

**STIRLING-ALLOA-KINCARDINE RAILWAY
AND LINKED IMPROVEMENTS BILL
COMMITTEE**

Monday 8 March 2004

Session 2

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STIRLING-ALLOA-KINCARDINE RAILWAY AND LINKED IMPROVEMENTS BILL COMMITTEE

3rd Meeting 2004, Session 2

CONVENER

*Bill Butler (Glasgow Anniesland) (Lab)

DEPUTY CONVENER

*Rob Gibson (Highlands and Islands) (SNP)

COMMITTEE MEMBERS

*Mr Richard Baker (North East Scotland) (Lab)

*David Mundell (South of Scotland) (Con)

*Nora Radcliffe (Gordon) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Ian Abercrombie QC (Counsel for Diageo plc)

Roy Martin QC (Counsel for the Promoter)

THE FOLLOWING GAVE EVIDENCE:

Tom Adam (Clackmannan Railway Concern Group)

Councillor William Calder (Clackmannanshire Council)

Stuart Coventry (Scott Wilson Ltd)

Mrs Alison Gorlov (John Kennedy & Co)

Julie Hamilton (Clackmannanshire Council)

Alf Maneylaw s (Scott Wilson Ltd)

Kathleen Martin (Clackmannan Railway Concern Group)

Donald Milligan (Clackmannan Railway Concern Group)

Martin O'Neill MP

Tom Ness (Diageo plc)

David Reid (Babtie Group Ltd)

Fiona Stephen (Anderson Strathern)

Councillor Derek Stewart (Clackmannanshire Council)

Malcolm West (Clackmannanshire Council)

CLERK TO THE COMMITTEE

Callum Thomson

SENIOR ASSISTANT CLERK

Fergus Cochrane

LOCATION

Alloa Town Hall

Scottish Parliament

Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee

Monday 8 March 2004

[THE CONVENER *opened the meeting at 11:22*]

Stirling-Alloa-Kincardine Railway and Linked Improvements Bill: Consideration Stage

The Convener (Bill Butler): Good morning, ladies and gentlemen. I open the third meeting of the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee in 2004. I welcome witnesses, their representatives and members of the public.

On 11 December, the Parliament agreed the general principles of the bill and that the bill should proceed as a private bill. The consideration stage—the stage that we are now at—is about the committee considering the detail of the bill. Our job is to listen to the arguments of the promoter of and the objectors to the bill and, ultimately, to decide between any competing claims. The committee takes that task very seriously.

The clerks held a timetabling meeting in Alloa in February with the promoter and objectors. The procedure that the committee will follow was explained then and was outlined in the minutes of that meeting, which were circulated. That is the basis on which we will proceed.

At this point, I thank all parties and, in particular, the objectors—especially those who have, shall we say, no professional support services—for all their assistance in accommodating the timetable and for complying with the deadlines for the submission of written evidence. The committee is conscious of the demands placed on them in that regard and we are all appreciative of their efforts.

The committee will hear first from the witnesses for the promoter in each group and then from the witnesses for the objector in each group. Following the completion of evidence taking, the committee will give a representative of the group a maximum of five minutes to make any closing comments that he or she may have. The promoter will be given a maximum of 30 minutes to make any closing comments that it has in respect of all the groups following the conclusion of evidence taking on 22 or 29 March.

The committee intends to complete its evidence taking in respect of three groups—group 15, group 4 and group 2—today. We have the written evidence before us, so I ask all witnesses to refrain from simple repetition of points that have been made in the written evidence.

The committee is well aware that this is the first time that consideration stage of a private works bill has been carried out. We also recognise that today there will be a mix of objectors—some are professionally represented, some are represented by lay members of the public and others are not represented at all. I am sure that all parties would welcome clearness, brevity and clarity in questions and answers.

The committee wishes to ensure that fairness is shown to both the promoter and objectors. This is, of course, not a court of law and the committee will carry out its proceedings in a more informal manner. The procedures that we will follow will have a degree of flexibility to take account of the backgrounds of the witnesses and their representatives.

The committee expects all parties to act respectfully to one another and, indeed, to the committee. As I said at the preliminary stage meetings, members of the public are, of course, welcome to watch our proceedings. Equally, they may leave the meeting at any time, but I ask them to do so quietly, please. I should also say at this point that, although the meeting is being held in public, it is not—decidedly not—a public meeting; it is the formal work of the Parliament and I would therefore appreciate the co-operation of members of the public in ensuring the proper conduct of business today. I ask everyone—that includes members—to ensure that all mobile phones and pagers are switched off.

We come to the consideration of evidence in respect of group 15. I have been made aware of some developments in Diageo's position. I ask Mr Abercrombie to address the committee and to clarify matters.

Ian Abercrombie QC (Counsel for Diageo plc): Good morning. I am pleased to report to the committee that on Friday of last week there was a further meeting between Diageo—which I represent—and the promoter, at which many of the objections that are outlined in the written submission were discussed. I am pleased to report to the committee that most of the objections were resolved and, where they were not substantively resolved, undertakings were at least given in respect of the outstanding matters. Diageo is therefore content today to deal with one matter that it has raised in its written submission.

It will save the committee's time if we address that matter in the following way. I will first leave Mr

Ness to outline the remaining matter that we want to draw to the committee's attention; after that, the normal order will follow, with the promoter coming second. That would save time and enable the objection to be dealt with shortly.

The Convener: Does Mr Martin concur with that suggestion? Does that approach seem reasonable?

Roy Martin QC (Counsel for the Promoter): Yes. I am entirely happy that my learned friend leads the witness first, because I am sure that that will save the committee's time. Clearly, my witnesses are here and are ready to give evidence if the convener wishes, but I have no objection to the alterations that have been suggested.

The Convener: May I ask Mr Abercrombie which objection still remains? In other words, which witness or witnesses are still relevant?

Ian Abercrombie: The only witness will be Mr Ness, who is the managing director of the company.

I ask members to look at document SAK/S2/04/3/6, which is the response to the written submission that was prepared on behalf of the promoter. Paragraph 4/5 on page 2 of the response says:

"Diageo also request that the Promoter satisfy the Committee that the preferred route for the road ... remains the best option."

Paragraph 4/5 outlines the matter that is outstanding and to which the objectors wish to draw the committee's attention.

The Convener: I ask Mr Ness to come to the table to be sworn in. We will take a break for a minute to swap witnesses, because this is an unexpected change in the procedure.

11:29

Meeting suspended.

11:31

On resuming—

The Convener: Good morning, Mr Ness. I believe that you wish to make an affirmation.

TOM NESS *made a solemn affirmation.*

Ian Abercrombie: Mr Ness, you are a director in Diageo.

Tom Ness (Diageo plc): Yes.

Ian Abercrombie: You heard my introduction to the committee that there has been a helpful series of meetings with Clackmannanshire Council, as a result of which many of the company's objections have been resolved and, where they have not

been resolved, they are at least being discussed with the council.

Tom Ness: Absolutely.

Ian Abercrombie: The council has given you certain undertakings and you agreed on Friday to continue to meet the council to resolve any outstanding issues.

Tom Ness: Yes.

Ian Abercrombie: Please turn to the second page of document SAK/S2/04/3/6 in the bundle of productions, to which you have heard me direct the committee's attention. Will you read for the committee the last paragraph on page 2 and the top paragraph on page 3?

Tom Ness: The document states:

"Diageo also request that the Promoter satisfy the Committee that the preferred route for the road through Carsebridge remains the best option. Reference is made in the Environmental Statement and the Promoters Written Submission to three alternative routes, but all these are taken through the Carsebridge site. At an earlier stage in consultations between Diageo and the Promoter other options raised by the Promoter would have avoided this course. Indicative costs were also discussed with Diageo. The proposal to take a road through Carsebridge (costed by the Promoter at circa £2.5million) was the highest compared with other alternatives which involved reinstating the level crossing at Hilton Road and raising the height of an existing railway bridge on Whins Road (costed at £1.75million). The Promoters, however, indicated that the Carsebridge alternative was its preferred option."

Ian Abercrombie: Carry on, please, with the next paragraph.

Tom Ness: It states:

"The funding statement prepared as part of the Bill identifies expenditure on major road works at circa £2.5million with separate heads for land acquisition and other items. Diageo will have to incur capital expenditure to replace the facilities which will be lost. Whilst contributions towards this cost will be available through traditional compensation routes the direct impact of this proposal will be to put a cost on Diageo's operational activities. The Company therefore require the Promoter to offer clear evidence that their preferred route for the road remains justifiable. Clarification is also sought that cost/benefit work undertaken in modelling and considering alternatives fully reflects the true cost of acquiring operational facilities from the Company."

Ian Abercrombie: I have no further questions.

The Convener: Mr Martin, do you have any questions?

Roy Martin: Good morning, Mr Ness. I will trouble you only briefly, I hope. I ask you to look at the document that contains the representations made by Diageo in respect of a recent planning appeal. The document is numbered SAK/S2/04/3/11. Sir, I could read out the numbers, but might I call the document SAK 11, or whatever it happens to be?

The Convener: That would be most appropriate.

Roy Martin: Thank you. I think that the documents are all numbered in the same way, with one or two exceptions.

I am sure that the committee has already considered document SAK 11, "Planning Appeal on Behalf of Diageo". I would like to ask about paragraph 5.12, under the heading "Particulars of Case". I am afraid that my copy of the document does not have page numbers, but paragraph 5.12 is near the end of it.

The Convener: It is on page 9.

Roy Martin: I am obliged.

The paragraph is part of a consideration of the reasons for the refusal of Diageo's application for planning permission for a housing development in the vicinity of the Carsebridge site. Is that correct?

Tom Ness: That is correct.

Roy Martin: Paragraph 5.12 deals with the second reason for the council's refusal. It states:

"The second reason is that it refers to matters that do not justify the refusal of a planning permission. In particular no support to refuse a planning application can be taken from the fact that the applicant has not objected to the emerging Local Plan. Notwithstanding the fact that the appellant did in fact make objections to the local plan relative to this site and proposal, the fact remains that there is no need to object to the Finalised Local Plan as; (1) the proposed development is considered to be consistent with the Finalised Local Plan and (2) the appellants do not object to the principle of the development of the wider area including the Eastern Relief Road."

The term "appellants" in this instance refers to Diageo. Am I right to say that the development of the wider area, including the eastern relief road, to which no objection was made, would have required some demolition of Diageo property?

Tom Ness: We started to find out about this in March 2002. A process of discussion and debate with the council started before the period of the plan and continued during the formation of the plan and after the period of the plan. We felt that the discussion was quite suitable, in order to try to engage with the issues that we had, which could be built in and taken forward. Therefore, our final decision not to object was based on the process that we believe was engaged in.

Roy Martin: If Mr Ness will forgive me, I remind him that I asked whether the route of the eastern link route, as shown in the finalised local plan, required the demolition of some Diageo property.

Tom Ness: The route that is shown in the plan required the demolition of some property.

Roy Martin: I thank Mr Ness. I ask him to look at SAK 12, which is entitled "Clackmannanshire

Local Plan—Second Alternation (Consultative Draft)—Housing Land Supply". I am sure that the committee is familiar with the local plan, the second alternation of which was adopted in 1999, possibly in March of that year. The document is not dated, but I understand that the comments form, which is part of the submission, was prepared in about 1997. Is that correct?

Tom Ness: As far as I know, yes.

Roy Martin: The third paragraph, under the heading "Part 1—Comments Form", states:

"Access to this location can be readily achieved from Hilton Road. Internal access can be improved as United Distillers have approved plans to demolish the redundant vacant southern most warehouse. This will allow for improved internal traffic operations and environmental improvements."

Was it intended that United Distillers, the predecessor of Diageo, would demolish what was described as the "redundant" and "vacant" southern warehouse?

Tom Ness: That was before the merger with Grand Metropolitan Hotels and the acquisition of Seagram's, when the total demand on warehousing was less than it is today. The warehouse in question is our smallest one in central Scotland and holds 6,000 casks. At present, we are looking at a scenario of 60,000 cask spaces. If the development had been financially supportable, the reabsorption of 6,000 casks into the warehousing scenario at that time would have been feasible, whereas that is not the case for 60,000 casks. The financial attractiveness of the proposal outweighed the need for the 6,000-cask storage.

Roy Martin: Document SAK 10 contains a series of four option plans that have been prepared for this session, the last of which is entitled "Eastern Link Road, Line 4". For the committee's benefit, will you identify on the drawing the warehouse that was described in the comments form that I asked you to look at?

Tom Ness: If we look at the line of the road in the drawing, the warehouse is the smallest building directly south of that.

Roy Martin: Is it the rectangle that runs from left to right across the page?

Tom Ness: Yes.

Roy Martin: It is not one of the rectangles through which the indicative carriageway runs.

Tom Ness: No.

Roy Martin: What is that southernmost warehouse used for at the moment?

Tom Ness: It is used for storing whisky.

Roy Martin: Restricting your evidence to your case, I understand that you simply wish the committee to hear evidence on the justification of the alignment that has been chosen. Is that right?

Tom Ness: No. We are asking the committee whether it is satisfied that the most financially sensible route for the link road is the one that is being shown.

Roy Martin: I think that you have said in your written submission that, in that context, you are not objecting to the principle of the eastern link road. Indeed, as we have seen, you have supported it for some time.

Tom Ness: Absolutely. As a principle, we totally support infrastructure improvements in the area. However, we are concerned about operational and economic impacts on our business.

Roy Martin: Will you confirm that, as the submission to the planning appeal demonstrates, Diageo has intended for some years to develop land in the vicinity of the Carsebridge facility?

Tom Ness: Yes.

Roy Martin: Can we therefore agree that, to some extent, the existence of the eastern link road will provide or assist access to that housing development?

Tom Ness: It will provide opportunities for access to the development, although previous plans had also shown access from Hilton Road. However, finding a solution to the road's impact on storage will place a burden of about £6.5 million on us.

Roy Martin: I am sure that I need not advise you on this matter, Mr Ness, but you will be aware that any entitlement to or any value of compensation will be settled subsequent to the use of any compulsory purchase powers.

Tom Ness: Absolutely. However, I am concerned about the total economics of the proposal for us. For example, a £2.5 million road and a potential £6.5 million impact mean an overall £9 million project. As a result, our joint concern is whether the committee is satisfied that that is the most appropriate economic route.

Roy Martin: With respect, the amount of compensation will be assessed in due course.

Tom Ness: Absolutely.

Roy Martin: I think that your original submission contained a compensation figure of more than £14 million.

Tom Ness: That was an order of cost figure that we initially reached when we thought that we would have to carry out specialised demolition and build two warehouses. However, we undertook

detailed reviews of the properties once we realised that the project in question was going ahead.

Roy Martin: Thank you very much, Mr Ness. I have no further questions.

The Convener: Before I give Mr Abercrombie the opportunity to ask questions that might have arisen from the evidence that we have just heard, I have a question. Mr Ness, in paragraph 2.19 of Diageo's written submission, you deal with alternative routes. You return to the issue in SAK/S2/04/3/6, in paragraph 4/5. Has Diageo advanced to the promoter any specific alternative routes for consideration?

11:45

Tom Ness: The discussions that we have had have involved three possible alternative solutions. The first was installing a level crossing in Hilton Road, although, like the promoter, we were convinced that that would probably result in a major traffic difficulty—a problem that we fully understood. The second was the lifting of the rail bridge or the lowering of Whins Road. That would create the opportunity of having a traffic-flow management system at the main roundabout that people come to from the existing road and of diverting traffic on that route. The third possibility that we raised, because of the total economics that are potentially involved, was to locate the road further to the east, going north and swinging around towards somewhere in the area of Fishcross.

The Convener: Does Diageo now accept the road that is proposed, provided that the committee is satisfied that the option stacks up?

Tom Ness: Yes.

The Convener: Mr Abercrombie, do you have any follow-up questions for Mr Ness?

Ian Abercrombie: I want to clarify one brief matter that has arisen. Mr Ness, you were asked certain questions by Mr Martin. Perhaps you can short-circuit the process by looking at SAK/S2/04/3/6. At the back of the bundle you will see a plan. The warehouses that appear on the plan have different numbers. The numbers start on the left-hand side with 15, which is followed by 17, 19, 18 and 20. The questions that Mr Martin was asking you related to warehouse 20. You explained to the committee that that is the smallest warehouse that you have in the whole of Scotland.

Tom Ness: The whole of the central belt of Scotland.

Ian Abercrombie: As I understand it, there was a proposal in about 1996 to demolish that warehouse, in exchange for which housing would

be obtained on the area to the south of the warehouse.

Tom Ness: That is correct.

Ian Abercrombie: When Mr Martin asked you questions about the planning appeal, those related to a different application that concerned housing to the left-hand side of the plan that we are considering.

Tom Ness: That is correct—the application was for housing to the left of warehouse 15.

Ian Abercrombie: The second application had nothing to do with demolishing any warehouses.

Tom Ness: Nothing at all.

Ian Abercrombie: So there was only one proposal to demolish warehouses, in 1996, which related to the demolition of one warehouse—warehouse 20.

Tom Ness: That is correct.

The Convener: There being no further questions, I thank Mr Ness for giving evidence. I ask Mr Martin to identify for the committee and for me which of the promoter's witnesses are still relevant.

Roy Martin: All three witnesses can be available for the committee's benefit. I intend to put questions solely to Mr West, who I hope can assist consideration of the options to which Mr Ness has referred.

The Convener: I am grateful for that. I thank Mr Ness for giving evidence. There will be a short break while all three of the promoter's witnesses take their seats.

11:48

Meeting suspended.

11:50

On resuming—

The Convener: The witnesses for the promoter for group 15 are Malcolm West, Julie Hamilton and Alison Gorlov. Before we commence evidence taking, the witnesses will take the oath or make a solemn affirmation.

MALCOLM WEST and JULIE HAMILTON *took the oath.*

MRS ALISON GORLOV *made a solemn affirmation.*

The Convener: Mr Martin, do you have any questions for Mr West in the first instance?

Roy Martin: Sir, I do. I wonder whether I might seek the committee's assistance at this stage on a matter that will also apply to the subsequent groups of objectors. I would certainly appreciate

some guidance. I believe that what I can do is ask Mr West to read a relatively brief part—paragraphs 3 to 5—of his part of the precognition. Given the limited scope of the objection, I believe that those paragraphs are the most relevant. In due course, more of the evidence of other witnesses for other groups may be relevant and the committee might want such witnesses either to read all parts of the summary precognition—which is why it has been provided—or to take it entirely as read, subject to any questions on it. I am not suggesting, convener, that you need to tell me now how we should proceed. I am more than happy to assist the committee in doing whatever would be more appropriate, particularly to save time.

The Convener: We will take the evidence as read and go straight on to questions.

Roy Martin: I am obliged, sir. The passages concerned are under the heading of "Need for ELR"—the eastern link road—in paragraphs 3, 4 and 5—

The Convener: Which paper are we on, Mr Martin?

Roy Martin: Perhaps I should explain what has been done. For each group of objectors, a document called "Precognitions by Expert Witnesses" was prepared. In the case of the group 15 objectors, the document is SAK/S2/04/3/7, which sets out the evidence that the witnesses would be able to give in answer to the objection as it was understood when the document was prepared.

The Convener: I am grateful for that, Mr Martin.

Roy Martin: The document is divided into three sections, the second of which is Mr Malcolm West's evidence, which begins on page 6. That entire section consists of his evidence. However, given the limited scope of the objection, we do not want to take up time with all Mr West's evidence. Therefore, I refer the committee in particular to paragraph 3, on the need for the ELR, paragraphs 4 and 5, on the ELR's alignment, and paragraph 6, on the ELR's specification. I am happy to take those as read.

The Convener: I am obliged.

Roy Martin: I also wish to ask, if I may, a few supplementary questions, given the nature of the objection that is being led.

The Convener: Certainly.

Roy Martin: Mr West, I want you to have in front of you the alternative options document—SAK/S2/03/4/10—and paragraph 4 of your evidence in precognition document SAK/S2/03/4/7.

At the beginning of paragraph 4, you say:

"The proposed alignment of the ELR was developed following assessment of three potential routes."

You go on to refer to the further refining of the preferred option and to

"the Environmental Statement where these refinements are considered."

Can we be clear that the four lines that are shown in SAK/S2/03/4/10 are the refinements of the original three potential options? Is that right, or are they at least refinements of the option that was chosen following consideration of the original three potential routes?

Malcolm West (Clackmannanshire Council): Line 4 is the refined option.

Roy Martin: I am sorry; I did not ask the question very well. The three options that were considered in a two-stage process are the three different routes. I will come to them in a moment, but is that right?

Malcolm West: Yes.

Roy Martin: One of the options was chosen. The document, which has four lines in it, shows the four refinements of the chosen option of which, finally, line four was chosen. Is that correct?

Malcolm West: A number of options were investigated. The need for the eastern link road was established. Three routes were looked at; they are identified as line 1, line 2 and line 3 in SAK/S2/03/4/10. They were tabled at a meeting with Diageo and comments were taken on them. Following on from those comments and the parallel investigations that were taking place, a further option—route 4—was devised. Route 4 was taken forward into the environmental statement and further refined at the southern end. The refinements did not have any further impact on Diageo's property.

Roy Martin: If I may, I will go back a stage. Initially, options were considered that involved a different approach; for example, the closing of Hilton Road, the development of a different situation at the level-crossing at Hilton Road and options that involved building the eastern link road to the east of Hilton Road. Is that correct?

Malcolm West: That is correct.

Roy Martin: Was there an option that would have involved the installation of an upgraded level-crossing on Hilton Road?

Malcolm West: That option was investigated.

Roy Martin: Why was that option rejected?

Malcolm West: It was rejected on the basis of the volume of traffic using Hilton Road, which would have been such that, when the level-crossing was closed, the traffic would have queued back on to the A907 Clackmannan road.

The increased volume of traffic meant that there was also the possibility of traffic queueing back from the A907 across the level-crossing.

Roy Martin: Was an option considered that involved the closure of Hilton Road and diverting traffic via Whins Road?

Malcolm West: There was.

Roy Martin: How would that have operated? If you can assist the committee by using the map, please do so.

Malcolm West: The bridge over Whins Road has restricted clearance. If Hilton Road were to be closed, there would be no alternative route for high-sided vehicles that exceeded the current height restriction on the bridge. We looked at two possibilities for increasing clearance at the bridge to allow those vehicles to travel along Whins Road. The first possibility was to raise the height of the bridge and the railway line to give the increased clearance. That was found to be impractical because the structures to the east of the bridge could not be raised and because of the need to maintain a minimum gradient for the railway line in the vicinity of the station. The second possibility was to lower the level of the road, leaving the bridge at its existing level but increasing the clearance. That was discounted because of the positioning of the foundations of the bridge, the fact that public utilities run along the road under the bridge and the fact that there are two underground culverted burns in the area.

12:00

Roy Martin: Was the third group of options to do with the development of an ELR to the east of Hilton Road?

Malcolm West: It was.

Roy Martin: Did you indicate that the options—by which I mean the four lines, or the original three lines that are shown in SAK/S2/04/3/10—had been provided to Diageo on a particular date?

Malcolm West: Yes. They were tabled at a meeting on 17 September in Diageo's offices.

Roy Martin: Line 4 was a refinement following consideration of the previous three lines. Why was it chosen?

Malcolm West: We took into account the comments received from Diageo at the meeting on 17 September. We were also carrying out parallel investigations into the feasibility of the routes.

Route 1 was discounted primarily due to its impact on Diageo property and the unsuitability of the western end of Carsebridge Road to carry the anticipated volume of traffic. Route 2 was discounted due to its impact on Diageo property,

which would have included the demolition of four warehouses and the severance of two. Route 3 was discounted due to the unsuitability of Carsebridge Road to carry the anticipated volumes of traffic. From those routes, we developed route 4, which was designed to minimise the impact on Diageo property. It became the preferred option that was taken forward in the environmental statement.

Roy Martin: May we take it that line 1 and line 3 would have used the existing Carsebridge Road to the north-west of the Carsebridge Diageo facility in order to access the roundabout at the north of Hilton Road?

Malcolm West: Route 1 would have used the western end of Carsebridge Road, through the residential area, and route 3 would have used the full length of Carsebridge Road.

Roy Martin: How satisfactory were those lengths of Carsebridge Road for the amount of traffic that it was anticipated would use the eastern link road?

Malcolm West: We considered the use of Carsebridge Road to be unsuitable because of the frontage residential development on the road. We would be looking to divert the Hilton Road traffic, which is currently about 9,000 vehicles a day. I point out that a significant growth in the volume of traffic is anticipated due to a number of factors, predominantly the opening of the upper Forth crossing.

Roy Martin: In paragraphs 6 and 7 of your precognition, you say that the specification for the eastern link road is that it should be able to carry approximately 9,000 vehicles a day and that it should be a modern single carriageway comprising 7.3m of carriageway plus verges and so on.

Malcolm West: Yes. The road will happily carry up to around 13,000 vehicles a day.

Roy Martin: Would either of the lengths of Carsebridge Road that you have just mentioned have been suitable in that regard?

Malcolm West: Not in my opinion.

Roy Martin: If you had maintained in principle line 4, to the south-west of the Carsebridge facility, would it have been possible to have created an alignment that avoided all the Diageo warehouses and residential and other properties to the west on Hilton Road?

Malcolm West: No.

Roy Martin: I have no further questions.

The Convener: Mr Abercrombie, do you have any questions for Mr West?

Ian Abercrombie: I do. Mr West, do you understand that my client's objection is not that, if the road has to go through the site, the best route has not been chosen?

Malcolm West: Yes.

Ian Abercrombie: The objection is about whether all the alternative routes that would avoid the road having to go through the site have been considered. Do you understand that?

Malcolm West: Yes.

Ian Abercrombie: I ask the witness to look at the four plans to which my learned friend Mr Martin has just referred him and the committee, which are in SAK/S2/04/3/10. Am I right to think that all four routes involve going through the Diageo site in one way or another?

Malcolm West: Route 3 involves upgrading an existing farm access track and going along Carsebridge Road. Diageo has property on both sides of that road.

Ian Abercrombie: If we compare line 3 with line 2, the plans for which are on the opposite page of SAK/S2/04/3/10, we can see that some of the warehouses on the route are demolished—at least their eastern wings are demolished.

Malcolm West: The plan is purely an indicative plan of a possible route. It would have been possible to move the route further to the east so that it would not have impacted on the three warehouses to which you refer.

Ian Abercrombie: But certainly the options before us now would involve some land take from the company.

Malcolm West: There would be minimal land take from the company.

Ian Abercrombie: Are there any other options before the committee that show the costs of the alternative routes that you say you have investigated?

Malcolm West: As far as I am aware, the only evidence that has been submitted to the committee is the cost in the promoter's funding statement of £2.5 million for the preferred route.

Ian Abercrombie: So there are no costings in relation to the other options that you have outlined to Mr Martin.

Malcolm West: The other options that were considered were constructing a level-crossing in Hilton Road, the cost of which was estimated tentatively at £750,000, and raising the bridge or increasing clearance on Whins Road, the cost of which was estimated tentatively at approximately £1 million. However, neither option proved feasible in the event.

Ian Abercrombie: Are you saying that the option of either raising the bridge or lowering the road was not feasible at the end of the day?

Malcolm West: Correct.

Ian Abercrombie: There are no papers before the committee to show anything relating to the feasibility or otherwise of those options.

Malcolm West: No.

Ian Abercrombie: I certainly cannot find anything in the environmental statement relating to the matter.

Malcolm West: No. By the time that the environmental statement was commenced, the preferred route had been firmed up.

Ian Abercrombie: The other option, which you outlined in response to Mr Martin's questions, related to whether it would be possible to move the ELR to the east of the Diageo site—I take it that the move would be more than is shown on line 3. Are you in a position to give the committee any costs in relation to that option?

Malcolm West: From memory, I think that Mr Martin's question was whether it was possible to move the line to the east such that it did not impact at all on Diageo's warehouses. I said that that was not possible.

Ian Abercrombie: I will now ask you a different question arising out of the evidence that you gave the committee. Is there any evidence before the committee today that shows us what the costs would be of constructing the ELR to the east of the Diageo site—in other words, creating a link between the land at the bottom of the plan right up to the north?

Roy Martin: I wonder whether I may interject, in case there is a misunderstanding.

The Convener: We are going to follow procedure here, which will mean that Mr Abercrombie will have his day in court—although this is not a court—and then you will be able to come back, if that is okay.

Roy Martin: I understand entirely. I thought that there might have been a misunderstanding of my question, but I am happy to reserve—

The Convener: I am sure that you will be able to clarify the point in due course.

Ian Abercrombie: Did you understand my last question, Mr West?

Malcolm West: I did, and there was confusion. We considered a rough line from the A907 and tried to find a place where it would link in further north, such that Diageo's warehouses and complex were bypassed in their entirety. That was

a preliminary assessment and we considered that the proposal was not feasible.

Ian Abercrombie: Why was it not feasible?

Malcolm West: The predominant reason was the difficulty of linking into the existing road network to the north and the length of road requiring to be constructed.

Ian Abercrombie: I want us to be clear about what you are talking about when you refer to the difficulty of linking into the north. Are you talking about linking into Carsebridge Road or to a point to the north of that?

Malcolm West: I am referring to a point to the north of that, but a point that is no further north than Fairfield Road.

Ian Abercrombie: Might you be talking about a link to the A908?

Malcolm West: Hallpark is the A908. We considered how to link to that somehow.

Ian Abercrombie: My point is quite simple. Before it approves the proposal, I would like the committee to be satisfied that, given the costs involved in the ELR, which we are considering today, there is no other viable option. One of the options would be to take a relief road all the way round the east of the town. Has that been costed so that we can get some indication of the amount that might be required?

Malcolm West: No. There has been no detailed costing of that possibility, because we did not consider it a viable option.

Ian Abercrombie: I do not understand why you say that it could not be a viable option.

Malcolm West: I say that purely on the basis of an assessment of the length of road requiring to be constructed and the difficulty of creating a connection to the A908.

Ian Abercrombie: I do not know how much further I can take my questioning.

The Convener: Are those the only difficulties?

Malcolm West: There are obviously requirements for land take. The route that we are talking about is significantly longer than the route that is currently proposed.

The Convener: Would costs come into consideration?

Malcolm West: The construction costs would be greater.

The Convener: Has any estimate been made of the construction costs?

Malcolm West: No. No detailed estimates were made.

The Convener: The costs were so much higher that you regarded the proposal non-viable.

Malcolm West: We considered the proposal non-viable because of the increased costs and the difficulty of making a connection with the A908 in the area in which we would require to do that.

Ian Abercrombie: I can wrap up my questioning fairly quickly. Are you saying to the committee that there is a physical constraint to the construction of an alternative route, such as the route that we are talking about now?

Malcolm West: There are physical constraints.

Ian Abercrombie: Are those physical constraints impossible to overcome with engineering works?

Malcolm West: No.

Ian Abercrombie: On the costs, does the committee have before it any indication about what the costs of that alternative route might amount to?

Malcolm West: No, but I could make that information available to the committee, should it so desire.

Ian Abercrombie: It would be most helpful if that information could be made available.

The Convener: That could be done.

Ian Abercrombie: That is the whole point of my appearance today.

Do you know whether that figure is more or less than £9 million?

Malcolm West: I do not know.

Ian Abercrombie: I have no further questions.

The Convener: Before I let Mr Martin back in, I have a question for Mr West. You will have seen that, in SAK/S2/04/3/6, Diageo is requesting that the committee satisfy itself that the promoter's preferred route is the best and most cost-effective solution. Can you provide the committee with that assurance?

Malcolm West: The routes that have been investigated have been discounted for several reasons. None of them has been discounted on the basis of cost. The cost-benefit analysis that has been carried out is based on the overall scheme, with an allowance of £2.5 million for the construction of the eastern link road.

The Convener: Can you assure the committee that your preferred route is the best, most cost-effective solution? Is it possible to give a yes or no answer to that?

12:15

Malcolm West: I cannot give a yes or no answer to that particular question.

The Convener: Mr Martin, would you like to ask some more questions?

Roy Martin: Mr West, there are a few matters that arise from cross-examination and from the questions that you have just been asked by the convener. Were the options of improving the level-crossing at Hilton Road and dealing with the Whins Road bridge—either by raising the bridge or by lowering the carriageway—ruled out on cost grounds?

Malcolm West: No. They were ruled out on the grounds of impracticality.

Roy Martin: Were the options of going to the east and adjoining all or part of Carsebridge Road—that is to say, either line 1 or line 3 in SAK/S2/04/3/10—ruled out on cost grounds?

Malcolm West: No.

Roy Martin: Why were they ruled out?

Malcolm West: Line 1 was ruled out because of the unsuitability of the western end of Carsebridge Road to carry the predicted volume of traffic and because of the impact on Diageo's warehousing. Route 3 was ruled out predominantly because of the unsuitability of the full length of Carsebridge Road to carry the predicted volume of traffic.

Roy Martin: A misunderstanding might have arisen, because the other option that I asked you about was not to the east of Diageo but to the west. My question was, with particular regard to line 4, whether it would be possible to create an alignment that avoided both the Diageo property to the west and the residential property to the east of Hilton Road. That was the question that I asked you, Mr West. If you misunderstood that, please say so, because it would not be your fault. Did you understand that to be my question?

Malcolm West: I understood that to be your question, and my answer was that it is not possible to construct a road to the west of Diageo's warehouses that would have no impact on them.

Roy Martin: So it is impossible to go to the west without disturbing either Diageo or residential property.

Malcolm West: Correct.

Roy Martin: It might have been a misunderstanding, but my learned friend Mr Abercrombie talked about another route to the east—that is what you were asked about in cross-examination. As I understand it, that referred to the possibility of a route to the east of line 3 but extended further north across Carsebridge Road

in order to meet the road network no further north than Fairfield Road—I think that is what you said.

Malcolm West: Correct.

Roy Martin: Was that option considered?

Malcolm West: That option was considered. There were a number of reasons for discounting it, including the additional length of route and the difficulty of making a connection to the A908 in the region of Fairfield Road. Also, a large hill, which has Diageo property situated on it, is in the way.

Roy Martin: You indicated that you can make details of the potential cost of that alignment available. Was that route ruled out on cost grounds?

Malcolm West: It was ruled out on a combination of likely costs and the impracticality of achieving the connection at the northern end.

Roy Martin: You mentioned the hill. What sort of land would that route have to run through?

Malcolm West: It is a former parkland setting, with a large house, which is owned by Diageo. I am not sure whether it is used as offices, but we would need to go very close to it.

Roy Martin: Was the route that has been chosen, that is to say line 4, considered in the course of the fairly recent local plan inquiry that led to the finalised Clackmannanshire local plan?

Malcolm West: Yes, it was.

Roy Martin: Was the route to the east—that is, avoiding in effect, other than crossing, Carsebridge Road altogether—from the south up as far as Fairfield Road considered in the proceedings of the recent local plan inquiry?

Malcolm West: No.

Roy Martin: Thank you, sir. I have no further questions.

12:21

Meeting suspended.

12:23

On resuming—

The Convener: I thank everyone for their indulgence. We were just trying to clarify something there. I want to come back to Mr West on a couple of questions about document SAK/S2/04/3/10. Why was the route to the west rejected?

Malcolm West: Are you referring to one of the routes in the four plans?

The Convener: No; that route is not in the plans, but it was referred to in evidence.

Malcolm West: There is no route possible any further west than route 4.

The Convener: Mr Abercrombie mentioned the route to the east. When will the cost option for that route be available?

Malcolm West: Obviously it will be tentative, but I can certainly have that to you by the end of the week.

The Convener: I am obliged. Thank you for giving evidence, Mr West.

Does Mr Martin have any questions for Ms Hamilton?

Roy Martin: Obviously, I am taking Ms Hamilton's evidence as read, as it is before the committee. Her evidence about the local plan process and the manner of the inclusion of the eastern link road is fairly important. I do not want to take up time by asking questions about it, but I will certainly make submissions on it. Ms Hamilton is certainly available to the committee if members want to ask her any questions.

Ian Abercrombie: The questions that I wanted to ask have all been put to Mr West. The point is a narrow one and, on that basis, I am happy to leave it.

The Convener: I have a number of questions to ask Ms Hamilton.

Paragraph 10 of your evidence paper SAK/S2/04/3/7 refers to figure 2.1, sheet 10 of 17, in volume 1 of the environmental statement. It is difficult for us to pinpoint on figure 2.1 the numbered housing sites to which you refer later in the paragraph. Will you please pinpoint them for us?

Julie Hamilton (Clackmannanshire Council): May I have a copy of figure 2.1 in front of me before I answer your question?

The Convener: Yes—a member of the clerking team will see to that.

Ian Abercrombie: I may be able to short-circuit matters and assist the committee. They are shown on figure 2.1 of the environmental statement. I hope that that helps the witness.

The Convener: So do I.

Julie Hamilton: I am sorry, but could you repeat your question, please?

The Convener: Yes. Paragraph 10 of your evidence paper SAK/S2/04/3/7 refers to figure 2.1, sheet 10 of 17, in volume 1 of the environmental statement. It is difficult for us to pinpoint the numbered housing sites to which you refer later in the paragraph on figure 2.1. Could you help us out with that?

Julie Hamilton: Certainly. I refer to housing site H1(2) in the finalised Clackmannanshire local plan, where it says "Playing Field" and where the southernmost warehouse is.

The Convener: That is fine.

Julie Hamilton: Site H1(1)—

The Convener: I was coming to that.

Julie Hamilton: Part of site H1(1) is where it says "Housing site" and most of the rest of it is taken up by the road.

The Convener: I have one more question on that matter. Will you say how part of site H1(1) will be accessed from Hilton Road?

Julie Hamilton: The access for site H1(1) will be from Hilton Road.

The Convener: Okay. I have two more questions.

In paragraph 7 of the same document, you record the view of United Distillers—which is now Diageo—and the fact that it has "approved" plans to demolish some warehouses. Would planning permission be required to demolish those warehouses?

Julie Hamilton: I will have to come back to you on that.

The Convener: If an answer could be given to the committee in early course, that would be helpful.

Finally, at various points in the promoter's further written evidence, the committee is referred to the emerging local plan, which has now been finalised, and to the adopted local plan. Subject to Clackmannanshire Council committee resolutions, when is adoption of the finalised plan expected?

Julie Hamilton: I expect that to happen in early summer this year.

12:30

The Convener: I am grateful to you, Ms Hamilton.

We now turn to Ms Gorlov. Has Mr Martin any questions for Ms Gorlov?

Roy Martin: No.

The Convener: Has Mr Abercrombie any questions for Ms Gorlov?

Ian Abercrombie: No.

The Convener: We do not have any questions for Ms Gorlov either, so that makes three out of three.

I must ask the clerking team for advice, so I am afraid that I must ask people's indulgence. I propose to suspend the meeting for one minute.

Roy Martin: Clearly, the matter is for the committee, but if you will forgive me, I would appreciate the opportunity briefly to re-examine Ms Hamilton on the matters that the committee raised.

The Convener: I see no reason why you cannot do so. Obviously, Mr Abercrombie will have his five minutes or thereabouts later.

Roy Martin: As much to provide the information to the committee as anything else, I want to ask Ms Hamilton about the Alloa map from the finalised Clackmannanshire local plan. I hope that the map is available to the committee. The map to which I refer was not listed among today's documents, but I am instructed that it was made available for previous committee proceedings.

The Convener: To which document do you refer?

Roy Martin: I refer to the finalised Clackmannanshire local plan, which is the plan that is expected to be adopted in the summer of this year. I refer to the map that accompanies that local plan document.

The Convener: We have access to that map, but we do not have access to it today. However, I suppose that it can be referred to because it is available to us. On you go.

Roy Martin: I simply want to ask Ms Hamilton to identify where housing sites H1(1) and H1(2) are relative to the line of the road, because I think that that may assist the committee. Without the plan, this may be a little difficult, but will Ms Hamilton confirm that housing sites H1(1) and H1(2) and the eastern link road T4 are shown on the plan and referred to in the text of the document? That may be of assistance to the committee when it considers the matter.

The Convener: Anything that would be of assistance is welcome.

Julie Hamilton: Yes. Housing sites H1(1) and H1(2) and the eastern link road are all shown on the finalised Clackmannanshire local plan.

The Convener: Thank you. The committee will take due note and consideration of that fact.

We will now take a one-minute break, after which we will be back to Mr Abercrombie.

Ian Abercrombie: I do not wish to delay matters and I am happy to speak now if you wish.

The Convener: We need just a little time, Mr Abercrombie, but thank you for that.

12:34

Meeting suspended.

12:35

On resuming—

The Convener: We reconvene after that brief break, during which we were trying to get matters absolutely clear in the committee's collective mind. We got a little confused, but I ask Mr West to help us out by clarifying matters. Mr Martin asked whether a route to the west of line 4 in document SAK/S2/04/3/10 had been considered so as to avoid the warehouses. Mr Martin asked whether such a route would be possible and Mr West's answer was no. For clarity's sake, why would that not be possible?

Malcolm West: It would not be possible because of the radii that would be required. From the point where the eastern link road is shown as crossing over the railway line, the road would need to bend to the left at a tight radius; it would then need to bend right at a tight radius to head northwards between the warehouses and the house. Both of those radii would be substantially below permitted radii for the design of a road.

The Convener: That clarifies the matter. I am grateful for that answer and for your indulgence.

Does Mr Abercrombie wish to address the committee?

Ian Abercrombie: Yes, briefly. I will start by clarifying the position on the previous planning consents. The committee has heard evidence from Mr Ness that the only warehouse that was ever going to be demolished as part of the planning consent was warehouse 20, which is the small warehouse at the bottom of the plan and which has been pointed out to members. That was the only consent and it arose out of an alteration to the then local plan in 1996 or 1997. As Mr Ness said, matters have moved on since then and the warehouse is used fully, along with all the other warehouses.

In this case, the objector has no objection to the principle of the road; Diageo has a long-standing role in the community and feels that anything that improves the town's infrastructure is to be welcomed. The objector also accepts that if the road has to go through the Carsebridge site, the best route for that has been chosen. The only objection relates to whether all the options for using a different route apart from the site have been considered properly.

I invite the committee to consider two significant matters before it reaches a final view on the matter. First, on the proposal that either the rail bridge could be raised or the road could be lowered, I invite members to be satisfied that the

evidence on that matter is correct and that there is technical justification for Mr West's view that the proposal is not technically feasible. We have given the costs that would arise from that proposal, which are significantly below the costs of using the existing route. It is a matter of concern that that option is cheaper. That issue should be investigated. That is not a matter for us to be satisfied on; it is a matter for committee members to be satisfied on. We invite committee members to be wholly satisfied on that matter.

Secondly, Mr West conceded in questioning that although there is no technical restriction on taking an alternative route right round the settlement to the east, the cost may be prohibitive. We do not think that a decision should be taken until the costs have been laid before the members of the committee and they are fully satisfied on the matter. Committee members were shaking their heads about one matter. The answer to my question was certainly that there is no technical reason why a road should not be built to the east of the settlement. I have a clear note of that. The matter was perhaps discussed slightly differently in the re-examination because a route closer to the settlement was discussed. However, from the evidence before members, there is no technical reason why a wider road—if I can call it that—should not be built; the only reason is cost-effectiveness. Diageo asks members to be satisfied that the best and most cost-effective route has been chosen.

I thank the convener and the members of the committee for their tolerance, good wishes and good will in hearing our witnesses.

The Convener: Thank you, Mr Abercrombie.

I thank all the witnesses in group 15. We will now take a five-minute break to change witnesses. [*Interruption.*] Sorry, I had not noticed the time. On second thoughts, we might as well break for lunch and return suitably refreshed and ready to proceed at 1.45 pm.

12:41

Meeting suspended.

13:51

On resuming—

The Convener: Good afternoon, ladies and gentlemen. Welcome back to the third meeting in 2004 of the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee.

We move to the fourth group of witnesses. The committee will hear evidence first from the promoter's witnesses. For logistical reasons, we will do so in two groups of three. The first three

witnesses are Stuart Coventry, Alf Maneylaws and David Reid. Mr Coventry and Mr Maneylaws will give evidence in respect of environmental issues, with Mr Reid giving evidence on the three topics of existing railway processes, alternative rail routes and consultation. Tom Adam and Donald Milligan will have the opportunity to ask questions of the witnesses, as will Kathleen Martin.

Before we commence evidence taking, the witnesses will take the oath or make a solemn affirmation.

ALF MANEYLAWs *made a solemn affirmation.*

STUART COVENTRY *and* DAVID REID *took the oath.*

The Convener: Mr Martin, do you have any questions for Mr Coventry or Mr Maneylaws?

Roy Martin: I do not have questions of those two witnesses in that order.

I wonder whether I might be forgiven for indicating—as I suspect the committee already knows—that a plan has been prepared by the promoter, indicating the location in Clackmannan of the objections of group 4, relative to the railway line. In due course, and with the committee's leave, I intend to refer to that plan. I may not do so with the present witnesses, but the plan is here for assistance.

It may be convenient to give the plan the number SAK/S2/04/3/88A, because it will be the last document for the promoter in this section of objections. As in the previous group, the evidence on which I will rely is contained in what are called the precognitions by expert witnesses. In this case, it appears in SAK/S2/04/3/87.

The Convener: That will be in order. We will refer to the document as SAK/S2/04/3/88A. Reference will also be made to SAK/S2/04/3/87.

Do you wish to ask questions at this juncture?

Roy Martin: I have some questions to put to Mr Reid. I have no questions for Mr Coventry and Mr Maneylaws.

The Convener: Mr Adam, do you have any questions for Mr Coventry or Mr Maneylaws in relation to environmental issues?

Tom Adam (Clackmannan Railway Concern Group): We are at some disadvantage. We were asked to lay out our stall on items on which we wished to question witnesses and to give evidence. I came here to give evidence on loss of amenity, safety and alternative routes.

The Convener: I assure you that you will have a chance to do that in due course.

Tom Adam: At this stage, do you want us to discuss only environmental issues?

The Convener: Yes.

Tom Adam: In that case, I have no questions for the witnesses.

The Convener: Would Nora Radcliffe like to put questions to Mr Coventry or Mr Maneylaws?

Nora Radcliffe (Gordon) (LD): I would like them to expand on some issues.

Paper SAK/S2/04/3/46 is about the height of the railway track. Reference is made to the fact that the track is at such a height—"substantially above eye level"—that the erection of fences will not provide an adequate visual screen or adequately mitigate noise emissions from trains. It would be helpful to the committee if you could explain the approach that will be taken to visual and acoustic mitigation in circumstances where the railway line is higher than a neighbouring property.

Stuart Coventry (Scott Wilson Ltd): I will start by addressing the acoustic issues. The environmental statement has indicated the length of track on which it is envisaged that noise barriers would be appropriate. That includes some stretches of track that are at high level. For the time being, the barriers are shown as being on the boundary of the railway. If the track is on an embankment at a higher level, the barriers will be at the foot of the embankment. During the detailed design, it is expected to be found that, in some locations, the barrier could sit appropriately at the top of the embankment. That depends very much on investigations to determine whether the embankment would be wide enough in those circumstances.

In terms of acoustic performance, barriers at track side would be preferable, as they perform better than barriers at the bottom of the embankment, on the boundary. The promoter does not yet have a view on whether that will be feasible. The issue will be determined during the later detailed design stage.

Nora Radcliffe: A situation may arise in which, for practical or engineering purposes, you would want to site the barrier at the top of the embankment rather than at the bottom, because at the bottom it could not be made high enough to serve as a visual or acoustic barrier.

Stuart Coventry: It is certainly the case that a barrier at the top would be more effective in acoustic terms. That would be the preference.

Nora Radcliffe: Has any consideration been given to what will happen if there is not enough space at the top of the embankment to put up a barrier?

Stuart Coventry: Yes. As I said, the environmental statement was based on the premise that the barrier would be provided at the

bottom of the embankment. The effect of the barrier was calculated to take account of that factor. It could be said that that is not as good a case as having a barrier at the top of the embankment; I think that more benefit would result from that.

As such, the barriers have not been proposed for visual screening: they are principally for noise screening, but would double up for safety fencing. Visual screening is proposed principally through the retention of as much of the existing vegetation as can be achieved commensurate with the works and on the replacement of vegetation where practicable, if it has to be removed.

Some people might think that the screening was a benefit in visual terms, as it would screen the passage of trains. Other people might see the screening as a disbenefit when the trains were not there. I think that that is very much a matter of personal taste. The proposal is to provide screening where necessary by means of planting.

14:00

Nora Radcliffe: That leads me neatly on to my next point. Could you give us a bit more detail about the barriers? We have spoken about fences or barriers, but what will they consist of?

Stuart Coventry: The expectation is that the design of the barriers will be determined during the detailed design stage. It is most likely that they will be of close-boarded timber fencing, in the order of 2m or so in height. That is a broad indication of what is to be expected.

Nora Radcliffe: One of the objectors raised a point about the height of a diesel engine in relation to the height of any fence that was to be erected for mitigation purposes. I assume that that point will have been taken into account in the design of the barriers.

Stuart Coventry: It will be taken into account in the design of the barriers at the detailed design stage.

Nora Radcliffe: Right. I have no further questions at the moment.

The Convener: Do you have any questions at this stage, Mr Martin?

Roy Martin: Thank you, but I have no re-examination.

The Convener: There being no further questions, I propose to move to questions for Mr Reid. I would like to keep the three topics on which Mr Reid is giving evidence as separate as possible. We will deal first with existing railway operations. Do you have any questions for Mr Reid on that topic, Mr Martin?

Roy Martin: I have a question about the previous operation of the railway, which might fall into that category. If I may, I will ask the question, after which the convener might indicate whether Mr Reid should answer it now or later.

The Convener: I think that you should just ask the question.

Roy Martin: The question is on the stretch of line between Kincardine and Alloa—that is to say, the stretch of line that passes through Clackmannan. When did the railway last operate and what was the nature of the last operation?

David Reid (Babtie Group Ltd): The railway operated over that section until 1983. During the time that the railway operated up until 1983, I believe that it was used mainly by two coal trains per day between Polmaise colliery and Longannet.

Roy Martin: Was that two trains—full and empty—in each direction?

David Reid: Yes. I am sorry; there were two trains in each direction. When the trains were inbound to Longannet, they would be laden and when they were outbound, they would be empty.

Roy Martin: So, there were two trains a day in each direction, which were fully laden when they travelled east from the Stirling direction to Longannet and empty when they came back?

David Reid: Yes.

The Convener: Do you have any questions for Mr Reid on the existing railway operations, Mr Adam?

Tom Adam: What size were the trains that were running prior to 1983?

David Reid: I do not have all the information on the previous trains, but I believe that they were 24 wagons long.

Tom Adam: Do you have any idea about the speed at which the trains travelled at that time?

David Reid: I believe that it was between 20 and 30mph.

Tom Adam: I presume that the trains would have been steam trains.

David Reid: They would not have been steam trains at that time.

Tom Adam: They were not?

David Reid: Not in 1983.

Tom Adam: Do you know what they were?

David Reid: I believe that they were diesel trains.

Tom Adam: You said that the line was open until 1983. Why was it not closed?

David Reid: It was closed to traffic at that point in 1983.

Tom Adam: But why was it not closed completely, as was the Dunfermline to Oakley line, where the track was listed and the line became non-operational and virtually abandoned?

David Reid: I cannot give you a direct answer to that question, as I am not aware of the decisions that were taken at that time. However, I can say from a wider perspective that there has been, and continues to be, a desire to maintain railway lines, whether they are disused or closed, in order that operations may open up again if necessary. That is our fairly well-set-out policy at present with lines throughout the United Kingdom. Certainly, in the development plan of what was Central Regional Council and is now Clackmannanshire Council, the line was identified for potential reopening in the future.

Tom Adam: Would it surprise you to hear that the anecdotal evidence was that the line was kept open—if we can use that term—in order that access could be gained from Kincardine to Longannet power station in the event of a national emergency?

David Reid: If that were the case, one would presume that it was feasible. I know that a number of railway lines in the UK are maintained for such purposes. However, although others could give a better answer to that question, I would be surprised if Central Regional Council and subsequently Clackmannanshire Council had retained the line within the development plan on that basis alone.

Tom Adam: If the line was retained, as you suggest that it was, why was it not maintained?

David Reid: When a line is out of use, there is no need to maintain it in that respect. It is arguable that some of the structures along the line will be in better condition than they would have been if they had been used, had the line been operational.

Tom Adam: Have you seen the line?

David Reid: Yes. I have walked it a number of times.

Tom Adam: Do you agree that it is now derelict?

David Reid: I would say that it was out of use and had not been maintained.

Tom Adam: How long do you think it would have taken the railway company to bring the line up to a standard at which it could have put a train on it?

David Reid: From this point now?

Tom Adam: From any point in the period after the line closed. Let us say from now.

David Reid: We have a set-out programme in which we consider that it will take until winter 2005 to reopen the line.

Tom Adam: That is some considerable time.

David Reid: It is some considerable time, depending on the criteria that you apply to the term.

Tom Adam: The line has been closed for some 20 years. Do you agree that a number of changes have taken place during that time?

David Reid: I would agree, in that a number of changes have taken place in every walk of life in the 20 years.

Tom Adam: Considerable changes?

David Reid: The word “considerable” is all things to all men, or ladies.

Tom Adam: Do you accept that the building of 200 properties along the line is a considerable change in its circumstances?

David Reid: I certainly accept that what was there previously was different to what is there now. The plan that Mr Martin has submitted indicates the properties that are there now but were not there when the line closed.

Tom Adam: Do you agree that there has been a considerable change?

David Reid: I disagree that the line is completely different. However, you must accept that that is my personal view. I deal with many infrastructure proposals all over the country and these matters are all relative.

The Convener: Mr Adam, would you like to ask specific questions that are focused on existing railway operations?

Tom Adam: “Existing” meaning—

The Convener: Extant.

Tom Adam: Well, the line is derelict. I thought that that was how I was handling the matter; I was referring to a derelict line.

The Convener: On you go, sir, but—

Tom Adam: You can stop me if—

The Convener: No, not at all. If you have other questions, please feel free to ask them.

Tom Adam: Okay, fine.

Mr Reid, have you ever been involved in designing railways?

David Reid: Yes.

Tom Adam: Do you consider the track as it stands to be ideal for a high-speed, heavy freight train line?

David Reid: From an engineering perspective, I am in no doubt that the line that we propose to reopen is suitable for the type and nature of the traffic that will use it.

Tom Adam: That is not quite an answer to my question.

David Reid: I am sorry; I had no intention of not answering your question. Indeed, I thought that I was doing so.

Tom Adam: I understand that and I see your point that the new line that you will put in will be suitable for the trains that will run on it.

However, I am talking about the site of the line itself. Over time, houses have been built along that line, which must make a difference to any design of the railway. Do you agree that, because of elements such as the nearby houses and low-parapet bridges and the fact that the line runs beside children's play parks, it is perhaps a microcosm of all that is bad in railway design?

David Reid: No, those are not bad elements of railway design. After all, by their very nature, many railways throughout the country run through—and will continue to run through—urban areas. If any aspect of the proposals does not meet current standards, we intend to bring it up to, and even to surpass, those standards. I assure you that elements of what might be called bad design have been addressed in the proposals.

On your previous question, I must say that your definition of a high-speed line differs slightly from how I or my colleagues might define a high-speed line. I appreciate that that is a matter of context.

Tom Adam: My comment related to the fact that previous traffic on the line ran at 20mph, while the proposed trains on the new line will run at 60mph. Moreover, the trains will weigh about 2,000 tonnes. I suspect that the previous trains were much lighter than that. I appreciate that some high-speed trains run at 100mph and that, in that context, the definition would be different.

David Reid: I was drawing a distinction between the high-speed line that you mentioned and a high-speed railway in national terms.

Tom Adam: I presume that any train would be going fast enough if it came off the rails. Can you estimate the amount of collateral damage that would be caused if a 2,000-tonne train travelling at 60mph were to be derailed?

David Reid: Safety matters are of paramount importance to all of us, and no lack of thought has been given to the line's safety aspects or indeed to any aspect of the design whatsoever.

We have said in the railway process paper, SAK/S2/04/3/1, that Her Majesty's railway inspectorate, through the Health and Safety Executive, rigorously analyses the issue of safety. As a result, all your points about potential derailment and other safety aspects will be examined rigorously before any line is reopened.

Tom Adam: Will there be a witness from the Health and Safety Executive here today—from the promoter's side?

David Reid: The Health and Safety Executive is not part of the promoter's team, so to speak.

Tom Adam: So you are the only people whom we will be able to question about health and safety in relation to the railway.

14:15

David Reid: As far as the promoter is concerned, yes. I am unclear as to whether the committee would allow you to speak to anyone else in that regard. Evidence from the Health and Safety Executive was received by the committee at the preliminary stage.

Tom Adam: So it will be for you to answer any health and safety questions. It follows that there is little point in referring us to the Health and Safety Executive at this meeting.

David Reid: As I said, it is not for the promoter to do anything other than say that we will fully adhere to the safety policies of the railway, which are rigorous and which are set out under the processes that apply in the railway industry. I think that that is quite right.

Tom Adam: What, specifically, will be your plans to protect the residents who live close to the line in the event of an accident or derailment?

David Reid: We cannot go into such specific issues, but I would say for your reassurance that, once the designs are developed, Her Majesty's railway inspectorate will consider such issues independently and in great detail. The inspectorate will return before the railway is opened to carry out a very rigorous safety audit so as to ensure that any outstanding matters are taken up.

You mentioned bridge parapets. I accept that the bridge parapets that are currently on site are of a low standard. They will be upgraded to the relevant current standard. That is very much a safety issue. The fencing along the line will also be upgraded to current standards—that is another safety-related issue. All the safety standards that exist, two examples of which I have just referred to, will be adhered to, and there is no suggestion that anything less than what needs to be done in the way of safety along the route will be undertaken.

Tom Adam: You cannot guarantee the safety of the people who live beside the line.

David Reid: As with any infrastructure project, be it road, rail or whatever, I could not say that there is no risk, so I could not guarantee that to anyone. I do not think that anyone could expect me to say otherwise.

Tom Adam: No, but by the same token, the safety of those people could be guaranteed if an alternative route were chosen.

David Reid: What you say is correct in that respect, but using an alternative route could, while bringing you a specific guarantee, take that risk elsewhere. Other people could reasonably consider that, should any alternative alignment be selected, the risks would be taken elsewhere. Quite reasonably, they would make representations to the same degree.

Tom Adam: That was not quite what I said. I said that the people living next to the route as it is at the moment would be guaranteed safety. You are right with respect to the question of other people possibly being put at risk, although you tell us that the railway is relatively safe.

I will move on to the alternative routes.

The Convener: You are straying into the next topic, Mr Adam. You will be allowed more than enough time to discuss that topic with the witnesses, but do you have any other questions to add on the current topic?

Tom Adam: It is almost impossible to avoid the other issues, but I take your point, convener.

The Convener: I am the one who will try to help you do that. Do you have any other points on the present topic?

Tom Adam: Mr Reid, you raised the issue of the low-parapet bridges, but you were not specific about how they would be rectified. What would you do to make the low-parapet bridges better and safer?

David Reid: They would be reconstructed with full-height parapets.

Tom Adam: How high would those parapets be?

David Reid: That would depend on their detailed design. I stand to be corrected, but their height might be 1.6m or 1.8m. There are two aspects to safety in relation to parapets: they guard against accidents in which someone falls on to the railway line for any reason and they guard against vandalism, which you mentioned. Someone might want to throw something at a train, for example. The parapets would be there for safety and to prevent trespass.

Tom Adam: The visual impact of the reconstructed parapets would be considerable on bridges that are not isolated but give access to various places and are used continually.

David Reid: The bridges would be visually different, but the parapets that are currently there are fairly low, so safety might be improved.

Tom Adam: However, in the absence of an alternative, is that what you would have to do?

David Reid: Sorry, an alternative to what?

Tom Adam: In the absence of an alternative to a railway line in that location, would you have to reconstruct those parapets to protect the line?

David Reid: If the railway line were to be reopened as we propose, that is what we would do.

Tom Adam: You use the term "reopen". How do you interpret that term?

David Reid: I interpret it very much as the bill outlines; that is, as the reconstruction of the railway on its former alignment.

Tom Adam: To put it in a very simplistic and perhaps not technically minded way—this is certainly not a technical objection—if I closed a door and then said to someone, "I am going to reopen this door," I would go forward and open the door. I would not normally take the door off its hinges, rebuild it and then put it back and say, "Look! I've reopened the door." However, that seems to be the approach to the railway. Is it true that the railway, when it is reopened, will bear no resemblance to the one that is currently there?

David Reid: I cannot agree with all of that. First, if I may use your analogy, we will not take the door completely off its hinges and then put it back. In the early 1980s, the then Central Regional Council's local plan highlighted that the door—to continue with your analogy—would in fact be kept safe so that it might be put back at some point. The situation is not as straightforward as one in which someone simply comes along and reinstates a railway that used to be there; the railway has consistently been safeguarded for that eventuality.

If the railway is reconstructed, parts of it will indeed be different from the previous railway, in line with current standards and safety requirements. I am sure that you would welcome the requirement for everything to meet such current standards. However, other elements, such as the alignment and the landscape will remain exactly as they were.

Tom Adam: You said that you have walked along the line. You must have encountered some difficulties in doing that.

David Reid: It depends on the time of year: I agree that the first time I walked along the line I was left with very sore legs and a lot of brambles stuck to me.

Tom Adam: Did you have a machete with you on that day? You would have needed one, because of the current condition of the line. It could not just be reopened for trains and I think that you would admit that.

Although our argument tends to suggest that we are opposed to the railway line—that is how it seems, of necessity, because we are talking about the line that is in place at the moment—we have made it clear from day one that we are certainly not opposed to the principle of the railway; rather, we are opposed to the route. It may seem that we oppose the project because we have been able to discuss that. The committee's defence and arguments may sound like a defence of the railway. That position has now passed, of course; we have gone beyond that.

The Convener: I think we are clear about Mr Adam's position—which he has clearly illustrated—and about the position of the promoter. Does Tom Adam have any more questions on existing railway operations?

Tom Adam: I have not.

Nora Radcliffe: I would like Mr Reid to clarify a few points relating to document SAK 84. Objection 43, which is outlined on the fourth page of that document, is a specific query about the measurement of the distance between a back garden and the railway line. I wonder whether Mr Reid can clarify the specific point that is raised in objection 43. The promoter claims that there is a distance of 15ft between the garden and the line, but the objector, who has not measured the distance because he has not gone on to the private ground, estimates that the distance is 6ft. Can Mr Reid clarify that?

David Reid: As that is a fairly specific point, would it be okay to come back to it?

Nora Radcliffe: That would be fine.

I would like to discuss point 13, at the start of the next page of document SAK 84. According to the memorandum, a pre-construction condition survey may be offered to one or two objectors and not to others in similar circumstances. Will Mr Reid clarify the promoter's position on structural surveys prior to construction?

David Reid: We will be happy to give the committee a written statement on exactly what that means. We will undertake such a survey in respect of any property that abuts the alignment, which is quite reasonable. It is certainly not our approach to minimise that unduly. I think that any

property that abuts a line would be within that grouping.

Nora Radcliffe: It would be helpful to receive some indication of what is meant, because the wording is not specific. People would take comfort from knowing exactly what was meant.

David Reid: I would not like to say one thing or another at this point, as I do not have the exact answer, if someone is upset or whatever.

Nora Radcliffe: I think that clarification would be useful in that regard.

The third point that I wish to make does not fall into any category, but Mr Reid is possibly the best person to ask. The 10th paragraph of document SAK 56 relates to lorry traffic at the lorry park at the end of Park Place. Will Mr Reid comment on the points that are made in that paragraph?

The Convener: I think that my colleague is referring to the 10th paragraph of SAK 84.

Nora Radcliffe: No, I am talking about SAK 56.

The Convener: You are right; I apologise.

Nora Radcliffe: I am glad that I am right, because I have spent hours on the subject. No specific reference has been made to lorry traffic to and from the lorry park at the end of Park Place, so will Mr Reid say more about it?

David Reid: We have given a general answer to questions that have been asked about heavy lorry traffic. Obviously, that has a significant impact on the justification for the scheme. We have left it open to the objectors to raise a much more specific and detailed question. We would be happy to provide the answer to such a question.

14:30

Nora Radcliffe: So if you are asked a more detailed question, you will provide a more detailed answer.

David Reid *indicated agreement.*

The Convener: Mr Martin, do you have any follow-up questions for Mr Reid on existing railway operations?

Roy Martin: I have a question about the important issue of safety. Is there anything about the character of the line—the line itself, the topography, possible conflicting railway movements or the like—particularly in the vicinity of Clackmannan, that makes this location different from any other part of the modern railway network as regards the level of safety?

David Reid: There is nothing specific to suggest that it will be any more or less safe than any other part of the rail network. However, if a railway is in a cutting, the embankments of the cutting provide

a barrier against any derailed load. That is relevant to the through-cutting section in Clackmannan. I hope that I have answered the question fully.

I would like to raise one small issue.

The Convener: Does it pertain to the question that Mr Martin has just asked?

David Reid: No, it is a point of clarification—you will see its relevance. I refer to the sections into which you have broken down questioning. I would not be so rude as to suggest that Mr Adam's questions are not pertinent to the issue that you raised earlier—I am happy to answer them—and I would not be so rude as not to answer a question on a specific subject.

The Convener: So far you have behaved in the way in which any well-mannered witness would be expected to behave.

We move to the second of Mr Reid's topics, which is alternative rail routes. Mr Martin, do you have any questions for Mr Reid on this topic?

Roy Martin: I rest on the precognition.

The Convener: Mr Adam, do you have any questions for Mr Reid on alternative rail routes?

Tom Adam: Do you agree that the alternative route that we have suggested, which runs between Helensfield and Meadowend, would be safer for people who live in Clackmannan than the route that is preferred by the promoter?

David Reid: There is a direct answer to that question. An alternative to reopening the route through Clackmannan, on the lines that Mr Adam suggests, would be safer to the people of Clackmannan who live adjacent to the route.

Tom Adam: Have you walked the alternative route?

David Reid: Let me be clear: I have not walked the whole alternative route because there are a number of options on that route. Because I have not walked the route from one end to the other and examined it in detail, I cannot say that I have walked the alignments. However, I have done enough to know the details of the route.

Tom Adam: Part of the route would be new, so you would not have been able to walk it. However, you would be able to walk the part of the route from Alloa to the old brickworks. Do you know that location?

David Reid: Are you referring to the chimneys?

Tom Adam: Yes.

David Reid: I have walked the old Dunfermline line.

Tom Adam: How many houses did you observe on that walk?

David Reid: It depends on whether we include the farmstead. There are two houses other than the farmstead.

Tom Adam: How far are those houses from the track? Are they 5m or 10m from the track?

David Reid: They are at the bottom of the embankment. I estimate that they are in the range of 5m to 7m from the track. They are at the bottom of the embankment.

Tom Adam: You said that you walked on the old line. You would have seen the houses there. What distance do you estimate they are from the line?

David Reid: Do you mean the two houses at the Helensfield end?

Tom Adam: Where?

David Reid: Can you specify the houses that you mean, Mr Adam?

Tom Adam: Those at Brucefield Crescent or Northfield Gardens.

David Reid: Within Clackmannan?

Tom Adam: Yes.

David Reid: We have set out already—

Tom Adam: Do you know where we are in this? The place that I mean is at the last small bridge as you go out of Clackmannan.

David Reid: I know exactly where you mean.

Tom Adam: Can you give me a distance estimate for the houses there?

David Reid: I take it that the point that you are trying to make is that the houses there are closer—

Tom Adam: Perhaps I can help you. The distance to the boundary there was measured and it is 5m. Therefore, coming back to the original question, would you say that the two houses at Helensfield—which is where you are talking about—are the same distance from the line as is the boundary of the houses in Brucefield Crescent?

David Reid: No, I would say that the ones in Brucefield Crescent are closer. However, the Dunfermline line at Helensfield is on an embankment. The line is at the top of the embankment, then there is the embankment, then the fence line, then the properties. Therefore, in that regard, the Helensfield houses are further away from the line.

Tom Adam: That is fine. Those are the only two houses on that line at the moment.

David Reid: Other than the buildings at Tullygarth chimney, yes.

Tom Adam: Do you agree that, if an accident were to arise in that area, it would be less likely that a considerable number of people would be involved?

David Reid: I take it that you are referring to an accident that would be more of a catastrophic safety issue than would be likely. If there were a derailment in which the rolling stock crossed the railway boundary at Helensfield, there would be less of an impact should one of the vehicles leave the boundary at that point, given the nature of the houses there and their location. However, if you are talking about the alternative in its entirety, I argue that, should a train leave the tracks while going over what would be a new bridge over the A907, the train could potentially end up on the carriageway of the A907, which would cause a similar safety incident to the one that you suggested. Therefore, the issue is not just as straightforward as comparing one possible safety incident with another, in terms of the presence of houses.

Tom Adam: There is also the question of the brickworks chimney. There seems to be concern that that might have to be demolished. It has been said that the chimney is of historical interest and is a local landmark. Whose opinion was that?

David Reid: You will appreciate that not everyone who has spoken to us at the consultation stage or, indeed, everyone in the local community, objects to the line's going through Clackmannan. Certainly, some views in the general consultation were that the chimney was a local landmark. Therefore, some of the views on the chimney are from anecdotal evidence and some are planners' views and so on.

Tom Adam: I have lived in Clackmannan all my life and I have never heard the chimney being referred to either as an object of historical interest or as a local landmark. However, some people may see it in those ways.

David Reid: You will appreciate that we would not expect all structures in life that may be up for consideration for protection to be generally in those categories.

Tom Adam: I do not want to develop this too much, but have you seen that chimney?

David Reid: Oh, I have seen the chimney.

Tom Adam: Did you feel quite safe standing beside it?

David Reid: Yes.

Tom Adam: Did you notice any cracks in it at all?

David Reid: We did not do any sort of structural assessment, but the chimney has been there for a long time, so I did not expect it to collapse when I was close to it.

Tom Adam: You are a braver man than I, in that case, to stand beside that chimney. I am advised that some of the residents in Clackmannan wanted that chimney to be demolished, because it spoiled their view to some extent. Were you aware of that?

David Reid: No.

Tom Adam: You remarked—if I may pick you up on the remark—that not everyone in Clackmannan is against the railway being reopened.

David Reid: If I may clarify, I did not say that not everyone in Clackmannan or anywhere else is against it; rather, I said that not everyone to whom we spoke during consultation was against it. I did not specify Clackmannan, Alloa or anywhere else. It was a general point.

The Convener: We are coming on to the question of consultation in the next section, Mr Adam, if that is helpful to you.

Tom Adam: The issues keep overlapping.

The Convener: It is difficult, I know.

Tom Adam: Thanks for keeping us on the right track.

The Convener: Absolutely, sir—I do my best. Do you have any other questions on alternative rail routes?

Tom Adam: Finally, Mr Reid, do you see any construction difficulties in proceeding with that alternative route in terms of construction?

David Reid: If the question is do I see any engineering difficulties and could we build a route there, the answer is yes, a route could be built there. Whether it would be preferable to the route that is promoted in the bill is a different question. I would certainly say that you would not build the Clackmannan bypass in preference to what we are suggesting, but from a purely straightforward engineering point of view, the obvious answer to the question whether a bypass could be built is that it could.

Tom Adam: It could be done. It is a practical proposition.

David Reid: Yes.

Tom Adam: Those are all the questions I have, convener.

The Convener: Does Nora Radcliffe have any questions?

Nora Radcliffe: I have one or two. Is there an

objective measure of the historical or cultural importance of the chimney at Tullygarth? Is it a listed structure?

David Reid: I do not know whether it is a listed structure.

Nora Radcliffe: If it had a degree of importance it would be normal to expect it to be listed.

David Reid: I agree.

Nora Radcliffe: That information might be useful. There may be something in the environmental statement—it would be useful if the clerks could dig that out.

We covered comparative safety quite thoroughly, but I wonder about comparative mitigation. I was surprised that you stated that although different mitigation measures would be required for the bypass option from those required by the option through Clackmannan, you thought that there probably would not be much difference in cost and in how demanding it was. Why would the mitigation measures on the bypass option be approximately the same as the mitigation measures on the line through Clackmannan?

David Reid: I am sorry—when did I suggest that?

Nora Radcliffe: The last bullet point on page 16 of document SAK/S2/04/3/97, states:

“In terms of mitigation, different mitigation would be required, however this is unlikely to be less than that required for Line A.”

I find that surprising.

David Reid: The mitigation to which we refer is more in terms of landscaping features. You will appreciate that at the moment we have what was a railway, which has established landscape features in terms of undergrowth and so on, some of which will stay in place. If a new route were to be constructed through the countryside at that location, the degree of planting and so on that would be required—especially as much of it would be on newly formed cutting or, more likely, embankment—would be considerable. So, we referred to noise barriers and so on against landscape planting and that type of thing.

14:45

Nora Radcliffe: On the issue of comparative costs, paragraph 3.3.3 of paper SAK/S2/04/3/46 mentions the additional cost of the alternative route—I do not know whether you need that reference. We looked at the additional cost of the alternative route's being in the region of £4.5 million to £5 million of the overall cost of the scheme. However, when the overall cost of the scheme rose considerably, the business case was not revised to take account of that. The cost of the

bypass would therefore be a lower proportion of the higher overall cost of the scheme, yet there is no indication that that was taken into account.

David Reid: The point that is to be made in that respect is that if we take the alignment as a whole, there have been a number of suggested alternatives and developments of the line. I dare say that, were we to have started with a blank sheet of paper, many more would have arisen. This was about reconstructing a former railway. Although the cost of the Clackmannan bypass is referred to quite reasonably, as it was an objective from route 4, the cost impact over that stretch will be in the region of the numbers that Nora Radcliffe mentioned. However, if we were to adopt that policy, it is unlikely that that might be the only place where we might undertake that, in which case the cost of the scheme in its entirety would be considerably different. That is why it is reasonable, given the fact that we were considering a comparison of the route that we proposed against an alternative, that that is the comparison that we made.

Nora Radcliffe: Do you accept that, when the overall costs went up, the comparative cost of the bypass as a proportion went down?

David Reid: In proportional terms, that is clearly the case.

The Convener: Mr Martin, do you have any follow-up questions for Mr Reid on this topic?

Roy Martin: On the same matter, I hope that the committee has available to it one of the three bypass option appraisal documents. The document that I have here is for the Clackmannan bypass. I understand that it was circulated at an earlier part of the proceedings.

The Convener: Yes—we have that document.

Roy Martin: Do you have that available to you, Mr Reid.

David Reid: I presume that that is the Babbie report.

Roy Martin: Yes, it is the Babbie report with the reference number BTR202443 25/10/02 on it. This is the Clackmannan bypass document. There are three such documents—one for Kincardine, one for Bogside and this one, for Clackmannan. The drawing that is attached to the back of the document shows that three different possible alignments were considered for what is described as the Kincardine bypass. Is that correct?

David Reid: Yes.

Roy Martin: One of them goes to the north of Tullygarth, one goes to the south and one goes further to the south. Each of those would cross—

The Convener: I am sorry, Mr Martin. Do you mean the Clackmannan bypass?

Roy Martin: We do, yes. I am sorry.

The Convener: That is okay. I was just asking for clarification.

Roy Martin: There are three optional routes for the Clackmannan bypass. Do you see that each of them crosses the A907?

David Reid: Yes.

Roy Martin: Is that what you were referring to when you mentioned the possible safety implications of an alternative route? Is that where, were there to be some sort of calamity, there is a potential conflict between rail and road? Is that the point that you were making?

David Reid: That is correct.

Roy Martin: Two of the routes go closer to Tullygarth than the other and two would involve using the original alignment to a point further north-east. Am I right in saying that Helensfield farm, although not named on the map, is the development that is shown about an inch and a half below the B910 towards the centre of the top of the drawing? It has large sheds, as it is a poultry farm. I assume that the building that is closer to the alignment of the railway is the farmhouse.

David Reid: Yes.

Roy Martin: Please look at paragraph 3.3.2 of that document. As the committee has already identified, that is where one finds the description of the estimated additional cost—approximately £4.5 million to £5.5 million—if line B was chosen.

David Reid: That is correct.

Roy Martin: There was reference to mitigation in relation to the alternative route. Would the cost of that mitigation be significantly greater than the cost of mitigation measures on the existing route?

David Reid: That is similar to a question that was posed earlier. We have not made a detailed investigation of the individual elements, but choosing line B is likely to be no less costly.

Roy Martin: Does the additional cost estimated at £4.5 million to £5.5 million arise from mitigation costs? If not, what does it arise from?

David Reid: It arises largely from engineering works.

Roy Martin: In general, what are those engineering works?

David Reid: They are works to develop and form a new alignment through a greenfield site in a countryside area—undertaking a railway involves embankments, cuttings and earth movements.

The Convener: I am sorry to interrupt, but does the estimated additional cost include any compensation that might be due?

David Reid: The figures do not include relative compensation.

Roy Martin: Going back to the plan that shows the three route options, can we say that each of them would be on both cuttings and embankments to some extent?

David Reid: That is correct.

Roy Martin: My last question returns to safety issues. Is there anything about the alternative alignments that would be inherently more or less safe than the alignment through Clackmannan on the existing route?

David Reid: In terms of general railway safety, other than the points that were raised earlier, the alternative alignments are inherently no more or less safe than any other part of the railway network.

Roy Martin: Thank you.

The Convener: The next topic is consultation. Mr Reid will cover that matter in the absence of Tara Whitworth. Mr Martin, do you have any questions for Mr Reid on that topic?

Roy Martin: I am obliged to you, convener, for confirming that Mr Reid's evidence will be acceptable in the absence of Ms Whitworth.

Mr Reid, there is reference in Ms Whitworth's precognition—that is, the first part of document SAK 87—to correspondence between her and the various objectors. Can you confirm that you have available a file with copies of all the letters that are referred to, should that be of assistance to the committee or the objectors?

David Reid: Certainly—we have a full file of all the correspondence that is referred to in document SAK 87.

Roy Martin: So we may take it that where Ms Whitworth refers to a letter that has been written, a copy of it is available if necessary.

David Reid: Yes.

Roy Martin: Thank you.

The Convener: Mr Milligan, would you like to ask Mr Reid some questions?

Donald Milligan (Clackmannan Railway Concern Group): Yes, certainly. I am somewhat at a disadvantage; I have prepared a short statement and I have some points on Tara Whitworth's precognition, but I will—

The Convener: Please stick to questions. You obviously have many significant points to make and we will give you the time to do that.

Donald Milligan: That is fine. We will just soldier on. In paragraph 4 of Tara Whitworth's precognition, she said:

"the Committee confirmed that it 'has been satisfied by the promoter that it has satisfied the requirements of the Promoter's Memorandum in respect of Consultation'."

Is there a prescribed step-by-step process for carrying out a consultation on such a project?

David Reid: Can you identify where that is?

Donald Milligan: I am sorry. It appears in paragraph 4 of SAK/S2/04/3/87.

The Convener: It appears under the heading, "General".

David Reid: Could you repeat the question?

Donald Milligan: Is there a prescribed step-by-step procedure for consultation to follow in such a case?

David Reid: In essence, there is what one would call best practice, as opposed to a step-by-step guide. Tara Whitworth was referring to the fact that the committee confirmed that it was satisfied that the promoter had met the memorandum's requirements.

The Convener: I will help you out by informing you that, under the Parliament's standing orders, the promoter has to provide such a memorandum, which must be followed.

Donald Milligan: That is fine. Thank you.

Mr Reid, did you attend any of the public meetings? The promoter called one public meeting; any public meetings that followed were called by the objectors and were attended by the promoter. Did you attend any of those meetings?

David Reid: I personally did not attend any of the meetings, but Tara Whitworth did, as did a number of other individuals representing the promoter, as you are aware.

Donald Milligan: Unfortunately, I cannot ask my next question, which was, "How do you think they went?" They went extremely badly.

David Reid: I could answer by saying that I was certainly involved in discussions and preparations at various stages. The issue is all about the context. The view was that the meetings could be described as fairly normal for public meetings about an infrastructure project.

The Convener: Perhaps we could say that there were robust exchanges of view.

Donald Milligan: I was going to use the word "spiky", but it is probably true to say that there were some robust exchanges of view.

In paragraph 11 of Tara Whitworth's precognition, she said that she was very upset by the objectors' claim that

"the Promoters 'have at all times treated the people with arrogance and disdain'."

I know from where she picked up that comment, which was not directed at her. We are not mudslinging. That comment arose in relation to a councillor standing up and saying to the assembled throng of the public that they would not be complaining if such a proposal were being made in London and in relation to the council's chief executive saying that he did not wish to speak to anyone any more, because we were the objectors to his bill. I just wanted to clarify that, because Tara Whitworth made the point.

The Convener: The committee is grateful for that clarification. Can you move on to questions to the witness?

Donald Milligan: To be honest, I do not have many questions. We have reached a position on the consultation process. The promoter and its agents have done a reasonable exercise in ticking the box on carrying out a consultation, but they have not engaged with anyone. At various points in her precognition, Tara Whitworth rightly says that she has replied to letters, but we have copies of replies to letters that do not touch on any of the points that people made.

The Convener: Later on in the proceedings, you will get the chance to make a five-minute statement. I am simply giving you the opportunity to pose some questions to the witness.

Donald Milligan: In Tara Whitworth's absence, I have no further questions.

Rob Gibson (Highlands and Islands) (SNP): I will refer to the sixth and seventh bullet points in document SAK 46—they are at the top of the second page.

15:00

David Reid: Sorry, I do not quite follow you.

Rob Gibson: They are in the part headed "Consideration Stage: Written Evidence from Objector Grouping 4 on Lack of Consultation by the Promoters". Do you see the bullet points there?

David Reid: Yes.

Rob Gibson: There are five bullet points on the first page and the sixth and seventh are over the page.

The Convener: Is the sixth bullet point the one that begins, "Following this condemnation"?

Rob Gibson: Yes, that is what I am looking at.

The contentions on consultation matters are about the lack of site visits and about the objectors' requests to meet with the promoter. Taking into account what the promoter has provided in evidence, will you comment on those points?

David Reid: First, Mr Adam has asked, reasonably and on more than one occasion, whether we have walked the site. As I said during the first stage of the bill process, our company has been involved in the project since 1999; the promoter has been involved for much longer. I guarantee that all our engineering and management staff have visited the site in its entirety on a number of occasions and not just recently. The visits go as far back as the initial feasibility. We are vociferous in our view that we have visited the proposed route many times and that we have knowledge of it.

I refer members to paragraph 6 in document SAK 87, in which Tara Whitworth mentions that the objectors requested meetings on several occasions. As members can see from that document, Tara Whitworth made herself available on specific dates but the objectors said that they would have to come back to us to arrange different dates. We have no problem with meeting individuals on site to discuss pertinent matters.

Roy Martin: I have two questions. You mentioned that your team had been involved in the project and had been walking the line right back to what you called the initial feasibility. When was that?

David Reid: We suggest that the initial feasibility was in 1999, in as much as the evolution of the project as it stands stems from 1999.

Roy Martin: The issue of compliance with the requirements on consultation is covered in the promoter's memorandum. I was not present at the first stage of the process, but I assume that the committee has that document available to it. The passages that are being referred to are paragraphs 32 to 54, under the heading "Consultation", and paragraphs 55 to 59, under the heading "Response to Consultation". If I am in error on that, I will address that later, but that is my assumption about what that evidence refers to. I have no further questions.

The Convener: That is the last of the three topics on which we wanted to question Mr Reid. I thank the witnesses. We will take a short break while the witnesses for the promoter change over.

15:05

Meeting suspended.

15:08

On resuming—

The Convener: The next witnesses for the promoter are Julie Hamilton, Fiona Stephen and Alison Gorlov.

FIONA STEPHEN *made a solemn affirmation.*

The Convener: The committee will first take evidence from Julie Hamilton on town and country planning issues.

Roy Martin: Obviously, I will rely on Ms Hamilton's evidence on this matter.

I am sure that it is obvious to the committee that I was on the wrong page earlier. That evidence begins at paragraph 139.

I want to ask one or two additional questions. First, the document SAK 88A, which has been prepared to assist the committee, shows a layout of Clackmannan as it exists. I am sure that the committee is familiar with the alignment, which is towards the top of the village—or to the north-north-east. There is a degree of development to the north-east of the railway, although most of the development is taking place in the south-west. Have you distinguished between sites that received planning permission before 1983 and those that received such permission after that year, which are represented by pale green shading on the map?

Julie Hamilton: Yes.

Roy Martin: Why was the year 1983 chosen?

Julie Hamilton: Because, as David Reid said earlier, that was the last year when freight trains ran on the line.

Roy Martin: The next item on the legend is the black dots, which represent group 4 objectors whose objections do not relate to issues of planning or proximity to the rail line. What does that mean?

Julie Hamilton: I identified the properties of objectors who had raised issues of proximity to the railway line and planning consent, which are represented by a box around them, and the properties of those who had not, which are represented by black dots.

Roy Martin: I was about to mention those boxes, which you say represent objectors who have raised issues of planning and proximity to the railway line. Obviously we can see how those are distributed. For the committee's benefit, what is the area of lined shading to the north of the railway marked "Site with planning consent"?

Julie Hamilton: I included that for additional information purposes to highlight that the site has

the benefit of planning consent. However, no building has started on it.

Roy Martin: When was that planning consent granted?

Julie Hamilton: Last year.

Roy Martin: What sort of development is the consent for?

Julie Hamilton: Individual dwelling houses.

Roy Martin: Is there any limitation by way of condition or otherwise because of its adjacency to the proposed railway line?

Julie Hamilton: No.

Roy Martin: I want to raise one or two other incidental matters. As you are aware, Mr Adam said earlier that the line has remained to the extent that it has since 1983 for emergency reasons. Have you any knowledge that that is the case?

Julie Hamilton: No.

Roy Martin: No doubt I can ask Mr Adam this question but, as far as the planning department is concerned, is there anything to suggest that that has been the reason why the line has been kept as it is or indeed has there been any suggestion as to what it would be used for in an emergency?

Julie Hamilton: No, I have not heard that suggestion at all.

Roy Martin: In paragraph 142 of your recognition—

The Convener: Are you referring to document SAK 87?

Roy Martin: Yes, I am. I do apologise.

Paragraph 142 of your written evidence states that it is the contention of objectors that when they moved to their property, or when planning permission was given, it was on

“the sole understanding that the rail line would not be reopened.”

Was it ever the case during the period with which we are concerned that there was an understanding or commitment that the rail line would not be reopened?

15:15

Julie Hamilton: No. All decisions were taken on the full understanding that the railway line could reopen and was safeguarded in the development plan with that aspiration.

Roy Martin: I do not want to go over evidence that might have been given at an earlier stage and that is referred to in your written evidence. Are we going back to the development plan of the 1980s, which referred—to some extent—to the safeguarding or potential reopening of the line?

Julie Hamilton: Yes, the first reference was in the 1980s.

Roy Martin: Thank you. Paragraph 145 addresses the criticism made against the council that it supposedly did not disclose information on the rail line in relation to solicitor property searches. You have said what you have said and, no doubt, Mr Adam or whoever can ask you questions about it. However, do you have any additional comment to make on that, because that is clearly a criticism of the system operated by the planning authority?

Julie Hamilton: We have a fairly standard form for property searches, unless we are asked specific questions. A property search question would not require us to identify the railway line or suggest that we should be doing so.

Roy Martin: Do you accept that the council has been wrong or has in any way acted inadequately in not referring in property searches to the safeguarding of the railway line?

Julie Hamilton: No I do not.

Roy Martin: Thank you very much.

The Convener: Do you have questions for Ms Hamilton, Ms Martin?

Kathleen Martin (Clackmannan Railway Concern Group): Yes. I stepped in only yesterday, so my questions might appear pretty basic compared with those of others.

The Convener: Not at all. I am sure that they will be straightforward and will address serious issues. If you would care to put them, just take your time.

Kathleen Martin: In paragraph 144, Julie Hamilton says that development next to the line is

“subject to the necessary and appropriate consideration being given to material planning issues.”

What material planning issues have been taken into account when safeguarding the line for potential reopening, which you said was in the development plan? What are the relevant material planning issues?

Julie Hamilton: The material considerations are factors that one would take into account when considering an application for a development. They would include considering whether planning permission for houses close to the line should be granted. The safeguarding is to do with identifying in a land-use document where we feel that there should be a change or otherwise to the land use of an area. Do you want me to explain the material considerations for the houses?

Kathleen Martin: Yes.

Julie Hamilton: There can be a number of material considerations. The views of statutory consultees would be one such consideration—no rail body or environmental health concern was raised. We would consider design, relationship to surroundings, national guidance, the suitability of the site's appearance and the impact on surrounding areas.

Kathleen Martin: You would consider the design of the house.

Julie Hamilton: Yes.

Kathleen Martin: And yet the developer would not know that a railway would be opening there, so it could not design its house accordingly, with the necessary mitigation measures. If the developer was not privy to that knowledge, how could it react to it?

Julie Hamilton: First, the development plan has been consistent on the safeguarding of the route for more than 20 years. Developers, particularly for the most recent developments, have been made aware of the line specifically, particularly since there has been more certainty that the railway would reopen.

Until that time, weight would be given to material considerations. Obviously, however, a different level of weight will be given when there is a greater potential of the line reopening. The developer of two of the most recent developments at Hetherington Drive has been made aware of the fact that the line might reopen and has amended the orientation of the buildings and has made some attempts to mitigate the impact of the line.

Kathleen Martin: People who built their houses in the late 1980s or whenever are at a disadvantage because they were not told about the possibility that the line might reopen.

Julie Hamilton: The expectation was included in a public document but, if people had not discovered that document for themselves, they would not have been aware of that. From a planning point of view, however, there would have been no reason for us not to grant consent for those houses.

Kathleen Martin: Do you not think that there would be a moral obligation, if not a legal one, to put people in the picture so that they knew exactly what they were letting themselves in for? Why not impart that information if it is in the development plan?

Julie Hamilton: I cannot comment on whether the developers were made aware of the situation during discussions with planning officers at the time. All I can say is that the information in the development plan is clear and consistent and that a significant amount of consultation was

undertaken on the development plan to help to make people aware of it.

Kathleen Martin: Paragraph 146 says:

“For a standard property search with no specific request from a solicitor as to the future of the rail line,”

the council

“does not disclose information on the rail line reopening.”

What would be disclosed in a standard search?

Julie Hamilton: There are a number of queries. The one that is most relevant to your question is whether, under the Town and Country Planning (Scotland) Act 1997, there are any proposals that would adversely affect the subjects. If we considered that a proposal would adversely affect the subjects, we would identify it. The reason why we would not do so in relation to the rail line is that it is in the development plan and we have consistently seen no reason in principle not to grant consent to developments next to the rail line. On that basis, it is entirely consistent for us not to consider that the rail line would have any adverse effect.

Kathleen Martin: What would you consider to be adverse effects on a property?

Julie Hamilton: It is important to bear in mind that the proposal that we are discussing relates to the reopening of a facility and that the line is already there. The opening of a large new development would be another matter. For example, if there were a completely new proposal, which had not been in the development plan, for a route to be laid round the edge of Clackmannan on a totally new site, we might decide that it would have an adverse effect. However, that would depend on the specific circumstance.

Kathleen Martin: What would be your definition of an adverse effect? We think that the trains that will use the rail line will have an adverse effect on our lives.

Julie Hamilton: The question is one of degree. I appreciate that, from your point of view, you feel that the adverse effect will be significant. However, in relation to a definition of adversity, I would be looking for something quite significant.

Kathleen Martin: At the early stages—perhaps in the middle of the 1980s—were technical consultants employed to consider the matter and advise the council of the effect that a reopening of the track might have on local residents? Were you able to access such advice when forming your opinion that the reopening of the track would not have any adverse effects?

Julie Hamilton: In considering an application for a development of houses, we would consider

whether the development could have any adverse effects. We would also—

Kathleen Martin: Would you have technical experts to advise you on that or would that be done by the planning department?

Julie Hamilton: If we felt that the development would have an adverse effect, we would require a developer to submit information in exactly the same way as we did for this bill process. An environmental assessment has been done to provide that type of information.

Kathleen Martin: How would you know whether there would be an adverse effect if you did not have an expert to advise you on it? Would you make a guess and say, "Well, there are plenty of houses near railways"?

Julie Hamilton: We would have to consider whether any work would be required to be able to make the assessment. I was talking about work that would be required in the consideration of a planning application and whether that particular development would cause any adverse effect. Correct me if I am wrong, but I think that you are asking whether, in granting an application for a development of houses, we would consider any impact from the railway.

Under planning advice note 56, in considering any residential development next to an existing noise source, we are required to assess whether that existing noise source would have an impact and then, by considering that assessment and its categories, we would determine whether planning consent would be reasonably acceptable or whether there should be mitigation. There is not an existing noise source, obviously. However, I have considered the information contained in the noise study and even if there had been an existing noise source, there would still have been no reason not to grant consent for those houses.

Kathleen Martin: Even though they were so close to the line.

Julie Hamilton: Absolutely.

Kathleen Martin: Do you not think now that it might have been better if the residents had been warned of the possibility of the line being reopened so that they could have had their houses further away from the line?

Julie Hamilton: There is no legal obligation for the council to advise anyone of that. As I said, the matter might well have been discussed for all the properties during the discussions that were held between the council and the developer. The only developments for which I know that it was discussed were the recent ones. That does not mean that it was not discussed beforehand, but I cannot comment on that.

Kathleen Martin: So if a solicitor does not ask, the council does not volunteer the information.

Julie Hamilton: No, the information that we would provide would be consistent. Obviously the rail line is there to be seen and anyone who saw it would be able to ask a specific question.

Kathleen Martin: So it is a matter of asking the right questions.

Julie Hamilton: The information is available in the public arena.

Nora Radcliffe: I have a few specific points that I would like to pursue with you. The first is in relation to Hetherington Drive, which is one of the developments that were recently given permission. Paragraph 3 on page 3 of SAK/S2/04/3/62 concludes:

"The Promoter took account of the potential re-opening in considering development on the site."

Why was that not mentioned in the decision on the planning application? If that consideration was taken into account in the granting of planning consent, surely it should have been commented on.

Julie Hamilton: A large number of considerations are taken into account in the granting of a planning application. Notwithstanding the fact that not all reports go to the council, not all considerations are included in the report on the application.

15:30

Nora Radcliffe: Right. Would this consideration not have been thought to be major enough to have required comment?

Julie Hamilton: Another property in Hetherington Drive that is nearer to the line was refused consent at first but was subsequently granted consent. The initial refusal was because of proximity to the line. The subsequent application was made on the basis of an amended proposal that was acceptable. It is a matter of degree as to how close to the line it was. The decisions to which you referred were taken after the potential for the line to be reopened was known.

Nora Radcliffe: In August 2002, Stirling Council approved flats that were within 10m of the line, but it did so with the requirement that noise attenuation measures were put in place to insulate the dwellings.

Julie Hamilton: Those flats were next to a line that had trains running on it, which relates to the point that I made earlier about the weight that would be given to a material consideration in respect of safeguarding a route, for which there is an element of uncertainty, compared with

situations in which there is slightly more certainty. I repeat that the site in Hetherington Drive that is nearest to the route was refused because of that particular consideration. The application that was received subsequently was made acceptable because measures had been taken to orientate the house differently and to deal with glazing.

Nora Radcliffe: Right. I will leave that line of questioning at that point.

The Convener: Do you have any follow-up questions for Ms Hamilton, Mr Martin?

Roy Martin: If I may, I would like to raise just one matter. In answer to questions from Ms Martin you mentioned the local plan process. The committee has a great deal of information on the local plan, but will you summarise how the local plan process would have made people aware of the likelihood of safeguarding the route and the later possibility of the reopening of the line?

Julie Hamilton: There is a consultation process at each stage of the local plan that has a minimum level of advertising in the press. Depending on the stage, a period of between four and six weeks has to be left for people to respond. As a council, at all stages of the local plan process, we have actively pursued and enhanced our consultation to make people aware of it and get them involved.

Roy Martin: As well as the safeguarding of the route and the land that was involved in it, might people have become aware of the safeguarding of any station or other facility in Clackmannan?

Julie Hamilton: A site for a station is safeguarded in Clackmannan in the event that it might be required in future.

The Convener: We move on to questions for Ms Stephen on the human rights issues. Do you have any questions for Ms Stephen at this stage, Mr Martin?

Roy Martin: I have nothing at this stage. I seek amplification of precognition SAK 87.

The Convener: Would you like to ask some questions of Ms Stephen at this stage, Mr Milligan?

Donald Milligan: I have just a few questions. I thank the committee for its indulgence earlier. I will restrict myself to questions this time. I turn to paragraph 99 of the precognition document SAK/S2/04/3/87. When the committee assesses a bill as merely competent to be admitted to the next stage of the process, why does that carry an implication of compliance with the European convention on human rights?

Fiona Stephen (Anderson Strathern): The paragraph states simply that, in allowing the bill to proceed to its consideration stage, the committee has accepted that the bill is ECHR compliant and

that it is within the Parliament's legislative competence.

Donald Milligan: Part of the dissemination of the promoter's argument was that there was a "pressing social need", on which the promoter had hung most of its argument—certainly from what we could see—as to why our human rights could be set aside in this case. Referring to "pressing social need", you say at paragraph 106:

"The Objectors have given undue weight to this phrase."

You referred to the interpretation that had been put on that phrase at the time.

Fiona Stephen: The reason for the inclusion of that phrase is that the written evidence that the promoter submitted for the preliminary stage contained a section dealing with ECHR matters. In determining whether a potential breach of one of the articles of the ECHR was taking place, the Parliament would have to take into account other factors so as to determine whether that breach was justifiable. That is where the phrase "pressing social need" came from.

Donald Milligan: In the context of this project, how does "pressing social need" relate to national security, public safety or the economic well-being of the country as a whole? Those are the three hooks. We would like to know exactly how "pressing social need" fits into those.

Fiona Stephen: As I said in my precognition, the phrase "pressing social need" was given simply as an example of a situation in which interference with an ECHR article might be justified. It was not intended to be taken as the sole reason for any interference with an article of the convention. Indeed, there has been quite a lot of evidence on social and economic arguments justifying why the bill should proceed.

Donald Milligan: None of the objectors is objecting to the scheme, and we can all see the bigger picture in relation to Alloa. Given that an alternative route is available for the promoter to take, we have asked why there has to be an interference—justified or otherwise—with our human rights. As we have pointed out, we feel that our human rights in this area are strengthened because of the existence of the alternative route. Could you clarify that?

Fiona Stephen: My opinion is that there is not necessarily a breach of your human rights if the bill proceeds, as has been outlined in the various documents that have been provided to the committee and to others involved in the process. The rights that are being engaged, and which have been examined—article 8 and article 1 of protocol 1—are not absolute rights; they are qualified. There are situations in which an interference with those rights, if there is one—and

I do not necessarily accept that there is in this case—can be justified.

Donald Milligan: I turn to paragraphs 110 and 111 of your precognition. You state:

“The Objectors appear to be questioning the power of the Promoter to promote this Scheme.”

That relates to the question of how the promoter can be the planning authority and supposedly give the people of Clackmannan protection under the planning system, at the same time as promoting the bill through another route. You have said that, in your opinion, that is not an issue. How does that now stand, following the comments that we have just heard from the planning representative on the fact that, because the line through Clackmannan has not been open, a lower standard in planning terms was applied to any application there, at the same time as, in the background, the council was planning to open that line? Surely there must be some conflict there.

Fiona Stephen: With respect, I am not sure that Julie Hamilton was saying that. She was saying that before it was apparent that the line would be reopened, the issue of whether the railway was safeguarded in the development plan was a material consideration that would be given less weight than would be the case when the council knew that the line would potentially be reopened.

When there is a conflict, the local planning authority must act in accordance with planning legislation. Safeguards are built into that legislation to address situations in which individuals consider that the planning authority has taken a wrong decision. There are rights of appeal that safeguard an individual's position.

Donald Milligan: In your precognition, you mentioned the Local Government (Scotland) Act 1973. You are saying that Clackmannanshire Council can act outwith its statutory functions when it invokes that act, which has been amended since my time in a local authority. You are correct to say that the 1973 act allows councils to carry out various extraordinary works that they may want to do. Councils use the act to become involved in economic development initiatives and projects such as business parks. The point that I am making is that councils have that power. If Clackmannanshire Council was so keen on opening the line, why did it not use it?

Fiona Stephen: The promoter's memorandum sets out the reasons why the bill was deemed necessary. Other people involved in the project have given evidence on the matter.

Donald Milligan: We believe that the use of the new private bill procedure has been a piece of opportunism by Clackmannanshire Council that has allowed it to steamroller ahead with a

favoured scheme and ignore what it has done in planning in the past. We will probably not be persuaded otherwise, but I will move on.

In paragraph 115 of your precognition, you mention the cases to which the objectors have referred. You say that you

“disagree with the interpretation of these cases”.

In the cases that were presented, the European courts upheld an individual's rights under article 8 of the European convention on human rights. Each case related to interference with an individual's rights by either infrastructure or industrial process. We think that there is no other way of interpreting those cases, but we are prepared to be enlightened.

Fiona Stephen: You are obviously entitled to your interpretation of the cases but, with respect, I disagree with it.

You mentioned three cases: *S v France*; *Guerra and others v Italy*; and *Baggs v the UK*. The *S v France* case concerned a nuclear power station. In that case, an individual said that their article 8 and article 1 of protocol 1 rights were affected because of noise and other types of pollution. The European Commission of Human Rights did not accept that the case was admissible, so it did not proceed further. My interpretation of the case is that the commission said that France had not acted in a disproportionate way. It accepted that there could be instances in which a breach with the rights to which I have referred might be occasioned, but said that that had not happened in that specific case.

The case of *Guerra v Italy* involved a chemical factory that was producing high-risk pollutants and where there had been accidents. In one instance, 150 people had to be taken for medical treatment because of arsenic poisoning. The issue in the case related to the local council's failure to inform the residents of the risks and hazards with the factory. That is the basis on which the court accepted that there was a breach. The case related to a significant problem.

The case of *Baggs v the UK* related to aircraft noise at Heathrow. The commission accepted that the case should go forward and was admissible, but it did not proceed. I understand that a friendly settlement was agreed.

There was the more recent case—of which I am sure you are aware—of *Hatton and others v the UK*, which was decided in July last year. Members will see that it is referred to in the legal opinion. Basically, it involved night-time noise occasioned by Heathrow flights.

The European Court of Human Rights initially decided that article 8 of the ECHR, on the right to respect for private and family life, and article 13,

on the right to an effective remedy before one's domestic court, were engaged because of the effect that night-time flying was having on particular applicants. That went on to a decision of the grand chamber, which is like an appellate court. The grand chamber decided that those articles were not engaged and that there was no breach. It looked at balancing the needs of the greater community against the needs of the individual, and decided that there was an economic benefit to having night-time flying, that there was no evidence to confirm that a significant proportion of people were affected by the night-time flying through sleep deprivation, and that the appropriate balance had been struck. In that case, the court decided that the articles were not breached. That is why I said in the precognition that I did not agree with the interpretation of the cases that you were relying upon.

15:45

Donald Milligan: We appreciate that your interpretations are based on the direction from which you come on behalf of your client. I appreciate exactly what you are saying. One does not have to have a case in relation to a railway line to be able to draw on it. In the objectors' view, probably the only way to clear this up would be to have an independent counsel's opinion or a court case.

Fiona Stephen: That is a matter for you.

Donald Milligan: I appreciate that, and I understand exactly where you are coming from. I am finished with questions.

Rob Gibson: I want to clear up some general points with Fiona Stephen. Paragraph 2 of the promoter's memorandum on compensation and consultation, which is on pages 84 to 86 of annex B of volume 2 of the preliminary stage report, states:

"The status of the Promoter ... as a public authority"

will

"provide an additional safeguard to ensure that the scheme does not at any time breach Convention rights."

Can you explain what you mean by that?

Fiona Stephen: The promoter is a public authority and, under the Human Rights Act 1998, a public authority must act at all times in accordance with the European convention on human rights, so it is not in the authority's interest to act in a way that is not compliant with those rights. That is the point that was sought to be made.

Rob Gibson: Can you give examples of the sorts of things that such an obligation might prevent the promoter from doing, which would

have an impact on the objectors? I know that such things seem unlikely if the authority is trying to act in accordance with the legislation.

Fiona Stephen: The railway line is a reopening of an existing route. If the promoter sought to completely disregard safety regulations or noise regulations, there might well be a breach, but the promoter has stated previously that it will abide by all relevant domestic regulations, so I cannot immediately provide an example of where the promoter might be in breach.

Rob Gibson: In paragraph 4 of the promoter's memorandum on compensation and consultation, you list three criteria that must apply for qualifications to rights to be acceptable. Where do those criteria come from? How do they apply to the provisions of the bill?

Fiona Stephen: They try to explain the concept, which is that article 8 and article 1 of protocol 1 are not absolute rights, but qualified rights. The terms of the articles were produced as an appendix to the memorandum. If one is trying to balance that with situations in which those rights can be interfered with, certain criteria must be followed to ensure that interference is justified. That is basically where the three criteria come from. As I said, the reference to "pressing social need" was simply an example of how it could be shown that a measure is

"necessary in a democratic society",

which is referred to in the articles.

Rob Gibson: In paragraph 4, you also say that any interference with a convention right must be, among other things, "proportionate". Will you expand on that? Can you give practical examples of what might or might not be proportionate interference in the context of the proposed scheme?

Fiona Stephen: If, for example, the promoter sought compulsorily to purchase land but did not accept that compensation would be applicable to the compulsory purchase order, there would be a deprivation of property under article 1 of protocol 1. If the promoter did not accept that compensation would flow from any deprivation of property, there would be a breach of that article, but that is not the position in this case.

Rob Gibson: In paragraph 104 of paper SAK/S2/04/3/87, you state that you do not accept that there will be interference with the objectors' article 8 rights and that, even if there is, such interference can be justified by reference to article 8(2). Can you clarify to which part of article 8(2) you refer?

Fiona Stephen: Article 8(2) of the European convention on human rights specifies:

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

I suggest that, if there was interference, it would be justified on the basis of the information that is before the committee on the scheme's wider benefit to the community.

Rob Gibson: So you are saying that

“the economic well-being of the country”

would be the main justification for such interference.

Fiona Stephen: Yes, and perhaps

“the protection of the rights and freedoms of others”,

because the scheme will benefit others. Information has been before the committee on that, so economic well-being is not the only issue. There are a number of branches.

Rob Gibson: Thank you.

The Convener: Mr Martin, do you have any further questions for Ms Stephen?

Roy Martin: Yes. Ms Stephen, in paragraph 100 of paper SAK/S2/04/3/87, you describe the stage that has been reached following the preliminary stage report, as you understand matters. You state that

“having sought evidence from the promoter on the way in which the requirements of the ECHR and the Human Rights Act have been addressed,”

the committee

“received ‘satisfactory assurances that such issues were positively addressed in the promotion of the Bill.’”

Does your evidence consider the obligation on the promoter to continue to consider the application of the principles of the 1998 act and the European convention on human rights to the individual objections that are before the committee at this stage?

Fiona Stephen: Yes, I would accept that.

Roy Martin: Should we see the reference in paragraph 102 to

“the Promoter's approach of minimising land take, as previously explained”

as an element of that?

Fiona Stephen: Yes.

Roy Martin: Are you aware how many houses would need to be acquired for the purpose of reconstructing the line through Clackmannan?

Fiona Stephen: From memory, I am aware that certain areas of land will be required for the scheme. Most of the land that will be needed is

already owned by Network Rail. The acquisition of other plots of ground that are required will be addressed by means of compensation in due course. The promoter has made it clear that where permanent or temporary land take is proposed, he will seek to minimise it, if possible.

Roy Martin: Does Ms Stephen know the land take implications of the alternative route, on an alignment to the north of Clackmannan, which has been discussed in evidence?

Fiona Stephen: I am not aware of the specific implications of alternative routes.

Roy Martin: The committee asked Ms Stephen certain questions about paragraph 104 of SAK 87. Does she consider that the exercise of compulsory purchase rights for a public project such as this one represents, in principle, an interference with the rights set out in article 8(1) of the ECHR?

Fiona Stephen: I understand that it would be an interference if there is a deprivation of property. There is no such interference if that deprivation is coupled with compensation. If compulsory purchase and compensation are proposed, there is in my view no interference with or breach of article 1 of protocol 1.

The Convener: We will move on to questions for Mrs Alison Gorlov on compensation and amendments to the bill. Does Mr Martin have any questions for her?

Roy Martin: No, I have no questions. I simply rest on SAK 87.

The Convener: Does Mr Adam have any questions for Mrs Gorlov?

Tom Adam: Yes, I have a couple of questions. In paragraph 117 of Mrs Gorlov's precognition on compensation, in SAK 87, she refers to the “Re-opening” of the Stirling-Alloa-Kincardine route. In the last sentence of paragraph 124, which is on the next page, she states:

“the Bill authorises what is legally a new railway”.

In paragraph 138, she mentions

“the reconstruction of the railway”.

Which is it?

Mrs Alison Gorlov (John Kennedy & Co): It is “the reconstruction of the railway”.

Mr Adam's three references are not inconsistent. There was a railway, which is being reconstructed. In very simplistic terms, one is reopening what was there before. When I first joined the project, it was referred to as the Stirling-Alloa-Kincardine route reopening. That is what will happen on the ground.

Legally, the railway is being replaced with a new

railway. We are authorising a railway from Stirling to Kincardine. The bill does not seek to authorise little bits of works along the line. Legally, the bill seeks to replace the old existing railway with a new railway on exactly the same site. In fact, there is a railway in place and quite a bit of the work will involve tweaking, repairing and making good the old railway. Any lay analysis would conclude that a new railway is not being built but, legally, the railway will be a new railway, because all the work will be carried out under the bill, which authorises a complete railway from Stirling to Kincardine.

Tom Adam: Do you think that it is all three things rolled into one?

16:00

Mrs Gorlov: If I may say so, I honestly think that you are making a distinction without there being a difference. There is now a decrepit, derelict, semi-abandoned railway and when the scheme is built there will be a spanking new railway. Will that be a renewal of the old, a reconstruction or a completely new construction? Those are just words. The fact is that the railway is dying, dead and derelict but legally still alive and when it is built in a few years' time there will be a brand new, spanking, reconstructed, replaced, new, different—call it what you like—working railway, where there is not one at the moment. There is a legal—

The Convener: I think that we have got the point—you made it fairly robustly.

Mr Adam, would you focus your questions on compensation and amendments to the bill?

Tom Adam: That brings us to another problem. I was never scheduled to talk about compensation; I was scheduled to talk about loss of amenity. Unfortunately there has been no match between the witnesses and the questions that we wanted to ask. We were fairly specific about the matters that we wanted to deal with.

The Convener: I am not forcing you to ask about compensation or amendments to the bill, but that is the matter that we are considering and we are following the procedure that we went through with everyone earlier.

Tom Adam: Unfortunately we were misled. However, another witness might deal with compensation later.

The Convener: You will still be able to give evidence on matters such as loss of amenity; that is coming up in the next part of the meeting and you will not be precluded from making what I am sure will be very robust points, if you want to.

Tom Adam: Thank you for that. You asked me to focus on compensation, but unfortunately I did

not prepare questions on the matter, because we were told exactly what we would be allowed to ask questions about.

The Convener: I assure you that you will be allowed to make all your points in the next part of the meeting. We will ensure that that opportunity is available to everyone.

Rob Gibson: Mrs Gorlov, what steps has the promoter taken to explain the mechanisms for obtaining compensation as a result of any loss arising from the scheme?

Mrs Gorlov: I have no idea. I am afraid that that is not really a question for me, but I make one or two points. The right to claim compensation arises when such a right is in place, which will not be the case unless and until the bill is passed, so I did not expect to address the matter when I wrote the paper about compensation and consultation.

Rob Gibson: I understand that. I will ask other members of the panel of witnesses for the promoter to comment in due course.

The Convener: Mr Martin, do you have any follow-up questions for Mrs Gorlov?

Roy Martin: I have one, but first I wonder whether I might assist the committee with regard to the matter that Mr Gibson raised. I accept that my absence at the earlier stages of the proceedings might cause me to be at a disadvantage, but the promoter's compensation and consultation memorandum has been prepared and might be of assistance to Mr Gibson. I have nothing to add to it; I make the point simply to ensure that it is noted in this context.

The Convener: We should note that. Thank you.

Roy Martin: Can Mrs Gorlov be provided with a copy of the bill? I want to make just a small point.

Will you read the bill's preamble, which describes the purpose of the parliamentary powers that are sought? The preamble comes under the heading "Stirling-Alloa-Kincardine Railway and Linked Improvements Bill [AS INTRODUCED]".

Mrs Gorlov: The preamble says:

"An Act of the Scottish Parliament to authorise the reconstruction of a railway from Stirling to Kincardine; to authorise the construction of the Alloa Eastern Link Road, necessitated by the railway; and for connected purposes."

Roy Martin: With respect to Mr Adam, despite whatever point he was making, the word that is used in the preamble is "reconstruction". Is that right?

Mrs Gorlov: Yes, it is.

Roy Martin: Thank you.

The Convener: That completes the promoter's

evidence in respect of group 4. We will take a break of about 10 minutes before we take evidence from two groupings of objectors. We will resume at 4.15 pm.

16:05

Meeting suspended.

16:19

On resuming—

The Convener: We will now take evidence from the objectors—we will hear from Mr Adam, Mr Milligan and Ms Martin. Also giving evidence in this group are Mr Martin O'Neill MP and Councillors Derek Stewart and William Calder.

The committee will take evidence from Mr Adam on, first, safety and loss of amenity issues and, secondly, alternative routes. Mr Adam is unrepresented, so the committee will ask him a couple of general questions before giving Mr Martin the opportunity to ask his questions. The committee may have further questions after that.

The committee will then take evidence from Mr O'Neill and Councillors Stewart and Calder. Mr Adam will lead the questioning of those individuals. Finally, the committee will take evidence from Ms Martin on the proximity of property to the railway line and from Mr Milligan on consultation and human rights issues. Before we start taking evidence, I invite the three witnesses to take the oath or make a solemn affirmation.

TOM ADAM and KATHLEEN MARTIN *made a solemn affirmation.*

DONALD MILLIGAN *took the oath.*

The Convener: Mr Adam, as one of the spokespersons for the Clackmannan railway concern group, perhaps you would be good enough to tell the committee, by way of introduction, a little about the group and how it came about.

Tom Adam: The group was formed following the first so-called consultation meeting in Clackmannan. People were very concerned that a heavy freight line would be coming through the town and they wanted to make representations against that proposal. I think that only two people at the meeting were in favour of a freight line, although many people were in favour of a railway, especially a passenger service running between Alloa and Stirling. The Clackmannan railway concern group was born because of people's concerns about the proposals.

The Convener: Thank you. That was very much to the point. As I said, no one is here to lead evidence from your group, so before I ask Mr

Martin whether he has any questions perhaps I can ask you about a few specific points. The committee has read your objections and all the detailed evidence that you submitted in support of them. Now that you have seen the promoter's latest evidence in paper SAK/S2/04/3/87, is there anything in it relating to safety that you want to comment on in the context of your written evidence?

Tom Adam: I do not want to comment on anything in particular in that document. Safety is, of course, of prime importance in our argument about the railway. Most of that argument has been put in written evidence for the committee. We believe that the railway has great potential dangers for people in Clackmannan because of the nature of the route.

The route is an abandoned one; I do not believe for a minute that anybody ever contemplated that the route would reopen. For several years, moves were made to open the Alloa to Stirling route, but the Clackmannan route was never under consideration. I was a council member from 1986 until, I think, 1994, but I cannot recall that possibility ever being discussed during that time, although we have heard evidence today that the line was protected and that there was a willingness to open it. During that time, we had many difficulties with weeds overgrowing into people's gardens. When we tried to resolve the problem, no one seemed to know who owned the line and no one would take responsibility for it or do anything about it. That is why the railway is in its present condition.

It has now been decided that the railway should reopen. However, because a host of changes have occurred during the time that it was closed, the route is not suitable for the purpose for which it will be used. There are inherent dangers in having 2,000-tonne freight trains travelling at 60mph along the route. I am pleased that the committee members came to see the route—I thank them for that. Members can imagine the potential for danger. A derailment certainly would not happen often, but it would need to happen only once for there to be not an accident, but a disaster.

Because of the proximity of the route to play parks, if a child gained access to the line, they would not hear the train coming and they would certainly not realise what was happening. That is a great danger, not only for people who live close to the line, but for everybody in our community. The public parks serve the whole community, so people from all over the town might have a child in one of the parks. As members saw, there are parks at either end of the town, both of which have direct access to the railway line. The fences have been taken down or broken because kids want to gain access to the line—railway lines, like ponds

and rivers, are a magnet for children. We are fearful that something tragic might happen if the line proceeds through the centre of the town.

The Convener: You have seen the latest evidence from the promoter on the loss of amenity, which is contained in document SAK/S2/04/3/87. Is there anything in it on which you provided written evidence and on which you would like to comment?

16:30

Tom Adam: Loss of amenity is a difficult thing to show, but it means that the quality of people's lives is affected. We live in the area that will be affected; it is peaceful and almost tranquil, which is why many people chose to live there. Many elderly people live there and they want to finish their days in their gardens, enjoying life—I am one of them. I did not want to do this; I would rather be sitting in and enjoying my garden, planting and doing the other things that I do in the garden. The idea of the railway going ahead, with trains rushing past every half an hour—which is fairly frequent from our point of view, as there is no railway there at the moment, although it is perhaps not that frequent for railway lines in general—is a horrendous prospect for us.

We already have a bypass road in Clackmannan. The main road was getting so blocked with traffic that the council, in its wisdom, decided that it would build a road to bypass Clackmannan. That road is only 100yd from where we live and we get the noise from it at the moment. We also get the noise from the main road, as we are sandwiched between the old road and the new bypass road. We are now facing the prospect of a railway line being put in between those two roads. Imagine if we invited a few friends along to sit on the patio on a nice summer's night with a bottle of wine and then along came a 2,000-tonne train at 60mph every half an hour. We could not possibly enjoy the amenity of our garden.

We do not know exactly what the effect might be on our homes, although, on the evidence that we have heard about noise mitigation, we are advised to keep our windows closed if we want a reasonable standard of sound proofing in the house. It is not recommended that we keep our windows open, as the noise level might be unreasonable. Some people who work shifts live close to the railway and I do not know how they will be able to sleep during the day with the trains running up and down. That, in turn, might affect their health. In fact, the railway as a whole might affect people's health.

The railway will also affect relationships in the home, as there will be arguments about such

things. People want to move because the railway is coming and some people have already moved. You can imagine the conflict between wives and husbands about whether they should move. We are going to have to live with that. Personally, I will have to live with that for the rest of my days.

Those are the type of amenities that will be lost to us if the project goes ahead on that route.

The Convener: Thank you, Mr Adam. Mr Martin, do you have any questions on amenity and safety?

Roy Martin: Yes. I should say, for confirmation, that there is a great deal of evidence in the objectors' written submissions and I do not intend to take up the committee's time in challenging every point. I hope that the information—from both sides—that is before the committee can be taken into account. However, I will ask a few questions.

On safety, although it is easy to conceive of some calamitous event and the consequences of that, do you have any information that would suggest that the operation of a railway at this location would be any less safe than the operation of a railway at an equivalent location within a built-up area anywhere in the United Kingdom or, specifically, in the central belt of Scotland?

Tom Adam: No. I think that they would be similarly dangerous.

Roy Martin: Do you agree that, although the calamity of a 2,000-tonne freight train coming off the line might be greater than if the same happened to a passenger train—I am not sure whether there is any evidence to support that, however—so far as those who may stray on to the line are concerned, passenger trains and freight trains pose an identical danger?

Tom Adam: I presume that that would be so in the event of someone straying on to the line, if the trains were travelling at the same speed.

Roy Martin: Do you accept that the promoter—and, in due course, as we heard this morning, Her Majesty's railway inspectorate—will take into account all those matters to ensure that, if a railway is constructed and operated at this location, it will be as safe as it can be, albeit that risk cannot be ruled out completely?

Tom Adam: It will be as safe as it can be. However, I am sure that the situation was exactly the same at Potters Bar: although everything necessary was done, that did not prevent that disaster from happening. As I said, our problem is that such an incident needs to happen only once in this location. After all, there is nowhere else for the train to go but into houses.

As for some of the earlier evidence, I do not deny that part of the line is in a cutting. However, a

major proportion of it is not. For example, the line is significantly above the tops of the houses in Devonway and is not in a cutting from Riccarton bridge right through to Kennet village. Indeed, if a train came off the line in the area from Hetherington Drive through Brucefield Crescent to Northfield, it would be a disaster for everyone who was living there. I suspect that a train of that weight travelling at that speed would not stop for at least a mile and would remove everything in its path. That is what we are concerned about.

Roy Martin: I understand.

As far as amenity is concerned, document SAK 88A, which was produced this morning by the promoter, indicates the line's proximity to various elements that have been identified. In fairness, Mr Adam, you have had only limited time to consider the document. However, can we agree that the document reasonably represents the location both of the objectors and of the developments that have been permitted since the line was closed to freight traffic?

Tom Adam: I do not quite understand your suggestion that it represents objectors.

Roy Martin: My understanding of the key—and this is your opportunity to comment on it—is that the black dots represent locations by address of objectors who have lodged objections that are not related to questions of planning process or proximity to the railway line. The people in the properties that are outlined in black have lodged objections on the grounds of planning or proximity to the railway line. Does the document reasonably represent that distinction and those objectors?

Tom Adam: I think that it reasonably displays what you have described. However, it does not reasonably display the number of people who have objected to the project. The Clackmannan railway group represents 235 people who have objected.

Something that you do not know but that I should point out for your information is that we have petitioned the people of Clackmannan and have collected 1,081 signatures from those who object to the project. In fact, that number also includes people who have come through Clackmannan. As I said, the map does not fairly represent the 235 objectors—although they might represent only one objection, they nonetheless all object to the project.

Roy Martin: My understanding is that the map shows all the identified addresses, but we can clarify that matter.

Can we agree that the majority of the built-up area of Clackmannan is south-west of the existing railway line, which the promoter is seeking to reconstruct?

Tom Adam: That is obviously true. On the other

hand, there has been more construction on the north side of the railway line, the effect of which has been to pull the route further into the town. When the railway line was first built, there were no houses there. Some houses were built on both sides after the line was originally built, but, at one time, there were no houses on the south side of the line either. What I am describing is a change in the circumstance, which has altered the whole aspect of the line.

The Convener: I will interject to say for the record that the petition to which Mr Adam has referred was lodged today and is not something that the committee can properly consider.

Roy Martin: Thank you for that, convener. I am hoping not to take up any time on these matters unnecessarily.

Tom Adam: But the 235 objectors would—

The Convener: That is absolutely valid, Mr Adam. That is not precluded.

Tom Adam: Thank you.

Roy Martin: Can we agree, Mr Adam, that a significant number of houses to the north of the line were consented to or in existence before 1983, when the line was still operating for freight? I am thinking of the vicinity of Cherryton Drive, the Goudnie burn and Burnside Crescent.

Tom Adam: I appreciate the question, but I do not know the exact dates of when building was undertaken at those locations. Cherryton Drive was a fairly recent development. Park Place was certainly there before, however.

Roy Martin: Can we also agree that, although the freight line was last used in 1983, by the time of the adopted Alloa district local plan in 1986, the line from Alloa to Stirling, at least, was being safeguarded?

Tom Adam: Yes, indeed.

Roy Martin: Can we agree that, from 1994, when the Clackmannan District Council local plan was adopted, the line all the way from Stirling through Alloa and Clackmannan to Kincardine was being safeguarded?

Tom Adam: I doubt that very much—and I was on the council at the time. I cannot recall that ever being discussed. There was no possibility in anyone's mind that that section of railway line would ever be developed. We need to ask where it would have gone and what it would have provided. The power stations were sitting on a sea of coal and there were mines all round about, supplying the coal directly into the power stations. There was therefore no need at the time for any coal from elsewhere and no thought was given to that. I cannot think of any other freight possibility that there might have been for the line. We are talking about the line terminating at Longannet power

station, even now.

Roy Martin: I do not know whether the committee has this information, but I will refer to the Clackmannan District Council local plan, which was adopted in August 1994. I defer to your greater experience, Mr Adam, although I am not sure whether you were a member of Clackmannan District Council at that time. The plan provided for the safeguarding of a number of infrastructure elements or infrastructure development policies. As far as the council was concerned, there was a policy safeguarding the Alloa to Kincardine rail link. As far as the countryside was concerned, in relation to the Alloa to Stirling railway, there was a proposal that was described as the formation of a new rail link from Stirling to Alloa—with reference made to the structure plan—and the safeguarding of the route from Alloa to Kincardine. Were you aware of those things?

Tom Adam: I was aware of the proposals for a new Stirling to Alloa link. Such an idea has surfaced, resurfaced and sunk many times since the line was closed. The same did not apply to the idea for a line from Alloa to wherever in the other direction. Your point depends on what you mean by safeguarding—perhaps you need to explain that.

16:45

Roy Martin: I will read the infrastructure policy to you, Mr Adam. I hope that the convener will forgive me—I realise that the committee does not have the document, but the policy is an important matter of fact. Paragraph INF 1 states:

“Approval is unlikely to be granted for any development which would preclude the reopening of the Alloa-Stirling Rail Link to passenger traffic, the provision of an extended line to Kincardine and beyond, and stations at Cambus, Alloa and Clackmannan.”

I defer to your knowledge, but as far as I can see, there were policies about that for Alloa, for Clackmannan and for the countryside.

Tom Adam: I suggest to you that that was pie in the sky. If there was a plan and a policy for a station in Clackmannan, there must also have been a plan and a policy for a passenger line in Clackmannan.

Roy Martin: I think that that is right, Mr Adam—that is my understanding. I put it to you that there was at least a proposal for protection against development that would preclude the reopening of the Stirling to Alloa rail link, the provision of an extended line to Kincardine and beyond, and stations at Cambus, Alloa and Clackmannan.

Tom Adam: We are now told that there was no possibility of a passenger line in Clackmannan. Does the document that you refer to say when the policy changed?

Roy Martin: Forgive me, Mr Adam. The current position, although it has yet to be—

The Convener: I am sorry to interrupt, Mr Martin. For the committee's benefit, could you clarify to which document you are referring?

Roy Martin: I am referring to the Clackmannan District Council local plan that was adopted in August 1994; I understand that the document has been submitted to the committee. The policies are on page 46 and the projects and schedule of sites are listed thereafter. The items on Clackmannan and the countryside that I referred to are item 38 on page 48 and item 56 on page 50.

The Convener: To which document are you turning now?

Roy Martin: I am now turning to the finalised Clackmannan local plan, which, as Ms Hamilton indicated, may well be adopted this summer. If you have that document, Mr Adam, under infrastructure proposals—

The Convener: Do the objectors have copies of the document to which Mr Martin refers?

Tom Adam: No.

Roy Martin: I am sorry.

The Convener: That is patently unfair. I suggest that we take a short break and that the relevant sections of the document to which Mr Martin refers are photocopied so that the objectors have at least some sight of it.

Roy Martin: I am sorry. I did not mean to be at all unfair to the witness. I did not realise that Mr Adam does not have the document.

The Convener: I entirely accept that that was not intentional—it is simply a consequence of the questions that you wish to ask. It is only fair to take a short break so that the objectors can see the document. We will take a five-minute break.

16:48

Meeting suspended.

17:11

On resuming—

The Convener: Thank you for your forbearance, ladies and gentlemen. Before we continue, I say to Mr Martin that we now have before us the Clackmannan local plan 1994 and what will be the finalised local plan 2004, neither of which we had until a few moments ago. The same is true for the objectors, of course. The weight of any answer given at 10 minutes' notice by Mr Adam as a lay witness on a policy question will be a matter for careful consideration. I leave the issue with you, Mr Martin, but ask you to keep your comments

brief. Mr Adam, you may not wish to give an answer at such short notice and are perfectly entitled not to do so. I hope that the position is clear to both Mr Martin and Mr Adam. Mr Martin, we are trying to make progress as expeditiously as possible, so if you could complete your questioning of Mr Adam on this issue in the next five minutes, that would be of great assistance to the committee.

Roy Martin: I entirely understand what you have said and apologise if I was inadvertently the cause of a delay that was rather lengthier than I expected. My understanding was that the local development plans were previously before the committee, given that they were referred to in Julie Hamilton's precognition. I am afraid that I proceeded on that basis. I will not press Mr Adam for an answer, but, in fairness, I want to put to him the documents to which I intended to refer.

Mr Adam, please look at the copy of page 115 of the finalised Clackmannan local plan. I was asking you whether you were aware of allocation 18 in the section entitled "Clackmannan—Policies", which concerns

"Safeguarding for rail halt and car park."

You may take reasonable advantage of the comments that the convener has just made.

Tom Adam: Is this not an unadopted document?

Roy Martin: Indeed. This is the finalised local plan that Julie Hamilton indicated may be adopted in the summer.

Tom Adam: I suggest that an attempt is being made to mislead the committee. The policy that is currently adopted is the 1994 policy. In that policy, there is no mention of Clackmannan. The policy relates to the Alloa to Stirling line, but not to Clackmannan. Our position on that issue can be found in the document SAK/S2/04/3/84. I refer to objection 43 in the document submitted by Mr Milligan.

Roy Martin: Forgive me, Mr Adam, but I cannot find it. Where is it in the document?

Tom Adam: Do you have document 84?

The Convener: Is it objection 43?

Tom Adam: It is objection 43.

The Convener: At point 19?

Tom Adam: At point 19.

The Convener: I hope that that is helpful to you, Mr Martin.

Roy Martin: Thank you, sir.

17:15

Tom Adam: It is on the second page of a double-sided document.

Roy Martin: Ah, yes. I beg your pardon. I had not turned over enough pages.

Tom Adam: If you would read that paragraph to us aloud, sir, we would be obliged.

The Convener: Mr Martin is digesting it—we will all digest it.

Tom Adam: We will get the regurgitated version, then.

The Convener: We have to keep to the procedure if that is okay, Mr Adam. Nevertheless, you are making your point markedly.

Roy Martin: I am not sure that there is anything between us, Mr Adam. You are referring to the 1994 local plan with the revisions that were adopted in 1999. That is the document that I asked you about before the break.

Tom Adam: I think that the revisions were adopted in 1997.

Roy Martin: As I understand it—I ask you to confirm this—you are stating that that was and still is the adopted local plan, with whatever allocation there may be, and that the finalised local plan is yet to be adopted. Is that right?

Tom Adam: That is correct.

Roy Martin: Well, I have no difference with you on that.

Tom Adam: I further suggest that the local plan is now finalised in the full knowledge of that which is going to happen—that the railway will open and that it will run between Stirling, Alloa and Kincardine. That is why the plan has been revised; however, that was never the plan at the time that you were describing.

The Convener: You have made your point forcibly, Mr Adam. Mr Martin, do you have any other questions?

Roy Martin: I think not, sir. Subject to your views, I am happy to leave that matter to submissions.

The Convener: That is wise. Does Nora Radcliffe have any questions?

Nora Radcliffe: No.

The Convener: Mr Martin, do you have any further questions?

Roy Martin: I have confined myself, at this stage, to safety and amenity. I have not asked anything about alternatives.

The Convener: We are coming to that. Do you have any further questions on safety and amenity?

Roy Martin: I have no further questions.

The Convener: We move on to the subject of alternative routes. Mr Adam, you will have seen the latest evidence from the promoter, which is contained in paper SAK/S2/04/3/87. Is there anything in that paper, relating to alternative routes, on which you would like to comment in the context of your written evidence?

Tom Adam: If I can use the map that is now being presented to us—

The Convener: Certainly. It is paper SAK/S2/04/3/88A.

Tom Adam: If you look at that map, you will see that the alternative route that we are suggesting should be adopted speaks for itself. The preferred route comes down through a vastly populated area, whereas the route on the outside of the map goes through very little; there are about two houses on that route. It takes away all the problems that would be associated with the railway—the need for bridges, all the attendant dangers, the mitigation and the compensation. All those things would disappear, albeit not completely, as other issues would arise. Nevertheless, it should be apparent to anyone in their right mind that a railway should not be driven through a populated area if another area could be used for that purpose.

I am bound to say that my knowledge of the Clackmannan area—and I make the point that we are speaking only about the Clackmannan section—tells me that it is the only area in which a significant difference like that could be made. It would assist people in Clackmannan to preserve their quality of life, maintain all their amenities and so forth and still give the promoter everything that it wants in the railway.

The big difference would be the element of new railway. The new-build element would be a couple of miles of rail line and it would have an additional cost—presumably. I say “presumably” because I am not convinced that, in making the Scottish transport appraisal guidance 1 appraisal for the alternative route, the promoter took into account the savings that could be made by not adopting its preferred route. At the end of the day, an assessment would have to be made of what the true costs are likely to be.

The Convener: Do you have any questions for Mr Adam on alternative routes, Mr Martin?

Roy Martin: I have one question on the subject, which, in a sense, I think that you have accepted, Mr Adam. Whatever the option, I am sure that we will remain in disagreement about it. However, as was discussed at the previous stage of the process, I think that you acknowledge that the promoter carried out the STAG 1 assessment of the options at various locations, including at

Clackmannan.

Tom Adam: A STAG 1 appraisal has been done.

Roy Martin: Do you accept that, in principle, the alternative routes follow the existing railway, with the disadvantages that you have pointed out so eloquently? Do you also accept that, at least in part, the alternative would be a new-build railway, in a cutting and on an embankment, through agricultural land that would link up with the line to the north?

Tom Adam: Yes. Nevertheless, what has to be taken into account, even in terms of the new land take and the effect that that might have on the environment, is the benefit that our proposed route would give the individuals—the people who live in Clackmannan—who would otherwise have to live in the environment of the proposer's preferred route. It may be that there are no badgers in the area, but that other wildlife and so forth might be affected. Nevertheless, the people of Clackmannan would derive a great benefit in terms of their quality of life. I keep repeating that, but the quality of a person's life is the most important thing that they have. If a part of the environment has to be sacrificed for that purpose, the promoter should put that in the balance and consider it.

Roy Martin: Indeed—that is a fair point. You would like the quality of life of the people of Clackmannan to be put in the balance. Is that right?

Tom Adam: That is correct.

The Convener: Does any member of the committee have a question?

Rob Gibson: Mr Adam, you will be aware that, if the alternative route was followed, planning constraints, which specify that the land is to be used for agricultural purposes and so forth mean that the route—should it disturb that existing use—could well be contrary to the local plan. Were you aware of that when you proposed the alternative route?

Tom Adam: Yes, I was aware of that.

Rob Gibson: Therefore, you were aware that any pursuance of the alternative route might be difficult to achieve because of the high-grade nature of the agricultural land through which the land take would have to go.

Tom Adam: Well, it might be difficult, but I am quite sure that it would not be impossible. The plans are not set in stone; they can be changed. Various plans have come and gone and, in the light of the circumstances, alterations have to be made. If such a change would be for the benefit of the people who live in the area, I am sure that it

would not be an insurmountable problem.

The Convener: Do you have any further questions, Mr Martin?

Roy Martin: No.

The Convener: I thank Mr Adam and the other two objectors. We will move on to the next witnesses, who are Mr O'Neill and Councillors Stewart and Calder; Mr Adam will lead their evidence. We will take a one-minute break so that people can change seats.

17:25

Meeting suspended.

17:26

On resuming—

The Convener: Good afternoon, gentlemen. Before we start taking evidence, I invite Mr O'Neill and Councillors Stewart and Calder to take the oath or make a solemn affirmation.

MARTIN O'NEILL MP *made a solemn affirmation.*

COUNCILLOR DEREK STEWART *and* COUNCILLOR WILLIAM CALDER *took the oath.*

The Convener: Mr Adam, do you have any questions for Mr O'Neill, Councillor Stewart or Councillor Calder?

Tom Adam: Yes. Does the order in which I question them matter?

The Convener: You choose the order.

Tom Adam: Mr O'Neill, you are the member of Parliament for Ochil, are you not?

Martin O' Neill MP: I am.

Tom Adam: Did you attend the meetings in Clackmannan that the Clackmannan railway concern group held?

Martin O'Neill: I certainly attended one, but I think that the others were held at times when I could not attend. However, I normally arrange to meet you and your colleagues on the Friday after or the Monday before the meetings, so that I can keep in touch with the feelings of people at the meetings, which are running high, and your general approach to the issue.

Tom Adam: The railway concern group invited you to the meeting that you attended.

Martin O'Neill: I am not sure whether the invitation came from you. There was a kind of spontaneous combustion of community concern and I think that you were part of that process. You came along and asked me whether I would attend the meeting. I think that Richard Simpson, who was then the MSP for the area, and I were present

at the meeting.

Tom Adam: Did the bill's promoter ever invite you to attend any of the meetings?

Martin O'Neill: I was at another meeting some time before—I say "before" because there was a period when the line was being promoted on the basis of a comparatively small amount of freight traffic going down to Longannet power station, which was regarded as a more efficient way of transporting the sweetener coal. That was prior to March 2002, when the Longannet mine closed and all the fuel consumed by Longannet power station had to be brought in from outwith the mining complex, which had employed a large number of people in the area. Two timescales are involved. I got a briefing from Babbie and others prior to the outbreak of local concern that followed the closure of the Longannet mine.

17:30

Tom Adam: When you attended the meeting to which we invited you, what was your impression of the public's mood at that meeting?

Martin O'Neill: It was very much the kind of mood that is found at any planning or development-related inquiry when people are not clear about what is going to happen and certainly do not like what they are clear about. The meeting was robust, but everyone was given a good chance to express themselves. It was not the kind of meeting that people left any the wiser, but they certainly left a wee bit better informed.

Tom Adam: Did you feel that people were in support of the freight line travelling through Clackmannan?

Martin O'Neill: That is like asking whether the Pope is a Catholic. Certainly, everybody at the meeting was there because they were opposed to the freight line, apart from one or two people whose job it was to promote the freight line. Everybody else was sceptical at best and very much opposed to it at worst.

Tom Adam: Can you recall what the estimated cost of the project was when you attended that meeting?

Martin O'Neill: The figures for the line from Alloa to Kincardine and on to Longannet were about £7 million or £9 million. If there has been one constant factor over the years, it has been the inadequacy of the financial planning of any of the promoters of any of the projects. Frankly, I have not paid too much attention to the figures. Over 20-odd years of pursuing the issue, I have never seen the figures go down; they have always gone up. I am cynical about the figures because they are manipulated by whoever wants the project, whether that is the local authority, whose figures

were far too low at one stage, the old British Rail, or Railtrack, which went over the odds and had to be dragged back. I think that the figure that you asked about was around £7 million.

Tom Adam: I meant the total cost of the project.

Martin O'Neill: Do you mean from Stirling right the way through?

Tom Adam: Yes.

Martin O'Neill: Railtrack brought the estimated cost up to about £26 million before there was a requirement for excessive dependence on freight. However, as I understand it, the significance of freight was not reflected in the capital cost because it was estimated that freight would be a greater source of revenue for those who were promoting the scheme. That meant that the initial capital cost could be underwritten against a likely revenue that would be that much higher. Railtrack did not increase the estimated cost of the rail link much after the information came through about the requirement for an increased number of freight trains to Longannet.

Tom Adam: In your recollection, would it be true to say that the estimated cost was about £25 million at that time?

Martin O'Neill: The first section was £25 million or £26 million and then a bit was added on for additional works.

Tom Adam: Perhaps you can recall that the Meadowend loop was discussed at the meeting that you attended. It was estimated that the cost involved in that would be about £4 million to £5 million. The total estimated cost of the railway, excluding that figure, went up at that time. Can you recall by how much the estimated cost went up? I am sorry to be asking you for such figures.

Martin O'Neill: Frankly, that is not part of the argument that I prepared for today. I remember that the figures went up, but they tended to go up regularly. The figures can be tracked because they are all a matter of public record. I am sure that the promoter will be able to provide you with the figures.

Tom Adam: Perhaps I can remind you that the projected increase was £12.5 million. Did you receive any indication that that affected the business case for the railway?

Martin O'Neill: The volume of freight was the most persuasive element in the business case, because higher revenues from the rail link would present a chance to fund the passenger element. The primary objective was always to open the rail link between Stirling and Alloa for passengers; anything that could be achieved in relation to freight traffic was considered a bonus. However, the scheme was regarded as having assumed a

totally different complexion when it became a question of up to 30 full freight trains a day.

Frankly, to judge from the evidence that has been heard today, it seems that people do not realise that a passenger link was proposed first, then a passenger link with a small freight element and then a freight link with a small passenger element. Public concern about that has not been properly reflected. The public were prepared to thole quite a lot, but they were not prepared to thole the freight, although enhanced freight would certainly sort out the economics of the project—at least in some respects.

Tom Adam: You have been involved for a long time in arguments about the passenger service—you have seen those arguments rise and fall. I know that you have partially answered this question, but what eventually triggered the whole thing off?

Martin O'Neill: It was the return in 1997 of the Labour Government, which had a different attitude—you probably expected me to say that. Before that, in about 1992 or 1993, Central Regional Council came out in favour of the railway for the first time. In the late 1980s, Clackmannan—

Tom Adam: Do you mean that Central Regional Council said that it favoured a passenger link?

Martin O'Neill: Yes. Until then, there had been almost total opposition within the council. Although the council's plan included the retention of the line, the council was certainly not actively promoting the line as a mode of transport for passengers or freight. Central Regional Council went to sleep for a decade—some might say that it was asleep for longer than that, but it was certainly asleep on the issue from 1983 to around 1993—until it developed a new transport plan that included the concept of a north Forth link, which would run from Stirling, through Alloa, to Dunfermline, Rosyth or Inverkeithing.

The Convener: May I interject? Mr Adam, it would be very helpful if you could focus your questions to Mr O'Neill on the written evidence, which I guess mentions alternative rail routes.

Tom Adam: Do you have a copy of the document, Mr O'Neill?

Martin O'Neill: Yes, I think that I have the one that you are talking about.

Tom Adam: Would you like to lead yourself through that document?

The Convener: I think that you must ask the questions, Mr Adam. The document is numbered SAK/S2/04/3/49.

Martin O'Neill: Are we talking about the Clackmannan bypass option appraisal, which

contains the map that has the three options marked on it?

The Convener: I was referring to your written evidence, Mr O'Neill.

Martin O'Neill: Oh, I see. Fine.

The Convener: I make the point just for the record. Please continue, Mr Adam.

Tom Adam: Mr O'Neill, you say in your written evidence that the closure of the Longannet mine really triggered the whole thing off.

Martin O'Neill: That is correct.

Tom Adam: In what way?

Martin O'Neill: If we were talking about a small number of trains coming every day or perhaps several times a week, I do not think that the implications in relation to safety, annoyance and the loss of amenity would have been on the scale that is now envisaged, given that we are talking about in the order of 30 train journeys a day. Fifteen of those trains will be full and 15 will be empty, although I am not sure what the difference is in convenience terms between when they are full and when they are empty. If there were 30 journeys a day, there would be a problem. That was what triggered off the debate.

Tom Adam: Are you of the view that an alternative to the route that has been chosen would be a good idea?

Martin O'Neill: It would be desirable, but I am not sure that it would be achievable, in the sense that, at the moment, it appears that any cost-benefit analysis cannot take account of compensation and mitigation in any serious way until the legislation is passed. At the same time, we know that that would be a feature of the use of the existing line, because something will have to be done to help my constituents in the town of Clackmannan. On the other hand, I am very suspicious of estimates and the way in which they tend to go northwards when it comes to a new rail link—especially as we are talking about an area in which so little of such work has been done for so long.

Tom Adam: How do you think that compensation should be handled?

The Convener: I do not think that that is particularly relevant to the evidence that has been submitted. I invite you to focus on questions that relate to Mr O'Neill's submitted written evidence.

Tom Adam: Thank you.

Mr O'Neill, you will be pleased to know that it has been agreed that a comprehensive survey of some homes and properties on the line will happen.

Martin O'Neill: My only comment on that is how we determine what "some" amounts to. "Some" houses can mean seven houses or it can mean 200 houses. One would like to think that we would be given a clear indication and that there would be agreed criteria, which would enable us to have a number of houses surveyed such that, if things were to go wrong, there would be confidence that people could be helped.

Tom Adam: That is all.

The Convener: Mr Martin, do you have any questions for the objectors?

Roy Martin: Good afternoon, Mr O'Neill. I want to be absolutely clear about the position. I understand your submission to mean that you are saying that, in relation to the need to bring coal to Longannet power station, a critical event was the unfortunate closure of the deep mine in March 2002. Is that correct?

Martin O'Neill: Yes, because it was at that point that the volume of trains was going to increase dramatically. Prior to then, I do not think that the problem was quite as serious, because the trains would not have been as long, would not have carried as many tonnes of coal and would not have been as frequent as is now anticipated.

Roy Martin: Is that because, in the past, the quantity of coal that was being brought—which came principally from opencast sources away from Longannet power station—was necessary simply because it was used for sweetening or adding to the deep-mine coal? Once the deep mine closed, all the coal had to come from elsewhere. Is that fair?

Martin O'Neill: That is correct. The amounts involved were comparatively small, initially.

Roy Martin: In your submission, you refer to the anxieties that were caused by the freight proposals, which are entirely understood. You go on to say:

"In the light of the costings produced for any of the other options, I am forced to the conclusion that a Clackmannan Bypass would be prohibitively expensive."

In that respect, you ask for account to be taken of matters such as proper surveying of homes, compensation and insulation.

Martin O'Neill: That is my position. I am very suspicious when people start considering alternative options. Experience suggests that those figures are subject to inflation that is of a dubious character. I am not necessarily convinced that anyone will pin down the issues sufficiently effectively to get an alternative to the line that we are dealing with today.

17:45

Roy Martin: I do not want to take a lot of time to debate other examples of the phenomenon that you have just described. However, if there is really no alternative to the existing route through Clackmannan, is it fair to say that you would want to be assured that the committee had been assured about matters such as insulation and safety to the extent that the committee can make compensation arrangements and so on?

Martin O'Neill: Yes.

I want to make one point that I do not believe has been aired properly today. We are talking about a community for which the intrusion of the railway will be completely alien to most people's experience because there are no trains going through Clackmannanshire—there has been none for more than 20 years. Generations of children and children who are now parents have grown up with no experience of trains going by, so there is understandable ignorance in the community. There is a cultural change that will have to be addressed rigorously when it comes to questions of community safety. I am not certain about the complacent approach that has been suggested today, which seems to suggest that all communities know about trains

I have spent 25 years trying to get Clackmannanshire communities exposed to that experience, but they have not been and, as a consequence, there will have to be a massive programme of public education in schools and in the communities to prevent carelessness and violence. The big worry is more about carelessness than violence, and about the intrusive character of the rail connections coming through the county.

Roy Martin: Is it fair to say that, in addition to the items that you referred to in your statement, you want to put before the committee the need for education as a consequence of the trains?

Martin O'Neill: I think that I have alluded to that in passing, but have not been quite as explicit as I just was. However, I did make a point about children, which is particularly important because there are several play areas in the quiet village that are all too close to what might become a very busy rail link.

Roy Martin: Thank you.

The Convener: Do members of the committee have any questions?

Nora Radcliffe: I have a question for Councillor Calder, who I believe is the convener of development services on Clackmannanshire Council.

Councillor William Calder (Clackmannanshire Council): That is correct.

Nora Radcliffe: I am not sure of the extent to which you have seen the promoter's evidence that reopening the railway line will bring measurable economic benefits to Clackmannan. If the promoter is correct in that assertion, a balance has to be struck between the benefits, including those that might flow from taking coal to Longannet on to the railway and off the road, and the local environmental disbenefits for the residents of Clackmannan. As convener of development services in the council, you will be familiar with balancing such contrary indications; balances often have to be struck that involve difficult decisions. If the promoter's assertions about the benefits of reopening the railway are correct, would you still take the views that you express in your evidence and, if so, why?

Councillor Calder: I have considered the balance and the benefits and I do not think that the benefits outweigh my views about the railway going through the village. My statement says that if it was the only possible route, I would support it fully, especially if all the other worries that have been expressed by the people who live in the village were taken into consideration and sorted out. I am talking about worries such as air pollution, noise, safety compensation, speed of trains, types of wagon and closeness.

I have been at all the meetings with the Clackmannan railway concern group and I have also been over to Hunterston. From there we went to a street in a village through which fully loaded trains pass. The houses were about 30m from the track. We were told that a train would come along in five minutes, so we waited. I was 10m away from it and it just about knocked me off my feet.

I did not want to listen only to what the railway people had to say to me, so I chapped on the doors of houses. Roughcast was coming off the walls and the lintels over the windows were cracked. People cannot put ornaments on upstairs windowsills because they are shaken off.

I hear what has been said about benefits to Clackmannan, but I do not know what the benefits to Clackmannan are—we have been totally misled. Everybody in Clackmannanshire was led to believe in, and fought for, a railway that would come to Alloa. People fought for that for years, but freight was not mentioned. The railway's coming to Alloa and freight's being included is fair enough, but we now find that it will go right through our village.

I am the local councillor, so will talk about our village. Clackmannan is caught in a time warp—nothing happens in it. There is no development. There are new houses here and there, which is

fair enough. A train would have to go underneath four bridges in Clackmannan. The parapet walls of those bridges are 3ft high. People have said, "I know what to do—build them 6ft high." We are talking about a scenic wee village that has churches, castles and tollbooths. Clackmannan's motto is "Look about ye", which you can see on badges.

A train would run past right on the boundaries of the play areas—the fence would be right on the boundary. What will happen to our village? Palisade fencing is to be put up right through it; there will be spiked fencing just to keep the bairns away from the track. A 6ft high wall will be built across all our bridges. Can you imagine the state of Clackmannan? We sought to preserve it and keep it right and we do not want anything undesirable in it.

A chimney up at the old brick works in Clackmannan has been mentioned. I have heard that the local farmer has been told, "We want to keep that," but he has been knocking it down for the past three years and selling the bricks. It is sitting there and is dangerous. I would not let kids go in it because it is a tunnel and a fire-risk environment, but people want to save it.

Correct me if I am wrong, but people want to save red-breasted newts, frogs and badgers. I have stayed in Clackmannan for 50 years and have never seen any of those. I will need to open my eyes. I do a lot of fishing.

Councillor Derek Stewart (Clackmannanshire Council): Look about ye.

Councillor Calder: The provost has just taken the words out of my mouth. I say to people, "Look about ye." That is our environment.

I will tell the committee straight and from the heart: if the route that we are talking about was the only route that the train could go on, given all the circumstances and people's concerns, I would support it. All that I am trying to say is that there is an alternative route.

The Convener: Thank you, Councillor Calder. Your argument has come full circle and you have put your case forcefully. Mr Martin, do you have any questions to ask either of the two council witnesses?

Roy Martin: I do not. I thank you very much, gentlemen.

The Convener: Mr Adam, do you have any further questions for the witnesses?

Tom Adam: I have a question for Provost Stewart. Councillor Stewart, you abstained in the original vote on 18 December when the first proposal was made. Why did you do so?

Councillor Stewart: As you rightly say, the

paper on the rail track went to the council on 18 December. Councillor Calder and I voted against it basically because we did not think that there was enough evidence at that time to support the rail track coming into Clackmannanshire. We were also waiting for the environmental assessment report, which had been requested by the Clackmannan railway concern group. The report had been requested around five or six times at each public meeting that was held in Clackmannan and Kincardine, but it was never made available. Therefore, we did not think that it was appropriate at the time to make a final decision on the matter until we received the full facts and information. In addition, as part of the public consultation that was taking place, we felt that we as councillors had a duty to listen to all sides of the argument from the people in the two communities. We listened to the response of the people of Kincardine and Clackmannan. That is why we voted against the paper at the time.

Tom Adam: There was a bit of a rush, was there not? Why were people trying to push the proposal through at that stage?

Councillor Stewart: A tight timescale was required in order to get the paper through the first stage in the Scottish Parliament, which is why there was a rush. People were under a degree of pressure to meet that timescale. Whether that timescale was right will be proved in the longer term. I think that the timescale was too tight.

The Convener: Mr Adam, I believe that Councillor Stewart's written evidence is on the alternative route. Perhaps you would like to focus on that when you are asking him questions.

Tom Adam: In his extensive statement, Councillor Calder covered a lot of issues relating to that matter, which is why I wanted to develop another area.

The Convener: I understand that, but Councillor Stewart is here to answer questions on the evidence that he has submitted to the committee, so would you be kind enough to focus on that? You do not have to ask any further questions if you do not want to.

Tom Adam: Councillor Stewart, in your evidence, you estimate that the cost of the alternative route will be between £5 million and £7 million. How do you feel about that?

Councillor Stewart: One of the sad facts is that, at every public meeting that we attended in Clackmannan and Kincardine, we heard such a variation in prices that nobody, not even Railtrack, was prepared to put a price on it. The people in the communities repeatedly asked how much a bypass would cost. One week, in Kincardine, they were told that it would cost roughly £4.5 million and the next week, in Clackmannan, they were told that it would cost between £6 million and £7

million. The difference in the figures appeared to depend on who was sitting at the top table in the two communities.

Tom Adam: You do not think that that would be too high a price to pay, do you?

Councillor Stewart: No, I do not think that it would. Councillor Calder covered that quite clearly in his statement. The consultation was quite broad and objections to the proposal were raised by quite a few people in my surgeries, by mother and toddler groups, by senior citizens and by others. However, at the end of the day, listening to the views of members of all the communities, I felt that the alternative route was justifiable. As my colleagues have said, the bypass might save a life. There is a serious issue relating to our commitment to safety.

Councillor Calder did not mention the sound of the train, but I will. I thank the company for allowing us to visit. It was absolutely frightening—one minute we were standing there waiting for the train and, 10 seconds later, the train was whizzing past us. Very little sound came from that train.

We have been told that new technology will be made available, new track will be laid and so on; that is all okay as far as it goes. However, given the attraction of the railway line to kids in that area and the fact that people will be sitting in their back gardens and so on, we should be concerned about the suddenness of the noise of the train, because when it hits, it is loud and causes vibration.

If we can alleviate that kind of problem for the people in Clackmannanshire, I do not, at the end of the day, think that £5 million—or whatever the final figure might be to create the bypass—is too much to pay. It will be money well spent for the people of Clackmannanshire.

Tom Adam: That was your impression of that train in an open area. Could you estimate how fast that train was travelling?

Councillor Stewart: We were told after the train had passed that it was going at around 35mph to 40mph. It seemed faster than that when we were standing there because, as I said, it came quickly. I would hate to think of that train going through Clackmannan as fast as that. The bypass would provide an alternative route.

Tom Adam: I do not know how to put this exactly, because we have not had the opportunity to question anyone who went on the second visit, which is the one on which members of the committee went. At that visit, the train was much quieter and, as I understand it, the speed was reduced and, indeed, there were fewer wagons on the train that we saw than were on the one that you saw. It is difficult to put this to you—

The Convener: Mr Adam, if you put your point

in the form of a question, that would be helpful. You are in danger of giving evidence; please ask questions.

Tom Adam: I am struggling to make a question out of the matter. I will leave that point.

The Convener: We will have questions please, if you have any more.

Tom Adam: I have no further questions for the witnesses.

The Convener: Mr Martin, do you wish to question the witnesses?

Roy Martin: No. I thought that I had made it clear that I am perfectly happy.

The Convener: I thought you had, too. That is fine.

We will now take a short break to allow Ms Martin and Mr Milligan to take their seats.

18:01

Meeting suspended.

18:03

On resuming—

The Convener: I thank Ms Martin and Mr Milligan for attending. They are here to give evidence for the group 4 objectors. Mr Milligan will give evidence on human rights and consultation and Ms Martin will give evidence on the issue of proximity of property to the railway. We will take the three issues separately, starting with the proximity of property to the railway line.

I am sure that the witnesses have a good idea of the procedure by now. Ms Martin, in the light of the promoter's evidence in paper SAK/S2/04/3/87, do you want to highlight anything in or add to your group's evidence?

Kathleen Martin: No, I have nothing to add.

The Convener: Do members have any questions?

Members: No.

The Convener: Mr Martin, do you have any questions?

Roy Martin: No. I will not take up time by putting questions.

The Convener: Okay. We now move to the subject of consultation. Mr Milligan, in the light of the promoter's evidence in paper SAK/S2/04/3/87, do you want to highlight anything in or add to your evidence?

Donald Milligan: I do not have much to add. I will keep my comments mercifully brief, given the

time. We acknowledge that a consultation process has been carried out, but we maintain our written objection that the promoter has not engaged properly with people. There is a difference between following procedure and ticking boxes, and engaging with concerned residents.

Rob Gibson: Everyone agrees that a consultation has been carried out, but you take a different view from that in Tara Whitworth's submission on the issue. There is a clear difference of opinion about the level and quality of consultation. I want to give you a chance to respond to the comments in Tara Whitworth's written evidence. We do not need to examine the evidence in detail, but the general point is that extensive individual consultations were undertaken during the preparation of the bill and after its submission.

Donald Milligan: Instead of going over the spread of individual objections, I will give my experience of the consultation. At the beginning of the process, before I realised fully the scale of the project, I sent a fairly nice e-mail to Scott Wilson. I was clear that I was not being a nimby and that I wanted to hear what the project was about, but I received no reply. I then addressed a letter to the project leader in Scott Wilson to try to elicit a response, but I received no reply. I then asked Babbie to intervene on my behalf, which it did, but following that, I received a bland letter from Scott Wilson that made no attempt to answer the concerns that I had raised. I then transferred the letter to Babbie and asked it to answer specific health and safety points that related to my property, but I received no response.

I am happy to hand over the correspondence to the committee so that it can check the veracity of my statement. Eventually, I wrote to Tara Whitworth to say that it was obvious that I would not get anywhere with her and that I would take up the issues with Babbie's client, the promoter, which is Clackmannanshire Council. I have an extensive set of correspondence with Keir Bloomer, with absolutely no resolution on any of the points that I raised. For example, as the committee was kind enough to visit my home, members will remember that I have a 2m-high hedge in my back garden. In 2002, I asked exactly how I am supposed to cut the top of that hedge while standing on a ladder when a train comes thundering past a few metres away at 60mph. I am still waiting for an answer to that.

That is the level of the consultation. The fact that every objection that has been received highlights concerns about the level of consultation speaks for itself. The fact that people have been happy to pay £20 to let the committee know that the consultation was lax, speaks volumes about the way in which the promoter has handled the

process.

Rob Gibson: It is important that we had that answer for the record.

Roy Martin: Mr Milligan, I will not question you on your particular experience. Have you, either as an individual or as a representative of group 4 objectors, considered Tara Whitworth's evidence? Her evidence referred to correspondence dates and so on. If you have considered that submission, do you have any reason to disagree with the evidence on the intention to consult by way of correspondence?

Donald Milligan: The issue comes back to what I was saying about going through a process. I have considered Tara Whitworth's evidence on the wider picture, but I assure you that all the objectors to whom I have spoken feel exactly the same way. They write in with the specific problems that they have with their property and they tend to receive a bland reply along the lines of, "You should be thinking of the greater good of Clackmannanshire." Everybody to whom I have spoken has had exactly the same experience. I appreciate what Tara Whitworth said—that the promoter has gone through the process—but I do not believe that the promoter has engaged.

Roy Martin: From your evidence earlier, I understood that you were withdrawing the suggestion that the objectors had been treated poorly by Ms Whitworth in particular, and that you were referring to comments made by a member of the council. Are we distinguishing between comments that might have been made by members of the council, which perhaps not unreasonably caused upset, and the attempts—whether or not they were sufficient—by Ms Whitworth and others to provide information?

Donald Milligan: I was extending a courtesy to Ms Whitworth. As someone who is involved with projects on a daily basis, I know what it is like to be in Ms Whitworth's position. I was saying that the complaint that objectors had been treated with arrogance and contempt was not levelled at Tara Whitworth. However, that is entirely different from saying that Tara Whitworth did not indulge in a ticking-boxes consultation exercise.

Roy Martin: I am happy to leave it at that, Mr Milligan.

The Convener: Mr Milligan, we move now to the subject of human rights. As for the other topics, do you wish to add to your evidence in light of the promoter's evidence?

Donald Milligan: I will be brief on the topic. We have set out our stall on potential breaches of human rights. There is obvious disagreement between that and the written evidence from the promoter. I go back to the point that how one interprets cases depends on which side one is

acting on behalf of—in relation to possible future breaches, on noise pollution, for example. The only way in which we can sort out the problem is through some independent counsel's opinion or if someone goes to court in the future. At the moment, we stand by our written evidence on that matter.

Roy Martin: Mr Milligan, you are clearly entitled to take such steps as you have described—perhaps challenging the case in court. However, may we take it that you acknowledge that, whether or not you agree, the promoter has addressed human rights issues and that, to some extent, the committee has made a finding after the preliminary stage of the bill process?

Donald Milligan: We did not get the full clarification of the committee's finding after the preliminary stage, but we accept that the promoter has gone through a process with its counsel and legal representatives to ensure that it has gone through a human rights check that would be applicable to its case.

Roy Martin: As far as land take is concerned—this is no doubt a consequence of using the route of the existing railway line—do you agree that three relatively small areas of land would be acquired permanently if the existing route were chosen?

Donald Milligan: The human rights objections that were lodged in the objectors' written evidence did not turn on land take; they were to do with the local authority as a public body breaching human rights and the loss of amenity.

Roy Martin: I acknowledge that it might not be relevant for your purposes, but is it correct that relatively little land take is necessary because an existing alignment would be used?

Donald Milligan: I agree.

Roy Martin: In so far as the position of the local authority as the promoter is concerned, can we agree that it may often be the case—and that legal submissions can be made—that a local authority will have functions that overlap at the very least? For example, education and roads might conflict with planning and building control, which is mentioned in Julie Hamilton's precognition. Do you agree that such possibilities exist in other situations?

Donald Milligan: Yes. As an ex-local authority employee and principal officer in economic development working alongside Clackmannanshire Council at times and working alongside Jackie McGuire on joint venture companies, I appreciate that that can be the case. However, this process is all fairly new and the bill is the first of its type. The committee would want to ensure that the council's ability to act on the

matter is beyond reproach.

18:15

Roy Martin: That is fair. We are all learning in this process, Mr Milligan. Thank you very much.

The Convener: Thank you, Mr Martin. That concludes the questions for witnesses in group 4. I will now give Mr Adam up to five minutes to make any closing remarks that he has on the evidence from group 4 objectors.

Tom Adam: Thank you, convener. I am here today representing 300 objectors, most of whom are defending their right to a reasonable quality of life in their own home. They have no other axe to grind; they have no career ambitions, no profit motive nor any desire for a place in history. We are supported by our member of Parliament, the provost of Clackmannanshire Council, our local councillor, the Clackmannan community council and a substantial number of Clackmannan people.

In order to understand the problem, we first have to separate in our minds the Clackmannan section of the track from the rest of the project, because of its uniqueness and the circumstances that prevail. To my knowledge, that section is the only one between Stirling and Kincardine where an alternative route is available for consideration. It is not imperative that the route pass through Clackmannan and there is no doubt that the alternative, less populated and safer route could be chosen if there was the political will to do so. It has not been disputed that the desired objectives of the promoter can be achieved by either route.

The project is solely commercially driven, with little or no consideration given by the promoter to the well-being of the individuals in the community affected by it. That is shown by the promoter's attitude and response to our human rights claims, which were swept aside almost as an annoying irrelevance. Given my colleague's evidence, I do not think that the European Court of Human Rights will take the same view.

The Executive has invested heavily in a campaign against antisocial behaviour and the First Minister has said:

“Most of all ... anti-social behaviour in all its forms is not acceptable in Scotland any longer.”

What is more antisocial: a neighbour playing loud music, which we can do something about, or a heavy freight train passing our door every half hour from morning until night, which we will not be able to do anything about, especially considering that it could be avoided in the first place? Those are both forms of antisocial behaviour. As recently as 12 November 2003, a Scottish Television news report expressed serious concerns about the current level of vandalism on Scottish railways,

reporting that over the previous eight days there had been four acts of dangerous vandalism. In Elgin, a train hit a scaffolding pole placed on the line; in Grangemouth, missiles were thrown at a passenger train, smashing several windows; at Croftfoot, children were caught on film playing with bicycles on the line; and in Maybole, a train hit a quad bike that was placed deliberately on the line—it was just down to luck that the train was not derailed. It might be claimed that a serious accident is unlikely to happen. That might well be so, but why take chances with our lives?

I could not help but notice the level of security at the entrance to this hall when I came in, with body searches and the use of electronic search equipment. I asked myself what were the chances of an assassin or suicide bomber attempting to gain entry and my answer was that it was highly unlikely. Nevertheless, it could happen, so it is better to be safe than sorry. Convener, we ask only that the same level of concern that you have for your safety be extended to ours.

I recall that at the opening of the Parliament, one of our national poet's songs, "A Man's a Man for A' That", was sung to great effect. I will give you another Robert Burns quote. In letters to Dr John Moore, Burns said:

"Whatever mitigates the woes, or increases the happiness of others, this is my criterion of goodness; and whatever injures society at large, or any individual in it, this is my measure of iniquity."

As usual, a few words from Burns sum up succinctly what we have been trying to convey to you today. We urge the bill committee to recommend our route amendment to the Parliament in order that between us we can preserve the quality of life of the people who live in our community. Thank you for your indulgence.

The Convener: Thank you for those eloquent words. That concludes today's business. Before I close the meeting I thank all the witnesses and their representatives for their attendance and contributions. It has been a long day, but I am sure that it has been worth while. The committee will consider all evidence in due course. It shall start taking oral evidence in respect of the next groups on Monday 15 March, at approximately 11.15 am.

Roy Martin: If you will forgive me, convener, I just want to say that I do not think that I will be present next Monday. I make it clear that that is because I have a pre-existing professional commitment, which I think I shall be unable to rearrange. I mean no discourtesy to the committee by not attending. It is just possible that I will be there, but I am certainly instructed to be at the subsequent Monday sessions.

The Convener: I accept that entirely, Mr Martin. No discourtesy will be inferred. On that note, I close the meeting.

Meeting closed at 18:20.

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