

ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

Wednesday 5 November 2003
(Morning)

Session 2

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ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE **10th Meeting 2003, Session 2**

CONVENER

*Sarah Boyack (Edinburgh Central) (Lab)

DEPUTY CONVENER

*Eleanor Scott (Highlands and Islands) (Green)

COMMITTEE MEMBERS

*Roseanna Cunningham (Perth) (SNP)

*Rob Gibson (Highlands and Islands) (SNP)

*Karen Gillon (Clydesdale) (Lab)

*Alex Johnstone (North East Scotland) (Con)

*Maureen Macmillan (Highlands and Islands) (Lab)

*Mr Alasdair Morrison (Western Isles) (Lab)

*Nora Radcliffe (Gordon) (LD)

COMMITTEE SUBSTITUTES

Alex Fergusson (Galloway and Upper Nithsdale) (Con)

Janis Hughes (Glasgow Rutherglen) (Lab)

Jim Mather (Highlands and Islands) (SNP)

Jeremy Purvis (Tweeddale, Etrick and Lauderdale) (LD)

Mr Mark Ruskell (Mid Scotland and Fife) (Green)

*attended

THE FOLLOWING GAVE EVIDENCE:

Tony Andrews (Scottish Countryside Alliance)

Andrew Hamilton (Royal Institution of Chartered Surveyors in Scotland)

Alasdair Laing (Scottish Landowners Federation)

Richard Lockett (Farming and Wildlife Advisory Group Scotland)

Becky Shaw (Scottish Crofting Foundation)

CLERK TO THE COMMITTEE

Tracey Hawe

SENIOR ASSISTANT CLERK

Mark Brough

ASSISTANT CLERK

Catherine Johnstone

Roz Wheeler

LOCATION

Committee Room 1

Scottish Parliament

Environment and Rural Development Committee

Wednesday 5 November 2003

(Morning)

[THE CONVENER opened the meeting at 10:01]

Nature Conservation (Scotland) Bill: Stage 1

The Convener (Sarah Boyack): I welcome members, witnesses, members of the press and the public who are here this morning.

Agenda item 1 is the second of our five planned evidence sessions at stage 1 of the Nature Conservation (Scotland) Bill. Our job is to examine the bill and report to Parliament on its general principles. We issued an open call for evidence and this morning's selection of witnesses is here to enable us to consider the impact of the bill on those who own and manage land that is affected by sites of special scientific interest, as well as to consider the bill as a whole.

We are fortunate to have two panels of witnesses in front of us this morning. I welcome Richard Lockett, who is the Perthshire adviser for the Farming and Wildlife Advisory Group Scotland; Becky Shaw, who is the crofting environment officer with the Scottish Crofting Foundation; and Alasdair Laing, who is vice-convener of the Scottish Landowners Federation. I thank the witnesses for attending.

I have a brief note for members. We had hoped to take evidence from NFU Scotland at today's meeting, but the organisation has indicated to our clerks that it is unable to attend. However, it noted that it fully supports the bill and intends to submit written evidence to convey that.

As in previous meetings, we will not have opening statements from witnesses but we are grateful for the written submissions that all the witnesses provided in advance, which have enabled members to consider the key points that the organisations want to present to us. I ask members and witnesses to keep questions and answers brief and to the point.

Eleanor Scott (Highlands and Islands) (Green): My question follows up something that was in the Scottish Crofting Foundation's submission, but perhaps it is a question for everyone on the panel.

You mention that the fact that crofters are looking to diversify their activities and to access diversified income schemes might give rise to tension and problems because of the definition of established management that is used for the purposes of compensatory payments. That problem might also apply to other farmers who want to diversify. A problem might arise if such payments are based on established use of land. Will you amplify that point?

Becky Shaw (Scottish Crofting Foundation): In the work of the expert working group on SSSI reform, it became clear that it was thought that compensatory entitlements should apply only in rare cases. Our point in the submission is that the mechanism for determining compensatory entitlements might be based on existing land management, which could have an impact on what people can do. We fully support the move away from large speculative compensatory payments, but we want to flag up that an issue might arise because people are changing their activities. We want a fairly flexible approach to compensation.

Eleanor Scott: It would have been nice if I could have asked the NFUS that question. Do any of the other witnesses see that issue as a problem, given that the use of rural land is diversifying?

Alasdair Laing (Scottish Landowners Federation): It would be fair to say that land management practices change over the years. I back up Becky Shaw's point that it would be unfortunate if we were to ossify practices that are changing for good reasons because we did not have the flexibility that is being sought.

Rob Gibson (Highlands and Islands) (SNP): The Farming and Wildlife Advisory Group Scotland criticises part 1, section 2 of the bill, which is on biodiversity, as "vague and unclear". The group talks about the need to create an approach to biodiversity that is based more on action points. Will you amplify on that point, which is fundamental to the bill?

Richard Lockett (Farming and Wildlife Advisory Group Scotland): We are unclear about what actually constitutes the biodiversity strategy. We have the document "Towards a strategy for Scotland's biodiversity: Biodiversity Matters!", but it is not clear whether that is the strategy. A strategy should set out not only actions and priorities for action, but a mechanism or programme to assess whether the targets have been reached and whether they have been effective. People tend to say, "That will cover the issue and we can just tick that box." The document does not strike us as containing meaty measures that can be laid down and assessed regularly to discover whether the biodiversity targets have been achieved.

Rob Gibson: That suggests that a wider Government agreement on targets is needed. Including biodiversity in the Nature Conservation (Scotland) Bill is a start, but the strategy ought to be a Government one. Is the strategy in the bill appropriate?

Richard Lockett: Absolutely. We support what is stated in the bill, but we want it to be effective as a strategy and to be implemented as such.

Rob Gibson: I take your point.

Maureen Macmillan (Highlands and Islands) (Lab): In previous evidence, issues have been raised about whether the provisions on promoting biodiversity will be legally binding on the Executive and other bodies such as local authorities. Are you content with that? Should organisations be obliged by law to promote biodiversity under the strategy?

There seems to be tension between organisations over whether sites contiguous to SSSIs or associated with SSSIs should be included in the bill. There are two opposing points of view on that. People who are more involved in nature conservancy—although the witnesses might disagree with that—argue that not only SSSIs, but every site that has a unique role in promoting biodiversity, such as ancient woodlands, ought to be included in the bill. I notice from the evidence of some of today's witnesses that they are wary of any extension of SSSIs or of providing support for associated sites. Will you tease out the differences?

Becky Shaw: We are thoroughly in favour of the general move towards thinking of land managers as environmental stewards and changing the scope of SSSIs to the stated intention of accolade rather than burden, but we flag up the potential for lack of clarity for land managers. At the moment, the situation is relatively clear and there are various procedures for SSSIs, but we are flagging up an issue for contiguous land and other associated land, as the application of rules to such land is more discretionary. The bill's intention is to move towards a more positive, transparent, user-friendly system and it would be a shame to compromise those worthwhile principles by introducing too much uncertainty. We are concerned about whether there is enough certainty and whether land managers know what might be expected.

Alasdair Laing: There is also an issue with bottom-up and top-down approaches to designations. SSSIs are top-level protection and, if we start to extend that protection formally downwards, we will end up with nothing left to help those who are relatively near the bottom, who do not have anything particularly special, but still contribute a huge amount to nature conservation in general.

Richard Lockett: I do not know how much the broadening of the geographical remit of SSSIs will come about. I am thinking specifically of catchments, which the Farming and Wildlife Advisory Group considered last week, in situations where the designated site is a loch that has been designated because of aquatic species but where the whole catchment affects the quality of the SSSI. The whole catchment could not and would not be designated as an SSSI, but the impact of activities in the catchment is relevant to the SSSI. That example shows how the issue is slightly broader, but there are ways of dealing with that other than designating a broader area, such as working with land managers in the area to reverse the problems that exist there. That is where such issues come from.

The Convener: The FWAG submission makes a point about overlap with environmental schemes and you have just given a classic example of wanting to protect an SSSI within a water catchment area that is surrounded by good farming land. You comment in the submission:

"FWAG fails to see why other environment schemes ... funded through the Scottish Executive and Rural Development Plan should be expected to contribute towards the management of SSSI / Natura 2000 sites."

I would have thought that the new land management contracts that have been explained to us briefly would seem a logical means by which to provide incentives and resources to let the farming community manage its land more sustainably, which would also have an impact on SSSIs.

I was a bit surprised by your comments—will you expand on them?

Richard Lockett: What you say illustrates the point well. We are trying to say that the structure of funding at the moment is probably not effective in dealing with such issues. The rural stewardship scheme, for example, will exist for perhaps only a few more years, but the bill will be on the statute book for ever. In that context, the scheme is not particularly relevant in the longer term.

What that indicates to us is that we would like to see a better funding structure that tackles those issues, for example, on a catchment level. Land management contracts and the kind of issues that are being looked at under common agricultural policy reform are good illustrations of that—they offer a good opportunity to tackle such issues. Those points are specific to the situation at the moment, which is changing quite rapidly. I think that it highlights the need for that kind of approach to be taken to the funding of conservation land management.

10:15

Becky Shaw: That is a valid point. We said in our submission that we are supportive of bringing 85 per cent of SSSIs into positive management. Obviously, that will require resourcing and the issue arises of targeting the resources that are available in those areas. I am thinking of a combination of targeting and good land management right across the country and also of targeting specific areas that are of particularly high value.

The intention behind environmentally sensitive areas is to say that we have recognised that an area is of high nature value, that we have the agricultural practices that can contribute to the area and that we will continue to support the area. It is about finding ways of supporting good environmental stewardship across the country and directing funding into the special areas.

Alex Johnstone (North East Scotland) (Con): I draw attention to my entry in the register of members' interests, in which members will see that I am a member of the Scottish Landowners Federation.

I want to explore the potential cost of the bill and the issues that surround it. It would be entirely inappropriate for me to ask you how much the bill will cost. However, I think that it is appropriate for me to ask you individually, in respect of the people whom you represent, what your expectations are of the resources that will be accrued as a result not only of the bill, but of some of the other areas that we have touched on, in terms of the support measures that will be necessary. What financial support will your members get? Will it be more, less or will it be just the same?

Alasdair Laing: That is a difficult question to answer. If I may, I will answer the first part of it slightly sideways from our perspective. The resources need to be sufficient to make the bill work. I cannot quantify whether the figure will be £1 million, £5 million, £100,000 or whatever, but it needs to be sufficient to make the bill work.

I do not think that any of us could sit here and say that we seek to gain from the bill. We are looking for the encouragement to do the necessary work. However, it would be unfair to expect crofters, farmers or owners to do, at their own cost, work that is, in essence, for the public good. I cannot quantify the money, but that is the principle of it.

The other half of the answer is that the bill has to be resourced not only from the point of view of the activities that will take place. We have considerable concerns about the resourcing of the back-up measures; for instance, the Scottish Land Court and other such places are, or could be, involved in matters such as enforcement and

appeal procedures. They are also getting heavily involved in other new legislation such as the Agricultural Holdings (Scotland) Act 2003. We are concerned about those resourcing implications. From our perspective, two different lots of resources are involved.

Becky Shaw: I support what Alasdair Laing said about providing public good. Obviously, there is a direct tie-in with reform of the common agricultural policy and how resources are used and targeted to achieve everything that we are trying to achieve on nature conservation and supporting agriculture in our rural communities. It is difficult to say how much we would expect the bill to cost.

Alex Johnstone: I was keen to avoid asking you how much it would cost. However, I am also keen to find out your expectations about the resources that your members will need to make such a measure work.

Richard Lockett: Key to the bill is its change of approach to the management of designated sites. Instead of sending someone a list as long as your arm of potentially damaging operations, stipulating what they cannot do and then watching a site deteriorate, one would provide funding for active management measures to improve that site. If that means that an individual gains financially from delivering a public good, that is important, fair and as it should be.

Our organisation cannot comment on any cost implications, because there are other funding opportunities through the reform of the common agricultural policy, changes in compensatory agreements and so on. That said, we would expect such a positive approach to the management of designated sites to require funding.

Rob Gibson: Each of you has mentioned the need for greater transparency and better consultation. The SLF has highlighted the need for improved and accessible dispute resolution processes and the Scottish Crofting Foundation has mentioned the need for an increase in local involvement in the management of protected sites. By the way, I should for the record declare that I am a member of the Scottish Crofting Foundation—I am sorry that I forgot to do so at the start of the meeting.

When we visited sites of special scientific interest in Perthshire, we had discussions with landholders about their involvement. I found those discussions very vague. It strikes me that each of you is concerned about the sort of local consultation that should take place. Should there be a local structure to ensure that people from Scottish Natural Heritage and those who represent the landholders and land users meet regularly and openly to discuss the development of the process?

Becky Shaw: We would be quite keen to see a structure or mechanism that would allow local management to be discussed locally. We are pleased that the bill contains measures that would allow socioeconomic considerations to be taken into account in the development of site management statements. As a result, we would have a site management statement that was a realistic representation of what SNH required of a land manager and what the land manager could provide within the context of viable rural enterprises. Such mechanisms should be strengthened. Many of our members say things like, "The land is the way it is" and suggest that traditional land management is the reason for the high value of the land, conservation-wise. Perhaps that kind of management is not perfect and certain things should be done; however, we are here to look after the land and would like to be involved in discussions about its management.

Alasdair Laing: Essentially, I agree with that. If the bill becomes law, it will encourage more involvement because it will encourage positive management. For example, the bill seeks to encourage people to do things; it does not say, "You cannot do this or that". That in itself will encourage much more communication between SNH and the people who are managing the land. In that respect, I question whether arrangements should be formalised any more than that. After all, meetings for meetings' sake are not always very productive and can make people bored with the whole process.

Allied to that, we are concerned that the European Natura 2000, special protected area and special area of conservation designations and the nature conservation orders that are proposed in the bill are not, and will not be, underpinned by UK SSSI legislation. That will create certain grey areas where disputes will arise.

With SSSI legislation, there is a clear avenue of appeal through the Scottish Land Court, for example, but with the European designations and nature conservation orders, that avenue is not there. From a cursory look, it appears that the avenue of appeal might be through the criminal courts. Therefore, a person might end up with a criminal record for a relatively minor contravention of a site. That issue requires more consideration as the bill progresses.

The Convener: It might need some clarification.

Rob Gibson: The issue opens up a number of lines of argument, but I want to press one point. Educating people about the value of land must happen at a local level and in public. Open debate has not taken place in the previous designation system, except where there has been some crisis in a community that has been faced with the setting up of an SSSI and therefore public

meetings have had to be held. Do you agree that there ought to be a local mechanism through which matters can be discussed so that landholders and land managers, as well as the local population, have a clear idea about what is going on? Would such a mechanism be valuable?

Richard Lockett: Yes. I agree broadly with the first part of Alasdair Laing's answer, but, like him, I am not sure how formalised the processes should be. The bill's ethos represents a significant change from the slightly dictatorial top-down process.

It is difficult to see how processes should be formalised. It is obvious that it is important to involve communities and it is critical that the land manager is kept up to date on such involvement and on what is being said. It is also important that site management statements are in a language that can be understood by those who are involved. We are talking about many obscure and not very exciting species. For land managers and communities, it is important to set issues in a broader biodiversity context. Such an approach is important and I support it.

Becky Shaw: I do not think that I was making a plea for a formal system, but I made a plea for communication. Consultation can mean saying, "Here's the answer. I am consulting you. Do you like it—yes or no?" We hope that the bill will mean a move towards communication and will not simply result in consultation in its narrower sense.

The Convener: That comes through loud and clear in people's written responses. In the past weeks, I have gone out and talked to land managers and nature conservation interests and it strikes me that some proposals that have been made should be for primary legislation, but that others perhaps are for best practice and guidelines. Perhaps the minister should not just consider clarifying the legislative provision, but should think about new ways of doing things that we might want to encourage. Those new ways might not have to be identical in all parts of the country, but we should aim for a more transparent system and less of a top-down approach. There should be more discussion about how we want to protect our land. Perhaps the ministers could come back to us on that matter.

Maureen Macmillan: Earlier, I asked two questions. The second question was answered, but the first was not. The first question was about section 2(1) of the bill and replacing "may" with "must". Organisations have proposed to us that that should be done, as it would make the designation of the Scottish biodiversity strategy obligatory rather than optional. There is likely to be an amendment to that effect at stage 2 and I want to find out what organisations think about that. Do you agree with organisations such as the Convention of Scottish Local Authorities, which

agreed last week that the obligation should be underlined?

Richard Lockett: Yes. As I have said, there is a danger that that section of the bill will become too vague and too easy to sidestep. If “may” is used, that might mean that action will not be taken.

Maureen Macmillan: It seems that there is general agreement that there ought to be an amendment at stage 2 to clarify that.

The Scottish Crofting Foundation’s submission states:

“We would like to see safeguards introduced to s. 36 to ensure that those who through circumstances beyond their control are unable to carry out the actions required in a Land Management Order are not penalised.”

What did you have in mind and how on earth could that be incorporated in the bill or in guidance? It seems that there could be a cop-out.

10:30

Becky Shaw: It is more an issue for guidance. I am thinking of the one case that might ever arise. We were discussing this earlier. If someone had or had not done something because they were ill or elderly or for reasons beyond their control, £40,000 would be a hefty fine to impose on them. The issue might be one not for legislation but for best-practice guidance. In particularly difficult circumstances, a light touch should be applied. I am not saying that, in general, a land management order should be avoided; I am saying that there should be guidance to ensure that in extreme circumstances people are not penalised for something beyond their control.

Maureen Macmillan: I just find it difficult to imagine how that could be incorporated in guidance—I do not think that it could be in legislation; it would have to be in guidance. There would always be somebody who was not on the list. Perhaps we can discuss the matter further.

The Convener: There is a detailed point to discuss about what kind of safeguards there would be. When I was reading the submission I wondered what kind of circumstances the Scottish Crofting Foundation had in mind. We could end up with there being a fine line; some people might opt out and come up with an excuse. It is about being fair to everybody, so that provisions apply equally wherever people are.

Becky Shaw: We do not disagree with the land management process, but we want to avoid a heavy-handed approach in circumstances in which failure to carry out required action is not someone’s fault. We are talking about extreme circumstances, so perhaps such detail is not really relevant. I remember a regrettable case in which someone was penalised under animal welfare

legislation, but he had been looking after his dying mother and his disabled brother and had not gone out for two weeks. Things had got a bit messy and beyond the person’s control, but in that situation, a more sympathetic approach would have been helpful.

Maureen Macmillan: So you are looking for a plea in mitigation.

Becky Shaw: Possibly.

The Convener: We will leave that on the record.

Mr Alasdair Morrison (Western Isles) (Lab): I declare the same interest as Rob Gibson.

On the way in which SNH is arriving at positive management agreements with crofting townships, I would like to hear Becky Shaw’s reflections on the most recent large designation in Lewis, which involved 3,000 crofters. How does the Scottish Crofting Foundation feel that that was conducted? Is that the way in which future discussions should be progressed?

Becky Shaw: Are you referring to the Lewis peatlands?

Mr Morrison: Yes.

Becky Shaw: I was not in post at that point, so I am talking about discussions that were held before I was involved. I understand that the designation had a fairly rocky start. However, in general, the crofting community is fairly positive about the peatland management scheme. I cannot say for definite how the process worked, because I was not properly involved, but among the people to whom I have spoken, there is quite a good feeling about the scheme. The step towards positive management has certainly been a bonus.

Nora Radcliffe (Gordon) (LD): Mr Laing might have partially answered my question already, but I was intrigued by the strongly worded paragraph in the Scottish Landowners Federation submission that called for European designations to be underpinned by site of special scientific interest designations. Are your reasons partly legalistic and partly because of the obligations for land management statements that go along with SSSIs?

Alasdair Laing: We want the SSSI designation to underpin the European designation because, at the moment, the European designation does not have the appeals procedure that the UK SSSI designation does. In other words, under the European designation, there is no recourse to the Scottish Land Court.

I am not a lawyer, but it would appear that the enforcement route would lead to the criminal courts. That might be appropriate in certain cases, but it seems like using an awfully large sledgehammer to crack what might be a not very big nut.

The same applies to the nature conservation orders in the new legislation. Our reading of the situation is that those orders can apply to land that is not an SSSI, whereas land management orders have to apply to land that has been designated as an SSSI.

Nora Radcliffe: While we are on legalistic matters, I note that you are concerned about the removal of the word “intentional” from the wildlife crime legislation and its replacement with “reckless”.

Alasdair Laing: The concern relates more to the definition of recklessness. What is reckless to someone who knows something might not be reckless to someone who does not know something. A forester would be being reckless if he did something to damage an area of woodland that he knew was being used as a capercaillie lek but a chap out for an afternoon walk who did not know the area would not be being reckless if he did so.

Nora Radcliffe: I thought that the intention of changing the law was to capture the reckless person.

The Convener: The issue of appeals being made to the Scottish Land Court was mentioned. Other witnesses have suggested to us that there is a question mark over the expertise of those in the Scottish Land Court, given the new range of issues that they will be expected to deal with, particularly in relation to the scientific basis of designations. In that regard, we talked last week about whether the environmental courts might be established. Do the witnesses have any views on the general matter?

Alasdair Laing: Presumably, if the Scottish Land Court were adequately resourced, it could call on expert witnesses as needed.

Becky Shaw: We are happy that there is recourse to the Scottish Land Court for an appeal procedure.

Rob Gibson: The Scottish Land Court is required by the Scottish Land Court Act 1993 to have what are referred to as “agricultural members”. Would it be valuable if an expert on the environment or on environmental law were to become a statutory member of the Scottish Land Court?

Richard Lockett: That could be important, given the complex nature of some of the environmental issues. We could not comment further on that issue as we have no dealings with the Scottish Land Court.

Maureen Macmillan: I would like to ask a couple of questions about wildlife crime. The witnesses are probably aware that some groups argue that snaring should be banned. What are

your views on that and on the implications for the countryside of a ban on snaring? Also, should the bill cover the misuse of poisoned bait?

Alasdair Laing: Snaring is an effective means of vermin control. It is widely used by farmers and crofters and by other land managers who are involved in the sporting scene. The Scottish Landowners Federation fully supports the controls on snaring that are in place, such as the requirement to examine snares on a regular basis. We would be very concerned if snaring were to be banned, because I do not think that there is any method of vermin control that could replace it.

We have slight concerns about the practical implications of some of the alterations to the use of snaring that the bill proposes. My reading of the bill suggests that the system is becoming very prescriptive: a person who set snares would have to examine them every 24 hours. That could create practical problems for a farmer or a keeper who might have looked at the snares at 8 o'clock this morning—I think that it was light at 8 o'clock—but, for a variety of valid management reasons, could not examine them again until 3 o'clock tomorrow afternoon. That aspect of the bill is too tightly prescriptive.

I think that I am right in saying that poisoned bait was dealt with by the Criminal Justice (Scotland) Act 2003. The SLF's position is that the law should not be broken. However, we are firmly of the opinion that there needs to be more examination of the law.

Mr Morrison: Alasdair Laing has given us the SLF's response, but I want to ask Becky Shaw about the crofting perspective. How would a ban on snaring impact on your members, in particular on those who are trying to protect valuable crops?

Becky Shaw: I am afraid that I cannot comment on that. We have consulted in detail only on parts 1 and 2 of the bill, so I cannot tell you what the impact would be.

Mr Morrison: Perhaps I can tell you—and perhaps I should declare an interest, too. If crofters were not permitted to use snares, their ability to protect valuable crops at a vulnerable stage would be limited. SCF members will echo that view, particularly in places such as North Uist, Benbecula and South Uist, where rabbits are seen as vermin.

Rob Gibson: What about hedgehogs?

The Convener: We will not go there.

Mr Morrison: We do not snare hedgehogs; there is another way of dispatching them.

The Convener: We have covered a lot of ground this morning, so if members have no further questions, I thank the witnesses for coming

and for answering—or attempting to answer—our questions. You have been very helpful. I invite the witnesses to stand down, but they are welcome to stay for the rest of the meeting. I will suspend the meeting for two minutes to allow the panels of witnesses to change over.

10:43

Meeting suspended.

10:45

On resuming—

The Convener: I welcome our second panel of witnesses. We have with us Andrew Hamilton from the Royal Institution of Chartered Surveyors in Scotland and Tony Andrews, who is the Scottish Countryside Alliance's chief executive. I thank the witnesses for attending our meeting and for their helpful written submissions. As with previous panels, I will not invite the witnesses to make opening statements; we will go straight to questions from members. It would help if people kept their questions and answers to the point.

Nora Radcliffe: My question is for the Scottish Countryside Alliance. Your submission raises concerns about the relationship between the Land Reform (Scotland) Act 2003, the water framework directive and the bill. You talk about possible conflict between the directive and the bill. Will you give an example of what might cause such a conflict?

Tony Andrews (Scottish Countryside Alliance): Our concern is wider than that. We are concerned about the joined-up thinking that will be required to bring together the access code, which is under discussion, the water framework directive and the bill. Those are complex pieces of legislation that have different objectives, so we would like to know that they do not clash. I refer particularly to the access code and the bill, because they have obvious potential conflicts. I was heartened to hear Rob Gibson talking earlier about education and the need to provide quality information to the public, land managers and users of our countryside, who are right to want access to our countryside in the way that it is drafted in the access legislation. If conflicts exist, they should be resolved now.

Nora Radcliffe: You are flagging up a possibility and you cannot think of a concrete example.

Tony Andrews: I can give you a concrete example of a possible clash with the water framework directive: when an SSSI, which is a limited area, is inside a river catchment. I understand that the water framework directive heads in the direction of catchment management, which means that any action that anybody

undertakes in a whole river catchment—which, for a river such as the Tweed, is a large area of land—could impinge on an SSSI in that catchment.

The bill suggests that SSSIs might be extended to cover wider areas than the designated areas. We would be extremely worried if we found suddenly that as a result of the water framework directive, a whole river catchment was affected because it contained one SSSI. The water framework directive deals with huge catchment areas and anything in those areas. An SSSI has a limited extent, so I would like to know that dialogue is taking place on the directive and the bill.

The Convener: The Transport and the Environment Committee dealt with the Water Environment and Water Services (Scotland) Bill last year. The river basin management planning groups are now about to be designated and they would be the place to thrash out some of the issues that you raise, because those groups are meant to involve all the stakeholders in an area. I presume that the matter is for ministers to cross-reference.

Tony Andrews: The issue is more about making a cross-reference than it is an attack on the bill. We are asking for reassurance that such a cross-reference is taking or will take place.

Nora Radcliffe: If the water framework directive works as intended, I think that an holistic view will be developed, which, by definition, will take proper account of SSSIs.

The Convener: That relates to the Water Environment and Water Services (Scotland) Act 2003.

Tony Andrews: It is also important that the access code is consistent with that holistic thinking, which we applaud. We think that it is great that people are thinking holistically.

Eleanor Scott: In its submission, the Scottish Countryside Alliance expresses considerable concern about the extent to which compulsory acquisition could apply to land. Will you expand on that? My understanding is that those powers already exist, but I am not aware of them ever having been used by SNH—they have certainly not been used by SNH with any frequency. Are those powers more likely to be used because of the new legislation? Why are you so concerned?

Tony Andrews: We recognise that there need to be proper methods of enforcement in the bill. We are concerned that the tone of the bill, with its overemphasis on compulsory purchase, has taken emphasis away from partnership and management agreements. We would like there to be far more carrot in the bill and far less stick. In the final analysis, compulsory purchase may be

necessary, but there ought to be a transparent, consultative process. That should be emphasised, rather than compulsory purchase, which leaps out of the bill. We think that it has been given too high a profile, which spoils what is otherwise quite a good bill.

Rob Gibson: I return to the question of local consultation and discussion. The Countryside Alliance stated in its written submission:

“we seek agreements which will benefit both our natural heritage and countryside dwellers.”

It goes on to say with regard to the notification of interested parties:

“the input of the local land manager and land owner is the most important”.

Does that mean that you think that there should still be a discussion locally, perhaps at the community council level, about the designations or about the implementation of the legislation that enforces them?

Tony Andrews: We should not put all the emphasis on biodiversity. The countryside is too complex for that. Our countryside is a fragile environment—economically, socially and culturally as well as environmentally. No bill about biodiversity should ignore the socioeconomic and cultural aspects. We are not totally convinced that the bill takes full cognisance of those other aspects of the countryside, through which it has been brought into the wonderful condition that it is in today. It is admired all over the world, almost as a model of good management. Generations of Scots have managed the countryside, and we have biodiversity, which is why we are having this discussion.

Local consultation is an absolute necessity. I completely agree with your suggestion that community councils should be more involved in or built into the consultation process. The more consultation takes place, the more information and education will be provided. Remember that, from its inception, Scottish Natural Heritage’s remit was to educate people about wildlife and biodiversity, and I would like the bill to contain far more emphasis on education.

Rob Gibson: You mentioned the condition of the countryside. Some of us would certainly take issue with you about the well-managed nature of large areas. Indeed, people such as Frank Fraser Darling described a devastated landscape. That definition applies to much of the Highlands and Islands.

I am concerned that you think that the bill does not give the proper weight to saving what is best in the countryside. The language that you use in your submission, including saying

“after the land has been confiscated”,

creates a confrontational situation, which we are trying to avoid. I am concerned that we might not recognise the reality of what we see out in the countryside.

Tony Andrews: I can only repeat what I said, which is that we must take into account the people who live in, work in and use the countryside as well as the biodiversity of the countryside. I do not know where the vision to which you refer of the countryside comes from, but I suggest that the people who live in and use the countryside are the best people to decide whether it is an environment that is desirable, beautiful and biodiverse. Many people would describe Scotland in those terms.

I have read documents, as you clearly have, about devastated areas of the Highlands where trees have been completely removed. At the same time, the European habitats directive applauds Scotland’s heather moorland areas, whereas the Irish Government has recently been fined for not looking after such areas. You cannot have it both ways.

Rob Gibson: We can have it as best as we can. That is why we are asking the questions. Thank you for your responses.

Mr Morrison: I have a question for Mr Andrews about prosecutions. I am trying to get my head round the second part of the sentence that makes up the paragraph under the heading “Prosecutions”, which states:

“latitude should be provided to enable land managers who have not damaged SSSIs to be exempt from prosecution.”

Tony Andrews: Sorry, I did not hear that.

Mr Morrison: I quoted the second part of the sentence under the heading “Prosecutions” in your submission. I am trying to get my head round exactly what that means.

The Convener: It is on the last page.

Mr Morrison: It is the second last paragraph on the last page of your paper, under “Prosecutions”.

Tony Andrews: Okay. Do you mean not the bit on wildlife crime, but the bit above that?

Mr Morrison: I am referring to the section entitled “Prosecutions”. I think that I understand clearly what you are saying about nature conservation orders; your position is that in the bill the threat of prosecution is expressed too strongly. I do not agree with that position. I am trying to get my head round what the second part of that paragraph means. It is possible that I am missing something obvious.

Tony Andrews: Sorry. I was being reminded of the point.

The point is that if no damage has been done to the SSSI but an operation that requires consent has been carried out, there should be no prosecution. In other words, if someone has not obtained permission for an operation that requires consent but no damage has been done, there are no grounds for prosecution. That is what we are saying.

Mr Morrison: Okay.

In relation to the last paragraph in your submission, on wildlife crime, I want to establish the Scottish Countryside Alliance's position on water bailiffs. Are you still supportive of the principle of having water bailiffs?

Tony Andrews: Are you talking about honorary bailiffs or about the full-time employees of the river boards?

Mr Morrison: Both.

Tony Andrews: I think that there is a distinction between them. The honorary bailiff network is probably open to question for a number of reasons, but we do not need to go into that now. As far as the bailiffs who work full time for the river boards are concerned, they are part of the management of our rivers in Scotland. They are essential and important and have rights of wildlife officers. I understand that they can undertake an arrest if they find somebody fishing illegally or contravening the rules of the river board.

Mr Morrison: So that I can be clear in my own mind, as far as the water bailiff system is concerned—I refer to both types of water bailiff—you do not believe for a moment that their powers are draconian or undemocratic.

Tony Andrews: That is the present system. I do not have a view on whether it is democratic or not.

Mr Morrison: I certainly believe that it is undemocratic and draconian. If I have understood you correctly, you do not have a position on water bailiffs but, on wildlife officers, you state:

"We are also very concerned that the Bill states that these Wildlife Officers can be accompanied onto land by any persons that they deem appropriate. We feel that this is draconian and undemocratic".

I am trying to reconcile your position—

11:00

Tony Andrews: We are talking about training. I have just been reminded that water bailiffs undertake a training course before they are able to do their jobs. We want to know that wildlife officers will have similar training so that they understand the law and how it applies to people who use the land. We are worried about whom they will bring with them when they go into someone's house or on to someone's land. We are also concerned

about the basis on which those people are chosen. Certain organisations are often present when such inquiries are made and we would be worried if the system was not transparent and open. We want to understand why people are asked to come and the criteria for bringing them.

Mr Morrison: Of course, that is something that could be covered in wildlife officers' training.

Tony Andrews: One would hope so.

Mr Morrison: Good.

Snaring is the final issue that I want to raise. What is the Scottish Countryside Alliance's position on snaring?

Tony Andrews: I completely endorse what was said earlier by the Scottish Landowners Federation and the Scottish Crofting Foundation. Snaring is a necessary form of wildlife and crop management. However, the Scottish Countryside Alliance is adamant that animal welfare is crucial, so the most modern and humane forms of snaring must be used. We are absolutely clear about that.

Karen Gillon (Clydesdale) (Lab): You mentioned heather moorland and how well it is doing in Scotland. In my constituency, we have lost 60 per cent of our heather moorland during the past 10 years; for me, that does not paint a positive picture. The land managers who own and operate the land are not taking enough care to maintain it.

On compulsory purchase orders, there is an example in my constituency where Scottish Natural Heritage has been trying for three years to get a landowner to enter into a land management agreement to protect part of the land, but the landowner will not do so. When can we take CPO action against them? At the moment we cannot do so. There has been a reasonable time scale—three years have passed—but nothing has happened. Why can CPO action not be instigated now?

If the bill allows that to happen, that will be a positive thing. Under CPO legislation, the landowner would receive the amount determined by the district valuer for the land. CPOs might be a necessary stick to make people come to the table and enter into land management agreements where they are not willing to do so at present. In those circumstances, why do you have such an aversion to CPOs?

Tony Andrews: I do not think that we have an aversion to CPOs. We have an aversion to the lack of transparency in the way that they are decided on and finalised.

On your other point, of course we have lost 30 per cent of our heather moorland since the end of the 1939 to 1945 war. The traditional method of

managing heather moorland is driven by the economic value of grouse shooting, which requires heather to be burned, looked after and maintained. If that economic driver is taken away, there is no reason to look after heather moorland. Farmers do not want it because cattle do not graze on it; most of the heather moorland that has been lost since the war has been lost to grazing. I agree that that is a problem.

I do not know about the case that you mention so I do not want to comment on it, but when one is dealing with people's livelihoods, the issue is far more complex than just the habitat and conservation side. If people's livelihoods are brought into the equation, the issue becomes complex and there may well be a need for arbitration.

Andrew Hamilton (Royal Institution of Chartered Surveyors in Scotland): There are compulsory purchase powers in the Wildlife and Countryside Act 1981. As far as I know, those powers have been used only once, in a case in Somerset. They have never been needed—as Karen Gillon mentioned, they have been present as the big stick in the background.

We do not have any problem with such powers being in the bill; it is entirely logical that they should be there. Our problem is that they seem to apply to almost anywhere. Because of the ability to look at land outwith SSSIs, it looks as if SNH has an overarching power to purchase land compulsorily anywhere in the country. That seems to be an extension of the existing provision in the 1981 act, and one that does not seem to be entirely necessary. If the powers are to be restricted to SSSIs, that is fine. If they are to be extended without limit, which some interpretations suggest that they could be, that is unwise.

The Convener: We might be able to clarify that point with later witnesses.

Karen Gillon: Do you accept that the powers should be extended to areas of land that affect SSSIs?

Andrew Hamilton: Yes, I can understand that reasoning because places such as a catchment area upstream of an SSSI might have such an effect. However, an exceptional case would have to be made for that to happen. It would have to be shown that such an area of land was directly affecting the SSSI. The power should not be too broad; it needs to be limited in some way.

Nora Radcliffe: I want to dig a bit deeper into your concerns about the advisory committee on SSSIs. An SSSI is designated on a scientific basis and the advisory committee is focused on the scientific reasons for designating an SSSI. You seem to want to expand the remit and focus of the advisory committee. Do you not think that it would

be better to leave it so that clear scientific advice underpins SNH's desire to designate an SSSI? The other matters that you are concerned about could be dealt with separately by an appeal mechanism.

Tony Andrews: We simply point out that the advisory committee is in effect the first point of appeal in the process. If someone wants to appeal against an SSSI designation or any aspect of the implementation or management of an SSSI, the first port of call is the advisory committee. I am concerned that that committee considers only the scientific viewpoint. We would like wider interests to be represented on the advisory committee.

Nora Radcliffe: My understanding of the purpose of the advisory committee seems different. I thought it was there to give advice on the scientific basis of designation.

Tony Andrews: It is clear to us that under the bill, the advisory committee would be part of the appeals process.

Nora Radcliffe: Yes, but it would only advise on the scientific arguments that underpin the desire to designate an SSSI.

Tony Andrews: Yes—that is what we are saying.

Nora Radcliffe: Wider matters would go through a different appeal process.

Tony Andrews: That would mean that appeals would have to go to another body and the process would become very long and laborious. If the advisory committee were beefed up, we think that such matters could be dealt with at the first point of appeal. We suggest that simply to save people time and lessen the amount of bureaucracy.

Nora Radcliffe: So you believe that some of the issues that we were envisaging would go to the Scottish Land Court should go to a different advisory committee.

Tony Andrews: Yes. Sometimes it is not a bad idea to put scientists into the real world and show them that there are issues other than scientific ones that impinge on people's lives.

Andrew Hamilton: Perhaps I can expand on the issue of the advisory committee. As I understand it, the advisory committee is not an appeal body; that is specifically stated in the policy memorandum. The committee will advise SNH purely on the designation of SSSIs, and such matters do not go to the Scottish Land Court.

Although the advisory committee is independent and is able to give an alternative scientific view of the advice that comes from SNH, we are still concerned because SNH does not have to listen to the committee. Let me give a brief example. I had a loch that was to be designated as an SSSI.

All the local people said that the designation was in the wrong place as it needed to cover only half of the loch because the birds did not live at the end where there was a lot of activity and where the keepers lived. We went to the advisory committee—an august body of independent scientists—which listened to what we and SNH said and came back with a recommendation that we were absolutely right and that only half of the loch needed to be designated. The committee's view was put to SNH, which ignored it and designated the whole loch. I do not think that that was an appropriate way to give scientific evidence a second look, if you like.

Although the Scottish Land Court is now involved in a lot of appeals in other matters—we welcome that development—when it comes to scientific matters, the way in which the bill is drafted means that SNH will be the be-all and end-all.

SNH makes the final decision on scientific matters and if anyone disagrees—tough. Why should there not be scope for an appeal on scientific grounds? Every scientist has a different shade of opinion. The advisory committee is an ideal forum for alternative points of view. It is independent and if it thinks that SNH has got it wrong, its views should be binding.

Nora Radcliffe: So you still see the advisory committee as being purely scientific but having much more—

Andrew Hamilton: Yes—its role in the designation of sites should be scientific.

Nora Radcliffe: And SNH should be obliged to—

Andrew Hamilton: To be frank, it seems a rather pointless body at the moment.

The Convener: May I push you on the question of the Scottish Land Court? We asked the previous witnesses about the expertise that is available to the court. Does RICS take a view on that?

Andrew Hamilton: The Scottish Land Court has experience of dealing with SSSIs and compensation cases under the 1981 act, although it is not so much the Scottish Land Court that does that as the Lands Tribunal for Scotland. A number of arbitration cases were referred to the tribunal. When it comes to valuation, the tribunal certainly has experience, from dealing with things such as management agreements, as to what payments should be made. That form of appeal has been slightly extended: the tribunal will now have a role in deciding whether it is reasonable, for example, to withdraw consents. I agree with the earlier comment that that will entail expansion into areas of expertise that the Scottish Land Court may not

necessarily have at the moment. However, the court has in the past proven itself adept at taking on experts to give advice on such matters. It is a good forum for an appeal and I do not think that we need worry too much about the court not having the expertise. What we should worry about—I believe that the SLF said this earlier—is the pressure of work that the court will be under. The Scottish Land Court will deal with all the law on agricultural holdings, land reform and nature conservation. One can only make a plea that the court be adequately resourced. I do not think that, as things stand, the court could cope with the pressure.

Maureen Macmillan: When we were scrutinising the Title Conditions (Scotland) Bill, that very concern was raised about the capacity of the Scottish Land Court to deal with all the cases. However, evidence from the court suggested that it had lots of spare capacity, so perhaps we need not be concerned.

I want to go back to consider the advisory committee. Based on what you said, do you envisage that the advisory committee's scientific recommendations would have to be accepted by the Scottish Land Court in any appeal? Would that address your concerns?

Andrew Hamilton: I am not sure that that is quite what I suggested, because, under the bill as drafted, the court has no locus in the designation of sites. I was simply saying that, if there is a form of appeal to the advisory committee over the designation of SSSIs, the outcome should be binding rather than something that SNH can discard if it so wishes. I am not suggesting that the appeal should go to the Scottish Land Court. We would agree that the court can probably acquire expertise, if necessary, but it is probably not appropriate to put to the court purely scientific matters that relate to whether a site should be designated or notified. Such matters should go to the scientific advisory committee.

Rob Gibson: My question is mainly for the RICS. You seem unhappy about the removal of compensation for landowners who, for perfectly valid business reasons, may wish to change the way in which they manage the land. You suggest that the bill could have a negative impact on the value of the land in question. I think that you would agree that there has been little evidence of a lack of interest in buying land in Scotland. Various land agents tell us that continually. Indeed, the gross overvaluation of land that is sold for status purposes disguises the fact that many landowners need to be more involved in managing the asset that they buy. In crofting cases, it has been proven that many buyers are totally ignorant of the regulations. Surely it is an extra piece of special pleading to suggest that the bill will have a negative impact on the value of land.

Andrew Hamilton: I hear what you are saying, but let me talk you through the basis for the suggestion. This is a point of principle. The 1981 act was Tory legislation. At the time, it was thought important that, if a landowner or land occupier, such as a farm tenant or crofter, had restrictions placed on them that affected what they did on the land and led to their suffering a loss, it would be fair and reasonable that they should be compensated.

However, if you negotiated with the district valuer, for example, as to the value of a piece of land, and suggested that because part of it was notified as an SSSI it might be worth less than if it were not so designated, the answer would be, "No, that is not the case, because there is always full compensation, so there is no loss in value." To put it simply, if somebody wants to do something that they have not done before on a piece of land, and if SNH says no, they will now not be able to do it. Their freedom to use the land in ways that they might otherwise be able to if it were not designated is therefore restricted, and that will affect value. There is therefore some form of removal of asset value without compensation.

11:15

I refer members to a paper that SNH produced some years ago as a precursor to the bill. It obviously thought that there might be some criticism along those lines and it compared the situation to that of planning permission, where development rights on land were withdrawn as long ago as 1947. You cannot develop land without planning permission and if you do not get planning permission you are not compensated. That was used as an example to back up the proposals in the Nature Conservation (Scotland) Bill. In 1947, however, when planning permission was introduced, there was compensation for all those whose development rights were taken away. That is not the case with the bill. It is a point of principle: rights to use land are being taken away and not compensated for.

I fully understand and agree with all the concerns that have been expressed in the past about the huge payments made to people who made speculative claims that, if they had done such and such a thing, they would have earned £X thousand. That is not an attractive proposition, and something needed to be done about it. However, the reality is that there has been almost none of those cases for the past five years. There are very few of them; they do not seem to happen any more. We are using a sledgehammer to crack a nut by taking away that compensation completely just to cover cases that might arise once in a blue moon. Such cases have certainly not happened for a long time now; we have got past that stage and people seem to be more socially responsible.

I would like to make one other point. We are concerned that the whole question of there being no compensation for new improvements is not covered by the bill but is in the financial guidelines. The policy memorandum makes it absolutely plain that the intention is that there will be no compensation for new improvements, only for stopping people doing something that they are doing at the moment. However, that provision is not in the bill but in the financial guidelines, which I understand can be changed at any time by ministers without recourse to Parliament. If ministers should suddenly decide to stop people doing what they are doing without compensation, that would not come back to Parliament. I have a major objection to that provision not being in the bill and being instead in some piece of ministerial guidance.

Rob Gibson: We need clarification on that.

I would like to press you on one point. The bill attempts to bring about positive management of land depending on the designation that is in place. Surely that is a better approach than the type of compensation that you have been talking about.

Andrew Hamilton: I agree with you 100 per cent. As far as the RICS and our members are concerned, we are wholly behind what SNH is doing. The whole move towards positive management—also known as natural care—is, of course, the way forward. Let us hope that it applies in 100 per cent of cases, but there might be 1 per cent of cases where it is not appropriate. The way to go—the way in which we should be managing land for conservation in the future—is to work in partnership with one another.

However, although partnership is a great idea, I am not sure that the bill is a good example of partnership, as it is about partnership with an organisation that has ultimate powers to stop people doing anything it wants them to stop doing, with very few appeal mechanisms. There is some avenue of appeal to the Scottish Land Court, but in many cases SNH can go for nature conservation orders, where the only appeal mechanism is a public inquiry. Under land management orders, if you do not do something that SNH decides to ask you to do, you are guilty of an offence. It is like being in partnership with your employer. You get on very well and everything goes swimmingly, but at the end of the day your employer pays you and can sack you. SNH seems to have disproportionate powers in a bill that is really supposed to be aimed at being positive and working in partnership. An awful lot of what is in the bill is about a whole lot of powers that SNH did not previously have but will now have. It seems skewed the wrong way.

Tony Andrews: Does the committee feel that SNH has the resources to do all that? The Scottish

Countryside Alliance's concern is that it does not have the resources or the expertise to propose, enact, police, judge and manage the land, which is what it is now being asked to do.

The Convener: That is an issue that we will have to raise when SNH representatives give evidence over the next few weeks.

Nora Radcliffe: You seem concerned that, if there is a change of ownership or occupation, 28 days is perhaps too onerous a time scale for people to notify the change, and you have said that six months is a more realistic time frame. Why do you think that 28 days is too short?

Andrew Hamilton: That relates to a concern that we expressed about the draft bill. I was on the expert working group with the Scottish Executive, which took the issue into account. The draft bill said that all owners or occupiers must notify SNH of a change of occupation or ownership within 28 days or be guilty of committing an offence. As members probably know, if someone is in the process of buying or selling land they must remember a large number of things. To be fined for failing to remember to tell SNH about the change within 28 days seemed absolutely draconian.

The provision that made failure to notify SNH within 28 days an offence has been removed from the bill. I am not a lawyer and do not quite understand what the bill means, but it says that owners and occupiers "must" tell SNH about a change of occupation or ownership. I am not sure what happens if they do not. However, 28 days is a fairly short time. In many cases, we are dealing not just with a change of ownership. There may be other interests in land or a servitude may have been applied to it. Often people will not know about that within 28 days. Tenants come and go, so someone may not know about a change of occupation within 28 days. That is very short, compared with some of the other time limits in the bill.

Nora Radcliffe: It seems to me that a person is more likely to forget something if they have six months to remember it than if they have only one month.

Andrew Hamilton: That is a good point.

Alex Johnstone: I will ask the same question that I put to the previous panel. What resources do you expect will be necessary to make the bill work?

Andrew Hamilton: They need not be vastly greater than they are at the moment. Not every piece of land requires positive management to ensure the conservation of the interest that exists. In many cases, existing management will look after it. I would be concerned if some sort of

positive management were required and SNH were not able to fund it.

I also have concerns about the financial guidelines. I know that they are not included in the bill, but they set out how payments are to be calculated. In many cases, SNH is seeking simple, standard payments across the board, rather than examining individual cases. I am not sure that that will always be the most effective approach.

I am concerned that SNH will not have the resources to cope with everything that will be needed. If we are to move forward and the bill is to be the great success that we all wish it to be, more resources will be needed. That applies particularly to staff who talk to people on the ground about how to manage their land. That is what the bill is all about. Rather than being about not doing something, it is about being very positive. More people are needed for that work.

Tony Andrews: We interpreted Alex Johnstone's question slightly differently and thought that he was asking about the cost of implementing the bill. The bill goes into that issue, but it refers only to the bureaucratic costs of implementing the bill. We are concerned about the costs to the rural economy and whether those have been managed or even addressed. We are concerned that there is a hidden, unmeasured, unpublished cost that will affect rural communities. We are really worried about that. We think that the bill has a cost way beyond what has been put down on paper so far.

The Convener: We will end the session at that point. I thank both witnesses for attending and answering all our questions this morning. Next week we will consider the bill further and will hear from another set of witnesses.

Subordinate Legislation

Protection of Animals (Anaesthetics) (Scotland) Amendment Order 2003 (SSI 2003/476)

11:23

The Convener: Item 2 on our agenda is consideration of subordinate legislation. We have before us an order that is to be considered under the negative procedure: the Protection of Animals (Anaesthetics) (Scotland) Amendment Order 2003 (SSI 2003/476). The Subordinate Legislation Committee considered the instrument and made a number of points relating to it. An extract from the committee's report detailing those points has been circulated to members. I have read the report, which raises many detailed issues about the drafting of the order. However, there are no matters of policy with which we need to engage. Are members content with the order and happy to make no recommendation to Parliament?

Members *indicated agreement.*

The Convener: As agreed at our previous meeting, we now move into private session. The purpose of the session is for the committee to consider a draft report on our national waste plan inquiry. I was going to invite the official report, broadcasting, the public and any visiting members to leave the room, but they have gone.

11:24

Meeting continued in private until 12:35.

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