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Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 30 May 2012

Session 4

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE
14th Meeting 2012, Session 4

CONVENER

*Joe FitzPatrick (Dundee City West) (SNP)

DEPUTY CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

COMMITTEE MEMBERS

*James Dornan (Glasgow Cathcart) (SNP)

*Anne McTaggart (Glasgow) (Lab)

*Margaret Mitchell (Central Scotland) (Con)

*John Pentland (Motherwell and Wishaw) (Lab)

*David Torrance (Kirkcaldy) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Sam Baker (Scottish Government)

Petra Biberbach (Planning Aid for Scotland)

Keith Brown (Minister for Housing and Transport)

Jenny Hogan (Scottish Renewables)

Laura Hoskins (Convention of Scottish Local Authorities)

Alistair MacDonald (Heads of Planning Scotland)

Derek Mackay (Minister for Local Government and Planning)

Craig McLaren (Royal Town Planning Institute in Scotland)

John McNairney (Scottish Government)

Blair Melville (Homes for Scotland)

Alex Mitchell (Confederation of British Industry Scotland)

Graeme Purves (Scottish Government)

Aedan Smith (Scottish Environment LINK)

Clare Symonds (Planning Democracy)

CLERK TO THE COMMITTEE

Eugene Windsor

LOCATION

Committee Room 1

Scottish Parliament

Local Government and Regeneration Committee

Wednesday 30 May 2012

[The Convener *opened the meeting at 09:45*]

Decision on Taking Business in Private

The Convener (Joe FitzPatrick): Good morning, everyone, and welcome to the Local Government and Regeneration Committee's 14th meeting in 2012. As usual, I ask everyone to check that they have switched off mobile phones and other electronic devices as they interfere with the sound system.

I remind members that our only item of business next week is consideration of the committee's draft annual report for 2011-12. As draft reports are usually considered in private, I propose that we consider our draft report in private next week. Is that agreed?

Members *indicated agreement.*

Planning

09:46

The Convener: Item 1 is a round-table evidence session on planning issues. We have the opportunity to consider two super-affirmative instruments on planning—the Public Services Reform (Planning) (Pre-application consultation) (Scotland) Order 2012 and the Public Services Reform (Planning) (Local Review Procedure) (Scotland) Order 2012. In addition, we will consider changes to planning fees and the national planning framework 2. I intend to structure the discussion by splitting it between those three areas.

We will kick off with everyone introducing themselves. I am the MSP for Dundee City West and I am the committee's convener.

Kevin Stewart (Aberdeen Central) (SNP): I am the member for Aberdeen Central and I am the deputy convener.

John McNairney (Scottish Government): I am an assistant chief planner at the Scottish Government and I deal with modernising planning.

Graeme Purves (Scottish Government): I am an assistant chief planner at the Scottish Government and I lead on national spatial planning.

John Pentland (Motherwell and Wishaw) (Lab): I am the MSP for Motherwell and Wishaw.

Craig McLaren (Royal Town Planning Institute in Scotland): I am the national director of the Royal Town Planning Institute in Scotland.

James Dornan (Glasgow Cathcart) (SNP): I am the member for Glasgow Cathcart.

Petra Biberbach (Planning Aid for Scotland): I am the chief executive of Planning Aid for Scotland.

Margaret Mitchell (Central Scotland) (Con): I am an MSP for Central Scotland.

Jenny Hogan (Scottish Renewables): I am the director of policy at Scottish Renewables.

Blair Melville (Homes for Scotland): I am the head of planning at Homes for Scotland, which represents the home building industry.

Laura Hoskins (Convention of Scottish Local Authorities): I am a policy manager at the Convention of Scottish Local Authorities.

David Torrance (Kirkcaldy) (SNP): I am the MSP for the Kirkcaldy constituency.

Alistair MacDonald (Heads of Planning Scotland): Good morning. I am the head of

planning at Glasgow City Council, but I am here to represent Heads of Planning Scotland.

Alex Mitchell (Confederation of British Industry Scotland): Good morning. I am the planning director with James Barr Ltd and I represent the Confederation of British Industry Scotland.

Anne McTaggart (Glasgow) (Lab): Good morning. I am an MSP for the Glasgow region.

Clare Symonds (Planning Democracy): Good morning. I am the chair of Planning Democracy.

Aedan Smith (Scottish Environment LINK): I am the head of planning for RSPB Scotland and I am here to represent Scottish Environment LINK, which is the umbrella organisation for environment non-governmental organisations in Scotland.

The Convener: To kick off, I ask folk to give us their thoughts on the proposal to remove the requirement for the pre-application process. Some folk might think that that is a good idea and some might have concerns. It would be good to hear folk's thoughts. I ask John McNairney to kick off.

John McNairney: The Public Services Reform (Planning) (Pre-application consultation) (Scotland) Order 2012 is one of two orders that we are consulting on under the public services reform legislation. The Planning etc (Scotland) Act 2006 introduced a new requirement for pre-application consultation. That additional stage is a 12-week process that allows applicants for national and major developments to engage with the community before the planning process formally commences. Those provisions are in section 35A of the Town and Country Planning (Scotland) Act 1997.

However, an unintended consequence of the change is that the requirement for pre-application consultation also applies to applications that are made under section 42 of the 1997 act, which is designed to allow applicants who have already received planning permission to make an alteration to the conditions applied to that consent. In practice, that can mean that applicants who have a major planning consent and who are concerned about the terms of relatively minor conditions—such as landscaping, arrangements for deliveries or hours of operation—not only have to go back through the planning process, as they would have done normally, but now have to engage in the 12-week period of pre-application consultation.

We have consulted on a number of options for addressing the matter. Our view was that the requirement for pre-application consultation is not really proportionate. It tends to add delay, raise expectations and increase demands on the community as well as the applicant. Our proposal

is to remove the requirement only as it relates to applications for changes to a planning condition attached to an existing consent. The developer would still need to go through the process, and views could still be given during the normal planning application process.

Laura Hoskins: COSLA leaders considered the issue at their first meeting last Friday and agreed that the current approach, in relation to section 42, is disproportionate and has the consequences that John McNairney outlined. They would welcome an amendment to the legislation, although they were fairly relaxed about whether the amendment should refer to a period of up to 12 weeks.

The Convener: Does anyone have any concerns about the proposals?

Margaret Mitchell: How material could the change in conditions be? Would it be to the extent that it could impinge on the original principle of the planning application?

John McNairney: Conditions can vary and may well be significant. If there was to be a fundamental change to a planning permission, authorities would generally seek a new planning application. The conditions tend to be more to do with the detail of how a permission should be implemented and applied, so the range of conditions is very wide. Conditions could relate to the scale of development or the sort of detailed provisions that I mentioned, such as finishing materials.

Most commonly, conditions tend not to be about major issues such as the principle or impact of the development. That said, where there is a condition that those who have made representations might consider significant, they would not lose the opportunity to comment on the application—they would still be able to make representations to the planning authority, which would consider the application only in relation to the conditions that had been applied. It would still have to take a view, and it would still take representations into account when making a determination. The opportunity to comment is not lost; all that is lost is the additional phase at the start of the process, which we feel is not proportionate and is an unintended consequence of the 2006 act.

Margaret Mitchell: Many of the submissions suggested that the front-end consultation irons out a lot of the problems—if people are unhappy about things, it smoothes the way. If a change is so material, I hope that there will be some kind of trigger to tell people that perhaps they should consult on it—although I imagine that that will happen in only a very limited number of cases.

I would be interested to hear what the rest of the panel thinks. Are the necessary checks and balances in place in what the Government is

proposing, should there be a material change to conditions?

Petra Biberbach: Planning Aid for Scotland has supported the proposed amendments because the 12-week period is arbitrary and does not necessarily make for good consultation or engagement with the public. We want that to be better—you alluded to that. Engagement is always very important, but whether that starts in week 3 or week 12 it is often onerous for the community to get involved to any depth. We would welcome a shorter timescale. Also, at the moment, one public meeting is asked for but that is far too few to engage the public and bring them into the process.

Alistair MacDonald: Materiality has been mentioned. Any council would take the view that, if a condition or a change was substantial enough to change the nature of the application, the application would collapse and a new application would be required, which would be subject to the 12-week consultation period.

We have found that section 42 can lead to some confusion in residents' minds. Even if the change is only to a minor item, there must still be a public event and the 12-week consultation period. The public then start to ask why they are turning up for such events and participating in the consultation when only a small element of the application is changing. It is a material consideration to look at the change, and if the change is substantial there will be a new application.

Margaret Mitchell: That is helpful.

Anne McTaggart: The requirement for the pre-application consultation applies only to major applications. How much of a problem is there in practice?

Aedan Smith: We do not have any major concerns, but we always encourage developers and planning authorities to ensure that the key issues are considered up front when the original application is submitted. As has been discussed, if major changes are necessary we expect the planning authority to require a new application. We do not have any major concerns about the specific proposal.

Blair Melville: We do not have any statistics or hard evidence from our members on the quantum of the problem, but we hear repeatedly that the section 42 applications have proved to be a frequent nuisance to our members. As has been said, the vast majority of those applications relate to very minor issues. It is not uncommon for developers to seek to change relatively minor aspects of their proposals, and the need for some of those changes becomes evident only at the construction stage or the detailed design stage. Little changes are quite common and there is no reason to go back through the process for them.

However, as has rightly been said, where they become material changes to conditions the planning authority has the option to seek a new application, and our members accept that. For instance, if we sought to change a condition that relates to a scheme's affordable housing contribution, that would be a material change and we would expect to have to submit a new application for that reason.

We must bear in mind the question of proportionality and the wider economic impact on my members. Another three to six-month delay in a project could ultimately make the difference between that project's proving viable and its proving not viable. It could lead to a decision not to proceed with the project, to customers going elsewhere and, in extreme cases, to the investment that we were going to bring to an area going somewhere else. There is a wider economic context that we need to bear in mind. The whole planning system is about promoting sustainable economic growth, and we are looking for a system in the round that recognises the importance of promoting growth in Scotland.

10:00

Kevin Stewart: Mr Melville mentioned minor change. It is the definition of "minor" that is the difficulty, because what a developer views as a minor change might be viewed as a major change by the community. If I may give an example of the environmental aspect, in a patch that I used to represent on the council what was seen as a minor change in relation to trees has created huge difficulties. Can Mr MacDonald indicate what Heads of Planning will do to create some uniformity in the definition of what is minor and what is not?

Alistair MacDonald: That is an interesting question. The courts sometimes end up making those decisions. There are a range of areas in which consideration is given to materiality and what is significant change. I stress that, if section 42 is amended and people do not have to go through the 12-week consultation period, the application will still be notifiable to neighbours—it may also be advertised—and it will go through the due process of the required consultation. People will still go through a consultation process to deal with a condition, although that process will not be over a 12-week period. Due process will still be there, as the consultation will still take place: neighbours will be notified and they will be able to make representations.

John McNairney: I accept that a condition might be quite a big issue for some people but not for others. If we tried to design a legislative framework that took account of every possible impact of every condition, the procedure would be

difficult to implement. We have tried to ensure that we keep the process simple and easy to understand.

As Alistair MacDonald said, the planning process is still there, so neighbours will still be notified and will still have the opportunity to make their views known if they feel that a condition about a tree or a landscaping arrangement is significant and affects their interests directly.

The Convener: As there are no other thoughts on the two super-affirmative instruments, we will move on to planning fees.

The proposal is that we should be able to increase planning fees to £100,000. It would be good if someone from the Government could kick off by outlining the arguments for the proposal that has been brought forward, and we will take the discussion from there.

John McNairney: The issue of resources for planning, specifically in relation to the costs of processing planning applications, has been a live one for about a decade. The Government has carried out two pieces of research, in 2005 and 2009, to ascertain what the costs are and whether authorities receive sufficient revenue to cover their costs. Subsequent to that research, we have worked with Heads of Planning Scotland in workshops and in pilots to tease out the exact current position.

I think that it is safe to say that it has been generally accepted that the gap between income and costs is increasing. A recent Audit Scotland report suggested that that gap was becoming unsustainable. We are keen to design, and are consulting on, a new framework for fees that we think more accurately reflects the costs that planning authorities incur in processing applications.

It is also fair to say that the work that we have done indicates that there is no precise processing fee that can be charged uniformly throughout the country for an application for a single dwelling house, for example, or a supermarket. The work that my colleagues carried out with pilot authorities suggested that the costs associated with processing a single application for a house ranged from £400 to £4,000, with an average of about £1,300, in comparison with the current fee of £319. I highlight that the framework that we propose is intended to deliver a more proportionate level of fee. In some cases, the increase will be significant. Indeed, the increase in the cap from £16,000 to £100,000 seems very significant. However, when it is compared with the level of fee in other parts of the United Kingdom, where the cap is £250,000, it may be considered less significant. Some fees will come down, but the fees for most developments—including most

medium-scale developments—are likely to increase.

The other significant point is that a link is proposed between the level of fee and the performance of planning authorities. We have yet to develop and consult on how that link might pan out and be implemented, but ministers are clear that there is an inextricable link between an increased fee and more effective performance. In turn, performance will be subject to a framework from Heads of Planning, which will measure it in a more holistic way.

Those are the main things that I would highlight by way of introduction.

The Convener: Do other panel members have any thoughts?

Jenny Hogan: From a renewable energy perspective, we agree with the need for better resourcing of the planning system, and we fully recognise that fees are an important part of that.

One of our key concerns is proportionality, and we would like further consideration to be given to the maximum fee. Renewable energy projects go through two systems: the system under the Town and Country Planning (Scotland) Act 1997 and—for larger projects, as members will know—the system under section 36 of the Electricity Act 1989, which involves the Scottish Government's energy consents unit.

The two systems have different fee structures. As members will know, section 36 fees are also out for consultation, but at present there is quite a large disparity between the maximum fees in each system. There is a much smaller fee under the 1989 act for what are effectively larger projects.

For that reason, we would like a clear link between the level of fee and the quality and speed of the decision-making process. That approach would need to be brought into line with the cost of processing different types of application, especially given that the scale of projects varies significantly across different renewable energy technologies.

The fundamental issue comes down to the scaling of the fees, which is where our second key concern comes in. At present, the proposed method for scaling fees is based on site area, but we would prefer it to be based on the proposed installed capacity of renewable energy projects. The system under section 36 of the 1989 act is based on installed megawatt capacity. Larger projects tend to be more complex, so it makes much more sense to set an increased fee for those projects.

When the fees are based on site area they can vary substantially across different technologies and different types of project, which means that

relatively simple projects could pay higher fees. We would like that issue to be considered further.

Margaret Mitchell: Your submission states that that situation could lead to developers trying to cram as much as possible into a small area. That issue has been raised in respect of wind farms by some residents, who would like the proximity to any dwelling house to be increased. That would address the problem around the periphery.

Do you have a view on that? It is more to do with aesthetic concerns and issues such as noise that go with living near wind farms. It also addresses your point about developers cramming things in if the fees go up.

Jenny Hogan: The distance from dwellings is a separate issue and involves a different part of the planning process. We support what the system allows for at the moment: it depends on the project, and every project must be assessed on its own merits. Noise is one issue that definitely comes into play.

With regard to site area, Margaret Mitchell is right to say that, while a large project may not necessarily be large in terms of installed capacity, it might take up a large area. We are talking about not just wind farms, but hydro and biomass plants, which involve very different types of technology.

A developer might try to keep a site area small, when we could get much more efficient energy from that project. The significance of the issue could increase unless we find a more efficient system that uses a per-megawatt basis.

Craig McLaren: The Royal Town Planning Institute in Scotland welcomes the proposed new fee structure. However, it is important to realise that the planning service's customers are not just planning applicants; the broader public are customers, as well. It is all about how their environment—where they live—is affected by any planning proposal.

We accept that full cost recovery is a good thing, but it should focus more on the development management side of planning, which is the bit that assesses planning applications. The other bits, such as development planning and enforcement, must still be funded from the public purse, as they are public services. That is an important point to make.

I will mention some other aspects of the fee structure that we think are important. We have talked about some of the methodologies that have been put in place to establish what the fee structure should be for a full cost recovery approach. We believe that there is probably a wider need for local authorities, COSLA and the Scottish Government to try to agree a consistent and coherent methodology that best assesses the

costs, which is a point that was made in the Audit Scotland report of September last year. That would give us a clear idea of what planning could cost. I admit that that would not be easy; it would be difficult but it is something that we should try to establish.

The other key point is that the institute is about the promotion of the art and science of town planning for the benefit of the public. We are always there to try to make sure that planning works effectively and as best it can. Therefore, we need to bear in mind that if we have an uplift in planning fees, they should be ring fenced and only used to support planning functions and to help improve the planning service. If we do not do that, the uplift will not have an impact on achieving the change that we are trying to achieve.

The Convener: Laura Hoskins might have a slightly different view on ring fencing.

Laura Hoskins: COSLA leaders considered the issue at their meeting on Friday. They welcomed the review of fees, but expressed concern that the £100,000 threshold was maybe not sufficient, given the higher threshold elsewhere in the UK. They also wished to comment that although we are talking about an increase in fees across the board, some other applications have come from outwith the planning system, through the new permitted development rights. Councils still have a responsibility to respond to members of the public who think that they may need to make an application and require reassurance that they do not. As has been said, the planning system is not just about processing applications; it is also about ensuring that the local development planning framework is in place to deal with such issues.

We have particular concerns about linking fees to planning performance, given that the planning performance framework, which was developed by HOPS, has been adopted only recently; in fact, it was launched by the minister alongside the planning consultation. We would appreciate it if that was allowed to bed down. We require further clarification on how the link between performance and fees would operate and whether it would lead to a two-tier system in authorities.

We do not welcome the proposal to ring fence fees for development management. As you will know, part of the proposal for the fees regime is to include things such as advertising costs within the cost of a householder application. At the moment, those things are collected separately. In a local authority, advertising is not always run by the development management section or the planning service; it could be run by a corporate communications team. COSLA would not support the idea of involvement in the internal financial management of a local authority. However, we welcome the review. As Mr McNairney said, in the

past COSLA and HOPS have submitted different examples as evidence to assist the Scottish Government in coming up with its proposals.

Kevin Stewart: If fees are ring fenced, is there a danger that moneys that often come from other areas of a council's general revenue budget may not go to planning?

10:15

Laura Hoskins: COSLA's general principle is that we do not agree with ring fencing and that it should be up to individual councils to determine how their resources are allocated in response to local needs.

Kevin Stewart: I know COSLA's position very well, but do you think that, if ring fencing were enforced in this area, other resource that might come into planning from elsewhere would not do so?

Laura Hoskins: That is certainly not a matter that was raised by leaders when they considered the subject last Friday.

The Convener: Before Kevin Stewart moves on to his next question, I will bring in Aedan Smith.

Aedan Smith: Thanks. I support a lot of what the RTPI has said about fees. We are customers of the planning service just as much as applicants are. The planning system is designed to operate in the long-term public interest, so our member organisations and their members are very interested in how it operates. In that regard, well-resourced local planning authorities are key. We often come across planning authorities that are extremely hard pressed as far as resources are concerned. Anything that increases their ability to assess the environmental effects of development proposals, in particular, is important for us.

In that regard, we have some concerns about the potential link with the planning performance framework and the potential penalisation of poorly performing planning authorities. We have a worry about a planning authority that is struggling as it is being financially penalised. How will it get out of that hole of poor performance if it is already being hit financially? That is a real concern for us.

I have had a look through the planning performance framework that Heads of Planning Scotland has prepared. In principle, it is quite a good framework, but my worry is that our member organisations have not had much involvement in its creation so, at the moment, there is a bit of a hole in it from the point of view of assessing the sustainability aspects of planning performance. That would need to be addressed if the framework were to be adopted more widely. In principle, that sort of performance framework could work quite effectively.

The Convener: Craig McLaren has a comment to make.

Craig McLaren: It is on the points that Laura Hoskins and Aedan Smith made about performance and continuous improvement. We think that a link to improved performance is fine, but we need to ensure that a continuous improvement framework underpins that and helps planning authorities to improve their performance.

We agree with what Aedan Smith said about the proposal to withdraw funding—it would be counterproductive. A school or a hospital would not have funding withdrawn; it would be helped to improve its performance. We think that there is a need to use the planning performance framework, which we have welcomed as an extremely useful tool, but that it should not be used in a blunt way. It should be used as a means of putting in place some kind of national performance and continuous improvement framework that brings together all the different players in the planning field.

The planning performance framework should apply not just to local authorities, but to key agencies and Government. A key point that we would make about planning is that a lot of the discussion on fees focuses on local authorities, but although they are important players in the planning process, their performance depends on people making good planning applications that they can deal with and progress; it depends on everyone working together to create a much better approach to planning. With any continuous improvement programme, we would want to bring together different sectors in a much more collaborative way so that they get a better idea of one another's perspectives on where they think that they are doing well, where they think that they are performing badly and what solutions they can come up with to make things work more effectively.

Kevin Stewart: I am very interested in performance but, in some respects, I am more interested in hearing what discussions there have been at COSLA level on benchmarking. We often find—I disagree slightly with Craig McLaren on this—that money is thrown at something and still there is no improvement, so I think that penalties may work in some cases. I do not think that we can be overly uniform in that regard.

My key point is about the benchmarking of authorities. We hear all the time that some authorities perform extremely well with very little resource, while others perform particularly badly—according to developers and others—with a huge amount of resource. In that context, what consideration has been given to the Society of Local Authority Chief Executives and Senior Managers benchmarking project?

Laura Hoskins: There seems to be an assumption of poor performance. The debate seems to be based on the assumption that planning authorities are not performing well when, in fact, the statistics and the material that the Scottish Government publishes quarterly show that performance is very good. Part of our concern is that the thrust of the proposal is that performance is not good. We are talking about penalties for poor performance without specifying the definition of that.

On the SOLACE benchmarking project, I am afraid that there is nobody here from SOLACE and I would not like to speak on its behalf.

Kevin Stewart: It is a joint project between SOLACE and COSLA.

Laura Hoskins: Yes, I know, but I have not been involved in it so it would not be appropriate for me to comment on it. Our perspective is that performance is not a major problem. We appreciate that the issue is how to resource assistance for poorly performing authorities. In the past, the Improvement Service development programme was a tool at our disposal, but it will no longer be available.

The Convener: Alex Mitchell has been waiting to speak for some time.

Alex Mitchell: The CBI has no objection in principle to the increase in fees, but we have concerns. It is certainly not in our members' interests to have an underfunded planning function, particularly given that function's direct link to economic development. Having heard the discussion, I want to make it clear that, as I understand it, the consultation document is purely to do with the funding of the development management system. The context is the fees that relate to that particular function. Some organisations seem to think that the wider planning system is part and parcel of the proposal to increase fees. Unless I have picked it up wrongly, the consultation is purely about appropriately funding the development management function through planning application fees. That is an important point that everybody needs to consider.

We have two general concerns regarding the increase in fees, the first of which is about the level of fees and how they relate to the components of development. The second is about the timing and phasing of fees and how that might affect economic performance in the current situation. Applicants and developers should be allowed to absorb fees in a consistent way as they go through the system, rather than potentially being hit with one large increase in fees.

Overall, we are on side with the aim of considering how to fund the system properly by

increasing fees. However, more work must be done on how the increases are arrived at. We must ensure that the increases in each sector are appropriately targeted at the particular applications that generate time and cost for the development management function.

John Pentland: Much of the discussion has been about the fee structure. Before any revised scheme comes into force, do we need a detailed study of the costs that are associated with planning applications?

Alex Mitchell: We heard from John McNairney that a limited exercise has been undertaken. I think he said that the cost of a planning application for a dwelling house ranged from £1,500 to £4,000. However, the proposed fee is £800. To me, that immediately shows a discord between what the evidence shows and what is proposed. If, as I think John McNairney said, the average cost is £1,500, surely that is the fee that should be charged for a planning application for a dwelling house. The exercise was based on five authorities. Given that there are more than 30 authorities in the country, we take the view that a more detailed survey is required across the board to allow the fees to be calculated. I do not see a difficulty with considering the fees for each individual sector, such as the residential, retail and industrial sectors.

Petra Biberbach: Planning Aid agrees with raising the fees. That is important because planning departments are underresourced. We would welcome an increase in fees. Although we do not stipulate that the money should be ring fenced, we make a caveat that greater funding should be provided for development plan making. That is one area in which the public have a role in shaping and doing much more of the front loading. If, as COSLA suggested, we leave it to fancier advertisements or nicer colours, that does not go far enough in trying to bring more of the public with us. Generally, the public are outside the planning system and need to be brought in much more and much earlier.

Planning departments' engagement activity varies greatly. Some local authorities think that enough is being done if leaflets are dropped off; other local authorities, such as Glasgow, make far more effort to engage the public. We need to think about how we are engaging with the public at the earliest opportunity.

Margaret Mitchell: Will John McNairney confirm whether the policy intention was to use the fees specifically for development management? Alternatively, as Craig McLaren suggested, was there some indication that money might go into more general resourcing and planning issues, as Homes for Scotland has suggested?

An issue that we have not yet considered, but which Clare Symonds raised concerns about in her submission, is enforcement. Craig McLaren's submission noted that the number of planners had decreased significantly. Those issues seem to be related, so Clare Symonds might want to comment on them.

Clare Symonds: I am here to talk specifically about enforcement. At our conference the other day, people were quite concerned about the lack of enforcement of planning conditions. I do not know what the reasons for that are, but I assume that they involve the underresourcing of the planning system. We would welcome any input into that department.

John McNairney: The planning fee is intended to support the processing of planning applications, which is a major part of development management. It is not intended to go wider than that. Elsewhere, the resourcing of the planning service is really a matter for the local authority. Although the fees are not intended to resource development management in its entirety—including enforcement and other activity—they are specifically intended to address all the costs that are associated with processing planning applications.

Alex Mitchell: That clarifies our understanding of the consultation document. However, it also makes the discussion about ring fencing almost irrelevant. In theory, there should be no surplus if the fees are directly related to the cost of the development management. There should be a cost and there should be an income, and the two should almost match. The notion of ring fencing surplus money to use for other functions should not apply.

Blair Melville: The discussion about the methodology of the calculations and the issue of which element of planning the fees are supposed to relate to highlights our members' concern about the fact that we are still not clear how the figures have been arrived at.

To give a crude, back-of-an-envelope example, a £100,000 maximum fee would equate to a 425-house development, which in the scheme of things is not a huge development—it is significant, but not huge; it is certainly not of the scale of a sustainable new community. Taking a generous view of what planning officers' time costs, £100,000 equates to about 1,000 man hours or 26 man weeks, and I really do not think that any planning authority devotes 26 man weeks to an application of that size. I do not think that it could afford to devote that amount of man—or woman—resource to a single application. On that simple basis, there seems to be a disconnect between the scale of the fee and the cost of the service.

The issue of penalties for poorly performing authorities has been raised. I would like to turn that round and talk more about incentivising authorities to improve their performance. That is very much the way in which fees and payments would be dealt with in the private sector. If one of my members were employing a consultant, the contracts would include an incentive to deliver the performance measures on time and on budget, and there would be a facility to withhold some of that payment if that was not achieved. For example, the milestones that might be set out in the processing agreement for a planning application could become the triggers for the incentives and fees to be paid. It may be more constructive to turn it round from a negative view of penalties and to look at how to incentivise people.

10:30

Jenny Hogan: I agree with much of what Aedan Smith and Blair Melville have said about performance, and we welcome the planning performance framework. However, processing agreements are also there as a way of managing expectations and they are an important tool for managing performance. Processing agreements are used by some authorities but not by others for certain projects, and we would like to see much more common use being made of them.

John McNairney: I endorse what has been said about processing agreements. We hope that they will be used widely in enterprise areas and more commonly for major applications.

I want to make a point about the kind of simplistic analysis of what a maximum fee entails. It goes way beyond one planner working at his desk. The suggestion is that one fee will cover all the relevant costs for the authority, which may include extensive pre-application consultations with the developer and others, including agencies. It will also cover the assessment of highly technical studies, which is a cost to the development industry but also, occasionally, a cost to the planning authority, which might have to procure its own technical expertise. The fee should also include post-determination activity, including any legal and other agreements.

The one fee is intended to be a simpler mechanism for resourcing the authority. I do not think that it would be fair to attribute the entire processing costs to an individual officer's time. Others may want to comment on that.

Craig McLaren: I support John McNairney's point on the danger of oversimplifying what is covered by a fee. The issue is complex and we should not work out the figures on the back of an envelope.

I want to return to Kevin Stewart's important point about throwing money at improvement and not getting much from it. Laura Hoskins referred to the planning development programme that we have had for the past two or three years, which has gone some way to help improve performance. The programme has had some impact, but it could improve. However, the real danger is that the planning and development programme will come to an end in March 2013, so there will not be a continuous improvement programme to support planners to improve over time.

One of the issues about the effectiveness of the planning development programme is that it has, in essence, focused on individuals who have gained a skill, knowledge or expertise but have often gone back to an organisation in which they have perhaps not been allowed to use that expertise, given the culture of the organisation. In future, we need to do something that works with both individuals and organisations to help them to improve together. I think that that could have a greater impact in the end.

My other point is about the idea of the sunset clause, which could mean that planning authorities would lose the uplift in planning fees. There is no clear way in which we can measure whether an authority is performing well or poorly, and it would be really difficult to draw a line between authorities and say that one has passed and the other has failed. The planning performance framework was not put in place to do that and it is not designed to do that. Our worry is that an arbitrary decision would be taken on when the uplift would not be given to local authorities. Clarity is needed on that, but I think that it will be very difficult to achieve.

Alistair MacDonald: I want to pick up on Craig McLaren's point before I forget it. The Improvement Service has been a valuable tool. We have found that most authorities have bought into it, and that it has led to a degree of high-level training for staff across the country. In fact, yesterday I addressed a group of younger planners who are being trained on a leadership course that is specifically targeted at planning. Again, it is about the planning performance framework linking into training and into leadership in planning authorities. The Improvement Service supports that. Glasgow City Council is buying into it, and I had four members of staff there yesterday. I believe that succession planning is important in the planning authorities to bring performance through.

If that changes come 2013, when the funding goes, individual authorities will be left to look at their own resources for that. I think that we need a national umbrella organisation to consider that training programme, although others may think

differently. We have seen a change taking place over the past couple of years.

Laura Hoskins is right to say that performance has been improving over the past few years. In fact, the recently published Audit Scotland report on planning was quite positive about planning. It noted certain elements that required to be changed, but it was positive about the outcomes and could see changes in performance.

John McNairney talked about one planner dealing with a major application, but that does not happen—a team is involved. Senior managers can be involved, and I am sometimes involved in detailed discussions at the pre-application stage of a major application. That sets the scene and flows it through the organisation. I will give you an example. The planning fee for the replacement for the Southern general hospital in Glasgow was about £14,500 and the building warrant fee was £600,000. Our lead-in time for the planning application was probably six to nine months, with personnel involved in detailed discussions before the application was submitted. The processing of the application was an intense period involving transport planners, architects and landscape architects—a small team that sat with the design team that was taking the project forward. Post consent, all the conditions had to be ratified and a great deal of work went into that.

We are about to set up another team for the extension to the Buchanan Galleries in the city centre, and the lead-in time for that application is six to nine months. We did the same for the St Enoch shopping centre. That is a big resource for any local authority to commit to a project—it is not just one person. It could involve me, one of my managers, a senior planner, a transport planner and an architect all advising the team on how to take the application through the process. That is where the time is committed. Over the past few years, we have also been absorbing advertising costs and neighbour notification costs. In certain authorities that have been pilot authorities for Historic Scotland and listed building applications, we have been absorbing the costs for that and for local review bodies. I have never seen the cost that the Government has saved from the number of appeals that no longer go to the Government, but it must be substantial given the appeals process that local authorities now have to deal with.

HOPS welcomes the changes and understands that the Government wants to see improved performance; that is why the planning performance framework exists. It is flexible enough to take on the point that Aedan Smith makes. Most local authorities will take it as a baseline and will have their own ways of tweaking it to improve their performance. I suspect that it

will also pick up Government agencies that are perhaps not giving the required information timeously. It may even feature major applications that have not picked up the information that is required. That will be fed back to the Government and we would expect the Government to take it on board when it looks at potential sunset clauses or whatever in terms of how performance is judged. That gives us a much more rounded approach to judging a local authority.

The Convener: Okay. Thanks for that. We need to move on to national planning framework 2. Perhaps somebody from the Government can set the scene.

Graeme Purves: Thank you, convener. I can do that. The national planning framework is a key document that sets out the Scottish Government's aspirations for the long-term development of Scotland, including clear priorities for the improvement of national infrastructure. Since the second national planning framework was published in 2009, we have reported annually in June to your predecessor committee, the Local Government and Communities Committee. About a month ago, we contacted the clerks to remind them that June was fast approaching and it was drawn to my attention that this round-table meeting had already been arranged and that it might be the most efficient use of time and resources if we dealt with the national planning framework here today.

We attached a one-page note to the letter that John McNairney sent to the committee on 18 May, which sets out where we are. In his statement to Parliament on 28 March, the Minister for Local Government and Planning announced that we will start work on the revision of the national planning framework in the autumn. That will start with the publication of the statutory participation statement.

We believe that much of the spatial strategy that is set out in NPF2 remains relevant. However, the revision process provides an opportunity to revisit key elements of the strategy, including the suite of 14 infrastructure projects that were identified as national developments in NPF2.

We envisage that NPF3 will take forward the spatial aspects of the Government's economic strategy, and will reflect in particular its strategic priorities of infrastructure, development and place, and the transition to a low-carbon economy. We envisage that the strategy that is set out in NPF3 will place a strong emphasis on supporting economic recovery and sustainable economic growth.

The Scottish Government is committed to ensuring effective stakeholder engagement in drawing up NPF3, and where new national developments are proposed, we will seek early

engagement with communities, which could be effective.

Our paper draws attention to the fact that we published a monitoring report for NPF2, on the same day as Derek Mackay made his statement, which sets out how policy has developed since NPF2 was published in 2009. It highlights a number of amendments to the text of the monitoring report that we intend to make as a result of stakeholders drawing our attention to some factual inaccuracies that unfortunately crept into the draft that was published in March.

James Dornan: You mentioned a number of strengths that you would carry forward from NPF2 to NPF3. Are there any others that should be carried forward? Conversely, are there any obvious weaknesses in NPF2 that could be dealt with in NPF3?

Graeme Purves: A strong theme in NPF2 was the role of the planning system in helping to deliver on Scotland's considerable renewable energy potential. The current scale and pace of renewable energy development is evidence—it is recognised by industry—that there is a supportive planning policy framework in place in Scotland that is assisting progress.

We are about a third of the way towards the 2020 targets—which are very ambitious—that the Government has set, but we still have two thirds of the way to go, so I envisage that the renewable energy theme will remain very strong in NPF3. That will involve addressing the shift towards offshore renewables—for example, the key developments at ports that are needed to support the offshore renewables industry. Active applications are already coming in from around our coast in that regard, so I would envisage that being a strong theme as we move forward.

James Dornan: Are there any main weaknesses that would need to be addressed in NPF3?

Graeme Purves: Any weaknesses may be around process rather than policy. Overall, the policy framework has proved to be reasonably robust. As far as our monitoring indicates, we are making good progress on many of the national developments, and some of them, such as the port at Cairnryan, have already been completed.

I know that concerns were expressed in Parliament about the effectiveness of our engagement with the public and with communities on some national developments, so we will want to consider that further. As I said, we will publish a participation statement in the autumn. That statement will be drafted over the summer, so now is an excellent time for organisations that have views on how we might consult more effectively to make those views known. We are aware of some

of them, but we will be pleased to hear any further views in that regard.

Those of you who are familiar with the process will know that the participation statement is a working and evolving document. If there are things in the initially published statement that people do not like, there is scope for us to adjust the participation process as we move through it.

10:45

Clare Symonds: As Planning Democracy is a fairly new organisation, I will outline what we do. We are a voluntary organisation that is made up of community councillors, community advocates, planners and individuals who have been affected by the planning system. Our vision is for an equitable, inclusive, fair and transparent planning system in which people are empowered to shape planning decisions through a process of robust debate. We were established in 2009. Since then, we have been conducting research on the way in which the newly reformed planning system is working for the public, how easy it is for people to use and the problems that they face.

Our written submission includes a four-page summarised version of our policy paper, with our manifesto for change at the end. A much longer version is available on our website that details the background to our thinking and the 13 case studies that we have considered. We have also had detailed conversations with 12 people from throughout Scotland. The case studies and discussions provide a powerful account of a voice that has not been heard sufficiently in debates about how well the planning system is performing. We feel that our work fills an important gap in the discussions on reform and culture change.

We are new kids on the block, so to speak, and we recognise that, in this forum, there are a group of regulars from the planning policy community who often speak in such forums. However, we have an important perspective to add to the mix. Some of our message is close to what others are saying, such as on the national performance framework and on certainty in development plans, which we would welcome, but some of our message is not so close to what others round the table are saying. However, we all want a planning system that works effectively for the greater good.

In April, we held a conference called "Planning: the People's Perspective", which was oversubscribed and was attended by more than 80 people from throughout Scotland. We feel that we have a mandate to take forward the clear message from the conference delegates and from the people to whom we have spoken that the planning system is not working for the public. One quote that I promised that I would take to the

politicians came from a planner who has worked in the system for 16 years, who said:

"Politicians are responsible for what the planning system does, they must read the manifesto, consider the case studies and challenge the Government or the local planning authorities to meet the concerns expressed in a well researched and balanced document."

I thank him for that.

I will move on, as I appreciate that I must hurry. We feel that the national planning framework is an important opportunity to explore an innovative approach to national planning. It is possible for the national planning framework to become a symbol of a new culture of active democracy. We urge the politicians to make a commitment to ensure that the national planning framework is the product of a genuine national conversation about the priorities for the future and to commit to exploring innovative forms of public engagement. We will talk to Graeme Purves about that much more.

It is important for the committee to know that we would like a commitment to ensure that people who are likely to be affected by the national developments—the 14 infrastructure projects or whatever new ones come up—are fully included in those deliberations. That means creating mechanisms through which bottom-up challenges can be successfully raised against the designation of national developments without unduly undermining the value and principle of having a national planning framework.

Aedan Smith: I will begin by saying some positive things about the fact that we have a national planning framework and a national spatial planning document for Scotland. It is good that Scotland has those, and we are ahead of the rest of the UK on that. It is useful to have something that gives a general guide on where development should happen and in what way, and on which sites need to be protected.

I will be interested to see how the third national planning framework links to other areas—Graeme Purves alluded to that earlier—particularly the marine environment, and how we connect to the marine spatial planning system that is evolving.

Over the past couple of years, we have developed a land use strategy for bits of the terrestrial environment that are not subject to the planning system. It is important that all those things link together to ensure that we have a real overview of all sorts of land use and marine use in Scotland.

While we are working up the next national planning framework, it is important to remember that although sustainable economic growth is important, the Government's central purpose is broader than that and reflects quality-of-life indicators as well. It is about allowing all of

Scotland to flourish through achieving sustainable economic growth.

Graeme Purves referred to some issues with NPF2, particularly relating to the process of identifying national infrastructure projects—the national developments. That is an area that needs particular attention this time round. There is the example of the proposal for a coal-fired power station at Hunterston. That is subject to a public inquiry, so I appreciate that people will find it difficult to comment on that. Although the project seems to be almost universally unpopular, it has become a national development in the national planning framework—obviously something has not worked properly there. Perhaps there was not enough scrutiny of the national developments element of the national planning framework before it went through.

Parliament gets 60 days to scrutinise the national planning framework. Last time around, the timing was particularly unfortunate in that the scrutiny period happened to coincide with the Christmas period, so it was a real rush for everybody, including the parliamentary committees, to scrutinise the NPF and get their comments back to Government. The lack of time for scrutiny probably partially contributed to the fact that the Hunterston national development got through.

There are some really good things in the Government's submission to the committee on how it proposes to take forward NPF3. I am quite keen on the idea of having a main issues report for NPF3 that mirrors the process for local development plans. That is about getting the key issues out there early on and getting people's views on them, which could work quite well. However, it is critical that we have detailed consultation on a proposed plan, so that things like the national developments can be scrutinised by the public and by the Parliament.

Petra Biberbach: The first part of the conversation was about process and efficiency. This part is more about inclusivity. Planning Aid has some concerns. I suppose that we get our perspective from three sides. First, there is our advice service, where we deal with more than 800 cases a year. Members of the public, often in despair, ask for advice, which is given by our volunteer planners, all of whom are RTP1 members.

The second part of the planning system that we experience is through the training that we provide throughout Scotland. Last year, we trained and engaged with more than 500 organisations. We are finding a different message there, which is very much about misunderstandings about what the planning system can and cannot do. We need

to put more emphasis on the issue of the public's expectations of the planning system.

The third part of our work is upskilling community groups, such as development trusts. Such groups have fantastic ideas, especially if we are moving into a sort of public asset transfer arrangement, but they get involved too late in the planning process. However, when they get involved, they see that the planning system is very much a lever—it is not just for the use of the big developers; community groups can use it too. We need to see much more of that, and we need to bring those three disparate areas together.

NPF3 is the most important framework so far, because it will have to address an ambitious agenda around zero waste. We are already seeing the fronts sharpening. We need a more mature dialogue. I would hate to think that all that we are doing is NPF3, with community engagement at the local level, when what we need to see is the vision for Scotland. As politicians, you have to provide the lead but, in addition, the public have to engage, not just at local level, but in a national debate. Without that, we will never get the kind of Scotland that many people would like to see.

The Convener: Thank you very much for that.

Craig McLaren: I have a quick follow-up to what Petra Biberbach said before I make my own points. The planning profession is strongly committed to community engagement. It has been enshrined in what we do since 1967—in other words, for 45 years or so. Petra will correct me if I am wrong, but I think that 15 per cent of professional planners volunteer through Planning Aid for Scotland. I do not know of another profession whose members volunteer in that way. That is an important point to make.

I have a few general points to make about NPF3. In general, the NPF is a good thing. It is admired internationally, as well as across the UK. It is seen as leading the way. It provides the context for how we take things forward across Scotland, and it provides the context for strategic development plans and local development plans. I would like NPF3 to give a bit more spatial guidance and direction, particularly around stuff such as renewables, which Graeme Purves mentioned, as NPF2 might have been a missed opportunity to do that. I would also like it to give us much more certainty on what we do around infrastructure and linking resources to some of those things.

The concept of national developments in the NPF is sound and useful. We must remember that planning is often about making quite difficult decisions for the greater good. We need to bear it in mind that such developments can have an impact on the local community, so it is a good

thing that we have discussion about them and that we agree them. I would welcome continued dialogue on that.

The idea of having some form of national dialogue on NPF3 is a good one. I also like the idea of a main issues report. One criticism of the last version of the NPF was that much of the discussion on it seemed to be about the process rather than the content. This time, we should focus on the content, because that is the important bit. We should consider how we can focus the dialogue and the debate on the content.

My final point is one that Aedan Smith made. We need to think about how we can make the NPF work more with the marine planning regime, because we are seeing more and more linkages between marine planning and spatial planning, around renewables, in particular, but in other areas as well. We need to join those things up.

Laura Hoskins: I endorse what the previous speakers have said. We agree that there is a need for NPF3 to have a broader perspective and to link in with marine planning. To pick up on what Petra Biberbach said about zero waste, we know from local government's experiences that waste management can be an extremely contentious issue. It is one on which we need to engage with the public. We would appreciate the opportunity to have early and continued involvement in the development of NPF3 with the Scottish Government.

Blair Melville: I will pick up on those last two comments. I very much agree with the RTPI's view of the NPF's role as being to provide a context for what happens sub-nationally or regionally. We always felt that NPF1 and NPF2 were a little light on some of the sub-national issues, such as investment in infrastructure below the national project level. It is interesting that the NPF2 monitoring report sets out a lot of detail on what the Government has been doing across a range of agencies in investing in infrastructure, economic development projects and so on. The fact that it provides a lot of detail on the sub-national level is extremely helpful.

Like Craig McLaren, I would certainly like NPF3 to be a bit more explicit about what the priorities are at a regional spatial level as well as at the national level. That would be helpful for strategic development plans and for prioritising where scarce resources could be used to best effect for Scotland as a country.

The Convener: Thanks for that. Graeme, would you like to pick up on some of those points?

Graeme Purves: Yes, thanks. I very much agree with Clare Symonds that the national planning framework should be the product of a national debate. We were very concerned that it

should be. I have certainly always seen it as being about building a broad national consensus around a direction of travel.

11:00

There is no doubt that there are elements of the NPF that are controversial. In particular, one of the 14 national developments—the proposed power station at Hunterston—is intensely controversial. Along with Aedan Smith and Clare Symonds, I have sat for many hours in the Court of Session, so that has certainly been brought home to me. However, we must get it in perspective. Hunterston is certainly controversial and there is controversy about aspects of a couple of the other national developments, but there is a strong consensus on the great majority of them. Overall, our pioneering approach to national developments can therefore be counted broadly as a success, although there are lessons to be learned. Like Craig McLaren, I was somewhat disappointed that scrutiny in the Parliament focused so heavily on process rather than on the key issues of national strategy. That may partly be our fault, because we did not get the process quite right on engagement with communities. I hope that we can learn from that and improve our approach as we take forward NPF3.

I can assure Aedan Smith that there was no sinister motive behind the parliamentary scrutiny coming just after Christmas. I remember that we marked time for about three months because we had got a little ahead of the strategic transport review, so we found ourselves coming to the Parliament after Christmas, when we had hoped to come to it in the autumn.

I agree that it is important to address zero waste and to ensure that there are effective links with marine planning and with the land use strategy. Given the stage that we are at with the marine spatial plan, it might be challenging to draw all the documents together in a single document this time round, but we are certainly aware of the importance of achieving consistency and giving clear and consistent messages in all three documents. There might also be some legislative difficulties with, for example, bringing the land use strategy together with the NPF, because the statutory basis is somewhat different. For example, we enjoy somewhat more discretion over when we undertake revision of the NPF than do our counterparts who are responsible for the land use strategy, so there might be some practical difficulties.

Blair Melville raised an interesting point about investment below the national level. We considered the issue and have benchmarked our performance and compared ourselves with other small European countries that are embarking on

similar national spatial planning exercises. For example, the Republic of Ireland's national spatial plan goes down to a provincial level in Ireland, but we decided against adopting that approach because we feel that our experience in Scotland has been rather different from that in the Republic of Ireland. We feel that we have a strong tradition of strategic planning at the city region level, which in the case of Glasgow and the Clyde valley can be traced back to the aftermath of the second world war. We did not feel that it was appropriate for the national level plan to intrude on the strategic policy making that should be done at the city region level, particularly when there is already such expertise at that level in Scotland.

The Convener: Thanks very much. That brings the evidence session to an end. I found the session very useful, as I am sure did other members. I hope that the panel also found it interesting to hear other folk's views. The issues will come back to the committee at a later stage. You have certainly helped to set the scene for committee members, so I thank you all very much.

11:02

Meeting suspended.

11:27

On resuming—

Local Government Finance (Unoccupied Properties etc) (Scotland) Bill: Stage 1

The Convener: The next item of business is our final oral evidence-taking session in our stage 1 consideration of the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill.

I welcome Derek Mackay, Minister for Local Government and Planning, and Keith Brown, Minister for Housing and Transport. They are accompanied by Scottish Government officials Sam Baker, head of the tax and markets unit, housing supply division; and Marianne Cook, policy manager, local government finance unit. Thanks for coming, and I apologise for keeping you waiting after calling you in early.

We propose to deal with the bill in three parts, looking first at empty property rates relief. One of the criticisms that we have received is that there was no formal consultation before the introduction of the bill. Can we have some comments on that? The Finance Committee was particularly concerned about that.

Derek Mackay (Minister for Local Government and Planning): I am happy to pick that up. I do not know whether you want any opening remarks, convener. However, specifically on your reference to consultation, it was felt that it would not be proportionate to carry out a consultation at that stage because of the number of properties involved and the scale of the issue. It affects £18 million of income generation in the context of £2.3 billion income from non-domestic rates.

The decision to undertake a business and regulatory impact assessment is at ministers' discretion. On this occasion, it was decided not to undertake one. In the same way, it was felt that such a process was not required for the decision to implement the public health supplement. Having said that, I point out that there is on-going consultation on how the policy intent of the bill is being progressed. At this stage we seek only the enabling power to vary the reliefs. The regulations that will specify what the reliefs will be will come to the committee at some point in the future.

11:30

The Convener: If the consultation is on-going now that the bill has been drafted, is the Government still minded to be flexible about how the regulations will be applied? It was a concern of businesspeople that they had not had the

opportunity to feed in. Are you saying that, in spite of that, you are still listening?

Derek Mackay: Yes. The Government continues to listen on the issue. The consultation has been on-going. The bill gives ministers the power to introduce regulations that can vary the reliefs in the same way that we can vary the small business bonus. The on-going engagement with stakeholders will ensure that they and Parliament are listened to.

Margaret Mitchell: I will press you a little on that. As recently as in advance of today's meeting, you have issued a press release that still talks about £18 million being raised from these properties. You say that you are listening, but you do not appear to be hearing what businesses are saying. There is a very clear message coming from them that these properties are unoccupied because there is a lack of demand and because of the economic circumstances, yet you seem to have taken no cognisance of that. Would you like to comment on that?

Derek Mackay: The committee should be aware that what we are being asked to approve at this stage is the enabling power for regulations to be introduced to vary the rates relief. We believe that the figure of £18 million that was announced in the budget will incentivise landlords to open up premises and to bring premises back to life. That is the policy that was announced at the time of the budget.

In response to the convener's question, I have said that we are still listening on the specifics of what we might introduce through the regulations. When those are introduced, the committee will take a view on the regulations and the absolute levels that are set at that time. The policy statement as outlined at the time of the budget contains the figures that we are working on at the moment. I say again that the Government continues to listen to all the stakeholders, some of whom the committee has had as witnesses—this is not the end of the process. However, we believe that the empty property rates relief review is necessary to bring some commercial properties back into useful operation.

Margaret Mitchell: Perhaps you can provide some evidence for that. Throughout the evidence that we have taken, there has been no indication that there are empirical statistics to prove that what you say is the case. In fact, it is increasingly looking as though the whole proposal is based on the Walter Mitty school of economics.

Derek Mackay: There is no empirical evidence either way. Similar reforms in England were enacted by the UK Government in 2008 and then took place in Wales but, because of the various factors that affect local economies—including the

euro zone crisis, the general recession and the VAT hike, which cost Scotland £1 billion—it is very hard to establish empirical evidence to show what impact the empty property rates relief policies in England and Wales have had either way. For that reason, we have learned lessons from, for example, policy on rates relief for industrial properties. We are not simply following what happened in England but are adopting a slightly different approach and continuing the 100 per cent relief for industrial properties because of the experience in England.

It is fair to say that there is a lack of evidence either way to show what specific difference the policy could make. However, many people believe that subsidising closed premises does not feel like a fair sharing of the burden.

The Convener: What is the cost of empty property rates relief just now?

Derek Mackay: Over the five-year period, the cost is £757 million. That is the amount that the Scottish Government gives in empty property rates relief. If the proposals were enacted as announced at the time of the budget, it would still cost the Government £721 million in rates relief.

The policy is two pronged. It is about income generation as well as incentivising landlords to open up premises, and we are honest about that. It is expected that, as an income generation measure, it will generate £18 million a year.

Margaret Mitchell: There seems to be an assumption that the 5,500 vacant properties will come back into use. Where is the evidence for that? You are asking us to consider legislation and a proposal that are backed up by no statistics. We have heard witness after witness say that empty property relief will not achieve either of its objectives of regenerating the economy and bringing those properties back into use, and that it could in fact end up costing the Government money, given the public liability.

There has also been some confusion about what organisations such as the Federation of Small Businesses are saying about it. Perhaps the minister or his advisers could clarify that on the record.

Derek Mackay: We are satisfied that the figure of £18 million, which is calculated according to a formula, is robust. That does not assume that 5,500 properties would necessarily be brought back into use, but simply outlines how those properties will receive a lesser relief under the proposal. That is how we arrived at the figure of £18 million, but we do not assume that those properties will all open. Although we aspire to bring as many properties as possible back into use, the figure is predicated not on how many come back into use but on the fact that the relief

that the Scottish Government provides is lower. It is down from £757 million to £721 million, which does not seem completely disproportionate in terms of sharing the burden.

I am not surprised to hear from Margaret Mitchell that many of the witnesses who have appeared before the committee do not want to pay more tax. I am not familiar with many groups who come to committee and volunteer that their organisation or members should pay more tax. I had the same experience with the public health supplement, which many members supported.

I have specific quotes from some of those who have taken a position. The Federation of Small Businesses welcomed the review, which must be set in the context of the business rates incentivisation scheme, the small business bonus scheme and the rates review that we have announced will take place shortly. That context, along with the regeneration strategy that the Cabinet Secretary for Infrastructure and Capital Investment, Alex Neil, will be promoting over the summer, creates a wider picture that many stakeholders support and appreciate. The Federation of Small Businesses welcomed the Government's direction and the rates review in so far as it encourages landlords to bring properties back into use. Whether the FSB supports the policy as it stands is for the organisation itself to answer. I think that, at present, the FSB does not necessarily support the statistics. However, in a press release and in further stakeholder meetings with me and others, it has been broadly supportive of the Government's direction. If the FSB is not supportive, it is for the organisation to say so.

Kevin Stewart: The FSB said in its written evidence that it was unfair that we were paying out more for rates relief than we were for the small business bonus scheme.

Post-reform, in what ways will the empty property relief scheme here be more generous than the schemes in the rest of the UK?

Derek Mackay: The Scottish Government has protected the poundage, and the small business bonus scheme, taken in context, has been incredibly helpful. Under our current proposals, we would still give relief of 10 per cent where none is given in England. Industrial properties, which were affected in England, are protected in Scotland, and we have ensured that we are applying some of the lessons that have been learned.

There are specific differences between what is proposed for Scotland and what has happened in England. The important point about the power is that it is very helpful to Scotland and to our economy to always have a competitive edge over other parts of the United Kingdom, specifically on business rates relief. That will come through in the

consultation later this year. As with the small business bonus scheme, it is better to have the power—subject of course to parliamentary scrutiny—to vary those rates so that we will always have a competitive edge over what other parts of the United Kingdom are doing.

We have provided for a range of other reliefs for charities and other organisations; I have a list that I can circulate to members. On empty property rates relief specifically, the period in which it kicks in, the level of relief that is given, the nature of industrial properties and the scale of rateable properties are all set at an appropriate level. As I said earlier, we are listening to stakeholders to ensure that we get it right when we bring the regulations forward.

Kevin Stewart: The evidence that we have heard in response to lines of questioning about empty properties in certain parts of the country suggests that there might be geographical differences. In my patch, for example, some folk seem to be willing to hold on to properties until they get the right price even though such a price cannot be sustained in the current market. Others have wondered whether changing the use of certain empty properties might allow them to be let. Are you willing to be flexible and examine some of those issues in the formulation at the end of the bill?

Derek Mackay: Absolutely. We have asked stakeholders to give us their suggestions, highlight best practice and tell us what might help to incentivise owners to bring their properties back into use, and we will remain a listening Government in that respect. Of course, we will also learn from Administrations in other parts of the UK and, through our officials, find out what policies they are adopting or, indeed, reviewing to ensure that our part of the UK is the most competitive.

As for rents, a key issue is that, as evidence to your committee has suggested, rents in certain places remain stubbornly high and it is clear that doing nothing will cause stagnation in some communities in Scotland. If the reduction in business rates focuses the minds of some landlords—in particular, those described as “remote” landlords—on bringing properties back into use, it might be a very effective incentivisation tool in areas where there has been stagnation and no impetus to find tenants. We know that there is a range of factors, but stubbornly high rents are often cited as a reason for unoccupied properties.

John Pentland: I might be about to sound unreasonable, but I should make it clear that I generally support the bill.

You said that you are seeking an enabling power, but some have expressed concern that the

power is for ministers' use only. As a result, we would like an assurance that you will take any further consultation on board and come back to Parliament to discuss the matter before any decision is made.

Secondly, I want to explore an issue that Margaret Mitchell has already touched on. You have said that the £18 million figure has been reached as a result of robust analysis but, if that is the case, why has the Finance Committee said that there is no detail behind the figure and that not enough work has been done to produce that evidence?

Derek Mackay: I would be the first to say that you are a very reasonable man, Mr Pentland, and I am sure that you will find the Scottish Government to be very reasonable in turn. When we consider the regulations on varying the reliefs, we will bring them back to Parliament before any change is made; indeed, I understand that this very committee will examine the matter. Ministers will not act in isolation and the regulations, which, I hope, will reflect some of the comments that have been made by committees and stakeholders, will still be subject to a level of parliamentary scrutiny.

On the £18 million figure, you are right to suggest that the Finance Committee was somewhat frustrated at the lack of detail, but my understanding is that the detail that we had on how we arrived at that figure has since been circulated to the committee.

I should add that the Cabinet Secretary for Finance, Employment and Sustainable Growth, John Swinney, has made it clear that there is flexibility in the policy to ensure that we get it right. If the amount generated by this measure were to be substantially more than £18 million, it would act as a further incentive for the Government to review the levels at which the reliefs are set. We think that, to remain competitive, what is important is the power to vary rates, rather than the full three-stage process, which you just do not have for many other schemes, including the most comparable—the small business bonus scheme.

James Dornan: Given the difficulties that you have already highlighted in separating out the effects of empty property relief reform from wider economic factors, how do ministers propose to monitor the impact of the reforms?

11:45

Derek Mackay: We will remain in dialogue with assessors, councils and all stakeholders to ascertain the impact of the policy. For the reasons that you fairly acknowledged, it will be hard to produce evidence on how many properties are brought back into use, because we will not be able to isolate the policy from other policies that might

have had an impact, such as the small business bonus or support through the regeneration strategy, and other factors that might determine the economic climate in which the business world operates.

We will monitor the situation. If we thought for a minute that the policy was counterproductive, we would have to review it. However, we think that the policy will make a difference and that many landlords will decide to use properties that have been left neglected in some way.

James Dornan: Do you have a period in mind for reviewing the impact of the bill?

Derek Mackay: There is the budget process, from which the policy emerged, which is on-going. We must regularly consider the income from non-domestic rates, so of course there will be on-going monitoring of the perceived impact of the policy and the actual numbers. It is worth remembering that all non-domestic rates are returned to local government, and that that part of the local government settlement is assured by the Scottish Government.

Anne McTaggart: The Finance Committee's report gave me extreme concern. You said that you have provided evidence to the committee about the £18 million. Do we have that evidence, or are we able to get it?

Eugene Windsor (Clerk): We are able to get it.

Anne McTaggart: There remain concerns about enforcement. How will the Government recoup the £18 million? Even if you do recoup it—which is not likely, from what you are saying—what will you do with it?

Derek Mackay: The income that we would generate from the reduced relief as proposed would be generated in exactly the same way as the £2.3 billion raised through non-domestic rates is generated. Assessors identify the properties that are liable and the council collects the rates.

The small business bonus and charitable reliefs can be varied. The infrastructure to do that exists and councils and assessors understand their responsibility, so new infrastructure is not needed to deliver the policy. Varying the rate relief simply requires a change in the calculation of what people are entitled to. We are confident that the money will be realised.

When the Finance Committee considered the financial memorandum, it did not have all the detail that it wanted to enable it to understand the policy. On request, the detail was given to the committee, which passed its report to this committee, so that it could probe the policy. I understand that all the information has been given to the committee.

Anne McTaggart: My major concern is that a business and regulatory impact assessment has not been carried out. Do we have the evidence in relation to the national health service and Scottish Enterprise, which was mentioned?

Derek Mackay: We do, and I can share it with the committee: the impact on the NHS is £0.3 million; the figure for Scottish Enterprise is £0.4 million; and the figure for councils is £1.7 million. Members should bear in mind that non-domestic rates income is £2.3 billion per year. Those figures are calculated on the basis that none of the properties concerned is brought back into use. They represent the cost of the policy to those organisations. I hope that that answers your question.

The Convener: There are a number of schemes in councils to try to give council properties to community groups and so on, at a peppercorn rent. Would such properties be exempt from the charge?

Derek Mackay: An organisation or property that is entitled to charity or associated rate relief would continue to enjoy that after the proposed reform. Over the five-year period, the cost to Government of relief to charities is £734 million. The policy will not affect non-profit-making organisations that are covered by charity relief.

The Convener: So the costs to local government could be less if those groups use the property.

Derek Mackay: The answer to that question will depend on how the groups construct their assets. We are about to launch the community empowerment and renewal bill, which has the purpose of releasing more assets from the public sector for community use. If organisations have the appropriate constitution and ownership, they could be relieved of non-domestic rates, which I am sure will delight the cabinet secretary, John Swinney.

Anne McTaggart: I fully appreciate the sentiment behind the proposals, but we have taken evidence from Glasgow City Council that the bill might well lead to its having to demolish properties. I thought that the bill aims to encourage regeneration and the use of empty buildings.

Derek Mackay: I would have thought that the new burden on local government of £1.7 million seems like a drop in the ocean compared with the £11.5 billion that is given to local government by way of the settlement. The non-domestic rate income is given back to local government in full, so it funds the services and is part of the budget process and balancing the books. That would have been made much easier if the UK

Government had not savaged the Scottish Government's budget.

Margaret Mitchell: Will you explain a little more fully why industrial premises are not included if the policy is such a great idea and will generate more income and result in more properties being brought back into use?

Derek Mackay: There was evidence from the English experience that, because industrial premises are so specific by nature, it is hard to adapt them to new use. Therefore, it would be disproportionate and unfair if the empty property rates relief policy was applied in such a bland way to industrial premises. Learning the lessons from England, we felt that it made sense to exempt industrial properties. Some of the more glitzy stories in the press suggested that some industrial properties in England were demolished. There is not a huge amount of evidence on that, but if the policy was not implemented in a sophisticated way, it could have that impact on industrial properties. For that reason, industrial properties are not covered.

Margaret Mitchell: Is it not a bit of a contradiction that you are prepared to look at the experience in England in relation to industrial premises but you discount the experience there in relation to retail premises? We know that, as a result of the policy and the pressures of bank lending, the retail vacancies figure rose from 3 to 14 per cent. That is the nearest that we have to concrete evidence, yet you seem to discount it while using the English experience in relation to industrial premises.

Derek Mackay: There are specific circumstances with industrial properties. It would be wrong to say that the empty property relief policy in isolation caused the increase in vacancies in England. As we have discussed, the international recession, the euro zone crisis and the UK Government's increase in VAT were in the mix in that context. We have to consider all the factors. The policy was introduced by the previous UK Government in 2008 and has been sustained by the current one. We will learn the lessons from across the United Kingdom on how policies have been applied and on innovative packages to incentivise the use of our town centres.

Yesterday, I was at Glenburn seniors forum and was asked what I was doing in Parliament today. When I told the members of that forum, they agreed unanimously that the burden should be shared across council tax payers and property owners. We are talking about a property tax to generate income to balance the books and revitalise our town centres. A great many taxpayers support the policy and feel that it is not fair to let some landlords off the hook when they

should be trying to stimulate and encourage growth in town centres.

Margaret Mitchell: Do you honestly believe that, in the current economic climate, anything but the teeniest proportion of people would wilfully not try to let their property? A host of people, including the CBI, Scottish Chambers of Commerce and the FSB—the list goes on—as well as the Finance Committee in its damning report have told us that the major cause of empty properties is the lack of demand in the current economic climate.

The consequences of this policy could be a negative impact on speculative development—it is hard to see how that would regenerate the economy; a risk of demolition, which has already been covered; and more businesses ending up in administration, which is a real concern. Surely it is time to say that this is a counterproductive policy that should be shelved. The fact of the matter is that witness after witness has said that this policy is not going to deliver on its principle or its objectives.

Derek Mackay: Perhaps Margaret Mitchell should reflect on the fact that the UK Government does not share her views—the policy of the previous UK Government has been sustained by the current one.

I am not dismissing the concerns of the business community. That is why I said that we will continue to work with all stakeholders to ensure that we get the policy and the regulations right. The policy has to tie into the bigger picture of regeneration strategies, the business rates incentivisation scheme and other support that we can provide to ensure that town centres are healthy and vibrant.

However, many owners of occupied properties and local businesses might feel that it is unfair that they are paying the burden of keeping the shop next door empty. I get the point that there is a lack of demand in the economy at the moment. That is why there perhaps should be further support for Scottish Government policies to stimulate the Scottish economy—and why other UK decisions, such as the VAT hike, were unhelpful.

On local circumstances, stubbornly high rents have been referred to in evidence to this committee and the Finance Committee to explain why some properties have not been brought back into use. The Government, the Parliament and the local authorities have to do something to make landlords and developers think about the rents that they charge. One way to do that is through the non-domestic rates relief that is given. It is a huge subsidy by the taxpayer in tax that is not being received. We have to capitalise on that in a way that does not cause an imbalance across Scotland.

On Margaret Mitchell's point around speculative development, the Scottish Government sympathises with the point about the liability costs of any new development. However, the advice that we have received is that the exemption of new properties would not comply with European Union state aid principles and therefore we cannot exempt them, although we sympathise with the point about the viability of developments. To suggest that there has to be complete rates relief for new properties would be wrong. The current policy is 50 per cent rates relief, so it is not the case that some unoccupied properties and landlords should pay nothing—that case has not been argued, even by stakeholders. The level at which relief is set is what we have to consider closely in the mix of all the other policy tools that we have at our disposal.

Margaret Mitchell: You say that you are listening, but you are not hearing the clear and unambiguous message that is emerging—that this is a counterproductive policy and that you really should think again.

Derek Mackay: I make the point once more that the purpose of the bill is to give ministers the power to vary the reliefs. We will do that in the context of all our other policies. When we set the reliefs and arrive at that policy we will return to this committee. I am sure that we will evidence how we have taken on board the views of the Finance Committee and this committee and the views of stakeholders and we will show that we are indeed a listening Government.

We are not dismissing the arguments that are being put forward, but we have to bear in mind that some people are making a case for not paying more tax. That is understandable but, as a Government, we have to balance the books and show that we are stimulating the local economy and continuing to invest in the public services that these properties and these landowners depend on.

The Convener: Like most committee members, I am sure, I welcome the minister's commitment to continue to listen and to be flexible as to how the policy is finally implemented—particularly the point around speculative development. If someone invests in a property, sometimes—precisely because it is speculative—it might not work out. If that issue is going to be looked at, that is to be welcomed.

12:00

Kevin Stewart: I certainly do not think that the move will be counterproductive in certain areas of the country; in fact, I think that it will be welcomed by folk who are looking for premises in areas where rents are still stubbornly high.

Turning to the planning part of your portfolio, minister, I wonder whether you are willing to examine the time that it takes to change the use of certain empty properties to bring them back into use and the bureaucracy that surrounds such moves. What do you envisage might be the change to rates if real attempts were being made to bring such properties back into use?

Derek Mackay: You ask a very good question about planning considerations. You will be aware, for example, of the planning consultations that were launched in March, some of which are about simplifying and streamlining the system and being more flexible and responsive. The solution for many town centres lies not in simply expecting retail to come back as it was 10 or 20 years ago but in diversifying their use, and that issue will be picked up in the regeneration strategy that Alex Neil is leading. I will certainly do all that I can within the planning remit to make that approach quick, effective and real.

Of course, I am relying on a culture change in the planning system, which includes the 32 planning authorities and the two regional park authorities, to ensure that that happens at a local level. After all, such moves do not necessarily require legislation; they might just need appropriate decision making on material considerations on the ground. If ever there was a time that we had to be flexible in the use of our town centres, given the financial climate in which we are operating, it is surely now. I will do everything that I can under the planning part of my brief to make that happen.

John Pentland: It has been suggested in evidence that this might not be the right time to introduce such a bill and that bringing back so many empty properties into the kind of use that we hope for might be counterproductive. What guarantees can you give that that will not be the case? What safety measures have you put in place, and what other help and assistance are you prepared to offer to deal, in particular, with the properties in some town centres that, as Kevin Stewart suggested, might not be appropriate for the use that they might once have had?

Derek Mackay: Let me, once again, set this in context: this measure will effectively generate £18 million-worth of income, whereas year on year the Scottish Government provides £0.5 billion in rates reliefs to a range of different people. We have to put this in perspective. This £18 million burden will be shared among a potential 5,500 properties across the country, but I point out that a host of Government support packages is available from Scottish Enterprise or business gateway, or through local government's regeneration function, to stimulate local companies and support them in developing new businesses. However, we will no

longer subsidise closure and the commercial inactivity of properties that remain closed at everyone else's expense. A range of measures is available to support individual businesses that want to open up or, as the convener suggested, properties could be released for other functions that would not incur non-domestic rates but would still serve a good community function and complement whatever else is going on in town centres.

John Pentland: You mentioned Scottish Enterprise and business gateway. How much have those partners bought into your bill?

Derek Mackay: All Government agencies are expected to deliver the Government's outcomes and all community planning partners, including the private sector, will work together on the regeneration strategy. We will ask everyone for their views on the business rates review, the consultation for which will be launched fairly shortly and carried out over the summer.

James Dornan: Would the minister consider the reforms appropriate if they had no impact on the number of empty properties but succeeded only in raising revenue?

Derek Mackay: If this was simply an income-generation measure that had an adverse effect on the business community, we would not be progressing with it. However, the Scottish Government believes that it will not only increase income through lower rates relief but incentivise landlords and owners to open up premises that up to this point have been closed. We genuinely believe that the policy is about incentivisation as well as income generation. If it were just about income generation at the expense of the business community, we would not be progressing it.

James Dornan: On the back of that, what other measures were considered in relation to this?

Derek Mackay: In relation to what?

James Dornan: The policy objective of reducing the number of empty properties.

Derek Mackay: As I said, the regeneration strategy—which the Cabinet Secretary for Infrastructure and Capital Investment, Alex Neil, will take forward shortly—will outline more of that work. The policy should be set in the context of preserving the small business bonus scheme, which is a highly targeted measure to support small businesses. If we view the policy in the context of the planning reform that we have spoken about and the regeneration strategy, the fact that it will generate £18 million out of a tax take of £2.3 billion means that it is fairly proportionate to the challenge that we face.

James Dornan: I will not ask you to give away any of the cabinet secretary's secrets.

Derek Mackay: I was not a member of the Government when the budget was composed, but I am sure that the cabinet secretary had to consider a range of financial options for balancing the budget, which, as I have pointed out, was drastically reduced by the UK Government, whose business rates relief policy is less generous than the Scottish Government's.

It is worth pointing out again that, even if the proposals were accepted in their present form, our system would still be more generous than the one that is enjoyed in England. Business rates in Scotland would still be more competitive. The power to vary the level of relief will give us the opportunity to continue to be more competitive than other parts of the UK.

John Pentland: Do you think that the legislative process should be paused while a proper consultation takes place?

Derek Mackay: As a former councillor, I am not sure that local government would appreciate the Scottish Government saying that it intended to pause the prospect of its receiving new income. We will have time to consider the matter. The bill will not be enacted this week or next week; it will not come in until the next financial year. We have time to consider the regulations, to bring them to Parliament and to implement them in time for the next financial year. We are not rushing to a decision. If you are looking for time to consider our proposals, that is already built into the process.

John Pentland: As a former councillor, I am well aware of the Scottish Government's previous big ideas. It was at the implementation stage that the difficulties arose. I am glad that you will take on board the result of the proper consultation that is taking place.

Derek Mackay: It could be argued that the policy in question is a policy of the 2008 Labour Government. I can only commend your party's Government for coming up with it.

Anne McTaggart: Given the concerns that have been raised—both with us and with the Finance Committee—about the fact that a business and regulatory impact assessment has not been undertaken, why will you not consider undertaking such an assessment?

Derek Mackay: At the risk of repeating myself, given that the policy will generate £18 million out of a total tax take of £2.3 billion, it would not be proportionate to carry out such an assessment. We are talking about a unitary national system of reliefs, unlike the council tax benefit system, on which there might be 32 different policies. There is a difference between the two systems. It was not felt that it would be proportionate to carry out a BRIA on a national system at that level.

I am asking the committee to consider the principle of the enabling power rather than the exact levels of rates relief. The committee will consider the extent to which rates relief will be varied at some point in the future. In many ways, an assessment of the impact is on-going, as we explore and refine the policy and listen to the committee and stakeholders. It is not as if the decision has been taken in the budget and that is the end of the matter. As the cabinet secretary has said, there is some flexibility. I have outlined why we think that the policy direction is important, but we will be flexible. The process of assessing the impact, the consultation and the engagement is very much on-going.

The Convener: Thanks very much.

We move on to section 2 of the bill and the issue of the council tax. In the evidence that we have taken, there has been a bit of debate around what should happen to the extra income. Most people agreed with the general principle that it should not be ring fenced, but some people said that, as the money would be generated from empty properties and that the aim was to bring those homes back into use to tackle a housing problem that a local authority had identified, it should be ring fenced. What are the minister's thoughts on that?

The Minister for Housing and Transport (Keith Brown): First, I thank the committee for asking Derek Mackay and me to give evidence today.

I will preface my answer to the convener's question with a few remarks on the general content of the bill, which is about making the best use of our housing and commercial property resources by discouraging their being left empty. It is also about ensuring that Scottish Government funding for housing can be targeted at delivering key priorities, such as more affordable housing, rather than it being used to pay councils' interest costs on their debts.

As the committee knows, the bill has two topics, the first of which is about changes to local taxation charges for empty properties through business rates and the council tax. The second topic is the proposed abolition from April 2013 of the requirement on the Scottish Government to pay the housing support grant.

On the council tax increase on long-term empty homes, it is clear that housing is critical to Scotland's economic prosperity, the strength of our communities and the health of our people. Despite the tightest budget settlement since devolution, as Derek Mackay outlined, the Scottish Government has a clear commitment to deliver 30,000 affordable homes over the lifetime of this parliamentary session. In fact, earlier today I

announced that the first figures for the first year showed that there have been around 6,800 completions, which is substantially above the average target that we would have to achieve. The target is very challenging, but I am confident that by focusing on more innovative approaches we will deliver the 30,000 target, with the support of councils, registered social landlords and our other partners.

Our approach to increasing supply is not just about ensuring that more new homes are built, although that is vital. The bill will provide us with an additional tool to assist councils to deal with the scandal of long-term empty homes. Such properties do not raise any income for their owners, they can be an eyesore in their community and they reduce the supply of housing that is available to those who most need it. Around 70,000 homes are sitting empty in Scotland at any one time, about 25,000 of which have been empty for six months or longer and are liable for council tax.

The bill will enable us to introduce regulations to allow for increases in council tax charges on certain long-term empty homes. The regulations are expected to give local authorities the flexibility to charge the owners of empty homes up to double the standard council tax rate after a home has been empty for at least one year. That provision is first and foremost about providing an additional tool to help councils in encouraging more owners to bring their empty homes back into use. That can help councils to meet their housing need and adjust the size of waiting lists in their areas. Again, the provision is not just a revenue-raising power. Councils, assisted by the Scottish empty homes partnership, will be able to provide advice and assistance to owners on the best way to bring their home back into use and so avoid paying any increased charge.

The last part of the bill is on housing support grant. The provisions on abolishing the housing support grant are aimed at avoiding the Scottish Government budget needing to be used in future to fund councils' interest costs on their housing debts. Obviously, the grant was needed in the past to help some councils meet their housing debt costs, but the introduction of the prudential borrowing regime means that councils should now borrow money to fund housing or other projects only where they can demonstrate that they can afford to repay that borrowing. In that context, the grant should no longer be needed.

At the moment, only Shetland Islands Council claims housing support grant, but its reliance on the grant has been reducing over a number of years. I have just written to the new leader of the council, who was appointed yesterday, I think, proposing a meeting to talk about the council's

request for write-off of that debt or, as the council puts it, transitional funding.

To return to the point that the convener raised, we considered whether the money should be ring fenced, but our view is that we should try to encourage councils and give them discretion, which is consistent with the concordat and the way in which we now work with councils. They will, of course, continue to ring fence the moneys that they get for current income from council tax in relation to discounts. They will continue to be obliged to use that towards providing more housing. However, in this context we thought that a collaborative approach was best, such that councils would have discretion and we would put in place other means that could support them to bring housing back into productive use.

The Convener: It has also been suggested that there is a danger that property owners who were keeping properties empty for a particular reason might reclassify them as second homes. Has the Government considered that matter and whether the bill should also cover second homes?

12:15

Keith Brown: We have looked at the matter but it will take more work to formulate a working definition of second homes that will allow us to distinguish between the two types of property. That said, we think that second homes often provide economic benefits to and improve the areas in which they are located, although I admit that the reverse can be the case if there are too many of them. However, that is not the case with empty homes, which is why we have focused on them. We intend to put together a proper definition to distinguish between the two types of property and that will come down to factors such as the length of time for which a property is occupied in the course of a year.

The Convener: One could argue that it would be more appropriate for local authorities to decide whether second homes have a negative economic impact in their area and so should have the rate applied. Will you consider that issue?

Keith Brown: Councils have different views on the issue of second homes and if we want to ensure that the measure is as workable as possible we must take a consistent approach across the country. We will look at the responses that we receive as the legislation proceeds and try to be flexible in the way that Derek Mackay suggested. However, our view at the moment is that a consistent approach to second homes, which we do not intend to capture in this legislation, and empty homes, which we do, is the best way to move forward.

James Dornan: What is your reaction to Waverley Housing's suggestion that to tackle the problem of empty properties the Scottish Government use more of its affordable housing supply budget to allow registered social landlords to purchase empty properties on the open market or to convert empty retail units to housing rather than focusing on new build?

Keith Brown: Although such suggestions are worth considering on their own merits, they should not preclude what we are attempting to do in the legislation. The problem of empty homes goes much wider than RSLs and I believe that the basis of the bill, which is to provide some form of disincentive with regard to keeping properties empty, stands on its merits.

As for the proposal that you highlighted, I point out that we have become increasingly flexible with regard to RSLs. That trend will continue and, as I have said, such ideas should be considered on their merits.

John Pentland: Many local authorities have a lot of empty homes because they are in hard-to-let areas. How can the bill help in solving that problem?

Secondly, the Finance Committee noted that the financial memorandum assumes that, as a result of the changes, 10 per cent of long-term empty homes will be brought back into use each year. On what basis was that figure reached?

Keith Brown: On your first question, we have worked with housing lobby groups such as Shelter Scotland on that matter. The proposed council tax increase is only one of a number of measures that we are considering to bring long-term empty properties back into use. For example, the main aim of the Scottish empty homes partnership, which is run by Shelter and has been funded by the Scottish Government up until next year, is to support local authorities, private owners and others in reducing the number of empty homes and it can therefore help councils in working with owners.

In addition, we have provided £400,000 of innovation funding to South Ayrshire Council to run an empty homes loan fund. That fund has drawn a very positive reaction from the rest of the UK, and the Scottish Government is keen to encourage more councils to apply for similar loans. Moreover, there will be an opportunity to apply for funding through the £2 million empty homes loan fund in order to increase the supply of affordable housing.

We have committed to contributing £40,000 in this financial year to the employment of three shared empty homes officers, who will cover seven local authority areas across the west and south-east of Scotland. It is clear that the measure

that is set out in the bill is not the only one that we are introducing to help councils to bring empty homes into productive use; we have developed a suite of measures to try to help the situation.

If councils raise revenue from the measure, it will of course be open to them to use it—should they wish to do so—to provide loans or assistance in the form of grants to owners of empty homes who do not have the resources to bring those homes back into public use. It is quite easy to foresee schemes that would allow councils to bring into productive use—to make available for let to people—homes that would otherwise have no chance of reaching that status. A scheme could even be created under which a council or an RSL provided to a home owner a loan that was repaid through rental income that would not otherwise be realised. Councils could take a number of measures.

The 10 per cent reduction in empty homes is an estimate, and the financial memorandum notes a significant margin of uncertainty about that. It is true, and we have said from the start that we recognise, that the prevalence of empty homes and the ability to bring them back into productive use will differ in different council areas. The number of homes that are brought into use will depend on other factors, such as the amount of support that local authorities provide. I have given the committee ideas about ways in which councils could provide support, which will increase the numbers that are brought into use.

Margaret Mitchell: Why are all the estimates based on the assumption that all councils will use the power and charge 100 per cent of council tax or apply the maximum levy?

Keith Brown: I am not sure how else a workable estimate would be arrived at. The figure is the potential amount that could be realised.

We have made it clear from the start that the discretion will lie with councils. The bill will allow councils to vary the level if they want to, so the only meaningful figure that we can advance is the potential maximum figure.

Margaret Mitchell: Why was that approach used? Some sort of variation could have been built in to make a more realistic assumption about the financial impact.

Keith Brown: I do not accept that. We have said that the power will be an option for councils to use. Given that, there could be innumerable permutations of some councils using or not using the power and some councils providing different discounts. We could not have arrived at any other meaningful figure. We have specified the maximum that could be achieved. That makes sense to me, at least.

Margaret Mitchell: I do not think that starting from such a figure is realistic, and that is never good for a policy decision.

Will you give guidance on the evidence that local authorities will require for an exemption from or a grant for the increases in council tax charges?

Keith Brown: I am not sure whether I understood the last part of your question.

Margaret Mitchell: Will you give examples of circumstances that would qualify for exemptions? You will obviously want such matters to be clear and transparent.

Keith Brown: That is right. The issues will take time to work through. If it was clear that a sincere effort had been made to sell or let a property, for example, we would not want to punish somebody for a genuine attempt to bring an empty home into productive use. Those matters should be considered further. They are not easy to resolve; we will deal with them in conjunction with our local authority partners. The judgment will be about what is prescribed in primary legislation or regulations and what is left to local authorities.

It will be possible for local authorities to work out whether something that has been left empty should be brought back into productive use and whether a property owner is genuinely trying to bring it back into productive use. The provisions would not apply if someone was selling their own home, because they would be occupying the property.

Margaret Mitchell: Would someone be required to keep advertising their home and to incur more costs?

Keith Brown: I imagine that someone who was genuinely trying to sell their home would want to advertise it. There must be further discussion about what is a genuine and sincere attempt to market a property. Putting a "For Sale" sign in a back garden would not be a sincere attempt to market a property.

Councils will have the right to make a proper judgment about whether somebody is trying to market their property for sale or let. We can work with local authorities to reach a suitable conclusion that allows them to do that.

Margaret Mitchell: What is your view on the suggestion from Scottish Land & Estates that an additional exemption from any council tax increase should apply when an owner has a long-term empty property that is subject to a live planning application?

Keith Brown: What you suggest is not something that I support. It would be quite possible for an owner to lodge a planning application to try to circumvent their liability for

additional council tax. When we look at tax issues—of course, we do not currently have many tax powers—we have to be careful to ensure that we do not make it easy for people to avoid the tax. We have seen evidence of that happening over many years in the context of the UK Exchequer, to the substantial loss of taxpayers in this country. It is fair to everyone if the rules are applied consistently and are not easily avoided.

Margaret Mitchell: Can you at least give the committee an indication of the timescale for the laying of the regulations before the Parliament?

Sam Baker (Scottish Government): We hope to lay the regulations as soon as the bill receives royal assent. When that happens will depend on the committee, to some extent, but it will probably be in early December.

Keith Brown: There will be no substantial delay.

Kevin Stewart: Some of the more sensible suggestions from Scottish Land & Estates were to do with empty properties in rural areas. Some houses will never be brought back into use, because they are in the middle of fields or up on the top of hills or whatever. Would it be more realistic to remove such properties from the council tax register? Will you talk to valuation boards about some of the bizarre situations in which properties that no one in their right mind thinks will ever come back into residential use remain on the register?

Keith Brown: There is some sense in the suggestion, but I understand that currently a derelict property can be removed from the list that is kept by the relevant assessor. If a property is removed, of course, it is no longer subject to tax. It is for the assessor to determine whether a property remains on the list; neither local authorities nor the Scottish Government have control over that.

Additional exemptions are set out in the Council Tax (Exempt Dwellings) (Scotland) Order 1997. For example, certain dwellings on land that is used for agricultural purposes can be exempt. Some of the homes that Scottish Land & Estates described might fall into that category and be eligible for exemption. The two mechanisms that I described should address the issue that the organisation raised.

Kevin Stewart: I realise that that is a matter for local authorities and valuation boards. Is guidance issued to authorities and boards, to encourage a uniform approach across the country to dealing with such properties?

Keith Brown: I do not think that local authorities have a role; it is strictly a matter for the assessors. The Government cannot issue guidance in that

regard, as far as I understand it. Neither local authorities nor the Scottish Government have direct control over what is a matter for assessors.

There are a number of assessors in the country, and consistency is important. I will look into whether the Scottish Government can give guidance on the area that you asked about and get back to you.

Kevin Stewart: I appreciate the offer.

John Pentland: In its evidence to the Finance Committee, the bill team acknowledged that not all councils will apply the maximum levy. Why then was the maximum figure used as the basis for the modelling in the financial memorandum?

Keith Brown: I think that I have answered that question as well as I could do. I do not know what other figure could sensibly have been used. Local authorities might want to apply an increased charge to a varying extent—and bear it in mind that we will enable them to use the power in different ways in different parts of the council area—or they might not want to apply an increased charge at all, so there is no limit to the potential for variation.

It is fair to use the maximum figure, as long as we say clearly that that is what we are doing. Right from the start, we acknowledged that we were talking about the maximum amount of money that could be raised if all councils were to use the power to the limit. If it has been suggested that another figure should be used, I would be interested to hear the basis for arriving at it, because I genuinely cannot see that it would be sensible to use any figure other than the maximum.

Anne McTaggart: What is the likely impact of only some local authorities using the powers? Given that that is the key variable that would affect the financial impact of the proposed powers, why was modelling for that not carried out?

12:30

Keith Brown: It is hard to predict or model on the basis of what individual councils might do. We believe strongly in local democracy, so if a council feels that it is important to use the power, perhaps because it has a preponderance of empty homes that it wants to deal with, it can do so. Another council that does not have the same problem might not do that. It is very hard to model decisions that will ultimately be taken at individual local authority level.

The Convener: I think that you might have been asked the same questions, minister, no matter what assumptions you made. Are there any other questions on this area?

Margaret Mitchell: I have a brief question, which is similar to that which I asked the Minister for Local Government and Planning. Is there not a realisation that vast numbers of properties are unlet because there is no demand for them? Again, that aspect undermines the policy intent.

Keith Brown: The straightforward answer to that is to suggest that you look at the housing waiting lists across the country. There is undoubtedly demand for more houses. What we have just now is an underused resource. Mr Mackay made the point that we provide a benefit in the form of the Scottish small business bonus, which is an incentive to businesses. The power in the bill will be a disincentive to being economically inactive by leaving houses empty.

We need more houses. As I said in my opening remarks, we are doing what we can in that regard and increasing by about 30,000 the number of affordable homes over this parliamentary session, which is not an inconsequential thing to do in terms of the money that it requires. If we can provide additional houses to address waiting lists and satisfy existing need, that is the right thing to do. What the bill proposes is an effective way of doing that.

Margaret Mitchell: The houses may be empty because they need more money spent on them, but there is no guarantee that the additional finance will be used for that purpose.

Keith Brown: No, but we will try to encourage councils to do that. I mentioned the three or four different ways in which we have given money to help to achieve that. For example, we have helped fund some councils to take on an empty homes officer. Such a post is common in England. An empty homes officer can go around the local area and ascertain what houses have been lying empty for some time. I am not trying to suggest that somebody would be happy to sit on a string of empty houses. They might not have the resources to upgrade a house to a lettable standard.

An empty homes officer—this is the purpose of the current pilot project—can tell an owner that, if they need a new bathroom or kitchen, for example, to get a house to a lettable standard, they can be loaned moneys for that. The owner could then make the property available for renting. That method would, of course, be a council decision and not something that we would prescribe in legislation. The council could perhaps then nominate someone from its council house waiting list to the property and from the rental income the owner could repay the council loan. It seems to me that everybody would benefit from that kind of arrangement, so I cannot see why councils who are already doing that in the areas that I mentioned would not want to develop it.

Margaret Mitchell: But there is nothing in the bill that would make that happen. It would very much be the choice of councils.

Keith Brown: Councils are answerable to their electorate. If they were to take in money and not use it for a productive purpose, they would have to answer for that. The nature of the relationship that this Government has with local government is that we have said that local government has its own mandate and responsibilities and that we leave it to local authorities to take decisions in their areas.

Margaret Mitchell: If the policy proved counterproductive and the money did not achieve the policy intent, would it be reconsidered or rescinded?

Keith Brown: There are two things to say on that. If the policy was not productive because councils did not use the resources to improve properties—

Margaret Mitchell: My concern is that the policy would end up being just a revenue-raising exercise.

Keith Brown: To the extent that it reduced the number of empty homes because there was a disincentive for owners to continue to have empty homes, it would have a beneficial impact, even if homes were not brought into productive use through the other route that I mentioned. We are confident that the policy will have a beneficial impact in the way that we have described.

Margaret Mitchell: What is the solid evidence for that?

Keith Brown: My previous answers set out the solid evidence. There is evidence from the empty homes work that we have done in the south and west of the country. We have evidence on the existing demand—huge numbers of people are waiting, not least because of the prolonged period of the right to buy, which has diminished the public housing stock over many years. We know that there is demand, so we are trying to increase the supply. Perhaps we have enough faith in the market to realise that the additional supply will be met by that willing demand.

Anne McTaggart: I have one quick question. When the bill team gave evidence to the Finance Committee, it acknowledged that not all councils would apply the maximum levy that the proposals would allow. Why was the maximum figure used as the basis—

The Convener: I think that we have covered that.

Anne McTaggart: Has it been done?

The Convener: Yes—more than once.

Anne McTaggart: Sorry.

The Convener: We are probably finished on that issue, so we will move on to the housing support grant. Committee members recently visited Shetland to speak to council officers and tenants. We felt that it was important to understand the historical reasons why Shetland Islands Council is in the unique position of being the one council that still receives the grant. One thing that was said loudly was that the council feels that there was a commitment, followed by a promise, to write off the debt, which the council sees as arising from Shetland doing its bit to ensure that accommodation was available when the oil industry came to the area. It is felt that the debt was almost written off in 1997, but there was a change of Government. What is the Scottish Government's view on the history of the debt?

Keith Brown: You are exactly right about Shetland's point of view. We have found no evidence of a commitment apparently given by a previous Government, many years before the Scottish Parliament came into existence. We have seen no evidence that a commitment was given by a UK Government wanting to write off housing debt. There was a link in that the UK Government had an interest in ensuring adequate housing supply for people coming to work in the oil industry, but we have seen no evidence that the UK Government—not the Scottish Government—made a commitment to write off the debt. Shetland Islands Council has written to the UK Government on the issue, so it will be interesting to see the response.

The Convener: Another area that we touched on while we were in Shetland was the potential writing off of the debt as part of the proposed stock transfer, which failed. Our understanding is that the debt in Shetland is different from that in other authorities, in that it is internal. How would that have worked with stock transfer?

Keith Brown: As far as I am aware, the stock transfer arrangements for Shetland would not have been different to those for other authorities.

The Convener: Other authorities' debts would be from public loans, whereas Shetland's debt is probably to its oil fund, so it is an internal debt.

Keith Brown: I ask Sam Baker to comment on that.

Sam Baker: I cannot speak for the Treasury, but my understanding is that the Treasury's position has always been that it would write off only debt that was owed, in essence, to itself. Therefore, it would not have written off Shetland's debt, which as you say was an internal loan from one part of the council to another. The Treasury would have written off the debt only if the stock had been transferred. My understanding is that Shetland Islands Council argued to receive grant

to write off its debt, but not to transfer the stock. The Treasury would not have considered that.

Kevin Stewart: The issue of an internal debt, rather than a debt to the Public Works Loan Board, has just become apparent to us, probably only this morning, to be honest. It has been quite difficult for the committee to get to grips with that.

I have a question on the proposed stock transfer that probably cannot be answered at the moment. We have heard from some that the Shetland stock was undervalued and by others that it was overvalued. Beyond that, it now seems that even if stock transfer had gone ahead, the debt would not have been written off by the UK Treasury. Are you able to look back at the stock transfer situation under previous Administrations to see whether that was one of the reasons why the stock transfer did not proceed? Stock transfer would have been beneficial to no one if there had been no write-off of debt. It would be interesting to know what your records say about a situation that has become apparent to us only this morning.

Keith Brown: We will partly rely on Shetland Islands Council to provide us with information, but we are happy to find that out and come back to the member or the committee on that. However, as was suggested previously, the main reason that stock transfer did not go ahead was a valuation disagreement.

It is also true to say that, when the UK Government has written off debt in the past, it has been Public Works Loan Board money. The UK Government took on loans that were taken out by councils to finance previous council house stock. According to recent information, what is different in this case is that the council owes the money to itself in one guise or another. That may well have been a sticking point but, as I understand it, the main sticking point was a difference in the valuation. We will find out more information on that and provide it to the committee if that is helpful.

As I said, I have written to Shetland Islands Council asking to meet its convener to discuss the matter further. There are a number of points of difference between us. If the debt write-off was to happen, it would be the only one of this nature. It is not easy for me to see a basis for doing that, because the rents that are currently paid are comparable with rents in councils that are similar to Shetland. There are other issues. The council has substantial reserves, which, it argues, are committed elsewhere. It is true that some of those reserves could not be used for this purpose, but many of them could be. That is a choice that Shetland has made.

I would be keen to ensure that we did not treat one council differently from other councils. If we were to commit £40 million to writing off the debt

of one council, that would equate to about £1 billion of debt write-off if we treated all councils the same way. We have to be very careful about that.

If Shetland has, as it says it has, a unique justification for asking for debt write-off, it is right that we should examine that. In the process of doing so, I am happy to pass the information back to the committee.

The Convener: I am pleased to hear that you will try to engage with Shetland about how it manages the process. What we were originally faced with was that either it continued to get the grant or there would be a huge rent rise. There did not seem to be any modelling in between, or any effort. We have had a commitment from Shetland Islands Council that it will look at the modelling. I hope that when you go up you will look at whether there are transitional arrangements that could help the council to make some of the models work and that do not put up the rent of every Shetland Islands Council tenant overnight by a huge amount.

Keith Brown: There has been virtually no rent rise in real terms in Shetland for a number of years. Other councils have had that rent rise in many cases. We have to try to treat people on a level playing field.

There is also a question about the repairs and maintenance service offered by the council, which is very expensive compared with those of other councils. That may be because it is a gold standard service and that is what people want and should have in Shetland, or there could be other reasons for that. It is only right that we try to get to the bottom of that.

As you say, the right thing to do is to engage with Shetland Islands Council, and that is what we intend to do.

Kevin Stewart: Minister, you said that you would look for information about stock transfer. When we visited Shetland there was a comment that, in the course of the Labour-Liberal Scottish Executive—I do not know which years—there was a budget line for writing off housing debt. I assume that, if it was ever there, it would have been entirely attached to stock transfer. It would be good for those who were on the Shetland visit, and the others, to get clarification about that point. The position is very difficult, because a lot of the comments that were made were not evidenced, but we are obliged to follow them up if we possibly can.

12:45

Keith Brown: That is a fair point. Obviously we have a view on a number of those issues and Shetland Islands Council might have a different

view. I have not yet worked out exactly how we can do it, but we will try to make an objective assessment of the case. One of the things that we can do is check back to find out whether there was indeed such a budget line.

It would surprise me if there was, because we are essentially talking about how Shetland Islands Council sets out its housing revenue account. It is not and it never has been up to the Scottish Government or previous Scottish Executive to do that; it is up to the council. Since 2007, we have slowly reduced dependence on the grant, as should happen and as has happened elsewhere. We have discussed with Shetland Islands Council ways of balancing the housing revenue account over the past three years. We consulted the council and COSLA on changing the methodology in 2010 because it had not been changed for many years. We have now introduced legislation to end the grant in 2013-14. That is a great deal more than was done in previous years, although that might be understandable because the HRA was an issue for several years. As members will recall, the prudential borrowing regime came into force in 2004-05, which was eight years ago, so at that time, the council had to move towards a more businesslike and prudential environment, as other councils did.

Shetland Islands Council also received its grant for 34 years, which is longer than any other council, so it has had the longest period of any council in Scotland to adjust its HRA's financial position. If there are particular reasons why that adjustment has not happened, beyond those that we already know about from our discussions, we should discuss those reasons, and we are happy to do that.

Anne McTaggart: Minister, you said earlier that there had not been any rent increases for the past so many years, but it is also important to point out that Shetland Islands Council is sitting second highest in a table of rent amounts.

Kevin Stewart: Convener, that is according to Shetland Islands Council. Other tables are different.

The Convener: The minister can answer the question.

Keith Brown: I will come back on that point, but before I do, I should say that I have just been advised that the previous Scottish Executive did discuss a possible grant for Shetland Islands Council, but only on the proviso that it transferred its stock. That was the previous position. We will come back to the committee with more in writing.

On the question of rents, it is not for the Scottish Government to advocate a change in rents one way or the other. That is up to Shetland Islands Council. However, out of the 22 rural and island

social landlords that are in Shetland Islands Council's peer group—members will be aware that councils are classified in different peer groups—the average weekly rents were the fourth lowest at £61.04 per week. The rents are £3.84 per week below the median rent of those 22 rural social landlords, which was £65 per week in 2011-12, and £6 per week below the Hjaltland Housing Association rents, which is around £67 per week.

Shetland Islands Council's rents have fallen by an average of the retail price index minus 0.2 per cent over the past 10 years, and RPI minus 0.5 per cent over the past five years, whereas rents have risen in real terms everywhere else, so there is a difference there.

Now, those are the figures that we have. If Shetland Islands Council has a different point of view, that will come out in the discussions that we have with it.

The Convener: As there are no further questions for the minister, we will move into private.

12:48

Meeting continued in private until 13:07.

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