



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

FORTH CROSSING BILL COMMITTEE

Wednesday 3 March 2010

Session 3

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FORTH CROSSING BILL COMMITTEE
3rd Meeting 2010, Session 3

CONVENER

*Jackson Carlaw (West of Scotland) (Con)

DEPUTY CONVENER

*Hugh O'Donnell (Central Scotland) (LD)

COMMITTEE MEMBERS

*Joe FitzPatrick (Dundee West) (SNP)

*David Stewart (Highlands and Islands) (Lab)

*attended

THE FOLLOWING GAVE EVIDENCE:

David Brewster (West Lothian Council)

Martin Gallagher (Queensferry and District Community Council)

Mike Glover (Transport Scotland)

Richard Greer (Transport Scotland)

Frazer Henderson (Transport Scotland)

John Howison (Transport Scotland)

Andy Mackay (Transport Scotland)

Graeme Malcolm (West Lothian Council)

Bob McLellan (Fife Council)

Mary Mulligan (Linlithgow) (Lab)

Marshall Poulton (City of Edinburgh Council)

Margaret Smith (Edinburgh West) (LD)

Tom Stirling (City of Edinburgh Council)

Evelyn Woollen (Newton Community Council)

CLERK TO THE COMMITTEE

Sarah Robertson

LOCATION

Committee Room 6

Scottish Parliament

Forth Crossing Bill Committee

Wednesday 3 March 2010

[The Convener *opened the meeting at 10:32*]

Decision on Taking Business in Private

The Convener (Jackson Carlaw): Good morning. Welcome to the third meeting of the Forth Crossing Bill Committee. I will remember to say this week what I did not remember to say last week and invite people to switch off their phones and BlackBerrys, as they interfere with the technical equipment.

Agenda item 1 is a simple decision on whether to take in private item 3, which is consideration of oral evidence. It might be helpful if, rather than repeating the process at each meeting, we reach a blanket agreement to take that item in private each time. Are we agreed to consider oral evidence in private at each meeting?

Members *indicated agreement.*

Forth Crossing Bill: Stage 1

10:33

The Convener: I advise those following our procedures elsewhere that we will follow the same format as previously. We again have three panels of witnesses from whom we will take evidence. Some of our panel members are now season ticket-holders for our proceedings, so we welcome back some witnesses from last week. This morning, we will take oral evidence on the general principles of the Forth Crossing Bill and will concentrate on the proposed road infrastructure to support a new crossing; how the routes would impact on communities; what those impacts might be; and how such impacts might be managed.

For our first panel, we welcome back Graeme Malcolm, the head of transportation at West Lothian Council, who is joined by David Brewster, the council's senior environmental health officer. We also welcome back Bob McLellan, the head of transport services at Fife Council, and Marshall Poulton, the head of transport at the City of Edinburgh Council. With Mr Poulton is Tom Stirling, the City of Edinburgh Council's environmental protection manager.

We will move straight to questions. Do you think that the layout of the approach roads to the bridges offers the greatest benefits to all types of bridge user, such as commuters, local businesses and long-distance freight operators? If not, how could the layout and specification be improved? I am looking straight at Bob McLellan, so I will let him kick off.

Bob McLellan (Fife Council): From a Fife Council perspective, we are happy with the layout per se on the north side of the bridge, but we have an issue with the configuration of the transport that would use that layout. Without going into too much detail on evidence that we have already given, the issue comes down to how we get priority for public transport. As we said in evidence last week, although the existing bridge will become a public transport corridor, bus lanes all the way from Halbeath and additional park-and-ride facilities north of the bridge must be an integral and essential part of the project. We are happy with the layout itself.

The only adverse impact will be on Deep Sea World's overflow car park, which will be affected by the new crossing. Obviously, we are looking for a replacement facility with the same number of car parking spaces—approximately 200—as part of the project. That issue and the need for the layout to be able to deal with enhanced public transport are really the only two issues from Fife Council's perspective.

The Convener: I started with Fife Council because I think that West Lothian Council and the City of Edinburgh Council might have somewhat more to say about the other side of the crossing. Who wants to kick off?

Marshall Poulton (City of Edinburgh Council): Like Bob McLellan, we in the City of Edinburgh Council do not have any problem with the road configuration on the south side of the bridge. In fact, I think that the proposed configuration optimises all possible traffic movements both to and from the bridge.

One aspect that we all touched on last week is what intelligent transport systems will mean for the bridge. I think that those should have additional benefits for throughput of traffic on the bridge. To that end, there is a need for a public transport strategy, on which I will not go into more detail as we covered the issue last week. All in all, the proposed road configuration on the south side of the bridge offers, in our opinion, the best opportunities and benefits to all the travelling public.

Graeme Malcolm (West Lothian Council): The proposal for the southern approaches certainly meets the operational needs of the Forth replacement crossing. However, as the committee will recall, option testing was carried out on alternative routes, one of which included a direct link from the Forth replacement crossing down to the M9. During the option testing, I understand that that option was sifted out by Transport Scotland for various reasons, including environmental reasons and cost reasons.

The option that is currently proposed will result in an increase in traffic on the A904 through the community of Newton. That is probably West Lothian Council's major concern about the proposal. Traffic movements will increase partly as a result of development under the Lothians and Edinburgh structure plan but also because of the attractiveness of the new bridge. Given that the proposed option will increase traffic movements through Newton by about 25 per cent, we hope that—if the bill is passed with that option—it will be seen to be necessary to mitigate the impact of the traffic on that community, including the increased noise and the difficulties with parking that residents currently face because of their houses' close proximity to the road. If the community was not already quite so accommodating, there could be quite a lot of congestion in Newton. The residents already take steps in so far as possible to keep their cars off the main road, which is an A-route that forms part of a strategic route from the Grangemouth and Bo'ness area.

The difference between leaving the M9 at junction 2 to travel along the A904 and continuing to junction 1A to go back up to the Forth

replacement crossing—which is the suggested route for strategic traffic—is a considerable increase in travel of about 6km or 7km. The issue is whether drivers will choose to stay on the strategic motorway link rather than come off the M9 at junction 2 to travel along the A904. That is the main concern for the council and for that community.

The Convener: Transport Scotland will be here later to give evidence, and that is one area that I intend we will discuss with it. Have you had any discussion or estimation, irrespective of the mileage involved, of the drive times of the two different connections?

Graeme Malcolm: I have done a quick calculation of the drive times, based on a couple of assumptions. If you take the A904 route from junction 2 to the Forth replacement crossing, the distance is nearly 4 miles, or 6km. The speed limit is currently 50mph, except where the road goes through the community, but if we assume an average speed of 50mph—

The Convener: Sorry, is the limit in the community bit 20mph or 30mph?

Graeme Malcolm: It is 30mph. It has a buffer of 40mph on the west side. As you come from the 50mph zone towards Woodend junction, the limit changes to 40mph and then to 30mph through the village.

Based on those figures, I estimate that the journey time for cars is four and a half to five minutes. I did a test last night and comfortably did it in six minutes. Our heavy goods vehicle traffic is obviously restricted to 40mph on the route, so it would take a minute or so longer. The motorway route is 12km, or about 7.5 miles. With a 70mph speed limit, we are talking about six to seven minutes, so there is a couple of minutes' difference in travel time.

The Convener: That is helpful, thank you.

Hugh O'Donnell (Central Scotland) (LD): I use the A904 junction, and I have some questions about what will happen if the traffic flow to the new bridge continues to come off at junction 2.

What will the impact be of the increased volume of traffic hitting the slip road? As those of you who are familiar with the junction will know, there is a sharp left turn when you come off the slip road and a sharp right turn at the end of the road on to the A904. Even at current traffic levels, it is not uncommon at peak hours to see traffic backing up on to the slip road. Has there been any calculation of the likely increase in that queueing, particularly at peak times, the likely accident hazard, and the change that that represents from the current situation?

Graeme Malcolm: You are correct on the first point. Particularly during the pm peak, there is queueing back from the A904 junction, occasionally to the end of the slip road. I have not yet observed queueing on the slip road itself, but we could assume that, if exactly the same arrangements were in place, there could be queueing up the slip road, which would obviously be a road safety issue for the motorway network.

On accident rates, the junction was a site of concern for the council a couple of years ago. We took out the small westbound diverge lane on the A904, which had encouraged people to overtake through the junction. We had an accident issue at that site, but we have done works and the situation is improving.

We have to strike a balance. The obvious improvement is to change the priorities at the junction and make the minor approach the one from Bo'ness, slowing traffic from that direction. That would improve the operation of the junction, but it would also make it easier for people to choose that route. As a result, more people would be encouraged to come off at the junction. The current priority will put a time penalty into the network, which might encourage people to stay on the motorway.

As for your final question, I have not seen any of Transport Scotland's modelling. I assume that the Paramics model does not show any detail for that distance from the bridgehead, but it seems to indicate actual traffic movements through the junction.

10:45

The Convener: You refer in your submission to the conclusions that were reached with regard to options 1 and 2, and you mention the environmental reasons behind the conclusion on option 2. What was your view on that matter?

Graeme Malcolm: I can understand why, when the environmental statement work was carried out, it was felt that the route alignment through Dundas estate would have had a major environmental impact on the area. For example, there would have been visual intrusion into and severance of major areas of open and agricultural land.

The Convener: Did you think that such concerns were insurmountable?

Graeme Malcolm: I have not been that heavily involved in the development of the option testing. Transport Scotland has employed environmental experts to carry out the work. If a decision is to be based on the positive or negative effects of a scheme all the options have to be compared and considered together.

The Convener: Is it fair to say that you have simply acknowledged the other two options that were proposed but are in fact responding to concerns that arise from the option that Transport Scotland has favoured?

Graeme Malcolm: Yes.

Joe FitzPatrick (Dundee West) (SNP): What are the rest of the panel's views on the intelligent transport system that Mr Poulton referred to? Will it, as Transport Scotland has suggested, keep the traffic flowing?

Bob McLellan: Given Transport Scotland's prediction of a 39 to 40 per cent increase in traffic volumes by 2017, we have to ensure that the system works. Last week, the committee heard evidence about how the system has operated on the M42 and other schemes, and Marshall Poulton himself is an expert on it.

The whole scheme is predicated on the need for additional traffic to move to public transport; if that does not happen, we might replicate the current picture of congestion on the bridge, particularly during peak times, or even make the situation worse. With the proposed linkage of the intelligent transport system on the north side to Halbeath, it is only logical that that links in turn to park-and-ride facilities at Halbeath and Rosyth, because that will ensure, for example, that a significant number of people move from their cars to those facilities and that the system benefits both normal vehicular traffic and bus priority all the way. That would really be a win-win situation, because it should improve public transport times and ensure that buses have priority on dedicated lanes going south across the bridge. Equally, cars should not be delayed as much as they are at the moment. Indeed, the more people who use public transport, the better the balance will be.

Graeme Malcolm: ITS will certainly help. However, we might have some difficulty convincing motorists on the M9 who know the route and have reached the junction at which they wish to exit that they should believe the ITS signs and continue down to junction 1A. Lots of people have local knowledge and many now have satellite navigation, and we need to strike a balance in that respect. For strategic trip movements, people are more likely to go with the signs that they see. There might be a benefit if, as with the signs on the journey into Glasgow now, the timings for reaching various destinations are shown. After all, it gives people confidence if they are told that their journey will take another five or 10 minutes.

The Convener: Or another 55.

Graeme Malcolm: If the information is reliable, people will probably be convinced to stay on the motorway network, because they will not know whether there could be a hold-up in Newton, for

instance. It is therefore about getting a balance. However, we do not really know whether people will stay on the route.

Joe FitzPatrick: Will the system be able to tie into people's satellite navigation devices? Will that be developed?

Graeme Malcolm: Marshall Poulton probably has a bit more experience of that than I do.

Marshall Poulton: The industry is going in the direction that Mr FitzPatrick indicated. The key is the ability to capture information through floating car data and transfer it directly through a control centre into people's sat navs, so that they have an idea not only of the best route to use, but of the traffic congestion on that route. People will be able to plan their journey using both pre-trip and in-trip information.

Bob McLellan referred to something that I touched on at last week's meeting. Intelligent transport systems will have great benefits for the whole traffic flow across the bridge. It is imperative that we mitigate the effect of the forecast 40 per cent increase in traffic by 2017. We do not know what tools Transport Scotland will deploy with regard to intelligent transport systems. Will there be lane control, such as happens with active traffic management on the M42? Will there be control of traffic flow, such as on the M25? Will there be better journey time information, to which Graeme Malcolm referred? There is the opportunity not only to give journey times by car to a destination, but to indicate when the next train will leave for that destination and that it will be, say, 20 minutes quicker. That kind of technology can be deployed, and it will be easy to deploy in future.

I have a concern that I tried to raise last week. We are looking at 66,000 vehicles per day crossing the bridge just now, and Transport Scotland's figures are for 92,000 per day in year 1 after the new crossing opens. However, the same number of vehicles would get to their destinations a lot quicker. The theoretical capacity of lanes on the bridge would be 1,800 vehicles per hour, but research throughout the United Kingdom shows that the practical capacity can be increased to 2,100 vehicles per lane per hour. The research shows that, with the deployment of intelligent transport systems, we can easily get between 6 and 8 per cent of additional traffic per lane.

Joe FitzPatrick: That is helpful.

Mr Malcolm might want to go first on this one. How do you plan to keep traffic moving during the construction phase? What role has the traffic management working group played in the development of your plans to manage that?

Graeme Malcolm: Obviously, the code of construction practice is a key document for the

construction stage. We have had initial discussions with Transport Scotland on how we will deal with HGV construction traffic and so on. The details will have to be worked up, because it will very much depend on the contractor and how he plans to phase the works and so on. Obviously, the tendering process is only just commencing.

Local authorities will have an important role during the construction period. They have contacted us about making connections with the contractors that are tendering, which will be key to the process. If we get the principles set out an early stage, the contractor can price them within the overall contract. That is always easier than if the local authorities get involved after the contract has been signed. Transport Scotland is starting to work on the issues around that.

When work was being done on the A8000 link road, the City of Edinburgh Council got contractors to use haul roads. That was an important aspect that mitigated effects on local communities. We are talking along the same lines for the Forth crossing. I think that the haul roads that were used for the A8000 are still in place, and junction 1A must be reconfigured. Therefore, some of the effects can be mitigated straight away. There will also be key issues in the Ferrytoll area, north of the bridgehead. We are talking about a massive reconfiguration on the north side. All the traffic goes through the point that will be built on.

There are options in the M9 area that should not have too big an impact on us. The issue is more about how materials are moved. I know that there are discussions about materials coming up the river and that there are already discussions about how to deal with the workforce. Staff, labour and buses will have to be considered. In effect, we are talking about off-site park-and-ride facilities for the construction staff and others who are brought in.

Those are some of the options that are available to us.

Joe FitzPatrick: It is particularly good for us to hear that discussions on those things are taking place.

Mr McLellan, do you want to comment about the north side?

Bob McLellan: Obviously, we on the north side have significant concerns about when Ferrytoll requires to be reconfigured as part of the project, to which Graeme Malcolm referred. The main construction site is planned to be on the south side, and there will be construction traffic. Obviously, there will be more congestion and problems as a result of traffic during the construction phase. The crossing will be a major piece of work that will take a long period of time.

Our main concern is about reliable journey times for the average person travelling to work from the north to the south. Will he or she continue to use their car, or will we be able to persuade them to move to public transport? I apologise slightly for repeating what was said last week, but we have a golden opportunity to ensure that there are alternative park-and-ride sites away from the bridge, where there is no construction activity. A site at Halbeath would cost approximately £7.1 million, and a site at Rosyth would cost £6 million at 2010 prices, not including optimism bias. Those are relatively small sums of money. Transport Scotland has acknowledged the benefits that could be derived prior to construction around the Ferrytoll area. It is crucial that those things are in place to maintain a healthy flow of the vast majority of traffic moving from the north to Edinburgh and further afield.

Ferrytoll phase 2 involved the building of a multistorey car park, during which we used the overflow car park for Deep Sea World. That was a £10 million project, so it was a small project compared with the Forth crossing project. Nonetheless, even during the construction of that relatively small-scale project, we lost 25 per cent of our public transport patronage. I am trying to emphasise the effects of major works that continue for a significant period of time. I cannot overstate the need to ensure that we provide things before the real construction starts on the north side so that people who use their cars or public transport have reliable journey times and do not get cheesed off, and public transport patronage is not lost during the construction of the crossing.

Marshall Poulton: My colleagues have touched on all the major points that I wanted to make. I reinforce the points that Bob McLellan made. We touched on the public transport strategy last week. It is essential that a public transport strategy is in place before the opening of the bridge, not only for the day of opening, but to mitigate noise and air pollution during construction and the possible impacts of that pollution on local people and communities.

Hugh O'Donnell: I hesitate to say that intelligent transport systems depend on intelligent drivers. Many of us know that drivers are good at shouting at their sat navs or doing something that is completely different from what their sat nav says. I hope that that has been factored into the planning and modelling around intelligent transport systems.

The bill proposes that certain local authority enforcement powers relating to construction be removed, shall we say, particularly powers relating to construction noise. Does anyone want to

comment on that proposal? I guess that we should invite Mr Stirling to answer to that question.

11:00

Tom Stirling (City of Edinburgh Council): As we have laid out, we are concerned that the removal of those powers will remove the local authority's role in discussing or challenging proposed works and questioning the need for works at certain times. We feel that the removal of those powers might remove the right of the public to have someone to whom they can complain and who can be expected to act, or to arbitrate, on their behalf. Obviously, we acknowledge that some night-time working will be required, but we are concerned about the fact that our role in arbitrating in relation to such work, or in taking part in discussions on planning for it, will be removed.

David Brewster (West Lothian Council): Within the team that I lead in West Lothian Council, one of the values that we hold is that of speaking up for folk who would not otherwise have a voice. Removing from the local authority powers over construction noise will mean that the local authority has no ability to represent the interests of the community. The West Lothian community that will be affected, which is close to the bridge construction, is relatively sparse, but the people are used to a very low level of background noise so they are likely to notice any noise. From our experience of the Airdrie to Bathgate railway project, in which the local authorities still have the ultimate oversight or sanction, we believe that the existence of such powers actually makes the code of construction practice work better because contractors know that it is in their interests to ensure that problems do not arise.

Hugh O'Donnell: What is the view from the other side of the Forth?

Bob McLellan: I do not have a noise expert with me today, although we obviously have such experts.

On the Fife side, we also have a concern about the removal of those powers. Local authorities would use such powers only if they needed to be used to deal with problems by providing, for example, arbitration or an objective assessment of whether noise levels were acceptable. Given that it is anticipated that much of the work will be carried out during the evenings or overnight, there might be concerns in populated areas on the north side, such as North Queensferry and Inverkeithing. Obviously, if noise is kept within acceptable limits, that should be fine, but the responsibility and powers should rest with the local authority throughout the contract and should not be taken away.

Hugh O'Donnell: It is always encouraging to hear people from local authorities say that their role is to represent people who are affected by planning applications. I am sure that having that on record will present some interesting challenges the next time that the local authority considers a planning application.

Do you have any additional comments on how the code of construction practice could be improved to offer better protection for businesses and local residents who will suffer the most impact from noise levels?

Tom Stirling: In our view, some of the criteria for deciding whether work may be done outside normal hours are rather vague. From our reading of the code of construction practice, provided that the noise levels are adhered to, it pretty much allows contractors carte blanche to work at any hour. Perhaps that needs to be looked at, especially if the bill is to go ahead in its current form with the role of the local authority being constricted. We would like much clearer criteria to apply to night-time working. Dealing with that issue is primarily the role that we would want to play.

David Brewster: We also accept that some night-time working will be needed. On the Airdrie to Bathgate project, which has given us quite a bit of experience of such issues, the general principle that has been adopted is that there should be no night-time working on the new section of the line. However, that does not mean that night-time working cannot take place there. Rather, the contractors are required to approach us to say what work they need to carry out and why they need to do it at night. We then look at their request, and we have agreed that quite a number of those requests are reasonable. As well as allowing account to be taken of the views of the local community, as represented by the local authority, that has ensured that a more measured approach is taken to night-time working. As currently drafted, the code of construction practice for the Forth crossing has a general assumption that there will be night-time working. I question whether that is necessary in all cases.

The code of construction practice's suggested noise limits for night-time working are quite generous and certainly have the potential to cause disturbance to people who live in the area. One issue of note is that the code does not include a maximum noise level. Given the nature of the work concerned, there will be noise impact from piling and the breaking of rock. The code refers only to the average noise level over a period. However, experience shows that the clangs, the bangs and the thumps are what disturb people, particularly at night. We would certainly like a maximum noise level to be included in the code of construction practice.

As it stands, the code of construction practice essentially permits contractors to work up to the limit values without any further concern. The approach that was taken in the Airdrie to Bathgate project was that, in addition to the limits that were put in place, we said that we expected best practice. Therefore, the fact that a limit exists does not give a contractor the green light just to work to that limit. We are looking for contractors always to try to minimise the amount of noise that they make. We accept that noise is sometimes required, but we have been able to take a pragmatic approach with the contractor as to what is the overall best option.

Marshall Poulton: In addition to what my colleagues have said, I think that the code of construction practice as currently drafted could put the employer's representative in an awkward or possibly untenable position, given the requirement to be impartial in balancing the need to get the work done to programme with the need to try to address local people's concerns about noise pollution.

Graeme Malcolm: During the parliamentary process for the Airdrie to Bathgate scheme, we put forward a case to the bill committee for an independent planning monitoring officer, who has been very successful in playing in the middle ground. As Marshall Poulton explained, it can be difficult for the employer's representative to be seen to be impartial, but that can also be a difficulty for the local authority. In the Airdrie to Bathgate project, we have occasionally tried to assist local residents on noise issues but have then been seen to be on the contractor's side. In those cases, the planning monitoring officer has been able to come in as almost an arbiter who can work with the contractor, with the local authority and with the residents. Having that independent role has taken away some of the problems facing residents or communities that are dealing with the local authority or a big contractor, because it has provided another useful option in the process. Given the community concerns that are surfacing, perhaps the committee should consider introducing a similar role. It might be worth looking back over the evidence that was given on the Airdrie to Bathgate scheme to see the reasons why that bill committee decided that having such a role was a good thing.

Hugh O'Donnell: You have comprehensively killed off my final formal question. I am interested to know at what stage, if at all, you were party to the proposed code of construction practice that is before us. Did you have input into that? Did Transport Scotland give you sight of a draft? In light of what Mr Malcolm has just said, were steps taken to ensure that you were fully engaged before the document was presented?

Graeme Malcolm: We had discussions with Transport Scotland on the drafting of the document as it developed. At this stage in the process, we are further ahead in many ways than we were during consideration of the Waverley Railway (Scotland) Bill and the Airdrie-Bathgate Railway and Linked Improvements Bill, as we have a document. When the Waverley Railway (Scotland) Bill was considered, there was no code—it was an idea that was starting to be developed. During consideration of the Airdrie-Bathgate Railway and Linked Improvements Bill, we were able to work on the back of that. Towards the end of the bill process, Network Rail started to work on a code with the communities concerned.

The committee has before it a draft of the code of construction practice for the new Forth crossing. The code must develop—there will be times when it has to be adjusted. We changed the code of construction practice for the Airdrie to Bathgate line as we went along. There is also a memorandum of understanding between the promoter and local authorities that sets out what will happen when things go wrong—it describes the escalation process and so on. The code for the new Forth crossing is still to be developed, but we have had engagement on it.

Tom Stirling: Around the middle of 2009, we were asked to give our views and submitted some comments. However, we were not involved in detailed discussions or negotiations on the final version of the code of construction practice that is before the committee.

David Brewster: West Lothian Council's involvement mirrors that of the City of Edinburgh Council. We provided initial input, but there was no further contact until we saw the draft code of construction practice with the bill.

Hugh O'Donnell: I have a final question, before the convener tells me off. Does the code reflect any of the concerns that you expressed during the discussions, or was it a consultation process in name only?

Tom Stirling: The comments that I have made in response to questions this morning reflect concerns of ours that remain. We would welcome the opportunity to discuss further other, detailed points, such as the categorisation of residential properties.

David Brewster: This morning I have raised the issues of the presumption in favour of night-time working, the generous night-time noise limits and the lack of maximum noise limits for impact noise, all of which relate to the code of construction practice as it stands.

David Stewart (Highlands and Islands) (Lab): My first question is directed to West Lothian Council, my second question is directed to the City

of Edinburgh Council and my final question is directed to both councils. However, if the representative from Fife Council would like to make some general comments, I would appreciate that.

Mr Brewster has already touched on the issue that I want to raise; I invite him to amplify his comments. As he mentioned, West Lothian Council has the advantage of having been involved in consideration of a previous private bill, the Airdrie-Bathgate Railway and Linked Improvements Bill. That project is now moving into its final phase. How effective has the code of construction practice been for that project? How should it be reflected in the code for the new Forth crossing?

David Brewster: I will speak principally to the noise elements of the code of construction practice for the Airdrie to Bathgate railway, with which my team has been involved. The code went through a long drafting process, which resulted in the end product being reasonably well refined. There was clear buy-in, both because of the wording of the bill and because the promoters were willing from the start to meet the terms of the code, which were built into contracts when work was tendered out.

11:15

The process has worked very well, because, ultimately, we still have the ability to step in, or more often than not we have the ability to question whether particular work needs to be done using that equipment or at that time. We find that contractors are now very used to that and they plan ahead to try to minimise the problems. We know most of the work that contractors are going to do in advance anyway, and the flow of information has generally been very good. A recent example is the complaints about work on a bridge on the existing section of the railway line. In that case, we had to ask and we found out that the contractors had purposely designed the work so that all the noisy work happened during the day. What happened at night was minimal, relative to what could have happened. The contractors had considered that and built it in long before it ever became an issue.

Equally, as Graeme Malcolm has said, we have the ability to be flexible where there is a sensible reason to do so. The contractors have approached us in the past few months to say that they would prefer to bring in the track materials for the new section by train, rather than by running a lot of lorries. We are now discussing that seriously with them, because we want to protect the roads from a lot of extra lorries and because of the noise and air-quality issues that are associated with lorries. We are trying to find places where the trains can

come in and sit without causing a problem to the neighbours. You cannot tip stone quietly, but you can avoid having the train sit behind someone's house all night as the contractors begin to lay the track. That is an example of where we are being pragmatic in our discussions with the contractors to try to achieve the best result overall.

David Stewart: Those seem like very good examples of best practice. I am sure that we can bear those in mind in future. Mr Malcolm, do you want to add anything?

Graeme Malcolm: The key point about the code of construction practice is that it is not just a document; it gives you some ground rules and examples. For communities, the most important thing is engagement. It is good that they can refer to the code of construction practice and say to contractors or the promoter that they are meant to be playing to those rules. The key thing is to ensure that there is engagement with communities.

Network Rail and the councils have worked hard on getting into communities as part of the Airdrie to Bathgate project. In railway projects, you do work in people's back gardens. The line goes through Bathgate and there is housing on either side of it. The contractors are in people's gardens—the project is not happening somewhere else.

The code of construction practice can set out good ground rules for everybody to work to, but if it is to work there has to be engagement with the right people at the right times.

David Stewart: That is a good point. There is no point in the code being written by some bureaucrat in an ivory tower who has never spoken to the local people. We need to keep common sense to the fore and engage with communities.

Graeme Malcolm: Yes.

David Stewart: What has been the City of Edinburgh Council's experience of the code for the trams project?

Marshall Poulton: I agree with Graeme Malcolm that you can write a really good code with the best will in the world, but it comes down to stakeholder engagement. We have had the benefit of delivering the tram system, which is essentially a railway track on a road system. It has been very challenging to say the least not only to deliver it but to keep the community happy and address its concerns. It is not just about being reactive to local concerns; it is also about being proactive in trying to design something in the future that will mitigate noisy activity.

David Stewart: Mr Stirling, do you want to add anything?

Tom Stirling: I do not have anything to add to that.

David Stewart: My final question is for West Lothian Council and the City of Edinburgh Council in particular, but if Fife Council wants to comment, I would be grateful. What would you all do to publicise the code to ensure that it is taken seriously and that it is not just window dressing? Margaret Smith, who is giving evidence as part of a later panel, said in her objection that the code is

“wholly inadequate, open to contractor interpretation, and thus not open to legal challenge.”

Do you agree? Do you have any general comments on that issue? No one is answering—that has silenced you. That is always a good sign.

Hugh O'Donnell: I think that it was the word “legal” that silenced everyone.

Graeme Malcolm: People always get a bit twitchy when there is a legal issue.

It might be possible to challenge the code legally, but it is not meant to be a legal document; it is meant to be a working document. With the Airdrie to Bathgate project, once we had the code, Network Rail set up community forums, supported by West Lothian Council. Those took place before works started on the ground, to explain where the bill had got to and the fact that it would be an act of Parliament, and to say that contractors had been appointed.

That stage is when you need to get your act together on community engagement. When you have a contractor and you know that they will be in a certain area, you have to go into the community there. The forums gave the promoter and the council an opportunity to explain the code of construction practice and to explain, for example, that construction traffic would be prevented from passing schools at certain times in the morning and afternoon. The community was encouraged to understand the code, but it was not seen as setting out rules that could be used against the contractor. The aim was more to set out the protections that were in place. It was seen as helpful.

We have had cases in which there has been a problem and the community has said to us, “The code of construction practice says that the contractor is not meant to do that.” That has been our starting point with the contractor or promoter. We tell them that the community has a concern and is correct that the code of construction practice says that something should not be happening. We then discuss why the contractor is doing it in that way. It might be that a new haulage company is involved in transferring materials and perhaps the drivers have not been informed about what they are not allowed to do. That is the way in

which we work through the issue. We then go back to the community or its representatives with that information. At that point, the code goes out the window again, because there is an issue that has to be resolved somehow. It does not really matter what is written down; we have to get on and do the job, and reach a compromise or get a solution to the issue.

David Brewster: It is fair to say that the code as written leaves quite a lot of room for interpretation and leaves it to the contractors to determine how to interpret it. I emphasise Graeme Malcolm's point that the code sets out the ground rules. There will be times when it will be appropriate to make a different decision on the basis of the least worst option for a particular bit of work. The code is a working document, rather than something to be mulled over greatly by lawyers.

West Lothian Council has chosen to engage with people, along with the contractor and promoter, so that we all say the same thing at the same time and people know what is happening, why it is happening and why it is happening at a particular time. When the local authority says that it has considered the options with the contractor and reckons that it has come up with the best one, that helps to make the process work. We are not in the contractor's pocket, but nor will we run to the contractor with every single complaint that is brought to us. We try to work in the middle ground. If we know what is happening, we can keep the communities informed.

David Stewart: Are there any comments from the City of Edinburgh Council?

The Convener: We are running a little short of time, so I ask the witnesses to ensure that anything that they say is additional information, rather than repetition.

Marshall Poulton: I will let Tom Stirling comment on the possibility of legal challenge, but I highlight section 2.3 of the code, which is on community engagement. From Edinburgh's experience of the trams project, we know that it is vital that there is a good website that is kept up to date and is as dynamic as possible. There should certainly be regular project briefings and site visits. We have done that constantly through neighbourhood partnerships and community councils and by getting out newsletters over and above the formal notification to residents. That is vital. As my colleague said, the code of construction practice comes down to the contractor's interpretation.

Tom Stirling: I agree with all the points that have been made on community engagement. We have heard that West Lothian Council has played a role as an arbiter, but that role is to be removed under the bill. The code of construction practice

will still be used in situations in which activity or noise that is in excess of that deemed acceptable in the code might need to take place. Any decisions in that situation will be based on the code. In that regard, it will be a definitive document and not a starting point for discussions or negotiations.

David Stewart: Mr McLellan, bearing in mind the convener's comments about time, do you have any quick comments?

Bob McLellan: The code is a bit like the highway code compared to road traffic legislation. It is a document that emphasises good practice. As Graeme Malcolm said, there should be a role for somebody who is independent and distant from the contractor and employer. That is a good way forward. If there are issues between a community and the employer, that approach should help them to come to a reasonable solution.

The Convener: Thanks very much, gentlemen. We will have a short suspension while we recast the witnesses.

11:26

Meeting suspended.

11:29

On resuming—

The Convener: It was fascinating to watch heads nodding furiously in agreement or shaking furiously in disagreement during the first panel's evidence. I can now see who was doing that. I welcome our second panel: Margaret Smith is the member of the Scottish Parliament for Edinburgh West, Evelyn Woollen represents Newton community council and Martin Gallagher represents Queensferry and district community council. We extended an invitation to Kirkliston community council but, unfortunately, a representative could not attend today. However, I am hopeful that Margaret Smith will be able to incorporate an overview of the way in which Kirkliston might be affected by the crossing, and that Mr Gallagher might be able to do likewise.

I am delighted that we also have with us Mary Mulligan. Her attendance at the meeting was not certain, so she is not formally listed as one of the witnesses, but if she would like to comment at any point, I ask her just to catch my eye.

We move straight to evidence taking. I invite Margaret Smith to speak first. I have three questions to kick off with, which all relate to the impact on the community of the potential road works and any alternatives. What impact would the construction and operation of the planned road have on your local community? I should say that we will not look at the totality of the objections—as I said at the start of the meeting, we will focus on

the infrastructural consequences of the new road network.

Margaret Smith (Edinburgh West) (LD): It is fair to say—indeed, Transport Scotland says so in its environmental statement—that the proposed road layout will have an adverse impact on Queensferry. It is highly unfortunate for my constituents that the changes that were made in December 2008 mean that there will no longer be a direct link out to the M9, because that would have taken the traffic away from Queensferry much more quickly. The road layout that we will now have is likely to have more of an adverse impact as regards noise and air quality, and the visual impact around the A904 around the Echlines will probably be greater. There will be a wider impact not just because of the construction of the new roads—there will be issues to do with construction compounds at Echline and access roads. There will be a number of different adverse impacts.

I may be the wrong person to ask about the impact of the option that was chosen, because I was not persuaded by option 1 or option 2. Like most of the people whom I represent, I preferred the option of a tunnel further up the river, which could have linked up with some of the developments that are going on in West Lothian. That fell by the wayside and we were left with option 1 and option 2. The option that was eventually picked will have more of an adverse impact on my constituents.

There are also concerns about junction 1A on the M9, which build on the concerns of a number of people, including the community councils, about whether, in its existing form, it is as safe a junction as it might be. It looks as if the changes might compound that situation and take us backwards, when some of the issues have already been dealt with.

There are a number of points. Within the wider context of our public transport concerns, some of the changes that will be made to the local road network—I am talking about the bus lane on the B800, for example; the removal of the Ferrytoll roundabout, which there was no consultation on; and people's option to use the A90 slip road—will have a massive impact in redistributing traffic in the local area. I do not think that Transport Scotland or the City of Edinburgh Council has modelled at that level of detail.

On one level, there are strategic issues to do with where major roads will go, but some of the other road changes that are proposed in the scheme will have quite a big impact in increasing traffic through Kirkliston and Dalmeny. To be honest, I do not think that we have the evidence to back up some of that—it is just opinion—but those of us who know how the roads in that neck of the

woods work feel that some of the more minor changes are likely to have such an effect. It is those minor changes on which there has been the least consultation among local people.

The Convener: On our site visit, we visited some of the communities that will be affected in locations on the approach to the point at which the bridge will physically join the landscape. You went into that in some detail in your submission. Do you want to comment on what the impact will be on any of them?

Margaret Smith: A number of communities, such as those in Clufflat, Clufflat Brae and the Springfield and Echline areas, would have much preferred everything to shift westward, hence my point about that being the majority view—most people were in favour of a tunnel, and of moving things further away. However, we are where we are, and the people on the edges of Echline, Springfield, Clufflat and so on will experience quite a few adverse impacts, not just where the major roads join the bridge but from ancillary stuff such as access haul roads down from the A904 to Society Road, which will have a massive impact on the backs of many of my constituents' homes.

My view is perhaps slightly different from that of the councils, although, like Mr O'Donnell, I was pleased to hear the councils say that they are there to represent people. My major motivation is to try to ensure that a scheme is delivered that minimises the impact on my constituents as much as possible. The current option means that that will not happen. The people on the side of Queensferry and in certain parts of Kirkliston where the plans involve a change in junction 1A will experience an adverse impact in terms of noise and quality of life.

The Convener: Moving west a bit, to Newton, I ask Evelyn Woollen whether she would like to comment on the impact. We have heard a bit about that already this morning, but could we hear more from you?

Evelyn Woollen (Newton Community Council): Thank you, convener. We are the community that runs along the rat-run section of the A904 from the southern bridgehead to junction 2 of the M9. We feel strongly that the absence of a direct west-facing route from the bridgehead to the M9 condemns us to have the A904 bridge the trunk road gap between the bridge and the M9 for westerly and southerly traffic. That will be exacerbated when the Winchburgh core development area project goes forward and a junction is built at Duntarvie. I do not know whether the committee visited that location when it had a tour. As even Transport Scotland's figures reflect, that will make the rat-run even shorter and even more attractive relative to the rat-run to junction 2—I assume that it will be junction 1B or

something of that ilk—and will in due course put as many as 10,000 vehicles a day down the tiny road that goes by Woodend and down to Duntarvie.

The work that was done during the “Setting Forth” study, which recommended a direct route from the bridgehead to the M9 at Duntarvie, was significantly overlooked during the process of sifting the options. As the local community affected, we are aware that a lot of effort was made in the 1990s to work with local landowners and others to define a route that would deliver connectivity while having the lowest impact on local people.

We point out that mitigation is not a strategic solution for anyone. In the evidence that was given to the committee last week, I was struck by someone’s comment about waiting 40 years for the M9 extension to solve a similar sort of problem between the existing bridge and the eastern southerly route, and that it would be opportune to avoid such a problem this time around. We endorse that whole-heartedly.

We are also deeply concerned about the location of the construction yard, since the yard is now moving westerly and towards us, apparently. By an accident of administrative boundary setting, although the yard will be within 500yd of our boundary, it will not fall within our district or, for that matter, within our local authority area. All the same, it will have a profound effect on us. The movement west means, for example, that it will be inevitable that access will be made directly from the A904, which currently is not the case. We are deeply sympathetic to the needs of the people of Queensferry, who want the construction yard to move west. No one wants to have a construction yard in their backyard.

The Convener: That brings me neatly to Mr Gallagher.

Martin Gallagher (Queensferry and District Community Council): I share Margaret Smith’s concerns. In Queensferry, we are in broad agreement about the direct link to the M9, which is the crucial issue. When we carried out our initial community consultations at the start of the project in 2007, the overwhelming majority of those questioned favoured the tunnel option, on the grounds that it would connect directly to the motorway network and keep traffic away from Queensferry. The solution that is now proposed is to link up to the existing A90, but the south east of Scotland transport partnership integrated transport corridor study shows that around 50 per cent of traffic that comes across the bridge goes down the M9 spur to the M9 and onwards, either to the west or to connect to the strategic motorway network and the M8.

There is a strong case for a direct link to the M9. The environmental impact assessment states that such a link would have a worse environmental impact, but it is acknowledged that the chosen option—the A90 link—has a worse impact on Queensferry in terms of overall noise effects. It seems that preserving open, uninhabited farm land is considered more important than protecting the health and quality of life of local residents.

Effectively, we are being punished for having got the M9 spur, which should have been built 40 years ago, when the existing bridge was built, as it seems that Transport Scotland must justify that road by finding something to do with it. The supporting documents assert that, with a direct link to the M9, the recently completed M9 spur would become redundant, but I do not believe that. The M9 spur could still provide an important link between the Forth road bridge and the M9—perhaps a public transport corridor. Using the M9 spur, which does not have much of an annual maintenance bill, as a public transport corridor would be far preferable to using the Forth road bridge, at a cost of £15 million per year.

The fundamental issue for Queensferry is the lack of a direct link to the M9, for all the reasons to do with increased traffic on the A904 that have been mentioned from the Newton point of view. Queensferry and Newton have many social links, which that increased traffic will sever.

The Convener: Mary Mulligan touches on the issue in her submission. I invite her to comment.

Mary Mulligan (Linlithgow) (Lab): I am grateful to the convener and committee members for allowing me to join them this morning. I agree absolutely with everything that has been said. The “Setting Forth” document was produced carefully, looked at all options and proposed a link to the M9. One could say that the document was produced more than 10 years ago, but the only thing that has really changed is that traffic flow has become worse. Despite the construction of the M9 spur, which was supposed to benefit everyone, we still see the impact of congestion on local roads both in South Queensferry and, for me, in Newton, along the A904. Things have become worse, rather than better. The new Forth crossing can only add to the pressures that already exist. The construction of a link to the M9 is critical to alleviate some of the problems. While accepting that a new crossing is necessary, people want the implications for them to be limited as far as possible.

The Convener: In your submissions and comments, you have all identified deficiencies, as you see them, in the proposed road network, and you have said in various ways how you would like them to be addressed. Would you like to add to what you have said? In particular, I am interested

in whether you have raised your concerns with Transport Scotland, what the process was, the reactions and comments that you received, and how you felt about what you subsequently heard.

Margaret Smith is keen to get in straight away.

11:45

Margaret Smith: I have raised many issues with Transport Scotland over the past few years. We will no doubt come on to issues that were touched on earlier, such as the construction issue.

The Convener: Yes. We will deal with them next.

Margaret Smith: Part of the underlying bedrock is that Transport Scotland is not particularly well trusted in Queensferry. Many people have raised many issues with it over the past few years, and there is a general feeling that those issues have not been listened to and that we have been subjected to an information process, which has sometimes been a tick-box process, as opposed to having proper consultation.

Obviously, it was thought at first that we should have a direct link to the M9, but we lost the new bridge's multimodal element and various other changes were made at that time. It is clear that much of the consultation, whether or not it was flawed, happened prior to that. We were asked about the route, tunnel and bridge options with one set of parameters, which were then changed.

A great deal of concern exists that Transport Scotland has not listened to what local people have wanted. I represent the residents who are most directly affected by the project. I have had a number of meetings with them over the past few years and attended a number of public meetings. The only thing that I can say—although it is not saying much—is that everybody is treated badly. Residents often say, "I'm not a very big landowner, so they're not listening to me", whereas when I speak to a person who represents an entire estate, they think that the reverse is true. It is a fact that we have a major problem. A number of people think that we have not had proper consultation.

People have said that they want the direct link to the M9 to be re-established. I am afraid that the December 2008 changes were, in effect, a cost-cutting exercise more than anything else. I totally agree with Martin Gallagher. Impacts on residents have not been seen as being as important as other things. Obviously, cutting costs is important. I am sure that the cost of the project is already incredibly large, and it will have an opportunity cost for all the other transport projects that every MSP wants to see happen. Cutting costs is therefore an important consideration. However,

there was no way back by the time that the changes were made, and the concerns of people on the ground in Queensferry were put to one side.

The Convener: We will ask questions about those matters. Does Mr Gallagher concur with what has been said? Do you want to add anything?

Martin Gallagher: Yes. On our discussions with Transport Scotland to try to resolve local concerns, everything has been a bit of a compromise. When initial concerns were identified about the height of the embankment of the southern approach road—the A90 extension—the solution that was given was to move the South Queensferry junction further west, up to Echline corner. Doing so would allow the embankment's height to be lowered, which would reduce the visual impact, but it would make the A904 rat-run via Newton even more attractive, as the access to the replacement crossing would be around a mile further west than it would have been.

Our ability to try to represent our community in our discussions has been quite limited. The alternative junction location was presented to the community council in one of our meetings with Transport Scotland with no previous warning from Transport Scotland that it would be shown to us. We were given only seven days to comment on the option and were not allowed to disclose the information to the public. The same happened with the bus slip roads to resolve issues with buses having to go through the South Queensferry junction and back along the A904—there was no consultation at all on that. Residents of Scotstoun Park whose properties would be compulsorily purchased were not told about that proposal until three weeks before the bill was introduced to the Parliament. At various stages, people have simply been informed rather than consulted. We have found it difficult to represent the community's views because certain constraints have been placed on us.

The Convener: Thank you. That is helpful. We can ask the Transport Scotland representatives about those matters when we meet them later.

Evelyn Woollen: We consider that South Queensferry has been comparatively extensively consulted in the period of more than two years since September 2007, when the location of the crossing was announced. Transport Scotland has met Newton community council twice, included us in two consultations and placed an unmanned exhibition in our district—full stop. Until it announced the changes to the location of the southerly gyratory in June 2009, we thought that the overall design would result in the advertised traffic reductions on the A904 simply because of the nature of the difficulties that it would create for

traffic coming off the access route on to the A904. However, there was no discussion at all with us about the change that moved that to its current design location. Things were presented to us as a fait accompli in July on the second occasion that Transport Scotland came to see us, and the questions that we asked about its presentation and the impact on us have never been answered.

In August 2009, Transport Scotland met West Lothian Council transportation officers and told them that it would talk to them from then on rather than to the community council about the impacts and mitigations that would affect Newton arising from the scheme. We heard about that promptly from West Lothian Council, but did not hear about it until late in September from Transport Scotland. We think that we have at best been informed in due course rather than involved in the process in any way.

Mary Mulligan: I would like to add two brief points. First, it is clear that there was surprise about the change in design that meant that there would not be a link road. That was because there was not the discussion about that change that we would think there would be. The majority of people believe that that change is a cost-saving measure, but they also doubt whether it really will save costs, as the resulting changes that would need to be made to junction 1A would have costs.

Secondly, it is in some ways disingenuous to say that that decision was based on environmental reasons. We know that the environment is the hot topic of the hour and that it is okay if somebody says that they are preserving the environment, but Mr Gallagher made a pertinent point when he asked whose environment we are talking about. I think that measures could be taken to construct the link road that would enable the environmental issues to be addressed, but I am not sure that they could be if the route continued as it is at the moment.

Hugh O'Donnell: Last week and during the site visit, we heard that the mitigation relating to the rat-run through Newton will be signage that directs people not to do it. How effective do you expect that proposal to be as a deterrent from using the rat-run? I ask you to be brief.

Evelyn Woollen: We expect it to have virtually no effect. Even having advertised journey times on an ITS, which is the best possible mitigation of the signage ilk, cuts both ways. If the advertised journey time is 30 minutes, the choice that will be made will be a no-brainer. We would expect the take-up of sat navs that are sufficiently intelligent to be able to reflect real-time information from an ITS to be low, at least for a significant number of years, and that signage would make no significant inroads into a combination of maps, sat navs and local experience. The only people who would do

what the signage told them would be people who made the journey once in a very long while.

Joe FitzPatrick: I want to follow up the same question. We hear clearly the view that the best solution would be to have that direct link. If that did not happen, could things be done to stop the A904 becoming a rat link? Should we be saying, "If you can't do that, at least make sure that you are doing these things"?

Evelyn Woollen: We have had conversations with West Lothian Council transportation officers. We have explored various ways of mitigating the effect, which mostly involve the use of various forms of more or less intelligent traffic lights and road crossings within Newton village, which in turn would increase journey times. The advantage of those is that they might have some small impact on sat nav.

The A904 is not a trunk road, but it is a local artery. There is always a strong incentive for everyone to keep the traffic flowing as best they can. Therefore, although we have discussed chicanes and things of that sort, we think that they would probably not be practical from the point of view of road safety and emergency service access. We anticipate that mitigation might be possible to some extent, but its utility would be limited and we might trade one set of problems, such as heavy volume, for another—the noise and fumes associated with stopping and starting. It looks as if we are in a poor swings and roundabouts situation.

Martin Gallagher: Ultimately, the most effective solution—although probably not a popular one—would be to close junction 2, which is there to facilitate movement from the M9 to the Forth road bridge. There is nothing else in the immediate vicinity—it is in a relatively rural setting. However, I am sure that that would have other impacts on Linlithgow and so on and it would probably not be that popular. If we were trying to ensure that drivers used the intended route via the new slip road at junction 1A, that would be the solution. However, I am sure that it would create other problems.

The Convener: Indeed. I think that we should move on then, if we may.

David Stewart: Panel members will be well aware that the bill contains provisions that allow for a code of construction practice. You might have heard our detailed questions for the first panel on that. What concerns do you have about the code? How could it be improved? I address those questions first to Margaret Smith, given that I prayed her in aid in my comments to the first panel.

Margaret Smith: Thank you for that, Mr Stewart. I was pleased that what the earlier panel

said did not knock my comments completely out of the park.

We heard earlier that my view of the code of construction practice is that it is very vague in places and is full of caveats. It is much more of a wish list than anything else. I set that alongside my earlier comments about the consultation that has been done and the feeling that there has been to date between the community and Transport Scotland. The community has asked what the final design will be, what the final mitigation will be, where the HGVs will be moving from and so on. An awful lot of things are still unknown. What is known is that I represent people who will be living on a building site, or next to a building site, for five and a half or six years—not six months—and who are not really getting answers.

Set against that background, the basis of my objection to part 9 of the bill is that it will remove the power of the local authorities to intervene. I was interested to hear the comments of the West Lothian Council representatives, who have promoted best practice on the Airdrie to Bathgate railway project by using the code of construction practice as a basis on which to build a pragmatic working relationship. Within that framework, there has been proper engagement with the community, but the community knows that the relationship is underpinned by its ability to have recourse to the local authority. In addition, the community can also get access to a professional person who is independent from the contractor.

12:00

As the Kirkliston community council objection points out, Transport Scotland's proposal to remove the powers of local authorities over the code of construction process is

"akin to leaving the fox in charge of the chicken coop."

It is important that a community that will experience a great deal of adverse impact should be able to highlight to the local authority any problems with noise levels that are caused, for example, by a particular piece of machinery being used. The community will know that the local authority will not necessarily always take its side, but the local authority should at least be able to discuss matters with the contractor to find out the reasons why work needs to be done at a particular place and time using a particular piece of equipment. The local authority will be able to engage with the community on the issues by bringing to bear its own professionalism and independence.

The code of construction practice is flawed, inadequate and too vague. If we had a contractor who was serious about proper engagement and a bill promoter who was serious about using a code

of construction practice that was set within a framework of statutory legislative powers that remained with the local authority, we might have a little bit more faith in the code. However, the promoter is attempting to take away the statutory basis underpinning the code of construction practice that has been available to people affected by the Airdrie to Bathgate project, the Edinburgh trams project and every other scheme that has been promoted through private legislation in this Parliament. I do not think that we need to be wedded to the code of construction practice as long as we have those statutory safeguards. If those safeguards are removed, frankly, the code of construction practice is a recipe for disaster as far as my constituents are concerned.

David Stewart: I will keep my final question very brief, as I am conscious of the time.

Your written submission is quite critical about the provision that will remove the possibility of enforcing a noise abatement zone. I take your point that no such zones are currently in operation. The promoter can hardly argue that local authorities would abuse that power, given that no such zones currently exist.

Margaret Smith: I had an interesting meeting with the City of Edinburgh Council chap who is liaising with the trams contractors on such issues. He was particularly exercised by that provision. He said that noise abatement zones have not been used because councils do not want to end up in a fight with the contractor. Most councils want to find a solution that gets things moving for the contractor while taking on board the concerns of local communities. You are right that noise abatement zones have not been used, but the fact that the promoter wants to take away the possibility of introducing such a zone is seriously worrying.

Mary Mulligan: I am pleased that we have heard so much this morning about the experience of the Airdrie to Bathgate project, which I think provides a good example of how we can deal with the pressures that arise during the construction period. Given that the earlier answers on the issue of consultation highlighted some concerns about the role of Transport Scotland, the promoter should not have sought to reduce the powers available to people to deal with the code of construction practice. Let us be quite clear that the Airdrie to Bathgate project has not been all plain sailing or easy-going—clearly, the nature of a major construction project is such that one would not expect everything to be wonderful—but the fact that there have been clear routes to deal with any difficulties that have arisen has given people confidence that their views will be listened to.

Finally, I point out that the Airdrie to Bathgate project is less than 12 months from completion

and is due to come in on time and on budget. The code of construction practice is not about stopping or holding up construction or costing more money—it is about ensuring that we manage the process efficiently and effectively, taking into account its impact on those who live alongside it. It is important that the code is seen not as a block but as a mechanism to ensure that the project proceeds more effectively.

Evelyn Woollen: One issue that has not been mentioned much this morning with respect to the code of construction practice is the difference between industry best practice and best practicable means. Industry best practice is a quantifiable, understandable standard. It may have to be an aspiration—the practicalities are understood—but it is a real concern that discussion of best practicable means continually subsumes the question of deviation from industry best practice. We would much prefer industry best practice to be enshrined in the code of construction practice, with the clear understanding that best practicable means will always be the ultimate standard.

The presence of an independent monitoring officer is critical in making such adjudications. From the point of view of our community, there is no question but that, once contracts are signed, the interests of the employer representative and the contractor are much more the same than different. We really need the protection of both our local authority and an independent arbiter.

David Stewart: You have helpfully predicted my next question. I will allow Mr Gallagher to answer my original question.

Martin Gallagher: I will not say much more about the safeguards that have been taken away, although people in Queensferry are concerned about that issue. We are concerned about other parts of the code of construction practice that have not been mentioned so far. In particular, there appears to be no community representation on the traffic management working group that has been formed to oversee traffic management schemes during construction; community councils in areas where such schemes are implemented will not be members of the group. Queensferry has a history of severe traffic problems arising from the operation of the existing bridge, where there has been maintenance. We have concerns about road works not just in the immediate vicinity of South Queensferry, but on the north side of the Forth. The works on the Ferrytoll gyratory will result in traffic queuing back across the Forth road bridge, which will impact on Queensferry.

When discussing general measures to reduce construction traffic impacts such as not having lorries park in residential streets or travel in convoys, the code is full of vague phrases such

“will use best endeavours” and “where reasonable”. The contractor is required only to notify local residents of work outside normal hours; we think that it should need to consult residents, actively to seek their views and to try to mitigate any impact.

David Stewart: You have predicted my following question, but never mind. Currently, contractors are responsible for the monitoring of impacts such as noise and vibration. There was some suggestion that an independent body should be responsible for that; in the case of the Airdrie to Bathgate project, there was an independent monitoring officer. I invite each of the panel members briefly to give their views on that suggestion.

Mary Mulligan: The mechanism has worked well for the Airdrie to Bathgate project and could be used again.

Evelyn Woollen: When it comes to monitoring, publication of plans and general transparency, we are more concerned about the fact that baseline measurements and so on are woefully inadequate in the code and the scheme as a whole. If there are proper arrangements for baseline measurements and subsequent monitoring and measurement, for full transparency, as opposed to disclosure of information at the discretion of the employer representative, and for some kind of arbiter in the overall process, it is not necessarily a requirement that monitoring per se should be carried out independently.

Martin Gallagher: The Airdrie to Bathgate model certainly appears to have been quite effective and could be considered for this scheme. We have major concerns about the noise element, particularly the use of the term “best practicable means”, which is defined in legislation as

“having regard among other things to local conditions and circumstances, to the current state of technical knowledge and to financial implications”.

That means that, if the contractor is left to monitor noise effects, financial considerations will come ahead of community concerns.

David Stewart: That is an interesting point.

Margaret Smith: We are always happy to look at things that have worked effectively elsewhere, but I think that such measures should be taken over and above ensuring that local authorities retain their rights. At the end of the day, we need someone who actually has some influence over the process and will be able to impose some form of sanction. Local authorities will be able to do that, as long as their statutory rights are not taken away by the bill.

David Stewart: I realise that Mr Gallagher has already touched on this, but has Transport

Scotland spoken to any of the other panel members about initial development of the traffic management plan, which is drawn up by the contractor with a view to managing construction traffic?

Evelyn Woollen: The issue has not been discussed with us at all.

Margaret Smith: Transport Scotland has not spoken to me. I should add that the code of construction practice itself—never mind any of the management plans embedded within it—was not put out to general consultation. Some of us, including, I think, the councils, were asked our opinions on the draft, but the general population who will be affected by the bill were not.

The Convener: I ask Hugh O'Donnell to make his supplementary brief, as we are about to run out of time. Joe FitzPatrick still has to ask a number of formal questions.

Hugh O'Donnell: Under the code of construction practice, the contractor has 48 hours to respond to both inquiries and complaints. Should that timeframe be shorter and should there be a separate timeframe for inquiries and complaints? Should the contractor be obliged automatically to provide information to the local authorities about complaints instead of waiting for the local authorities to have to ask for them? Finally, should those complaints be listed publicly on a website on an on-going basis?

Martin Gallagher: The best solution would be for the local authority to retain all its statutory powers and for all the works to be done under the same legislation. I do not have a particular view about the specific timeframe, except to suggest that we should follow the experience of models that have worked, including those for the Airdrie to Bathgate rail project and the Edinburgh trams project.

Evelyn Woollen: The response time for complaints should be shorter than that for inquiries and there should be some granularity associated with the level of complaint and an understood process for dealing with it.

More generally, through our objections we have been attempting to ensure that the code of construction practice contains a better defined set of standard processes that, instead of simply providing for a knee-jerk response to complaints, encourages proactive engagement and sets out some form of escalation route. Data should be as transparent as possible. I see no reason why comprehensive data should not be made available to the local authority and maintained as a matter of routine on the website.

Margaret Smith: The 48-hour timeframe for complaints is probably too long, but I think that we

need a certain amount of common sense in this matter. Some complaints might be incredibly important and might have to be dealt with immediately, while others might take a little bit more time. If we have a framework that we can trust and if residents themselves are shown a certain amount of respect in the process, these things should be okay.

The Convener: I think that that sums up the matter.

Joe FitzPatrick: The witnesses have been so good at predicting our questions that I have only one question left, which is for the two community representatives. Mr Gallagher said that we should learn from the experiences of the Airdrie to Bathgate railway and the Edinburgh trams project. Have you had any contact with community groups in those areas and, if so, have you learned anything that you might be able to take into this project?

Martin Gallagher: I am afraid that Queensferry and district community council has not had such contact, because we simply do not think that the trams will affect us at all.

Joe FitzPatrick: My question was more about learning from the experience of those communities with regard to those projects, but you have not had any contact at all.

Martin Gallagher: I am afraid not.

Evelyn Woollen: We became aware quite late on of the similarities between the Airdrie to Bathgate railway project and this project and the usefulness of its example. Although we have benefited from seeing the code of construction practice for the Airdrie to Bathgate line and discussing with our local authority officers how the experience might be useful, we have not had any direct contact with those communities.

The Convener: On behalf of the committee, I thank everyone for their very detailed submissions. It is clear that a lot of work has gone into them. I assure you that we have digested the information and that our questions to other witnesses will be informed by certain matters that we have not been able to cover with you this morning. As well as thanking Margaret Smith and Mary Mulligan, I thank in particular the two community council representatives for their contributions to our proceedings.

12:16

Meeting suspended.

12:18

On resuming—

The Convener: I welcome our third and final panel of witnesses, who are from Transport

Scotland. We welcome back John Howison, who is the interim project director; Mike Glover, who is the commission project manager; and Frazer Henderson, who is the bill manager. This week, they are joined by Andy Mackay, who is the commission statutory process manager, and Richard Greer, who is the commission team leader with responsibility for noise and vibration. Today, we are considering the roads infrastructure that has been designed to support the new crossing, the impact that it and its construction will have on local communities, the associated issues that arise from the code of construction practice, and issues relating to noise and vibration.

I will start by getting to the heart of the evidence that we received this morning from councils and community councils on the roads layout that was finalised in April 2009, and the revisions to the original design that were incorporated in it. We have touched on one revision in particular. I ask the witnesses to clarify what other alterations have been made, but specifically to talk about the considerable issues that earlier witnesses raised in relation to the M9 and the A904.

John Howison (Transport Scotland): I start with an apology because this answer will be fairly long: one must go right back to the beginning to see how the various decisions were taken.

The Convener: It would be appreciated if you could make it an abbreviated long answer.

John Howison: I will do my best.

The design development has been a systematic, progressive and interactive process in which we have moved from a wide range of options down to the final one that we now have. When we had the cabinet secretary's announcement in 2007, the proposals for the roads on the north side of the estuary were for a connection to Ferrytoll junction, remodelling of Masterton junction and, potentially, widening of the M90 to dual three lanes to Halbeath. To the south, there was to be a toll plaza, a new junction with the A904 at Echline corner, connections to the M9 and junction remodelling on the M9 spur at junction 1A and the junction with the A90.

If it would be helpful, convener, I can keep my answer shorter by omitting further reference to the Fife part of the scheme, which does not seem to be contentious.

The Convener: I am happy with that—that side seems to be less of an issue.

John Howison: Following the choice of the cable-stayed bridge, several options for road works were considered north and south of the bridge. Those are described in reports that are available on our website—the “Forth Replacement Crossing: Route Corridor Options Review” and the

“Forth Replacement Crossing: DMRB Stage 2 Corridor Report”. The process culminated in two options south of the Forth. Option 1 had a junction on to the A904 by way of a link road west of the A800, a complex series of connecting roads to the existing South Queensferry junction and a connection to the A90 and M9 spur. Once the adjustment for leakage on to the A904 that would have occurred with option 2 was taken into account, option 1 produced the best value for money and the best use of existing infrastructure.

Option 2 had a link to the M9 with a junction on to the A904 at Echline and a complex link back to the M9 spur. Under that option, traffic from the bridge that was going to Edinburgh would have had to go down to the M9, along it and then back up the M9 spur to the A90. However, the junction on the A904 would have allowed leakage and a very high volume of traffic to the south of South Queensferry.

There was a further reference case, which was called option 4B and which had a direct link to the M9 and the A90, with the removal of the M9 spur. That had the advantage of avoiding loading up the A904 between Echline and the existing South Queensferry junction. Those were the available options.

The development of the managed crossing strategy considered the adoption of option 1, but simplified because of the anticipated flow improvements as a result of the use of ITS. Following the announcement in December 2008, several changes were made fairly quickly. One was the replacement of a proposed free-flow junction on the M9 in place of the existing junction 1A, and the reinstatement of the existing junction, but modified to provide the east-facing links. The reason was that the south-facing links on the free-flow junction were found to be too close to the Newbridge junction and would therefore produce problems with the flow. At the same time, the South Queensferry junction which, as you heard earlier, was a link between the A904 and the new road, was moved further to the west to improve the spacing between that and Scotstoun.

The exhibition in January showed those changes, and comments resulted in a number of further changes. As a consequence of the introduction of the new bus links on to the A90, it became possible to move the South Queensferry junction to the A90's confluence with the A904. That allowed the embankment south of South Queensferry to be lowered, and there were a couple of changes north of the river.

We have, following those refinements, continued to make a number of other changes. Those include the preference for the main construction site, which has now moved to the west of the new connecting road, and a

reconsideration of the temporary works requirements on to the A8000, leading to a reduction in land take at Scotstoun. I should point out that the land take at Scotstoun was not, per se, a result of the bus link that was put on to that road; it was the result of a temporary junction that was put in to allow for the closure of the A90 to demolish the existing B800 bridge, which is replaced. However, we are working on changes to that, and we hope to avoid any intrusion into Scotstoun.

At the same time, we considered a number of options that were put to us, one of which was a proposal to move the junction at Echline southwards. We considered that in some detail, following proposals from Echline corner consultative alliance, but we rejected the proposal. We have also continued the development of landscaping arrangements at Dundas Home Farm.

Although many decisions have been engineering decisions, that have been largely informed by the problems that have been put to us by local residents, it is worth bearing in mind a couple of fairly major issues. First, the flow relief to Newton was more effective with option 2 than with option 1. That is to be expected—that is with the direct link to the M9—but the reduction in traffic on the A904 between option 2 and option 1 amounts only to some 3,800 vehicles. The issue is that the A904 is still an attractive road to local traffic and to traffic from the motorway at junction 2.

The second issue is that had we not made the change in option 1 to the junction with the A904, the flow in front of Echline would have been very high; it could have been up to about 20,000 vehicles a day south of South Queensferry, on the local road. With our proposals in option 1, and the junction in that position, the flow on the road would be reduced to about 5,500 vehicles a day. The changes that we have made have had a fairly major beneficial impact on the likely intrusive nature of the proposals south of South Queensferry, which has not, regrettably, really been recognised by the consultees.

The Convener: That was a long and detailed answer, and we may need to come back to you for some clarification in writing. There are some things that we need to test in all of that, however.

Let us imagine that the project is complete, and that you are coming majestically across the bridge from Fife. You want to connect with the M9. How would you do that?

12:30

John Howison: That would depend on traffic conditions at the time, my frame of mind and the vehicle that I was driving. I accept the point that was made by one of the witnesses from West

Lothian Council that, for a car, it would be a quicker and considerably shorter journey to use the existing A904, which is a principal road. That is probably the way that I would go.

I think that the suggestion was that for a heavy goods vehicle the times on the two routes would be very similar, given the lower speed of the HGV on the A904 and the higher speed of the HGV on the motorway network.

The Convener: I think that you are effectively accepting that, under this arrangement, the A904 is still a very attractive proposition.

The witnesses from West Lothian Council gave us some indication of what they thought the journey times would be, which I think was four to six minutes by car for the A904 route and six to seven minutes if one went round the longer route. Do you dispute what they said? Have you done any modelling on the journey times?

John Howison: I would not dispute their view on that.

The Convener: Those times are quite possible.

John Howison: Yes.

The Convener: Is it about cost? You said that you were not sure whether that many cars would be diverted from the A904 even if the second option, or a variation of it, had progressed. I am interested to know why you think that. In essence, I find it difficult to understand why the A904 would still be attractive even if there had been a more direct route to the M9. The environmental stuff has been cited; I am sure that colleagues will come in on that in a moment. Has cost caused it to be dropped?

John Howison: Do you mean the direct link?

The Convener: Yes.

John Howison: A combination of costs and environmental reasons have caused the direct link to be dropped.

The Convener: Would somebody like to pursue that?

Hugh O'Donnell: I would. What environmental considerations and whose environment are you talking about?

John Howison: The environmental considerations governing this are set out in the "DMRB Stage 2 Corridor Report".

Hugh O'Donnell: Will you lay them out for me, please?

John Howison: Essentially, the direct link is longer and it would run through ground that is undisturbed at the moment.

Hugh O'Donnell: You seem to be suggesting that it is better to drop a proposal that would stop whatever number of vehicles going through Newton in favour of a route that does not impact directly on an active and living community. For which environment is that an improvement?

John Howison: No. You will recall that I said that one of the problems with that route is the leakage from the junction with the A904. Although it is true that option 2 would have reduced the amount of traffic running through Newton, it would also have resulted in four times as much traffic running directly past the community at the south of South Queensferry.

Hugh O'Donnell: Does that mean that you have taken a view that the community at Newton is likely to be smaller and perhaps less challenging than the community at South Queensferry? Is that the basis on which you have taken that decision?

John Howison: No. It is certainly not as simple as that. The issue is that there is a marginal increase at Newton, while a substantial increase in the traffic through South Queensferry would otherwise have occurred.

Hugh O'Donnell: Can you quantify that?

John Howison: I said that option 2 would save perhaps up to 4,000 vehicles running through Newton. It would add about 15,000 vehicles running on the A904 directly to the south of South Queensferry.

Joe FitzPatrick: You said that one of the reasons for dropping the direct link was value for money. Can you give us an idea of the additional cost of reinstating it? An order of magnitude would be fine.

John Howison: The cost difference between the two options when the decision was taken was about £140 million at 2006 prices, excluding VAT.

Joe FitzPatrick: We are talking about quite a substantial figure.

John Howison: Yes.

Mike Glover would like to add something.

Mike Glover (Transport Scotland): I would like to make a graphical point. With option 2, there would still have been a gyratory at Echline, where the new A904 junction is at the moment, because that is the only way traffic could have got from the new crossing towards Edinburgh. That is where the large volume of traffic that John Howison has talked about—20,000 vehicles—comes from. Traffic that came across the bridge would still have come to an interchange—a gyratory of some form—just south of the bridge. Traffic that wanted to go south to the M9 would have continued, but people who wanted to go to Edinburgh would have come off at that gyratory and gone towards

Edinburgh. The layout for option 2 is almost the same as the one for option 1, but superimposed on that is a direct link that goes down. I just wanted to ensure that committee members could see that in their minds. It was not just a question of providing a straight route to the M9.

Hugh O'Donnell: I would like to return Mr Howison to the vehicle that was coming across the bridge from Fife, which our convener so eloquently portrayed. Would signage that said, "Please do not go through Newton"—in whatever terminology you wished to use—deter its driver from doing so if they thought that that route might be a bit quicker because they knew the road, and if they were under time pressure because they were late for an appointment on a new project, for example? Where is the incentive for people who use that route regularly to take a more circuitous route beyond signage that says, in effect, "Gonnae no dae that"?

John Howison: The general increase in traffic in the area has been brought about by planning pressures, both in Fife and West Lothian. We heard earlier that the amount of extra traffic that there will be once the bridge and the new road network have been put in place—as opposed to the growth that would occur if the cables on the existing bridge were reinstated—will be about 10,000 vehicles a day.

From our analysis, rather more of the extra traffic runs down the M9 spur than runs along the A904. Very little of it runs into Edinburgh by way of the A90. Traffic that wants to get into West Lothian has a general choice: depending on where it wants to go to, it can use the strategic road network or it can turn right on to the A904 and use one of the various road networks that lead into West Lothian. Our traffic analysis has shown that the balance between those two traffic movements is fairly sensitive to adjustments that might be made at the various junctions off the A904. That is a matter that we are continuing to speak to West Lothian Council about, but the bottom line is that we accept that the A904 is a fairly heavily trafficked road; it is not a secondary road but a main—as opposed to a trunk—road. It carries a lot of traffic. There are clear environmental difficulties there at the moment, a number of which have split the community. We are working with the council to try to identify measures to alleviate those difficulties—measures that not only will be needed once the new road is put in position, but which are needed at the moment. Our answer is that adjustments can be made about the amount of traffic at Newton. Things need to be done to improve the situation there and we will work with the council on that.

Hugh O'Donnell: That is all interesting and detailed, but to return to my question, and to put

you back into that vehicle, what deterrent would induce you, in the picture that I painted, not to go through Newton?

John Howison: Delays being caused by traffic signals at Newton, further delays being caused by traffic signals at other junctions along the route and comfort being a particular factor in the journey are all considerations that may make me want to take the motorway link. Also, if I was going to other areas generally to the south rather than to the tract of land between the M9 and the A904, I might take the strategic route.

Hugh O'Donnell: I have a final observation, which is simply to say that the prospect of traffic standing in the middle of Newton or any of the other communities on the A904 is almost as bad as traffic whistling through it. I will leave it at that for now.

Joe FitzPatrick: How confident are you that the intelligent transport system will ensure that the traffic keeps flowing, especially at peak times? Do you have evidence from other locations where an ITS has been developed?

John Howison: Our analysis suggests that in the year of opening, we will be able to maintain traffic moving on the network, even during peak times. The ITS will use variable mandatory speed limits, so the speed at which traffic will move during peak times will not be 70mph; it might be down to 30mph. In other words, it will be moving, but not in stop-go conditions.

Thereafter, we believe that it is essential that public transport starts to take some of the travel load. Our view is that for the road network to be maintained efficiently after that, travel growth will need to be met by an increase in public transport use.

Joe FitzPatrick: The code of construction practice says that the contractor is required to monitor compliance with the code, but I note that your letter mentions that an independent team will monitor the works. What interaction will there be between the contractor and that independent team?

Andy Mackay (Transport Scotland): The independent team is the Scottish ministers site team, which will be appointed by the Scottish ministers. However, it is the Transport Scotland team that will be responsible for administering the construction contract and ensuring that the contractor complies with the contract. As part of that role, it will have access to all the monitoring information that the contractor produces. On top of that, we will be able to undertake our own monitoring as verification, to ensure that the contractor is adhering to the requirements.

Joe FitzPatrick: How will the independent team interact with the local council?

Andy Mackay: There will be a requirement for consultation. We will be in the community—engagement with the community and with local authorities is very important. The local authorities and other bodies have a variety of statutory obligations concerning regulation of environmental impacts. An important part will be explaining and demonstrating to them that we are complying with the environmental statement, the impacts that are in there and the measures to reduce impact.

Joe FitzPatrick: That is good. How will the process of audit of the environmental management system work?

12:45

Andy Mackay: The requirement to have an environmental management system is written into the code of construction practice and the contract document. The contractor must have an accredited system in place, as with a quality management system. To have an EMS that is in accordance with BS EN ISO 14001, it must be subject to independent accreditation and audit. The contractor must have that in place as a precursor to undertaking the works.

Joe FitzPatrick: Who does that audit?

Andy Mackay: To receive the accreditation, an independent audit from outside the responsibilities of the Scottish ministers or the contractor is required. I will not give anyone free advertising, but it will be an independent company that will certify on behalf of the accrediting organisation.

David Stewart: Why are the working hours for construction staff longer than those that were granted under other bills that have gone through the Scottish Parliament? How can you justify the extra disruption to affected residents? In written evidence, Transport Scotland has pointed out that the starting time for staff will be an hour earlier than that under private bills such as the Airdrie-Bathgate Railway and Linked Improvements Bill.

John Howison: Before I ask Mike Glover to answer that, it is worth reminding members of the nature of the project. We are talking largely about extensive marine construction activity to build the bridge. To the south, we are talking about in effect a South Queensferry bypass and, to the north, a link road to the M90. Those could be considered as three separate activities. Although the overall construction period is five and a half years, the construction period for the South Queensferry bypass will not be anything like as long as that. It will probably take two to two and a half years during that five-and-a-half-year period. On the

north side of the estuary, the Ferrytoll links will take three to three and a half years.

Taken together, the works will be much more extensive than those in the Airdrie to Bathgate scheme and will pose difficult problems. That does not necessarily apply to the road works, but to the marine part.

Mike Glover: I am not familiar with the Airdrie to Bathgate project, but I am familiar with other large contracts. As you know, I was involved with the Channel tunnel rail link—I was the deputy project director for 12 years, so I know a little about the organisation issues. The working hours of 7 in the morning until 7 in the evening form the envelope of time. With the marine works, operatives have to get to the work site, so there is what we call an hour's warm up in the morning and an hour's close down towards the end of the day. Therefore, fundamentally, the real construction activities will happen between 8 and 6. The requirement for hours of 7 to 7 is because of the sheer scale of the activity and its geographic distribution.

That might have answered your question, but I would like to develop my answer by setting out the context of the construction. Although the project is huge by any stretch of the imagination, the great proportion of it will take place as marine works. It is not a large motorway project; it is a huge bridge in a large estuary. As a consequence, much of the construction activity will take place away from the land. For example, none of the steelwork that is erected will come from the South Queensferry or North Queensferry area—it will be shipped in. The concrete for the towers will be done from barges in the estuary.

David Stewart: Sorry to interrupt, Mr Glover, but surely you are not suggesting that, when work is carried out in the marine environment, there will be no noise that affects local residents.

Mike Glover: No.

David Stewart: So in theory, work could start at 7 am, which is early for heavy noise to affect an area. The hours that you are suggesting are longer than those that were suggested in other private bills of which we have experience. The key point is that there is a clear link between earlier and later starts, and disruption to local communities by noise.

Mike Glover: There is an advantage in the working hours that are proposed, which is that the key movements of people to and from the site will be outside peak hours. The other point to recognise is that heavy goods vehicle movements will take place during interpeak hours, not during peak congestion hours. That is a commonsense way of organising matters.

There are all sorts of issues. We should look at working hours as a logistical exercise, instead of saying that machines should be turned on 7 o'clock in the morning and turned off at 7 o'clock at night. That is not the way in which things operate.

David Stewart: Your comment links nicely to my next question, which touches on a point that Joe FitzPatrick made about the code of construction practice. Many local residents are worried about noise, vibration and disruption. How responsive will the code be over the five to six-year construction period? Will you talk to local residents and change the code if you find that it is not effective in meeting local residents' needs?

Mike Glover: I can speak from experience, because the code of construction practice is a modern and appropriate tool to explain the intentions behind the construction process. Community liaison and outreach are a vital aspect of the code and of the way in which one should run major projects. Communication with the outside world should be on a 24-hour basis. With more conventional construction, people can go to a site office if they have a complaint during working hours. The structure that we will set up for this project will ensure that there is immediate contact with the community during all stages of construction; that will be advertised. There will be a 24-hour helpline for complaints, which will be received and recorded. Those records will be open to public scrutiny; in fact, the contractor will report the events that are taking place. Reporting will be continuous, so the situation will always be before the eyes of the public. As Andy Mackay said, the Scottish ministers' team will ensure that such processes are in place. The scale of the project is such that the degree of community outreach will be much larger than members anticipate.

David Stewart: Local residents have suggested that the problem with the code of construction practice is that the contractor is judge and jury. If I may mix metaphors, who will guard the guards? What is the level of independence under the code, if local residents do not see it as working?

Mike Glover: There may be a perception that the contractor is judge and jury, but that is not at all the case. For any activity to be accepted, the contractor must go through a rigorous process of putting proposals to the Scottish ministers' site team. On noise and vibration—to which we can come—the contractor must go through a strict procedure to demonstrate best practicable means before, not after, he starts an activity. Everything that we set ourselves up to do is aimed at being proactive rather than reactive. For example, the contractor will have to show us what machinery he will use in which location. We will determine what the activities will be and, if they do not represent

the best practicable means, they will not happen. We will also agree with local authorities and the contractor the position of monitoring locations that will record activities on the site.

I hope that the combination of the regime of complaints reporting and recording, the review process that we will put in place with the objective of achieving best practicable means, the monitoring that, again, will be open to scrutiny and review and the very strong liaison group that will work with the local authorities on all of those issues projects a different picture from the one that might have been painted by objectors as a result, if you like, of the lack of the kind of definition that people might be seeking. However, that is the process that will be in place. The same process was put in place for the Channel tunnel rail link, on which I worked for 12 years, and is why we succeeded in completing that project.

The Convener: I am not sure whether the community council and elected representatives will not be a little astonished to learn of the magnificent communicative relationship that you understand them to have had with you. In so far as those people are—to use your phrase—the eyes of the public, how would you characterise your discussions with them? They feel a little bit deflated and abandoned.

John Howison: We announced that we were going to start drafting the code of construction practice when we undertook consultations with local communities in the early summer of last year. We provided a pre-consultation draft to Queensferry and district community council and North Queensferry community council and once we had received their initial responses we submitted a consultative draft to local authorities and a number of other bodies and then came back to the community councils. We analysed all the feedback that we received; changed the code in response to a number of comments, although there were a number that we did not change it for; and provided a response to each person who contributed to indicate how we had treated their views. That is how we have reached the current position with the code of construction practice.

The Convener: Thank you very much.

Hugh O'Donnell: I was interested to hear how confident Mike Glover is about how all this would be monitored. If you are so confident, why does the bill seek to remove from those living around the construction site, whether they be in Newton, North Queensferry, South Queensferry or any of the other affected communities, the statutory rights that protect them from the very things that will be incorporated in the code of construction practice? Why, if the bill proceeds, will such powers be removed from the local authorities?

John Howison: It is worth pointing out that this contract is with the Scottish ministers, not with Network Rail or some other entity.

Hugh O'Donnell: I hope that you are not suggesting that the Scottish ministers should be any less accountable than any other body with regard to the population's statutory protections.

John Howison: No, but I was suggesting that the Scottish ministers should be regarded as the most responsible body for taking this work forward.

Hugh O'Donnell: We spend about 38 weeks of the year deciding whether, in fact, that is the case.

John Howison: Leaving that point aside, I also point out that in this case the employer's representative will be a direct employee of the Scottish ministers, not a consultant or contractor, so there will be a direct relationship in that respect.

Most important, the regime that we have put in place is not meant to dilute responsibilities but to create a framework for the contractor that encourages a forward planning process—of which, I should point out, the local authorities have already highlighted the advantages—in the knowledge that it will be monitored by people who are on site every day and who do not turn up only when someone makes a complaint.

It is also a misconception that we are removing the local authorities' role in all this. The fact is that their role will be removed only with regard to the activities that are covered by the framework set out in the code of construction practice. When the proposal moves outwith that—for example, when a request is made for a higher noise level than that set out in the code of construction practice—the local authorities will come back into play.

13:00

Hugh O'Donnell: Given that the local authorities are communities' locally elected representatives, I would have thought that any code of practice should have been in addition to—as opposed to instead of—the statutory protection that communities already have.

You touched on noise. Unlike Mr Glover, we have not been involved in projects of this scale. What maximum decibel levels would you expect there to be? You have quite a range, which I understand is outwith the normal range of operations. How big a percentage increase in ambient noise are communities likely to experience?

John Howison: Two documents determine that—the code of construction practice and the environmental statement—both of which are

binding on the Scottish ministers. Perhaps Richard Greer will answer your questions.

Richard Greer (Transport Scotland): Chapter 19 of the environmental statement gives a detailed assessment of the noise that is predicted to arise from the construction works as seen at this time. That is based on a reasonably foreseeable worst case. It is to allow for the fact that the contractor, once on board, might need to do something different. We always start with the worst case and then continue to work with the contractors, local authorities and the public, through the code of construction practice, to ensure that we endeavour to minimise the effect once we get to ground and execute the works. That information is in chapter 19 of the environmental statement. It goes through the monitoring that was done in each of the communities, demonstrates how, against best practice, criteria have been identified to ensure that construction will not go above a reasonable increase over the ambient noise, and demonstrates how the works and mitigation that are proposed in the environmental statement will ensure that that is the outcome.

I return to the question about the limits being set generously. I have picked up from reading a number of the objections that perhaps the process, as it was intended, has been misunderstood. I will set out the process, as the Scottish ministers and Transport Scotland envisage delivering it.

The environmental statement sets out a detailed assessment, the outcome of which is binding. That is made clear in the code of construction practice and the bill. What the contractor does with the project cannot be worse than the residual impacts reported in the environmental statement. That sets an absolute limit in terms of the overall performance.

As John Howison and Mike Glover said, the code of construction practice sets out a framework by which the further details of the construction method are developed and reviewed by the employer's representative to ensure that best practice is followed.

The levels that are set in the code of construction practice, which some of the objections have described as limits, are not limits but thresholds. They set an overall noise envelope around which the process will work, but they are not limits that the contractor can work up to. It is important to understand the protective provisions in the code of construction practice and the environmental statement that will ensure that that does not happen. As John Howison said, there is no intention whatever to remove the fundamental legal provisions that protect the public's interest. The COCP provisions are about using best practicable means—it is a bit like health and

safety—to keep noise as low as is reasonably practicable at all times.

The process is that within a code of construction practice there is a requirement for an assessment to be made of all the work by the contractor, throughout the duration of the contract. The contractor will assess its construction activities—much like a section 61 consent would be made to a local authority. The contractor has to come back to the employer's representative to seek approval. John Howison said that it was about planning: it is about ensuring that before the contractor gets to site he is planning for noise control to minimise noise, and that that is reviewed and approved by the employer's representative before the contractor gets to site. That hierarchy is about keeping noise levels as low as is reasonably practicable. It is not a question of working up to limits, because no limits are set. Once the plans have been developed, the contractor seeks approval for them from the employer's representative to ensure that when there are genuine practical limitations on what can be done, the predicted noise in those situations is not worse than what is defined in the environmental statement.

If we go up another level to those unusual circumstances in which noise levels have to go still higher—there will be some such circumstances with a project of this scale—there are additional protective measures in place. That is when the thresholds that are set in the code of construction practice come in. They trigger mitigation measures such as noise insulation and temporary rehousing. Once the works have been planned and approved such that we will do everything that we can to minimise the noise, monitoring will be undertaken out on site to ensure that what the employer's representative has approved is what is delivered.

Forgive me for the length of my answer, but the intent of the COCP has been misunderstood by some of the objectors. I appreciate being given the opportunity to explain the intended process to the committee.

Hugh O'Donnell: I notice from the documents that a commitments and undertakings register will be prepared, should the bill proceed through the Parliament. Briefly, what will it contain and what status will it have?

Frazer Henderson (Transport Scotland): We will, indeed, produce a commitments and undertakings register. It will mean that any commitments that we have given throughout the passage of the bill will be documented and will be binding on us. The same goes for undertakings. Anything that appears in that register will be binding on us.

We expect to publish the commitments and undertakings register around stage 2. It will contain any commitments that we have given to objectors up to that point. For example, it might be that we decide, for whatever reason, that we no longer require a certain piece of land or that we will not do a particular activity on that piece of land, and we will give a commitment to that effect. We will follow that up with an amendment if that piece of land is mentioned in one of the schedules to the bill.

The register will be binding on us, as it has been on other promoters of private bills that have gone through the Scottish Parliament.

Hugh O'Donnell: I notice that you did not say "legally binding". Are we talking about legally binding commitments?

Frazer Henderson: Once it is commenced, the bill and its documentation will be binding.

Hugh O'Donnell: So the register will form part of the supporting documentation.

Frazer Henderson: Yes.

Hugh O'Donnell: I just wanted to be clear about that.

Unsurprisingly, perhaps, the project will have some fairly serious negative impacts on house and property owners from the point of view of property values. We are not talking about compulsory purchase, which is a quite separate issue. Do you have a scheme for addressing the negative impact, certainly during the construction phase, on people who own properties in the vicinity of the new crossing? If so, can you give us an indication of how you intend to approach those issues?

Frazer Henderson: We do not have a specific scheme. Under the bill, we will apply the same procedural rules, safeguards and requirements as generally apply for land and rights that are purchased compulsorily or which are affected. There are contexts in which compensation is payable to property owners when their property is not acquired, required or occupied. We have already touched on some of those elements. For example, if someone's property is particularly affected by noise, we have the ability to provide compensation for noise insulation. We also have the ability to temporarily relocate people if they cannot endure the construction activities at a particular time. However, we will not provide any compensation to people for a loss of value during the construction activity.

The Convener: That brings us to the end of our questions for the witnesses.

13:10

Meeting continued in private until 13:24.

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