The Committee will consider the following current petitions—

PE714 Petition calling for the Scottish Parliament to urge the Scottish Executive to review the validity of Field Impairment Tests (FITs) in its road safety campaign regarding the dangers of driving under the influence of drugs; issue guidelines on the disposal of vehicles belonging to individuals failing FITs, and issues guidelines to courts about the evidential value of the FIT results.

PE858 Petition by Andrew Fairbairn, on behalf of the Woodland Trust Scotland, calling for the Scottish parliament to urge the Scottish Executive to address the threat to the fragmented remnants of ancient woodland by fulfilling their commitment under the UK Forest Partnership for Action, made in preparation for the World Summit on Sustainable Development 2002, to protect the nation’s rarest and richest wildlife habitat.

PE877 Petition by Janet Walton calling on the Scottish Parliament to urge the Scottish Executive to review its policies on the provision of affordable housing, particularly in relation to the impact on the elderly and those on low incomes.

PE767 Petition by Norman Dunning, on behalf of ENABLE, calling for the Scottish Parliament to urge the Scottish Executive to review the operation and effectiveness of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.


PE902 Petition by Dr John Crawford calling on the Scottish Parliament to urge the Scottish Executive to ensure that the national school curriculum recognises the importance of information literacy as a key lifelong learning skill.
PE903 Petition by Eurig Scandrett calling for the Scottish Parliament to urge the Scottish Executive to develop and introduce a Scottish planning policy document on ecovillages.

PE904 Petition by Katie Moffat calling for the Scottish Parliament to urge the Scottish Executive to consider introducing an early breast cancer screening programme in Scotland to start from age 30 upwards.
Field Impairment Test

a petition for fairness and justice in this one aspect of Scotland’s justice system

Introduction
The Field Impairment Test (FITs) is a roadside test currently approved by the Scottish Executive and used by Scotland’s constabularies. It is a physical coordination test, based on balance, for detecting whether drivers have their ability to drive impaired through having drugs in their system. It can result in arrest and charge with the final outcome pending the result of a blood analysis.

The test is subjective in nature

- based on observation and the judgement of those carrying out the test
- based on the extent to which the criteria for carrying out the test is adhered

The petition will argue that

- no account is taken of the psychological and medical condition of the driver.
- no account is taken of recent educational research that indicates a correlation between dyslexia and balance in young people
- no account is taken of the physical location if the test and the impact on the driver

The petition will further argue that

- given the subjective and non-scientific basis for any conclusion resulting from the FITs test the Scottish Executive must issue clear guidelines to the courts with regard to the evidential value of the test
- the Scottish Executive must take a second look at its approved campaign to inform the driving public of the dangers of driving while under the influence of drugs. The success of the drugs awareness campaign should not be at the expense of those subjected to the FITs test
- the Scottish Executive must issue guidelines with regard to the disposal of the vehicles of those drivers deemed to have failed the FITs test. A system which levies an extra-judicial fine, before anyone is found guilty of a crime, is wrong.
Background

Prior to giving consideration to this Petition a number of approaches were made to the Justice Minister. The following scenario was effectively presented to the Minister:

Any member of the public in charge of a vehicle in Scotland can, as the law and current procedure stands, be asked to submit to the FITS test by a police officer. Should the request be refused the individual can be arrested "on suspicion", charged under the appropriate Road Traffic Act, taken to a police station, examined by a doctor, a blood sample taken.

Should assent be given to the request, the individual will be required to undergo a physical coordination test essentially based on the police officer's assessment of "balance". No account will be taken of the medical or psychological condition of the driver. No account will be taken of the locus of the test whether in a quiet street, out of the public eye, or in George Square with the driver aware of passing quizzical onlookers, perhaps some having a laugh at the expense of the driver’s ordeal.

The result could be no more than a sense of humiliation for the driver if his/her balance passes the scrutiny of the police officers.

For those who fail the test, the result is arrest and charge under the appropriate section of the Road Traffic Act, an examination by a doctor and a blood sample taken. Also, failure to pass the FITs test can be used in evidence against the driver.

At this point there are two possible outcomes. If you are found to be unfit to drive, your vehicle keys will be retained and you could be kept in the cells for further attention of the justice system. If you are found fit to drive, the keys will be handed back.

In the latter case, two scenarios are now possible:

1] You make your way back to the vehicle and continue your journey.

2] Your vehicle was left parked, possibly in an inconvenient spot. Instructions had been given for its removal by the police and it ends up in "the pound". Not only are you unable to continue on your journey and your legitimate business. You will be liable, effectively, to an extra-judicial fine (currently about £140 per day) if you want to repossess your vehicle.

In all cases where a blood sample has been taken you must await the outcome of analysis and the decision of the Procurator Fiscal. Up until this point, and beyond, you continue to be innocent of any offence.

The Justice Minister rejected the Petitioner’s concerns in relation to the above scenario. It is the Petitioner’s belief that the concerns will be shared by the wider public (driving or otherwise). Hence the Petition.
The Petition
The Petitioner urges the Scottish Parliament to pay due regard to the following concerns and instruct the Scottish Executive to take action accordingly.

"designed in America"
This comment in relation to the FITs test, from Justice Minister Cathy Jamieson, served only to reinforce the concerns of the Petitioner. The occasional glimpse of American justice does not inspire confidence.

Balance impairment through factors other than drugs
- no account is taken of the psychological and medical condition of the "client"

No information is available from the Justice Minister to indicate that conditions, other than that related to drugs, have been researched as the causal effect in causing loss of balance when required to carry out the multi-task requirements of FITs.

viz Romberg Test standing straight and trying to count up to 30secs
Walk & Turn Test walk in a straight line heel-to-toe, counting to 9 then turn and repeat
One Leg Stand Test observe leg raised off ground and count until told to stop (30 secs)

- no account is taken of recent educational research that indicates a correlation between dyslexia and balance in young people

Researchers from Sheffield University, Nicolson & Fawcett, have demonstrated a link between balance, when carrying out multi-tasks, and dyslexia in young people. Despite being pressed on the issue, the Justice Minister has failed to confirm that the application of the FIT's test in Scotland has taken account of this research.

It should also be noted that therapies for treating dyslexia include emphasis on ability to balance, eye movement and physical reflexes. In this last case it should be noted that one of the FIT's requirements is the

Finger to Nose Test index finger to nose, with eyes closed, using left or right hand according to the repetitive instruction called out

Given that 4% of the population suffers from severe dyslexia, 6% from mild/moderate dyslexia - which all continue into adulthood - the concerns raised by this research cannot be ignored.
no account is taken of the physical location of the test and the impact on the driver

The Justice Minister has taken the position that to carry out the FITs test in a location other than that where the vehicle and suspect driver have been stopped “would nullify the benefits of the test”. There is no justification given to support this assertion.

Perusal of the training module used to train police officers gives no advice with regard to the location of the test. Indeed it states that “Tests should be performed on a hard, dry, level, non-slippery surface” and “Tests should be performed in a well lit area.” Presumably if these conditions are not met, the test is not carried out or the location of the test is changed.

It is a matter of concern that this degree of precaution does not apply to the location of the test. If the test is carried out in a public area, in full public gaze, the result may be biased - through nervousness, a sense of humiliation or the heightening of any of the factors already raised above. This possibility not only appears not to impact upon the Justice Minister. It is rejected by the Justice Minister. 

Note
It is acknowledged that the FITs training manual clearly indicates that the officer administering the Test should enquire (and exercise caution) as to whether there is “a disability or other medical condition that prevents you from participating in this test.” However

(i) if drivers accepts their civic responsibility to cooperate with the police, they will agree to the test unless there is a an obvious, compelling reason to do otherwise.

(ii) in the absence of agreed “medical” (or otherwise) conditions, refusal to take the test could result in the driver being arrested regardless, with the extra suspicion generated that the driver somehow has something to hide.

Clearly this caution has limited value for the driver under suspicion.

Current Policy and Procedures

1] “The use of roadside Field Impairment Tests will now help you decide if the suspects’ level of impairment requires further proceedings. This evidence will be an important component in any future court proceedings.”

and

“In arriving at its conclusions the court may properly have regard to the subjective opinion of witnesses, whether police, medical or anyone.”

The above extracts from the instruction manual for the FITs test makes it clear that results of a FITs test can be used in evidence. Likewise the subjective judgement of the officer(s) administering the test can be used in evidence.

It is the view of the Petitioner that there must be no dubiety in the validity of the FITs test. Under current procedures, while a police doctor may find the suspected driver fit to drive, the court could be asked to consider alleged impairment to drive an hour
earlier, for example, on the basis of the FITs test which can be produced as an “important component” in the evidence of the prosecution.

This makes it all the more an imperative that the validity of the test be examined in order to avoid miscarriage of justice.

The Scottish Executive should issue guidance on this matter.

2] Scottish Road Safety Campaign (Annual Report & Business Plan 2003/4) P.29. The second paragraph on this page refers to the scepticism with which young drivers regard the use of the FITs test because they have never seen it in use. The Report then concludes “... this problem would be eventually be rectified as the police carry out more and more tests.”

The Petitioner is concerned that such a position is diametrically opposed to the right of those subjected to the test to have the test carried out in conditions which do not lead to bias (as outlined above). There is concern that such a viewpoint will encourage the administering of the test more with an eye to public exposure rather than fairness towards the driver subject to the test.

The Scottish Executive should issue guidance on this matter.

3] That those drivers, deemed to have failed the FITs test, should have their vehicle removed to a pound where the daily rate for storage/recovery is around £140 is wrong. In addition, it is not acceptable that drivers found fit to drive by the police doctor, should then be unable to carry on with their legitimate business because their vehicle has been removed.

Such procedures amount to extra-judicial punishment and are not acceptable.

The Scottish Executive should issue guidance on this matter.

Finally, the Petitioner is fully supportive of initiatives to remove the scourge of drug misuse and abuse in Scottish society. However, approved procedures must be fair and be seen to be fair. They must be just and be seen to be just.

Hugh Humphries
31 Tinto Road
Glasgow G43 2AL
Dear Dr Johnston

PUBLIC PETITION PE714

Thank you for your letter of 8 March. As the Committee is already aware my letters of 29 April 2004 and 5 August 2004 provided background to the legislation underpinning the Field Impairment Testing (FIT) process and details of some of the research that has been published on drug driving and FIT.

Since then the Department of Transport (as you are aware Road Traffic legislation is reserved) has issued a Code of Practice for Preliminary Impairment Tests. The Code, which came into effect on 22 December 2004, is designed for the use of police officers trained and authorised to carry out Preliminary Impairment Tests to determine whether a person is unfit to drive and whether or not the unfitness is likely to be due to drink or drugs. It also deals with the tasks that are to be specified for such tests, the manner they are administered, the kind of observations that may be made, the inferences that may be drawn, the training of officers and their approval for the purpose of administering the tests by a Chief Constable. The Committee will wish to note that Section 14 of the Code states “constables administering Field Impairment Tests must be aware of and record any disability, injury or illness, whether physical or mental, which may affect performance of a test”.

The Association of Chief Police Officers in Scotland (ACPOS) tell me that on Monday, 5 September 2005, all Scottish forces implemented the Preliminary Impairment Tests procedures allowed for in the Road Traffic Act 1988. ACPOS further confirm that the experience of Scottish forces is that testing continues to be a very effective tool in that it enables police officers to screen out those individuals who would otherwise be arrested and taken to a police station for further often invasive, medical examinations.

In terms of more recent developments, you may wish to be aware that the University of Glasgow has recently published research – Road Safety Research Report No 63 – Monitoring the Effectiveness of
UK Field Impairment Tests, March 2006, which claims that roadside checks by police to detect drug-drivers are failing (71% of those let off by the police had drugs present). However the research also shows that there is a high accuracy for those arrested at the roadside and go through the entire enforcement process (samples from these people show drugs in 94% of cases). The report does highlight the need to continue with efforts to train more police officers so that the possibility of drivers unfit through drugs being released is reduced. The action required as a result of this study sits mainly with the Home Office. My Home Office colleagues tell me that they are currently looking to set up a working group to consider the issues raised in this study.

The Home Office also expect to publish a specification later this year for the development of roadside drug screening devices. While the police will still need to demonstrate that a driver is impaired and therefore FIT will continue to be used, the future development and manufacture of an approved screening device should enable police officers to identify early on whether a drug group is present and therefore to deal with suspects more effectively.

You may recall that when I wrote to you on 5 August I explained that the Executive did not have any plans to issue guidance on the disposal of vehicles belonging to individuals failing FITs. That remains the case. Each police force in Scotland has its own Standard Operating Procedures relating to the removal of vehicles to meet their statutory requirements and their duty of care in respect of vehicles involved in road traffic collisions, concerned in crime, seized under police powers or parking offences. Standing orders relating to the financial procedures operating in each force area are also in place. These financial procedures, which are the subject of internal and external audit, should ensure that the financial dealings of the force are conducted properly and in a way that meets statutory requirements and best practice.

I hope this is helpful.

Yours sincerely

Ian Fleming
Dr James Johnston
Clerk to the Public Petitions Committee
The Scottish Parliament
Room 5.16
PHQ
George IV Bridge
Edinburgh
EH99 1SP

Dear Dr Johnston,

PUBLIC PETITION PE714

I refer to your letter dated 8 March 2006 and previous correspondence regarding the above petition.

I have considered all of the questions raised within the petition and as far as I can ascertain, all of the pertinent points appear to have been addressed in correspondence returned to you by my predecessor, Deputy Chief Constable Richard Gray. In this regard, I would wish to refer you to the letters dated 25 March 2004 and 27 July 2004.

Notwithstanding this, I am in a position to provide you with an update in relation to the issue of Field Impairment Testing (FIT) which has evolved since that time.

You will be aware from the previous correspondence that following consultation, discussion and consideration, the Department for Transport acknowledged that FIT is the recognised Preliminary Impairment Test referred to in the Railways and Transport Safety Act 2003. This legislation amended certain sections of the Road Traffic Act 1988 and provided the police with additional powers to assist in the enforcement of drink and drug driving legislation. Specifically, under section 6 of the Road Traffic Act 1988 (as amended) the police now have the power to require a person to co-operate with one or more preliminary tests, and it makes it an offence to fail to co-operate with tests without a reasonable excuse. Previously participation in the tests was voluntary.

In December 2004, the Department for Transport issued a Code of Practice (copy enclosed,) to be adopted by all Police forces throughout the United Kingdom, to ensure that Preliminary Impairment Testing is carried out are to an agreed national standard and that the interpretation of the results is applied fairly and consistently. The publication of this Code of Practice effectively meant that in Scotland, all those officers trained to carry out FITs had to be retrained and reauthorised and forces had to produce new forms and aide memoir cards, reflecting the new legislation.

The experience of Scottish forces is that Preliminary Impairment Testing continues to be a very effective tool enabling police officers to screen out those individuals who would otherwise be arrested and taken to a police office for further, often invasive, medical examinations to establish if their ability to drive is impaired as the result of drugs.

I would also wish to reiterate that the result of any Preliminary Impairment Test forms only one piece of an evidential picture and that the significance of this, or indeed any other evidence offered, remains a matter for the Court when determining the outcome of any criminal trial. This fact is emphasised on page 15 of the DfT Code of Practice, where it states – "A Preliminary Impairment Test is not a prerequisite of an arrest or an essential element in any prosecution."

I hope that this information is helpful.

Yours sincerely,

Ian Learmonth
Assistant Chief Constable
Public Petitions Committee – a template for e-petitions

Should you wish to submit an e-petition allowing signatures to be gathered online on the Public Petitions Committee e-petitioner web pages please complete the template below. Before submitting your e-petition please consult the Guidance on submission of public petitions for advice on what is and is not admissible. You may also seek advice from the Clerk to the Committee whose contact details can be found at the end of this form.

**Details of principal petitioner:**

*Please enter the name of person and organisation raising the petition, including a contact address where correspondence should be sent to.*

Andrew Fairbairn  
Development Manager  
Woodland Trust Scotland

**Text of petition:**

*The petition should clearly state what action the petitioner wishes the Parliament to take in no more than 5 lines of text, e.g.*

The petitioner requests that the Scottish Parliament considers and debates the implications of the proposed Agenda for Change legislation for Speech and Language Therapy Services and service users within the NHS

**The petitioner requests that the Scottish Parliament…..**

Petition by Andrew Fairbairn, on behalf of the Woodland Trust Scotland, calling for the Scottish Parliament to urge the Scottish Executive to address the threat to the fragmented remnants of ancient woodland by fulfilling their commitment under the UK Forest Partnership for Action, made in preparation for the World Summit on Sustainable Development 2002, to protect the nation’s rarest and richest wildlife habitat.
**Period for gathering signatures:**

*Please enter the closing date for gathering signatures on your petition, which we would usually recommend is a period of between 4-6 weeks*

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<th>Closing date: 13th May</th>
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**Additional information:**

*Please enter any other information relating to the issues raised in your e-petition, including the reasons why the action requested is necessary. The text entered in this field should not exceed 2 pages. However, you may wish to provide further sources/links to background information*
Ancient Woodland

Ancient Woodland is that which is recorded on the inventory of ancient and long-established and semi-natural woodland held by Scottish Natural Heritage, and has been established for many hundreds of years. It covers just 4% of Scotland's land area.

Ancient woodland is one of the great glories of our natural heritage; they are places of inordinate beauty, reservoirs of evidence for environmental change, archaeology and economic history. They are a source of inspiration for local culture and folklore.

Ancient woods are our richest, most important sites for a vast range of insects, birds, animals, flowers and trees and are home to more threatened species than any other UK habitat.

SNH Natural Heritage Futures: Forests and Woodlands 2002 notes that 'A large proportion of Scotland's biodiversity is associated with tree cover and this is particularly true of native and mature woodlands... The National assessment: Species lists some 263 species which have been identified as endangered to some degree, all associated with trees and woodland.'

Our resource of ancient woodland is finite and cannot increase, so what remains is precious and irreplaceable. These are nature's equivalents of our ancient monuments such as Edinburgh castle which we would not dream of destroying. They deserve the same protection.

Woods under Threat

Currently, the Woodland Trust Scotland is aware of over 100 woods under threat from the proposed development of power lines, golf courses, roads, new housing and open cast mines it is likely that this is the tip of the iceberg. This is despite NPPG 14 (Natural Heritage), which gives guidance on how the Scottish Executive's policies for the conservation and enhancement of Scotland's natural heritage should be reflected in land use planning, stating that:

'planning authorities should seek to protect trees, groups of trees and areas of woodland where they have natural heritage value or contribute to the character or amenity of a particular locality. Ancient and semi-natural woodlands have the greatest value for nature conservation.'

However, ancient woodland is rarely afforded absolute protection in local or structure plans which guide decision making at a local level and as a result ancient woodland continues to be lost.

Guidance, Legislation and Duty for Protection

Ancient woodland is not protected by a specific designation. Only around 25% of the ancient woodland in Scotland is protected by being within a SSSI. It should be noted that SSSIs are merely representative samples of habitat types and NOT a comprehensive list of all important habitats. Designations appear to be the only protection taken into account by the planning system. There are a number of planning and policy documents which should prevent development in relation to ancient woodland. These include:

National Planning Policy Guidance NPPG14 Natural Heritage - states that 'planning authorities should seek to protect trees, groups of trees and areas of woodland where they have natural heritage value or contribute to the character or amenity of a particular locality. Ancient and semi-natural woodlands have the greatest value for nature conservation.'

UK Forest Partnership for Action - The UKFPA was set up in preparation for the World

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1 Natural Heritage Futures: Forests and Woodlands, Scottish Natural Heritage, 2002 a template for e-petitions, July 2004
The Summit on Sustainable Development held in Johannesburg in 2002. It is a partnership between government, the forest industry and environmental groups in the UK and its aim is to promote sustainable development in the forestry sector, both at home and internationally. The partners have agreed on four priority areas:

1. Forest Certification
2. Forest Restoration and Protection
3. Illegal Logging
4. Timber Procurement

The Scottish Executive is a signatory to the UKFPA and is therefore committed to the 'establishment and management of protected areas, to ensure that all ancient woodland is adequately protected'. [http://www.ukforestpartnership.org.uk](http://www.ukforestpartnership.org.uk)

**Nature Conservation (Scotland) Act 2004** - Biodiversity is the indicator of a healthy environment and this is recognised by the Scottish Executive. The Act contains a provision that it is 'the duty of every public body and office-holder, in exercising any functions, to further the conservation of biodiversity’

**Scottish Biodiversity Strategy** - states that 'the main changes in biodiversity experienced in Scotland relate to the felling of ancient forest, the grazing of sheep and deer, the intensification of agriculture and commercial fishing, the planting of non-native conifers, the spread of urban development, the introduction of fish farming, and the increase in pollution.'

In the final draft Implementation Plan for the Strategy action number 3.3 calls for:

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<th>Target</th>
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<td>Minimise losses of biodiversity occurring through fragmentation and loss of woodland due to development and other land uses</td>
<td>Review measures to ensure biodiversity is fully taken into account, including adequate protection for ancient and semi-natural woodlands</td>
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<td>WTS to develop the Woods Under Threat website to raise awareness of threats from inappropriate development to ancient woodlands at a local level</td>
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**UK Biodiversity Action Plan** - identifies the need to ‘Protect and manage ancient semi-natural woodland to conserve their character’ as well as encourage the extension and creation of new native woodlands.

**Scottish Forestry Strategy** - notes that ‘Scotland is one of the least wooded countries in Europe’ and sets out a plan to increase Scotland’s woodland cover to 25% of the land area by 2050. It also states that ‘there is world-wide recognition of the importance of conserving natural forests, which provide the richest and most diverse terrestrial ecological systems. Scotland’s ancient semi natural woodlands include scarce remnants of its natural forests...’ and that ‘The remaining ancient semi-natural woodlands have a high conservation priority’

**UK Forestry Standard** - sets out the UK Government’s approach to sustainable forestry. It states: “Ancient Semi-natural Woods ...... are of special value”. The Standard has a series of UK-wide aims for semi-natural woodland and states, in terms: “The area occupied by semi-natural woodland should not be reduced”. The Standard goes on to discuss the importance of expanding and linking small woods to others and recognises that fragmentation of semi-natural woodland is a problem.

**Rural Development Plan for Scotland** (version 4) - updated in December 2003 the Plan sets out a description of rural Scotland, with particular emphasis on the agricultural and

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2 UK Forestry Standard 1998, Standard Note 5, p.41
a template for e-petitions, July 2004
forestry sectors, with strategic priorities for the investment of EU and domestic funds. The Plan states that ‘Ancient semi natural woodlands must have high conservation priority’

**Action**
The Woodland Trust Scotland is calling on the Scottish Executive to demonstrate how seriously they take the new duty to further the conservation of biodiversity and their signature to the UK Forest Partnership for Action and give absolute protection for all Ancient Woodland on the Inventory of Ancient and Long-established and Semi-natural Woodland held by Scottish Natural Heritage.
**Action taken to resolve issues of concern before submitting an e-petition:**

*Before submitting a petition to the Parliament, petitioners are expected to have made an attempt to resolve their issues of concern, by for example, making representations to the Scottish Executive or seeking the assistance of locally elected representatives, such as councillors, MSPs and MSPs. Details of those approached should be entered.*

The Woodland Trust Scotland gave evidence at Stage 1 of the Nature Conservation (Scotland) Bill calling for the inclusion of 'irreplaceable' in the scope of SSSIs.

We contributed to the drawing up of the Rural Implementation Plan of the Scottish Biodiversity Strategy which calls for 'adequate' protection for ancient and semi-natural woodlands. We would like to see this changed to 'absolute'.

We have had a meeting with the new Forestry Minister, Lewis Macdonald MSP, and called for the protection of ancient woodland.

We have launched a Woods Under Threat website – [www.woodsunderthreat.info](http://www.woodsunderthreat.info) which aims to raise awareness of threats from inappropriate development to ancient woodlands at a local level.

We have taken the opportunity to brief MSPs on the importance of protection of ancient woodland when relevant debates have taken place in the Scottish Parliament.

We have taken part in CAP Reform discussions and promoted the inclusion of buffering of ancient trees in the Land Management Contract Menu Scheme.

The Woodland Trust Scotland submits consultation responses on issues affecting woodland and to local authorities on their local and structure plans. In all these submissions we emphasise the duty and need for protection of ancient woodland.

The Woodland Trust Scotland has objected to a number of applications which will destroy ancient woodland and will object to cases where they come to our notices and our resources permit.
Comments to stimulate on-line discussion:

Please provide at least one comment to set the scene for an on-line discussion on the petition, not exceeding 10 lines of text.

The Scottish Parliament has the power to make a real difference to our unique natural heritage by giving absolute protection to ancient woodland as places of inordinate beauty and containing more threatened species than any other UK habitat. However, despite guidance at a UK and a national level, despite them being Scotland’s best and most rare wildlife habitats and despite some of them being in our new National Parks, ancient woodland languishes at the bottom of the list when it comes to protection from development proposals. We value and care for our built heritage, why can’t we show similar care to our natural heritage. Surely our ancient natural monuments deserve the same?

Action must be taken now to protect our ancient woods before the remaining fragments are lost forever and future generations are not able to enjoy their natural glories as we have.

For advice on the content and wording of your e-petition please contact:

The Clerk to the Public Petitions Committee
The Scottish Parliament
Edinburgh
EH99 1SP
Tel: 0131 348 5186 Fax: 0131 348 5088
e-mail: petitions@scottish.parliament.uk

Note
Completed e-petition forms should also be sent to petitions@scottish.parliament.uk
Eileen Martin
Public petitions Committee Assistant
TG.01
Parliamentary Headquarters
Edinburgh
EH99 1SP

Our ref: PA/30
14th February 2006

Dear Ms Martin

Consideration of PE858 – Woodland Trust Scotland views on responses

Introduction
1. The Woodland Trust Scotland (WTS) is pleased to be able to give our views on the responses received by the Public Petitions Committee from the Scottish Executive, UK Forest Partnership for Action, Forestry Commission Scotland (FCS), Scottish Natural Heritage and ConFor on PE858 calling for more protection for ancient woodland.

Scottish Executive
2. The Woodland Trust Scotland welcomes the recognition that ancient woodland is ‘a rich habitat for plants and animals and home to large numbers of threatened species’ and that all public bodies have a duty to further biodiversity conservation, including ancient woodland, as part of the Nature Conservation (Scotland) Act 2004.

3. We have been particularly pleased with the work of the group set up to implement the action on Ancient Woodland in the Scottish Biodiversity Strategy Rural Implementation Plan and welcome the involvement of the Scottish Executive’s Planning Division.

4. The Scottish Executive response notes that whilst the provisions on ancient woodland in NPPG 14 are not a specific natural heritage designation, other designations such as SSSIs cover ancient woodland. However, it is our understanding that around 75% of the remaining fragments of ancient woodland are outwith SSSIs and are therefore not detected by the planning system. It is our opinion that this is a major flaw in a planning system which detects only a representative sample of habitat types (e.g. SSSIs, SPAs etc) and does not detect habitats of importance that are not designated.

5. Information gathered by the Scottish Executive has shown that, regardless of the guidance in NPPG 14, only 29% of structure plans specifically identify safeguarding and conserving ancient and semi-natural woodland whilst only 52% identify ancient and semi-natural woodland within local plans. In addition, 73% of officers felt there was a lack training, guidance, knowledge and skills and Development Control officers felt they would struggle to recognise ancient or semi-natural woodland when conducting a site survey.
6. WTS welcomes the work that has been undertaken to identify these issues and is pleased with the progress being made by the Planning Division within the Scottish Executive and Forestry Commission Scotland.

7. However, we are concerned that the proposed solution to introduce secondary legislation increasing protection of ancient woodland (through the new role of FCS as statutory consultee on planning applications involving felling over 0.25ha) will not be effective unless:
   i. The Scottish Executive’s Forestry Strategy, currently being revised by FCS, commits to a policy of better protection of ancient and semi-natural woodland and therefore provides parameters within which to fulfil their role as statutory consultee.
   ii. The Forestry Commission Scotland is adequately resourced to fulfil the new role. As indicated in the Scottish Executive’s response to PE858, FCS will be in a position to offer clear advice to planning authorities on applications which affect woodland of high conservation value. The Scottish Executive response states that ‘As a statutory consultee the Commission would be able to object, comment or offer advice on such applications and their views would be a material consideration in the authority’s determination of the case’. Indications so far are that FCS, as a statutory consultee, are proposing to offer planning authorities no more than advice. However, it is the opinion of the Woodland Trust Scotland that in cases affecting high conservation value woodland, particularly ancient and semi-natural woodland, that Forestry Commission Scotland should state clearly whether they consider the proposed development is appropriate or not. This would ensure the advice is clear to Development Control officers, will allow planning authorities to benefit from the national perspective of FCS and the rarity of the ancient woodland in their area and will lead to ‘better protection of non-designated high value woodlands and better planning decisions’.

8. The Woodland Trust Scotland welcomes and was involved in the drawing up of measures under the Land Management Contract Menu Scheme to encourage land managers to enhance and protect their ancient and semi-natural woodlands. Over-grazing is a major threat to semi-natural habitats, including ancient and semi-natural woodland and we will be seeking to remain engaged with SEERAD on the development of more detailed Tier 3 options for the Land Management Contracts as well as seeking to address these concerns through the Scottish Executive/FCS group on ancient woodland.

ConFor

9. We welcome ConFor’s comments on the petition and support their point that Scotland has one of the lowest forest covers in Europe and that the protection and expansion of the forest resource is of environmental, social and economic importance.

Forestry Commission Scotland

10. We were pleased to see that FCS recognises ‘Ancient woodlands as a whole are very important for both our natural and cultural heritage’ and we also accept their point that the biodiversity and cultural values of ancient woodlands are variable. However, it is our view that since ancient woodland of natural origin now covers just over 1% of Scotland’s land area and that many of these woods contain more threatened species than any other UK habitat and are our richest sites for a vast range of insects, birds,
animals, flowers and trees, they should be protected from further loss.

11. The Felling Licence system does offer some security for tree felling operations, however, this is only relevant if the trees are being felled to be replaced with more trees, rather than a development. The felling licence system does not operate where planning permission has been sought and this appears to be an anomaly.

12. We support FCS in their new role as statutory consultee, however, please see points made under 8. above. In order to carry out this new role it will be imperative that FCS is allocated proper resources.

13. We are pleased that FCS confirm that the Scottish Native Woodlands Survey (SNWS) will clearly identify woods of high conservation value and will act as a baseline for recording loss or expansion.

Scottish Natural Heritage

14. We welcome the response from SNH and their statement that ‘The age of woodland is a well established proxy for its natural heritage value, mainly because structural and species diversity will tend to increase with time and because of the relative rarity of older woodlands in the countryside’.

15. We appreciate that development is just one threat to important woodland (and other semi-natural) habitats. SNH highlight some of the others, namely overgrazing, climate change and fragmentation. These issues also need to be addressed.

16. We welcome SNH’s statement that fragmentation and loss of non-designated ancient woodland is undesirable. SNH highlight that better information and better protection is required.

17. We are pleased that SNH are supporting the SNWS and welcome their assessment that in conjunction with the Ancient Woodland Inventory it will provide a far better basis for identifying ancient and semi-natural woods. Whether it will cover Planted Ancient Woodland Sites (PAWS) is debatable.

18. We also support the actions SNH proposes to reduce pressure on ancient woodland: the need for an updated ancient woodland inventory, enhanced protection and the requirement for a felling licence before planning approval is granted for any ancient and semi natural woodland site. We are aware that NPPG14 is due for review over the coming year and we expect a more robust approach to protection of important woodland sites. We would also welcome a review of Felling Licence thresholds as SNH advise, otherwise a drip feed loss of important woodland could lead to large scale loss across the country.

UK Forest Partnership for Action

19. We welcome the response from the UKFPA and the work undertaken so far, however, we understand that this organisation is no longer in operation.

Yours sincerely

Andrew Fairbairn
Development Manager
Public Petitions Committee – a template for e-petitions

Should you wish to submit an e-petition allowing signatures to be gathered online on the Public Petitions Committee e-petitioner web pages please complete the template below. Before submitting your e-petition please consult the Guidance on submission of public petitions for advice on what is and is not admissible. You may also seek advice from the Clerk to the Committee whose contact details can be found at the end of this form.

<table>
<thead>
<tr>
<th>Details of principal petitioner:</th>
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<tbody>
<tr>
<td>Please enter the name of person and organisation raising the petition, including a contact address where correspondence should be sent to.</td>
</tr>
<tr>
<td>Janet Walton</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Text of petition:</th>
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<tbody>
<tr>
<td>The petition should clearly state what action the petitioner wishes the Parliament to take in no more than 5 lines of text, e.g.</td>
</tr>
<tr>
<td>The petitioner requests that the Scottish Parliament considers and debates the implications of the proposed Agenda for Change legislation for Speech and Language Therapy Services and service users within the NHS</td>
</tr>
<tr>
<td>Petition by Janet Walton calling on the Scottish Parliament to urge the Scottish Executive to review its policies on the provision of affordable housing, particularly in relation to the impact on the elderly and those on low incomes.</td>
</tr>
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<th>Period for gathering signatures:</th>
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<tbody>
<tr>
<td>Please enter the closing date for gathering signatures on your petition, which we would usually recommend is a period of between 4-6 weeks</td>
</tr>
<tr>
<td>Closing date: 26 August 2005</td>
</tr>
</tbody>
</table>
Additional information:

Please enter any other information relating to the issues raised in your e-petition, including the reasons why the action requested is necessary. The text entered in this field should not exceed 2 pages. However, you may wish to provide further sources/links to background information.

The street that I live in is to be demolished. It is situated on top of a hill and the view is stunning across the forth.

The council are saying that it's because the street has a stigma but its had that for the last 60 years so why was it not demolished then?

The proposal is to build low cost home ownership housing on it. The plan is that they build 2 bedroom houses for low cost housing and some old folks housing and the rest will be 3/4 and 5 bedroom houses for outright sale.

The people who live in this street are on income support or they are old and won't get a mortgage to buy a house.

We don't want to move but the choice has been taken out of our hands. I live in a 4 bedroom house and the council are saying that there aren't any 3/4 bedroom houses available for us so where do we go and if there is a shortage of 3/4 bedroom houses then why are they demolishing existing housing? The proposal is to go in front of committee on the 24th June.
Action taken to resolve issues of concern before submitting an e-petition:

Before submitting a petition to the Parliament, petitioners are expected to have made an attempt to resolve their issues of concern, by for example, making representations to the Scottish Executive or seeking the assistance of locally elected representatives, such as councillors, MSPs and MSPs. Details of those approached should be entered.

We have tried to get our MSP to support us but she said she can't help as it's a local matter. I have asked our MP and his office said we must go to our MSP as it would be her that deals with this as it's a local matter we have had meetings with the council but I feel we are just getting passed about until it's too late to do anything.

Comments to stimulate on-line discussion:

Please provide at least one comment to set the scene for an on-line discussion on the petition, not exceeding 10 lines of text.

Is it right for councils to demolish houses and sell the land to build private houses? In the case of our street this is what is happening, then the council tell you that it will be very hard to re-house people that live in 3 and 4 bedroom houses as they don't have any, but they are providing low cost homes - 2 bedroom ones that is.

Request to speak:

Petitioners may request to appear before the Public Petitions Committee in support of their petition, although it should be noted that requests to speak will only be granted if the Convener considers that a brief statement from the petitioner would be useful in facilitating the Committee's consideration of the petition. Due to the large volume of petitions being considered the Committee will usually only hear presentations on up to 4 new petitions at each meeting.

Please indicate below whether you wish to request to make a brief statement before the Committee when it comes to consider your petition.

Yes

*Delete as appropriate

Signature of principal petitioner:

When satisfied that your petition meets all the criteria outlined in the Guidance on submission of public petitions, the principal petitioner should sign and date the form in the box below. Other signatures gathered should be appended to this form.

Signature  Janet Walton

Date  11/06/05  31 x 05
For advice on the content and wording of your e-petition please contact:

The Clerk to the Public Petitions Committee
The Scottish Parliament
Edinburgh
EH99 1SP
Tel: 0131 348 5186     Fax: 0131 348 5088
e-mail: petitions@scottish.parliament.uk

Note
Completed e-petition forms should also be sent to petitions@scottish.parliament.uk
Mrs Janet Waton

Petition number pe877

TG>01
Parliamentary Headquarters
EDINBURGH
EH99 1SP

Dear Sir or Madam:

I have read the reports from fife council and communities Scotland.

My thoughts are as follows, Communities Scotland have great intentions and they all sound good on paper but in reality not so good for people like me.

To let everyone have a chance at owning their own house is great but not when they are priced at around £80,000 as this would mean a mortgage that would have to be around £ 573.?? A month and if you are on low income or income support then you can't afford that kind of money.

They keep going on about % but all the minutes I have of the meetings and all the reports all the % don't add up maybe you should have to read at the reports I have to see this for yourself.

The 12 houses that are being built for social rent is only for old folk so not for everyone.

Fife council: They keep saying that there are 88 houses but in actual fact there are 92 houses in this street, but because 4 of them are on the corner of Windmill Road they won't be coming down. They also keep on about the street having a STIGMA attached to it well it has had a STIGMA for 60 odd years why has it not been pulled down long before this also anti-social and criminal behaviour yes it is anecdotal (hear say).

The regeneration: From the very start of the Dysart regeneration we told them we did not want to be included as Dysart did not consider Bellfield Crescent part of Dysart as it is above the railway bridge and that is Kirkcaldy not Dysart even the post office addresses our mail as Kirkcaldy and so does Fife Council.

We feel that any decisions that were made by the regeneration committees about our street were not made with indifference and never would be. There are people on the committees that other wise might have been able to help us like the man that works for FORTRA and of course our MSP, we asked her for help and she told us that she really couldn't interfere with local issues (so what is an MSP for?) and of course our local councillor who done nothing to help.

The report goes on to talk about the way we were kept informed at all stages, we had 2 meetings a multiple choice questionnaire and two women came round the doors asking questions at the time of the multi choice questionnaire.

I had to ask for minuets of meetings the regeneration people had and phone people to find out what was going on as we have been in the dark for most of the time.

I will again go back to the STIGMA of the street, I went to see the plans for how the street will look when it is all done and a rep from Muir Homes was there and he said "we are keeping the street as
BELLFIELD CRESCENT as that is what everyone said it will always be known as "so I must assume that it will still have a STIGMA as it will still be Bellfield.

I would also like to know why the land is being sold so cheaply in today's market and why are the garages at the back of our houses not being demolished along with the rest of the street as the land they sit on is also Bellfield land, are they going to tell us they can save a wooden hut that houses a car but can't save a house that a person lives in.

We may not have been able to save our street but I still think an inquiry into the Dysart regeneration committees and fife council is warranted due to conflict of interest by members.

Sincerely,
Janet Walton
Petition to the Scottish Parliament

Petition calling for a review of the operation of Fatal Accident Inquiries in Scotland.

“To ask the Scottish Parliament to urge the Scottish Executive to review the operation and effectiveness of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.”

Signed

Norman Dunning
Chief Executive

Chairperson: Pat Christie
Chief Executive: Norman Dunning
Patron: HRH The Duchess of Kent
President: John Spence MBE
Vice-Presidents: The Duchess of Buccleuch and Queensberry
Professor James Hogg
Supplementary Information

ENABLE believes that the Scottish Parliament need to urgently review the operation of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976. Fatal Accident Inquiries are mandatory for deaths in custody and at work and in some cases full hearings are heard by Sheriffs. From April 2002 – March 2003 there were 58 FAIs in Scotland.

The findings of the Sheriff in FAIs have no basis in law – they are merely ‘recommendations’ that do not need to be implemented. The Scottish Parliament should give consideration to establishing a body to ensure that a Sheriff’s findings in respect of FAIs (and in particular deaths in hospital) are implemented.

FAIs can cost the taxpayer tens, and possibly hundreds, of thousands of pounds. They can take place over a long period of time – ENABLE has been involved in a FAI recently which lasted over 8 months. In fact this FAI sat on 26 separate days – sometimes for as little as one hour at a time. Many of these days were not even consecutive. This process is very draining and distressing for family members and adds to the already considerable costs. We believe the Scottish Parliament should review the function and effectiveness of the FAI system as it currently operates.

FAIs are conducted to establish the facts leading up to and surrounding the death of an individual. We believe that this can best be done by conducting them in an inquisitorial manner. Current practice often means that FAIs are conducted in an adversarial fashion which can lead those involved to act in a defensive or antagonistic manner.

Consideration should be given to the role of ‘experts’ in FAIs. Families who are interested in finding the cause of death of their loved one are often faced with ‘experts’ who are paid for by companies, health boards or other professional bodies to give a view which is favourable to the company, health board or professional body. We believe that there is a danger that the independence of these ‘experts’ can be questioned given this fact. Families do not have the same amount of resources to pay for experts to give any alternative point of view. We believe the use of ‘experts’ and the faith apparently put in them by Sheriffs needs to be reviewed.
FATAL ACCIDENT INQUIRIES: RECORDING RECOMMENDATIONS CENTRALLY

You will recall that I wrote to you in April last year regarding concerns that had been raised about the operation and effectiveness of fatal accident inquiries. I indicated that I had asked my officials to look into the possibility of setting up a system for recording recommendations centrally and for monitoring implementation. This has now been done and I am writing to let the Committee know of our proposals following this investigation.

There are around 50 fatal accident inquiries in Scotland each year. My officials’ research suggests that formal recommendations are made by sheriffs in around a third of these. Some determinations are already published in full on the Scottish Court Service website, but this does not happen in every case. We propose to put in place a system whereby the Scottish Court Service will provide officials in Justice Department with a copy of the sheriff’s written determination in all fatal accident inquiries. My officials will identify what, if any, recommendations were made by the sheriff, to whom they were addressed and a contact point within the body or organisation responsible for responding to the recommendation. This information will then be collated and published on the Executive’s website.

Where any recommendations from fatal accident inquiries are addressed to the Executive itself, the Executive’s response to the recommendation and details of action taken to implement it will be entered on the website, alongside details of the relevant contact point within the Executive. In other cases, where responding to a recommendation is the responsibility of another organisation, such as a health board, a police force or the Scottish Prison Service, the website will give details of a contact point within the organisation to which a recommendation has been directed. This will enable interested parties to get in touch with the responsible organisation to inquire about progress in response to the sheriff’s recommendations. The Justice Department will aim to ascertain a contact point for all recommendations, and in cases where the responsible organisation is a public body, we would expect that such a body would wish to provide a contact point as a matter of good practice.
Our aim in putting this system in place is to assist the public in gaining access to information about recommendations made by fatal accident inquiries. We hope it will also be useful for sheriffs and procurators fiscal to see what kind of recommendations have been made in the past. It should also help to identify if there are any issues arising on a repeat basis, for example in relation to a practice or procedure in the medical field, which might indicate a recurring problem requiring to be addressed.

My officials are beginning the process of arranging for recommendations from 2005 to be published on the Executive’s website and arrangements are being made to ensure that all future determinations from fatal accident inquiries are passed by sheriff clerks to the Justice Department for identification of any recommendations. They will inform the Committee when this work is complete.

I hope this is helpful.

CATHY JAMIESON
Dear Betty,

Thank you for your e-mail which will be included in the Committee’s further consideration of PE767 at its meeting on 31 May 2006.

K J regards,

Jim

Dr Jim Johnston
Clerk
Public Petitions Committee

Direct Telephone: 0131 348 5186
RNID Typetalk calls welcome
Fax: 0131 348 5088

Rm TG.01
PHQ
Edinburgh
EH9 1SP

----Original Message-----

From: bettes [mailto:bettes@blueyonder.co.uk]
Sent: Tuesday, May 09, 2006 8:11 PM
To: McMahon M (Michael), MSP; Scott J (John), MSP; Baillie J (Jackie), MSP; Eadie H (Helen), MSP; Gordon C (Charlie), MSP; Kane R (Rosie), MSP; Martin C (Campbell), MSP; johnfmunromsp@cix.co.uk; White S (Sandra), MSP; Curran F (Frances), MSP; Deacon S (Susan), MSP; Gallie P (Phil), MSP; Gibson R (Rob), MSP
Subject: PUBLIC PETITION PE767 REVIEW OF FATAL ACCIDENT INQUIRIES

Hello, I am writing to you as regarding the above Petition which I supported and was originally lodged in September 2004. The Petition is still current. I’ve recently had a copy letter via my MSP, from the Justice Minister and I attach for your information.

My brother died in hospital in January 2000. A Fatal Accident Inquiry resulted in the Sheriff making 21 recommendations and these were published in March 2003. I am still pursuing Tayside Health Trust to have these recommendations implemented. Some of the recommendations have been refused by the Health
Trust. I have no doubts that had I not pursued the Health Trust, very few of the recommendations would have been implemented. I have had to continually remind Tayside Health Trust of their obligations because the Sheriff's Recommendations are not legally binding, and therefore organisations such as Health Trusts are not legally obliged to enforce them. I had hoped that bringing this to the attention of the Petitions Committee would result in some changes being made to the current FAI system, however this appears not to be. The Justice Minister appears to believe that 'the responsible body would have already taken appropriate action even before the FAI takes place'..... I find this statement really bewildering. It may be the case where an obvious health and safety infringement has occurred and a fatal accident has occurred as a result, in an industrial accident, but deaths in hospitals are completely different - there are no bodies such as Health & Safety organisations, or Prison services to follow up any deaths in hospitals, or monitor recommendations made by Sheriffs at the end of an FAI. That's why I believe that the Government should be the guiding force and ensure that the recommendations are implemented. Or set up another form of Inquiry for Deaths in Hospitals. I don't know how the Justice Minister was able to conclude her findings without asking the families who have been at the sharp end of an FAI.... I am not alone in my thoughts as I know of other families who feel the same as I do.

I hope that you never find yourselves in a similar situation to me. It's hard enough to lose a close family member, to lose them under suspicious circumstances and find a legal proceeding ahead of you, then no action, well it's really heart-breaking. I leave it with you and hope you can ask further questions of the Justice Minister. Thank you for taking the time to read this.

Regards

Betty Mauchland