

AIRDRIE-BATHGATE RAILWAY AND LINKED IMPROVEMENTS BILL COMMITTEE

Thursday 23 November 2006

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2006.

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

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

CONTENTS

Thursday 23 November 2006

Col.

CONSIDERATION STAGE (APPROACH).....	313
-------------------------------------	-----

AIRDRIE-BATHGATE RAILWAY AND LINKED IMPROVEMENTS BILL COMMITTEE † 8th Meeting 2006, Session 2

CONVENER

*Phil Gallie (South of Scotland) (Con)

DEPUTY CONVENER

*Alasdair Morgan (South of Scotland) (SNP)

COMMITTEE MEMBERS

*Janis Hughes (Glasgow Rutherglen) (Lab)

*Cathy Peattie (Falkirk East) (Lab)

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

*attended

CLERK TO THE COMMITTEE

Fergus Cochrane

LOCATION

Committee Room 6

† 6th and 7th Meetings 2006, Session 2—held in private.

Scottish Parliament

Airdrie-Bathgate Railway and Linked Improvements Bill Committee

Thursday 23 November 2006

[THE CONVENER *opened the meeting at 17:15*]

Consideration Stage (Approach)

The Convener (Phil Gallie): Welcome to the eighth meeting in 2006 of the Airdrie-Bathgate Railway and Linked Improvements Bill Committee, for which, once again, we have a full turnout.

Today marks the first meeting of the committee at consideration stage, following this afternoon's decision by the Parliament to agree the bill's general principles and that it should proceed as a private bill. I record my personal thanks to everyone around the table for the progress that has been made to date.

There is one paper before the committee, which invites us to consider and agree our approach to consideration stage phase 1. Colleagues will recall that we gave preliminary consideration to our approach at our meeting on 25 September. Today's paper formally invites us to agree the approach and timetable for the submission of written evidence and for the assessor's oral evidence hearings.

The paper invites us to consider and agree quite a number of issues, the first of which is the grouping of objections and who the lead objectors will be for each group. Following our meeting on 25 September, we sought the views of objectors on the draft groupings and the suggested lead objectors, which are set out in the paper that was considered at that meeting. Annex A to today's paper reflects the comments that were received from objectors.

The committee is invited to consider and agree the suggested groupings and lead objectors, as set out in annex A to the paper. Do we agree annex A?

Members indicated agreement.

The Convener: On the handling of the three objections that are concerned with the provision of additional stations, we agreed in our preliminary stage report that we would direct the assessor not to take evidence from those objectors. Can I, therefore, seek the committee's agreement that the remainder of our discussion on the paper does

not apply to group 37 and that we will give further consideration to those objections ourselves?

Members indicated agreement.

Alasdair Morgan (South of Scotland) (SNP): As the committee is to consider the three objections in group 37 and not refer them to the assessor to consider, will the approach to gathering evidence and the timetable that are outlined in the paper be the approach and timetable that we will adopt?

The Convener: I think that that would be sensible. Perhaps the clerk could write to those objectors, indicating that, as the committee will consider their objections, they should now prepare and submit their written evidence and that the approach to gathering written evidence will be along the lines that are set out in annex C of the paper. I suggest that the deadlines for the submission of this group's evidence are the same as those for the other groups. A meeting can be timetabled in due course for us then to give consideration to the objections and, if necessary, to hear oral evidence. Is the committee in agreement?

Members indicated agreement.

The Convener: The clerk will write to those objectors accordingly.

On the issue of the timetable for phase 1, as set out in annex B, we considered a provisional timetable at our meeting on 25 September. Although the time available to objectors to prepare and submit their written evidence has been shortened marginally, as indicated in paragraphs 15 and 16 of the paper, objectors have been advised previously not to wait until we write to them, as the clerk will do after this meeting, before starting to prepare their written evidence.

The committee is invited to consider and agree the timetable for evidence gathering and the assessor hearings as set out in annex B. I should point out that the assessor's report is expected by 19 February. I hope that we will meet as early as possible after we receive that report to consider the next steps forward. Do we agree the timetable in annex B?

Members indicated agreement.

The Convener: Members will be aware that the process at the first phase of the consideration stage is quasi-judicial in nature. Therefore, it is important that clear, enforceable guidelines are put in place. Groups that do not provide written evidence by the stated deadline will not be able to take any further part in proceedings or make any further comment on the bill. Similarly, if the promoter does not provide written evidence by the deadlines, it will not be able to provide any further evidence on the issues in question.

As the paper makes clear, the assessor will consider all the written and oral evidence that is submitted and then report to the committee accordingly. We will be in a position to know who should be invited to give oral evidence once all the written evidence has been received. I am keen to ensure that we do not have several witnesses providing oral evidence on exactly the same or very similar topics. Under rule 9A.9.2, it is for this committee to invite witnesses to give oral evidence.

Does the committee agree to delegate to me, on the recommendation of the assessor, the final decision on which witnesses are invited to provide oral evidence on behalf of the promoter and each group?

Members indicated agreement.

The Convener: On paragraph 24, it might be beneficial to all parties if a more precise timetable is prepared that identifies which groups will be considered on which dates.

Does the committee agree that it will expect the assessor to prepare and circulate to the promoter and objectors a more detailed timetable for oral evidence hearings?

Members indicated agreement.

The Convener: Paragraphs 26, 27, 28, 31 and 32 seek to ensure the smooth running of the oral evidence hearings. Do members agree that we indicate to the assessor that, where appropriate, he may limit oral evidence?

Members indicated agreement.

The Convener: Members will recall that we have already considered and reported on a number of preliminary stage issues in our preliminary stage report, which the Parliament has today agreed.

The committee is invited to consider and agree those topics in relation to which, having reached a view in its preliminary stage report, or generally, it does not wish the assessor to take any further evidence as set out in annex C. Do we so agree?

Members indicated agreement.

The Convener: The committee is invited to agree that it will indicate to the assessor that he should feel free to question witnesses at any stage of their oral evidence, if he feels that such questioning would be appropriate to clarify matters or bring out relevant evidence. Do we so agree?

Members indicated agreement.

The Convener: A further way to avoid unnecessary repetition of oral evidence is for individual groups that fall within a similar geographical area, and whose objections are

sufficiently similar, to be merged. That is referred to in paragraph 31. Doing so could help to avoid the promoter having to repeat all its evidence to each group on the same issue and will also allow each group to cross-examine the promoter's witnesses simultaneously.

Do members agree that the grouping of groups—where it is administratively appropriate to do so—may be adopted and to delegate to the assessor authority to implement such an approach?

Members indicated agreement.

The Convener: The guidance on private bills states that the promoter should present its closing statement in relation to a particular group of objections immediately prior to that group. The paper proposes that closing statements from the parties should be limited to five minutes to ensure that they focus on the key issues that remain in dispute. That consistency will ensure that all parties are treated equally and will assist us when we consider the transcripts of oral evidence.

Does the committee agree to tell the assessor that it expects him to specify a maximum of five minutes for each closing statement, with the promoter making its closing statement first, before the group representative makes his or her closing statement?

Members indicated agreement.

The Convener: The paper proposes that, when the assessor concludes the oral evidence hearings, he will prepare and submit a report that includes recommendations on the objections that have been considered. Given our wider timetable for consideration of the bill, there might be merit in telling the assessor when we expect to receive his report. The proposed date, which was not originally included in annex B, is 19 February. That will give the assessor about three weeks to prepare and submit his report.

Do members agree that the assessor should produce a report to the committee by 19 February and that the formatting of the report should be consistent with the committee's established report template?

Members indicated agreement.

The Convener: There will be no extension to the deadline for the assessor's report, nor will the timetable for oral evidence be rearranged to accommodate last-minute discussions between the promoter and the objectors. In that respect, I strongly recommend that they try to resolve any differences at the earliest possible opportunity. They have two months left in which to do so.

The appointment of an assessor at consideration stage is a relatively new step and

we have thought hard about the role of the assessor and the duties that we expect him to perform. Does the committee agree to tell the assessor that he may take such reasonable actions as he considers necessary for the fair and proper conduct of the hearings and to allow him to consider and report on the evidence?

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Before I indicate agreement, I seek advice. If the assessor believes that more time is required for the discussions, will he be able to express that view to the committee or will the date be cast in stone?

The Convener: Given the timetable for the bill, the date is more or less cast in stone. If the assessor picked up on anything exceptional, we would have to call an emergency meeting of the committee to determine the best way to proceed.

Jeremy Purvis: So that would be the mechanism. That is fine.

The Convener: Are members agreed?

Members indicated agreement.

The Convener: I make it clear that we require the assessor to act in a manner that is consistent with the Parliament's established procedures and in accordance with the requirements of the Human Rights Act 1998 and the European convention on human rights.

Alasdair Morgan: I am glad to note that you are insisting on that, convener. [*Laughter.*]

Jeremy Purvis: For the record, the convener coughed as he said that.

The Convener: I have been forced to drink a glass of water. We can stand the hilarity at this stage, I think.

The final decisions are on site visits. Previous private bill committees have undertaken location-specific site visits at the consideration stage. We must consider whether we want the assessor to undertake a site visit, which would involve visits to various properties and areas of land that could be affected by the bill and meetings with the relevant objectors. However, I make it clear that the visit would be purely for fact-finding purposes and that the objectors would not be able to provide any evidence to the assessor during the meetings.

If members agree that the assessor should undertake a site visit, he will be accompanied by the clerk to ensure that objectors do not attempt to lobby him. Further, it would be useful to invite a representative of the promoter on the visit, which may help with access to some locations. The promoter would not, however, be able to lobby or provide any evidence to the assessor.

Do members agree that we indicate to the assessor our expectation that he will carry out a

site visit and that such a visit would be strictly for fact-finding purposes? Do members further agree that one representative of the promoter may attend the assessor site visit, as an observer only?

17:30

Cathy Peattie (Falkirk East) (Lab): The proposal probably makes a lot of sense, but would the visit happen at the discretion of the assessor? He or she might decide that it is not necessary. Are we saying that he or she must do that?

The Convener: We are saying that, just as we visited the sites, it would be strange indeed if the assessor did not make such a visit. We are telling the assessor that we expect him to go.

Cathy Peattie: That is fine.

Jeremy Purvis: I would like to raise a minor point. When the committee undertook its site visit, it was quite clear that we would be doing so, given that it was published on the website as part of our agenda. For transparency's sake, bearing in mind that it would not be made public so that the assessor could be lobbied, it should be clear that the assessor's visit will be made. Could we add that we expect it to be made quite clear that the visit will happen? There may be a mechanism for publishing that information on our website or in some other way, but it would be helpful if the plans for a site visit were clear and in the open and if people knew where the assessor would be visiting.

The Convener: Given the Parliament's views on transparency, I think that that would be very wise. If it is the wish of the committee, we shall ask the clerk to ensure that that happens. [*Interruption.*] I am advised by the clerk that the letters that we have agreed will go out today—the clerks have used their initiative and prepared them—refer to the site visits, so the objectors will be aware of that.

Do members agree to that site visit, and do they agree that a representative of the promoter will be there as an observer only?

Members indicated agreement.

The Convener: Finally, I invite members to note the paper on unilateral undertakings at annex D. In general, we would expect the assessor to maintain a relatively informal atmosphere during the oral evidence hearings, given that objectors may be appearing as lay people with limited technical knowledge, subject to the need to examine all the evidence in an open and fair manner. The committee clerk will act as a clerk to the assessor at those meetings.

Given that we have not yet received any written evidence at consideration stage, it is difficult to be exact about how many oral evidence meetings will

need to be held. The timetable indicates that the meetings will commence on 24 January 2007. However, we expect the promoter and objectors to make every effort to resolve objections, which would negate the need for oral evidence to be taken on those objections. In that respect, we shall monitor the progress that is made in discussions by both promoter and objectors.

That concludes the meeting. The clerk will write to all parties immediately, as previously indicated, to inform objectors and others of our decisions arising from this meeting.

Meeting closed at 17:34.

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

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

The deadline for corrections to this edition is:

Wednesday 6 December 2006

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

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

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

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

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

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

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

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

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

Scottish Parliament

RNID Typetalk calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers