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Local Government and Transport Committee Official Report 13 February 2007

Col 4557

Scottish Parliament

Local Government and Transport Committee

Tuesday 13 February 2007

[THE CONVENER *opened the meeting at 14:01*]

Subordinate Legislation

Non-domestic Rate (Scotland) Order 2007 (SSI 2007/2)

The Convener (Bristow Muldoon): Good afternoon. I welcome members to today's meeting of the Local Government and Transport Committee. Mike Rumbles and Maureen Watt have intimated their apologies. John Farquhar Munro is here as substitute for Mike Rumbles.

For agenda item 1, I welcome Brian Monteith MSP, who is here to speak to the motion in his name. I also welcome George Lyon MSP, Deputy Minister for Finance, Public Service Reform and Parliamentary Business, who will participate in the debate. The minister is accompanied by two officials: Laura Sexton, who is a senior policy adviser on non-domestic rates; and Colin Gilchrist, who is a solicitor in the office of the solicitor to the Scottish Executive.

Mr Monteith has lodged motion S2M-5541, which proposes that the Local Government and Transport Committee recommend that nothing further be done under the Non-Domestic Rate (Scotland) Order 2007. Before we proceed to the debate on the motion, members will have the opportunity to ask technical questions of the minister and his officials. I will allow the minister to make initial remarks on the order and then invite members to ask only technical questions. There will be plenty of time to raise political issues once we move into the formal debate on the motion.

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): Briefly, the Non-domestic Rate (Scotland) Order 2007 sets the rate poundage for non-domestic rates in Scotland for the financial year 2007-08. The order prescribes a rate of 44.1p per pound for 2007-08—down from 44.9p in 2006-07—as the non-domestic rate to be levied throughout Scotland.

The poundage has been set in accordance with our policy of fully equalising the Scottish poundage with that of England by 1 April 2007. In April 2006, we halved the gap between Scotland and England. We intend to completely remove that gap

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from April 2007 by setting the same poundage as in England. The order will fulfil that commitment.

The new rate for Scotland represents a decrease of 0.8p from 2006-07. The order will mean that the average non-domestic subject in Scotland will pay around £800 less in 2007-08—a reduction of around 9 per cent—as a result of our policy of equalising the poundage with England.

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extracted

I do not have a vote because I am not a member of the committee and we know what would happen if I pressed the issue to a vote. Last time, only David McLetchie was willing to support me and this time I thought that focusing on a further cut in the rate would be a distraction. If I were to suggest to the minister that he should cut the rate by a further 12.5 or 15 per cent—which I would prefer and which is eminently affordable and would not cause any problems to services—the focus would not be on the minister's logic, which I think is faulty, but on what I was offering. That is not what I am offering and, because I did not propose such a cut at the beginning, I mention it only now at the end. Because of that, we have not had a debate about it, so I think I chose the right course of action to focus the debate on the minister's logic.

Such a cut could be afforded not only according to housekeeping economics but according to Laffer curve economics. Even people such as—God bless her soul—Margaret Thatcher, the late departed Ronald Reagan, Kennedy and Roosevelt used tax cuts to grow the economy, to have greater revenue and therefore to afford the public spending that many of us around the table advocate. A further cut in business rates would not be the problem that has been claimed. A further cut can be afforded and it would help to give Scottish business a competitive edge and grow our economy. If those things are at the core of the Executive's being, it should not stop now.

Either those words meant something or they meant nothing. There is no need for me to press the matter to a vote. The minister told us that the Executive discussed the matter before the decision was made. That is quite a revelation in itself. We can all make up our minds. Debates on motions to annul serve a useful purpose. I thank the minister for coming along and the committee for making him available. Thank you.

The Convener: Mr Monteith does not wish to press the motion to a vote. Does any member of the committee wish to do so?

Members: No.

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The Convener: In that case, the motion is withdrawn. As the order is subject to the negative procedure, there is no need for us to vote on it. I ask members to confirm that we agree on the contents of our report on the order, which will be the discussion that we had today. We have nothing to report beyond that. Is that agreed?

Members *indicated agreement.*

The Convener: I thank the minister and his officials, and I thank Mr Monteith for stimulating a debate on the issue.

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Petitions

Common Good Assets (PE875)

Listed Buildings (Consultation on Disposal) (PE896)

Common Good Land (PE961)

14:52

The Convener: Agenda item 2 is consideration of petitions PE875, PE896 and PE961, on issues of common good. Members have a paper by the clerk that suggests possible courses of action and outlines some issues on which the committee might want to express a view. I will open the discussion up in a moment, so that members can express their views on how we should respond to the petitions.

I am not convinced that we need to recommend legislation to tackle the issues the petitions raise, but the petitioners raise the important issue of how local authorities administer their common good funds. I suggest that we write to the Deputy Minister for Finance and Public Service Reform and summarise our views, but that we do not recommend that the Executive legislates on the matter.

The paper includes a series of questions. It asks members whether they are satisfied with the responses we received from various bodies and what role local authorities, the Scottish Executive, Audit Scotland and non-departmental public bodies should have. I ask members, when they give their views on how we should respond to the petitions, to do so in a way that addresses those questions. We will then put together an appropriate response to the petitioners and the Executive.

Paul Martin (Glasgow Springburn) (Lab): I have an open mind about whether we need legislation. I would welcome a response from the minister to the points in our paper.

I did not see anything that led me to believe that a consistent approach to record keeping is taken throughout the 32 local authorities. Some authorities have good record keeping, but others do not, which was highlighted by some of the witnesses.

Audit Scotland said that record keeping is improving. I appreciate that Audit Scotland has a role in ensuring that information improves constantly, but we have to set clear standards for what we expect from local authorities. I would welcome information from the minister on whether guidelines on that can be put in place.

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I do not think that there is enough involvement of communities, which could provide transparency. Communities could be involved in developing common good funds and considering how they could be best promoted. In my constituency there are good examples of where Glasgow City Council promotes the common good fund, but improvements could still be made.

There are a number of areas in which local authorities have to make improvements. I have an open mind about legislation, but at the very least there should be some form of policy guidance from the minister, with a timeframe attached to see whether things improve. If things do not improve, we could consider introducing legislation to ensure the best use of common good funds.

Tommy Sheridan: I agree with Paul Martin that we should not yet take a decision on the suitability or otherwise of legislation. I would really like to see a detailed response from the minister to the good questions that we asked. I do not think that you will have a problem with that, convener. The spirit of what you suggested was that we should try to elicit answers before we take a decision. If the answers are good, legislation will not be required. However, they might be inadequate, so we should keep an open mind about whether legislation is required.

The petitioners have done us a service by raising the issue, which they have pursued with vigour and great commitment. They are seeking legislation as a form of security to ensure that all local authorities are required to keep records and be transparent about them. I am not sure whether they are right, although they have made persuasive arguments. They have almost persuaded me, but I would like to hear what the minister has to say in response. I do not think that we should have legislation for legislation's sake, but some of the responses that we have had from Audit Scotland and some local authorities are inadequate. The record keeping is not anything like as good as it should be or could be.

I support the convener's recommendation about writing to the minister and asking him to respond to the suggested questions. We should await his reply before we take a final decision on whether to recommend that legislation is required in this area.

Michael McMahon (Hamilton North and Bellshill) (Lab): We should commend the petitioners for lodging the petitions and allowing us to consider the issue. When I first heard from the petitioners and, later, when this committee took evidence from them, I was struck by how much knowledge about common good assets is out there in communities—there is probably more knowledge about them in communities than there is at formal local government level.

Col 4575

I agree with the convener, Paul Martin and Tommy Sheridan: we should not say that we need legislation at the moment, but ask the minister to tell us what part regulation could play in ensuring that community planning takes account of the common good assets and see whether that is a mechanism by which communities can participate in ensuring that common good land is recognised and used to the best effect.

15:00

This is about putting local people at the heart of the process—and it is what should come out of the petitions. People's wealth of knowledge about the subject has clearly come through in the various discussions that we have had. Formal groups such as historical societies know what exists. Individuals, too, have an awareness of what belongs to their local community. That knowledge should feed into local authorities in some way, so that it can be used to best effect. That is what we should seek to get out of our consideration of the petitions.

David McLetchie: I agree with the views that other committee members have expressed: I compliment the petitioners on the energy and enthusiasm with which they have pursued the topic.

As other members have said, I do not think that the case for new legislation has been made. The inadequacy of some of the accounting for common good assets has been clearly demonstrated, however. Following the evidence that was given, I concluded that there is a lack of rigour in separating out common good assets, assets held on trust by councils and assets held by councils pursuant to their statutory powers, and in determining what those differences actually mean with respect to how different funds can be applied. Far more rigour is required there.

There seem to be three categories of asset: common good assets, assets held in special trusts that are not common good funds and assets held in connection with local authorities' statutory powers. Within the common good fund is a sort of subdivision between the common good funds of the four main cities and the common good funds that apply in the rest of Scotland.

There seems to be a case for examining the accounting of common good assets. The current law, broadly speaking, provides for them to be accounted for and documented properly, but the evidence suggests that that is not being pursued with the vigour that it should be pursued with. We should ask the Scottish Executive to address that.

Some broader issues, relating to the application of the funds, came out of the petitions. It was suggested at one point that a common good fund,

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like the assets or income derived from it, should not be applied for a statutory purpose, but should be held by councils and applied for non-statutory purposes. Then again, we noted some bizarre consequences of that. It was suggested in oral evidence that it had been ruled improper for Glasgow City Council to pay the mobile phone bills of members pursuant to their statutory powers, yet it could do so out of the common good fund. That did not strike me as a use for common good funds that would win universal acclaim, but it is an example of the somewhat bizarre distinction between a statutory purpose and a non-statutory purpose.

A further issue concerns funds held relative to particular areas. I am referring to the old burghs. A couple of questions were posed in our papers about the degree of community involvement in the management and disposal of such common good assets and about whether such bodies as community councils should have the old common good funds for their community vested in them. Having regard to the statutory basis, I do not think that there is a case for vesting ownership and direct control of common good funds back in such community bodies. Overall, the local authority must have regard to the interests of communities, but there are also wider interests among communities of which old burghs may form part that local authorities should rightly take into account in any disposal.

It may be that one thing we should examine with respect to any potential statutory change is whether it would be appropriate—if, indeed, it is necessary—to write into a statutory provision that there should be some formal or statutory consultation with a community council relative to the disposal of any common good asset arising in the area that that community council covers. If the law does not provide for that at present, that might be one relatively modest change that we could recommend or that the Executive might wish to take on. That would satisfy some of the concerns of the petitioners.

Fergus Ewing: We are indebted to the petitioners, one of whom is present in the public gallery, for raising this issue, because there is no doubt that it is of concern to people throughout Scotland. The

most basic question the petitioners raise is whether, in this day and age, there is any purpose in making a distinction between common good assets and other assets. To me, the answer is yes. The first reason for that is that common good assets were generally speaking acquired not through government funding, but through the generosity of individuals who felt a civic pride in their part of Scotland and who wanted their city or burgh to benefit in some specific way. It is right that we remember the generosity of such people.

Col 4577

A second reason why we should distinguish between common good assets and other assets is not about bookkeeping, but about an opportunity. A proper register of common good assets will lead to more debate throughout Scotland about what it is best to do with the assets. People cannot have a full debate about that unless there is clarity on what the assets are. All too often, when stories about common good funds in various parts of Scotland hit the front pages, there is a sense of bafflement and surprise and people think, "We didn't know anything about that." That really is not good enough. I hope that more debate about the assets would in turn lead to a rebirth of civic pride and that people might start to think actively about benefiting their areas. I see that as an opportunity.

In paragraph 13 of the paper on the petitions, we are asked whether the existing records are adequate or unsatisfactory. It is plain that they are variable, but we need clarity. On whether legislation is needed, I hope that it is not. I am not convinced that legislation would necessarily achieve the intended benefits, although I agree with the members who suggest that, before we dismiss the possibility of legislation, we should find out what the Executive's response is. The impression that I got from George Lyon's evidence was that the Executive's approach may be broadly sympathetic. Of course, the issue is not black and white. As we heard from Audit Scotland, all councils have an asset register at present. It is correct that they should have those registers, but they should draw a clear distinction between common good assets and other assets.

One of the petitioners asked for all common good property to be marked on Ordnance Survey maps. I am not convinced about that, simply because it might involve a particularly arduous and burdensome task. It could be done but, as the Society of Local Authority Lawyers and Administrators in Scotland argued, it might impose a substantial administrative burden that we would not want to impose. Local authorities would not thank us for imposing on them an unduly burdensome task, although it might depend on the range and extent of common good assets in each council.

There should be what we used to call—as Mr McLetchie will recall—a common law description of the properties, by which I mean the street address, the name of the property and a statement of whether it is a church, an office or an area of ground. There should be a description of each property that is held so that it is readily identifiable by people in the area. That does not seem to be a particularly onerous task. On whether there should be a distinction between heritable and movable assets, I believe that such a distinction is required and that it would have to be maintained in the registers.

Col 4578

One aspect of the questions that not all members have addressed directly relates to the powers of councils in relation to common good assets. I am not convinced that we should place specific duties on councils in relation to how they handle common good assets. I take the simple view that local government elections are the time when people decide who should represent them. That may be an imperfect process, but it is the best one we have. I am not sure how such powers could be exercised in a way that would necessarily achieve the intended purpose, although I will be interested to hear what the Executive says about that.

If the Executive has suggestions that could help to meet some of the petitioners' concerns, I am happy to consider them, but I find it difficult to conceive how a two-tier system of property management could operate effectively without imposing quite a substantial additional administrative burden on local authority finance departments.

I do not think that new legislation will be necessary. There should be an asset register. Indeed, given that the Executive appears to have accepted that principle for it and for NDPBs, it should also apply to local authorities. We should know what Scotland's common good assets are.

Dr Jackson: I was interested in David McLetchie's comments about a statutory duty on local authorities to involve community councils in disposals. I am not sure whether legislation is needed. We might need subordinate legislation, but we should certainly ask whether, if legislation is not needed, there are any other routes that we can take. Mr McLetchie's suggestion does not go as far as the proposal that is highlighted for discussion in the briefing paper—that

"statutorily constituted community bodies"

should

"be able to take back title to their common good assets at no cost"—

but he seems to feel that community bodies should play a part. Such an approach sounds appropriate.

We should also ask how guidance on this issue will be processed through the Parliament.

The Convener: Members seem to agree that the petitioners have raised important and valid issues for the Parliament and that the current arrangements for identifying and managing common good assets are not as consistently good as they should be. In light of members' comments, our response should draw attention to the lack of consistent and transferable standards for local authorities on identifying and managing common good assets. Moreover, we should point out that

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common good assets and the common good fund should be promoted better to allow communities to understand what they can be used for and, therefore, how they might have more influence over their use. There should also be more public involvement and consultation if there is any intention of disposing of an asset that was originally donated and that forms part of the common good fund.

We will note that we prefer a solution that does not involve new legislation, but that we are keeping that option open if members are not satisfied with any guidance or regulations that the Executive proposes.

Col 4580

The clerks will draw out members' key points from this discussion. I think that we should be able to come together and make a submission to the Executive on this matter. We will also publish our response on our website and write to each of the petitioners to advise them of our view. Are members agreed?

Members *indicated agreement.*

The Convener: That brings us to the end of today's meeting. I thank members for their attendance.

Meeting closed at 15:13.