



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# FORTH CROSSING BILL COMMITTEE

Wednesday 24 March 2010

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**FORTH CROSSING BILL COMMITTEE**  
**6<sup>th</sup> Meeting 2010, Session 3**

**CONVENER**

\*Jackson Carlaw (West of Scotland) (Con)

**DEPUTY CONVENER**

\*Hugh O'Donnell (Central Scotland) (LD)

**COMMITTEE MEMBERS**

\*Joe FitzPatrick (Dundee West) (SNP)

\*David Stewart (Highlands and Islands) (Lab)

\*attended

**THE FOLLOWING GAVE EVIDENCE:**

Desmond Coyne

Martin Cullen (Glasgow Caledonian University)

Mike Glover (Transport Scotland)

Frazer Henderson (Transport Scotland)

John Howison (Transport Scotland)

Caroline Lyon (Scottish Government Legal Directorate)

Anne-Marie Martin (Transport Scotland)

Sean Sinclair

Dr Juliette Summers

William Tunnell

**LOCATION**

Committee Room 5



## Scottish Parliament

### Forth Crossing Bill Committee

*Wednesday 24 March 2010*

[The Convener *opened the meeting at 10:30*]

#### Forth Crossing Bill: Stage 1

**The Convener (Jackson Carlaw):** Good morning and welcome to the sixth meeting in 2010 of the Forth Crossing Bill Committee. If anyone has a mobile phone or BlackBerry, please ensure that it is switched off, so that it does not interfere with equipment.

For the benefit of people who are following the committee's work, I say that we continue to take evidence from a series of panels. Later this morning we will consider in private the evidence that we have heard, as we previously agreed to do.

As was the case at last week's meeting, the main purpose of this meeting is to hear from some of the objectors to the bill. We have considered in detail the objections. We received major submissions, to which we will ask objectors to speak. As I said last week, at this stage of proceedings the committee is considering the general principles of the bill and has invited some objectors to speak to certain aspects of their objections that relate to the whole bill.

We appreciate that some objections address several topics. I explain to the witnesses that we might not deal with the totality of the papers that they submitted but we hope that over the course of our evidence taking all the different strands will have been reflected. You might find that some of our questions are specific to an area that is perhaps unique to the representation that you made. In this meeting we look forward to hearing about issues that we looked at early in our consideration, which relate to whether the bill contravenes certain human rights issues. However, other, incidental issues might crop up.

Mr Desmond Coyne represents the Clufflat residents, Dr Juliette Summers is a resident of South Queensferry, and William Tunnell represents Queensferry Business Association. I am also pleased to have with us Mr Sinclair, who is not in the list of witnesses on the agenda. He is a resident of South Queensferry.

We move straight to questions. Each member of the committee will lead questions to a witness, although other members might well subsequently ask questions.

Mr Coyne, we had a detailed submission from you, which I read with considerable interest. You referred in some detail to the Human Rights Act 1998. Will you give us your views on how the bill proposals will breach or have already breached rights under the 1998 act? Your views have been expressed in other submissions, so in a sense you speak for other people as well as for yourself.

**Desmond Coyne:** Thank you for inviting me to speak to the committee. I feel very strongly about the breach of privacy, in particular. The construction of the proposed bridge will involve many years of work and the proposed construction area is practically outside my back garden and the back gardens of many other residents who live round about me. The peaceful enjoyment of property to which people are entitled will be gone for the duration of the construction period. Privacy will also be gone. People do not particularly like to have people looking into their garden regularly; nor do they like the peace and quiet that they enjoy to be disturbed.

Exploratory work has already been carried out in the field. Just one jackhammer has been thumping away and making a considerable noise, but Transport Scotland has told us that the ambient noise level will not increase significantly during the construction phase. I was gobsmacked that Transport Scotland could come out with that. The noise of one jackhammer, which is considerable, will be nothing compared with the noise during the construction phase.

**The Convener:** Neighbours of yours from Inchgarvie, on the other side of the field, made the same point to us last week. We put some points to Transport Scotland.

Committee members undertook a site visit and stood on Society Road, so I am quite familiar with the area where you live. However, so that I can get a mental picture, can you tell me where 8 Clufflat Brae is in relation to the other properties on your side of the road? Is it the fourth property as we go up the road? Are the houses numbered 2, 4, 6 and 8? Is number 8 at the midway point?

**Desmond Coyne:** Basically, yes. As you go into the street, the first two houses are 2 and 4 Clufflat. Beyond them, you have 2, 4, 6, 8 and 10 Clufflat Brae. I am at number 8.

**The Convener:** Does your back garden look on to the construction area?

**Desmond Coyne:** My house is separated from the field by a fence. That field will be the construction site. We will have workmen looking into all the properties that back on to that field. We will be confronted with the noise, dust, pollution, rubbish and everything else that is associated with the construction.

**The Convener:** On the work that is taking place just now, I believe that a communication was sent out saying in general terms that some further exploratory work would be undertaken. When has that work been taking place during the course of the day?

**Desmond Coyne:** I have not really paid attention. I have not put a time on it.

**The Convener:** Has it started as early as 7 o'clock, for example?

**Desmond Coyne:** No, it has started later in the day, but when—and, indeed, if—the bridge goes ahead, there is no guarantee that work will not be undertaken at 7 o'clock in the morning or later at night. That has been made perfectly clear by Transport Scotland, which has already opted out of any agreement to stay within a reasonable environmental timeframe in order not to disturb the community.

**The Convener:** I do not know whether Transport Scotland has said this to you, but it has said to the committee that the extended hours would be used to facilitate getting workmen to the site, particularly when they are working in the estuary. That will allow them to start work within what might be regarded as normal timescales. Has Transport Scotland communicated to you a similar sense of how it plans to operate?

**Desmond Coyne:** That was not my impression at all. Our communication or consultation with Transport Scotland was disappointing to say the least. I can understand that, in such a large engineering project, the intention might be to finish by 5 o'clock at night but something might go horribly wrong during the working day. I appreciate that the workmen might be forced to work until 7 or 8 o'clock simply because of logistics—otherwise, they might lose all the good work that they had done during the day and would have to start again. However, the impression that has been given to me and to many others is that Transport Scotland intends that working late at night will be a regular occurrence. That will disturb us continually.

**The Convener:** Is that your primary focus of concern relating to the Human Rights Act 1998?

**Desmond Coyne:** The peaceful enjoyment of my property and privacy is a major concern for me. I have a young family. They will lose the privilege of playing outside in the back garden. They will lose the peace and tranquillity that they currently enjoy. How will they be able to do simple things such as homework? They are both at primary school. Over the next seven years—by that time they will be in high school—and perhaps beyond, they will be disturbed every time that they sit down with a pencil in their hand. I do not find that acceptable.

I might add that Transport Scotland's proposed timescale for the bridge is quite astonishing by comparison with that of other, much larger, bridges that have been constructed elsewhere in the world. My impression is that we are supposed to be impressed that this will be the most expensive bridge in the world. Actually, I am shocked and horrified by that. Other bridges have been opened very recently—I am talking about as recently as October last year—at a fraction of the cost.

**The Convener:** We are pursuing those matters with Transport Scotland. It is obviously for Transport Scotland to communicate this, but the cost that we are talking about refers to the total contract price rather than just the cost of the bridge. The cost of the bridge is, I think, about £500 million or £600 million. The rest of the contract is for the major infrastructural changes to the roads on either side.

The preferred option of the residents is for a tunnel, which you believe would be a more practical solution. Your objection states that a tunnel would be more environmentally friendly and provide greater value for money. Why have the residents arrived at that view?

**Desmond Coyne:** I think that I can speak for the wider community here. Quite a lot of disturbance and inconvenience is caused not just to residents of South Queensferry but to people throughout the central belt of Scotland whenever the Forth road bridge is closed due to the least incident. High winds cause chaos. An accident causes chaos. I am not saying that a tunnel would negate accidents, but tunnels are not affected by high winds. I would not expect there to be the same degree of closures. Strategically, a tunnel is a much more sensible idea. It is much more environmentally friendly. You would not have to treat the road surface in the way that you would have to treat a bridge deck. I expect that it would probably be safer for people to construct a tunnel than to construct something hundreds of feet above sea level. I am gobsmacked that the tunnel option has not been pursued.

**The Convener:** But, in essence, if I understand you correctly, the issue is the reliability of the crossing, which, if otherwise affected, creates a lot of difficulty for local residents, because of the dispersal of traffic. Is that what you are suggesting?

**Desmond Coyne:** Yes, it causes a lot of heartache for local residents when South Queensferry has to consume the traffic that is trying to escape the tailback from the Forth road bridge. With regard to the tunnel—I am sorry, but I have lost my train of thought.

**The Convener:** You were talking about the safety aspect of the construction of the tunnel and so on.

**Desmond Coyne:** There was something else that I wanted to add.

**The Convener:** Think on it while we ask the next question; it might come to you.

The haul road is a factor in your objection. I was intrigued by the statement in your objection that you “understand from discussions” that the Hopetoun estate is amenable to accommodating the haul road within its grounds. We have not come across a note of those discussions. Can you enlighten us as to whom the discussions were with?

**Desmond Coyne:** We understand that discussions have taken place with the City of Edinburgh Council and the Hopetoun estate and that there is a desire to have an access road that can feed the Hopetoun estate for visits and events. We have been told that Hopetoun would be amenable to having the road go through the estate. It was an anecdotal comment more than anything else.

**The Convener:** I am slightly more familiar with the proposal that came from the Hopetoun estate on improving access to its own facility, but that is slightly different from what I thought you were talking about in your objection. That is helpful. Have you remembered the other point about the tunnel?

**Desmond Coyne:** No.

**The Convener:** There will be an opportunity to come back at the end when we do a round robin. If it comes to you, please feel free to raise it at that point. I will hand over to Joe FitzPatrick, who will ask questions of Dr Summers.

**Joe FitzPatrick (Dundee West) (SNP):** Good morning, Dr Summers. You state in your objection that the Forth Crossing Bill does not adhere to certain Scottish Government policies and current law. Have you expressed those views to Transport Scotland and, if so, what response did you receive?

**Dr Juliette Summers:** I have spoken to Transport Scotland at meetings that were by invitation only and which were hosted by the Queensferry and district community council about the severance issues and the lack of cycle and walking provision to allow people to maintain access to the countryside. I raised those issues at the exhibitions that Transport Scotland held in Queensferry in November. At both points, the indication was that the appropriate way of addressing that issue was through the objections process—that is what I was told—and that Transport Scotland could not enter into

discussions about it. Hence, I put it in my objection.

When I went to the exhibitions in Queensferry in November, after the bill was published, I asked a specific question about cycle provision, because the information in the bill documents is contradictory. The environmental statement says that there will be cycle paths on the north and south side of the new gyratory. The design manual for roads and bridges says something completely different. I had to wait 54 days for a written response to my question, which arrived on 20 January. I feel as though I have raised those issues with Transport Scotland, but I have almost been batted away.

**Joe FitzPatrick:** So you got a response, although it might have taken a while.

10:45

**Dr Summers:** It took a considerable while. I got a verbal response two days later when I went back to the exhibition, but I was not allowed to take away the written response from the Transport Scotland representative, Frazer Henderson. I was told that it would be e-mailed to me by 13 December, but it arrived on 20 January.

**Joe FitzPatrick:** What was the content of the response? Was it satisfactory? We are trying to find out whether people are more satisfied than they were, albeit that they are perhaps not satisfied with the process and the time that it took to get the answer.

**Dr Summers:** The answer provided some details on where the cycleways and footpaths will go and it confirmed which document was the correct one. However, given that there was a 60-day consultation period and it took Transport Scotland 54 days to respond, that did not give me much time to make any sort of informed analysis. Moreover, I was the only person who was given the information—it was not disseminated.

**Joe FitzPatrick:** That point is taken, but you have now had time to look at the response. Has it addressed your initial concerns?

**Dr Summers:** No. The response reinforced my concerns, particularly on the cycle and pedestrian crossings at one particular point. One aspect of my objection is that the proposals are unsafe and do not adhere to Transport Scotland’s best practice guidelines in “Cycling by Design” or to guidelines from the Royal Society for the Prevention of Accidents on how to construct cycle and pedestrian facilities. The proposal is for probably the narrowest shared facility that could possibly be constructed, but it is a new bit of road and it could be constructed with a facility that is a reasonable width and fully segregated.

I, and most people who cycle and walk locally, would like a separate bridge over the proposed motorway around South Queensferry to take pedestrians and cyclists away from traffic. The current proposal is for a series of signalised crossings, some of which are on demand and some of which are not. The response was not clear on that. At the exhibition, I asked three people—one from the BIG Partnership, one from Transport Scotland and one from Arup—and I got three different answers. I am not satisfied that what has been provided is safe or adequate.

**Joe FitzPatrick:** Have you written to Transport Scotland with your suggestions on how the proposals can be improved?

**Dr Summers:** I have not written directly to Transport Scotland, but I put my suggestions in my objection. My understanding from Transport Scotland is that that is the appropriate means by which to address the issue and that it will consider the objection and get back to me. I have not heard anything back yet.

**Joe FitzPatrick:** In essence, your suggestion is that a separate bridge is the way forward to deal with that particular part of your objection.

**Dr Summers:** Absolutely—yes.

**Hugh O'Donnell (Central Scotland) (LD):** Dr Summers, you have made your position clear in relation to the cycleway, but do you have any substantive evidence to support the assertion that you made about most walkers and cyclists? For instance, have you conducted a survey or gathered evidence?

**Dr Summers:** No, I have not conducted a survey. I would expect Transport Scotland to conduct an adequate survey. I know that it has done a small-scale count. I do not have sufficient time or resources, or the ability, to do a survey. I am involved in a local group and we held public meetings. The response from everybody at the public meetings was in support of the proposal in my objection. We have had public meetings with 250 or so people and collected their responses, but we have not done a formal robust survey, because we simply do not have any resources to do that.

**Hugh O'Donnell:** Are the views of the 200 or so people that you have enunciated contained or referred to in your full objection?

**Dr Summers:** No. The public meeting was held in December, so we did not have time to amass all the information to put into the objection. As you know, the objection period was very short and fell over the Christmas and new year period.

**Joe FitzPatrick:** Your submission refers to an increase in the traffic coming through the streets of

South Queensferry. How have you reached that conclusion?

**Dr Summers:** My objection sets out those figures. I could go and find them for you, if you like.

**Joe FitzPatrick:** My question is more about why you expect traffic to increase.

**Dr Summers:** The figures in the Transport Scotland documents relate to various routes through local South Queensferry. On the routes that I refer to in my objection, Transport Scotland states that, according to its traffic modelling, traffic could rise by as much as 25 per cent. Given that, I can only assume that traffic will rise by that amount on those roads.

**Joe FitzPatrick:** Transport Scotland's modelling suggests that traffic overall will increase by 40 per cent. If you are saying, then, that traffic in South Queensferry will increase by 25 per cent, which is less than that—

**Dr Summers:** Only on certain roads. Transport Scotland's modelling covers trunk roads as well as the impact of the new roads on local traffic and people altering their routes. In South Queensferry, people who live east of the current bridge tend, if they are driving into Edinburgh, to go through the centre of South Queensferry and along the old Edinburgh Road to meet the A90 halfway into the city instead of driving west initially and joining the A90 at Echline. If, as is proposed, the Echline roundabout is moved further west, more people will find themselves on the east side and will drive through the centre of South Queensferry to get into Edinburgh. More local drivers will choose to alter their routes, leading to extra traffic along High Street, which is already single track in places and can get highly congested, and Station Road, which has two primary schools and a secondary school. The impact will be quite significant.

**Joe FitzPatrick:** You say that the proposed approach to the crossing will sever South Queensferry from the countryside and other settlements and that such severance will not be "mitigated by ... signalised crossings". How will the approach be a barrier?

**Dr Summers:** There will have to be at least four signalised crossings over the motorway sliproads at the proposed new gyratory. I might be out cycling with my young family and have to try and control them on refuge islands in between those sliproads, which, for a start, does not seem particularly safe. Moreover, there will be the perceived unpleasantness and danger of trying to cross a road with two or three children with drivers approaching from different directions, slowing down and trying to look at their own traffic lights as well as take into account the signalised crossing that you are on. Of course, you will cross on



demand, so you will stop traffic that does not expect to be stopped and when it is trying to merge with other traffic to get on to the motorways. Once across the gyratory, which will be dirty, noisy and polluted, you will have to go on to the A904, which has no cycle paths, before you can get back on to the old route. According to Transport Scotland's modelling, the traffic on that part of the A904, particularly the heavy goods vehicle component, is predicted to increase vastly. The whole trip will be quite unpleasant and, once you get on to the A904, quite dangerous, particularly with children who are not necessarily secure.

The kind of shared foot and cycle path that Transport Scotland is proposing is not safe either. The verge between the cycle path and the road will be narrow, which means that a child who is wobbly on their bike will easily veer off or fall into the road, and there will be conflict with pedestrians because everyone is moving at different speeds. The proposal is simply not satisfactory in that respect.

Many children from Newton village attend Echline primary school. Their route will be severed by the motorway. Queensferry community high school's catchment area is significantly to the west and the south of the proposed road, so its students will be forced to get into cars to be driven to school, because cycling or walking to school will not be desirable or safe.

**Joe FitzPatrick:** As part of our site visit, we saw the Echline fields, whose use as a recreational ground you mention—we saw people walking dogs and so on there. However, you will know that planning permission has been granted for housing on that land, so the recreational use will be lost. Is that understood in the community? Does the community know that, whether or not the bridge and roads are built, that use of the land will be lost, because it is zoned for housing and planning permission to build houses has been granted?

**Dr Summers:** We are aware of that, but we are also aware from initial contact with the City of Edinburgh Council that an alteration can be made. Transport Scotland told us that it is up to us to communicate with the council to determine what happens in local plans.

**Joe FitzPatrick:** I understand that housing is not only in local plans but has been given planning permission. If the bridge and the new road are not constructed in that area, houses will be built there.

**Dr Summers:** We understand that that situation could be altered. Cala had the initial rights, which have lapsed. That provides the potential for negotiations. We would like the issue to be included as part of the bill, rather than leaving it to communities to negotiate with the City of

Edinburgh Council and to determine what green space is appropriate for South Queensferry.

It would be nice for there to be some consideration of the loss of amenity for South Queensferry. When we asked Transport Scotland to tell us what benefits Queensferry would have from the scheme in any shape or form, there was a wall of silence—it could not enumerate a single benefit for Queensferry.

**Joe FitzPatrick:** Did the community object when the application for planning permission was made?

**Dr Summers:** I do not know—I was not involved in that.

**Joe FitzPatrick:** That would have been the correct time to deal with the matter.

**Dr Summers:** I believe that planning permission was granted a considerable time ago.

**William Tunnell (Queensferry Business Association):** It is probably worth while adding Queensferry Business Association's view on the field. The field has two amenity values—it is a space in which to walk dogs or whatever and it provides a connection to the countryside. Queensferry benefits hugely from having good connections to the countryside from its periphery. If a huge road—in effect, a huge trench—is built across the field, that will be a barrier, which will mean that the amenity connection is lost. The issue is not just the field but everything that connects through to it.

**The Convener:** The point that Mr FitzPatrick tries to make is that that argument has been lost. The grant of full planning consent for housing on the land suggests that the debate is not about whether the land is available as an amenity but about what happens to the land under development.

**William Tunnell:** The question is about how cut off Queensferry is from the countryside that is around it. Even if housing is built on the land, that will be more permeable than a four-lane motorway. Someone who lives on the edge of Queensferry can walk out into a field at the moment. If they have to walk through a few more streets before going out into a field, that will be much more permeable and provide more connections than a four-lane motorway would.

**Joe FitzPatrick:** Dr Summers, do you accept that a policy that is designed to cover the whole country probably has to be flexible to accommodate other needs—policy is not law and is usually flexible—and that pressing economic and development needs might be involved in this case? Do you argue against that?

11:00

**Dr Summers:** You are painting a black-and-white picture. I agree that there has to be flexibility, but in whose terms is that flexibility determined and how far does it go? I would not describe completely ignoring a policy as flexible, but if you say, "We understand that the policy is less easy to implement in this area, so we will put measures in place to allow it to happen in other ways," that is flexibility. If you say that a policy cannot happen in a particular area or for a particular population and that you will not do anything realistic or credible about it, that is not flexibility. That is ignoring the policy.

**The Convener:** Thank you, Dr Summers. As I said to Mr Coyne, if you think of other things as we progress through the evidence this morning, you will have an opportunity to mention them at the end.

It might be useful if I say to all our witnesses that the witnesses from Transport Scotland on our third panel this morning will respond to the points that you have raised with the committee. You are most welcome to stay for the rest of the meeting if you would like to hear that.

David Stewart will continue our questions.

**David Stewart (Highlands and Islands) (Lab):** My questions are for Mr Tunnell. As I understand your objection, your members' main concern is about the quality and quantity of consultation that was carried out before the bill was introduced. As you know, we have had weekly meetings with Transport Scotland. It has told us that, in general terms, comments about the scheme were taken into account and design changes were made as a result of the consultation. Why do your members believe that they were not adequately consulted?

**William Tunnell:** In the early stages, designs were presented to our members and to Queensferry as a whole at an exhibition in January last year. The quality of the exhibition material was questionable in itself—it was certainly inaccurate—but we responded to the proposals in a fairly detailed response to Transport Scotland. Some of the issues that we raised were certainly absorbed by Transport Scotland, but some of them were completely ignored. We did not receive a direct written response. We saw certain evidence that Transport Scotland was heeding our objections or comments, or perhaps it was just a coincidence that some things changed. I am not convinced that there was a direct relationship between our comments and the changes.

For Transport Scotland's next consultation, there was a completely new scheme for Queensferry. A junction had moved and there was a different configuration of slip roads and so on. The scheme was presented to Queensferry and

district community council at a meeting last year, at which the Queensferry Business Association was present as a co-opted member. We were told that we were not allowed to take the information beyond the walls of the meeting and that we had only seven days to respond. The community council responded to that meeting in consultation with the Queensferry Business Association, but we were not allowed to go to our wider members. The first time there was a proper exhibition of the proposals with members of Transport Scotland present to take any feedback was after the bill was published. Our members never saw the scheme that is now proposed in a proper consultation environment that allowed Transport Scotland to undertake an iterative consultative process with our members.

As far as our members are concerned, the process started badly and ended abominably. Most of our members believe that we have ended up with a scheme that is not fit for purpose, whereas it should be an exemplary scheme. We support the principle of increasing crossings over the Forth. We believe that, if there is a bridge at Queensferry, it should be of massive benefit to our members, and it could be. Queensferry's *raison d'être* is to benefit from its nature as a crossing point and to tap into people who are passing through or passing over. As the proposal stands, however, many of our members believe that it will blight Queensferry by encircling us with roads and that it will strangle the town's connectivity to the outside world because there is no significant, decent public transport provision as part of the bill.

**David Stewart:** Is there one major objection to the bill that unites everyone in your association and fills you all with great concern?

**William Tunnell:** The objection is to the overall nature of the scheme, which is inadequate and poorly designed. It is hard to focus on a specific issue. There are main issues. For example, we have called for the reinstatement of an M9 link as part of the proposals. Similarly to Dr Summers, we have called for better landscaping, better connections between roads and better pathways. However, as far as we are aware, those calls have not been heeded. They have certainly not been manifested anywhere thus far.

**David Stewart:** In section 4 of your objection, you mention the Aarhus convention, which has the status of an international treaty for the purposes of domestic law. Will you expand on your objection and set out why you feel that your rights have been infringed?

**William Tunnell:** We have a right to meaningful consultation. The bill's environmental statement sets out how consultation will be undertaken, but it has not been undertaken in that way. There has not been an iterative consultation process. We

have a right to be consulted, but we have not been consulted adequately. I am not a lawyer but, according to my understanding of the clean and simple statements in the Aarhus convention, our rights have not been upheld.

**David Stewart:** We are meeting Transport Scotland later, so we may discuss the points that you have raised.

**Desmond Coyne:** During the supposed consultation process, we were advised to seek legal advice, if it was necessary to do so, from a specialist solicitor who deals with this type of law. Many of us approached specialist solicitors with some of the most respected companies in Edinburgh, and we received a similar response each time we spoke to someone, which was that they had already been engaged by Transport Scotland. They were not doing any work, but they had been put on reserve, so they could not act for us. It is not fair at all that Transport Scotland had engaged practically every specialist and we were left in isolation, without any proper legal representation.

**David Stewart:** I was not aware of that. Did you find any specialist lawyers whom you were able to consult, or was every one of them conflicted?

**Desmond Coyne:** They all appeared to have been engaged by Transport Scotland. They could not advise us because there would be a conflict of interest.

**Dr Summers:** I could add something on Aarhus, or would you rather that I waited until the end?

**David Stewart:** Go ahead.

**Dr Summers:** My understanding of the Aarhus convention is that consultation has to allow people to make informed environmental decisions. As Will Tunnell said, in the exhibitions and in the documents associated with the bill, there was inaccurate information. The maps that were used were 10 or more years out of date. They indicated that there was more green space in Queensferry than there is. There are housing developments now where the maps say there is green space. That is inaccurate and contradictory. I found it difficult to make informed decisions because I could not find the right information. I have no background in considering bills, and I would suggest that it must be the same for the committee, when it is trying to make decisions, if it is faced with inaccurate, incomplete and inconsistent information. Decision making, not only for me, as a member of the public, but for my MSPs and the committee that is scrutinising the bill will be problematic.

The Aarhus convention states that consultation should be "timely". That is the issue that Will Tunnell was talking about. Significant changes to

the scheme were made in March last year, and the people who were told about them were instructed not to share that information with anyone. The rest of the community did not know about those changes until the summer. I do not believe that that was timely, and I do not believe that what we had in the summer was consultation. By then, all we had were unmanned stands in South Queensferry library, which is open only part-time and is difficult to get to for people who are working. On a number of points, the Aarhus convention has been ignored and possibly even contravened.

On the presentation of information on the change in layout in the summer, I know that Transport Scotland held meetings with the local residents association—the Echline corner consultative alliance—at which ECCA was told that it was too late to make any changes, that its feedback would make no difference and that the only changes that could be made were on details such as landscaping. To me, that is not consultation. Transport Scotland had already made up its mind what the scheme was going to be, so it is misleading to call that consultation.

**David Stewart:** Thank you for that comment.

Mr Tunnell, my final question for you concerns tourism, which is clearly vital for South Queensferry. You say in your submission that you are worried about there being an adverse effect on tourism during the building of the bridge. Do you have any evidence for that comment?

**William Tunnell:** We do not. The business association has not had the resources or time to undertake detailed surveys of its members. Similarly to Dr Summers, we would expect Transport Scotland or the Parliament to appoint somebody independent to undertake such surveys.

That said, one need only spend a little bit of time in Queensferry to know what is likely to happen through the construction phase. The infrastructure around the town is so overheated and overstretched that the slightest change to what is happening causes congestion. If we cannot manage to get our customers and staff to and from the town and if it is not an attractive place to be because it is blighted by construction noise and dust, that will threaten the livelihoods of some of our businesses. It is a difficult problem to get over and practicalities are involved. We recognise that we live in a busy place and that a lot is happening there, but our concerns are principally about the long-term impact on businesses of being strangled by having a motorway all round Queensferry. That is a serious concern, as I mentioned.

**David Stewart:** Are some of your members directly involved in providing tourism services?

Presumably there will be a knock-on effect from the extra people in the village buying services.

**William Tunnell:** We have a good cross-section of member businesses. We have not only hotels and restaurants but businesses that are not involved in tourism, such as retailers and service industry businesses. No type of business feels that it will be unaffected by the nature of the proposed works.

**David Stewart:** Would it be fair to say that the comments in your submission were based on informal or formal discussions with your members, using their combined experience to take a leap into the future and work out how you think the market will go over the next six or seven years?

**William Tunnell:** We get a lot of anecdotal evidence. We have a lot of meetings and have been trying to spread information about what Transport Scotland proposes round our members because we know that they are concerned about it. They have asked us to engage with the process.

Our resources as a group of businesses are limited but, most of all, they are limited by time. There seems to be a tearing hurry to get on with the process. It could be done really well if the time is taken over it, but there was one round of discussion and then Transport Scotland felt that it had to get on with it because it was under pressure to do so. That is why we are where we are.

**The Convener:** Hugh O'Donnell will put questions to Mr Sinclair.

**Hugh O'Donnell:** Good morning, Mr Sinclair. I note from your submitted objection list that you work in a wooden cabin.

**Sean Sinclair:** I do indeed.

**Hugh O'Donnell:** Will you give me some indication of the nature of the work that you do there?

**Sean Sinclair:** It is a marketing consultancy, so I help business services providers, such as management consultants and public relations consultants, to win new clients. I work in a networked way with other people who also work from home.

**Hugh O'Donnell:** You work on the internet or via conference calls and do not have numbers of people coming to your place of business. Is that correct?

11:15

**Sean Sinclair:** All my liaison with staff and clients is done through virtual meetings, phone calls and broadband—it is all electronic.

**Hugh O'Donnell:** Objection 1 on page 1 of your submission refers to distraction levels. Can you expand on your concerns in relation to the nature of your business? How would a change in the number of vehicles passing impact on your ability to conduct your business?

**Sean Sinclair:** Most of the day, I do not find cars coming past distracting. There comes a point—I do not know whether it is just me or whether it is the same for people generally—when the frequency of cars coming past becomes distracting. That point comes at rush hour, when cars pass once every five or 10 seconds or whatever it is. At that point, it starts to divert my attention. I do not know why it is, but when cars come past only once every minute or every couple of minutes, they stay in the background of my consciousness, but when they are very frequent it starts to divert my attention. Currently, that kind of frequency is generally leading up to 8 o'clock or 8.30 in the morning—between 7 and 8, say—and again in the early evening. I go into the house at those times and have my breakfast and my tea, which means that I can avoid those times. The worry is that, if traffic levels are much higher—in other words, if the total volume of traffic per day is much greater—there will be other periods during the day when the frequency of cars coming past increases to that distracting level.

**Hugh O'Donnell:** Has Transport Scotland, to the best of your knowledge, done any modelling of changes in traffic movement patterns as a result of its proposal?

**Sean Sinclair:** It might well have done; I would have thought that it would have had to. I went to a presentation at the Orocco Pier on the proposal and asked publicly what the traffic volumes would be down the Bo'ness road. At the end of the meeting, I went to one of the engineers who was sitting there as a back-up, gave him my name and details and asked him to e-mail me. I therefore had a commitment from one of the presenters at the meeting and from one of the more junior engineers to send me that information, but I did not hear anything.

**Hugh O'Donnell:** We will come on to some of the other points that you have made in your objection shortly.

On the same page of your objection, you have helpfully outlined some possible remedies. You suggest that there should be additional sections in the bill requiring compensation for loss of income. Have you had any discussions on that matter with Transport Scotland?

**Sean Sinclair:** No.

**Hugh O'Donnell:** Have you approached it on that?

**Sean Sinclair:** No, I have not. I assumed that, if there was to be provision, it would be the job of the committee and Parliament to incorporate it, but perhaps that was wrong.

**Hugh O'Donnell:** Your objection to the whole bill relates to the consultation process. You outline a number of remedies. I notice that your analogy refers to the Parliament carrying out this road construction. For clarity, I should point out that it is not the Parliament that is carrying out that construction; it is a proposal by ministers that is being taken forward by Transport Scotland. I know that that seems a bit pedantic, but it is worth pointing out.

**Sean Sinclair:** It is just an analogy. I wanted to paint a clear picture of how I thought the consultation fell short of being adequate.

**Hugh O'Donnell:** Would you like to outline your view now for the record, perhaps not using the same analogy?

**Sean Sinclair:** Okay. We have gone over this ground already, but I will set it out again. A proposal was presented and a consultation round took place. The problem is that the proposal was modified in significant ways but no further consultation round took place. For example, I went to a presentation at the Orocco Pier, at which stage we were told specifically that it was a presentation and not an invitation to give feedback. We were told that the engineers had not had time to run a second consultation round and they were calling a halt to the process. After the proposal was amended, I understand that the only local people who were invited to give feedback were those in the community council, who were given seven days to respond. I have two worries about that. First, seven days is not enough time in which to digest such a complex proposal, particularly as we are not professionals—we have neither the expertise nor the time to digest a proposal in that timescale—and, secondly, people on the community council are not the right people to understand the impact of the main change.

For me, the main change in the revised proposal is the movement of the gyratory westwards. The change in the location of the gyratory means that a new group of people is affected. Those people have not been given an opportunity to give their feedback. I understand that there is no one on the community council who lives right on Echline corner. Even if there were, a proper consultation round would give everyone who lives in the new location a chance to give their views not only on whether the gyratory should be located there but on how to mitigate the effects.

I suppose that you could say that the objection process is in itself an opportunity for people in the newly affected area to give their views, but making

an objection is quite a formidable task to take on; it is quite a technical thing. You do get guidance on the rules that need to be followed, but you have to pay 20 quid, which some people might not want to do. The objection process does not give sufficient opportunity for the people who are affected by the new location of the gyratory to give their views on that new location. I am talking about people who live in the Echline corner area and those who live in Springfield and Newton, all of whom will be affected significantly and differently by the new location. The old location was bad enough, but that does not mean that the new location does not have problems of its own. This is a big project, which will have a massive impact on Queensferry. The people who will be affected by the new location have not been given an adequate opportunity through consultation to give their views on how to mitigate the proposal or even whether the location is the right one.

**Hugh O'Donnell:** Thank you. We now have that on the record.

**The Convener:** I will go round all the witnesses to see whether they have anything further to say.

**Desmond Coyne:** Thankfully, the matter that slipped my mind earlier has come back to me. I mentioned it in my objection. In this day and age, the suggestion that the new bridge should have motorway designation is incredible. I cannot see how it fits in with any environmental policy, particularly given that, when the new bridge opens, the present Forth bridge will not be used by the public but will be limited to public transport. Anyone who wants to drive from the Lothians to Fife will have to take a 40 or so mile detour through Kincardine. Also, learner drivers will not experience driving across the bridge if it is restricted to motorway traffic. Other traffic is also restricted from using the motorway—

**The Convener:** Am I not right in thinking that the approach to one side of the current bridge is a motorway? People have to drive on that motorway to get to the bridge.

**Desmond Coyne:** Not the immediate approach to the bridge.

**The Convener:** On the Fife side—

**Desmond Coyne:** No. It becomes a motorway very quickly after the bridge, but—

**Hugh O'Donnell:** There is no access.

**The Convener:** There is no access.

**Desmond Coyne:** Yes, there is.

**The Convener:** There is. All right.

**Desmond Coyne:** After going across the bridge into Fife, someone who does not have a full

driving licence has about half a mile before they have to turn off.

**The Convener:** And someone can come on to the bridge that way.

**Desmond Coyne:** Yes. They would use the North Queensferry turn-off. They can do that.

**The Convener:** The clerks tell me that they can.

**Desmond Coyne:** They definitely can.

**The Convener:** Right.

**Desmond Coyne:** From an environmental perspective, it is lunacy to disperse car traffic across the Forth estuary away up to Kincardine. Car traffic should be able to cross the new bridge.

**The Convener:** I noted that point, which was quite a significant chunk of your submission.

**Desmond Coyne:** It will cut families off. Some older people do not like to drive on motorways; I know that from personal experience, although I am not suggesting for a minute that I am among that older group. Families are separated by the Forth and some older people will not be able to drive to visit their families. I know of examples although I will not go into it because they are personal cases, but I know that it is a fact.

**The Convener:** I have got the picture.

**Dr Summers:** I have a couple of points on the lack of adequate consultation. The consultation that has been undertaken has largely been non-inclusive. Transport Scotland has approached a narrow range of people. It is still happening. The Transport, Infrastructure and Climate Change Committee urged Transport Scotland to hold meetings with local community groups on the traffic modelling, and that was restricted to community councils. Other groups were explicitly excluded. Many of the so-called consultation engagement meetings were by invitation only. The consultation has not been as inclusive as the report says it has.

The consultation has also not been timely. I know that Mr Sinclair talked about the people in the west of Queensferry, but people in Scotstoun Park in the east of Queensferry received compulsory purchase order notifications on 15 November, the day before the bill was published. To my mind, that is anything but timely, and it certainly did not give people the time to get and digest any information.

The essence of the problem is that the consultation was designed to serve the reporting requirements of Transport Scotland. It was a tick-box exercise and it was not designed to engage genuinely with the community or enhance the community's skills to allow it to participate in such a process.

**William Tunnell:** I agree with everything that Dr Summers said about the consultation process.

As it has been passed over previously in this meeting, it is worth noting that the QBA supported the tunnel option over the bridge option. Our view was that it would spread the infrastructure more widely across Scotland, and we would not have to rely on the same approach roads on either side to supply the new crossing.

We also share and have noted to Transport Scotland the concerns about the woefully inadequate cycling and pedestrian crossings. At a time when our members are trying to make their businesses sustainable and get people to and from work using sustainable methods, whether it be public transport, walking, cycling or whatever, that is another obstacle to get over.

We also feel that so much of the public transport aspect of crossing the Forth in the future is on a wing and a prayer for the survival of the existing bridge, which was not deemed to be adequate for sustaining private transport. Why should it be relied on and considered to be good enough for public transport and not private transport? That is not to say that we support any dual running proposals. We do not because it would further blight Queensferry.

**The Convener:** Thank you. Mr Sinclair, we have just heard from you, but would you like to add anything?

**Sean Sinclair:** I have one thing to add. The project is huge and it deserves a thorough consultation process. We have had only one round of public consultation and, given the major changes in the proposal, that is not enough. The proposal should be consulted on in its revised form.

A development on a site called Ferrymuir is being pushed through by Evans of Leeds Ltd, whose consultation process has been vastly superior to the one that has been run for the proposed bridge, and that is just for a retail site. The bridge and its slip roads are going to have much more impact on Queensferry, so how can it be proportionate for the consultation process for the bridge to have been so rushed and peremptory? Transport Scotland needs to go down to Leeds and talk to Evans of Leeds to learn how to consult.

**The Convener:** On that note, Dr Summers, gentlemen, I thank you all very much.

11:30

*Meeting suspended.*

11:31

*On resuming—*

**The Convener:** I am pleased to welcome our next witness, Martin Cullen, who is a senior lecturer from the school of the built and natural environment at Glasgow Caledonian University, a member of the Institution of Civil Engineers and a honorary fellow of the Chartered Institution of Civil Engineering Surveyors. You are here this morning to lend your expertise to the committee's deliberations as a result of a number of things that we have discussed as we have gone along. What you will be able to tell us will be very helpful. I would be grateful if you would set out briefly your background and the professional qualifications and memberships that you hold.

**Martin Cullen (Glasgow Caledonian University):** Thank you. I am a senior lecturer at Glasgow Caledonian University. I have been a lecturer for more than 18 years. Prior to that, I was in the civil engineering industry for 13 years, so I have first-hand experience of both sides—the theoretical and the practical.

My qualifications are a BSc and an MBA. I am also a chartered civil engineer, a member of the Institution of Civil Engineers and an honorary fellow of the Chartered Institution of Civil Engineering Surveyors.

**The Convener:** I understand that you have been involved in some way with work on both the existing crossings.

**Martin Cullen:** Yes. The company I worked for was Sir William Arrol & Co. Sir William gained his knighthood for the three bridges that were completed about the same time: the Forth, the Tay—the one that is still standing—and Tower bridge. I have to add that I was not in the company at that time, but we did some remedial work on the rail bridge and the existing road bridge.

**The Convener:** On that basis, I imagine that you are fairly familiar with the topography of the estuary and everything.

**Martin Cullen:** Yes.

**The Convener:** We have discussed in earlier sessions with Transport Scotland—and in other evidence sessions today and previously—the potential alternative crossings and the choice between a bridge and a tunnel. What different challenges would have to be considered in determining whether the appropriate way forward was a bridge or a tunnel?

**Martin Cullen:** In the main, the consideration is the land and the topography, including the shape of the land, the height of the hills on either side and how safe the land is, such as whether there is any possibility of earthquakes—we have

earthquakes in Scotland, mild though they are. You also have to consider what is below the surface—what the geology is like, how easy it is to access, how easy it is to mine and how predictable it is. Geologically, the area is extremely unpredictable.

**The Convener:** Do you mean from the point of view of building a tunnel?

**Martin Cullen:** I mean from the point of view of knowing what is there. You have to choose the line of the tunnel and whether it is a bore tunnel or a submerged tube tunnel. With a submerged tube tunnel, the construction takes place elsewhere. Then it is floated into position and sunk down. An example of that is what is happening in the Tyne at the moment. There are geological considerations in that approach, because the tunnel does not sit on the river bed; there has to be an excavation. We have to decide how easy it is to excavate, what level we excavate to and what line the tunnel will take. Numerous points have to be considered, mainly on the geology.

**The Convener:** Thank you—that is helpful.

In our conversations and in the representations that have been made to us, comparisons have been made with the design of bridges or tunnels elsewhere. I wonder whether an assumption has been made—with a bit too much ease—that those could just be lifted and moved into the geography of the Forth estuary. Is it reasonable for people to make comparisons based on lifting, for want of a better word, a bridge or tunnel that serves an entirely different project and moving it into this location? Can that be considered, or is it completely the wrong way to look at a project? Are there circumstances in which you could look at a project on that basis, even in part?

**Martin Cullen:** In short, it is not possible to lift one bridge or tunnel design and put it into another location, because the geology of every site is different. Even the bridge at Kincardine that was built recently is entirely different from the Forth bridge because it suits that site. The geology there is entirely different.

**The Convener:** In what way?

**Martin Cullen:** I will try not to use too many technical terms to explain this. The area at Kincardine is more an alluvial plain, which has been deposited by the action of the Forth over millions of years. It is relatively soft and not particularly good for load bearing, so the load has to be dispersed over a much larger area. In the area of the Forth bridge there is a mix of igneous or volcanic rock and sedimentary rock. It is mainly rock. There is strong rock on either side and strong rock under the river, which can take substantial supports. That does not apply further up the river, and you cannot assume that what

happens on one side of the river is the same as what happens on the other side.

I was involved in working on a small bridge across a railway, which was not particularly large span. One side was founded on igneous rock—strong granite—so it was just a case of excavating the rock, levelling it and building the foundation. The other side—just the other side of the railway—was on the other side of the geological line and it had 250 mini piles of about 200mm in diameter to support the foundations.

It is not possible to take a bridge from one site and move it to an entirely different one. The same applies to a tunnel. There are examples of where tunnel boring machines can be used to bore through and the rock is self-supporting—it will stand there by itself. However, the Channel tunnel, for example, goes through a variety of different rocks, but it has to have a supportive structure. In such examples, as the engineers go along, they cut and provide a supporting structure. Progress is limited by how far they can go. They watch what is happening to the rock, how much water is coming in and so on. Geology is complex. No matter how much excavating you do and how many samples you take, it is very difficult to predict precisely what you will find.

**The Convener:** The project that we are considering is essentially three projects—the north and south connections and the bridge element itself. What do you think has to come first in the planning of those projects—the ability to connect at either side, or the location of the crossing itself?

**Martin Cullen:** That is an interesting question. Any engineering project of this size involves compromise. There is never an exact answer. There are always losses, which have to be balanced against the gains.

For a bridge of this size, the thing that has to be considered is the main purpose. One of the reports clearly states that the main purpose is to link Fife to the south side of the River Forth. The route therefore has to be chosen first. What will feed the bridge? Where are the main highways? The main highways are already established for the existing bridge, so it would be very difficult to build it in any other way. The different options are listed in the report as A, B, C, D and so on. Option A would take us almost to Kincardine—but why build another bridge that far up? Also, the infrastructure on either side does not exist there, so the project would be enormous, whereas, close to the existing bridge, are infrastructure and feeds going north to the M9 and, through the M8, to the M74. The main thing to consider is the route and then how to connect that route.

**The Convener:** That, too, was fascinating.

**David Stewart:** As you will know, Mr Cullen, we have taken evidence for a number of weeks. One issue has been the overall cost of the project, which is the biggest public sector contract since devolution. There have been worries about cost overruns and who will bear the effect of inflation. Those may be questions for others to answer, but I am interested in getting your engineering expertise on some of them—the convener has touched on a couple already.

In costing such a project, much has been made of the international comparisons—we heard about them earlier. As I understand it, the estimate for the proposed bridge has been described as a “resource-based estimate” and also as “standard industry practice”. In your view, is it standard industry practice to cost in such a way—to look at the elements involved, seek out quotes from contractors and subcontractors, and build up a cost from the labour, plant and materials elements? To me, that seems like the old, traditional, cost-plus method. Do you have any views on how the cost was reached?

**Martin Cullen:** A contract can be created in a variety of ways. It can be cost plus, which means that, whatever the contractor spends, it then gets a profit. That is a highly unlikely choice. The other extreme is a fixed price, in which the contractor receives a lump sum irrespective of what happens. That also brings problems.

On the cost forecasting, I do not know the detail of what has been carried out by the engineers. However, what I read in the documentation suggests that they followed what I would describe as normal practice, which is to look at all the individual elements. Just as each bridge is different, the foundations, the structure and the road construction on the north and south sides will all be different, and the engineers have to quantify what is necessary. How much has to be excavated? How much has to be imported? Where will it come from? What materials will they use—for example, will it be steel or concrete? Will the material be precast or cast in situ? All those factors will have an influence on how much the project will cost.

Splitting the bridge into individual elements is like trying to price out how much it costs to build a car—you have to work out the cost of the tyres, the wheels and the nuts and bolts. The cost of every single thing has to be built up and an assessment made of where the risks are. Where do we think the most unlikely costs will be? The most unlikely costs are likely to be the foundations. The process of constructing the superstructure is generally well established—establish, calculate, design and sign contract—but there is always an element of risk in the



foundations. What will we find once we start digging the hole?

**David Stewart:** There is a wider question on which we would welcome your comments. Historically, there have been lots of worries about transport projects. Generally, they have overrun, and as I said there are also worries about who bears the costs of inflation—in this case it will be the taxpayer, while other models, such as the public-private partnership model, take a different view. One issue that we raised with Transport Scotland is that the inflation rate for materials is much higher than the retail prices index inflation rate. That is a worry, as historically that has been a big factor.

The other issue is when the client changes the design spec after the project has started. The Parliament building is perhaps one example of that, and we have seen examples in the trams project of cost overruns. Do you have any observations that we can take away both for the Forth crossing project and in general on why there are so many difficulties in keeping down the cost of transport projects?

**Martin Cullen:** The client must have faith. I will not be too picky about the structure that we are sitting in, but too many people changed their opinions on it. That was what the report on it found. Too many people put in opinions and there were too many changes. When a contract is signed between the contractor and the engineer, the contract is established, and it is highly unlikely that there will be much variation outwith its terms and conditions. When a change comes in, that changes the game; it adds confusion to the contract.

The Faslane-Coulport construction on the Clyde is often used as an example of how not to do things. There was a policy of change. The person in charge changed every six months, and each person made a change. There were enormous cost overruns in that project, and a record number of companies went into liquidation because of it. Cash flow became a problem because the project was in dispute.

As I say, an element of faith is needed. If the politicians can keep their fingers off the project, let it happen and trust the engineers to make the right decisions, it is unlikely that the costs will overrun. I do not intend to cause any offence, and am sorry if I have done so.

11:45

**David Stewart:** Thank you. It is useful to get comparisons with other projects.

The committee has seen information that it is unlikely that there are projects similar enough to

the Forth crossing project to provide a robust evidence base for quantities-based costings—that is, to provide cost estimates that are based on per metre or per kilometre costs. Is that a reasonable assertion from a technical point of view?

**Martin Cullen:** Yes. It is normal for numerous factors to influence the cost of concrete, for instance. It is not simply a case of buying cement and aggregate, adding water and mixing it all up. How do those things get there? How does the concrete form its shape? How will that be done? How will the workers get access? That will involve scaffolding and crane reach. Many things have to be considered. There are numerous databases in the construction industry for getting a standard rate for the cost of concrete that take all those factors into account, and they will give an average cost of so many pounds per cubic metre for that type of construction in a particular environment. Once there is a design and the number of cubic metres of the item that is needed is calculated, a reasonable indication of the most probable cost can be found, although it will not be precise.

**David Stewart:** You touched on my final question earlier. I am sure that you have had an opportunity to study the information that has been given to the committee on the engineering challenges of the proposed new crossing. Bearing in mind that the committee is not comprised of civil engineers, do you have any observations to make on the information in those documents? If test boring indicates that things will be much more complicated than was thought, for example, that will affect the cost of the project and the time that it takes to complete it.

**Martin Cullen:** I did not have a lot of time to consider that information, as I got it on Monday.

The foundations probably present the main risks. Statistically, foundations are the most likely area in which there will be claims, as it is difficult to foretell what will happen. The more early expenditure there is on making a detailed investigation of the precise area where the foundations will go, the more costs will be saved in the long term.

On the design of the superstructure, a cable-stayed bridge is proposed. Such bridges have several advantages. It is very difficult to change the cables on the current suspension bridge. The design work was carried out in the late 1950s, when it seemed like a good idea—it was thought that it would be protected against corrosion, but, unfortunately, that did not work. I think that a cable-stayed bridge is the best option because the cables can be taken out and changed. The Arc bridge in Glasgow is a good example in that context. There was a failure on that bridge that was caused by bad manufacturing. A cable came down, but the bridge did not come down because

it was possible to change each cable, one after another.

Cable-stayed bridges are a relatively new approach to a reasonably old idea. Basically, they started in France with the Pont de Normandie, which was extended beyond what was thought to be the normal size. Lo and behold—it worked. There are other good examples, such as the Millau bridge in France—the bridge above the clouds—which is a fantastic structure. There is much in favour of cable-stayed bridges from an engineering point of view, and maintenance has proved to be much easier than with suspension bridges.

**David Stewart:** So you must future proof—to use the horrible jargon—any design by bearing in mind how easy it will be to maintain the bridge in the longer term.

**Martin Cullen:** Indeed. Once upon a time, people would just design a bridge and think that it was not their problem after it had been built, but health and safety legislation, such as the regulations on construction design and management, means that that is no longer the case. The designer has a legal responsibility to consider how a bridge will be maintained and how it can be demolished safely, which has caused many people to think more into the future. I am not saying that they did not think into the future previously, but they are certainly much more aware of and driven by the threat of legal action.

**David Stewart:** My final point—I know that we are running out of time—is again on future proofing and relates to the important issue of wind proofing. Do you have any observations on that?

**Martin Cullen:** Particularly on the Forth, wind speed is a disturbance factor. The closer a bridge is to the sea and the less interruption there is between a bridge and the sea, the more likely it is that the bridge will experience high winds. Another factor is the topography of the Forth, which is a rather wide estuary with hills on either side that act as a funnel. Anyone who has tried to cross the existing bridge in high winds will know about that funnelling effect, so I would say that wind proofing is essential.

It is not a difficult problem. The science of how bridges are affected by wind is pretty well known. The effect can be mathematically modelled, calculated, allowed for and taken account of, but only at the design stage, not retrospectively. It would not be a good idea to add wind proofing to the existing bridge.

**David Stewart:** So building in wind proofing right from the start is the key to the bridge's effectiveness.

**Martin Cullen:** If it is to be incorporated in the design, that should be done right at the beginning.

**David Stewart:** That was useful. I will pass you back to the convener.

**The Convener:** Both my other colleagues have some questions.

**Joe FitzPatrick:** David Stewart touched on the uncertainty surrounding inflation and suggested that PPP might provide more certainty but, of course, with a PPP contract the unit charge would be index linked, so the uncertainty would be tied in for a much longer period—up to 30 years. Is there any way of providing certainty on inflation costs, particularly with a contract that will last for five or six years?

**Martin Cullen:** That is an interesting question. There is a gentleman at Westminster who would like to know the answer to it.

There is no certainty on inflation costs. In the terms and conditions of a civil engineering contract, if stainless steel, for example, is an item, that will not be costed at the time of the bid. There will be a standard number, but as the cost of stainless steel fluctuates on a daily basis, it would be unfair to ask the party who is paying or the party who is charging to specify an amount. The contract is drawn up on the basis that the relevant cost, whatever it turns out to be, will be paid. It is almost impossible to judge the cost of certain items.

**Joe FitzPatrick:** The cost of those items could go down as well as up.

**Martin Cullen:** Yes. For example, the cost of reinforced concrete will be dependent on the cost of cement. We can produce cement here, but we can also import it from across the globe reasonably easily. Aggregate is reasonably cheap because we have a huge quantity of it in Scotland. The potential for the cost of aggregate to fluctuate depends on the labour charges and fuel costs, but unless there is a huge rise in the price of oil, the cost of aggregate will not change very much. The cost of certain items will fluctuate a little but not a great deal, but the cost of others, such as stainless steel and aluminium, is way out of anyone's control.

**Joe FitzPatrick:** Thanks very much. That was helpful.

**Hugh O'Donnell:** I have two quick points. You mentioned the Arc bridge in Glasgow and said that it was easy to maintain. Am I right in thinking that it was closed to effect a repair?

**Martin Cullen:** Yes.

**Hugh O'Donnell:** Would you anticipate a similar situation arising with the new Forth crossing?

**Martin Cullen:** No.

**Hugh O'Donnell:** No?

**Martin Cullen:** I will explain why I was so direct in saying no. The failure of the Arc bridge was not the result of a design problem. There was a material problem. The end of each cable has a cast steel pin in it. One of those fractured and came down. It was fortunate that it did not hit anyone, but it made a significant mess of the crash barrier and the railing. When the engineers inspected the bridge they found that another hanger had a crack, so they were concerned that the problem could happen on any one of the hangers. They closed the bridge because they did not know what the probability was of that happening. The bridge could and would function while a cable was being replaced—that is not a problem.

**Hugh O'Donnell:** Thank you, you have made that clear. My second question is much more general. You have been involved in a number of big projects, so you will also have been involved in the consultations around those projects. Have you experienced a case in which major changes were made after the initial consultation, so a second consultation had to take place?

**Martin Cullen:** I am sorry, I cannot answer your question—I would only be guessing. My side of the business was the construction side, rather than the planning and design side.

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

11:56

*Meeting suspended.*

11:57

*On resuming—*

**The Convener:** We move on to our third and final panel this morning. I welcome our regular visitors from Transport Scotland: John Howison; Mike Glover; and Frazer Henderson. I also welcome Anne-Marie Martin, project policy and communications manager at Transport Scotland; and Caroline Lyon, a divisional solicitor in the Scottish Government legal directorate.

We will go straight to questions and pick up on issues that have been raised in today's evidence. We will perhaps also pick up on points that were made at earlier meetings, on which you might have had time to reflect further. You will have heard that we took evidence this morning on people's rights under various pieces of legislation. The issue has been raised in evidence and in several objections. Will you set the context for the introduction of the bill and its compliance with the various domestic and European Union human rights laws? Will you also explain the concepts of

qualified and absolute human rights in connection with the bill?

**Caroline Lyon (Scottish Government Legal Directorate):** I assume that those are questions for me. I noted three strands to what you asked—if I have got that wrong, no doubt we can come back to the issue. You asked, first, about the legal context for the introduction of the bill; secondly, how the bill complies with the law in domestic, EU and European convention on human rights terms; and thirdly, about the difference between qualified and absolute rights under ECHR.

First, on the legal context, before a bill is introduced it undergoes significant scrutiny, including consideration of its competence under section 29 of the Scotland Act 1998, which ensures that the provisions comply with EU law and ECHR. A statement from the Presiding Officer that confirms that the bill is competent is also obtained pre-introduction. Given that background, we are satisfied that the Forth Crossing Bill is fully compliant with EU law and ECHR.

The second strand of the question was about how the project complies with domestic law, EU law and the European convention on human rights. It might be appropriate to start with the United Kingdom's obligations under international law. I have read the objections from the people who gave evidence earlier in which they raise issues about compliance with the Aarhus convention. I will start by explaining the Aarhus convention and how it has been incorporated into domestic law. It is important to state at the outset that Aarhus is an international convention and therefore has no direct effect in domestic law. However, the UK is a signatory to the convention and takes its obligations under it extremely seriously.

12:00

The convention is a means of securing citizens' rights through access to information, public participation in decision making and access to justice in environmental matters. The convention does not in itself provide any rights or obligations, but it has been approved by the European Community, and directives on some of the key themes of the convention have been adopted in two areas. Those directives have been implemented in domestic law.

The two points of the convention that apply as a matter of domestic law are that on public access to environmental information, which was transposed into domestic law by the Environmental Information (Scotland) Regulations 2004, and that on public participation in respect of plans or programmes relating to the environment. For the purposes of the Forth crossing project, that aspect

has been transposed into domestic law by the requirements of the Environmental Assessment (Scotland) Act 2005 and the Environmental Impact Assessment (Scotland) Amendment Regulations 2006.

In our opinion, the domestic requirements of those pieces of legislation have been fully complied with in respect of this project. I have read the comments in the objections about the issues that the witnesses spoke about earlier, but I was not able to find any suggestion of a failure to comply with any aspect of domestic law. The concerns relate to the generality of the international convention and not to how it has been transposed into domestic law. Therefore, there is perhaps a bit of a misunderstanding on the part of the objectors about the application of the convention.

If the committee would find it helpful, I could explain why the references that the objectors have made have no particular application to the project in any event. That would be by direct reference to the articles that are referred to in the objections.

**The Convener:** Perhaps you could do so illustratively, rather than comprehensively.

**Caroline Lyon:** Fine.

The first article that is referred to by several objectors is article 5.8 of the convention, which is about access to information. As I explained, the point about access to information has been picked up and transposed into domestic law by virtue of the Environmental Information (Scotland) Regulations 2004. Therefore, there is a domestic context in which people can seek access to environmental information that they believe affects them. The objectors who appeared this morning are more than entitled to seek any information in the context of domestic law.

Article 5.8 is not particularly relevant in the context of the project, because it is about product information. The implementation guide to the convention indicates that the article is about consumer information, such as product labelling, health warning labels, content labels and product categorisation in relation to issues such as organic content. It is not about route choices or project or programme plans. Therefore, it simply does not apply to the project. It is important to set that out at this stage.

There is also reference to article 6.4, which is part of the second pillar of the convention and therefore is about public participation. As I mentioned, that has also been transposed into domestic law via various European Community directives and, for the purposes of the project, the Environmental Assessment (Scotland) Act 2005 and the Environmental Impact Assessment (Scotland) Amendment Regulations 2006. Article

6.4 is about early participation. My colleagues can speak further about the nature of the consultation that has taken place. The only further point that I will make in relation to article 6.4 is that the process is on-going. The bill is subject to significant parliamentary scrutiny and ultimately to parliamentary approval, so the project is still being scrutinised and various evidence-gathering sessions are still taking place. The ability for participation is still current and has not ended.

There are also objections in respect of articles 6.2 and 6.3. That falls in with what I said about article 6.4, in that the issue is early and on-going participation. We believe that there has been full public consultation and that participation is continuing.

That is all that I want to say in relation to the Aarhus convention and how it is transposed into domestic law. We believe that domestic law has been fully complied with during the project.

The final part of your question was about human rights. In particular, you asked about the difference between qualified and absolute human rights. In the context of the project, the rights that have been engaged and referred to are what are known as qualified rights. The rights of the individual are engaged but they have to be balanced against the wider public interest. The article of the ECHR that is engaged is article 1 of protocol 1, which states:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.”

That is a qualified right. It is a right to peaceful enjoyment of a person's possessions, but there can be interference provided that it is in accordance with the law, that there is a public or general interest and that there is a reasonable relationship of proportionality between the means that are employed and the aims that are pursued. That is known as the fair balance test. It balances the rights of the individual against the much broader general interest. In exercising that right, the balance that must be struck is between the demands of the general interests of the community and the requirement to protect individuals of that community. The point is well established in both the domestic law cases that have interpreted the right and in general Strasbourg jurisprudence on the interpretation of article 1 of protocol 1.

The other right that was mentioned this morning is article 8, which is the right to respect for private and family life. Again, that is a qualified right. It states:

“Everyone has the right to respect for his private and family life, his home and his correspondence.”

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

A wide margin of appreciation is afforded to the state in respect of proportionality under article 8 and what level of interference with home and family life is justified in the public interest. Again, the point is well established in domestic case law on the application of the article and in Strasbourg jurisprudence.

I conclude by quoting the 2008 decision in the case of *Tesco Stores Ltd v Secretary of State for the Environment, Transport and the Regions*, which was a case about land acquisition. It states:

"there is no requirement upon a decision maker such as the Secretary of State to consider each case individually once the view has properly been taken on the basis of a compelling case in the public interest that all the land had to be acquired in order to enable a scheme to be put into effect."

Therefore, it is clear that what must be considered is how the general public interest is balanced against the particular rights of individuals, but not the individual circumstances of the people concerned.

**The Convener:** Thank you for that very comprehensive response. The committee will want to spend a little time with the *Official Report* once it is published to digest and reflect on those comments.

Were the various elements of the proposed crossing scheme assessed against present Government policy when they were framed and, if so, what conclusions were reached?

**Frazer Henderson (Transport Scotland):** The policy memorandum contains a synopsis of the assessment that we undertook; however, that is drawn primarily from the environmental statement. Chapter 20 of the statement, which is, I understand, called "Policies and plans", presents a review and assessment of national, regional and local policies as they relate to the potential impacts of the proposed scheme. Although the assessment in the environmental statement shows that the scheme is largely compliant with all those policies, it raises particular issues about policies on the greenbelt, which is a planning prescription; on cultural heritage matters; and, in light of the Climate Change (Scotland) Act 2009, on carbon.

How did we address those issues? From chapters 6 to 19, the environmental statement sets forth a number of mitigation measures to address cultural heritage and greenbelt issues and wider environmental matters. With regard to cultural heritage, we propose to undertake an

archaeological dig prior to commencing roads activity south of the Forth. As a result, our mitigation activity is preservation by record, by which I mean we will take a record of what is there. Apparently, there is a high likelihood of Roman remains lying to the west of South Queensferry.

We have put forward a whole host of mitigation measures to deal with the greenbelt and the wider ecological aspects. You will note in the code of construction practice that we will plant nearly 16 hectares of trees, construct otter holts, implement bat mitigation and create badger setts, and all that work will be wrapped up in particular plans that the contractor has to produce for our approval and acceptance before he can start work.

As for the carbon element, which has been mentioned at this committee and which I believe John Howison has talked about at the TICCC, our policy memorandum makes things very clear. Unfortunately, after 2025, there will be an increase in carbon as a consequence of the bridge and that will need to be offset by other projects and developments elsewhere. However, it is worth pointing out that as this is a distress project, not an elective one, we do not have an awful lot of control over the associated carbon element.

**Hugh O'Donnell:** Mr Henderson, you mentioned that you will be planting 16 hectares of trees.

**Frazer Henderson:** Yes.

**Hugh O'Donnell:** How many hectares of trees will come down as a result of the project?

**Frazer Henderson:** I do not know that figure but I do not believe—

**Hugh O'Donnell:** It might be helpful if you could provide it at some point.

**Frazer Henderson:** I will do so, but I can tell you that it will not be anywhere near 16 hectares.

**Hugh O'Donnell:** Ms Lyon, am I right in saying that, other than what you said about the Tesco case that you cited at the end of your previous comments, your statements about the various legal aspects are opinion and represent the Scottish Government's interpretation of the various issues?

**Caroline Lyon:** Yes, my comments related to an interpretation of the convention, its transposition into domestic law and the bill's ECHR implications.

**Hugh O'Donnell:** So that interpretation would be as open to challenge by, say, some lawyer sitting in the room as any other legal opinion.

12:15

**Caroline Lyon:** It is possible that other lawyers would have a different opinion.

**Hugh O'Donnell:** That is helpful. I have another point, which is perhaps more for Transport Scotland. Am I right in saying that Ms Lyon is from the Government?

**Caroline Lyon:** Yes. I am from the legal directorate, but Transport Scotland is one of the clients to which the legal directorate provides legal advice.

**Hugh O'Donnell:** We heard evidence this morning that a number of the objectors had tried to seek an opinion from Edinburgh-based professional legal practices that have expertise in these matters. The objectors indicated to us that none of the practices with the necessary level of expertise would take on their case because Transport Scotland has them all on retainers. First, is that correct? Secondly, if that is the case, why is one of those retained lawyers not here today?

**John Howison (Transport Scotland):** That is a difficult question to answer because I do not quite understand it. However, let me help to explain. We have consulted two law firms. One of them is DLA Piper, which provides us with land services and acts for us on a contractual basis. We have another solicitor, Dundas & Wilson, to which we have access on certain planning matters. Other than that, we have not commissioned any solicitors.

Because of the need to seek value for money, when we sought the services, particularly of DLA Piper, we did so through a competition that involved other solicitors. Other solicitors may have information about the scheme, but we would not see that as precluding them from engaging with other clients.

**Hugh O'Donnell:** Thank you for that clarification. We may follow up those observations with the objectors in writing to get a clearer idea of what they told us this morning.

I move to more formal questions. We have heard previously that although it was not a routine audit of Scottish transport appraisal guidance, a peer review was carried out. Will you tell us how that was conducted, how the outcomes of the review were set out and how you are addressing any concerns that the review raised?

**John Howison:** I am speaking second hand on this matter. When the Forth project started, I was involved in the project board. I retired from that in 2007 and I rejoined the project as project director in 2008. The peer reviews were carried out at a time when I was not specifically involved—I understand that they were done in June and October 2007. They were carried out by four

individuals with specific skills and experience: David Orr, who initially was one of the directors in the Northern Ireland road services office and latterly was director of the Northern Ireland procurement office; Professor Quentin Leiper, who was at the time president of the Institution of Civil Engineers; Mr Ingmar Björnsson, who was former director of the Øresund crossing project; and James Stewart, who was then chief executive of Partnerships UK. They were to consider the fitness for purpose of the project objectives, the robustness of the process followed up to the time, the project definition and scope, the definition and proposed management of the programme risks, and the project governance structures. They came out with a significant number of observations and recommendations.

**Hugh O'Donnell:** Have the observations and recommendations been incorporated?

**John Howison:** They were reported back to the project board members at the time and were then taken forward into the project.

**Hugh O'Donnell:** Were they not in the public domain at that stage?

**John Howison:** I cannot answer that, but I think that Frazer knows the answer.

**Frazer Henderson:** Like John Howison, I was not in Transport Scotland at the time. The recommendations went forward and informed the ministerial decision in December 2007, and they are now in the public domain. We received a request for them in 2008 and we put them in the public domain as a consequence of that. Although the material was restricted advice to ministers, there was such a public interest in it that it is now in the public domain.

**Hugh O'Donnell:** That is very generous.

**Frazer Henderson:** If the committee wants to see the recommendations, I can supply the notes via the clerk.

**Hugh O'Donnell:** I will leave that decision to the convener.

**The Convener:** That would be very helpful, thank you.

**Hugh O'Donnell:** One witness mentioned the current tourism and visitor benefits to South Queensferry and expressed concern that the building of the proposed crossing will have an adverse effect on those during and, potentially, after completion. Have you any comments to make on that?

**John Howison:** I am an expert neither on tourism nor on South Queensferry, but my observation is that tourism there centres around the old town and the front, and it would be important if that area and access to it were

disturbed. However, the construction activity will largely take place to the west of the existing bridge and junction, and the tourism area will be disturbed only as a result of additional construction traffic.

Tourism is one aspect of the area's economy. The other aspect is general business activity and, if you like, the amount of cash that circulates in the area. An area such as that will experience a significant uplift to the general economy simply because of the number of people employed on the site and the spending power that they have. There will also be training and employment opportunities for local people through the initiatives to lever training and employment into the building of the crossing.

Therefore, I cannot see that tourism, as a narrow element, will be particularly affected and I would have thought that the general economy will benefit during the period of construction.

**Hugh O'Donnell:** Thank you. Finally, throughout the evidence sessions, we have heard concerns about the consultation process. Did the peer review that you undertook address the consultation element of the scheme? Who sets the timeframes for consultation? That might be a bit of naivety on my part, but a number of witnesses have said that there were limited opportunities to get their concerns heard. Could we have a view on that please?

**John Howison:** I will ask Frazer Henderson to address the peer review issue first.

**Frazer Henderson:** The peer review recommendation that was made in 2007 was that there had been a good start on communications for the project, but that should be maintained throughout the life of the project. So, there was a clear emphasis on maintaining that good start. Anne-Marie Martin will give you an overview of where we have gone from 2007 to date.

**Anne-Marie Martin (Transport Scotland):** My colleagues have already mentioned the distress purchase nature of the project. From December 2007 to November 2009, there was a hive of activity. An early assessment was made of how we would put consultation at the core. Essentially, for the project to be delivered successfully, we had to ensure that we put consultation at its very heart. The best-practice guidelines also recognised that the consultation had to be meaningful, so we had to assess the aspects of the project on which we could consult, and those on which consultation would not be meaningful.

The timetable involved a number of key milestones. We looked at when those milestones would fall in making an assessment about when meaningful consultation could take place. It was identified that the key opportunity for feedback and

input from local communities would be roughly between December 2008 and March 2009. We knew that designs would be sufficiently developed at that stage for us to be able to take feedback and input from the public. That gave us a window within which we could work with people on their suggestions, input and feedback and incorporate any recommendations that came forward.

In January 2009, we held an extensive series of public exhibitions, which were designed to present the information that was available at that point—that is, the proposals that were sufficiently designed and developed—and seek consultation on a variety of aspects. We were very clear about which aspects we could take feedback and input on. We appreciated that the process could be quite daunting so, to assist members of the public, we created a feedback form that provided us with a mechanism by which we could direct people to those issues. We sought feedback on: the accessibility of the crossing, including junctions and how those might operate; the public transport elements; the environmental impacts and mitigation measures; and concerns connected with the construction. That happened over December 2008 and January 2009.

The feedback and very constructive input from local communities, individuals and community groups highlighted a number of different aspects. On the north side, people had a big concern about access to North Queensferry. People were worried about being cut off, particularly during construction at Ferrytoll. On the south side, we received some really quite strong objections to the proposals on the park-and-ride site at Echline, for example. People also raised issues about the need, as they saw it, for public transport to go back to come forward, whereas they wanted a direct link to the A90. There were also concerns about the roundabouts going into and out of South Queensferry.

The consultation process was constructive and provided us with good-quality feedback. The engineers took away the suggestions and considered which could and could not be incorporated, and around March or April 2009 a number of the suggestions were incorporated into the finalised design that you see before you today.

I accept that some people wish that they had been consulted on issues that they feel were not open to consultation. However, for the consultation to be meaningful and to be seen to take on board people's concerns and suggestions, the process that I have described was the best way forward.

**Hugh O'Donnell:** Thank you for that comprehensive answer. I will come back to Mr Henderson in a minute, but first I want to touch on a couple of things that have been mentioned. Obviously, the promoter decided which audiences

it would engage with in the consultation process, although that is fairly standard practice. At what stage were the groups identified that would be invited to particular consultation events? On what basis were groups excluded from those invitations?

Also, what were the time windows? I seem to remember that someone who gave evidence this morning said that they had seven or eight days to respond. We should bear it in mind that, against the expert professionals who are seated at the far end of the table, local residents had to marshal their arguments without the expertise and information that they would have had to seek from an equivalent expert in order to make legitimate observations or criticisms. Why was the window so short?

To repeat my first question, why were certain groups selected to be invited to attend the presentations while other groups were excluded? At least, that is what I understand the situation to have been.

**John Howison:** I ask Anne-Marie Martin to deal with the general issue. I will then address the issue of having only seven days to reply.

**Anne-Marie Martin:** Although, as has been touched on, we identified the people whom we wished to consult, that happened as part of a continual process. People were continually coming forward: groups that did not previously exist formed and made themselves known to us, or we perhaps discovered from the community council that they existed. We were constantly adding to the list of people with whom we were engaging and consulting, which were those whom we knew about and wanted to ensure were involved in the process. We never actively excluded anyone. In effect, we tried to give the community councils a statutory role.

12:30

I accept your point about their not necessarily being engineers, but the community councils both north and south of the Forth are a well-informed audience and have worked with us constructively. They make it their business to know as much as they can about the project and have availed themselves of us, often at short notice.

I echo the earlier comment about the relatively compressed timeframe. The community councils were good at recognising that and sometimes made themselves available at reasonably short notice to talk to us. Whenever we went to talk to the community councils we asked them to host the event, thereby leaving it to them to invite whomever they wanted. Indeed, I do not recall any meeting on the south side at which Queensferry Business Association was not in the room. Every

time that we spoke to Queensferry and district community council, Queensferry Business Association was represented there, as were other residents groups. They came along to those meetings with their elected representatives, and often councillors. We chose not to be in charge of the invitation list; we left that to the community councils and tried to deal with them as statutory bodies when we consulted them.

In March 2009, we consulted the community council in the north on the issues that it had and the council in the south specifically on the broad comments that it had received from the whole of the South Queensferry community. We accepted that the council in the south could not undertake a large-scale consultation on our proposal, partly because we were considering that proposal as something that might be beneficial to the community and better than what was proposed in January 2009. We told the community council that we had taken on board a lot of comments and suggestions and we presented our proposal as an option that we could take forward in response to them. In essence, we asked the community council to take an holistic view of the benefits for the whole of South Queensferry and whether it felt, on balance, that the original option from January 2009 was better or worse than the option that we were putting forward in March 2009. We accepted the community council's response on the basis that it could not take the proposal out to a wider audience and that it was speaking purely from a community council, holistic standpoint.

John Howison might be able to tell you about the timeframe of seven days.

**Hugh O'Donnell:** Thank you. That is helpful.

**John Howison:** We were always very careful about how we manned the consultations. Senior members—I mean those at the top of the tree—of our consultants were always at the meetings and they were also attended either by me or by the project manager. We wanted to ensure that no information that was provided by the communities was sifted out before we heard it. That is important, because the approach to the consultation was not to have a vote on what people liked in general, but to gather the information that the community had so that we could be apprised of it, consider it in our deliberations on the project and decide which suggested changes would be beneficial and which would not be beneficial.

In the case of the proposal to move the South Queensferry junction—as Anne-Marie Martin mentioned, a similar exercise was undertaken north of the Forth in relation to the B981—we had to take account of the engineering and environmental benefits, for which we undertook an analysis. You will recall that the unlocking feature



that allowed us to move the junction was the comment that was made about requiring better access for public transport. That had a knock-on effect, which allowed us to move the junction back from a fairly artificial position immediately to the south of South Queensferry to the point of confluence of the two roads.

That had a number of significant environmental benefits for South Queensferry, one of which was that the large amount of traffic coming from Newton to the bridge and going north, about which you heard last week, would no longer have to go into South Queensferry. However, we needed to ensure that that solution was satisfactory to the roads authorities and to take stock, having regard to the fact that Queensferry and district community council has a statutory role to represent its constituents.

There was quite a lot of work in working up the proposal. We were working against a deadline to ensure that the crossing would be in place in 2016. I understand that it is sometimes difficult to appreciate our talking about days when something is so far away, but the way to lose time is a day at a time, so it was important. It was also important that, once we fixed the junction's location, we would be able to do the further work on the traffic analysis to bottom out the traffic and then do the environmental appraisal, which eventually took us to the date by which we had to introduce the bill to allow it to be passed this session.

There were quite a lot of constraints and there was quite a lot of pressure. Only seven days were available for that work and, when we undertook the consultation, the two councils involved and the community council were all able to give us a constructive response within that time.

**Hugh O'Donnell:** You seem to be suggesting that a deadline was created at ministerial level, which meant that you were pushed for time to meet the deadline for a 2017 opening ceremony for the crossing, whichever crossing it happens to be and if it comes into existence.

**John Howison:** It is not about an opening ceremony; it is about avoiding a closing ceremony of the existing bridge without something else being in place.

**Hugh O'Donnell:** Okay. We are getting tight for time. We have heard evidence this morning that a number of residents received letters notifying them of compulsory purchase orders on—if my memory serves me correctly—15 November, which was at least one day before the publication of the bill. Was that presumptuous, accidental or deliberate and, if it was the last of those, why?

**Frazer Henderson:** It was regrettable. That is the term.

**Hugh O'Donnell:** That does not answer the question.

**Frazer Henderson:** No, but that is exactly what happened. There was an oversight in notifying the Scotstoun residents that a very small parcel of land that the estate held in common would be affected. Once we realised that they had not had prior notification of that, Mike Glover and I went out to meet them in South Queensferry. We hosted a meeting at which we gave a full explanation of the scheme and conveyed our apologies for the late notification. That was followed up by two days during which residents came to speak to me individually at South Queensferry.

Subsequent to that, we have had another look at the design proposals and we are fairly confident that we can release the land back to the Scotstoun residents. We have yet to confirm that, but we are fairly confident that it could be the case.

I ask Mike Glover, who is our engineer, whether he has anything to add on that land issue.

**Mike Glover (Transport Scotland):** I do not, except to say that we have reviewed the Scotstoun situation and I think that, by a slight realignment of the road, we can avoid the land.

**Hugh O'Donnell:** I do not wish to speak too much for my colleagues, but the concern seemed to be that the compulsory purchase notification—in whatever form—was received before consideration of the bill started. Am I right about the timing?

**Frazer Henderson:** It was not a compulsory purchase notification. Before the bill was introduced, we were obliged under parliamentary rules to notify people whose interests would be directly affected of that fact. When that notice was sent to those individuals, it was brought to our attention that we had not consulted the Scotstoun residents.

**Hugh O'Donnell:** That clarifies the situation much more.

**John Howison:** It is worth dwelling on the amount of consultation that has taken place and which continues. I have jotted down dates between August and December last year on which I attended 17 public relations events. Such consultation has not stopped. We have the objections now and we are considering the issues that they raise. As a result, we are taking the opportunity to look and look again at our proposals. Some changes can be made to the proposals, which will be brought forward.

We have a continuing process of adjustment. For example, we went to see the community at the Clufflats on 9 November last year to explain the construction activity that would happen and to take

questions. We returned on 17 December with further information. I would not like to give the impression that we rushed to prepare for the bill, that that was it and that we have talked to nobody since. The process is continuous.

**Hugh O'Donnell:** I am sorry that those questions took so long, but I was concerned to address issues that were raised in the previous evidence session. Thank you for your forbearance.

**Joe FitzPatrick:** I have a quick question about evidence that we heard earlier. Dr Summers expressed concern about the narrow provision for cycling around Queensferry. Did you hear what she said? Is there room for compromise on that?

**John Howison:** The proposals make quite a lot of provision for cycling, such as the increased width of the new bridge to carry the B800 over the road, the arrangements at Echline corner and the continuance of Society Road under the bridge.

Mike Glover will talk about the survey work that was done in setting the proposals at Echline, which seem to be the major focus.

**Mike Glover:** There are two points. The first is about the design's adequacy. The design must satisfy certain guidelines. We design in accordance with those requirements, which are quite generous. We must also design in accordance with the disability discrimination legislation. The geometry that we provide for the crossing will be subject not just to those design rules but to an audit to ensure that it is generous enough. The provision for cycles and pedestrians will be more than adequate and will satisfy the current design rules. I underscore that that is audited, so that is not an issue.

12:45

The second point is about surveys of the use of some junctions. Early last summer, we conducted two types of survey, to measure the number of cyclists and pedestrians who use the Echline gyratory and the number who go from Newton to South Queensferry along the A904 or by going across the fields. We undertook surveys on a weekday and at the weekend. I have jotted down the numbers of people whom we identified. In a 12-hour survey on a weekday, we found that 12 pedestrians and 23 cyclists used the A904 from Newton to South Queensferry. At the weekend, the figures were slightly higher, as there were 24 pedestrians and 50 cyclists. That is in a 12-hour chunk, so it gives you a feeling for the amount of usage. In comparison, at Echline, in a similar 12-hour survey, there were 200 pedestrians and 25 cyclists. Those are not very large numbers at all, particularly from Newton to South Queensferry. We also looked at the use of the field over a four-hour period at the weekend, because we thought

that that would be when most people would use it. We noted 29 people using it over a four-hour period. I would not want that to be taken as a scientific study, but we did our best to respond to the sort of queries that were raised with us and those are our findings.

**John Howison:** For clarification, when you refer to Echline are you referring to the existing Echline junction, not the junction at Echline corner?

**Mike Glover:** Yes.

**The Convener:** Thank you all very much.

## Forth Crossing Bill (Assessor)

12:46

**The Convener:** Item 2 is consideration by the committee of whether to direct the Scottish Parliamentary Corporate Body to appoint an assessor.

The role of an assessor is to hear and consider objections at stage 2 and report to the committee. Our briefing note makes it clear that it remains the sole duty of the committee to decide and report on any outstanding objections at stage 2. Standing orders are clear that the committee can accept—in whole or in part—or reject any report by an assessor. Furthermore, after an assessor reports, the committee can take such other steps as it thinks fit, for example referring further matters to the assessor for consideration and report, or itself taking further evidence.

A direction to the SPCB may seem to be premature, as the assessor would commence work after stage 1 has finished. However, there are several caveats, for anyone who thinks that such action now indicates a decision by the committee on objections or general principles. To allow a reasonable amount of time for an assessor to carry out the work, they would start immediately, should the bill proceed beyond stage 1. That means leaving time prior to the end of stage 1 for the SPCB to make the appointment and for an assessor to be briefed on objections and the evidence heard by the committee, so there would be a tranche of work for that person to do as preparation should the bill proceed. I invite comment from members on the possible direction to the SPCB. Are we agreed to direct the SPCB to appoint an assessor? I think that, from the evidence that we have heard to date, we are.

**Members indicated agreement.**

**The Convener:** If we are agreed to direct the SPCB, we also need to agree the role of the assessor. The two options are set out in the briefing paper. I recommend that we choose option 1. Are members agreed?

**Members indicated agreement.**

**The Convener:** That concludes the public part of the meeting. The committee will now move into private in accordance with the decision taken at a previous meeting.

12:48

*Meeting continued in private until 12:49.*



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