The Committee will meet at 11.15 am in Alloa Town Hall, Alloa.

1. **Item in Private:** The Committee will consider whether to take item 3 in private.

2. **Stirling-Alloa-Kincardine Railway and Linked Improvements Bill:** The Committee will take evidence on the Bill at Consideration Stage from—

   **Group 10**

   Promoter’s witnesses—

   - Stuart Coventry, Director, Scott Wilson Ltd
   - Alf Maneylaws, Principal Acoustic Consultant, Scott Wilson Ltd
   - David Reid, Business Centre Manager, Babtie Group Ltd
   - Tara Whitworth, Principal Engineer, Babtie Group Ltd
   - Alison Gorlov, Parliamentary Agent, John Kennedy & Co.

   Objector’s witnesses—

   - Chris Brewerton
   - Pauline Brewerton

   **Group 14**

   Promoter’s witnesses—
Stuart Coventry, Director, Scott Wilson Ltd

Alf Maneylaws, Principal Acoustic Consultant, Scott Wilson Ltd

Julie Hamilton, Development Manager, Planning and Building Standards, Clackmannanshire Council

Malcolm West, Development Manager, Roads and Transportation, Clackmannanshire Council

Objector’s witness—

Derek Craig, Hilton Crescent Residents

Group 16

Promoter’s witnesses—

Alison Gorlov, Parliamentary Agent, John Kennedy & Co.

Objector’s witnesses—

Neil Amner, Partner, Biggart Baillie

John Hill, Director, Lambert Smith Hampton

Group 12

Promoter’s witnesses—

Tara Whitworth, Principal Engineer, Babtie Group Ltd

Alison Gorlov, Parliamentary Agent, John Kennedy & Co.

Objector’s witnesses—

Allan MacDonald, Land Director, Taylor Woodrow Developments Ltd

Ian Gaul, Design Director, Taylor Woodrow Developments Ltd

David Steven, Regional Engineer, Taylor Woodrow Developments Ltd

Gerard McDermott, Master and Factor, Cowane’s Hospital Trust

Group 13 and 17

Promoter’s witness—

Alison Gorlov, Parliamentary Agent, John Kennedy & Co.
Objector’s witnesses—

Kevin McGinley, Estates Surveyor, Scottish Power PowerSystems Ltd

David Gibson, Senior Project Engineer (Transmission), Scottish Power PowerSystems Ltd

Roger Mitchell, Senior Project Engineer (Distribution), Scottish Power PowerSystems Ltd

Gordon Dow, Contract Engineer, Scottish Power Generation Ltd

Group 3

Promoter’s witness—

David Reid, Business Centre Manager, Babtie Group Ltd.

3. **Stirling-Alloa-Kincardine Railway and Linked Improvements Bill**: The Committee will consider the evidence taken on the Bill at Consideration Stage.

Callum Thomson
Clerk to the Committee
Room G7, Committee Chambers
callum.thomson@scottish.parliament.uk
The following papers are attached for this meeting—

**Agenda item 1**

Promotor’s Memorandum on existing railway processes  
SAK/S2/04/4/1

Written evidence by promotor in respect of compensation and blight as affecting objectors  
SAK/S2/04/4/2

Objection of Mr & Mrs Brewerton (30 June 2003)  
SAK/S2/04/4/25

Written evidence of group 10  
SAK/S2/04/4/26

Promoter’s written evidence  
SAK/S2/04/4/27

Promoter’s noise assessment – group 10  
SAK/S2/04/4/28

Group 10 response to promoter’s written evidence (including response to noise assessment)  
SAK/S2/04/4/29

Promoter’s response to group 10 written evidence  
SAK/S2/04/4/30

Extract from Reporters report of objection made to Clackmannanshire Local Plan in respect of reopening of railway  
SAK/S2/04/4/31

Objection of Hilton Crescent residents  
SAK/S2/04/4/32

Promoter’s written evidence  
SAK/S2/04/4/33

Promoter’s noise assessment – group 14  
SAK/S2/04/4/34

Group 14 response to promoter’s written evidence  
SAK/S2/04/4/35

Promoter’s response to group 14 written evidence  
SAK/S2/04/4/36

Extract from Reporters Report of objection made to Clackmannanshire Local Plan in respect of eastern Link Road  
SAK/S2/04/4/37

Four plans in respect of alignments of Eastern Link Road  
SAK/S2/04/4/38

Objection of BRB (Residuary) Ltd (4 July 2003)  
SAK/S2/04/5/3

Written evidence of group 16  
SAK/S2/04/5/4

Promoter’s written evidence  
SAK/S2/04/5/5

Promoter’s response to group 16 written evidence  
SAK/S2/04/5/6

Objection of William Kerr Scrap Metal Merchants, Master and Factor of Cowane’s Hospital Trust, and Taylor Woodrow Developments Ltd (3 July 2003)  
SAK/S2/04/5/7

Objection of Mrs Margaret Kerr (3 July 2003)  
SAK/S2/04/5/8

Written evidence of group 12  
SAK/S2/04/5/9

Promoter’s written evidence on objection of William Kerr Scrap Metal Merchants, Master and Factor of Cowane’s Hospital Trust, and Taylor Woodrow Developments Ltd  
SAK/S2/04/5/10

Promoter’s written evidence on objection of Mrs Margaret Kerr  
SAK/S2/04/5/11

Promoter’s response to group 12 written evidence  
SAK/S2/04/5/12

Extracts from Ordnance Survey map of Stirling and Ordnance Survey sheet  
SAK/S2/04/5/13

SAK/S2/04/5/14

SAK/S2/04/5/15

Written evidence of group 13  
SAK/S2/04/5/16

Promoter’s written evidence on objection of Scottish Power PowerSystems Ltd  
SAK/S2/04/5/17

Group 13 response to promoter’s written evidence (24 February 2004)  
SAK/S2/04/5/18

Promoter’s response to group 13 written evidence  
SAK/S2/04/5/19
Written evidence of group 17  
Promoter’s written evidence on objection of Scottish Power Generation Ltd  
Group 17 response to promoter’s written evidence (24 February 2004)  
Promoter’s response to group 17 written evidence  
Objection of Clackmannan Community Council (22 May 2003)  
Promoter’s written evidence on objection of Clackmannan Community Council  
Promoter’s second written evidence on objection of Clackmannan Community Council  
Extract from Reporters report of objection made to Clackmannanshire Local Plan in respect of reopening of railway

In addition to the above documents, the following documents, while not Committee papers, may be referred to—

- Noise contour plans produced by Scott Wilson Scotland Ltd
- Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Environmental Statement (vols 1-3)
- Stirling-Alloa-Kincardine Route Re-opening: Bogside Alignment Option Appraisal
- Stirling-Alloa-Kincardine Route Re-opening: Kincardine Bypass Option Appraisal
- Stirling-Alloa-Kincardine Route Re-opening: Clackmannan Bypass Option Appraisal
Stirling-Alloa-Kincardine Railway and Linked Improvements Bill ("Bill")

Consideration Stage

Written Evidence given to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee ("Committee")

On behalf of the Promoter

In respect of

**Group 14:** Hilton Crescent Residents ("Objectors") in terms of a letter received by The Scottish Parliament on 4 July 2003 (Objection 50) and email to Committee clerks dated 11 January 2004
Expert Witnesses Available (on the following topics) to give evidence on behalf of the Promoter: -

- Eastern Link Road:- Malcolm West, Development Manager, Roads & Transportation, Clackmannanshire Council
- Town and Country Planning Issues:- Julie Hamilton, Development Manager, Planning and Building Standards Clackmannanshire Council
Introduction

1. The Promoter has identified in its Outline Statement\(^1\) sub-headings identifying a summary of the issues, which these Objectors have raised in the said letters dated 4 July 2003 and 11 January 2004. Following those same subheadings the Promoters respond and rebut those issues as follows:

**Issue**

Eastern Link Road will be unacceptably close to housing on Hilton Crescent and lead to loss of amenity, noise and vibration and safety concerns

**Response and Rebuttal**

2. The Alloa Eastern Link Road\(^2\) is necessary to enable the Scheme to proceed by providing alternative routes to the east of Alloa following the closure of Hilton Road level crossing.

3. The Objectors do not identify precisely why they consider the proximity of the proposed road to too close to existing housing, and therefore the Promoter cannot specifically respond to this point. The closest house to the Alloa Eastern Link Road will be approximately 34m from the wall of the nearest property (No4 Hilton Crescent). There are numerous examples in roads carrying greater volumes of traffic being built nearer to housing and indeed new housing being built nearer to busier roads. The Alloa Eastern Link Road will be designed and constructed in accordance with existing design standards\(^3\) and in compliance with the Construction (Design and Management) Regulations 1994.

4. The Eastern Link Road was identified in the Finalised Local Plan in June 2002. The Development Guideline in the Plan stated “Consultation of new single carriage way road linking A907 east of Clackmannan Roundabout with Whins Road Roundabout. This involves the construction of a new roundabout at the junction with the A907 and new road bridge over the railway line with enlarged roundabout at Hilton Road/The Whins. Hilton Road to be closed to through traffic at the former level crossing”. The Local Plan was subject to extensive public consultation from July 2002 to September 2002. Four objections were received on the basis of proximity, safety, noise, and loss of countryside and wildlife habitat and taken to the Local Plan Inquiry in June 2003. (One of those objectors is included within the group Objection 50- Mr. Derek Craig). The Reporter’s Report\(^4\) in to the

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\(^1\) Promoters Outline Statement submitted to the Committee on 22 January 2004

\(^2\) Refer to the Bill, Schedule 2, Work No. 2

\(^3\) Development Roads and Guidelines Specifications, Clackmannanshire Council

\(^4\) Reporters Report pages 82-83
Inquiry was received in December 2003 and has been public information since January 2004. With regard to this issue, the Reporter supports development of the Eastern Link Road which he describes as “a key component in the regeneration of this part of East Alloa and will bring benefits to the local community”, although he acknowledges that detailed proposals will provide clarity for objectors.

5. The Promoter is unsure what the Objectors’ references to “The previous plan” and “The updated plan” relate to and therefore requests more information to allow for a full response.

6. There will be an increase in road traffic noise levels to the rear of the properties in Hilton Crescent, and further information is given in the Environmental Statement (Scott Wilson Scotland Ltd, February 2003) (ref) and in the information provided by the Promoter during the Preliminary Stage of the Bill process.

7. It is not accepted that vibration will be an issue as this is to be a newly constructed road complying with modern design standards. Further information is given in the Environmental Statement (Scott Wilson Scotland Ltd, February 2003) (ref) and in the information provided by the Promoter during the Preliminary Stage of the Bill process.

8. Landscape planting is proposed for the Alloa Eastern Link Road, as detailed in the Environmental Statement. Streetlights will be designed in accordance with modern design standards and as such glare into adjacent housing will be minimised.

**Issue**

Road safety and speeding

**Response and Rebuttal**

9. Hilton Road currently caters for approximately 9,000 vehicles per day. As the road has very poor geometry in terms of road width and alignment, as well as significant residential frontage development, the Council has had ongoing concerns over its suitability to accommodate predicted future traffic growth. In this regard the Alloa Eastern Link Road has been carefully considered and accepted by the Council to be an appropriate solution. With the advent of the rail proposals Hilton Road was considered completely unsuitable for the anticipated expected network changes which would arise from an operational level crossing in conjunction with current and anticipated traffic growth.

10. The Promoter is not aware that it is classed as a “speeding blackspot”, and as such cannot comment on this allegation. However this perception from the objectors that Hilton Road currently displays road safety issues relative to the volume and nature of traffic would be in keeping with the views expressed in the previous paragraph regarding poor geometry. In this
respect the proposal to construct the Alloa Eastern Link Road designed in accordance with standards appropriate to the volume and nature of traffic would appear to positively address any current perceptions of safety concerns.

11. Road designs, including the Alloa Eastern Link Road, are subjected to a rigorous safety examination through the process of road safety audits, in accordance with existing standards. These are carried out during the design process, just prior to opening, and post-opening to identify and monitor potential safety concerns, which cannot be designed out. Safety audits consider all manner of elements that may affect road safety, including drainage, fencing, speed limits, street lighting, junction geometry, footpaths and signage. The speed limit on the Eastern Link Road will be 30mph.

**Issue**

Proximity of the road to private recreational area (football pitch owned by Diageo) leading to loss of amenity and safety issues.

**Issue and Rebuttal**

12. There will be no loss of amenity in terms of pedestrian access to the playing field / football pitch adjacent to Hilton Crescent because of the new road. Further, the area is not safeguarded recreational space in the Adopted Local Plan and there can be no assumption that its use would be retained for recreation. In fact, it is allocated in the Adopted Local Plan for residential development. The railway and Eastern Link Road proposal required that allocation to be amended and the current Local Plan provision for the field (in the Finalised Local Plan 2002) is principally for development of the Eastern Link Road.

13. Safety issues will be dealt with through the road safety audit process detailed above. In addition, the Promoter notes that the draft Code of Construction Practise\(^5\) should assist in allaying concerns with regard to the construction period.

14. Dog fouling is not an issue that the Bill seeks to legislate over, and as such the Promoter does not consider a rebuttal is required.

**Issue**

Impact on and diversion of sewer, gas and water main and Brothie Burn

**Response and Rebuttal**

15. The Bill ensures compliance with the New Roads and Street Works Act 1991 and the Town and Country Planning (Scotland) Act 1997 which cover the measures which must be taken to identify and protect existing utilities

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\(^5\) Refer to the Promoter’s Supplementary Memorandum…
affected by the works. The Promoter has and continues to consult with the potentially affected utility companies to ensure that any impact of the works on existing services is minimised.

16. It will be necessary to culvert a length of the Brothie Burn where it passes under the new road. The length of culvert will be kept to a minimum and the diameter of the culvert will be sufficient to carry the predicted flow in the burn, designed in accordance with existing standards. Scottish Environment Protection Agency (SEPA) will be consulted further with regards to the proposed design of the culvert to ensure compliance with their requirements.

**Issue**

Light pollution

**Response and Rebuttal**

17. As noted above, street lights will be designed in accordance with modern design standards and as such glare into adjacent housing will be minimised. Modern street lights are designed to maximise the amount of light directed onto the road surface, and are widely regarded by local authorities as one of the greatest contributors to reducing street crime and contributing to community safety.

**Issue**

Increased weight of vehicles and lack of a weight limit

**Response and Rebuttal**

18. The road is specifically being designed to cater for traffic displaced from Hilton Road, high-sided vehicles which cannot use Whins Road and general traffic growth in the area. The road is being designed to current standards to accommodate all classes of vehicle and hence there is no need for an additional weight restriction in excess of those included in the design standards.

**Issue**

Scheme not in accordance with the Local and Structure Plan

**Response and Rebuttal**

19. The Promoter has not been provided with a copy of the attachments referred to in the Objector’s letter and therefore cannot comment specifically on them at this stage. *The Promoter requests that the Clerk to the Committee provide this information by return.*
However, as stated above the Finalised Local Plan (2002) identifies the Eastern Link Road. Following receipt of the Reporter’s Inquiry Report which recommendation supports the Local Plan in respect of the Eastern Link Road, the Council will include this proposal and policy in the Local Plan when it is adopted.

**Issue**

Value for Money and availability of alternatives to the Scheme (Waterways)

**Response and Rebuttal**

20. The Promoters do not accept the Objectors claim and stand by their evidence already submitted during the Preliminary Stage on funding and that given by supporters of the Scheme, that the Scheme does represent value for money and is the only proposal which meets all of the objectives as stated in the Promoters Memorandum. Further and importantly The Scottish Parliament has unanimously endorsed the General Principles of the Bill at the Preliminary stage and cannot during the Consideration Stage consider this fundamental alternative (waterways) to the Scheme.

**General**

19. For the avoidance of any doubt, the Promoter has properly applied the requirements of ECHR in so far as the Objectors may be affected by the Scheme.
Group 14 – Further Noise Information

Objection 50

As stated in the Environmental Statement Volume 3 Chapter 6, planning advice note PAN56 defines noise exposure categories (NEC’s) for new residential developments. It states that ‘for a site to fall within NEC A, noise should not be a determining factor when granting planning permission’ and defines the upper limit of NEC A in terms of a daytime free-field noise level of 55 dB L_{Aeq} (07:00 to 23:00) and a night-time free-field noise level of 45 dB L_{Aeq} (23:00 to 07:00).

The daytime level is based on guidance provided by the World Health Organization (WHO) which states that ‘general daytime outdoor noise levels of less than 55 dB(A) are desirable to prevent any significant community annoyance’. The night-time level is also based on WHO guidance which states that ‘based on limited data available, a level of less than 35 dB(A) is recommended to preserve the restorative process of sleep’. Allowing for the sound insulation qualities of a partially open window, this equates to a free-field level of 45 dB(A) external to the bedroom.

Thus, PAN56 and WHO Guidance suggest that free-field daytime noise levels less than 55 dB(A) and free-field night-time noise levels less than 45 dB(A) external to properties should not result in significant annoyance to residents. This view is supported by GoMMMS (Guidance on the Methodology for Multi-Modal Studies, DETR, March 2000) which states in paragraph 4.3.14 of Volume 2, for the long-term impact of infrastructure schemes ‘…. Therefore 55 dB L_{Aeq,18 hour} (58 dB L_{A10,18 hour}) is the recommended cut-off level to use in estimating the total population annoyed’.

British Standard BS8233: 1999 ‘Sound Insulation and Noise Reduction for Buildings – Code of Practice’ provides acceptable ranges for internal noise levels for a range of spaces. Internal to a daytime habitable room (living room, lounge) it suggests that a level of up to 30 dB(A) is ‘good’ and a level of up to 40 dB(A) is ‘reasonable’. For reasonable sleeping conditions in bedrooms it suggests that a level of 30 dB(A) or less is ‘good’ and a level up to 35 dB(A) is ‘reasonable’. The standard also gives information on the sound insulation of windows, supported by data in Planning Policy Guidance PPG24 (data not given in PAN56), which suggests that the internal noise level of a room fitted with single glazing is 28 dB(A) less than the outside facade level, and 13 dB(A) less with a partially open window.

The assessment of noise due to the opening of the Alloa Eastern Link Road (AELR) was based on the procedure given in the Design Manual For Roads And Bridges (DMRB) which provides a method of estimating the number of people
annoyed by road traffic noise for the with-scheme and without-scheme scenarios. As given in Section 11.5.2 of Volume 2 of the Environmental Statement, the opening of the AELR will result in a long-term decrease in the number of people annoyed by traffic noise.

With specific reference to the Objectors’ properties in Hilton Crescent backing on to the proposed AELR, the rear facades of these properties will experience an increase in noise level of 7 to 9 dB(A). However, the resultant noise levels in the rear gardens will be at or below 50 dB(A) and should prove acceptable. At the same time, the front facades of these properties will experience a decrease in noise level of 2 to 12 dB(A), depending on nearness to Hilton Road.

Inside daytime ground floor living areas (lounges, dining rooms etc.) to the rear of the properties noise levels should be ‘good’ (less than 30 dB(A)) with windows closed and ‘reasonable’ (less than 40 dB(A)) with windows open.

Generally, night-time noise levels from road traffic are assumed to be 10 dB(A) below the daytime levels. Therefore night-time noise levels inside bedrooms to the rear of the properties should be ‘good’ (less than 30 dB(A)) with windows closed and ‘good’ to ‘reasonable’ (less than 35 dB(A)) with windows open.
In response to the comments made in the written evidence by the Promoter, I would like to respond as follows:

Point 3: The last comment made in my objection was:
“In conclusion, we, the undersigned, are not objecting to the requirement for a new road should the railway go ahead, but the proximity to existing properties is unacceptable
and raises serious noise, vibration and safety issues – none of which have been eased by various meetings and discussions with the council and planners.”
Where is the confusion in this statement?

Point 3: No 3 Hilton Crescent (Mr D. Craig) and No 4 Hilton Crescent is a semi-detached dwelling. Could you then please explain how the road would be closer to No 4 than No 3? This is certainly not the case in every road layout plan I have seen. Would it be possible to receive a scale plan of the most up to date road layout?

Point 4: “...detailed proposals will provide clarity for objectors.”
This would be very much appreciated. At the moment this is just another empty quote from the Promoter with no evidence to back it up.
All we have heard for months is that this road/railway will provide economic benefits for the area, but with no examples to back up this statement.
One of the best examples from the Council is that they are planning to build new industrial units on the site of the existing distillery. I work in a 3-storey unit in Alloa that was built approximately 4 years ago and know for a fact that this has never been fully occupied. So where is the sense in building more units to lie empty? (The new Kilncraig building for example)

Points 5 & 19: This is good! I have sent at least two or three copies of this to the Council (Niall Urquhart and Alex Deans to name but two). The fact that they haven’t bothered to respond to any of them, might be why they have the misconception that they haven’t seen them. To avoid further confusion, I have attached yet another copy for their attention.

Point 6: It is obvious that there will be a greater level of noise than there is at present. Having received drawings recently indicating noise levels with and without mitigation measures, it becomes apparent that the noise levels for this road will be greater than for some parts of the railway. However, it has come to my attention that any concerns regarding the Link Road seem to be pushed into the background whenever the railway is mentioned.

Point 7: Hilton Road at present has a weight limit of 7.5 tonnes imposed on it. This new road, however, will have no restriction imposed on it. This now means that possible 40 tonne lorries, double-decker buses, etc will be using the road. Does the Promoter seriously believe that this will not increase vibration levels? If so, please give evidence to support this claim.

Point 10: Oh dear, someone hasn’t carried out their research particularly well. All this needs is a meeting with Central Scotland Police to confirm my statement. However, I am most impressed with the way in which the Promoter has turned their incompetence into an argument for the road to go ahead. The fact remains that if there is a speeding problem on the existing Hilton Road, which the Promoter has agreed has very poor geometry, then what will the problem be like on a new improved, wider road?

Point 15: Let me give a transcript of the site meeting I had with Niall Urquhart.
Derek Craig: Are you aware that a main sewer, water main and an intermediate pressure gas main runs through the site? How do you propose to deal with this? Can’t you just find an alternative route for the road?
Niall Urquhart: That’s impossible. There are no alternative routes for the road.
D.C.: What about all these services? What is being done about these?
N.U.: We will have to look at re-routing these.
D.C.: Do you have any idea how much this will cost? These are three major services.
N.U.: If it works out to be too expensive, we will have to look at an alternative route for the road.
Is it any wonder that we all feel frustrated when all we get are idiotic comments and empty quotes and promises from the Council?

Since our objection was lodged we have received more information from all parties involved. Diageo are complaining that several properties have unauthorised access to their land. Without this access, we would be unable to maintain the wooden fences that surround our properties. I very much doubt if Diageo would be willing to maintain these, as it seems to take the maximum effort from them to keep the grass at a reasonable level – a job that I have taken on myself at my boundary fence. This now raises the question that if the road goes ahead and screen planting is put in, will it be right up to our boundaries? If so, will our wooden fences be replaced with maintenance free metal fences? If not, how are we supposed gain access to paint them?

It is noted that Longannet Power Station has a remaining working life of approximately 10 years. During previous meetings, we have been told that the promoter is aware that the passenger line will not make any money and that this will be subsidised by the freight line. What will happen once the ten years is up? Will the entire scheme be allowed to fall into disrepair again?

In the minutes we received from the Parliament, one MSP said that he was part of the Railtrack committee that closed the original railway in 1968. I think it would be advisable for him to check his records again, as I know that the railway was still running for a few years after this.

In response to the item on compensation, I have had this looked at by a professional who has said that some comments in this were quite dubious. The European Court of Human Rights would take a dim view of some of the regulations contained within this document while others would be subject to criminal rather than civil law. Just because the Scottish Parliament passes a Bill, it does not give them the authority to ignore the rights of others.
DEVELOPMENT NUMBERS H1(1), H1(2) AND T4

There follows quotations and examples from the Councils literature on the Local Plan: -

**Finalised Structure Plan – Easy Read Summary**

“….protecting the environment is the priority”

“….Caring for the environment

“The plan is based on the premise that the environmental impact from new development will be minimised, and wherever possible the environment should be enhanced.”

“They should contribute to sustainability and prevent harm to valuable areas of countryside or loss of important urban open space.”

**Local Plan – General Issues Paper**

“…a strategy which promotes caring for the environment.”

“The local plan discourages new housing development in the countryside…."

“It places emphasis on environmental enhancement and provision of adequate green space…."

“Full account will be taken of the environment when considering proposals for development. New development will only be permitted where it can be accommodated in an environmentally acceptable manner. Opportunities for improving the quality of the built and natural environment will be sought at all times, with priority given to proposals securing environmental enhancement and schemes of direct benefit to local communities.”

“Development that would affect identified sites of local ecological value will not normally be permitted.”

“….new development in the countryside and the green belt will normally be discouraged…”

**There now follows examples where the Local Plan contradicts all of the ideals above:**

There are large numbers of mice, rabbits, foxes and birds of prey in the area – loss of habitat.

At the consultation stages months earlier I was told that there was no concern for wildlife as they would not actually be eliminating all the grass and trees but would be keeping a small area aside and that the wildlife would just move to the new area – an area of over 2 square miles being reduced to an area approx. one tenth of this will not be able to support the same number of animals and to be told this was an insult. If I have questions, I expect the Council to answer them truthfully and in an adult manner – not with lies and propaganda to suit their own needs.
DEVELOPMENT NUMBERS H1(1), H1(2) AND T4

Finalised Structure Plan – Easy Read Summary

“….Improving the quality of life.”

“….create quality environments now and for the benefit of future generations.”

Local Plan – General Issues Paper

“….enhance the quality of residential areas, by requiring high quality development layouts and amenity standards.”

“The location of new developments will be encouraged where they are capable of being conveniently and safely accessed.”

There now follows examples where the Local Plan contradicts all of the ideals above:

This now means that Hilton Crescent and Hilton Road will have a busy road to the front and rear and a railway line less than half a mile away – why the concentration of services in such a small area? Is the idea to confine children to their houses and gardens and not to let them outside?

Local Plan – General Issues Paper

“Current planning policies require that recreational facilities are protected, and that leisure related developments which do not harm the area’s environment are encouraged.”

“Development resulting in the loss of an established recreational or amenity facility will only be acceptable in exceptional circumstances.”

There now follows examples where the Local Plan contradicts all of the ideals above:

If there is a need for more housing, surely that means more children. In that case, why are we building on/alongside football pitches? The area behind Hilton Crescent/Hilton Road is a popular local dog walking area. If this area was to be developed, the nearest area for people to take their dogs would be the children’s play park on Hilton Road. Are the Council confident that people will pick up after their dogs when they foul?

Possible public health risk of dogs in children’s play area

Loss of amenities – dog-walking area and football pitch.

Why are the gates locked and why was a fence erected to restrict access to the football pitch at the back of Hilton Road – was this to make it easier to build on by being able to say that no one uses it?
OTHER GENERAL ISSUES

Local Plan – General Issues Paper

“…through town centre improvement schemes, redevelopment and initiatives.”

“…town centre improvement schemes…”

If the idea is to improve and rejuvenate Alloa Town Centre, where does building a rail line to Stirling and then ultimately on to Glasgow improve things for the local area? Does the Council really believe that people would prefer to shop in Alloa as opposed to Stirling and Glasgow?

There now follows examples of the Councils approach to improvement schemes:

Three bus lanes in Alloa run for a total of approx. quarter of a mile. One of these has already been taken away (Beside police station). Waste of taxpayers money.

The cycle lane at the bottom of Church Street. One question – WHY? It only runs for about 6 feet!

Town Centre one-way system fiasco. Local shops and businesses against system but it got forced through anyway. Loss of trade for shops on affected route.

Traffic islands in Sauchie – good idea but wrongly positioned making it difficult for cars and especially buses to turn into Schaw Court.

The Tullibody-Stirling road that lay unfinished for months. Should the money for this project not have been cleared long before the project actually went ahead?

Dumyat Business Park in Tullibody – only recently been filled but has lay almost empty for months. Has the Council ever heard of a feasibility study to see if these things are actually required?

Finalised Structure Plan – Easy Read Summary

“….the building of houses creates construction jobs, boosts local suppliers and stimulates further economic growth.”

It is unclear how the Council goes about it’s business, but large construction companies tend to have national agreements with suppliers. The truth is that local suppliers will not benefit as much as the Council makes out.

Finalised Structure Plan – Easy Read Summary

“Re-opening of the passenger rail link between Alloa and Stirling.”

“Re-opening of the Stirling-Alloa-Kincardine railway to freight traffic.”

We already have buses that run between Alloa and Stirling and these are usually half empty. What makes the Council think it would be any different when the train becomes available?
OTHER GENERAL ISSUES

Local Plan – General Issues Paper

“….priority for the use of appropriate brownfield sites within the urban areas,”

Jaegers is lying empty but houses are being built nearby. Why not build on site of Jaegers rather than green belt land? Is that not what the Council promises?

At the earlier stages of the consultation period, I was told that the cost of two level crossings across Hilton Road and Clackmannan Road would be too expensive and that it would actually be cheaper to close Hilton Road and build a new road. I find this to be an unbelievably inaccurate statement and if this is what the Council is using as an excuse, I would like these costs to be vetted by an independent firm of Quantity Surveyors to find out the real costs.

Is there really any need for an extension to/additional hospital in the area? Sauchie Hospital was closed and is now converted to caring for the elderly. The County Hospital closed and is now converted to a mental health facility. A new/additional hospital would just go the same way when it is finally realised that there is no need for it.
Clackmannan Council ("Promoter")

Stirling-Alloa-Kincardine Railway and Linked Improvements Bill ("Bill")

Consideration Stage

Written Evidence given to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee ("Committee")

Precognitions by Expert Witnesses:

Juliet Hamilton, Development Manager (Planning and Building Standards) Clackmannanshire Council: - on Town and Country Planning Issues

Malcolm A.C West Development Manager (Roads and Transportation) Clackmannanshire Council: - on Roads, Transportation and Road Safety

Stuart Coventry, Director, Scott Wilson Ltd: - on Environmental Issues

On behalf of the Promoter
In respect of

Group 14

Objection Number 50: Hilton Crescent Residents ("the Objectors") in terms of a letter received by The Scottish Parliament on 4 July 2004 and an email to Committee Clerks on 11 January 2004.
Objection Number 50: Hilton Crescent Residents (“the Objectors”) in terms of a letter received by The Scottish Parliament on 4 July 2004 and an email to Committee Clerks on 11 January 2004.

Precognition of Juliet Hamilton on Town and Country Planning Issues

Introduction

1. My name is Juliet Hamilton. My academic qualifications include a Masters Degree in Urban Design. I have been a Corporate Member of the Royal Town Planning Institute since 1989. I am a Chartered Town Planner with 18 years experience of Town and Country Planning. This experienced has been gained principally from policy formulation and implementation. My current position is Development Manager (Planning and Building Standards) for Clackmannanshire Council and I have overall responsibility for Development Control and Development Plan Policy Planning.

2. This precognition relates to the conformity of the Alloa Eastern link Road (“ELR”) proposed in the Bill with the Finalised Clackmannanshire Local Plan and the impact of the ELR on the usage of the informal playing field/football pitch adjacent to Hilton Crescent

Finalised Clackmannanshire Local Plan (“FCLP”)

3. The ELR is necessary to enable the Scheme to proceed by providing an alternative vehicular route following the closure of Hilton Road Level Crossing. It was identified in the FCLP, which was published in June 2002. The Schedule of Infrastructure Sites in the FCLP identifies the ELR under Policy T 4 which states that: -

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1 Finalised Clackmannanshire Local Plan
“Construction of new single carriage way road linking A907 east of Clackmannan Road Roundabout with Whins Road Roundabout. This involves the construction of a new roundabout at the junction with the A907 and new road bridge over the railway line with enlarged roundabout at Hilton Road/The Whins. Hilton Road to be closed to through traffic at the former level crossing”.

The ELR is established planning policy of the Council.

4. The FCLP was subject to extensive public consultation from July 2002 to September 2002. Four formal objections (including one from Mr Craig the author of the said letters of Objection) were submitted by objectors against the allocation of the ELR in the FCLP on the basis of proximity, safety, noise, loss of countryside and wildlife habitat. These were properly considered by Mr Hugh W J Crawford, Reporter at a Public Local Plan Inquiry held into objections to the FCLP. The Reporter’s Report2 (“Report”) into the Inquiry was issued in December 2003 and has been in the public domain since January 2004. The Reporter has considered similar issues as are being raised by the Objectors against the ELR in the context of the Bill. The Reporter in his Report supports provision of the ELR which he describes as:-

“a key component in the regeneration of this part of East Alloa and will bring benefits to the local community”

Although the Reporter acknowledges that detailed proposals will provide clarity for objectors.

5. The Council will be formally considering the Report at Committee on 31st March 2004. As Development Manager (Planning and Building Standards) for Clackmannanshire Council I will not be recommending any change to the ELR allocation or to adjacent development allocations. Following the anticipated Council approval of the Report and its wider provisions, the FCLP will progress through the statutory process to Adoption. Formal Adoption of the FCLP will establish the provisions of the ELR as statutory planning policy of the Council. Under Section 25 of the Town and Country Planning (Scotland) Act 1997 there is

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2 Reporter’s Report pages 82-83
a very strong legal presumption in favour of development, which accords with the provisions of the Development Plan.

**Proximity of the road to private recreational area (football pitch owned by Diageo) leading to loss of amenity and safety issues.**

6. The Objectors have expressed concern that there will be a loss of amenity in terms of pedestrian access to the playing field/football pitch adjacent to Hilton Crescent because of the ELR. It is important to note that the field (in so far as it remains undeveloped and its usage is permitted by Diageo) will not be “severed” from Hilton Road residents. Further, the area is not public open space and is not safeguarded recreational space in the Adopted Local Plan or the FCLP. There should be no assumption on the part of the Objectors that its use would be retained for recreational purposes. In fact, it is allocated in the Adopted Local Plan\(^3\) for residential development. The Bill required that allocation to be amended and the current allocation in the FCLP Local Plan for the field is principally for residential development with a small part of the field being allocated for development of the ELR.

**Conclusion**

7. The ELR is necessary to enable the Scheme to proceed. The ELR is wholly in accordance with the FCLP, which has been tested at a Public Local Plan Inquiry and has been upheld by the Reporter to that Inquiry. The Objectors participated in that Inquiry. The concerns of the Objectors regarding the impact on the field owned by Diageo must be considered in the light of the above.

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\(^3\) Adopted Clackmannanshire Local Plan  August 1994
Group 14

Objection Number 50: Hilton Crescent Residents (“the Objectors”) in terms of a letter received by The Scottish Parliament on 4 July 2004 and an email to Committee Clerks on 11 January 2004.

Precognition of Malcolm A.C West on Roads, Transportation and Road Safety

Introduction

1. My name is Malcolm A.C West. My academic qualifications include a degree in civil engineering from Paisley University and a postgraduate Diploma in Engineering Design. I am a Corporate Member of The Institution of Civil Engineers. I am a Civil Engineer with 29 years experience of Road Construction and Maintenance, Traffic, Transportation and Road Safety. This experience has been gained during my employment with Grampian Regional Council, The Scottish Office and Central Regional Council. My current position is Development Manager (Roads and Transportation) for Clackmannanshire Council and I have overall responsibility for Roads, Transportation and Road Safety.

2. This precognition relates to the need for and selection of the alignment of the Alloa Eastern Link Road (“ELR”) proposed in the Bill and the issues which arise in terms of roads, transportation and road safety and other related issues raised by the Objectors.

Need for ELR

3. The ELR\(^4\) is necessary to enable the Scheme to proceed by providing an alternative traffic route to the east of Alloa following the closure of Hilton Road level crossing. The closure of Hilton Road also means that there would be no alternative route for high-sided vehicles due to the height restriction on Whins Road Rail Bridge. The Fire Service is broadly supportive of the ELR.

Alignment of ELR

\(^4\) Refer to the Bill, Schedule 2, Work No. 2
4. The proposed alignment of the ELR was developed following assessment of three potential routes. The preferred option was further refined and I refer to the Environmental Statement where these refinements are considered. This route was chosen as it minimises demolition works to the adjacent warehouses; constrains speed on the ELR; and facilitate future access to land allocated for development. The proposed alignment will necessitate a realignment of the A907 west of Hilton Manor Farm, with a new roundabout on the A907 located east of the existing roundabout serving the retail park. The realigned section of road will then swing back towards its original alignment just prior to the existing roundabout. The ELR runs northwards from this new roundabout to an upgraded roundabout at the junction of Whins Road and Carsebridge Road. Access to Hilton Manor Farm will be from a service road from the link road which will also connect to the existing access to Jellyholme Farm. At the northern end of ELR access to Hilton Road will be by means of a new priority junction.

5. The ELR is approximately 1km long of single carriageway comprising a 7.3m wide carriageway, 2.0m verges, 2.0m remote footways and a 0.5m verge on either side. It will be street lit along its length and will be subject to a 30mph speed limit. The ELR will be mainly at ground level and on an embankment rising up to cross over the railway on a new bridge. The construction of the ELR will allow Hilton Road to revert to residential status with only local traffic movements expected.

6. The Finalised Clackmannanshire Local Plan ("FCLP") has land allocated in the vicinity of the ELR for housing and development sites. The ELR will facilitate access to the new housing site H1 (2) allocated in the FCLP. Hilton Road is primarily of a residential nature and is not suited to cater for strategic traffic movements as it is only around 6.0m wide and has significant frontage development along its length as well as providing access to a childrens play park.

7. The modern design and construction of ELR will allow it to cater for displaced traffic from Hilton Road (approximately 9,000 vehicles per day), the additional traffic generated through nearby FCLP allocations, any natural background traffic growth and, potentially of greater significance, additional traffic levels generated
as a result of the construction of the new Upper Forth Crossing. It is clear from analysis carried out and on-site monitoring that Hilton Road could not cater for this traffic generation and as a result there would be a potential for a significant deterioration in quality of life for residents in the area (particularly those residing along Hilton Road).

Hilton Road

8. Hilton Road currently caters for approximately 9,000 vehicles per day. As the road has very poor geometry in terms of road width and vertical alignment, as well as significant residential frontage development, it is considered completely unsuitable for the anticipated expected network changes which would arise from an operational level crossing and anticipated traffic growth. The ELR is being designed to an S.2 Carriageway Standard as specified in the Design Manual for Roads & Bridges Volume 5 Section 1.

Proximity of ELR to houses on Hilton Crescent

9. The Objectors do not identify precisely why they consider the proximity of the ELR to be too close to existing housing, and therefore I cannot specifically respond to this point. However, I assume that their concerns relate to loss of amenity and potential safety issues. The running surface of the ELR will be approximately 34m from the wall of the nearest property (No. 4 Hilton Crescent). In my professional opinion I consider that this is an acceptable distance given the speed limit which will apply (30mph). There are numerous examples of roads carrying greater volumes of traffic being built nearer to housing and indeed new housing being built nearer to busier roads. A nearby local example is the new housing development on Hallpark which carries around 15,000 vehicles per day.

Road Safety

10. The Promoter, as Roads Authority, has not received any complaints about speeding on Hilton Road and is not aware that Hilton Road can be classed as a “speeding blackspot”, and as such cannot comment on this claim made by the Objectors. However, this perception from the Objectors that Hilton Road currently displays road safety issues relative to the volume and nature of traffic would be in keeping

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5 Design Manual for Roads and Bridges
with my opinion regarding its poor geometry. In this respect the proposal to construct the ELR designed in accordance with standards appropriate to the volume and nature of traffic would appear to positively address any current perceptions of safety concerns.

11. Road designs, including that of the ELR, are subjected to a rigorous safety examination through the process of road safety audits, in accordance with existing standards. These are carried out during the design process, just prior to opening, and post-opening to identify and monitor potential safety concerns, which cannot be designed out. Safety audits consider all manner of elements that may affect road safety, including drainage, fencing, speed limits, street lighting, junction geometry, footpaths and signage. In addition, the draft Code of Construction Practise\(^6\) should assist in allaying concerns with regard to the construction period.

**Pedestrian Safety**

16. Adequate provision for pedestrians using the ELR is provided in the form of 2 metre footways set back from the carriageway along the length of the road. Adjoining recreational/amenity areas will be segregated from the road by fencing along the boundaries of the route.

**Impact on and diversion of sewer, gas and water main and Brothie Burn**

17. The Bill ensures compliance with the New Roads and Street Works Act 1991 and the Town and Country Planning (Scotland) Act 1997 which cover the measures which must be taken to identify and protect existing utilities affected by the works. The Promoter has and continues to consult with the potentially affected utility companies to ensure that any impact of the works on existing services is minimised.

18. It will be necessary to culvert a length of the Brothie Burn where it passes under the new road. The length of culvert will be kept to a minimum and the diameter of the culvert will be sufficient to carry the predicted flow in the burn, designed in accordance with existing standards. Scottish Environment Protection Agency (SEPA) will be consulted further with regards to the proposed design of the culvert to ensure compliance with their requirements.
Light pollution

19. As noted above, street lights will be designed in accordance with modern design standards and as such glare into adjacent housing will be minimised. Modern street lights are designed to maximise the amount of light directed onto the road surface, and are widely regarded by local authorities, the public and the Police as one of the greatest contributors to reducing street crime and contributing to community safety.

Increased weight of vehicles and lack of a weight limit

20. The ELR is specifically being designed to cater for traffic displaced from Hilton Road, high-sided vehicles which cannot use Whins Road and general traffic generated in the area. The ELR is being designed to current standards to accommodate all classes of vehicle and hence there is no need for a weight restriction.

Conclusions

22. The decision to proceed with the ELR was taken as a result of a thorough assessment of the environmental effects and road network changes. The ELR is necessary to enable the Scheme to proceed by providing an alternative traffic route to the east of Alloa following the closure of Hilton Road level crossing (which is required on grounds of safety and congestion) It is my professional opinion that the ELR ought to proceed.
Objection Number 50: Hilton Crescent Residents (“the Objectors”) in terms of a letter received by The Scottish Parliament on 4 July 2004 and an email to Committee Clerks on 11 January 2004.

Precognition of Stuart Coventry, Director, Scott Wilson Ltd on Environmental Issues

Introduction

1. My name is Stuart Coventry. My academic qualifications include an MA in Engineering Science from Oxford University. I am a Member of the Institution of Civil Engineers. I have over with twenty years of experience of infrastructure and development projects (including railway projects) and more than ten years assessing and managing their environmental consequences. I led Scott Wilson’s environmental involvement in the West Coast Main Line Upgrade Project. My current position is Director and I have responsibility for the Environment and Consents group within the firm.

2. I am providing the witness statement in relation to environmental issues.

Construction Noise arising from ELR

3. The details of all activities and associated equipment for the construction of the link road are given in the Environmental Statement (“ES”)\(^7\). The overall results are summarized in Table 6.5-2 of the ES. The predicted noise levels are below the

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\(^7\) Environmental Statement Vol 3, Chapter 6. Volume 3, Chapter 6.
A property on Hilton Crescent which backs on to the proposed link road was predicted to be a noise sensitive receptor in relation to the Construction noise
The short-term daytime limit of 70 dB at any given receptor on Hilton Crescent and for much of the work, the predicted noise levels are below the long-term day time limit of 65 dB. The noise levels are worst case values with the construction activities assumed to be at the nearest approach to receptors and without the benefits of noise mitigation such as temporary boundary hoarding being taken into account. Therefore in practice the noise levels will be significantly lower for the majority of the construction period, which I am advised is expected to last for 18 months. Consequently, noise from construction of the ELR lies within accepted limits and should prove acceptable to residents of Hilton Crescent.

**Operational Noise from ELR**

4. The levels of traffic expected to use the ELR are shown in Table 13.2 of Volume 2, Chapter 13 of the ES.

5. An assessment, in accordance with the Design Manual for Roads and Bridges (DMRB), was carried out for all sensitive properties within 300 metres of Hilton Road, Clackmannan Road and the proposed Alloa Eastern Link Road. Nine scenarios were considered as detailed in Volume 3, Chapter 6 of the ES. Façade noise levels for all scenarios were calculated at a set of twenty receptors, representative of groups of residences within the 300 metre corridors including Hilton Crescent. House counts within the defined group of residences enabled the change in noise level to be estimated.

6. The Noise Assessment Summary Tables are given in Tables 6.8-1 to 6.8-8 of Volume 3, Chapter 6 of the ES. From these tables the total number of properties within 300 metres of Hilton Road, Clackmannan Road and the proposed relief road bothered “very much” or “quite a lot” is estimated. A summary of the results can be found at Table 11.6 of Volume 2, Chapter 11 of ES, which shows the percentage of people within the study area bothered by traffic noise. The opening of the ELR in 2005, without the new housing development will result in a slight decrease in the overall number of people bothered by traffic noise compared to the 2005 baseline.
7. DMRB advocates the use of a standard approach for assessing noise levels, to determine the net effect. The criterion used are slightly different to those used for assessing railway noise, however the “trigger” level is set at 68dB $L_{\text{aeq10}}$. When noise levels are assessed at below this level, no mitigation is required under existing planning regulations.

8. Long term, the operation of ELR will result in an overall decrease in the number of people bothered by traffic noise, with and without the new housing development, compared to the 2020 baselines. There would be a decrease from 45 to 37 houses annoyed by noise between 2005 and 2020 as a result of the ELR excluding the new housing proposed east of Hilton Road. However, if the new housing proposed east of Hilton Road is taken into account, there will be a decrease from 88 houses to 67 houses annoyed by noise between 2005 and 2020 as a result of the ELR.
Group 16
Scottish Parliament

Stirling – Alloa – Kincardine Railway and Linked Improvements Bill (“the Bill”)

Consideration stage

Written evidence

given to

Stirling – Alloa – Kincardine Railway and Linked Improvements Bill Committee (“Committee”)

on behalf of

BRB (Residuary) Limited (“Objector”)

The Objector has had sight of a draft of the Promoter’s rebuttal of the Objector’s objection to the Bill (“Rebuttal”).

The Objector can confirm that significant progress has now been made in discussions between the Objector’s agents and the Promoter’s agents, with a view to agreement being reached and documented so as to facilitate withdrawal of the Objector’s objection to the Bill.

In particular, the Objector can confirm its understanding that discussions between its agents, Biggart Baillie, and the Promoter’s agents, Anderson Strathern and John Kennedy & Co, have resulted in agreement as to the objectives to be achieved and manner of implementation. Biggart Baillie are currently awaiting proposed detailed drafting from the Promoter’s agents, for approval.

The Objector can confirm its intention to withdraw the Objection as and when the detailed drafting to address the points covered in the Objection has been agreed and documented to the Objector’s reasonable satisfaction.

Pending the Objector being in a position to withdraw the Objection, the Objector would emphasise that the primary purpose in making the Objection was the furtherance of the
safe construction and operation of railways whilst the secondary purpose for certain aspects of the Objection was to facilitate the future use of the Objector’s land holdings for strategic railway purposes.

Should the Objection not be withdrawn by the time the Committee hears further oral evidence, the witnesses for the Objector will be able to give evidence to the Committee to explain the rationale for the Objector’s position and to explain the then current position in relation to negotiations with the Promoters and their agents.

Expert witnesses who will be available to give oral evidence to the Committee on behalf of the Objector will be:-

- Neil Amner, Partner, Biggart Baillie
- John Hill, Director, Lambert Smith Hampton

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Neil Amner  
Solicitors for the Objector  
Biggart Baillie  
Solicitors  
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Glasgow G2 5QR  
Telephone: 0141 228 8000  
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E-mail: namner@biggartbaillie.co.uk  

Date: 16 February 2004
Stirling-Alloa-Kincardine Railway and Linked Improvements Bill ("Bill")

Consideration Stage

Written Evidence given to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee ("Committee")

On behalf of the Promoter
In respect of

**Group16:**
BRB (Residuary) Ltd in terms of a letter received by The Scottish Parliament on 4 July 2003 (objection 52) and email to Committee clerks dated 14 January 2004
Expert Witnesses Available (on the following topics) to give Evidence on behalf of the Promoter: -

- Land Take and Acquisition; Tara Whitworth, Principal Engineer, Babtie Group Ltd
- Compensation: Alison Gorlov and Paul Irving, both Parliamentary Agents, John Kennedy & Co
Introduction

1. The Promoter has identified in its Outline Statement\(^1\) sub-headings identifying a summary of the issues, which this Objector has raised in the said letters dated 4 July 2003 and email dated January 2004. Following those same subheadings the Promoters Rebut those issues as follows: -

Compulsory Acquisition of land and rights in Land

2. In discussion with the Objector it has become clear that its sole concern is to ensure that all obligations and burdens related to the railway devolve on the authorised undertaker. That is the purpose of section 36 of the Bill and the Promoter and the Objector are in agreement as to the object in view.

3. The Promoter now understands the technical reason why the Objector considers that section 36 as it stands does not fully achieve this object. The Objector’s solicitor is understood to have accepted that the wording proposed in the objection does not meet the Promoter’s needs. This is a drafting issue. The parties are confident that they will in the near future agree an appropriate amendment in the Bill which the Convener will be asked to table for consideration by the Committee.

4. For technical reasons some of the burdens with which the Objector is concerned will have to be assumed by the authorised undertaker by means of a Minute of Agreement rather than through section 36. Draft documentation to evidence this is at an advanced stage and should be agreed very soon.

Temporary Occupation of land

5. Agreement in principle has been reached concerning the temporary occupation of the Objector’s land. Detailed terms are close to being finalised.

Impact on Possible reopening of Menstrie Branch

6. There is no outstanding issue specifically concerning the Menstrie branch line.

General

7. Settlement with the Objector has been all but reached. The parties are in agreement that the Objection will be withdrawn and that, other than as set out above, there is nothing that should be brought to the attention of the Committee.

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\(^1\) Promoters Outline Statement submitted to the Committee on 22 January 2004
Clackmannan Council (“Promoter”)

Stirling-Alloa-Kincardine Railway and Linked Improvements Bill (“Bill”)

Consideration Stage

Written Evidence given to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee (“Committee”)

Precognitions by Expert Witnesses:-

Alison M H Gorlov, Parliamentary Agent, John Kennedy & Co on Compensation

On behalf of the Promoter
In respect of

Group 16

Objection Number 52: BRB (Residuary) Limited (“the Objectors”) in terms of letter received by the Scottish Parliament on 4 July 2003 and email to the Committee to Clerks dated 14 January 2004
Group 16

Objection Number 52: BRB (Residuary) Limited (“the Objectors”) in terms of letter received by the Scottish Parliament on 4 July 2003 and email to the Committee to Clerks dated 14 January 2004

Precognition of Alison Mary Haymon Gorlov, Parliamentary Agent, John Kennedy & Co:- on Compensation

Introduction
1. My name is Alison Mary Haymon Gorlov. I am a Solicitor of the Supreme Court (England and Wales) (admitted 1975) and a Roll A Parliamentary Agent (approved by the House authorities in the Westminster Parliament in 1978). I have nearly 30 years’ experience of compulsory purchase and compensation associated with major and minor infrastructure projects, the majority of them railways or other forms of guided transport. This experience has been gained from acting as a Parliamentary Agent on the promotion of, and opposition to, Scottish provisional Orders, Westminster Private Bills, Transport and Works Act Orders (England and Wales) and Orders under the Harbours Act 1964. My current position is as a partner in John Kennedy & Co, Parliamentary Agents, a position I have held since 1978.

2. I have been involved in the Stirling-Alloa-Kincardine Route Re-opening project since July 2002. In addition to drafting the Bill and Explanatory Notes, I have advised the project on both legal and procedural requirements and on the legal implications of the Bill. My advice has covered land take and compensation, particularly in the context of the implications of the proposals on affected landowners.

Current Position
3. As the result of active discussions with the Objectors it has been possible to reduce their concerns to three related areas, namely--

(a) the way in which the Bill treats existing obligations that should relate to the new railway;

(b) the recreation of burdens which will be extinguished by the exercise of the powers of the Bill; and

(c) the Objectors’ need for enhanced access rights over land adjoining the new railway.
Item (a) will call for an amendment in section 36 of the Bill. Item (b) will be the subject of a minute of agreement in course of being settled between the parties. Item (c) is not an issue of principle and does not depend upon the exercise of the powers in the Bill. It is a separate issue where the Promoter will assist if it can, but if it cannot, it is not a matter of dispute.

4. As confirmed by the Objectors’ written statement dated 16th February 2004, all these issues are under discussion and the Promoter is confident that they will be settled so that the objection can be withdrawn.
Group 12

Statement of Evidence in relation to an objection
to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill
on behalf of Taylor Woodrow Developments Limited, William Kerr Scrap Metal Merchants and the Master and Factor of Cowane’s Hospital Trust

Background

1. William Kerr Scrap Metal Merchants and the Master and Factor of Cowane’s Hospital Trust own land at Causewayhead Stirling. The land in question is enclosed to the South by the River Forth and to the North by the disused railway line. Taylor Woodrow Developments Limited has been involved with the site since January 2001 and has concluded an Option to Purchase the land with the Landowners.

2. Taylor Woodrow has been involved in lengthy discussions with Stirling Council on the development of the site. During pre-application discussions the site layout was amended substantially to accommodate the Council’s design requirements and the need to accommodate affordable housing for those not able to buy their own home on the open market.

3. The site was formerly used as a scrap yard and is contaminated. The Scottish Environment Protection Agency has indicated that extensive ground remediation is required. Ground conditions at the site are not favourable and specialised piling, vibro-compaction and reinforced strip foundations will be needed before the site can be developed. In addition, because of its location adjacent to the River Forth there is a need for gabion walls to be introduced along the southern boundary of the site. Finally, there is a need for a pumping station and rising main to deal with foul drainage. The overall cost in respect of these works is in the region of £1.4 million.

4. Taylor Woodrow is working in partnership with Cowane’s Hospital Trust in the proposed development of the site. The Trust’s purposes are the provision of housing for the frail, elderly and those with learning difficulties. To fulfill these purposes Cowane’s has established a Housing Association to own and administer the new properties that are being provided. The Association was established in 1998 and has charitable status. The Association presently houses 25 tenants all with very special needs and care requirements. The Association’s tenants are housed in two group homes, 4 flats and 9 two bedroom specially designed bungalows. The Association does not receive any funding from Communities Scotland and must therefore use its own resources and bank funding to provide these houses. The need for this type of property in the Stirling area is acute. As part of the development of the site Taylor Woodrow will provide nine two bedroom units for special needs residents at no cost to the Association.
Objection

5. The initial objection to the Stirling-Alloa-Kincardine Railway Bill questioned the amount of land proposed for compulsory purchase by the Promoter. This conflicted with the proposed access road to the site which Taylor Woodrow intended to construct from Ladysneuk Road. Taylor Woodrow had not previously considered taking access to the site across the Causewayhead level crossing, as it had been lead to believe that access could be taken from Ladysneuk Road.

6. Taylor Woodrow entered into discussions with the Bill Promoter’s Agents with a view to withdrawing its objections to the Bill. At no point during those discussions was any fundamental problem with access to the site from Ladysneuk Road raised. Indeed, the first time the issue emerged was in correspondence from Clackmannanshire Council dated 23 December 2003, a full year after Taylor Woodrow’s planning application was registered with the Planning Authority.

7. It would now appear that the Bill Promoter does not believe that the upgrading of Waterside level crossing as proposed by the Bill will allow for the development of the site. The Promoter appears to suggest that a further upgrade to the level crossing will be required. Had the Promoter made this information available to the objectors prior to completion of the Preliminary Phase of the Bill the objectors would have raised a further objection to the closure of Causewayhead level crossing. The current proposed layout could be adjusted to take access across the Causewayhead level crossing.

8. The cost of this further upgrade is estimated to be in the region of £1.2 million. A cost of that magnitude would render the development of the site for residential purposes non viable. The prospective loss of the development at Causewayhead would be a severe blow to the Cowane’s Hospital Trust and a further set back to those most in need of houses. The association recently had to make a member of staff redundant due, in part, to the lack of progress on this much needed development. In addition the land previously offered for the development of affordable housing in partnership with Stirling Council will no longer be available, again to the detriment of those in acute need of a home. Finally the remediation of the site, which the Taylor Woodrow development would have secured, will be delayed or prevented.

Conclusions and Recommendations

9. The proposed development of the site at Causewayhead by Taylor Woodrow has been in the public domain since at least December 2002. The Promoter’s Environmental Statement acknowledged the proposed development particularly in the section dealing with Community Effects yet made no mention of the proposed development in the section dealing with Traffic and Transport. No comment on Taylor Woodrow’s planning application was made until December 2003 and in particular no mention of the need for a further upgrade of the Waterside Level Crossing was made during discussions with the Bill Promoter and its Agents.
10. In all the circumstances it is not apparent that the impact of the Bill on this particular site has been properly considered by the Bill Promoter and explained to the Parliament. It is not apparent whether the rights that the Bill Promoter proposes to grant in respect of the site will achieve their purpose of providing equivalent re-instatement. It is not apparent why this issue has only recently emerged to the potential detriment of the objectors in terms of the procedure before the Parliament.

11. The objectors wish the Bill to be amended to clarify the access rights which will be granted to the site at Causewayhead. They wish the Bill amended to clarify the standard to which the Bill Promoter will be upgrading the Waterside level crossing. Finally they wish the Bill to be amended to provide for the continued operation of the Causewayhead Level Crossing.

12. Evidence will be given to the Committee from the following witnesses:-

   Allan Macdonald, Land Director, Taylor Woodrow
   Ian Gaul, Design Director, Taylor Woodrow
   David Steven, Regional Engineer, Taylor Woodrow
   Gerard McDermott, Master & Factor of Cowane’s Hospital
Stirling-Alloa-Kincardine Railway and Linked Improvements Bill ("Bill")

Consideration Stage

Written Evidence given to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee ("Committee")

On behalf of the Promoter

In respect of

Group12

William Kerr Scrap Metal Merchants, Gerard Francis McDermott, The Master of Factor of Cowane’s Hospital and Taylor Woodrow Developments Limited in terms of a letter dated 3 July 2003 (objection 44) and a letter from Shepherd and Wedderburn dated 9 January 2004
Expert Witnesses Available (on the following topics) to give evidence on behalf of the Promoter: -

- Land Take and Acquisition; Compensation: Alison Gorlov and Paul Irving, both Parliamentary Agents, John Kennedy & Co
- Tara Whitworth, Principal Engineer, Babtie Group Ltd
- Human Rights: Fiona Stephen, Partner, Anderson Strathern
Introduction

1. The Promoter has identified in its Outline Statement\(^1\) sub-headings identifying a summary of the issues, which this Objector has raised in the said letters dated 3 July 2003, and 9 January 2004. Following those same subheadings the Promoters Rebut those issues as follows: -

Compulsory acquisition of land unnecessary and purposes of Bill can be achieved with a reduced land take

2. The Bill proposes the compulsory acquisition of permanent rights over plot no. 068 to enable the installation of signalling equipment and access. Plots nos. 067, 069, 070 and 071 are required for the purposes of constructing Work No. 1A. All this land is understood to be owned by the first two Objectors (Mrs. Kerr (Obj 48) also has an interest in plot no. 070). It is also understood that the third Objector has an option to purchase it.

3. The Objectors complain that the land take is unnecessary and excessive. The acquisition of smaller areas is advocated.

4. Work No. 1A is not required for the purposes of the railway. As with other proposed access roads (Works Nos. 1B, 1D and 1F), the purpose of the work is to preserve road access to sites affected by the railway works. As the need is to preserve status quo, such accesses should be as convenient as those existing. In point of fact, Work No. 1A would effect significantly improve the existing access arrangements into the Objectors’ land.

5. Work No. 1A is provided purely for the benefit of the landowners, it will not be built if the landowners do not want it and discussions with the third Objector have taken place on that basis. In principle agreement had been reached for the construction of Work No. 1A along a different alignment to be specified by the third Objector. The Objectors have now indicated that they do not for the moment wish to proceed with these negotiations. The Promoter will be happy to continue with them should that view change.

Frustration of development of land for housing

6. The Objectors complain that the Bill proposals will frustrate the third Objector’s proposed development of the site. As explained above, the land take is necessitated by an access road which need not be constructed. This would appear to answer the complaint in full.

7. It should nonetheless be pointed out that in the event of land being acquired from these Objectors compensation would be payable. The amount of any compensation payable would of necessity reflect the value of the land taken and (see the Information Note on Compensation and

\(^1\) Promoters Outline Statement submitted to the Committee on 22 January 2004
Planning Blight), the Objectors might be able to justify a claim under some other head. The Objectors’ interests are therefore fully protected by the compensation code.

8. This head of complaint raises the issue of interaction with other landowners. A planning application for this development was made in December 2002. It has not yet been granted. The Bill should and does provide for the railway in a way that does not worsen the existing state of the road network, and hence Work No.1A. The Bill cannot, and should not, take account of development for which planning permission has not been obtained and which may never take place.

**Blight**

9. The Objectors complain that the proposed land take will prevent the full and effective use of the Objectors’ land. As stated above, the land need not be taken if the Objectors do not want Work No. 1A.
Stirling-Alloa-Kincardine Railway and Linked Improvements Bill ("Bill")

Consideration Stage

Written Evidence given to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee ("Committee")

On behalf of the Promoter
In respect of

Group12

Mrs Margaret Kerr in terms of a letter dated 3 July 2003 (objection 48) and a letter from Shepherd and Wedderburn dated 9 January 2004
Expert Witnesses Available (on the following topics) to give Evidence on behalf of the Promoter: -

- Land Take and Acquisition; Compensation: Alison Gorlov and Paul Irving, both Parliamentary Agents, John Kennedy & Co
- Tara Whitworth, Principal Engineer, Babtie Group Ltd
- Human Rights: Fiona Stephen, Partner, Anderson Strathern?
Introduction

1. The Promoter has identified in its Outline Statement\(^1\) sub-headings identifying a summary of the issues, which this Objector has raised in the said letters dated 3 July 2003. Following those same subheadings the Promoters rebut those issues as follows:

**Compulsory acquisition of garden for access unnecessary**

2. The Objector has an interest in plot no. 070, the garden adjoining Waterside Cottage. The land was included within limits for the purposes of Work No. 1A.

3. As explained in the response to Objection No. 44, Work No. 1A was provided solely for the benefit of the owners of the site adjoining Waterside Cottage. As it appears that they do not want it, the Work need not be built. If Work No. 1A is not built, the Objector’s land will not be taken and so the objection will fall away.

4. In discussion with Taylor Woodrow (Obj 44), it became apparent that the Objector’s land could be used temporarily and with minimum disruption to Waterside Cottage. If an access road were to be built (whether Work No. 1A or some other route chosen by the owners of the adjoining site), any inconvenience to the Objector could be minimised and the Objector’s land would be fully re-instated once construction was complete.

5. The Objector is related to some of the owners of the adjoining land and it is understood is in close touch with them. The Promoter has endeavoured to keep her appraised of the discussions with those owners and will continue to do so. Throughout those negotiations the Promoter has made clear that any alternative route for Work No. 1A could not have an effect on the Objector’s property that is more deleterious than the proposals in the Bill.

**Severe impact on amenity of dwellinghouse**

5. For the reasons explained above the Promoter believes any impact would be very slight. If there is a depreciation in the value of the Objector’s property due to the construction of the works she may be entitled to compensation (see Information Note on Compensation and Planning Blight, appendix paragraph 14). If the proposals had so severe an effect that the property was blighted within the statutory definition in the Town and Country Planning (Scotland) Act 1997, the statutory provisions concerning planning blight would apply.\(^2\)

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\(^1\) Promoters Outline Statement submitted to the Committee on 22 January 2004

\(^2\) See Information Note on Compensation and Blight, Appendix paragraphs 17 to 20.
Suitable alternative line of access available

6. The possibility of an alternative route is explained in the response to Obj 44. As explained in that response, it will not after all be necessary to take the Objector’s land permanently for the purposes of Work No. 1A. Temporary possession would be required for use for construction purposes.

Human Rights

7. The Promoter has properly applied the requirements of the European Convention on Human Rights in so far as the Objector may be affected by the Scheme.
Clackmannan Council ("Promoter")

Stirling-Alloa-Kincardine Railway and Linked Improvements Bill ("Bill")

Consideration Stage

Written Evidence given to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee ("Committee")

Precognitions by Expert Witnesses:-

Alison M H Gorlov, Parliamentary Agent, John Kennedy & Co :- on Compensation
Tara Whitworth :- on Engineering and Other Matters

On behalf of the Promoter
In respect of

Group 12

Objection Number 44: William Kerr Scrap Metal Merchants, Gerard Francis McDermott, The Master of Factor of Cowane’s Hospital and Taylor Woodrow Developments Limited ("the Objectors") in terms of a letter dated 3 July 2003 and a letter from Shepherd and Wedderburn dated 9 January 2004

Objection Number 48: Mrs Margaret Kerr ("the Objector") in terms of a letter dated 3 July 2003 and a letter from Shepherd and Wedderburn dated 9 January 2004
Group 12

Objection Number 44: William Kerr Scrap Metal Merchants, Gerard Francis McDermott, The Master of Factor of Cowane’s Hospital and Taylor Woodrow Developments Limited (“the Objectors”) in terms of a letter dated 3 July 2003 and a letter from Shepherd and Wedderburn dated 9 January 2004

Objection Number 48: Mrs Margaret Kerr (“the Objector”) in terms of a letter dated 3 July 2003 and a letter from Shepherd and Wedderburn dated 9 January 2004

Precognition of Alison M H Gorlov, Parliamentary Agent, John Kennedy & Co on Compensation

Introduction

1. My name is Alison Mary Haymon Gorlov. I am a Solicitor of the Supreme Court (England and Wales) (admitted 1975) and a Roll A Parliamentary Agent (approved by the House authorities in the Westminster Parliament in 1978). I have nearly 30 years’ experience of compulsory purchase and compensation associated with major and minor infrastructure projects, the majority of them railways or other forms of guided transport. This experience has been gained from acting as a Parliamentary Agent on the promotion of, and opposition to, Scottish Provisional Orders, Westminster Private Bills, Transport and Works Act Orders (England and Wales) and Orders under the Harbours Act 1964. My current position is as a partner in John Kennedy & Co, Parliamentary Agents, a position I have held since 1978.

2. I have been involved in the Stirling-Alloa-Kincardine Route Re-opening project since July 2002. In addition to drafting the Bill and Explanatory Notes, I have advised the project on both legal and procedural requirements and on the legal implications of the Bill. My advice has covered land take and compensation, particularly in the context of the implications of the proposals on affected landowners.

3. Following direct negotiations between the Taylor Woodrow Developments Ltd representing the Objectors and Babtie Group Limited representing the Promoter, I have been responsible for preparing an agreement designed to reflect the agreement that was understood to have been reached in principle with the Objectors.
Compensation: scope of this precognition

4. Tara Whitworth’s evidence explains the detail of the issues raised by the objection and deals with their individual merits. My evidence deals with the interaction between these issues as she describes them and the compensation code as applied by the Bill to the proposed compulsory purchase powers. I will follow the sub-headings identified in the Promoter’s Outline Statement and used in the Written Evidence.

5. As explained in the evidence provided at the Preliminary Stage, the Bill applies the compensation code applicable to any compulsory purchase in Scotland. The rules are outlined in the Promoter’s Information Note on Compensation and Planning Blight. The purpose of the compensation code is to make good losses that are capable of being reduced to a monetary value.

Objection Number. 44

Compulsory acquisition of land unnecessary and purposes of Bill can be achieved with a reduced land take

6. The Objectors question the extent of the proposed land take for Work No. 1A. The merits of this are dealt with in Tara Whitworth’s evidence (and I could if required speak to the Promoter’s written evidence in connection with the proposed formal agreement). Quite apart from the merits, however, there is the quite separate question of the effect of the obligation for the authorised undertaker to pay compensation when exercising the compulsory purchase powers in the Bill. Further, a dispute concerning compensation is not a reason for refusing the compulsory purchase powers comprised in the Bill.

7. If land for Work No. 1A were to be taken as proposed in the Bill compensation would be payable on the basis explained in the Information Note. The amount of such compensation calculated in accordance with the compensation code would be a matter initially for negotiation between the Objectors (or whichever of them is at the time the owner of the relevant land) and the authorised undertaker, and if they could not agree would be referred for determination by the Lands Tribunal for Scotland.

Frustration of development of land for housing

8. The thrust of the original complaint was that the proposed land take for Work No. 1A would frustrate Taylor Woodrow’s proposed housing development on the site of the old Scrap Metal Works, Causewayhead (“the site”), presently owned by the other two Objectors. The Objectors now add to this the complaint that the development will be further frustrated by the combined effect of the closure of Causewayhead level.
crossing and the standard of the proposed upgrade of Waterside level crossing. I deal separately with the compensation position in relation to the level crossing proposals.

9. So far as concerns frustrated development proposals arising from the proposed land take, the losses to the Objectors will be quantifiable in monetary terms. On the face of it such losses would appear to be referable to the value of the retained land as affected by the compulsory purchase. This would appear to found a claim for compensation for severance or injurious affection.²

10. Section 21 of the Bill will apply to the compulsory purchase of land forming part of a house, building or factory. The section provides in effect that if the land subject to compulsory purchase cannot be taken without material detriment to the remainder of the land, the authorised undertaker can be required to acquire the whole of the land (or such part as can be taken without causing material detriment). If this applied it would enable the Objectors to receive compensation representing the market value of the site, whatever that may be. However, this section will only apply where there is an existing house, building or factory i.e. one that is capable of use or being put into a useable state.

11. It is understood that the current owners of the site have the right to use Causewayhead level crossing. This right to use the crossing attaches to the site and may affect its value. The extent of the right may therefore have an effect on the site’s value and that may, in turn, impact on the amount of any compensation payable in respect of the site.

Blight

12. The Objectors complain that the proposed land take will prevent the full and effective use of the site. This will not in itself found a claim for compensation. Even if the special rules concerning planning blight were applicable given the land take proposals, these rules are only applicable to certain categories of landowner which do not include the Objectors. I refer the Committee to paragraph 18 of the Information Note. However, the financial effect of being unable to make full use of the land should be covered by compensation in respect of frustrated development as described above.

Closure of Causewayhead level crossing

13. Section 9 of the Bill authorises the closure (the expression in the Bill is “stopping up and discontinuance”) of, among other private crossings of the existing railway, Causewayhead level crossing. Section 9(5) provides that on a crossing being stopped up all rights of way across the crossing are extinguished. Under section 9(6) any person who suffers loss by the extinguishment of such a right of way is entitled to compensation. The amount is assessed in accordance with the Land Compensation (Scotland) Act 1963 i.e. the general law relating to compulsory purchase, and so if the

² See Information Note, paragraphs 9 to 11.
amount of compensation cannot be agreed it can be referred for determination by the Lands Tribunal.

14. Accordingly, if when the crossing is stopped up the then owner of the site suffers losses by reason of having a right of way extinguished, compensation will be payable. The amount of the compensation will be calculated by reference to the loss of the landowner’s legal right to use the crossing. Precisely what that right is will have to be established. The purpose for which the landowner has a right to use the crossing may not necessarily be the same as the purpose for which the crossing has historically been used.

15. The Causewayhead level crossing is a private crossing. Its precise status will have to be established in due course. However, it appears to be an accommodation crossing provided for the benefit of the landowner whose land was severed by the railway at the time the railway was originally built. The crossing is on the site’s north east boundary. Currently it provides the only means of access into the site and so far as is known the only rights over the crossing are enjoyed by the owners of the site, understood currently to be the Objectors other than Taylor Woodrow.

16. A person entitled to the benefit of an accommodation crossing provided under section 60 of the Railways Clauses Consolidation (Scotland) Act 1845 is entitled to make such use of it as might have been contemplated at the time it was provided. He may not substantially increase the burden on the railway of having the crossing at that point. So, for example, a landowner entitled to use an accommodation crossing provided for a limited agricultural use is not entitled to insist on the railway undertaker bringing it up to a standard required for large numbers of pedestrians, construction traffic connected with development of the adjoining land or subsequent users of the developed land.

17. Currently the land to the south of the crossing is the site, now derelict but most recently used as a scrap metal works, and to the north is a private access road going through a newly constructed residential development. However, this development north of the railway postdates the railway itself. The 1895 Ordnance Survey map of Stirling shows the railway at this point going through open country. It is therefore

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3 For an explanation of accommodation crossings I refer the Committee to the Promoter’s Memorandum concerning the Balfour Street level crossing. The crossing is likely to have been provided under section 60 of the Railways Clauses Consolidation (Scotland) Act 1845, which required railway undertakers to provide and maintain works for the accommodation of owners and occupiers of land adjoining the railway.

4 Taff Vale Railway Company v Canning 1909 2Ch 48: crossing provided for a farmer moving animals once or twice a week being used by large numbers of pedestrians from a tennis club.

5 Greenhalgh v British Railways Board [1969] 2 All E.R.114: crossing accommodating adjoining farmland used by construction traffic generated by development of the land for housing and after construction by pedestrian and vehicular traffic generated by the developed housing estates.

6 An extract from the OS map, sheet 39 (Stirling), revision 1895, published 1901, is in the Appendix to this precognition.
clear that the crossing was originally provided for the accommodation of agricultural land.

18. The existing rights over Causewayhead level crossing may therefore be limited to such level of use as is consistent with that original agricultural use. This will have to be ascertained in the context of any compensation claim made when the rights are extinguished. If there is such a limitation on the existing rights it will be reflected in the value attributable to the loss of the rights.

Waterside level crossing

19. Waterside level crossing is a crossing where the existing railway crosses Ladysneuk Road on the level. At this point the legal status of the railway is that it is still operational. Tara Whitworth’s evidence explains the proposals to upgrade the crossing. The road is a public road (A907) and so there is a public right of way over the crossing. The Objectors do not have any special rights over Waterside level crossing in addition to the rights they enjoy as members of the public.

20. Ladysneuk Road adjoins the eastern side of the site but there is currently no formal access into the site from the road (you can drive in easily over the kerb as there is no fence). Work No. 1A, providing such access, was included in the Bill so as to ensure that the site would not become land-locked on the closure of Causewayhead level crossing. The Work would provide metalled vehicular access. I am not qualified to say whether for compensation purposes it would represent an improvement on the existing access via Causewayhead level crossing but I understand that the existing means of access is in poor condition and would require significant improvement before it could carry any volume of traffic.

21. As explained in Tara Whitworth’s evidence, the crossing is to be upgraded so as to bring it up to the current standard appropriate for a railway level crossing of a public road with the features at this crossing. The proposals have been based on an assessment of current and likely future traffic levels at the crossing. I understand the final decision on the appropriate type of crossing will be based on an assessment of this at the time the works are carried out. Future traffic levels will have to be assessed by reference to existing and foreseeable future land uses having regard to the planning status of the surrounding land from which traffic might be generated.

22. In providing for level crossings and access to land along the route the Bill must –

(a) provide adequately for the railway (and sections 8 and 9 of the Bill authorise necessary closures and upgrading of crossings to accommodate the railway);
(b) provide for compensation to be payable where the works interfere with private rights (section 9(6) will enable compensation claims to be made in respect of the closure of Causewayhead crossing); and

(c) provide for the railway in a way that does not worsen the provision for access to land as afforded by the road network.

23. In relation to paragraph 22(c) above, the Bill can only take account of the road network as currently existing or likely to be required having regard to existing and likely future land uses. Here, too, land use must be assessed having regard to the planning status of the surrounding land from which traffic might be generated.

24. The Objectors refer to proposals to develop the site for housing but the site is not an allocated housing site in Stirling Council’s Adopted Local Plan. For the purpose of assessing future traffic levels, therefore, it is not at the moment appropriate to treat the site as potentially generating traffic from a housing development. Nor is such an assessment possible in the absence of clear development proposals, in particular some indication of the density of any development. This position will change if the planning status of any of the relevant land alters e.g. because planning permission is granted.

25. In short, the railway must satisfy paragraph 22(c) above on the basis of conditions as existing when the works are carried out. That is indeed the effect of the Bill.

26. Applying these principles to compensation–

(a) the owners of the site do not appear to have any rights over Waterside level crossing entitling them to claim compensation in respect of the crossing;

(b) Waterside level crossing will have a bearing on compensation payable to the owners of the site only to the extent that the altered arrangements at the crossing affect the value of the site;

(c) the crossing upgrade can only affect the site’s value if the upgrade does not properly reflect paragraphs 22(c) to 25 above;

(d) the authorised undertaker must ensure that the crossing provides adequately for the level of future traffic justified by planning uses current when the crossing upgrade is put in place;

(e) the owners of the site do not have any special rights to require Waterside level crossing to be equipped to a standard appropriate for any possible uses of the site;
(f) so long as the authorised undertaker upgrades Waterside level crossing in accordance with the requirements outlined above, the upgrade will not affect the value of the site for compensation purposes;

(g) if those requirements are not met the upgrade could potentially affect the value of the site.

27. Compensation is payable in respect of depreciation in the value of land. Where a landowner has not had any land acquired but the value of the land depreciates as the result of the construction or use of public works, compensation is payable in respect of that depreciation. Entitlement to compensation on this ground is subject to the detailed rules as outlined in the Information Note.

General

28. Whether the Objectors will suffer any of the losses discussed above is a compensation issue. It will be for the Objectors to justify any claim and if compensation cannot be agreed the claim can be referred for determination by the Lands Tribunal for Scotland.

29. Powers to construct public works will only be granted where justified by public policy. This public interest justifies doing the things that may give rise to compensation claims. Balanced against this public interest is the need to pay compensation to affected landowners, but given compensation those landowners cannot complain about the works that give rise to its payment.

30. The Parliament has resolved to pass at the Preliminary Stage this Bill which authorises, among other things, “the reconstruction of the railway from Stirling to Kincardine”. The decision that the railway scheme is required as a matter of public policy has therefore been made. It follows that the Objectors’ concerns should not be allowed to prevent the Bill proceeding as they can be resolved by payment of compensation.

Objection Number 48

Compulsory acquisition of garden for access unnecessary

31. The Objector has an interest in plot no. 070, the garden adjoining Waterside Cottage. The land is within the limits of deviation of Work No. 1A and the Bill proposes its permanent acquisition. However, in discussions between Babtie Group representing the Promoter and Taylor Woodrow (Obj 44) representing the Objectors, it became apparent that the Objector’s land need only be used temporarily and with minimum disruption to Waterside Cottage. If an access road to the old Scrap Metal Works site were to be built (whether Work No. 1A or some other route chosen by the owners of that site), any inconvenience to the Objector could be minimised and the Objector’s land would be fully reinstated once construction was complete. My evidence therefore
assumes that the authorised undertaker will not seek outright acquisition of the Objector’s land.

32. Assuming an access road is built, the authorised undertaker will have to acquire new rights of temporary occupation of the Objector’s land. Compensation will be payable in respect of these rights, the amount being assessed in accordance with the compensation code.⁷ If the Objector incurs losses or expenses as a result of the temporary use of her land e.g. additional cleaning costs or loss of rent, she will be entitled to recover them as compensation for disturbance. If the construction works or the railway give rise to depreciation in the value of the Objector’s land she will be able to claim compensation for injurious affection. If the access road is not built, the Objector’s land will not be affected and she will not have reason to claim compensation under any of these heads.

**Severe impact on amenity of dwellinghouse**

33. If there is a depreciation in the value of the Objector’s property due to the construction of the works she may be entitled to compensation (see Information Note on Compensation and Planning Blight, appendix paragraph 14). If the proposals had so severe an effect that the property was blighted within the statutory definition in the Town and Country Planning (Scotland) Act 1997, the statutory provisions concerning planning blight would apply.⁸

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⁷ See Promoter’s Information Note on Compensation and Planning Blight.
⁸ See Information Note on Compensation and Planning Blight, paragraphs 17 to 20.
Group 12

Objection Number 44: William Kerr Scrap Metal Merchants, Gerard Francis McDermott, The Master of Factor of Cowane’s Hospital and Taylor Woodrow Developments Limited ("the Objectors") in terms of a letter dated 3 July 2003 and a letter from Shepherd and Wedderburn dated 9 January 2004

Objection Number 48: Mrs Margaret Kerr ("the Objector") in terms of a letter dated 3 July 2003 and a letter from Shepherd and Wedderburn dated 9 January 2004

Precognition of Tara Whitworth on Engineering and Other Matters

Introduction

1. My name is Tara Whitworth. My academic qualifications include an honours degree in Civil, Structural and Environmental Engineering (BA BAI) from Trinity College Dublin in 1993. I have been a chartered member of the Institution of Civil Engineers (CEng MICE) since 1997 and a member of the Institution of Highways and Transportation (MIHT) since 1993. I am a Civil Engineer with 10 years experience of major and minor infrastructure projects. This experienced has been gained from working on a large number of projects which have included roads, railways, bridges, dams and tunnels, and have varied from pre-feasibility study stage right through to post-construction completion stage. My current position with Babtie Group Limited is as a Principal Engineer in the Rail division of the Infrastructure Business Centre.

2. I am providing this precognition in my capacity as the overall project manager for the Stirling-Alloa-Kincardine Railway and Linked Improvements project, with the specific remit to address engineering and other matters raised by the Objectors.

General

3. I have been in discussion with Taylor Woodrow (Objection No 44) on behalf of the Objectors since June 2003 in order to explain the Bill and its potential impact on their interests, and to enable a solution be found to allow for their objection to be withdrawn. I have also corresponded with Mrs Kerr in relation to her Objection (Objection No 48) which is directly linked to Objection No. 44.

4. I have not been party to any discussions between the Objectors and Stirling Council with regard to their planning application, however I have been contacted by Stirling Council to provide further information to them relating to this and other planning applications for land adjacent to the existing railway.
5. With regard to landtake, the Objectors state in their letter dated 3 July 2003 that the acquisition of land and rights for the purposes of Work No 1A are unnecessary. I accept this statement as partially correct, and as such have worked with the Objectors to reduce the landtake to an acceptable level. This was set out in my letter of 16 September 2003 to the Objectors. A copy of this letter can be provided to the Committee if necessary.

6. Based on discussions with the Objector following their receipt of my letter, I believed that agreement in principle had been reached between the Promoter and the Objector with regard to land to be acquired under the Bill, and as such instructed Alison Gorlov to prepare the necessary legally binding agreements.

7. The Objector appears to be concerned about the level of upgrading of the existing Waterside level crossing proposed in the Bill. In my letter of 24 June 2003 Taylor Woodrow were advised by me of the type of level crossing to be provided, an automatic half barrier crossing (AHB), and that Causewayhead level crossing was to be closed.

8. At present Waterside level crossing and Causewayhead level crossings are deemed operational, as part of the operational railway from Stirling to Cambus. Both crossings are recorded, by Network Rail, as automatic open crossings locally monitored (AOCL). AOCL crossings are not recommended when the speed of the trains over the crossing exceeds 90 km/h. The maximum design speed of the Stirling - Alloa - Kincardine line is 112 km/h, and as such work is required to upgrade the existing level crossings.

9. At all stages in our discussions I have sought to make it clear to the Objector that the proposed upgrading of Waterside level crossing does not make specific allowance for their (unapproved) planning proposal. Indeed during our first meeting I sought to explain the railway processes involved to the Objector, advising that although the Bill authorises the provision of a level crossing, it is for Network Rail and Her Majesty’s Railway Inspectorate (HMRI) to approve the detail of the crossing in due course. I also pointed out that the existing railway in the vicinity of their site is currently deemed operational, and therefore Network Rail’s specific requirements would apply regardless of whether the Bill progressed or failed.

10. Following consultation with Network Rail and HMRI regarding the proposed works, I instructed a company, Arthur D Little Limited, to carry out a risk assessment on the four automatic level crossings to be continued, namely Waterside, Blackgrange, Cambus Station Road and Kincardine Station Road. This

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9 Railway Safety Principles and Guidance part 2 section E Guidance on level crossings, Health & Safety Executive, 1996
risk assessment\textsuperscript{10} identified a potential issue with additional traffic using the Waterside automatic half barrier crossing, stating:

“There is an area of land directly to the south-west of the crossing, which appears to be waiting for development (we have not been able to confirm the details of the development during this study). It is critical that this land is not used to provide access to Ladysneuk Road (e.g. for the new housing) as this could increase the chance of road traffic accidents near the crossing, and be a potential cause of ‘blocking back’ (queuing over the crossing).”

11. Upon receipt of this information I forwarded a copy of the report to Stirling Council for their information, as members of the Project Steering Group and the relevant planning authority dealing with the planning application for the land referred to in the Arthur D Little report. A copy of the report was also sent by me to the Objector on 11 February 2004 at their request.

12. I am aware that Stirling Council also contacted Network Rail to obtain comments on the Objectors planning application. I have seen a copy of a letter from Network Rail to Stirling Council which advises that Waterside level crossing must be upgraded to “cctv” standard. I understand this to mean to a manually controlled crossing locally monitored with closed circuit television cameras and signal interlockings (MCB3) in accordance with existing HMRI standards\textsuperscript{11}. This is a more complex, and therefore more expensive, form of crossing that the AHB proposed in the Bill. HMRI’s standards\textsuperscript{12} identify that such crossings are “Generally suitable for any situation.”

13. With specific regard to Causewayhead level crossing, at no stage did the Objector express concern to me over its closure. I also note that the latest drawing\textsuperscript{13} of the proposed development which the Objectors provided me with shows the level crossing as closed.

\textsuperscript{11} Railway Safety Principles and Guidance part 2 section E Guidance on level crossings, Health & Safety Executive, 1996
\textsuperscript{12} Railway Safety Principles and Guidance part 2 section E Guidance on level crossings, Health & Safety Executive, 1996
\textsuperscript{13} Bryant Homes, Residential Development, Causewayhead Stirling, Proposed Site Plan, Dr No PL-10, Yeoman McAllister, 22 August 2003
Ordnance Survey One-inch 2nd edition, Scotland, 1898-1904

with parishes shown in colour and 6"/25" sheet lines

- Further information on this group of maps.
- View the maps with a graphic index of Scotland.
- View table of Survey and revision dates for county series mapping, 1843-1943 to check which dates of mapping these indexes relate to.

Each of the standard sheets below has a map area of 18 x 21.5 inches (46 x 55 cm) covering 18 x 24 miles, on sheet 24 x 30 inches (61 x 77 cm).

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In support of objections of SP Power Systems Limited and ScottishPower Generation Limited lodged
with the Scottish Parliament on 3 and 4 July 2003. This statement of written evidence is given on
behalf of both SP Power Systems and ScottishPower Generation Limited both companies within the
ScottishPower Group.

STATUTORY FRAMEWORK

As a result of the requirements of the Utilities Act 2000 the Scottish Power Group undertook a re-
organisation that involved the separation of their Generation, Transmission and Distribution
undertakings. In order to meet the requirements of the Utilities Act Scottish Power promoted a
statutory transfer scheme which automatically vest the Distribution Network in ScottishPower
Distribution Limited (SPD), the Transmission Network in ScottishPower Transmission Limited (SPT)
and the Generation Facilities in ScottishPower Generation Limited (SPG). SPD, SPT and SPG each
have a licence in terms of the Electricity Acts 1989 as subsequently amended.

SP Power Systems Limited (SPPS) is the company that operates and maintains the SPD and SPT
Networks on behalf of SPT and SPD.

The Electricity Acts and the licences granted thereunder impose strict obligations relating to continuity
of electricity supply for its customers and relating to health and safety and operational integrity.

BACKGROUND

ScottishPower support the scheme proposed by this Bill and considers that it will bring considerable
benefits to the local transportation network and the social and economic infrastructure in the
Stirling/Alloa area as a whole. This has been highlighted in the said letters to the Scottish Parliament
dated 3 July 2003 and 4 July 2003 and to Babtie Group on 15 May 2003. Furthermore Kevin Devlin
(Director, Scottish Power Energy Management Limited) and Ron Hunter (Business Services Director,
Scottish Power Generation Limited) gave evidence supporting the Bill to the second parliamentary
committee meeting on 27 October 2003.

ScottishPower remain supportive of the scheme but require to protect the operational safety and
integrity of the ScottishPower apparatus not least so that they can discharge their licence and statutory
obligations in terms of the Electricity Act. The ScottishPower apparatus will be affected by the works
to be carried out under the Bill as currently drafted. ScottishPower have been endeavouring to enter
into agreements with the Promoter to safeguard those interests without unduly affecting the proposals
put forward by the Promoter but although progress has been made, agreement has not yet been reached.
In order to protect the safety and integrity of the ScottishPower apparatus and networks, ScottishPower
require to maintain their objection and produce a statement of written evidence supporting the
objections set out in the letter of 3 July 2003 by SPPS relating to the SPD and the SPT apparatus and
Networks and the letter of 4 July 2003 on behalf of SPG.

POWERSYSTEMS

The written evidence supporting the SPPS objection as set out in letter of 3 July 2003 (and repeated in
bold below for ease of reference) is as follows:-

1. The scheme sponsors will take into account the necessary route deviation works required to
   be taken by the Company as a result of the proposed upgrade works. These deviations /
   alterations are enclosed as appendices A & B with this letter.

Agreement has been reached with the Promoter in principle that SPPS will be responsible for the
carrying out of the deviations/alterations required on by the Scheme details of which are enclosed
as Appendices A and B with the letter of 3 July 2003. This is necessary given that ScottishPower is responsible for the continuity of electrical supply and for health and safety and operational integrity. SPPS have proposed a procedure for the agreement of the programme for the carrying out of the deviation works and the consequences of the programme not being met. This has not yet been agreed by the Promoter.

In the absence of such agreement, the Bill therefore requires to be amended so that it is clear that SPPS will be the party responsible for carrying out the necessary diversion works.

It is also proposed that any access on to ScottishPower land (for example to carry out any deviation works if SPPS fail to do the works themselves) is subject to ScottishPower’s proposed occupancy terms and safety rules and regulations. ScottishPower consider that compliance with these terms is necessary to ensure health and safety and operational integrity. As agreement has not yet been reached the Bill requires to be amended to make it clear that the proposed occupancy terms and safety rules and regulations will apply.

2. The sponsors will provide permanent rights (Deed of Servitude) for the retention of the new or deviated routes mentioned in point 1, above.

It has been agreed in principle between the Promoter and SPPS that permanent rights will be procured for the replacement apparatus that is to be installed as part of the aforementioned deviations. This is necessary to allow SPPS necessary rights for the construction of and ongoing operation and repair of the replacement apparatus. As the detail of this has not yet been agreed with the Promoter the Bill will require to be amended so as to oblige the Promoter to procure such property rights in favour of SPD and SPT and to make it clear that there will be no interference with the existing network and apparatus until such time as the replacement apparatus has been fully installed and commissioned and the existing apparatus has been de-commissioned.

3. The scheme sponsors will be responsible for the full costs of these deviations, including all of the Company’s disbursements. These costs will be provided by the Company as soon as they are available.

It has been agreed in principle between the Promoter and SPPS that the Promoter will be responsible for the disbursements of SPPS in carrying out the deviation works. SPPS consider that this is necessary as the deviation works are not required other than for the purposes of the Scheme. As the detail has not yet been agreed the Bill requires to be amended to allow SPPS to recover all disbursements and expenses arising in connection with the deviation/alteration works from the Promoter. Given that SPPS are only carrying out these works to assist the Promoter in implementing the Scheme the Bill should also oblige the Promoter to indemnify SPPS (and also SPD and SPT) against all actions, claims, damages and losses suffered as a consequence of the carrying out of the authorised works.

4. For the avoidance of doubt, the required deviation / alteration works mentioned above will be carried out by ScottishPower or our designated contractors.

See response to question 1 above.

GENERATION

SPG confirmed support for the overall scheme of works on 4 July 2003. As with SPPS, it was also necessary to object to the technical aspects of the Bill as explained in the letter. The written evidence supporting the SPG objections as set out in out letter of 4 July 2003 (and repeated in bold below for ease of reference) is as follows: -

Generally

1. Much of SPG’s operational land is affected by the scheme. As such, the Promoter should work with SPG to ensure that the SPG’s operational needs are not prejudiced otherwise SPG may require to raise our own CPOs to the prejudice of the scheme.
Agreement has been reached in principle that the Promoter shall comply with ScottishPower’s proposed occupancy terms and safety rules and regulations whilst taking access over ScottishPower land. ScottishPower consider that compliance with these terms is necessary to ensure health and safety and operational integrity. Agreement has not yet been reached and therefore the Bill requires to be amended to make it clear that the proposed occupancy terms and safety rules and regulations will be complied with by all parties taking access to SPG’s land.

2. We are keen to see the new rail bridge, proposed as part of the new river crossing built before the new railway line becomes operational so that the railway line is not closed for the building of the new river crossing. We have sought details of how the two projects will interact and have been advised that should the railway be re-opened prior to the bridge being in place that there could be disruption to our use of the railway line, in turn disrupting the operation of Longannet Power Station. We continue to liaise with Babtie, project managers of both projects to seek comfort that our use of the railway line will not be disrupted.

SPG accept that the two projects are separate but SPG require assurances that disruption to the railway is limited. See response to question 2(c) below.

Specifically

1. Sheets 26-28

See response to question 1 above.

2. Sheet 29

(a) Rights over the road bridge, access road, security gate etc at the entrance to the former Kincardine Power Station

It has been agreed in principle with the Promoter that they will not interfere with SPG or the other road users use of the road etc so as not to prejudice deliveries of coal to Longannet Power Station. As agreement has not yet been reached the Bill requires to be amended to prohibit the Promoter from taking access to the former Kincardine Power Station Site or along the Kincardine Power Station Road until principles are agreed with SPG to prevent interference with the operations of the other road users and to ensure SPG’s continued and uninterrupted use of the access road and road bridge and access to the former Kincardine Power Station.

(b) Temporary Compound

It has been agreed in principal that the construction compound will not be purchased by way of compulsory purchase order from SPG as the proposed construction compound forms part of SPG’s operational land and SPG require 24 hour access to the water pipes passing through the area of land. Instead, an alternative area is to be licensed to the Promoter for a period of up to 18 months. As agreement has not yet been reached the Bill requires to be amended to reflect the fact that the construction compound will not be acquired by CPO from SPG but that the Promoter will be granted a temporary licence of the alternative area.

Any access to SPG’s land requires to be on ScottishPower’s occupancy terms and safety rules and regulations as mentioned at question 1 above.

(c) Permanent acquisition of Generation owned railway sidings

It is imperative that SPG’s coal deliveries to Longannet Power Station by rail are not affected otherwise electricity generation could be adversely affected. SPG are willing to grant a licence to occupy the relevant railway sidings to the Promoter (on ScottishPower’s aforesaid proposed occupancy terms and safety rules and regulations) in order to enable
the necessary works to be carried out. However, it is imperative that the railway is not affected except during the Power Station’s 2 week closure period in July 2004. If the railway is going to be out of use at any other time, SPG will require at least 3 months’ notice of any closure period in order to take steps to avoid disruption of deliveries of coal to the Power Station.

As agreement has not yet been reached, the Bill requires to be amended to oblige the Promoter to carefully plan any works to the railway to ensure that ScottishPower have at least 3 months’ prior notice of any periods of closure of the railway.

(d) Triple Line

The authorised works and the Kincardine Road Bridge will affect the existing railway line (and emergency egress road) so as to result in insufficient railway line to allow trains delivering coal to Longannet Power Station to turn. A turning circle is therefore required to allow coal deliveries by rail to continue. It has been agreed in principle that a train turning circle will be provided before the existing triple line is removed to allow continued train deliveries of coal to the Power Station.

Drawing Number B1094-PW-DO159 has been agreed in principle however as agreement has not yet been reached the Bill requires to be amended to oblige the Promoter to construct a train turning circle in accordance with the aforesaid drawing prior to the removal of the existing triple line.

The emergency egress road from Kincardine Power Station is also affected by the authorised works thereby denying SPG a route of emergency egress. It has therefore been agreed in principle that the road will be diverted. As agreement has not yet been reached, the Bill requires to be amended in order to reflect the agreed position.

3. Sheet 30

(a) Level Crossing

It has been agreed in principle that SPG will have uninterrupted 24 hour pedestrian and vehicular access over the level crossing. This is required to allow SPG 24 hour access into the former Kincardine Power Station Site and to a water valve which forms part of SPG’s operational assets. Agreement has not yet been reached and therefore the Bill requires to be amended to ensure that such uninterrupted access is preserved.

(b) British Railways Board Conveyance

It has been agreed in principle that Plots 415 to 418 will be conveyed by SPG to the Promoter or the end user for the consideration determined by the district valuer subject to the reservation of any rights required by SPG. As agreement has not yet been reached the Bill requires to be amended in order to reflect the conveyance of these areas.

(c) Plots 422 & 423

There has been ongoing discussion between SPG and the Promoter on whether these plots will be acquired by the Promoter (subject to SPG’s rights to lay pipelines between the former Kincardine Power Station and Longannet Power Station) and whether the Promoter shall be responsible for the ongoing maintenance of the sea wall and the drainage. It is SPG’s position that the areas are required for the railway with SPG’s only interest in the areas being in the aforesaid pipelines and therefore the Bill should be amended to provide for the areas to be acquired by the Promoter who should also assume responsibility for coastal protection and the maintenance of the sea wall and all drainage.

(d) Drainage

See response to question 3(c) above.
4. **Sheets 31, 32, 33 & 34**

See responses to questions 3(c) and 3(d) above

5. **Sheets 32, 33 & 34**

(a) **Longannet Complex**

SPG await details of the proposed level crossings and proposed gates within the Longannet Power Station site. As agreement has not been reached the Bill requires to be amended to oblige the Promoter to obtain SPG's prior approval of the proposed level crossings and gates so as to avoid any disruption to SPG's operations and to ensure unhindered deliveries of coal to Longannet Power Station.

(b) **Sheet 34**

It has been agreed in principle that the cable which is to be laid under the coal conveyor to the signal box will be laid along an agreed route and in such a manner as to avoid any disruption to SPG's operational plant, namely the coal conveyor so as not to prejudice the supply of coal to Longannet Power Station. As agreement has not yet been reached, the Bill will require to be amended to require the installation of the cable along a route agreed with SPG before its installation.

(c) **Sheet 32**

A plan of a discharge pipe has been provided to the Promoter and they have confirmed in principle that the authorised works will be carried out in such a manner as to safeguard the discharge pipe. This is necessary so as to avoid any disruption to the operation of Longannet Power Station as a result of flooding. As agreement has not yet been reached the Bill requires to be amended to ensure that the discharge pipe is safeguarded.
Stirling-Alloa-Kincardine Railway and Linked Improvements Bill (“Bill”)

Consideration Stage

Written Evidence given to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee (“Committee”)

On behalf of the Promoter
In respect of

Group 13
Scottish Power PowerSystems Ltd in terms of a letter received by The Scottish Parliament on 3 July 2003 (objection 46).
Expert Witnesses Available (on the following topics) to give evidence on behalf of the Promoter: -

- Land Take and Acquisition; Compensation: Alison Gorlov and Paul Irving, both Parliamentary Agents, John Kennedy & Co
- Tara Whitworth, Principal Engineer, Babtie Group Ltd
Introduction

1. The Promoter has identified in its Outline Statement\(^1\) sub-headings identifying a summary of the issues, which this Objector has raised in the said letter dated 3 July 2003. Following those same subheadings the Promoters Rebut those issues as follows:

Issue

Scheme to take account of deviation/alterations to power lines arising from upgrading (“diversionary works”)

Response and Rebuttal

2. The Bill specifically provides for the carrying out of necessary diversionary works to undertakers’ apparatus. Section 4 authorises the carrying out of ancillary works of the nature described in schedule 3. The two relevant paragraphs in that schedule are paragraphs 4 and 8 which provide as follows:

“4 Works for the provision of apparatus, plant or machinery and for the accommodation of such works, including mains, sewers, pipes, drains, cables, lights, conduits and culverts.

Works to alter the position of any existing apparatus or any existing street furniture, including the alteration of the position of existing works of the sort described in paragraph 4.”

In section 4(2) the power to lay down accommodation works includes accommodation work for the benefit of the owner of apparatus which has been diverted or altered.

3. The Promoter recognises that ancillary works will include diversions of the Objector’s apparatus. These diversionary works have been the subject of discussions with the Objector. As a result, agreement has been reached that the authorised undertaker will consult the Objector and give prior notification of proposed diversionary works so as to enable the Objector to carry out these works itself.

Issue

Requirement for permanent rights for the Company in respect of the diversionary works

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\(^1\) Promoters Outline Statement submitted to the Committee on 22 January 2004
Response and Rebuttal

4. The Promoter appreciates the need for the Objector to have appropriate rights in relation to its apparatus. As explained above, the Bill provides powers in this regard. In discussion with the Objector it has been agreed that the authorised undertaker will grant or procure the grant to the Objector of such servitudes or other rights as the Objector and the authorised undertaker may agree and are reasonably necessary to allow for the diversionary works to be constructed and for the apparatus to be operated and maintained thereafter.

Issue

Promoter to pay all costs borne by Scottish Power in undertaking the diversionary works

Response and Rebuttal

5. Where Part IV of the New Roads and Street Works Act 1991 applies (diversionary works affecting apparatus in roads), the statutory regime provides for costs to be shared in certain circumstances. Schedule 9 to the Bill applies the code in sections 224 to 227 of the Town and Country Planning (Scotland) Act 1997 in relation to the removal, etc, of undertakers’ apparatus in land not in a road. Both these sets of provisions would result in some costs being borne by the Objector. Discussions regarding payment of costs are continuing with a view to reconciling the Bill with the Objector’s request.

General

6. The Promoter has offered a draft undertaking dealing with the Objector’s concerns. This is being considered by the Objector’s solicitors. It is evident from the discussions taking place that the parties are close to reaching final agreement. The Promoter therefore has every expectation that the issues will be resolved and the objection withdrawn. If this does not after all happen, the Promoter will wish lead evidence in rebuttal of this Objection.
Dear Sir

Stirling – Alloa – Kincardine Railway and Linked Improvements Bill Committee

We refer to your letter of 16 February 2004 addressed to our client in connection with the above Bill and the objections by Scottish Power Generation Limited and SP Power Systems Limited. We have received a copy of the written evidence given on behalf of the Promoter and note that the Promoter has rebutted the issues raised in the original letters of objection dated 3 and 4 July 2003 but have not considered the written evidence submitted on behalf of Scottish Power Generation Limited and SP Power Systems Limited on 16 February 2004. We understand that the Promoter currently has this latest written evidence and has also been invited to submit comments on it.

We are confused by the timing of this Process. The written evidence submitted on 16 February 2004 clearly sets out the positions of Scottish Power Generation Limited and SP Power Systems Limited and demonstrates the progress which has been made to date during negotiations with the Promoter. We do not believe that it would be helpful to the Committee if our clients respond to the Promoter’s rebuttal given that this has been drafted without the Promoter having the opportunity to take into account our clients’ latest written evidence. Indeed we consider that this might serve only to confuse the current position which has been clearly set out in the written evidence submitted on 16 February.

We have therefore not responded to the Promoter’s rebuttal not because our clients accept the Promoter’s position but because it seems clear from the Process that this may well be unhelpful and possibly confusing.

Yours faithfully

karen.shaw@shepwedd.co.uk
DL: 0141-566 8504

cc Kevin McGinley, SP Power Systems Limited
Alison Gorlov, John Kennedy & Co
Clackmannan Council (“Promoter”)

Stirling-Alloa-Kincardine Railway and Linked Improvements Bill (“Bill”)

Consideration Stage

Written Evidence given to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee (“Committee”)

Precognitions by Expert Witnesses:-

Alison M H Gorlov, Parliamentary Agent, John Kennedy & Co

On behalf of the Promoter
In respect of

Group13

Objection Number 46: Scottish Power PowerSystems Ltd (“the Objector”) in terms of a letter received by The Scottish Parliament on 3 July 2003 (objection 46).
Objection Number 46: Scottish Power PowerSystems Ltd (“the Objector”) in terms of a letter received by The Scottish Parliament on 3 July 2003 (objection 46).

Precognition of Alison M H Gorlov

Introduction

1. My name is Alison Mary Haymon Gorlov. I am a Solicitor of the Supreme Court (England and Wales) (admitted 1975) and a Roll A Parliamentary Agent (approved by the House authorities in the Westminster Parliament in 1978). I have nearly 30 years’ experience of compulsory purchase and compensation associated with major and minor infrastructure projects, the majority of them railways or other forms of guided transport. This experienced has been gained from acting as a Parliamentary Agent on the promotion of, and opposition to, Scottish provisional Orders, Westminster Private Bills, Transport and Works Act Orders (England and Wales) and Orders under the Harbours Act 1964. My current position is as a partner in John Kennedy & Co, Parliamentary Agents, a position I have held since 1978.

2. I have been involved in the Stirling-Alloa-Kincardine Route Re-opening project since July 2002. In addition to drafting the Bill and Explanatory Notes, I have advised the project on both legal and procedural requirements and on the legal implications of the Bill. My advice has covered land take and compensation, particularly in the context of the implications of the proposals on affected landowners.

General background

3. Following direct negotiations between the Objector and Babtie Group representing the Promoter I have been responsible for preparing a draft Undertaking recording the agreement that has been reached in principle with the Objector. The object of the Undertaking is to record undertakings which, by virtue of section 29(6) of the Bill, will be legally binding on the Promoter and any other authorised undertaker. The precise terms of the offered undertakings have not yet been finalised.

4. The Objector’s Statement of Written Evidence outlines the issues between the parties as dealt with in the Undertaking. In relation to each point the Objector states that in the absence of agreement the issues should be the subject of amendments in the Bill.

5. My instructions are that the Promoter is at one with the Objector in wishing the in principle agreement reached to become binding. However, in my opinion the subject matter of that agreement is not appropriate for inclusion in this Bill. The agreement represents a very detailed set of commitments to individual issues bearing on the way in which the Bill is to be implemented. It bears directly on the relationship between the authorised undertaker and the Objector, not on the works as affecting the wider public. The agreement is – or when finally reduced to agreed writing will be – a
private contract. Nothing in the agreement will call for legislative powers in addition to what is already in the Bill.

6. Historically, agreements between promoters of private Bills, Scottish provisional Orders and similar legislation to authorise infrastructure and affected statutory undertakers or other similar bodies have been the subject of protective provisions in the legislation itself. It is relevant that such provisions are invariably framework agreements leaving detailed issues – such as the precise details of undertakers’ apparatus, plans showing its situation or the detailed terms of occupation of land – for separate documentation. The current agreement in part goes beyond framework.

7. In my experience it is also the case that protective provisions are invariably incorporated without input from the legislators themselves on the basis that the provisions represent a private agreement between the parties requesting their insertion. It is accepted that such agreements only regulate the relations between those parties and so can properly be treated as being separate from the legislation itself. By contrast, in discussion with the Clerks it has been made clear to me that the Parliament would wish to consider protective provisions no less rigorously than any other provisions of the Bill. This is entirely understandable, but from the point of view of the parties it would mean that a private arrangement that had no direct bearing on the grant of powers in the Bill would require to be aired and justified, and might be altered. That is not an attractive prospect for parties who have concluded a negotiation. It also emphasises that the Parliament ought not to be troubled with private contracts that have no legislative content.

8. For all these reasons my evidence does not address the detail of the issues involved. I only highlight the principal outstanding issues in relation to each of the specified heads of concern.

**Scheme to take account of deviation/alterations to power lines arising from upgrading (“diversionary works”)**

9. The basis on which diversionary works are to be undertaken is agreed. The Appendices referred to in the Promoter’s Written Evidence do not identify specific works that are definitely to be carried out or particular diverted routes. In many cases the Appendices simply highlight apparatus as respects which a decision must be made. They are not documents appropriate for incorporation in legislation.

10. As regards construction of the diversionary works, the Promoter envisages their being carried out by the Objector. The outstanding issue between the parties is how the Promoter could safeguard the timetable for the Bill works in the event that the diversionary works were not carried out on schedule if (as desired by the Objector) the authorised undertaker was precluded from carrying them out.

11. My instructions are that the Promoter accepts that its occupation of the Objector’s land must be subject to occupancy terms and safety rules and regulations. The Promoter
has not yet signed off the draft terms proposed by the Objector, but has no difficulty with the draft and expects to be able to confirm this to the Objector in the near future.

**Requirement for permanent rights for the Company in respect of the diversionary works**

12. The draft Undertaking referred to above includes undertakings that the authorised undertaker will grant or procure the grant to the Objector of such servitudes or other rights as the Objector and the authorised undertaker may agree and are reasonably necessary to allow for the diversionary works to be constructed and for the apparatus to be operated and maintained thereafter. The precise rights required are unlikely to be known until nearer the time, but the Objector should not hesitate to tell me if requirements are known at this stage.

13. The draft Undertaking also undertakes that the authorised undertaker will not interfere with the Objector’s apparatus until any necessary alternative apparatus has been provided. The Promoter having offered a binding commitment on this, it is not an issue calling for any amendment in the Bill.

**Promoter to pay all costs borne by Scottish Power in undertaking the diversionary works**

14. The general law provides that in certain circumstances an undertaker whose apparatus is affected by (or requires to be diverted because of) works undertaken by another undertaker for its own purposes shares the cost of any necessary diversions. There is also a statutory code that applies generally to the removal of apparatus in land that is not a road. Both these codes, which apply to works where one undertaker affects the apparatus of another, are applied to the works authorised by the Bill.

15. The Promoter has agreed that this general code should not apply as between the authorised undertaker and the Objector. I can now confirm that, with two exceptions, the Promoter has instructed me that the authorised undertaker will be responsible for the costs of diversionary works. The exceptions are–

(a) some apparatus as respects which the Objector has not been able to identify a servitude or other authority for the apparatus to be legally placed where it is; and

(b) a cable as respects which there is an existing express agreement obliging the Objector to move it in the event of this being required because of railway works.

16. These, too, are detailed issues that are not appropriate for Bill amendments.

17. I shall be happy to speak to the detail of the draft Undertaking should the Committee wish me to do so.

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1 In the case of apparatus in roads, see New Roads and Street Works Act 1991 section 144.
3 See section 30 of the Bill and paragraphs 191 to 197 of the Explanatory Notes.
Stirling-Alloa-Kincardine Railway and Linked Improvements Bill ("Bill")

Consideration Stage

Written Evidence given to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee ("Committee")

On behalf of the Promoter
In respect of

**Group17**
Scottish Power Generation Ltd ("Objector") in terms of a letter received by The Scottish Parliament on 4 July 2003 (objection 54)
Expert Witnesses Available (on the following topics) to give evidence on behalf of the Promoter:

- **Land Take and Acquisition; Compensation:** Alison Gorlov and Paul Irving, both Parliamentary Agents, John Kennedy & Co
- **Tara Whitworth,** Principal Engineer, Babtie Group Ltd
Introduction

1. The Promoter has identified in its Outline Statement\(^1\) sub-headings identifying a summary of the issues, which this Objector has raised in the said letters dated 4 July 2003. Following those same subheadings the Promoters Rebut those issues as follows: -

Issue

Potential disruption to business

Response and Rebuttal

2. The Promoter appreciates that much of the Objector’s land affected by the scheme is operational. The Objector has been offered formal confirmation in writing that in exercising the powers of the Act the authorised undertaker will seek to minimise both the impact of the works on the Objector’s operational land and any interference with the operation of the Objector’s undertaking.

Issue

Impact on access to former Kincardine Power Station site from A977

Response and Rebuttal

3. Paragraph 2(a) of the letter of objection is concerned with access for SPG into the former power station site along Kincardine Power Station Road, including the portion of that road (plot no. 399) between the disused railway (which is to form Work No. 1) and the road bridge carrying the road over the railway (plot no. 400). Contrary to the fears expressed in the letter, the authorised undertaker will use the land only for the purpose of construction access and maintenance. It is not intended that this should be to the exclusion of other road users.

4. The Objector has been offered formal written confirmation of an agreement, already reached in principle, that if wanted discussions can take place at this stage for the purpose of agreeing arrangements for shared use. These arrangements would be made with a view to preventing the authorised undertaker (which includes any contractor) from interfering with the operations of other road users.

5. On the basis of the information now available it appears that the portion of Kincardine Power Station Road east of the disused railway is not after all adopted. The authorised undertaker will therefore require access along this portion of the road (on the same basis as above) so as to gain access to the A977.

\(^1\) Promoters Outline Statement submitted to the Committee on 22 January 2004
Issue
Acquisition of land and rights in land

Rebuttal

6. The Objector has identified specific parcels of land with which it is specially concerned.

7. The Objector was concerned by the proposals concerning the land required for drainage works (plots nos. 422 and 423). The promoter has provided an explanation of these proposals which is believed to meet those concerns.

8. Assurances have also been offered concerning the communications cable to be laid in plot no. 427 from the level crossings at Longannet West Arrival and Longannet West Departure to Longannet Signal Box. Again, it is believed that the assurance meets the concerns expressed in the objection.

9. Other specific acquisition proposals are dealt with in paragraphs 12, 13, 14 and 15 below.

Issue
Temporary possession of land

Response and Rebuttal

10. As regards temporary possession of the land shown on sheets 26 to 28 of the Parliamentary plans, the Objector has been provided with an explanation of the Bill’s proposals which is believed to meet the Objector’s concerns.

11. The Objector was also concerned with the proposals for temporary possession of the temporary construction compound adjoining the site of the former Kincardine Power Station (plots nos. 401 and 402). The Objector has identified an alternative site which can be made available to the authorised undertaker and is in the course of agreeing with the Promoter the terms on which this will take place.

Issue
Impact of accommodation works on water pipe (plots nos. 422 and 424)

Response and Rebuttal

The Objector having provided a plan showing the situation of the pipe, the Promoter has offered the Objector formal written confirmation that the plan will be included in the site information records and will be taken account of in the design work so as to secure that the works do not interfere with it or reduce its effectiveness.
Issue

Impact on operational railway sidings at former Kincardine Power station.

Response and Rebuttal

12. In relation to the railway sidings at the former Kincardine Power Station (plot no. 403), the Promoter has offered the Objector formal written confirmation that the authorised undertaker does not require ownership of the land provided it can (a) gain access for the purposes of carrying out the authorised works and (b) be granted such permanent rights (if any) as may be necessary in connection with the maintenance of Work No. 1 or any ancillary works, including drainage and signals. The Objector is understood to have agreed in principle to granting the authorised undertaker the requisite rights. The Promoter has offered the Objector formal written confirmation that, subject to agreement of detailed terms reflecting this principle, the authorised undertaker will not exercise its compulsory powers under the Act so as to acquire plot no. 403.

13. The Promoter has also offered such assurances as it can about the timing of any closure of the railway.

Issue

Impact of removal of triple line at these sidings

Response and Rebuttal

14. In discussions with the Objector it has been agreed that the concerns expressed in the objection can be met by the provision of a train turning facility within the former power station site. The detail of the facility has been agreed in principle on site with the Objector and the Promoter is in course of working up a detailed design for final agreement. Formal confirmation of the in principle agreement has been offered to the Objector.

Issue

Impact on Kincardine Station Road level crossing

Response and Rebuttal

15. The Objector has expressed concerns about the treatment of land at Kincardine Station Road level crossing (plots nos. 415, 416, 417 and 418). The Promoter has offered the Objector formal written confirmation concerning the acquisition of this land subject to the grant of rights to the Objector.

General

16. Following useful discussions with the Objector the issues raised by the objection have been covered in principle in the way described above. A
draft letter of formal confirmation is being considered by the Objector’s solicitors. The intention of the letter is to provide a legally binding commitment on the part of the authorised undertaker to such specific undertakings as can be given and to the explanations and assurances given in the letter. It is evident from the discussions taking place that the parties are close to reaching final agreement. The Promoter has every expectation that the issues will be resolved and the objection withdrawn. If this does not after all happen the Promoter will wish to lead evidence in rebuttal of this objection.
Clackmannan Council ("Promoter")

Stirling-Alloa-Kincardine Railway and Linked Improvements Bill ("Bill")

Consideration Stage

Written Evidence given to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee ("Committee")

Precognitions by Expert Witnesses:

Alison M H Gorlov, Parliamentary Agent, John Kennedy & Co

On behalf of the Promoter
In respect of

Group17

Objection Number 54: Scottish Power Generation Ltd ("the Objector") in terms of a letter received by The Scottish Parliament on 4 July 2003.
Objection Number 54: Scottish Power Generation Ltd (“the Objector”) in terms of a letter received by The Scottish Parliament on 4 July 2003 (objection 46).

Precognition of Alison M H Gorlov

Introduction

1. My name is Alison Mary Haymon Gorlov. I am a Solicitor of the Supreme Court (England and Wales) (admitted 1975) and a Roll A Parliamentary Agent (approved by the House authorities in the Westminster Parliament in 1978). I have nearly 30 years’ experience of compulsory purchase and compensation associated with major and minor infrastructure projects, the majority of them railways or other forms of guided transport. This experienced has been gained from acting as a Parliamentary Agent on the promotion of, and opposition to, Scottish provisional Orders, Westminster Private Bills, Transport and Works Act Orders (England and Wales) and Orders under the Harbours Act 1964. My current position is as a partner in John Kennedy & Co, Parliamentary Agents, a position I have held since 1978.

2. I have been involved in the Stirling-Alloa-Kincardine Route Re-opening project since July 2002. In addition to drafting the Bill and Explanatory Notes, I have advised the project on both legal and procedural requirements and on the legal implications of the Bill. My advice has covered land take and compensation, particularly in the context of the implications of the proposals on affected landowners.

General background

3. Following direct negotiations between the Objector and Babtie Group representing the Promoter I have been responsible for preparing a draft letter recording the agreement that has been reached in principle with the Objector. The object of the letter is to record undertakings which, by virtue of section 29(6) of the Bill, will be legally binding on the Promoter and any other authorised undertaker. The precise terms of the offered undertakings have not yet been finalised.

4. The Objector’s Statement of Written Evidence outlines the issues between the parties as dealt with in the letter. In relation to each point the Objector states that in the absence of agreement the issues should be the subject of amendments in the Bill.

5. My instructions are that the Promoter is at one with the Objector in wishing the in principle agreement reached to become binding. However, in my opinion the subject matter of that agreement is not appropriate for inclusion in this Bill. The agreement represents a very detailed set of commitments to individual issues bearing on the way in which the Bill is to be implemented. It bears directly on the relationship between the authorised undertaker and the Objector, not on the works...
as affecting the wider public. The agreement is – or when finally reduced to agreed writing will be – a private contract. Nothing in the agreement will call for legislative powers in addition to what is already in the Bill.

6. Historically, agreements between promoters of private Bills, Scottish provisional Orders and similar legislation to authorise infrastructure and affected statutory undertakers or other similar bodies have been the subject of protective provisions in the legislation itself. It is relevant that such provisions are invariably framework agreements leaving detailed issues – such as the precise details of undertakers’ apparatus, plans showing its situation or the detailed terms of occupation of land – for separate documentation. The current agreement in part goes beyond framework.

7. In my experience it is also the case that protective provisions are invariably incorporated without input from the legislators themselves on the basis that the provisions represent a private agreement between the parties requesting their insertion. It is accepted that such agreements only regulate the relations between those parties and so can properly be treated as being separate from the legislation itself. By contrast, in discussion with the Clerks it has been made clear to me that the Parliament would wish to consider protective provisions no less rigorously than any other provisions of the Bill. This is entirely understandable, but from the point of view of the parties it would mean that a private arrangement that had no direct bearing on the grant of powers in the Bill would require to be aired and justified, and might be altered. That is not an attractive prospect for parties who have concluded a negotiation. It also emphasises that the Parliament ought not to be troubled with private contracts that have no legislative content.

**Issues**

8. The Objector’s Statement of Written Evidence itemises the issues as discussed between the parties. Subject to the points mentioned below, it correctly summarises the position as regards the level of agreement that has been reached. In view of this, my evidence does not repeat the agreed position. I only add the few things that remain to be added at this stage. Numbered headings follow the Objector’s Statement.

9. The Objector’s Statement effectively confirms that what is outstanding is final agreement of detail. Without in any way underestimating the significance of details, I believe this also confirms that the parties can and should settle them without troubling the Committee.

2(c) Operational railway sidings at former Kincardine Power Station

10. The Objector’s Statement does not make clear that in return for the licence to occupy referred to in the Statement the Promoter has agreed that the authorised undertaker will not require acquisition of the Objector’s land. As regards the timing of the works and the July 2004 shut down period, the Promoter is anxious so far as possible to secure that the Objector’s operations will not be disrupted. The draft letter offers an undertaking so far as possible to undertake the works to this part of the line during the two week shutdown period.
11. However, the Promoter cannot offer to commit the authorised undertaker absolutely to things over which only Network Rail will have any control. The final say over the timing of these works to the operational railway between Kincardine and Longannet rests with Network Rail. The Promoter has confirmed that the Objector will be involved in discussions to plan the timetable.

12. The drawing referred to in the Objector’s Written Statement of Evidence is an engineering drawing. It can only represent an agreement in principle. I am instructed that detailed agreement requires the preparation of full engineering designs. I understand from Babtie Group that following discussion of the agreed drawing on site, agreement has been reached and Babtie Group are in the course of working up the necessary detailed designs.

3(c) and (d) Plots 422 and 423 – sea wall and drainage

13. It has been explained to the Objector that the Bill provides for the acquisition of rights in these plots: it does not permit their outright compulsory acquisition. The rights are required to enable the authorised undertaker to lay drains for the purpose of draining the railway and to strengthen a sea wall the collapse of which could lead to subsidence of the ground beneath the railway. The rights over this land and the works to be carried out there are accordingly for the purposes of the railway.

14. As has also been explained to the Objector, the authorised undertaker will take rights to maintain the drains and the sea wall for those purposes. It is not for the owner of railway infrastructure to undertake coast protection or sea defence works, which are beyond its expertise and are in any case the function of other authorities with a presence in the river Forth.

General

15. If the Committee wishes me to do so I shall be happy to expand on anything in this precognition, the draft undertakings offered to the Objector or any of the issues raised in the objection.
Stirling-Alloa-Kincardine Railway and Linked Improvements Bill ("Bill")

Consideration Stage

Written Evidence given to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee ("Committee")

On behalf of the Promoter
In respect of

Group 3:
Mr Henry McLaren ("Objectors") on behalf of Clackmannan Community Council in terms of letters dated 22 May 2003, 17 June 2003 and letter to Clerks dated 6 December 2003. (No 4)
Expert Witnesses Available on the following topics to give Evidence on behalf of the Promoter:

Expert witnesses available on the following topics to give evidence on behalf of the Promoter:

Air Quality and Pollution: Stuart Coventry, Director, Scott Wilson Railways and Suzanne Scott, Engineer, Scott Wilson Ltd

Alternative Routes: Nigel Hackett, Associate, Scott Wilson Ltd, David Reid, Business Centre Director, Babtie Group Ltd and Bill Smith, Technical Director, Babtie Group Ltd

Consultation and Communication: Gail Jeffrey, Project Manager, Scott Wilson Ltd

Compensation: Alison Gorlov, Parliamentary Agent, John Kennedy & Co /Paul Irving, Parliamentary Agent, John Kennedy & Co

Health and Safety: Traffic and Transportation, Emergency Planning: Malcolm West, Development Manager, Roads & Transportation, Clackmannanshire Council; Peter Gotch, Babtie Group Ltd

Human Rights: Fiona Stephen, Partner Anderson Strathern WS, Alison Gorlov, Parliamentary Agent, John Kennedy & Co, Tara Whitworth, Principal Engineer, Babtie Group Ltd

Land take and Acquisition and Access: Tara Whitworth, Principal Engineer, Babtie Group Ltd

Noise, Vibration and Mitigation measures: Stuart Coventry, Director, Alf Maneylaws, Senior Consultant, and Paul Shields, Senior Consultant, Scott Wilson Ltd

Operational Issues: Tara Whitworth, Principal Engineer, Babtie Group Ltd and David Reid, Business Centre Director, Babtie Group Ltd

Rail Safety: Phillip Bull, Principal Engineer, Babtie Group Ltd
Introduction

1. The Promoter has identified in its Outline Statement sub-headings summarising the issues, which the Objector has raised in the said letters dated 22 May 2003 and letter to Clerks dated 6 December 2003. Following those same subheadings the Promoters respond to and rebut those issues as follows:

Issue

Choice of route via Clackmannan village undesirable; Alternative Route avoiding Clackmannan available

Response and Rebuttal

2. As the Committee is aware the objective of the Scheme initially was the re-opening of the partially disused line between Stirling and Kincardine. The evolution of the Scheme was such that the Promoter did not set out to consider any route to join Stirling with Kincardine by rail. This was supported by the identification of the line in the local plan for re-opening since 1986 subsequent to its closure in 1983. It is not unreasonable therefore to consider that most of the affected landowners were either already located adjacent to the line when previously operational or have moved to adjacent to the railway in the knowledge that the local plan envisaged re-opening of the line.

3. Notwithstanding that set out in paragraph 2, the Committee will be aware the Promoter undertook a Scottish Transport Appraisal Guidance Part 1 appraisal of the option to re-route the Stirling – Alloa – Kincardine railway line between Clackmannan and Longannet Power Station via two alternative routes, both bypassing Clackmannan. Comparative analysis undertaken in the appraisal revealed that the alternative route alignments would afford significant disbenefits over re-use of the Stirling – Alloa – Kincardine line. We refer the Committee to Stirling - Alloa - Kincardine Route Re-opening Bogside Alignment, Babtie Group, 24 June 2003 and Stirling - Alloa - Kincardine Route Re-opening Clackmannan Bypass Option Appraisal, Babtie Group, 25 October 2002. As outlined in these documents and as stated during the Preliminary Stage, the disbenefits of both options were not restricted to the additional costs which they would bring to the scheme.

Issues

Safety and proximity of line to houses, to gardens where children play and to two children’s play parks

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1 Promoters Outline Statement submitted to the Committee on 22 January 2004
Response and Rebuttal

4. The Promoters takes very seriously the issue of safety and of any risks to children in nearby play parks. This is clearly an issue for the entire rail network given most urban areas have operational railway adjacent to amenities. In this regard much experience has been gained with respect to making the railway safe from trespassers and safe for those adjacent to the line. The Promoter will provide appropriate fencing adjacent to play parks and adjacent households to discourage and deter access onto the railway by children and others. The fencing to adjacent households may also be part of mitigation works against environmental factors.

5. As adopted elsewhere and as discussed during the Preliminary Stage it is foreseen that as part of the consultation and implementation for the railway the Promoter will undertake a series of public awareness initiatives in particular seeking to teach children the dangers of trespassing on the railway. It should be noted that construction of a route outwith the urban area but within easy reach can equally result in trespass by children. Trespass in urban areas is more likely to be spotted and deterred given the natural supervision which exists at these locations. In addition to the robust nature of the fencing proposed any breach of this fencing proposed will be identified quickly adjacent to a playpark or household.

Issue

Speed of trains and safety

Response and Rebuttal

6. The issue of the speed of trains has also been raised as part of the safety objections. Whilst the Promoter understands the issue raised by the speed of trains the focus will remain on the desire to protect the railway from trespassers at any point along the route irrespective of the speed of the trains. The Promoter refers the Committee to the Promoter’s Existing Railway Processes Memorandum.
Clackmannan Council ("Promoter")

Stirling-Alloa-Kincardine Railway and Linked Improvements Bill ("Bill")

Consideration Stage

Written Evidence given to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee ("Committee")

Precognitions by Expert Witnesses:-

David Reid on Existing Railway Processes and Alternative Rail Routes

On behalf of the Promoter
In respect of

Group 3

Objector Number 4 – Mr Henry McLaren on behalf of Clackmannanshire Community Council ("Objectors") in terms of letters dated 22 May 2003, 17 June 2003 and 6 December 2003
Group 3

Objector Number 4 – Mr Henry McLaren on behalf of Clackmannanshire Community Council ("Objectors") in terms of letters dated 22 May 2003, 17 June 2003 and 6 December 2003

Precognition of David Reid on Existing Railway Processes and Alternative Rail Routes

Introduction

1. My name is David Reid. My academic qualifications include an honours degree in Transportation Engineering from Napier Polytechnic Edinburgh in 1988. I have been a chartered member of the Institution of Civil Engineers (CEng MICE) since 1994. I have 15 years experience in infrastructure projects, including roads, railways, bridges, tunnels, signalling and telecommunications, varying from pre-feasibility study stage right through to post-construction completion stage. I have been Project Director for Babtie Group on the Stirling-Alloa-Kincardine project since the initial feasibility study in 1999 and continue in this role. My current position with Babtie Group Limited is as Business Centre Director for the Infrastructure Business Centre, and I am responsible for all Babtie Group railway projects in Scotland, Ireland and the north of England.

2. I am providing this precognition to address operational railway issues raised by the Objectors, and in relation to alternative rail routes.

Existing Railway Processes

3. The Objectors have raised objections to a number of aspects of the proposed re-opened railway which I consider to be outside the scope of the Bill. These include:

- Hours of operation;
- Volume/frequency of trains;
- Type and characteristics of rolling stock (trains) e.g. weight, emissions, wagon-shape;
- Speed of trains; and
- Railway safety.

4. I would like to refer the Committee to the separate Promoter’s Memorandum on Existing Railway Processes submitted to the Parliament on 16 February 2004.

5. The matters referred to above are not within the powers to be granted under the Bill and are regulated by a number of public bodies under a range of different
legislation, which are discussed in detail that Memorandum. In order to allow revenue-earning traffic to run on the route the Promoter must ensure that such existing processes and requirements are carried out and met to supplement the Bill powers. This work is being undertaken in parallel with the Bill process, where appropriate, through the channels identified in that Memorandum.

**Alternative Rail Routes**

6. As detailed in the Promoter’s Alternatives (Non-Rail and Alternative Rail Routes) Memorandum, two alternative routes for bypassing Clackmannan, which I believe have been identified by the Objectors as the “Clackmannan Bypass” and the “Bogside Alignment”, have been considered.

**Appraisal of Alternative Rail Routes**

7. The alignment options identified were each subject to a STAG Part 1 appraisal to consider the broad impacts of the proposals in a consistent and comparable manner. As detailed in the Submission by the Scottish Executive on the Scottish Transport Appraisal Guidance, STAG is an objectives-led process providing a framework for the consistent appraisal of transport schemes. It should be borne in mind that STAG was introduced as a draft for consultation in July 2001 and issued as guidance in September 2003. While STAG has been applied in the later stages of this project, it would have been inappropriate, in my opinion, to apply the guidance from first principles, given the scheme evolution and development.

8. STAG allows for a two-part appraisal process. The STAG Part 1 appraisal is an evaluation of an option to show whether it fits against the established planning objectives and relevant transport, land use and other policies. The STAG Part 1 evaluation can either be qualitative or, where information is available, quantitative. The principal is, however, that best use is made of the available information. The Part 1 appraisal is designed to scope and test alternatives, to minimise wasted effort by testing early on whether or not an option meets the key objectives, and, if appropriate, to identify a preferred proposal. Where, after a STAG Part 1 appraisal, sufficient information has been produced to show that an option is clearly at odds with the planning objectives, does not offer an appropriate economic benefit or can be seen to have significant disbenefits, it is appropriate to reject that option.

9. The Part 2 appraisal then focuses in detail on the five Government objectives for transport: environment, economy, safety, integration and accessibility, to assess the preferred option or options.

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1. Promoter’s Alternatives (Non-Rail and Alternative Rail Routes) Memorandum submitted to the Parliament on 27 October 2003
The two alternative routes for bypassing Clackmannan, the “Clackmannan Bypass” and the “Bogside Alignment”, have both been properly assessed for the purposes of a STAG Part 1 Appraisal, sufficient to demonstrate that overall neither of the alternatives is to be preferred to the proposed alignment.

The STAG Part 1 Appraisal reports detailing the assessment for each alternative are already before the Committee.

STAG 1 Appraisal of Clackmannan Bypass

Three practical options (collectively known as Line B – Clackmannan Bypass) were identified for re-routing the railway to bypass Clackmannan. Other alignment options were considered briefly, however it was felt that the line must tie in to the Stirling - Alloa - Kincardine route before Meadowend to avoid considerable, prohibitively expensive, infrastructure issues. As I understand it, the objectors to this section of the line only object to the proposed alignment between Helensfield and Meadowend.

The bypass options follow the alignment of the dismantled Stirling - Dunfermline via Oakley route east from Helensfield to the north of Clackmannan. The line would then diverge from the Stirling - Dunfermline route from one of a number of points, curving southwards and linking to the Stirling - Alloa - Kincardine line at Meadowend to the southeast of the town.

The most direct option alignment would re-use one existing structure and would require the shortest stretch of new track. It would however require new infrastructure to cross the Goudnie Burn, B910 road, Black Devon River and A907 road.

All options bypassing Clackmannan to the East would require a significant section of embankment, at least 1 km in length and possibly several metres high, and major diversionary works on the A907, to achieve acceptable geometry on both the road and rail routes.

The most significant impacts of the options are in terms of the environment. An eastern bypass of Clackmannan, no matter which alignment is selected, would need to cross the area of prime agricultural land contrary to National Planning Policy (Circular 18/1987: Development Involving Agricultural Land). That Policy states:

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4 Refer to Stirling-Alloa-Kincardine Route Re-Opening Clackmannan Bypass Option Appraisal, Babtie Group, October 2002, Appendix A
17. “Such land constitutes less than 6% of agricultural land in Scotland. Demand for produce fluctuates over time and once land is developed it can seldom be returned to agricultural use. It therefore remains desirable that the best and most versatile land should not be built on unless there is no other suitable site for the particular purpose. Such land is a national resource for the longer term and there should be a presumption in favour of its protection from irreversible development.”

18. All options bypassing Clackmannan to the East would result in the loss of a significant area of prime agricultural land for the line itself, compounded by potential land takes for structures, embankment and cuttings (depending on the alignment). The preferred scheme involves the reuse of an existing railway line and is considered to be Brownfield rather than Greenfield land. National Planning Policy (SPP1: the Planning System) directs development where it is possible to Brownfield land. The longer alignments could also result in the demolition of the chimney North of Tullygarth, which is a point of historic interest and a local landmark. In addition, given that the bypass options would require such a significant amount of new engineering work, there is a substantial additional risk of pollution to watercourses in the area.

19. The selection of an alternative to the preferred route would also be contrary to the provisions of both the Adopted Clackmannanshire Local Plan and the Finalised Clackmannanshire Local Plan, which is shortly to be adopted.

20. The preferred route through Clackmannan (known as Line A - Existing Route) would have short-term noise impacts in Clackmannan during construction, although it is expected that this would be limited due to the re-use of existing infrastructure. There would, however, be some disbenefits resulting from noise generated by train operation, in particular for those properties close to the line – noise is assessed in detail as part of the Environmental Statement accompanying the Bill. There would be, though, some improvements resulting from bringing the existing disused rail line area into a more managed condition, effectively re-use of vacant/derelict land.

21. It is clear from the STAG Part 1 Appraisal that there are no significant differences between the options in terms of some of the Government’s key objectives, e.g. safety and accessibility, however some key differences are noted in terms of economy, environment and integration.

22. In particular, in terms of safety, there would be no difference in the safety aspects of the alignment if it were constructed on the line of the existing railway, or several hundred metres away. The same safety processes would apply, further details of which are given in the Promoter’s Memorandum on Existing Railway Processes submitted to the Parliament on 16 February 2004.
23. The bypass options for Clackmannan would add between £4.5m and £5.5m to the capital cost of the project due to the need to construct a significant stretch of new greenfield railway, including some significant structures, rather than re-using and upgrading existing infrastructure. At a strategic level all the route options integrate strongly with national objectives for modal shift from road to rail freight, however the route re-opening also re-uses the existing line (an area of vacant or derelict land) while the bypass options would not integrate with Local Plan policy on development in the countryside, as they would require significant areas of prime agricultural land.

24. It is my opinion that the routes considered as Line B would have a significant negative impact on the overall business case. Irrespective of the estimated overall cost of the project, taking forward a bypass east of Clackmannan would add between £4.5m and £5.5m to the capital cost of the project. That, in my opinion, is a significant adverse impact.

25. Additionally, specifically on visual impact, the Objectors suggest that the creation of a major embankment feature to allow a bypass to cross the A907 would be no worse than the impact of the existing line close to Devonway or Mill Road. The difference however is that the existing line has been in place for well over 100 years and is an integral part of the existing landscape. The creation of a new embankment would be added visual intrusion due to the presence of a physical barrier up to 1 km in length and several metres in height, forming a prominent new feature in the landscape.

26. With regard to the Objectors claimed “advantages” of Line B (Clackmannan Bypass) over Line A (the Existing Route), I would make the following comments:

- The fact that the railway line has been removed from the Stirling – Dunfermline railway section under consideration makes the construction stage more difficult, as existing structures have also been removed along with the track creating significant additional work.

- Easier access for construction is not the case, as additional haul roads would need to be constructed, rather than utilising existing infrastructure if required. Given the lack of existing infrastructure, future access for maintenance purposes would similarly not be improved.

- Less compulsory purchase is just not true; a far greater area of land would need to be purchased to build the new section of railway. Because of this, the number and, more significantly, quantum of potential compensation claims would be significantly increased.
• There would not be a reduction in the speed restriction as the same design processes would apply to all options.

• In terms of complaints, this is a very subjective and emotive issue. I do not accept that there would be fewer complaints, indeed I strongly believe that others, such as directly affected landowners, would have significant and justifiable grounds for serious complaint and compensation should the line be diverted onto their private land, which is not protected in planning terms for that purpose.

• In terms of mitigation, different mitigation would be required, however this is unlikely to be less.

27. The comparison undertaken indicated that re-use of the Stirling - Alloa - Kincardine line (Line A) should be progressed as there are significant environmental and economic disbenefits from an eastern bypass of Clackmannan (Line B), while the re-use of the Stirling – Alloa – Kincardine route is consistent with long-established local planning policies.

STAG 1 Appraisal of the Bogside Alignment

28. As I understand it, the Objectors suggested – and defined - the Bogside Alignment as a wide eastern bypass of both Clackmannan and Kincardine. The proposed route would follow the route of the dismantled Stirling – Dunfermline via Oakley line east from Clackmannan, which has been dismantled and is now used as a strategic footpath/cycleway. Existing structures are utilised where possible to the north and east of Clackmannan, including crossings at the B910, Black Devon, A977, Slack and the A907.

29. The route passes through Prime Agricultural Land to the north of Clackmannan and alongside an Area of Great Landscape Value as it progresses east. As the route turns south it departs from the former Stirling to Dunfermline via Oakley line crossing agricultural land, to the east of Devilla Forest. The route also passes through a Pipeline Consultation Zone before rejoining the existing Kincardine Junction-Charleston Junction via Elbowend rail line north of Longannet Power Station5.

30. In suggesting this route, the Objectors do not appear to have considered that the part of the old Stirling to Dunfermline via Oakley line which they are suggesting be used as an alternative line is currently in use as part of a long distance footpath and cycleway. In addition, the land required to link from it to the existing line at Kennet is in private ownership, and has not been identified in Local Plans as

5 Refer to Stirling-Alloa-Kincardine Route Re-Opening Bogside Alignment Option Appraisal, Babtie Group, June 2003, Appendix A
protected for the re-opening of the Stirling – Alloa – Kincardine railway, protection that the existing line has benefited from since 1986.

31. The Bogside Alignment, would increase the length of track required by 2500 metres, to some 12 km – with consequent penalties on journey time, operating cost and capital cost. Approximately half of this option would be reconstruction of a dismantled rail line, the remainder being new construction – either cutting or tunnel.

32. The cost of relaying track and constructing the new greenfield section of line varies significantly between options for the line – between £47m for tunnel and £230m for cutting (cutting is significantly more expensive due to the need to transfer and dispose of over 10million m$^3$ of material).

33. The analysis undertaken for the STAG appraisal shows that there are no significant differences between the options in terms of some significant aspects of the Government’s five criteria - accessibility, interchange and mode transfer. Some key differences are noted, however, in relation to economy, integration and environment:

- The Bogside Alignment would add between £43m and £227m to the capital cost of construction of this section of the Stirling-Alloa-Kincardine rail line. Clearly this would more than wipe out any positive benefit generated by the overall project as even the smallest of these figures is higher than the cost of the scheme as a whole.

- The Base Case, re-using the former track bed between Clackmannan and Kincardine, has the lowest capital cost, as it makes best use of the existing infrastructure.

- The route re-opening option, passes close to concentrations of residential property in the towns along the route, causing some impact on these properties in terms of noise/vibration during construction and operation of the railway. The Bogside Alignment option will have similar impacts, though on a more dispersed population, particularly at the eastern end of the alignment, these impacts will be over a longer period of time due to the significant levels of engineering works required.

- The Bogside Alignment would effectively mean the loss of significant areas of prime farm land, contrary to local plan policies and contrary to National Planning Policy (Circular 18/1987: Development Involving Agricultural Land) though any loss would be minimised by the tunnel option.
• The Bogside Alignment retains a significant level of risk in terms of scheme development.

• The preferred scheme involves the reuse of an existing railway line and is considered to be Brownfield rather than Greenfield land. National Planning Policy (SPP1: the Planning System) directs development where possible to Brownfield land.

34. The Bogside Alignment is significantly more expensive than re-opening the existing rail line, are contrary to land use policy and retain significant risk. On this basis, re-use of the existing Stirling - Alloa - Kincardine line offers the most cost effective and efficient option possible within the identified constraints. The comparison undertaken in the STAG Part 1 appraisal indicates that re-construction of the rail line within existing land ownership offers a significant benefit over construction of the Bogside Alignment.

Conclusion

35. The options suggested for a bypass of Clackmannan would not improve the scheme in terms of safety, would not more efficiently achieve the scheme objectives and would not significantly reduce the opportunity for vandalism. Furthermore, the views of the Objectors do not take account of the significant impacts of the bypass options in terms of capital cost, loss of agricultural land and visual impact.