The Committee will meet at 10.00 am in Committee Room 1, to consider the following agenda items:

1. **Item in Private**: The Committee will consider whether to take item 6 in private.

2. **Subordinate Legislation**: The Committee will consider the following negative instrument—

   The Environmental Protection Act 1990 (Amendment) (Scotland) Regulations 2001 (SSI 2001/99)

3. **Public Petitions**: The Committee will consider the following public petitions—

   Petition PE295 by Mr A I Murray on behalf of the Silverknowes Residents' Action Group calling for the Scottish Parliament to urge the City of Edinburgh Council to review its plans for the relocation of the football pitch on Silverknowes Green and to ensure that future planning applications allow sufficient opportunities for interested parties to voice their concerns.

   Petition PE323 by Mr M R Watkin calling for the Scottish Parliament to change current legislation in such a way as to give equal rights to both developers and objectors to developments and to take appropriate action to prevent any development at 8a Montague Street, Dundee.

4. **Ministerial Responsibilities**: The Committee will consider recent changes in the responsibilities of Scottish Executive Ministers.

5. **Budget Process 2002-03**: The Committee will consider a paper by the Finance Committee.
6. **Inquiry into the Management and Maintenance of Trunk Roads:** The Committee will consider its approach to evidence-taking.

7. **Water Inquiry (in private):** The Committee will consider the possible contents of a draft report on its inquiry into water and the water industry.

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Shelagh McKinlay  
Clerk to the Transport and Environment Committee  
Room 2.02, Committee Chambers  
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EXECUTIVE NOTE

The Environmental Protection Act 1990 (Amendment) Scotland Regulations 2001 (S.S.I. 2001/99)

The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution procedure.

1. Policy Objectives

Section 113 of the Environmental Protection Act 1990 ("the 1990 Act") confers power to make and from time to time revise a scheme of fees payable in respect of applications for consents under Part VI (genetically modified organisms) of the 1990 Act and charges in respect of the subsistence of such consents. Council Directive 90/220 approximates the laws of Member States on the deliberate release and marketing of genetically modified organisms.

The scheme under section 113 of the 1990 Act at present in force is the Genetically Modified Organisms (Deliberate Release) Fees and Charges Scheme 1997. It is proposed that a revised scheme of fees and charges be made in respect of consents for the release or marketing in Scotland of genetically modified organisms and the subsistence of such consents. It is further proposed that this should provide for certain functions to be performed by the Department of the Environment, Transport and the Regions. The revised scheme will require to be laid before the Scottish Parliament in accordance with section 113(4) of the 1990 Act.

The instrument amends section 113 of the 1990 Act so as to provide that in making a scheme under that section Scottish Ministers may, with the consent of the Secretary of State, provide for any functions under the scheme to be performed by a Minister of the Crown or government Department where Scottish Ministers consider expedient to do so in relation to the implementation of Council Directive 90/220.

Financial Effects

The instrument has no financial effects on the Scottish Executive or local government.
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AGENDA ITEM
TE/01/10/3

COMMITTEE COVERING NOTE ON PETITIONS PE295 AND PE323

PE295 BY MR A.I. MURRAY ON A PLANNING DECISION BY CITY OF EDINBURGH COUNCIL

PE323 BY MR M.R. WATKIN ON EQUAL RIGHTS TO BOTH DEVELOPERS AND OBJECTORS TO PLANNING DEVELOPMENTS

Introduction

1. This paper asks the Committee to consider for the first time:

- Petition PE295 by Mr A I Murray on behalf of the Silverknowes Residents’ Action Group calling for the Scottish Parliament to urge the City of Edinburgh Council to review its plans for the relocation of the football pitch on Silverknowes Green and to ensure that future planning applications allow sufficient opportunities for interested parties to voice their concerns.
- Petition PE323 by Mr MR Watkin, calling for the Scottish Parliament to change current legislation in such a way as to give equal rights to both developers and objectors to developments and to take appropriate action to prevent any development at 8a Montague Street, Dundee.

2. This covering note covers both petitions, as they both relate to planning matters. Copies of both petitions are attached to this covering note, as are copies of the Official Reports of the two meetings of the Public Petitions Committee at which the petitioners gave evidence. A copy of a letter to the Convener from the former Minister for Environment, Culture and Sport, Sam Galbraith MSP, is also attached.

Remit And Role Of The Committee

3. Planning is a devolved matter and is within the Committee’s remit.

Background – Petition PE295

4. Petition PE295, which is signed by 139 people, calls for the Parliament:

- to investigate and review a decision by City of Edinburgh Council to relocate a football pitch on Silverknowes Green;
- to take action to ensure, via an independent process, that proper planning procedures are observed in respect of planning applications and all interested parties are notified and consulted
- to take action to allow appeals against planning committee decisions from objectors as well as the applicants
- to give objectors the right to representation at planning committee meetings
Background – Petition PE323

5. Petition PE323, which has 7 signatures, sets out the view “that the current planning law provisions which grant a right of appeal against a local council’s decision only to developers and not to parties who object to a proposed development is fundamentally unfair and is a violation of human rights”.

6. The petition requests that the Scottish Parliament—
   • change current legislation in such a way as to give equal rights to both developers and objectors to developments; and
   • takes appropriate action to prevent any development at 8a Montague Street, Dundee.

Action So Far On The Petitions

7. Petition PE295 was considered by the Public Petitions Committee (PPC) at its meeting on 21 November 2000. The Committee agreed to pass the petition to the Transport and Environment Committee for consideration. In addition the PPC agreed to copy the petition to the City of Edinburgh Council to seek its comments on the issues raised in the petition and on ECHR compliance.

8. Petition PE323 was considered by the PPC at its meeting on 23 January 2001, when the Committee agreed to pass the petition to the Transport and Environment Committee to consider the more general points raised about third party appeals in planning cases. The PPC also agreed to take no further action on the petition.

9. In referring the petitions to the Committee, the PPC requested that the Committee considered the petitions “as part of its proposed inquiry into planning law”. Members will be aware that the Transport and the Environment Committee has not agreed to hold an inquiry into planning law. The Committee has, however, noted in response to previous petitions on planning matters that it was open to the Committee to revisit the issue of third party appeals at a future date.

10. Members will recall that the Committee has previously agreed not to take a view or recommend further action in respect of individual cases which have been subject to legal or court proceedings, industrial tribunals, or planning or other similar statutory procedures.

11. It would not, therefore, be appropriate for the Committee to comment on the individual cases raised by the petitioners, and it is suggested that the Clerk writes to the petitioners to explain the Committee’s position.

12. The Transport and the Environment Committee does, however, have a legitimate interest in the broader issues raised by the petitioner relating to the accountability and fairness of the planning system, and in particular, the rights of individuals objecting to, or appealing against planning decisions.
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Action Taken By The Committee On Planning Issues

13. The Transport and the Environment Committee has previously considered issues related to the accountability and fairness of the planning system raised in other petitions, including:
   • Petition PE 132 from Mr DWR Whittet calling for the Scottish Parliament to introduce legislation streamlining the planning system
   • Petitions PE154 and PE156 calling for the Scottish Parliament to intervene to overturn a planning decision of Glasgow City Council
   • Petition PE 196 by Dundee and Tayside Chamber of Commerce and Industry on reviewing the power of the First Minister to call in a planning applications
   • Petition PE207 by Mr Gordon Clyde Ford calls for the Scottish Parliament to introduce a more public friendly planning system by granting objectors to a development exactly the same rights as the developers
   • Petition PE227 by Alistair MacDonald on the actions of the National Trust for Scotland in Glencoe

14. In response to the issues raised by Petition PE207, the Transport and the Environment Committee agreed to write to the then Minister for Environment, Sport and Culture, Sam Galbraith MSP, to seek his views on that the issue of third party planning appeals and the rights of objectors in the planning process. The full response from the Minister is attached to this covering note. The letter indicates that the Scottish Executive has no plans to introduce a third party right of appeal at present.

15. On 7 March 2001, in response to petition PE227, the Committee agreed to write to the Scottish Executive to seek further information on what steps might be taken to improve procedures for local consultation on planning issues. A response has been received which indicates that the Executive intent to consult on the issue later this year. (The response is attached.)

16. During a discussion on other planning related petitions on 27 September 2000, members discussed the question of the compatibility of the current Scottish planning system with new requirements under the European convention on human rights. However, members noted that it would be premature to consider the issue of ECHR compliance further, before the outcome of the appeals in the case of County Properties Limited v The Scottish Ministers. This case concerns the contention that appeals to the Scottish Ministers, in cases where they could be said to have an interest, lack the necessary independence to satisfy Article 6 of the ECHR. The outcome of the appeals is expected in the near future.

Possible Action By The Committee On The Two Petitions

17. Various possible options for action by the Committee on the petitions are set out below. These options are not exhaustive.

18. It is suggested that as a minimum the Committee writes to the PPC, explaining that the Committee has not in fact agreed to hold an inquiry into planning law, and pointing out that it is open to members to revisit the issue of planning law and, in particular, third party planning appeals, in the future.
Option A

Members could write to the petitioners to indicate that the Transport and the Environment Committee will take into account the issues raised by the petitions in any inquiry into planning it decides to undertake. The Committee could also circulate to the petitioners the letter received from the Minister for the Environment, Sport and Culture on third party planning appeals, and inform the petitioners that the Committee was pursuing the issue of local consultation on planning issues, and that the Executive’s response to the Committee on this issue would be passed to them in due course.

Option B

The Committee could seek further information on the issues raised by the petitions from the Executive, from the Scottish Society of Directors of Planning, from the Royal Town Planning Institute or any other relevant body.

Alastair Macfie
Assistant Clerk to the Transport and the Environment Committee
March 2001
The Convener: The next petition is PE295, from Mr Alex Murray, on behalf of the Silverknowes residents action group. The petition calls on the Scottish Parliament to urge the City of Edinburgh Council to review its plans for the relocation of the football pitch in Silverknowes Green and to ensure that the future planning applications allow sufficient opportunities for interested parties to voice their concern. I welcome Mr Murray to the committee and ask him to make his statement.

Mr Alex Murray (Silverknowes Residents Action Group): I have provided a plan of the area to the committee. I would appreciate it if members would have a look at it before I speak.

The Convener: The plan was received today and is being handed out now. Some photographs were also received.

Mr Murray: I will refer to them later.

I speak on behalf of the residents of Silverknowes View, Silverknowes Green and the surrounding area. Our petition relates to planning procedures and the right of appeal. We feel greatly aggrieved that reasonable, law-abiding, undemanding, tax-paying citizens have an unacceptable situation imposed on them without the right of appeal. We maintain that we were not properly informed or consulted during the planning process. A council-backed development on council land has received planning permission from the council's planning committee and will be developed by the council. All that has been done in the interests of the local community. We maintain that we are part of that community and that we have not had a fair and impartial hearing.

The local plan, which was adopted in 1992, defines the area involved as a significant area of public open space on which no development is allowed. A football pitch, which was located on the Muirhouse side of the land, was relocated close to Silverknowes without notification. We have since been regularly subjected to foul language, shouting and people urinating in public against the fences of our properties.

Since October 1997, three planning applications have been approved, resulting in plans for housing and a park for the community. The football pitch will be moved even closer to us. Approval was subject to consultation with all local communities. A consultation meeting was advertised in Muirhouse Library, Silverknowes Primary School and on the lamp posts surrounding the park. However, our local library is in Blackhall, our local school is Davidson's Mains Primary School and we have no direct access to the park. Therefore, we did not attend the meeting and were not consulted, which means that the conditions attached to the planning approval were contravened.

The second notice to neighbours clearly showed a football pitch, but the notice was not issued to us. The third notice to neighbours, which we received, did not mention
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a football pitch or a 40 ft high fence. When we discovered the detail, we tried to have the matter removed from the planning committee agenda until we had been properly consulted. We have since proposed that an existing pitch in Silverknowes Primary School be retained. The pitch is recognised by sportscotland as a substantial playing field of good quality that is conveniently located. The school and field will be sold for housing development.

I ask members to take time, please, to look at the four photographs. Photograph A shows the level, well-drained playing field in the school grounds. Photograph B shows the area of the intended football pitch, close to our properties. You can see the type of soil on which it is planned to put the pitch. Photograph C shows the 40 ft fence and the height in relation to our two-storey properties. The effect does not include that of any netting that will be erected. Photograph D shows the impact of the fence from our rear gardens. Again, the netting is not included.

To the council, we have pleaded article 6 of the European convention on human rights, on a fair and impartial hearing, and article 8, on the individual's right to peaceful enjoyment of assets. We have not yet received a response. We feel that the smart movers—the experienced players in the planning game—have succeeded at the expense of the innocents who do not know the law. We have discovered that we do not have the right to speak at the planning committee, that we have no right of appeal, that no independent authority ensures fair play during the planning process and that planning permission, once granted, is difficult to reverse.

We ask the Parliament to protect its citizens, allowing us—and no doubt many others in similar situations throughout Scotland—the freedom to enjoy our homes and gardens peacefully. We believe that the Parliament has it in its power to correct the situation.

The Convener: Will you elaborate a bit on the ways in which you have approached the council and any responses that you have received from it?

Mr Murray: When the first notice to neighbours was distributed, many of us objected. The notice informed us of a housing development and a reallocation of open space. There was no mention of the football pitch. At that time, our objections related to the lack of detail about the housing, which appeared to be right up against our boundary fences. We asked questions about the orientation, density, height and type of housing that would be built. The response was that it would be low-rise, low-density, low-cost private housing.

At its meeting, the planning committee had to take notice of the local councillor's requirement that the existing football pitch be retained and I think that sportscotland said that it would not like to lose a football pitch. We were unaware that the proposals were being made to the planning committee, so we had no opportunity to raise objections. Outline planning permission was granted, but decisions on the retention of the full-size football pitch and consultation with all local communities were reserved.

Helen Eadie: Have you requested a meeting with the leader of the City of Edinburgh Council? Have you involved a local councillor?
Mr Murray: We have involved many people so far. As soon as we realised that the third application would succeed and that we could not object, we set up a public meeting. Margaret Smith, who is not here today, Lord James Douglas-Hamilton, who is one of our list MSPs, and Councillor Lowrie all attended the meeting. If Margaret Smith were here, she would vouch for the number that attended. We feel that if we had been invited to the consultative meeting, the turnout would have been the same and we would have had the opportunity to raise our objections to the location of the pitch. However, we were not given that opportunity.

One of the reasons why we are here today is that Margaret Smith recommended that we send a petition. We collected the names and submitted that petition. Councillor Lowrie is a member of our action group and gives us advice about council procedure and some information about progress.

Helen Eadie: You say that a public meeting was called. Have you sought a meeting with the leader of the City of Edinburgh Council?

Mr Murray: No, not with the leader, but we tried to communicate with the convener of the planning committee. We delivered letters by hand, and I sent a fax, to try to get the item removed from the agenda until we had been consulted. Those requests were all turned down.

I have been in communication with the chief executive, trying to persuade him that proper procedure was not followed. On behalf of the action group, I have had a meeting with the head of planning, the acting head of leisure and recreation and a representative from housing development who has been involved in the project from its early days. At that lengthy meeting, I explained, as I have explained to you, the shortcomings in the procedure that was followed.

We have since had letters back from those officials saying that they feel that the council followed correct procedure. We have had a letter from the chief executive saying that, having investigated the matter internally, he feels that the council followed proper procedure. We have communicated with Steve Cardownie, who is the executive member for leisure and culture. He wrote back, in what now appears to be the standard letter, to say that he is convinced that the council followed proper procedure.

We have invited all those people down to have a look at the site so that they can see it from our point of view, but none has yet accepted. The only acceptance that we have had has been from Robin Harper MSP. Subject to his schedule, we hope to have a visit from him in the next few weeks.

John Scott: I want to be sure that I have understood correctly. When you were first notified of this development, you were told that it was to be for housing.

Mr Murray: That is correct.

John Scott: So when you objected to the development, you were objecting to a housing development. The council subsequently changed the plans and the area
was designated not for housing but for a football pitch. Were you given an opportunity to object at that stage?

**Mr Murray:** No, and that is my point. Initially, we objected because of the lack of detail about the housing: we did not want tower blocks right at the boundaries of our properties. As I have said, we understand that sportscotland made representations to say that it did not want to lose another football pitch, and we understand that the local councillor, Lesley Hinds, made representations in the council that sportscotland wanted to retain the pitch. As a result of that, the outline planning permission included, among other things, the provision of a full-sized football pitch, subject to the developers consulting all the local communities.

**John Scott:** Which you maintain that they did not adequately do.

**Mr Murray:** They maintain that they did, but they did not tell us about the meeting on the issue. They advertised it in areas that we do not frequent. Silverknowes is quite an extensive area. Silverknowes Primary School serves the north end, but we are at the south end and our children go to Davidson's Mains Primary School. The Muirhouse library is in the centre of Muirhouse but the most accessible library for us is in Blackhall. From Silverknowes, we do not have access to the open space concerned, so we would not see any notices on lamp posts.

**John Scott:** Do you feel that an attempt has been made to deceive you?

**Mr Murray:** We would have to use the word "allegedly", but yes, we do feel that. We feel that we have been not outmanoeuvred but cheated, in that we have not had proper consultation or information. In the third notice given to people in the neighbouring houses, the development was described as a park for the community. Accompanying that notice was a diagram showing a blank area. There was no mention of the pitch being within 25 or 35 feet of properties. Please correct me if I am wrong now that we have gone metric, but those who play football will know that 35 ft is just under the distance from the penalty spot to the goal line.

**The Convener:** It is a long time since I went metric or played football.

**Mr Murray:** Is it 12 yards? I cannot remember.

**The Convener:** I notice in your papers that you are considering an application to the local authority ombudsman about maladministration on the part of the council. Are you going to do that?

**Mr Murray:** Again, you can correct me if I am wrong when I say that the ombudsman can investigate the planning approval but cannot change it. We submitted all the necessary papers up to July, which was about the time that the petition was originally completed and signed. The ombudsman wanted to close the file because we had not gone through the council's proper complaints procedure. We had complained to just about everybody on the council to whom we thought we could complain. We received replies in which they all said that proper procedure had been observed.
We delayed taking the matter further with the ombudsman, and he or she was aware of that. We delayed submitting this petition to allow the council to consider our alternative proposal of retaining what is a perfectly good, level, well-drained playing field. As members can see from the photograph, there is no water lying on the pitch, even after lengthy periods of rain.

Silverknowes Primary School and the pitch have to be sold. They are no longer required. The proceeds of the sale will go towards a new primary school in Muirhouse, which will replace more than two or three schools in the area. Those schools have playing facilities, which will be open for community use. We maintain that there is no need for another football pitch. There are many football pitches all around Silverknowes. We tried to put that case to the council's recreation committee. It listened, but it did not do anything.

**John Scott:** Did you say that you were not given the right to speak before the council's planning committee?

**Mr Murray:** No, I said that we understand that we do not have the right to speak. We can speak by invitation.

**John Scott:** Which was not extended to you.

**Mr Murray:** If we had been aware that a local councillor was going to support the retention of the football pitch, we would have presented a case against that.

**The Convener:** But no forward notice of the matter was to be raised at that committee?

**Mr Murray:** Indeed not.

**The Convener:** You understand that the Parliament cannot intervene in local democratic planning decisions. That is, in a sense, why councils are elected. We can discuss procedures, but the individual decisions of any council are a matter for its elected members, who will be held to account by the voters when the time comes.

**Mr Murray:** Yes, but the Parliament surely has some say in the procedure and in the application of law. In this case, we are saying that the law should be changed: we should have a right of appeal. My understanding is—again, you will have to correct me if I am wrong, as we are lay people with respect to the law—that when planning approval has been granted, virtually the only way of reversing or changing that is through a judicial review.

**The Convener:** There is no right of appeal. A number of petitions have been referred from this committee to the Transport and the Environment Committee, dealing with the specific problem that people do not have the right of appeal against such decisions. I know that the Transport and the Environment Committee is considering that. We may decide to refer this petition to that committee as well, but I reiterate that we cannot interfere with the council’s actual decision. We can only talk about the procedures and processes. Otherwise, the Convention of Scottish Local Authorities and local authorities themselves will get irate.
Mr Murray: Yes, but we are also entitled to get angry because we were not consulted.

The Convener: I agree.

Mr Murray: The whole point is that the decision was not democratic. To reiterate what I said earlier, this is a council-backed development on council land, which has received planning permission from the council's planning committee. It will be developed by the council.

John Scott: For council gain.

Mr Murray: What is fair and impartial about that? Does the Human Rights Act 1998 have any application in this area?

The Convener: We cannot make a judgment on that.

Helen Eadie: I concur with the convener, but you might want to explore this with the local government ombudsman, whose task it is to ensure that all the due processes and procedures have been observed. I am not sure whether you have thought about doing that.

Mr Murray: We did explore it with the ombudsman.

Helen Eadie: John McAllion is absolutely right: it is our task to change the legislation, to investigate any guidelines that the Minister for Finance and Local Government needs to consider and to investigate any pertinent statutory instruments.

The rights of smaller people in the community, so to speak, to have a line of appeal against planning decisions form one of the most frequent subjects of the petitions that the Transport and the Environment Committee has received from us. Developers have a right of appeal. There seems to be an imbalance in society, and I know that the Transport and the Environment Committee will consider that in due course.

Mr Murray: If the ombudsman finds that proper procedure has not been followed in this case, we still have no means of getting the football pitch moved. I question the legality of the decision. Again, we are left without a leg to stand on.

The Convener: Thank you very much for a comprehensive presentation. There are no more questions.

We will now discuss how to handle the petition. As I said, it is not within our remit to investigate decisions that have been made by elected councils such as the City of Edinburgh Council. We cannot take any further action in relation to that aspect of the petition.
In relation to the other issues that have been raised, as I said, we have passed several similar petitions that have called for changes in the planning system to the Transport and the Environment Committee. It is suggested that the petition should be passed to that committee to be considered with those previous petitions.

Do members think that any other action might be possible?

**John Scott:** The ECHR is increasingly going to come into play in those planning decisions. I understand that some councils offer individuals the right to speak and make representations at planning committees as a matter of right.

In the context of changing the legislation, if we decide to pass this petition to the Transport and the Environment Committee, we should urge it to fully examine how ECHR issues relate to planning. If the committee does not do so, we will be forced to do so by court action.

**The Convener:** In passing petition PE295 to the Transport and the Environment Committee, we could ask them to consider the implications of the ECHR for planning applications, especially in relation to the right of individuals to make representations to councils about planning decisions.

**John Scott:** I wonder if we should write to the council to ask whether it is satisfied that it has complied with all procedures known to it and has complied with the ECHR. That would invite it to take a look at its own position.

**The Convener:** As well as passing the petition to the Transport and the Environment Committee, we could also pass it to the City of Edinburgh Council to ask it to respond to the points made by the petitioners about the lack of consultation and the lack of the right to object to this planning decision. We would consider the replies when we get them.

**Helen Eadie:** The petitioners might want to contact Planning Aid for Scotland.

**The Convener:** I have been advised to stress again—I think for legal reasons—that the committee recognises that it cannot intervene in the decisions of a democratically elected body such as the council. We are trying to help the petitioners by getting the council to explain its position.

Are members agreed?

**Members** indicated agreement.
The Convener: The next petition is PE323 from Mr R Watkin. I should declare an interest, as the petition comes from Montague Street, Dundee, which is in my constituency. I have not been involved in the planning decision to which the petition relates up until now.

The petition is about third-party right of appeal on planning decisions. It calls on the Parliament to change current legislation in such a way as to give equal rights to developers and objectors to developments and to take appropriate action to prevent any development at 8a Montague Street, Dundee. As members will see from the suggested action, it is not for us to interfere in the decisions of Dundee City Council on a planning application.

On the general point about third-party appeals in planning cases, the suggested action is that we pass a copy of the petition to the Transport and the Environment Committee for it to consider as part of its proposed inquiry into planning law, which will examine third-party rights of appeal.

John Scott: I agree with the recommendation.

I would like to know how soon the Transport and the Environment Committee will be examining those issues. Does anybody know?

The Convener: The inquiry is on the back burner.

John Scott: Can we do anything to bring it nearer the front? This issue comes up in petitions time after time. It is a burning issue throughout Scotland.

The Convener: Do we have information on the number of petitions that we have received on the matter? It is a large number.

We will come back with the number and tell the Transport and the Environment Committee that we are dealing with a lot of petitions on the matter and that we think it should deal with the issue.

Dr Ewing: Would not the right of appeal be covered by the European convention on human rights?

The Convener: That has been raised in previous petitions.

We have passed a series of petitions to the Transport and the Environment Committee, which is meant to be considering the matter. As I said, it has the inquiry on the back burner. We should get details of how many petitions we have received on the matter and write to the convener of the Transport and the Environment Committee to suggest that it should address the issue sooner rather than later.

Dr Ewing: ECHR is often a catalyst for getting matters put on the front burner.
The Convener: Perhaps we could draw that to the attention of the Transport and the Environment Committee. Is that agreed?

Members indicated agreement.
Thank you for your recent letter to Sarah Boyack in relation to petition PE 207 regarding third party rights of appeal in the Scottish planning system. The letter has been passed to me for reply due to my new ministerial responsibility for land use planning.

In relation to the rights of objectors, the planning system recognises the fundamental importance of ensuring that third parties have a full and proper opportunity to participate in the decision making process. Objectors are able to make representations to the planning authority and there is a statutory requirement for planning authorities to send a weekly list of planning applications to community councils who can then make representations to the planning authority. In reaching a decision on an application the council is obliged to take these views into account. Third parties can also ask the Scottish Ministers to exercise their powers to call-in applications, participate in public inquiries and apply to the Court of Session for a review of the decision on a planning application. This represents a significant opportunity for public participation in the planning process and for local feelings to be represented.

The introduction of a right of appeal for third parties has been considered from time to time. There are some serious concerns that a third party right of appeal could undermine the efficient and effective operation of the planning system. In particular a third party appellant might not be representative of the wider community; pressure groups might frustrate development by making frequent appeals; and frivolous appeals might be lodged which would still require to be processed. All this could lead to delays in reaching decisions on planning applications, a matter to which the Executive attaches great importance. The Scottish Executive, therefore, has no plans to introduce such a right of appeal at present.
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However, the need to amend existing planning law and procedures is kept under review and the Executive shall continue to do so.

I note that the Petitioners are concerned about the possible treatment of objections to the forthcoming local plan for their area. During the preparation or proposed amendment of development plans (structure plans and local plans), members of the public have a major opportunity to comment on or object to the proposals and/or policies the council propose to implement, which will shape the future development of the area. In preparing development plans, local authorities must take into account a range of interests including national policy and the views of the development industry, amenity organisations, statutory bodies and members of the public. Consultation with the local community and other interests is an integral part of the development plan process. However, it is for the local authorities in the first instance to weigh up all the relevant matters and reach a decision on what is in the best interests of the community.

The Scottish Ministers have responsibility for approving structure plans and that includes ensuring that proper consideration has been given to those who provided comments. There is also the independent local plan inquiry route for considering objections to local plans. Again, the Scottish Ministers have the power to intervene prior to the final adoption of a local plan if we consider there is sufficient reason for doing so. This power is used only in exceptional circumstances. It is important that as many people and groups in a community as possible participate in the preparation of the plan to ensure that it accurately reflects the views of the community as a whole. Openness, fairness and impartiality, underpinned by public involvement, remain crucial ingredients of the planning system.

SAM GALBRAITH
Dear Andy,

I would be grateful if you could ask Committee to consider the following motion this morning as a matter of urgency;

That the Parliament notes the decision to terminate the senior post of Minister for the Environment and pass overall responsibility for the Environment to a Minister with existing portfolio for Rural Development and asks the Executive to review this decision at the earliest opportunity.

Yours sincerely,

Robin Harper MSP
TRANSPORT AND THE ENVIRONMENT COMMITTEE

NOTE ON THE BUDGET PROCESS 2002/3

1. Please find attached to this note a paper providing guidance from the Finance Committee to subject Committees on areas of inquiry for the budget process.

2. The suggested areas of questioning identified by the Finance Committee are not exhaustive. Committee members should have received the Executive Spending Plans prior to the next meeting of the Committee. Members are asked to identify any other issues that they wish to pursue and advise Clerking staff of these as soon as possible.

3. Clerks will then progress these issues during the April recess, in consultation with advisors and SPICe. It is also anticipated that SPICe will produce a paper comparing this years figures with the previous years, and providing analysis of any major trends within the budget.

Tracey Hawe
Senior Assistant Clerk to the Committee
March 2001
As the first stage of the annual budget process, the terms of which have been approved by the Parliament, the Transport and the Environment Committee is asked to consider and report on the future spending priorities of the Scottish Executive. The annual expenditure report sets out the provisional expenditure plans for 2002/03.

The report should be completed and returned to the Clerk of the Finance Committee no later than 31 May 2001.

In considering the relevant chapter(s) of the annual expenditure report for 2001/02, the Transport and the Environment Committee, along with all other subject Committees, have been asked by the Finance Committee to respond to the following questions.

**A. General**

1) How does the annual expenditure report compare with last year’s budget documentation, *Investing in You* and *Making a Difference for Scotland*, in terms of—

   a) Readability and cohesiveness  
   b) Robustness of expenditure figures (for year on year comparisons)  
   c) Adequacy of explanations for substantial changes in funding allocations and exceptional changes in departmental performance

2) What consultation has the Department undertaken in compiling its chapter of the annual expenditure report? Have the results of any consultation been made available to the Committee?

3) Is the Committee satisfied that there is clarity on the effect of departmental policies for men and women? What progress has the Department made in equality-proofing its policies?

**B. Departmental Performance**

4) Is the Committee content with the strategic direction of the Department as a whole (and its component divisions/ agencies)? Is the Committee satisfied that the Department’s key aims for policy outcomes are set out in the Annual Expenditure Report?

5) Does the Committee concur with these aims?
6) Are there (timed) objectives and targets to underpin these aims? Where a timeframe has been expressed which goes beyond 2001/02, has an interim target been stated?

7) In light of the extra funding resulting from the Comprehensive Spending Review last year, what evidence is there that this has resulted in the Department’s objectives being raised?

8) Does the Committee consider that the achievement of objectives and targets listed in the annual expenditure report will result in the intended policy outcome being achieved? Is the Committee satisfied it understands why and how departmental targets were arrived at? What modifications, if any, does the Committee wish to recommend in terms of the objectives and targets?

9) Is the Committee content that adequate mechanisms are in place to monitor whether the objectives and targets are being met?

10) How did the Department perform in relation to the targets that were included in *Investing in You*? Where targets have not been met, is the Committee satisfied why this is the case? What measures has the Department put in place to address the situation?

**C. Funding Allocations**

11) If the Committee is content with the aims and objectives of the Department but is not confident that the funding allocation is adequate for the aims and objectives to be met, what changes in funding allocation for 2002/03 does the Committee recommend?

12) Similarly, if the Committee recommends that the Department should alter its aims and objectives, how should resources be allocated in 2002/03 to meet these proposed revisions? The Committee should make it clear whether it considers it is possible to revise the funding arrangements and keep to the proposed total departmental figure.

13) The Committee should state which areas of the Department would benefit most from any additional expenditure that may become available, either during 2001/02 or for 2002/03.

Shelagh McKinlay  
Clerk to the Committee  
March/ April 2001