its aspirations for the kinds of vehicle that it wants and the track that it wishes to implement, and has told us that specific questions about working hours, night-time construction and so on cannot yet be answered.

It seems to us that TIE is railroading the bill through without having to commit to very much at all. Even if verbal assurances are given now, we have no faith in TIE to honour them if the bill is passed because we have been misled by it on many issues.

The plain and simple truth is that, regardless of the public's general opinion about trams in Edinburgh or what individual panel members might say in public or in private, what TIE proposes to do at the rear of one street will bring misery for the residents. We simply hope that the committee will see that and deliberate accordingly.

The Convener: Thank you. The committee is obliged to you for the manner in which you have presented your case.

That concludes oral evidence taking in respect of group 51. I suspend the meeting briefly so that the witnesses can move away from the table and other witnesses can move to it.

11:32

Meeting suspended.

11:39

On resuming—

The Convener: Thank you, ladies and gentlemen. We move to evidence taking on group 52, for whom Miss Honor Reynolds is the lead objector. I thank you for your patience and forbearance this morning, Miss Reynolds. It is difficult to time these meetings, which is why you have been kept waiting longer than we had hoped.

The witnesses for the promoter are Richard Mansfield, James Truscott, John Hyde and Archibald Rintoul. There has been a change to the original witnesses who were suggested by the promoter. Richard Mansfield replaces Gavin Murray, and he will be bound by his original witness statement and rebuttal. All the witnesses have already taken the oath or made a solemn affirmation, so there is no need for them to do so again. Miss Reynolds will question the promoter's witnesses on behalf of group 52.

I am aware that there has been some discussion between the clerk, Miss Reynolds and the promoter about whether some aspects of Miss Reynolds's evidence may be more relevant to tramline 1 rather than to tramline 2. In particular, the promoter's witnesses have stated that trams on line 2 will not run in front of the objectors' properties. However, Miss Reynolds has claimed that a representative of the promoter told her that trams on line 2 would run in front of those properties on the way to the depot. Clearly, it is in no one's interests to go through a full history of who might have said what to whom; nor will the committee take evidence on tramline 1, which is obviously outwith our remit. Therefore, I propose that the promoter clarifies on the record whether trams on line 2 will run in front of the group's properties.

Apart from that issue, I understand that work 5A on tramline 2 is most relevant to the group for which Miss Reynolds is the lead objector.

I look to Mr Thomson for some comment on what I have just said.

Malcolm Thomson: That is very helpful. I propose to make available Mr Cross to answer that question on behalf of the promoter.

The Convener: We need to establish the truth of that matter from the start, as it will clearly impinge seriously on the conduct of the meeting. I invite Mr Cross to address those points.

Barry Cross: I shall be brief. The Edinburgh Tram (Line Two) Bill includes work 5B, which is 100m of two-way tramway. That cord will link tramline 2, which runs to and from the airport, to tramline 1, which runs to and from Granton. The cord is not currently intended to be used by trams in service, and there is no service pattern that has passenger-carrying trams using it. It is intended entirely for operational flexibility. You will be aware that the bills make provision for a small number of closures of Princes Street, for example. It may be that, in that type of circumstance, the cord would be used to maintain operational flexibility and to maintain service. Equally, in the event of a fire or temporary closure of the tramway in the Haymarket area, the cord may well be used to link tramline 2 with tramline 1.

On the point that was made earlier in respect of Miss Reynolds's concern that she had been told that the cord would be used to take trams to and from the depot, I can say that, for operational flexibility, one or two trams—early in the morning and late at night—may well use the cord, particularly to enable inter-operability between the tram fleet based on tramline 1 and the tram fleet based on tramline 2.

I think that those are all the eventualities in which the cord would be used. It would be used infrequently for operational flexibility, not for service traffic.

The Convener: Can you quantify the number of times that that section of track would be used?

Barry Cross: In a day, probably at most a handful of times unless there was a closure of Princes Street or a special event at Murrayfield, in which case the number might be higher. However, its use is certainly not something that, in general, will be timetabled.

The Convener: I am grateful for that clarification. We can now concentrate on the evidence that is relevant to tramline 2. The first witness for the promoter is Richard Mansfield, who will address the issues of construction impacts and loss of privacy. Mr Mansfield, you are still under oath.

Malcolm Thomson: I have no questions for the witness.

The Convener: Miss Reynolds, do you have any questions for Mr Mansfield?

11:45

Miss Honor Reynolds: I just have a few points to bring up in my oral evidence about what Mr Mansfield has mentioned. For example, Mr Truscott says that there would be no change in the visual impact of tramline 2 during construction, on completion or in the longer term. That is the crux of the matter.

Mr Barry Cross mentioned work 5B just now—

The Convener: Could I try to be helpful? You have raised quite an important point and this is an opportunity to put it to the witness who is giving evidence to the committee about construction impacts and, in particular, loss of privacy. Why do you not put that to the witness?

Miss Reynolds: Well, once again TIE refused to acknowledge work 5A, which appears on its plans as running from Russell Road to the bridge at Wester Coates, passing immediately in front of the objectors' properties. In all the proceedings, TIE has refused to acknowledge work 5A and it always brings up the point that tramline 2 does not pass our section of the embankment. Again, that is not

strictly true because I have been told by someone at TIE—I will not mention his name—that tramline 2 will come our way on its way to the depots.

The Convener: Mr Mansfield, the committee would be grateful if you could answer some of those points. First, will you comment on the question of the loss of privacy by means of the tramline passing in front of the properties?

Richard Mansfield: I can comment up to a point. I cannot comment on the level and alignment of tramline 1. Work 5A—to which Miss Reynolds refers—includes the cord to which Mr Cross referred and modifications to the existing cycleway and footpath that run through that area. The very reason why work 5A extends towards Miss Reynolds's property is so that the walkway can be modified should lines 1 and 2 be constructed.

In terms of the impacts on Miss Reynolds's property, should the walkway be required to be modified in the event of lines 1 and 2 being built, there will be some loss of vegetation.

Miss Reynolds: I was advised by TIE that the embankment would be reduced by 1.5m, which will entail the removal of the established trees, and any environmental mitigation promised will not be sufficient to shield number 27 Balbirnie Place from being overlooked by the six-storey block of flats at Roseburn Maltings. Any new trees will be smaller and at a much lower level than the trees that crown the embankment at the moment. I was advised by someone who lived at Balbirnie Place when the flats were built that the only reason why the block of flats was allowed to reach six storeys was because our properties were shielded from the building by the foliage and trees. Now TIE is conveniently forgetting that and removing the trees. Even if this was not the case, it does not alter the fact that when the trees are removed, the impact on the privacy of the objector at number 27 will be great.

The Convener: Mr Mansfield, the committee has had a locus inspection. We are aware that there is a high-rise block of flats, with banking that lies in between and which screens the objectors' premises at the moment. If the tramline proceeds, what effect will that have?

Richard Mansfield: Can you repeat your comment about what provides the screening at the moment?

The Convener: There is screening some way along that particular road that effectively means that the premises, one of which is Miss Reynolds's house, are not overlooked by the high-rise flats.

Richard Mansfield: You are wondering whether that barrier is going to be affected.

The Convener: Exactly.

Miss Reynolds: I was told that the embankment would have to be widened because it would not be wide enough at that point to take a double tramline in addition to the walkway and the cycle path.

Richard Mansfield: As I stated initially, some vegetation and trees would have to be removed for the walkway to be modified and for lines 1 and 2 to be built.

The Convener: So there would be loss of privacy at that stage,

Richard Mansfield: If the trees were removed, there would be loss of privacy. Mr Truscott can provide further evidence on replanting in the event of that occurring.

The Convener: That is fine. Do you have further questions, Miss Reynolds?

Miss Reynolds: No.

The Convener: Do members have any questions?

Jeremy Purvis: Paragraph 2.2 of the promoter's witness statement states:

"It should be possible to ensure that in combination—

screening—

"will ensure that tram passengers will not be able to see into the garden or through the windows along Balbirnie Place."

That means that there would be no loss of privacy; however, Richard Mansfield just said that there would be loss of privacy.

Richard Mansfield: No, that is not quite what the paragraph is saying. It is saying that once the works are completed, it should be possible to ensure that privacy is restored. There would be an element of replanting and other mitigation measures, but I do not know the exact detail of that at present. However, the point that paragraph 2.2 is trying to get across is that, once the works are in place, it should be possible to restore some privacy to Balbirnie Place.

Jeremy Purvis: I have got myself confused, obviously. When would the loss of privacy occur? According to the code of construction practice, any construction requires hoardings and boards to be put up to protect privacy.

Richard Mansfield: Yes.

Jeremy Purvis: So when would the loss of privacy occur?

Richard Mansfield: It is difficult to say when and for how long, because the site would need to be cleared for all the work that would be required, then hoardings would go up to restore privacy. Once the work was completed, the hoardings would not be there, and compensatory planting would be done.

Marilyn Livingstone: Can we take it as read that the timescale would be the same as the one that we heard of in the previous evidence session, which is that it would be 15 years before the trees would grow back to the same level as previously? You are talking about the lack of privacy being mitigated, but there will be a long timescale for that.

Richard Mansfield: I do not know whether the planting would be semi-mature or new. Mr Truscott will be able to answer that question, which will answer your question about the length of time involved.

The Convener: Members have no further questions.

Mr Thomson, do you have questions for Mr Mansfield?

Malcolm Thomson: Yes.

Mr Mansfield, can we start by clarifying what work packages 5A and 5B are? Am I right in understanding that work package 5 is a straightforward east-west section of proposed tramline 2?

Richard Mansfield: That is correct.

Malcolm Thomson: Is work package 5A what Mr Cross described as a cord, which is a small section of curving line that would meet up with line 1, if it were constructed?

Richard Mansfield: Yes.

Malcolm Thomson: Is work package 5A a realignment of an existing cycle path that is consequential to joining the short cord to line 1?

Richard Mansfield: That is correct.

Malcolm Thomson: You talked about the necessity to remove banking. Is that necessity caused by line 1?

Richard Mansfield: Yes.

Malcolm Thomson: Am I right, then, in understanding that, if line 1 was not constructed, there would be no need to interfere with the banking at all?

Richard Mansfield: There would need to be a minor modification to the existing ramp up for the cycleway and footway from Russell Road. However, the impact on the area would be minimal. There would be no need for vegetation clearance and the work would certainly not extend anywhere near Miss Reynolds's property.

Malcolm Thomson: In your view, are the problems of which Miss Reynolds complains caused by the need to construct line 1, rather than line 2?

Richard Mansfield: Yes. They are related entirely to works associated with line 1.

Alasdair Morgan: If line 1 were not constructed, would the cord be built?

Richard Mansfield: No. It is not required unless line 1 is built.

The Convener: We will now take evidence from Mr Truscott.

Malcolm Thomson: I have no initial questions for the witness.

The Convener: Miss Reynolds, do you have any questions for the witness? Please bear in mind that we are talking about line 2, rather than line 1.

Miss Reynolds: My question is about the loss of vegetation and wildlife. It was mentioned that, if line 1 does not go ahead, there will still be a junction at the Russell Road end. That will affect 45 Balbirnie Place a great deal, because the embankment will have to be reduced by quite a bit more than a foot and a half at that end, where the route meets the railway bridge. There will also be a turning point there, so we may be affected by wheel squeal and so on.

The Convener: Mr Truscott is here largely to speak about vegetation loss.

Miss Reynolds: I raised the issue of removal of trees with Mr Mansfield. There will also be a loss of wildlife. At present, many species of birds nest in the vegetation. Work 5A—whether for line 1 or for line 2—will alter completely the objectors' outlook and the quiet environment that they enjoy at present.

James Truscott: I will set the record straight. We have assessed and are dealing with tramline 2. We have already discussed the matter at length. The assessment that we carried out related purely to tramline 2. I understand that work 5A would be carried out only if tramline 1 were built, so it has not been assessed. The assessment related to work 5, which is the main east-west route, and work 5B, which is the cord or stub that is left in on the off-chance that tramline 1 will be built. The construction works related to those two items of work will be limited to the extreme southern end of the embankment. I have discussed the matter with my engineering colleagues and have been assured that there will not be a reduction in level of 1m, let alone a reduction of 5m. The vegetation on the embankment between Miss Reynolds's property and the property opposite will be maintained intact and protected under the tramline 2 scheme. Some planting will be carried out to the south of the embankment, where there will be construction works relating to the cord or junction, as Richard Mansfield discussed earlier.

I move on to the issue of visual assessment. At environmental statement stage, it was assessed

that Miss Reynolds's property would be so far removed from the works that the works would have a negligible impact or there would be no change. It was considered that the works would have a slight impact on the other property in question, the block of flats at 45 Balbirnie Place, because it is in slightly closer proximity to them, but that after about 15 years the mitigation proposals—which may consist of planting of woodland—would reduce the impact to the point of being negligible.

12:00

Miss Reynolds: This whole situation has arisen because of work 5A, which is shown on the line 2 map. Why did you show work 5A on the line 2 map when line 1 already has 12A on its map covering the same piece of ground? But for that, there would be no confusion, and the objectors would not have objected to line 2; they would have objected to line 1. When I went up to the library and looked at the maps I saw work 5A, and objected to it because it was across our ground.

James Truscott: I take your point. I am probably not the best person to ask that question of; I am the environmental adviser on the scheme.

The Convener: The point is well made, Miss Reynolds, but it is not a question for Mr Truscott.

Miss Reynolds: But that is the whole point—all the answers that have been given have stated that the line does not come past our property, but work 5A is still on the promoter's map. Either line 2 is connected with work 5A or it is not.

The Convener: We will get the answer further down the line. Do committee members have questions?

Jeremy Purvis: I may add to the confusion even more. Mr Truscott's statement states:

"The group of buildings in Balbirnie Place, of which No.27 forms a part, would receive no change in visual impacts due to the Tram 2 proposals, during construction, on completion, and in the longer term."

If tramline 1 goes ahead, does that still stand?

James Truscott: I have not assessed the implications of tramline 1 going ahead. I was not asked to as part of my brief.

Jeremy Purvis: Might it have been helpful if you had made that clear?

James Truscott: That question is outwith my brief, I am afraid. It is conjecture.

The Convener: Members have no more questions. Mr Thomson, do you have any questions?

Malcolm Thomson: No.

The Convener: Thank you, Mr Truscott. The next witness is John Hyde, who will address the issue of noise and vibration. Mr Hyde, you are still under oath.

Malcolm Thomson: I have no initial questions.

Miss Reynolds: The promoter says that tramline 2 does not go past our embankment, but trams will go past it when going back to the depot, so we could get a lot of shunting noise from lines 1 and 2 together.

John Hyde: It is difficult to evaluate a noise impact from something that is very intermittent and unpredictable. The short piece of line would be used only in emergency situations and for occasional movements to and from the depot. Such short-term movement of trams is not likely to have any significant impact. In fact, it would not be measurable in terms of the criteria and methods that we use to assess noise impact. The movement may just about be audible at that distance, but the noise would not be at a level that is likely to cause disturbance.

Miss Reynolds: However, with work 5A, we are going to have a lot of noise and disturbance.

John Hyde: If work 5A is implemented as a result of the construction of lines 1 and 2, there will be construction noise impacts. However, the duration of the works will be relatively short and the works should not have a significant impact.

Miss Reynolds: What, with big diggers and things?

John Hyde: Yes. As we said earlier, it is inevitable that noise due to construction cannot be avoided if the work goes ahead. We are not trying to claim that it would be peaceful or quiet; there would be construction noise during the period of works.

Miss Reynolds: The works will be in close proximity to the houses.

John Hyde: Yes, indeed.

Miss Reynolds: The street is small and narrow.

John Hyde: Yes.

The Convener: Do members have questions for Mr Hyde? If not, we go to re-examination.

Malcolm Thomson: I have no re-examination.

The Convener: We go to Archibald Rintoul, who will address property values. Mr Thomson?

Malcolm Thomson: I have no additional questions.

The Convener: Over to you, Miss Reynolds.

Miss Reynolds: I have no questions for Mr Rintoul. I will cover the subject in my summing-up.

The Convener: That was easy, Mr Rintoul. Members have no questions for you, either.

That concludes evidence from the promoter for group 52. We move on to the lead objector, who is Miss Honor Reynolds. Miss Reynolds does not have a questioner with her, so she will make an opening statement that addresses any issues that arise from the promoter's rebuttals of her witness statements or from her rebuttal of the promoter's witness statements. Mr Thomson will be able to cross-examine her, after which she can make a statement in response. I invite Miss Reynolds to take the oath or make an affirmation.

MISS HONOR REYNOLDS *took the oath.*

Miss Reynolds: Some of what I have to say has been mentioned. I point out that in all our correspondence with TIE, it has chosen to ignore the existence of work 5A and instead always to refer to the fact that line 2 does not pass the objectors' section of the embankment at Balbirnie Place. TIE repeatedly ignores the fact that the objectors' portion of the embankment will be greatly affected by work 5A, which is shown on the plans for tramline 2 as running from Russell Road, past the objectors' properties, to the bridge at Wester Coates.

In addition, it is not strictly accurate to say that tramline 2 will not use our portion of the embankment, as TIE advised me that trams might pass our portion of the embankment when running back to their depots. If TIE does not acknowledge work 5A, why was it shown on the map that was connected with tram 2, especially as TIE keeps pointing out that tramline 2 does not cover our portion of the embankment?

A tram 1 map shows that work 12A also covers that portion of the embankment. If TIE had not shown work 5A on its maps for tram 2, the objectors would have chosen instead to object to tram 1 and work 12A, not tram 2. Why was it necessary to duplicate the work on that portion of the embankment, which has led to confusion?

The objectors stand by their statements, but we will stress a few points that are drawn from the TIE rebuttal statements. First, I will deal with the statement by Gavin Murray, who is the project manager. During the construction period on work 5A, dust and dirt in the objectors' properties and street will be considerable. The objectors wish to be assured that contractors will clear and pay for the clearing of roofs and gutterings, for example, which may be contaminated by dust and debris, and that the streets will be properly cleaned regularly during construction and on completion. Recently, we had to contact the council because our gardens were overrun by rats when work was undertaken on the embankment. What arrangements will be made to prevent that from occurring again?

James Truscott, who is the director of ASH Design and Assessment, says that

"no change in visual impacts due to the Tram 2 proposals" will occur

"during construction, on completion, and in the longer term"

to the objectors' properties. TIE again refuses to acknowledge work 5A, which appears on its plans as running from Russell Road to Wester Coates. At a TIE meeting, I was advised that the embankment would be reduced by approximately 1.5m—that was shown on a map. I have already mentioned that. Will I continue?

The Convener: You are stating your case. Just do what you want to do.

Miss Reynolds: That reduction will of necessity entail the removal of established trees and any environmental mitigation that is promised will be insufficient to shield number 27 from being overlooked by the six-storey block of flats at Roseburn Maltings. Any new trees will be much smaller and much lower than the trees that crown the embankment at present. I was advised that the planning for that block of flats was allowed only because the houses at Balbirnie Place would be shielded from it by the embankment and the foliage cover but, even if that is not the case, that does not alter the fact that the building will impact on the privacy of the objector's property at 27 Balbirnie Place. There will also be a loss of other vegetation and wildlife. At present we enjoy many species of birds nesting in the vegetation. The works will completely alter the objectors' outlook and the very quiet environment that they enjoy.

On noise and vibration, Mr Hyde states at paragraph 3.3 that the tram turning point at the junctions between line 2 and line 1 is not likely to generate any increased noise. He says:

"There would be very little turning movement thus wheel squeal would be extremely unlikely to occur. The curvature at the junction would also be unlikely to affect Line One trams."

The code of practice says that mitigation measures will be considered where practicable. The code of practice is riddled with such extremely vague statements and the objectors do not find them in the least reassuring.

Malcolm Thomson: Do you have with you a copy of your rebuttal statement, Miss Reynolds?

Miss Reynolds: Yes.

Malcolm Thomson: In the third-last line on the first page, you talk about line 1 and line 2, work 5A and work 12A. Is that a reference to work 12A in the line 1 project?

Miss Reynolds: Yes.

Malcolm Thomson: Thank you.

The Convener: Do you feel the need to add anything further at this stage, Miss Reynolds?

Miss Reynolds: Not at this stage, thank you.

The Convener: Thank you for giving evidence. That concludes questioning for group 52. I now give Mr Thomson up to five minutes to make closing remarks on behalf of the promoter.

Malcolm Thomson: The promoter has the greatest sympathy for the position in which Miss Reynolds and the two other objectors whom she represents find themselves. In my submission, when one looks at the terms of their original objections and statements, it appears that they have quite simply objected to the wrong line. What they are complaining about is the construction of line 1 in the proximity of their properties. In my submission, for all bar one of the issues that they raise—to which I will return in a moment—the proximate cause is the construction of line 1, not the construction of line 2.

There is of course a distinction to be drawn between construction and use. There might be legitimate concerns about additional use in the volume described in Mr Cross's statement. The one point that is fairly and properly attributed to line 2 relates to the cord—the short piece of line—which is described as work 5B in schedule 1 to the bill. The question is whether either the construction or use of that cord in any way disadvantages Miss Reynolds and the other objectors.

The first point to make is that, on the evidence of Mr Mansfield, that cord would only ever be constructed and the consequential rearrangement of the cycle track would only ever happen if line 1 were constructed. The scenario is that line 1 construction works would all be taking place before any additional works attributable to the construction of the cord. The one point that I said I thought was a legitimate concern of the objectors is whether wheel squeal might be caused by the use of any tram using the cord. That point has been covered satisfactorily by Mr Hyde at paragraph 3.3 of his rebuttal statement.

In those circumstances, I return to the sad point that Miss Reynolds and the other objectors have quite simply objected to the wrong line. As a result, I invite the committee to ignore the proposed amendment that Miss Reynolds suggested in her original evidence summary and, perhaps with a tinge of regret, to reject all the objections in this group.

12:15

The Convener: Thank you, Mr Thomson. The last word goes to Miss Reynolds.

Miss Reynolds: All I can say to Mr Thomson's comments is: what about work 5A?

The planning and building of the tramline will greatly impact on the objectors' quality of life. Even TIE's promises of mitigation will not alter the fact that, with the loss of vegetation and wildlife, our whole outlook will have been changed to our detriment. At the moment, in our extremely quiet neighbourhood, we hear the sound of birdsong; instead, we will hear the sound of trams passing every six to 10 minutes and suffer a loss of privacy during and after the completion of the works.

In paragraph 2.1.2 of his witness summary, Mr Rintoul states:

"In cases where no land is required, compensation is payable for reduction in value caused by the physical factors associated with the scheme, in terms of Part 1 of the Land Compensation (Scotland) Act 1973, as amended."

As our physical outlook will be greatly changed if the project goes ahead, we will be entitled to claim compensation under the said act.

The Convener: Thank you, Miss Reynolds. That concludes the oral evidence taking for group 52.

I thank all the witnesses and counsel involved in this morning's useful session. I say to the witnesses for the objectors that I know that giving evidence in such a formal atmosphere is sometimes a very intimidating experience. The committee is grateful to everyone who has given evidence, but we are particularly grateful to these witnesses for doing so in such a clear and cogent manner. We are obliged to them.

In accordance with our decision at a previous meeting, we move into private session to consider today's evidence. I thank everyone for their attendance and ask those not involved to leave the room as quickly as possible.

12:17

Meeting continued in private until 12:34.

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