



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

Wednesday 23 June 2010

Session 3

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

18th Meeting 2010, Session 3

CONVENER

*Duncan McNeil (Greenock and Inverclyde) (Lab)

DEPUTY CONVENER

*Bob Doris (Glasgow) (SNP)

COMMITTEE MEMBERS

*Patricia Ferguson (Glasgow Maryhill) (Lab)
*David McLetchie (Edinburgh Pentlands) (Con)
*Alasdair Morgan (South of Scotland) (SNP)
*Mary Mulligan (Linlithgow) (Lab)
Jim Tolson (Dunfermline West) (LD)
*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)
*Malcolm Chisholm (Edinburgh North and Leith) (Lab)
Alex Johnstone (North East Scotland) (Con)
*Alison McInnes (North East Scotland) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Alex Neil (Minister for Housing and Communities)
Stephanie Prowse (Scottish Government Legal Directorate)
Stephen Sandham (Scottish Government Housing and Regeneration Directorate)
Stewart Stevenson (Minister for Transport, Infrastructure and Climate Change)

CLERK TO THE COMMITTEE

Susan Duffy

LOCATION

Committee Room 1

Scottish Parliament

Local Government and Communities Committee

Wednesday 23 June 2010

[The Convener *opened the meeting at 10:00*]

Interests

The Convener (Duncan McNeil): Good morning. Welcome to the 18th meeting in 2010 of the Local Government and Communities Committee. As I usually do at this point, I ask members and the public to turn off all mobile phones and BlackBerrys.

This morning, we have received apologies from Jim Tolson. I welcome Alison McInnes, who has joined the committee to represent the Liberal Democrats, and ask her to declare any interests.

Alison McInnes (North East Scotland) (LD): Good morning. I point members to my entry in the register of members' interests. I have no direct interests to declare.

Decisions on Taking Business in Private

10:00

The Convener: Do members agree to take items 11 and 12 in private at today's meeting?

Members *indicated agreement.*

The Convener: Do members agree to take in private at future meetings consideration of evidence heard and the committee's draft report on the Property Factors (Scotland) Bill?

Members *indicated agreement.*

National Planning Framework 2

10:01

The Convener: The next item on the agenda is oral evidence on the Scottish Government's national planning framework 2 progress report. I welcome Stewart Stevenson MSP, Minister for Transport, Infrastructure and Climate Change; Graeme Purves, assistant chief planner; Emma Hay, principal planner; and Rebecca Frost, student planner. I invite the minister to make some brief introductory remarks.

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): Twelve months into a 20-year strategy, significant progress is already being made on implementation of the national developments and other aspects of the spatial strategy that is set out in NPF 2. That demonstrates both a commitment to increasing sustainable economic growth across Scotland and the relevance of the NPF strategy.

The Government is not directly involved in the implementation of many of the projects and actions that are identified in the action programme. Local authorities and other public sector organisations are the lead partners for most actions. Many of the national developments are being taken forward by the private and third sectors. The creation of the action programme has enabled a practical focus to be applied to the strategy, helped to provide clarity on milestones and delivery responsibilities, and provided a useful method of monitoring progress. The action programme is a live document and will, therefore, be adjusted and refined to ensure its continuing relevance and usefulness.

I expect that the committee is already aware that a petition challenging the designation of Hunterston as a national development has been presented to the Court of Session. We understand that the petitioner has funding to proceed with that action. As the issue is before the court, I cannot comment directly on the process that led to the designation.

The Convener: Thank you for your opening remarks.

Bob Doris (Glasgow) (SNP): I thank the minister for his comments. My question concerns one of the national developments and how it fits into the overall national planning framework. I have a particular interest in the proposed high-speed rail link to London. I am mindful of the minister's initial comment that much of the national planning framework is about sustainable economic development. A high-speed rail link would fit into the framework exceptionally well, as it would reduce the number of internal United Kingdom

flights, boost the Scottish tourism industry and boost Scottish business. It seems to tick all of the boxes for sustainable economic development. What point have we reached with the development of high-speed rail from Scotland to London, as part of the national planning framework?

Stewart Stevenson: I will remind members of the background to the proposal. Each year, about 7 million journeys are made from central Scotland to the south-east of England. At present, approximately 1 million of those are made by rail. There is clear potential for modal shift, if the rail system is improved.

We had a good relationship with the previous Secretary of State for Transport, Andrew Adonis, on the subject of High Speed Two and rail generally. It was recognised that the case for high-speed rail—the HS2 link—would be substantially enhanced if the railway came all the way to Scotland. That recognition was valuable, but it was not reflected in the urgency with which plans were developed.

I have spoken to the new Secretary of State for Transport, Philip Hammond, on two occasions, but I have not yet had the opportunity to speak to him about HS2. However, I understand that, broadly, the position has not changed much. Clearly, a high-speed rail link would contribute to our economy and to the climate change agenda, but would require substantial planning effort. I understand that the planning in the public domain for the line from London to Birmingham, which is just a small part of the whole line—*[Interruption.]* Excuse me, convener. If you can find a cure for this cough, please tell me.

I understand that it has cost in the order of £0.5 billion simply to do the planning. However, we hope to see further progress in the near future on this important subject.

Bob Doris: You mentioned £0.5 billion. Obviously, we have to see how the current UK Government progresses high-speed rail, but would the £0.5 billion be invested on a UK national interest basis? In other words, would there be a Barnett consequential from it? I ask that because, if high-speed rail is a vital piece of UK infrastructure, we can talk about how we finance the entire line, which moves the debate on. Have you any information about what pot of cash that investment will come from and whether it will attract a Barnett consequential?

Stewart Stevenson: That is a perfectly proper question, but there is no clear answer to it yet. One must look at the effect of the whole project and see where the benefits are derived. Clearly, given the hundreds of flights to Scotland from Heathrow in particular, a benefit would accrue to west London if that number of flights were

reduced. It is a complex matter to tease out where the advantages lie and where the responsibility for paying for the creation of the infrastructure should lie.

As the committee may be aware, the present Government has announced that it is looking to privatise HS1, which is the line from London to the Channel tunnel, and it clearly sees a role for the private sector in developing lines of that character. We do not fundamentally take a different view, but it is absolutely important that we move with a sense of urgency and ensure that a high-speed rail link would serve the public interest and address areas of public policy that matter, such as climate change. I do not yet see any difference of view between the coalition Government at Westminster and ourselves on the matters to which I have just referred.

Bob Doris: It is vital that we get clarity about the spend, because not a lot of public money is being put up for capital projects, as we saw from yesterday's budget. However, if there is public money for the development of high-speed rail infrastructure and there is a Barnett consequential, it leaves open the question of how the Scottish Government might use said consequential. If high-speed rail is a UK national development—to use that language—then of course whether that infrastructure project should start from London or from Scotland is open to debate. There may be issues with the interconnectivity between London and the midlands. The key issue from a UK perspective is how we benefit the connectivity between Scotland and London as opposed to, say, between Birmingham and London. If public moneys are attached to that, I hope that, even at this stage, you will put that argument quite strongly to the UK Government so that it reviews its priorities on where it starts the connectivity for high-speed rail.

Stewart Stevenson: The member very much illustrates the nature of the argument. Certainly, we will robustly put the case for early progress in bringing the line to Scotland.

It is worth making a point that may be slightly unexpected if you have not looked at the issue in depth. There is a commitment that the trains that will travel at high speed on the first part of the planned HS2 route to Birmingham will continue to Scotland, which means that we will gain the benefit of reduced en route times between London and Birmingham. However, the current trains on the west coast are able to travel at their current speeds because they are tilting trains, which, because of the presence of the tilting mechanism, are heavier than non-tilting trains, so there is a weight penalty. With high-speed trains, that weight penalty is unacceptable, therefore the high-speed trains will not be tilting trains. A high-speed train

from London will go faster to Birmingham but will actually travel more slowly than the existing trains on the northern part of the line, so while we expect that there will be a timing benefit to Scotland, it will be comparatively modest.

That is why it is so urgent to extend the line further to ensure that we get the timing benefits. We are quite clear that a reduction in journey times causes people to make the modal shift. Even today, the railway is increasingly a much more comfortable and business-friendly way to travel. I encourage people to use today's railway, but HS2 will clearly make things substantially better.

Bob Doris: I have a final, more general question, which I appreciate that the committee has asked before. Unless there is cash to match the planning aspirations, the national planning framework is simply an aspirational framework. As far as the NPF is concerned, how do you prioritise Government capital investment?

Stewart Stevenson: There are a few things to say. First, the national planning framework is a 20-year view from a planning perspective. Secondly, it is a strategic spatial planning document and is not in and of itself a document about finance. Thirdly, a substantial proportion of the projects are projects that would not necessarily receive any Government funding.

The framework is about planning, not finance. However, as we move forward through successive spending reviews, we will of course use the national planning framework and the strategic transport projects review to identify the projects that we will prioritise and provide funding for in each successive review. The key point is that we devote resources at local government level and national Government level to support the planning process for projects that are in the national planning framework.

The Convener: I notice that there is no mention in the briefing paper of the national renewables infrastructure plan. Is that intentional?

Stewart Stevenson: Excuse me while I consult the officials to ensure that I give an appropriate answer.

The plan is post-NPF, so we will take account of it in successive iterations of our plans.

Mary Mulligan (Linlithgow) (Lab): Good morning, minister. You said that many of the projects within NPF 2 will be carried out in partnership, including with local authorities. What discussions, if any, have been taking place with local authorities about their role in drafting strategic plans and local development plans?

Stewart Stevenson: It is clear that we have a role in some of the plans that local authorities

have to bring forward. We meet local authorities regularly to discuss planning matters. The Planning etc (Scotland) Act 2006 received broad, cross-party support in the Parliament when it was passed.

We have a biannual ministerial meeting, whereby Mr Swinney, Mr Mather and I meet local planning officials and politicians to ensure that we are making progress on the renewal and revision of the planning system. In addition, we meet stakeholders—Mr Swinney and I met a range of stakeholders and Convention of Scottish Local Authorities officials earlier this month; I cannot quite pin down the date.

There is a strong partnership, which is beginning to show fruit in a number of council areas. In other areas, progress still needs to be made. The chief planner, Jim Mackinnon, has been given the responsibility of being the fixer when difficulties emerge. He engages consistently and effectively with local authorities that are finding the planning reform journey more challenging.

10:15

Mary Mulligan: That is where my question lies. Are there challenges that we should be aware of with regard to the national and local perspectives?

Stewart Stevenson: Yes, there are challenges in planning. That will come as no surprise to anyone who has had any contact with planning, which is a category that everyone in the room fits into.

An important consideration will be the extent to which individual local authorities' successes and challenges should be more visible to their electors. Later this year, we will consider whether it is appropriate to introduce a system of inspections of planning authorities and will consult on whether to do so. We have not yet come to a conclusion on the proposal, but we certainly have the power to introduce it. I think that a number of authorities would welcome that, because it would give them an opportunity to demonstrate the progress that they have made and the quality of delivery that their planning departments provide. For some councils, such an inspection system might be much more challenging. There is further debate to be had on the issue.

Mary Mulligan: I have a brief question that you would expect me to ask, relating to the Grangemouth freight hub. Our briefing paper refers to the A801, for the development of which Falkirk Council and West Lothian Council have acquired land and put in place a plan. That is critical to the developments at the Grangemouth freight hub. Will you say a bit more about where we are on that?

Stewart Stevenson: There are a number of aspects to the Grangemouth freight hub. For example, electrification of the railway line has been included for consideration as part of the Edinburgh to Glasgow improvements programme. I do not want to give the impression that a final decision has been made, but it makes sense to do that as part of the wider project at a comparatively modest marginal cost. However, we have yet to come to a final conclusion.

We recognise that Falkirk Council and West Lothian Council have essentially done the necessary preparatory work on the A801. As we look at the capital resources that will be available for projects in the next spending review, it will be for us in Government and for the local authorities to decide whether that project and others are among those that we support. Although we might have a debate about why we are where we are and how we should respond, I think that we all recognise that for the next few years resources will be more restricted than they have been for some time—but that is not to indicate a decision either way.

Mary Mulligan: That does not sound very hopeful.

Stewart Stevenson: We live in difficult times.

Alasdair Morgan (South of Scotland) (SNP): The national planning framework is meant to ease the conventional planning process. It strikes me that planning difficulties to do with the high-speed rail link will be greater as the line approaches the conurbations in Scotland than they will be at the border, although there might be local difficulties.

Can you say whether or when a decision is likely to be made on the extent of the lines? It seems sensible that trains should terminate in our major cities, be that on conventional rail or not, to allow connectivity. However, the closer the high-speed link comes to conurbations, the more planning difficulties there will be. What timescale is there for establishing the most likely route?

Stewart Stevenson: Preliminary work is already in course for both Glasgow and Edinburgh. The fundamental issue, which will determine a great deal of the other decisions that are made, is where the terminus will be.

There is limited opportunity to bring the line in at Edinburgh Waverley station at the existing level. The high-speed trains are likely to be too long for the current platform capacity at Waverley—even platforms 1 and 20 together are unlikely to be long enough for a train that is 400m long. That is an issue. There could be engineering options to go beneath the existing station, but a substantial cost would be associated with doing that. We are considering whether there could be a terminus to the west of Haymarket. I am not suggesting that

any decision has been made—we are very far from that—but we are engaged in and considering the matter.

There are more opportunities in Glasgow, but given that we are running out of capacity at the two main rail termini—Glasgow Queen Street and Glasgow Central stations—we are discussing with Glasgow City Council, Strathclyde partnership for transport and others whether it is appropriate to consider a new terminus. There are serious constraints on the existing approach to Glasgow Central, but we have established—in a very preliminary way; it has simply been confirmed that this could be done—that a long-enough platform could be created, albeit that it would have to extend over the Clyde, which operationally might not be a satisfactory solution.

The situation in Glasgow is not quite as complex as it is in Edinburgh, but there is perhaps an opportunity to consider a consolidated and entirely new railway terminus. We are years away from coming to a conclusion on the subject, but we are engaged on it.

Given that we are talking planning, it is worth making the point that the Transport and Works (Scotland) Act 2007 is likely to enable us to speed things up to some extent. Andrew Adonis, the previous Secretary of State for Transport, indicated to me that he expected that it would take between three and a half and three and three quarter years to take the necessary legislation through the Westminster Parliament, in part because the institution is bicameral and there would need to be committees in the House of Lords and the House of Commons. Our planning regime in Scotland is such that it would be likely to take less time to deal with the planning issues than it would take south of the border, although the process would not be quick.

Alasdair Morgan: It strikes me that if the logistics are forcing you to have separate termini, there are potential disadvantages for anyone who wants to travel to somewhere other than Edinburgh or Glasgow. Either people will have to change to another train to get from the new terminus to the existing terminus at Waverley, Central or wherever, or we will have to stop all the trains that leave Waverley, Central or wherever at the new terminus, thereby increasing journey times and making the journey slower and less attractive. There are a few difficulties to iron out.

Stewart Stevenson: If I have appeared to suggest that we are considering separate termini, I should say that that is not at all where we would like to be. We want to have shared termini, if we can.

We would also like—and we retain within our thinking the option of—the high-speed trains to

Glasgow and Edinburgh to continue as trains to destinations beyond, such as Dundee, Aberdeen and, potentially, Inverness. The issues that will determine whether that is technically feasible are issues of gauge. The prospect of high-speed trains running north of the central belt is a more distant one.

Even with the existing infrastructure, there are now some semi-serious discussions about trains running from Munich to Manchester—a company has expressed interest in that. When rail systems are joined up in the right way, we can use the different capabilities of different parts of the network to support attractive long-distance travel. Indeed, a long-term objective remains for people to be able to travel from Scotland to destinations beyond la Manche.

Patricia Ferguson (Glasgow Maryhill) (Lab): Good morning, minister. If we are talking about getting from Manchester to Munich, I will resist the temptation to suggest that being able to get from Glasgow to its airports would have been a good idea. Let us not go there this morning.

What influence has NPF 2 had on the list of developments that has been provided to us today? Have they progressed on their own behalf or has their being in NPF 2 encouraged movement along the way?

Stewart Stevenson: NPF 2 has two key aspects. First, it establishes need, and creates a parliamentary process, in which we have all engaged, to do so. Thereby it reassures the promoters of particular projects that those projects have been recognised as being of national importance. It does not remove the need to consider environmental assessments of the effects on local communities during the planning process; however, because it establishes need, it gives a leg up to projects. In considering the projects that are included in the NPF, we look at those that deliver the maximum benefit to our economy and our communities.

Secondly, the plans that local authorities produce must be consistent with both the projects and the narrative in the national planning framework. For example, the narrative in NPF 2, reflecting some of the discussion that we have had, contains an aspiration to electrify rail by 2030. That is not a project within NPF 2; it is part of the narrative that signals a long-term intention that is considered to be of national importance. *[Interruption.]*

Patricia Ferguson: I sympathise with the minister, who is showing signs of discomfort this morning.

Stewart Stevenson: It is only an irritation. Apparently, I am not at death's door. As my wife says, I am still eating.

Patricia Ferguson: I am sure that that is reassuring to us all.

Stewart Stevenson: Especially to me.

Patricia Ferguson: Does the action programme have any role in driving forward the projects that are identified? Does it merely record and give an opportunity for some kind of monitoring along the way or does it do a bit more than that?

Stewart Stevenson: As the member says, the action programme records what is happening, which is important for Parliament and wider Scotland, and provides a means of describing any impediments that may arise. As the planning system moves towards greater consideration of the detail of developments, planning authorities and promoters inevitably encounter things that may not have been apparent at the outset. So from that point of view, the action programme is useful. Does it drive things forward? Well, its very existence and keeping it in the public eye means—I suspect—that that is a second-level effect. I describe it thus because that is not its purpose but a benefit of its existence.

10:30

Patricia Ferguson: As I remember, NPF 2 does not identify timeframes as such, so I wonder whether there is any scope in the framework to record major issues or problems—or even major achievements—along the way, so that people can see whether there has been progress or otherwise. I realise that that is difficult when you are not measuring against something that is in the original, but it might just be useful.

Stewart Stevenson: I am happy to recognise the validity of those comments, which we will certainly think about. It might be useful just to point out that the economic environment changes even in one year. For example, the Scapa Flow container terminal is one of the projects on the list, but there is no early prospect of it proceeding, because world trade has diminished. However, we are seeing early signs that things are coming back. For example, a number of the merchant ships that have been moored in Loch Striven are moving away because demand for capacity is beginning to return. A commercial development such as the one at Scapa Flow will depend on world trade returning to the levels that were envisaged when it was mooted that it be a national development. It is perfectly proper for the action programme to reflect that things are changing there and elsewhere. For example, Babcock at Rosyth is bringing forward proposals on marine freight as well. There is a dynamic, living situation and the action programme will be similarly dynamic and living and will reflect the changes that we see. I guess that it will help to promote

developments and ensure that things are going on, not least because people will see what is and is not going on and will ask questions, which will probably be helpful.

David McLetchie (Edinburgh Pentlands) (Con): Good morning, minister. The action programme identifies progress to date after year 1. In relation to subsequent reports on the progress of NPF 2, would it be possible to differentiate clearly progress year by year and not simply subsume elements into previous statements, so that we or subsequent committees can get an idea of the scale of progress year on year? Obviously, some projects may go at a faster pace than others, and unless you achieve a clear differentiation and identification of that kind of progress, it can be quite confusing and difficult to assess.

Stewart Stevenson: We will certainly seek to ensure that subsequent reports provide the kind of clarity that will allow members to see what has happened since the previous report. However, let me just draw us back to what is actually going on here. The national planning framework is a spatial planning document, and our report on it primarily focuses on what is happening in relation to the planning process. We will not necessarily know what may or may not be being said in boardrooms about the private sector projects. Given the nature of the projects, it is likely that a certain amount of information will be available and can be included in what we say, but I would be cautious about imagining that we can give a picture of everything that is going on. We can report on the spatial planning and the detailed planning aspects of projects, but we may not be able to give a complete picture. I realise that that is rather obvious, but it is probably important that I say it.

David McLetchie: That is fair enough in relation to material that may be commercially confidential; I accept that. However, in fairness, the current report on year 1 gives a wide range of information, which is not confined to the planning aspects of the developments. I would like to think that as much information as the Government and other public bodies that are participants in these projects can make available would be in subsequent reports.

In response to previous questions, you fairly and correctly pointed out that many of these projects will in effect be privately funded and will not necessarily be a call on the public purse, but some of them are likely to be a call on the public purse—the biggest of which, I suspect, is the new Forth crossing. Does the Government have any idea of the likely contribution from the public purse to the developments that are in the plan? Do you and Mr Swinney keep a little tally of how much you will

have to chip in to progress the projects that you have deemed to be of national significance?

Stewart Stevenson: Bearing in mind that NPF 2 gives a 20-year view and is about the planning aspects, it is not the place for such information, but many of the projects are described elsewhere. For example, surface transport is covered by the strategic transport projects review. It, similarly, gives a 20-year view, and has price bands that give a sense of the size of the project and, in general terms, the answer on the public contribution. Some of the bands are quite wide, from top to bottom; the biggest one is probably three to one. Is there a single document that does that for national planning framework projects? To be candid, I do not think that there is, not least because we have not yet got to the point of providing funding for all the projects, because they will happen over a 20-year period. However, given that we are now publishing all expenditure over £25,000, I do not think that there will be anywhere to hide the expenditure involved.

Let me pick up a wee point from the remarks that the member made at the start of his questions. The action programme is an online document and there is additional information in it that is quite regularly updated, which you will not necessarily wait a year to see. For individual projects, as we become aware of things—whether at our own hand or from others—we seek to provide relevant information on a rolling basis. If you look at the document from one month to another, there may be a range of changes. It is always difficult to decide whether to tell people that the document is being updated, because in some cases it might be updated three times a week, or simply to publish it in a formal sense once a year as we are doing.

Alison McInnes: I am interested in what you have said about the programme being almost passive, in that you have set the framework for planning. Nevertheless, there was quite a bit of consultation—although perhaps not as much as we would have liked to have seen—so the projects have a great deal of buy-in across Scotland. Would you be concerned if, a few years down the line, projects were not being delivered across a fair geographical spread?

Stewart Stevenson: This is a programme for the whole of Scotland. In producing the national planning framework, we sought to consider it geographically to ensure that my officials, who all live in Edinburgh or its environs, were not missing a trick in relation to projects in other parts of Scotland. From harbour developments in the south-west to Scapa Flow in the Orkneys, we have achieved a substantial geographical spread. Through the action programme that we are publishing, we are showing our engagement in the

projects and the progress that is being made. You can be assured that we will continue to look at the whole of Scotland. Through the process that we are adopting, it will be possible for others to see whether or not we are so doing.

As Graeme Purves has just reminded me, Orkney Islands Council is considering a parallel activity for Scapa Flow with regard to the opportunities for supporting offshore renewables there. That work is not the same as the work on the container port, which is in the national planning framework, but we should not imagine that there are not other things happening—of which that is one example of which we are aware.

Alison McInnes: We have heard a lot this morning about how councils have regard to the national planning framework. What is the role of other public sector organisations? Does the investment programme of Scottish Enterprise, in particular, fit well with what is contained in the framework?

Stewart Stevenson: I highlight the developments in the national planning framework for Edinburgh airport. Through the west Edinburgh partnership, Scottish Enterprise is a key player in the project. The enterprise agencies and public bodies in general—including non-departmental public bodies—are very much engaged where appropriate.

The Convener: There are no other questions from committee members. I thank the witnesses for their attendance. That concludes this agenda item, although I ask the minister to remain where he is while the other witnesses change over.

Stewart Stevenson: I will perhaps just go off and have a small cough, shall I?

10:42

Meeting suspended.

10:43

On resuming—

Subordinate Legislation

Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment (No 2) Regulations 2010 (Draft)

The Convener: Item 3 is consideration of subordinate legislation. The committee will take oral evidence from the Minister for Transport, Infrastructure and Climate Change and officials. I welcome the new witnesses joining the minister—Sam Anwar, team leader, and David Reekie, policy officer, from the Scottish Government's planning, legislation and performance team—and invite the minister to make some opening remarks.

Stewart Stevenson: As the committee will be aware, in April planning fees increased for the first time since 2007. Fee levels continue to be modest and represent a very small proportion of a developer's overall costs.

These regulations correct minor errors in previous regulations that in some cases have resulted in fees falling short of the actual cost of processing applications. Their correction will restore the position of ensuring that those who benefit from planning applications should contribute appropriately to the costs of determining them. The proposed regulations also remove obsolete references to fees associated with deemed applications, simply because there are no longer any situations in which such an application would be made.

Although, as I have said, fees remain a small proportion of overall development costs, the Scottish Government is currently taking forward a workstream on the wider resourcing of planning that will consider alternative funding models for planning with the purpose of making the fees structure more proportionate in the longer term and, of course, delivering an effective planning service.

I welcome the opportunity to answer the committee's questions.

The Convener: And I invite the committee to ask them.

David McLetchie: I was slightly intrigued by the reference to "errors" in the minister's opening comments. From a cursory glance over the explanatory notes to these regulations, I see references to "redundant" provisions in previous regulations that need to be tidied up—which is, of course, entirely appropriate, given the march of

legislation—but no mention of any "errors". Will the minister clarify his interesting—and indeed refreshing—comment?

Stewart Stevenson: It is always better to fess up before errors are spotted.

David McLetchie: I would not have spotted them if you had not admitted to them.

Stewart Stevenson: The first error can be found in the table setting out fees for planning applications for erecting buildings other than those for residential or agricultural use. The fee depends on the area of gross floor space, in respect of which there are three categories: up to 40 square metres; 40 to 75 square metres; and over 75 square metres. The current regulations correctly state that the fee for development of floor space up to 40 square metres is £160; however, they stipulate the same amount for the 40 to 75 square metres category. That is an error—the fee should be £319.

The second error can be found in the table setting out the fees for applications to erect buildings on agricultural land, which states:

"where the application is for planning permission"

the fee is

"£319 per 0.1 of a hectare of the site area subject to a maximum of £7,975".

However, the phrase "in principle" has been omitted after "planning permission". The first error is a technical one; the second is a matter of substance in financial terms.

David McLetchie: How long have these errors existed?

Stewart Stevenson: Since we introduced the previous regulations in April.

David McLetchie: So we are talking about only a few months.

Stewart Stevenson: Yes. As soon as we became aware of the errors, we sought to correct them. I suspect that this is as early as we could have done it.

David McLetchie: And by and large they have made no material difference to the revenues flowing into planning authorities from such applications.

Stewart Stevenson: I suspect that no planning authority was aware of the errors until we identified them, but I could be proved wrong.

The Convener: Can you tell us a bit more about the wider workstream that you mentioned in your opening remarks?

Stewart Stevenson: We have had over an extended period a number of discussions with

COSLA and local authorities about planning fees for larger applications, in particular, in response to indications from the development industry that it would like fees to be higher. Although that might seem unusual, the industry has taken that position because it wants processing agreements to define the period in which the application will be dealt with. The approach is different and we are continuing to have discussions about it.

As the old saying goes, time is money, and that is fundamentally true for developers. If, by paying higher fees and, in effect, buying an additional service, they could know for certain the period within which a planning application would be processed—which would in any case be a matter for agreement between the planning authority and the developer—developers would be entirely content to pay them. However, if the service was not delivered on the agreed timescale through no act of omission or commission by the developer, it would be inappropriate to charge such a fee. Those discussions are continuing. A number of councils are interested in the proposal, which represents a change in approach, but it is taking some time to work out how to implement it. That is, of course, if we proceed with it.

Patricia Ferguson: Does the minister plan to come back to tell the committee about any changes that might result from those discussions?

Stewart Stevenson: Such changes cannot be dealt with solely at the minister's hand; they require secondary legislation. In any case, we are still some distance off and, as I say, discussions are continuing.

That said, the proposal is part of our attempt to modernise the system. It is important to reassure members that it would in no sense change the outcome of the planning process, but it would be a way of providing extra resources to planning departments to support larger developments. I suspect that if we get the approach right, it is likely to be widely welcomed, albeit that it will create a challenge for planning departments' existing processes.

Patricia Ferguson: I am grateful for that confirmation. Although I perfectly understand the logic behind the suggestion, I see problems arising, not least with regard to people's perception of the planning process. In my experience, that perception is one of the major problems and obstacles that have to be overcome and I imagine that it will be difficult to persuade people in a community in which a big development has been proposed that the developer is not buying additional services that might be detrimental to their attempts to set out their own case.

Stewart Stevenson: I acknowledge the validity of the member's point, which, of course, forms part of our thinking on the matter. As I say, we are certainly not in a position to say that the proposal will be brought forward.

The Convener: As members have no further questions, I invite the minister to formally move the motion.

Motion moved,

That the Local Government and Communities Committee recommends that the draft Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment (No. 2) Regulations 2010 be approved.—[*Stewart Stevenson.*]

Motion agreed to.

The Convener: I thank the minister and his officials for their attendance and the evidence that they have provided and suspend the meeting for a changeover of witnesses.

10:53

Meeting suspended.

10:57

On resuming—

Applications by Creditors (Pre-Action Requirements) (Scotland) Order 2010 (Draft)

Home Owner and Debtor Protection (Scotland) Act 2010 (Consequential Provisions) Order 2010 (Draft)

The Convener: Item 5 is consideration of subordinate legislation under the affirmative procedure. The Minister for Housing and Communities, Alex Neil, agreed to provide oral evidence to the committee on both orders. I welcome him and his officials, who are Stephen Sandham, team leader; Stephanie Prowse, solicitor; and Colin Brown, senior principal legal officer. Does the minister wish to make any introductory remarks? Of course he does.

The Minister for Housing and Communities (Alex Neil): Thank you, convener. Perhaps we know each other too well.

As you know, the Home Owner and Debtor Protection (Scotland) Act 2010 received royal assent on 18 March. We are preparing for commencement on 30 September 2010. The act requires all lenders to show in court that they have considered reasonable alternatives to repossession before they make an application for repossession. That will minimise the number of people who are faced with the misery of

homelessness. The Applications by Creditors (Pre-Action Requirements) (Scotland) Order 2010 makes further provision for the pre-action requirements, which are outlined in the act, that creditors must meet before making any application to repossess a residential property. For example, article 2 of the order specifies in more detail what is required to meet the requirement to provide clear information to debtors on the default. Similarly, article 3 specifies in more detail the requirement to make reasonable efforts to come to an agreement with the debtor on how the sums that are due are to be repaid.

The act indicates that lenders must not make an application for possession where the debtor is taking steps that are likely to result in repayment within a reasonable time. Article 4 specifies what those steps by the debtor are—for example, seeking help through a Government mortgage support scheme or seeking actively to sell the house. Similarly, article 5 expands on the requirement on lenders in the act to provide debtors with information on where they can get suitable advice and assistance. The order is the result of extensive consultation with lenders and the advice sector and balances the interests of creditors and debtors.

The Home Owner and Debtor Protection (Scotland) Act 2010 (Consequential Provisions) Order 2010 is required to update the forms of notice that a lender must issue when considering or initiating court action for repossession.

The forms have been amended to make clear to those who face repossession the protection that is available as a result of the 2010 act. For example, they explain that an application for repossession may be challenged if the lender has not complied with the new pre-action requirements. They also advise debtors that they may voluntarily surrender their property but that they should be aware of the full consequences of doing so before they proceed.

The order amends the forms to provide clearer encouragement to anyone facing repossession to seek advice from a solicitor, citizens advice bureau, other agency or lay representative about the rights that they now have under the 2010 act and to consider whether they are eligible for legal aid.

I commend both orders to the committee and am happy to answer any queries that the committee may have about them.

11:00

The Convener: For ease of questioning, we will split the orders up. I ask for questions on pre-action requirements and then will take a second round on the consequential provisions.

Bob Doris: I am delighted that both orders are before us today. However, I note that article 2(3) of the pre-action requirements order specifically excludes from the information to be provided on the default any costs that could be charged to home owners under the standard conditions of their mortgage.

You might remember that I was keen to amend the bill at stage 2 to ensure that creditors who were pursuing the debts of home owners and did not fulfil their pre-action requirements could not recover court costs should they fail to repossess. Under article 2(3), it would be possible for court costs to be passed on to the home owner irrespective of whether the repossession was successful, but the article seems specifically to preclude the lender specifying what those additional court costs may be. Would it be possible for ministerial guidance to make it clear that it would be desirable that any additional court costs that the home owner may incur at a later date be put to them up front, as they have to make an informed decision about what is best for them given the financial outlay that they may face should the repossession go to court?

Alex Neil: Although the pre-action requirements do not require lenders to provide information on the amount of legal charges, they require lenders to inform borrowers at the outset of the default that such charges may be recovered from them under the security. We recognise that estimating the amount of legal charges before raising an action would be impossible, so requiring that information to be included would impose an unfair additional burden on creditors and would not give debtors a true estimate of the charges.

We have been in detailed consultation with the lenders and the advice agencies, including Shelter, on how to handle the matter in guidance. We will issue detailed guidance to ensure that, as far as possible, there is an indication of costs but, of course, the total costs will not be known until the procedure has been completed.

Bob Doris: Does that mean that, in future, when the lender writes to the home owner, based on guidance, the letter will clearly state that the home owner may also be liable for legal fees in relation to the lender's court costs should they decide to contest the action?

Alex Neil: Absolutely.

David McLetchie: The cost benefit analysis for the order reiterates a point about the Scottish Government's inability to get data about the level of repossessions in Scotland, which was one of the issues that we identified and debated when the bill was going through the Parliament. I ask for your advice on the statement that

"neither the CML, FSA or the UK Government have responded positively to requests from the Scottish Government to share data on the actual level of repossessions occurring in Scotland."

Is that a statement on the historical situation predating the election of the new UK Government, or is it a statement on the current position? Have you asked the new UK Government to facilitate the provision of that information?

Alex Neil: As you probably know, Scottish Government ministers, including me, are holding a series of meetings with various ministers in the new coalition UK Government. One of the issues that I am putting on the agenda for my next meeting with Grant Shapps and others—although the date has not yet been fixed—is our requirement for information on the number of repossessions in Scotland to be made available to the Scottish Government. We will probably have to get that information through the formal regulatory agencies rather than through the Council of Mortgage Lenders. We have tried the CML many times—as did the previous Administrations—and we have got nowhere. The CML's view seems to be that it is a job for the Financial Services Authority rather than for itself to do voluntarily and that, because some mortgage lenders are not members of the CML, in order to get the total picture it would be better for the data to be collected by the regulatory agencies. In the forthcoming meetings that we are arranging with UK ministers, it will be on our agenda to persuade them that the regulatory agencies—under the new regime that was announced by the chancellor last week, I think that it will be the Bank of England rather than the FSA—should give us that information. We will make appropriate representations that the information should be made available.

As you know, the argument against that is that an indirect consequence could be the disclosure of how many mortgages individual companies have. However, I do not see how a global figure for the number of repossessions could disclose any commercially confidential information. I have never accepted the CML's argument on that and we will continue to pursue the matter. The one silver lining is that, since we passed the 2010 act, on the basis of the UK figures we assume that the Scottish figures are substantially below the forecast peak. That is welcome news. Nevertheless, it would be a very useful tool for the Scottish Government if we knew exactly how many repossessions take place in Scotland. Apart from anything else, that would enable us to plan our budget for the home owner support fund better and to estimate more accurately how much money we need to earmark to help those who get into difficulty.

David McLetchie: In essence, your statement on the position of the UK Government describes

an historical position and you are pursuing the matter with the new Government.

Alex Neil: Absolutely.

David McLetchie: I hope that, when you meet Mr Shapps, you will convey to him the support of parties across the Scottish Parliament for the provision of such information to the Scottish Government.

Repossession and homelessness are another aspect that is covered in your cost benefit note. What is your estimate of the number of instances in which a decree of repossession leads to homelessness?

Alex Neil: I hand over to my legal advisers on that.

Stephanie Prowse (Scottish Government Legal Directorate): I cannot say that I have figures on that. Stephen Sandham might.

Stephen Sandham (Scottish Government Housing and Regeneration Directorate): The bottom line is that we do not have any hard data on that. We get some data through our homelessness monitoring returns, which we could provide to the committee, but I do not have that information to hand. I seem to remember that, when the mortgage to rent scheme was being analysed and reviewed, it was suggested that repossessions account for about 8 per cent of all homelessness applications, but I would have to check that figure. I would be happy to provide the details to the committee.

David McLetchie: Given such a modest percentage, does the accompanying analysis perhaps overegg the pudding when, under the heading "Costs and benefits", it talks about savings? The paper states:

"Research by Heriot Watt university from 2007 indicated that the average cost of sustaining a household made homeless in temporary accommodation was £5,300 per year."

No doubt that figure is correct, but in the next paragraph that figure is conjoined with the number of decrees for repossession, of which 6,000-odd were granted in 2009. By conjoining those two figures, the paper suggests—to the person giving it a superficial glance—that the cost is somewhere in the order of £30 million. However, given that the answer to the previous question revealed that the percentage involved is tiny, the costs must equally be tiny. Is that not correct?

Stephen Sandham: I certainly thought that the wording was clear in stating that we are not in a position to give absolutely accurate information on the precise savings. That is why the wording suggests that we can look only at the total number of court actions for repossession. We do not know the number of court actions that actually result in a

repossession because the granting of a decree of repossession does not necessarily result in a repossession, as sometimes the debtor then starts to comply or the lender continues to forebear. Even when the property is repossessed, the individual might have alternative accommodation arrangements so a formal homelessness application might not be lodged with the local authority. I felt that the information was as clear as it could be in stating that it is very difficult to provide an estimate of the total savings.

David McLetchie: I accept that, but if we know neither the number of repossessions nor the percentage of repossessions that lead to homelessness, throwing all those figures together in a couple of paragraphs results in two very big numbers being put together whereas the real number involved might be small. In addition, the difference that will be made by the change in the regulations, as opposed to what happens currently, will probably be even smaller still. Therefore, instead of those huge savings, we could in fact be talking about a tiny saving, but we do not know one way or the other. Is that not right?

Alex Neil: The lack of reliable, up-to-date information on the issue has always been a problem for us in trying to provide a proper estimate of the number of repossessions that result from court action and all of the other issues that Mr McLetchie has, very fairly, raised. It might be helpful if we supplied the committee with such information as we have, including the basis for the estimate that Stephen Sandham quoted. We are happy to put in the committee's domain all the information that we have. We have tried to get a reasonable handle on the numbers, but it is very difficult—as I think the previous Administration also experienced—to get precise numbers or estimates.

David McLetchie: I agree with that, and I have some sympathy for the position that the minister is in. However, if we are to urge Her Majesty's Government and the UK regulatory bodies to provide information on repossessions in Scotland—a point on which we all agree—we also need to follow that trail of information down the line. There is no point in getting just the top-line figure on repossessions if we remain totally in the dark about the extent to which those repossessions result in homelessness and all the costs that follow from that. Otherwise, we will achieve nothing. We need to follow the issue all the way down. Once we get past that top line, the Scottish Government must be able to acquire the information below that through the research that it commissions. Will the Scottish Government do that?

Alex Neil: What I want is a proper audit trail of what happens, but we cannot get that until we have the top number. Once we know the total number of repossessions, we will set in train the processes and procedures needed to provide an audit trail of what then happens, so that we have a far better handle on numbers, on destinations of people and on the cost to the public purse at each stage of the procedure.

David McLetchie: Good. Thank you very much.

Mary Mulligan: We have all acknowledged that we have had difficulties in obtaining the figures from central Government. Is one way of collecting the information to record the numbers that go through the court system and to examine the outcomes at that stage?

11:15

Alex Neil: We have discussed the matter with the courts administration. The problem is that the information that the courts collect does not give us all the answers that we look for. We need the additional information from the financial regulators, which have the totality of the information. To have the audit trail to which Mr McLetchie was right to refer, we need the courts administration's information, but we also need the financial regulators' information.

Mary Mulligan: I understand why we want the headline figure but, underneath that, the court figures would provide us with information on those who become homeless when a decree is granted, to whom Mr McLetchie referred. That could give more guidance on the provision that is needed to support those people. We need neither one aspect nor the other, but both. You have the power to get the court information, whereas we are clearly struggling to get the headline figure.

Stephen Sandham: The courts can identify and record the number of decrees that are granted to a lender, but their monitoring arrangements do not allow or require them to monitor how many of the decrees that are granted result in a repossession. Sometimes, lenders use decrees almost as a stick to cajole debtors into starting to comply. The courts would argue that requiring them to track that process further downstream would be an additional cost and burden on the court system.

However, section 11 notices provide an opportunity. Section 11 of the Homelessness etc (Scotland) Act 2003 requires lenders to inform local authorities whenever they initiate court action for repossession. Local authorities should know who ultimately ends up making homelessness applications. The statistics that will eventually come through section 11 notices will provide a framework for getting much closer to the number of repossessions and the number of

homelessness applications that result. Section 11 notices were introduced on 1 April, so it is early days.

The Convener: I and other conveners attended a meeting with the Secretary of State for Scotland last week at which it was made clear that the respect agenda extends not just to the Scottish Government but to the Parliament's committees. With the committee's agreement, I hope that we will be able to assist the Minister for Housing and Communities in his work on several issues, such as child poverty, the exchange of data on repossessions and perhaps elections, by writing to the appropriate ministers and inviting them to committee meetings.

Do members have more questions? If not, we will move to the next item.

Bob Doris: Can I ask about the consequential provisions order?

The Convener: I am racing ahead and trying to get out of here too early. You are correct—we have a round of questions on the consequential provisions order.

Bob Doris: I have a brief question about the order. I have looked at the standard forms for notifying home owners, entitled residents and others about court action and potential repossession. The repossessions group hoped to put the forms in plain English as much as possible. I completely appreciate the legal requirement to ensure that the phraseology that is used in forms presents the legal position clearly, but a little bit of work might still need to be done to make the range of forms clearer.

It is probably the same when any form is designed: it has first to be piloted and test driven and then, through the experience of users, it can be revised at a later date if necessary. Having looked at the forms, minister, would you be minded to say that this time next year you will revise the forms to make them clearer? I am reminded of episodes of "Yes Minister" and "Yes, Prime Minister" when I read some of the forms and how they flow. They are confusing to me and I was involved in the passage of the bill, so there is perhaps still some work to do.

Alex Neil: We have agreed with stakeholders to carry out a plain English review of the forms at a later date when there is a legislative opportunity to do so. We have simplified the forms as much as possible and as much as the primary legislation allows us. Any further simplification in plain English terms will require amendments to the primary legislation.

We are happy to look at that—and we have given an undertaking to the stakeholders to do so—because it is important, particularly when

people face repossession, that we make every aspect of dealing with the problem as easy as possible. The circumstances are harrowing enough for people, without their being faced with forms that use legalistic language that they cannot understand.

We have taken the issue as far as we can within the bounds of the current primary legislation. To simplify the language even more, which we are keen to do, will require additional primary legislation, and we are talking to our stakeholders about that.

Bob Doris: It is perhaps slightly remiss of me not to point out that the current forms are a step forward from the ones that were used previously in terms of gobbledegook and jargon. However, we should keep them under constant review and, if it requires primary legislation to amend them further, I would welcome it.

Alex Neil: Thank you.

The Convener: As there are no other questions, I invite the minister to move motion S3M-6588.

Motion moved,

That the Local Government and Communities Committee recommends that the draft Applications by Creditors (Pre-Action Requirements) (Scotland) Order 2010 be approved.—[*Alex Neil.*]

Motion agreed to.

The Convener: I invite the minister to move motion S3M-6589.

Motion moved,

That the Local Government and Communities Committee recommends that the draft Home Owner and Debtor Protection (Scotland) Act 2010 (Consequential Provisions) Order 2010 be approved.—[*Alex Neil.*]

Motion agreed to.

The Convener: I thank the minister and his officials for their attendance this morning.

Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 2010 (SSI 2010/233)

Local Government Pension Scheme Amendment (Scotland) Regulations 2010 (SSI 2010/234)

The Convener: The next item is consideration of two negative Scottish statutory instruments. No comments have been received from members on either instrument, and no motions to annul have been lodged. Do members agree that they do not wish to make any comment to the Parliament on either instrument?

Patricia Ferguson: I have one small query. It may be my reading of the regulations, but SSI 2010/233 gives authorities that administer pension funds the opportunity to borrow, which is expected to be used only on specific and rare occasions. It occurred to me in reading that instrument that I did not see where such authorities would have to comment on the fact that they had taken advantage of that power and borrowed.

That brings us to SSI 2010/234, under which the authority is required to produce an annual report. I could not see a specific requirement to report the use of the opportunity to borrow, but each report is to contain a number of comprehensive statements on how the authority accounts for its activities in the previous period. I wonder whether there is an opportunity to be clearer about that or whether it is presumed that any borrowing that is done will be accounted for in the annual report.

The Convener: Obviously, no comments were received before the meeting, and no one is here to answer that question, but we have time to find out.

We have time to write for clarification and to bring officials back in September. Do we want to agree that we will make no comment on that basis, or do we want to seek clarification in writing and to discuss the issue further in September? The question is whether we want to bring the regulations back, but I presume that we would not know whether we wanted to bring them back until we received the correspondence.

That is a reminder that, if we have such comments and questions, we should give the clerks an opportunity to invite officials along to the meeting.

Patricia Ferguson: My apologies for not raising the issue earlier, but it was only when I was rereading the regulations last night that the point jumped out at me.

The Convener: We have time to bring officials back in September. Do we agree to do that?

John Wilson (Central Scotland) (SNP): I seek clarification. According to the papers that we have in front of us, SSI 2010/233 comes into force on 5 July. Do we have the luxury of time and waiting until September if any issue arises in response to those questions?

The Convener: We will try to seek clarification before that date, but we have 40 days. Is that right?

Susan Duffy (Clerk): Yes. The committee has to report on the regulations in early September, so it has time.

The Convener: We understood that we would have time if such a situation arose, and we do.

Okay, we will seek clarification and circulate the response.

Climate Change (Scotland) Act 2009

11:27

The Convener: The next item is consideration of correspondence from the convener of the Transport, Infrastructure and Climate Change Committee. Does the committee agree in principle to participate in the parliamentary scrutiny of the Scottish Government's climate change report?

David McLetchie: I think that we should. The report will cover a lot of energy-related issues that we have explored in the past, and the role of local government is important, so I suggest that we do.

Patricia Ferguson: I agree with David McLetchie, particularly given our scrutiny of NPF 2, which obviously covers the issues too.

The Convener: I think that we have consensus in principle. We will obviously see what the report says, as that will determine how involved we get, but do we agree to participate in principle?

Members *indicated agreement.*

The Convener: We move into private for the last item.

11:28

Meeting continued in private until 12:20.

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