OFFICIAL REPORT
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DRAFT

Net Zero, Energy and Transport Committee

Tuesday 4 February 2025

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 4 February 2025

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NET ZERO, ENERGY AND TRANSPORT COMMITTEE
5th Meeting 2025, Session 6

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Michael Matheson (Falkirk West) (SNP)

COMMITTEE MEMBERS

*Bob Doris (Glasgow Maryhill and Springburn) (SNP)
*Monica Lennon (Central Scotland) (Lab)
*Douglas Lumsden (North East Scotland) (Con)
*Mark Ruskell (Mid Scotland and Fife) (Green)
*Kevin Stewart (Aberdeen Central) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Rob Carlow (Gresham House)
Finlay Clark (Bidwells)
David Fleetwood (John Muir Trust)
Rhoda Grant (Highlands and Islands) (Lab)
Sandra Holmes (Highlands and Islands Enterprise)
Sarah Madden (Scottish Environment LINK)
Dr Tara Wight (Landworkers' Alliance)
Max Wiszniewski (Revive)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Net Zero, Energy and Transport Committee

Tuesday 4 February 2025

[The Convener opened the meeting at 09:01]

Decision on Taking Business in Private

The Convener (Edward Mountain): Good morning, and welcome to the fifth meeting in 2025 of the Net Zero, Energy and Transport Committee.

Our first item of business is to decide whether to take items 3 and 4 in private. Item 3 is consideration of the evidence that we will hear today on the Land Reform (Scotland) Bill, and item 4 is consideration of a draft report on the Great British Energy Bill legislative consent memorandum and supplementary LCM. I am asking members also to agree that consideration of the report be taken in private at future meetings, if there need be any. To be clear, that is a contingency, and I hope that we will not need to have any more meetings and that we will be able to sign off the report today so that Parliament can consider the LCM on Thursday. Do members agree to take those items in private?

Members *indicated agreement.*

Land Reform (Scotland) Bill: Stage 1

09:02

The Convener: Our second item of business is an evidence session on the Land Reform (Scotland) Bill. Today, we will hear from two panels of witnesses. I welcome to the meeting our first panel, which is made up of representatives of non-governmental organisations. David Fleetwood is the director of policy at the John Muir Trust; Sarah Madden is vice-convener of the land use and land reform group at Scottish Environment LINK; and Dr Tara Wight is Scotland policy and campaigns co-ordinator at the Landworkers' Alliance. I do not know why it was difficult to get my tongue round that, but it proved to be difficult. Tara is appearing remotely. Finally, we have Max—I am not even going to get this out, although Max and I know each other well—Wiszniewski, who is the campaign manager for the Revive coalition. Thank you all for attending.

I also welcome Rhoda Grant MSP to the meeting. She will ask some questions at the end.

As I do at all such meetings, I declare my interest in a farming partnership in Moray, as is set out in my entry in the register of members' interests. Specifically, I declare an interest as owner of approximately 500 acres of farmland, of which 50 acres are woodland, and as a tenant of approximately 500 acres in Moray under a non-agricultural tenancy. I have another farming tenancy under the Agricultural Holdings (Scotland) Act 1991, and I also declare that I sometimes take on annual grass lets.

I will start off with an easy question. David Fleetwood, what is the extent of the John Muir Trust's holdings?

David Fleetwood (John Muir Trust): We have a range of holdings across Scotland, with interests in Ben Nevis, Glen Nevis, Assynt, Knoydart and so on.

The Convener: Approximately how many hectares or acres—whichever you feel more comfortable working in—does that represent?

David Fleetwood: I do not think that I have the precise hectares figure to hand, but I can get it and follow up with the committee.

The Convener: Okay. It is probably fair to say that it is more than 1,000 hectares.

David Fleetwood: Potentially. You might be referring to our views on the thresholds in the bill, which I am happy to speak to, if you would like.

The Convener: You will get a chance to do so, but I am just trying to clarify whether it is more than 1,000 hectares.

David Fleetwood: As I said, I do not have that precise statistic in front of me, but I can follow up in writing.

The Convener: Okay, it would be helpful if you could actually do that, because it might affect your views on the figure of 1,000 hectares as opposed to 3,000 hectares that is in the bill.

I go to Mark Ruskell for the first question.

Mark Ruskell (Mid Scotland and Fife) (Green): Good morning, everybody. One of the key provisions in the bill is around land management planning. It is fair to say that, although we have seen good community consultation between landowners and communities across Scotland in the past, we have also seen some bad consultation. From your perspectives, where do you think there has been, and what do you think constitutes, good practice in relation to involving and consulting communities on land management? I am not picking on you, David, but given that the John Muir Trust is a landowner, do you want to start?

David Fleetwood: We are of the view that the opportunity exists to use the public interest test, which would give us some scope to provide the principles that you might want to anchor in the bill to guide consultation. Through our landholdings and relationships with communities, we have used a range of consultation approaches, from more formal set-piece consultation through to use of technology; for instance, we have been doing some work with an organisation called Rethink Carbon, in which we have been looking at opportunities for instant polling of registered interests in land and getting live feedback on land management. There is a variety of formats.

The principle, though, is about ensuring the broadest possible engagement, thereby ensuring that communities have a voice in influencing land management decisions.

Mark Ruskell: Okay. Sarah Madden—do you want to come in?

Sarah Madden (Scottish Environment LINK): First, I note that it is important to draw distinctions between communities. Scottish Environment LINK is a coalition of environmental non-governmental organisations in Scotland. I also work with the Woodland Trust Scotland, which is a membership organisation as well as a significant landowner. We have communities of place, which are local communities that need our sites, and communities of interest, which are members up and down the country that are interested in saving woods and trees or which have wider environmental interests.

For us, or for any environmental organisation—I think that it is the same for private landowners—what really works at the local level is regular informal engagement and integrating with and being part of your community, which builds up a really good amount of trust and means that communities tend to understand why we are doing things.

Secondly, the Woodland Trust Scotland and other Environment LINK members already consult regularly on land management plans in Scotland. We do that every five years, which I think is the proposal in the bill, and tend to go out to local authorities, local papers and social media for consultation of communities. Many of our site managers also do daily community engagement, especially in our urban sites: members of the public can literally stop them in our woodlands so that the site managers can show them what we are up to. Regular informal and integrated relationships with communities are really important.

Mark Ruskell: Dr Tara Wight, do you have anything to add to that? Can you hear us?

Dr Tara Wight (Landworkers' Alliance): Yes. I am sorry—I was waiting to be unmuted.

The Landworkers' Alliance is different in that we do not represent any large-scale landowners. The majority of our members work at a small to medium scale across the farming, crofting and forestry sectors.

With regard to the section of the bill on land management plans, it is worth saying that the most important thing that the bill can do is change patterns of land ownership and improve access to land. We had maybe not expected land management and land use to fall within the context of the bill, but as it has been included, we would like that aspect of the bill to be as strong as possible.

With regard to land management plans, it should not just be communities of place that have a say in what happens on large-scale land holdings. I will echo what David Fleetwood said, which was that the reintroduction of the public interest test could be really important in that regard. Although the views of the local community are important, and incorporating those views is done really well in some cases, when we are talking about very large areas of land—often in areas where there are not many people or where people have been displaced from the land for hundreds of years, so that there is not much in the way of a local community—the land should still be managed in the public interest, which means the interest of all the people in Scotland. Therefore, introducing a public interest element to the assessment and development of land

management plans would ensure that the needs of more people than the geographical community would be taken into account.

Max Wiszniewski (Revive): As the committee knows, Revive is not a land manager. It is an NGO that is made up of organisations that are concerned with animal welfare, environmental and social justice and environmental protection. I am speaking on behalf of the Revive coalition—Friends of the Earth Scotland, Raptor Persecution UK, the League Against Cruel Sports, OneKind and the think tank Common Weal—as well as for the more than 19,000 people who signed Revive's pledge on reform of Scotland's land and the many people who have attended our conferences.

I will provide a bit of context and perspective. Revive initially came at the issue from a grouse moors point of view. However, grouse moors are a metaphor for land reform issues. As it stands, the bill does not represent land reform that is anywhere close to what we wish to see, which would involve breaking up the concentration of power in the large estates. The bill will not achieve enough intervention, through land management plans, to create the necessary obligations on large landowners. Let me put it this way: large landowners in Scotland have many rights and privileges, but we could probably do with their having some more responsibilities. There should be obligations attached to land management plans that are, as the witnesses before me have said, in the public interest. Defining "public interest" in the bill could be a very useful way of doing that.

Mark Ruskell: I have more detailed questions on land management plans that follow the evidence that we have had so far. However, your initial comments are very useful in setting the context.

The committee heard from the Scottish Land Commission that there is a need to include local place plans in land management plans, which means incorporating the built environment planning element into LMPs. Do you have a view on that?

Max Wiszniewski: Yes, absolutely. That is a very welcome part of the conversation—it speaks to the land management plans and working with them. However, I have dealt with communities and community buy-outs, in particular the Langholm community, which I have been in contact with since before the successful buy-out there. I point out that a large burden is placed on communities, community activists and organisers to make community engagement and community buy-outs happen.

I caution against too big a burden being placed on communities in the first place. If there are local place plans in place, that is obviously a good thing. However, putting obligations on the landowner with regard to the land management plans via public interest tests would also be a way of taking some of the burden off those communities, and it would mean that there would be sets of asks, restrictions and obligations on the landowner, so that it would not just be all about community consultation. Local place plans have a role to play in that.

Sarah Madden: I agree. It makes sense that the policy becomes more developed and embedded, and that it is afforded to all communities. At the moment, only the communities that have the capacity, the will or the funding get around to creating a local place plan. Communities that are less organised and in more disadvantaged areas are perhaps not afforded the same opportunities, so I would like to see that being rolled out and properly embedded. That would be a good basis for environmental and private landowners and other community landowners to work within the new obligations that will come with the land management plans.

09:15

David Fleetwood: I agree with the consensus among the rest of the panel. I will perhaps add a couple of stats to the wider point that Max Wiszniewski made about the need for good land management plans and good place plans, and the potential opportunity for those two things to work together.

Some numbers from a recent Scottish Land & Estates report suggest that 54 per cent of estates are not restoring rivers, flood plains and riparian habitats, and that 57 per cent are not planting and maintaining hedges for wildlife. That gives a sense of the scale of the issue that good land management plans, good place plans and integration between the two could begin to tackle.

Dr Wight: We echo Max Wiszniewski about the need for obligations to be placed on the landowner under some sort of public interest mechanism, in order to ensure that the whole burden does not fall on communities.

One of our main concerns about the land management plans aspect of the bill is that there is a big focus on community engagement, which is great because it is important, but a land management plan needs to be a lot more than just an obligation to engage the community in thinking about what the land use could be. We need a strong legal structure that comes from the Government to guide land use decisions.

The bill also suggests that very large estates have to put forward a land management plan, but what it has to look like and whether there actually has to be compliance with it going forward are

very vague. The bill is just asking for the creation of a plan, which does not go very far towards achieving Scotland's broader land use change goals.

We also have some concerns about the size of the penalties that are being suggested. For example, it would be considerably simpler for an estate of more than 3,000 hectares to pay £5,000 than it would be for it to go through a genuine community consultation, consider the wider public interest in Scotland and put all that work into making a plan. Although some estates are already doing that, it does not seem to be a strong legal mechanism to bring about any kind of land use change. As it stands, the bill needs some strong amendments to make that clearer.

The Convener: I am going to go to Monica Lennon, but I inadvertently did not ask you how much land your organisation owns, Sarah.

Sarah Madden: I am here with two hats on—primarily, my Scottish Environment LINK hat, but the Woodland Trust has just shy of 13,000 hectares of land in Scotland, although they are not in contiguous holdings. One of our largest holdings is the Glen Finglas estate, which is just over 3,000 hectares, and we have some small bits of woodland in towns and cities.

The Convener: David, I am probably going to help you, having looked at your accounts for 2023, which suggest that the John Muir Trust owns 25,400 hectares of land, although some people say that it is significantly more.

David Fleetwood: I recognise the figure. I wanted to make sure that we gave you an accurate figure. As is the case for Sarah's organisation, the holdings are non-contiguous, but the total is around that number.

The Convener: You say the area is around that figure. It would be helpful if you could clarify that afterwards, because I think that there is some dubiety.

Monica, do you want to come in?

Monica Lennon (Central Scotland) (Lab): I have been asking similar questions to Mark Ruskell's about land management plans. How do we ensure that the plans add value—instead of being just performative and adding bureaucracy—either on their own or with other processes, such as local place plans? Max Wiszniewski made the point that owning land is a privilege, because very few people in Scotland do so. In relation to rights and responsibilities, what needs to be done to strengthen the bill to ensure that land management plans can add to our net zero ambitions and our climate and nature goals? Is something missing from that part of the bill? What should we advise the Government to do differently in the bill to ensure that land management plans do good things for Scotland?

I see Sarah Madden nodding, so I will bring her in first.

Sarah Madden: I will make two points. One is about how the bill could be strengthened to achieve those outcomes, and the other is about the practical application of land management plans.

A balance needs to be struck between the plans being meaningful and enforceable and being flexible, because things inevitably change in land management and land use, and those things are outwith the control of land managers a lot of the time. For example, the emergence of new pests and diseases would require a more flexible or different approach to managing forests or woodland to be taken in the future, or a surge in building costs could lead to a community landowner or private landowner no longer being able to afford to provide X number of affordable local homes. I am not quite sure how we can do that but, when it comes to potential breaches or speaking to the land and communities commissioner, the bill should provide some flexibility if a landowner—regardless of the type of ownership—can demonstrate that things outwith their control have changed.

On meeting the national outcomes, we all know that Scotland is in a climate and nature crisis. Although, historically, land reform has been about the diversification of ownership and access to land, we cannot ignore the nature crisis that we are in. The bill and the land management plans provide a really good opportunity to influence how land is used and managed at scale.

We would like the bill to include stronger obligations for large landowners—whatever threshold is used—on biodiversity and wider nature and ecosystem restoration. Such provisions would be inherently in the public interest, because it is existential stuff. In relation to land management plans, the bill, as written, accepts the status quo when it comes to biodiversity. It says that land managers or landowners should demonstrate how they are "sustaining" or "increasing" biodiversity, but I think that "sustaining" should be removed and replaced with "improving". I reiterate that, given the existential nature and climate crisis that we are in, that would not be an unreasonable expectation in the public interest.

Monica Lennon: That is really helpful.

David Fleetwood: I agree with what Sarah Madden has set out, but there is also an opportunity to think about how land management plans could involve a public interest test. Like any plan, a land management plan will only be as good

as the quality and measurability of the objectives that it sets out. A public interest test would allow a framework of decision making and interests to inform the rest of the plan. It might allow us to address up front some of the potential trade-offs between different elements of the public interest when land management decisions are made, and it would ensure that we made the best decisions for the land that we managed, balanced with the need to address the nature and biodiversity crisis, as Sarah Madden said.

A few of the statistics that I referred to earlier are definitely relevant in that regard. Eighty per cent of our peatland is degraded, so we need to balance decisions about the land with those broader interests and the need to meet the targets that the Government and others have set for us. Having that framework would allow land management plans to take into account a breadth of factors.

Monica Lennon: Does anyone else have a view on whether we need to amend the bill when it comes to land management plans? Tara Wight? I think that Tara is possibly—

Dr Wight: Thank you for the question. I have three points on what, from our perspective, needs to be amended about that section, so that it works in practice and is not just bureaucratic.

The first is about thresholds. A larger number of holdings should have to make land management plans. At the moment, the threshold is extremely large. The Scottish Land Commission has suggested a 1,000-hectare threshold for all aspects of the bill, to align the threshold—

The Convener: We will come on to thresholds in a minute.

Dr Wight: Okay.

The Convener: I am happy if you deal with—

Dr Wight: So, we will come on to thresholds in a second. Applying the provision to a wider range of holdings would be number 1.

The second thing, echoing what we have heard from Sarah Madden and David Fleetwood, is to require consideration of the public interest when developing a land management plan. From our perspective, things such as croft creation, affordable housing and making farming tenancies available would be the key public interest elements of such a plan.

The third point is to have a mechanism of enforcing compliance with land management plans. As Sarah said, we are in a nature and climate crisis. We need to see a change in land use at the Scotland-wide scale in a short timeframe, so there needs to be a legal mechanism to ensure compliance with land management plans. In extreme cases in which people were really not using the land at large scale in the public interest, we suggest that that would involve compulsory sale orders.

Monica Lennon: Thank you, Tara. Sorry for the confusion and interruption. I know that it is harder when you are not in the room.

I do not know whether Max Wiszniewski has any comments to make, after which I will hand back to you, convener.

Max Wiszniewski: There are a number of things that we can say about amendments to the land management plan section of the bill. We could amend it with obligations to do with biodiversity, rewilding and the transition to net zero. We could add a good number of things. The options are to have a public interest statement at the beginning of the bill, which can inform all elements of it, or to put in specific asks to amend relevant parts of the bill.

One key area that has not yet been discussed in any of the committee's evidence sessions, I believe, is having animal welfare as part of land management plans. One of Revive's taglines is "People/Wildlife/Environment". As part of land reform and the efforts that we are pushing through our big land question work—on which you have all had a briefing—we intend to push all three as part of the land reform agenda. One key area of amendment that could be made to the bill, therefore, is a reference to the highest standards of animal welfare in land management plans. That, in turn, could lead to the adoption of the international consensus principles of ethical wildlife control, which the Parliament has heard about before—there have been debates in the chamber—and which we highly recommend adopting.

Another point on land management plans and community engagement is, as we have said, that it is important that it should not be too onerous on communities, but perhaps the definition of "community" can be expanded. In advance of this committee meeting, someone wrote to me to tell me about their experiences of being next to a shooting estate. As far as I am aware, one individual household might not be considered a community, but a mechanism might be wanted for recognising the concerns of certain individuals, whether or not they are part of a community.

If you do not mind, I will read to the committee a quote from an anonymous person. In my opinion, it highlights the power imbalance that has arisen from the concentration of the ownership of estates in Scotland, which happens in some cases, although there are good landowners, too. The person said:

"We have had unannounced shoots beside our pregnant livestock, we suspect the stress caused spontaneous abortion in both cattle and sheep. This directly affected our livestock and subsequently, our income.

Our child was diagnosed with Post Traumatic Stress Disorder as a direct result of unannounced shooting beside our home and on one occasion, shot at. The noise pollution, cartridge pollution and indeed game-bird pollution is still ongoing. There's been zero community engagement between landowners and neighbours who are affected by whatever whim the landowner fancies. This has been going on for years and at times we've felt absolutely powerless."

09:30

That is one case, but I have heard of many over the years since Revive was founded, largely about people living next to shooting estates. I want to highlight the fact that individuals are sometimes afraid to speak out. If there is to be reporting on any issues with land management plans, consideration should be given to that being extended in some cases to individuals and possibly even journalists.

The Convener: Kevin Stewart wants to come in with a brief question.

Kevin Stewart (Aberdeen Central) (SNP): I will be brief—I want to play devil's advocate. The views on what should be in land management plans are quite varied and include everything from rewilding to more affordable housing. Might the bill become too prescriptive on land management plans, rather than allowing local people and communities to have their say on the right balance for their area?

Sarah Madden: You are not 100 miles away. There is potential for that to happen, but a balance needs to be struck. Local place plans are a missing mechanism that needs to be rolled out and that would cement local community desires and priorities that landowners can then work to.

Regional land use partnerships are a promising mechanism that I would like to see rolled out a little further. Scottish Environment LINK recently produced a report with SAC Consulting on the potential of regional land use partnerships for directing wide-scale regional land use in the public interest and as a mechanism for channelling funding, both private and public, to areas where it can have the most impact.

If we put too much about land management plans in the bill, there is a potential for that to become too prescriptive. However, there is a good argument for setting out public interest considerations, either in the bill's provisions on land management plans or at the outset. Although you might not expect a landowner to build X number of houses or plant X number of trees, they would have a set of wider public interest conditions that they could largely work to in order to manage land within their business interests but without detriment to the public interest.

Kevin Stewart: If putting too much in the bill could cause difficulties, would it not be better, in some instances, to use secondary legislation and regulation to get the plans right?

Sarah Madden: A balance needs to be struck. There needs to be more in the bill than is there currently—the wider public interest considerations should definitely be in there. There are a number of things that a land manager can do to improve biodiversity, for example, such as protect and expand ancient woodland or control non-native invasive species on their land. Those things could come in guidance or in secondary legislation, but the wider public interest considerations should be in the bill.

Kevin Stewart: Does anyone else want to come in? Does anyone disagree?

David Fleetwood: I agree, but I will add a little more colour to that. The bill provides the opportunity to establish the framework, which is what you are looking for in a piece of primary legislation. It could set out, at the level of principles, the framework that you want a land management plan to respond to and the penalties that will be in place for breaching a land management plan. Then, through secondary legislation, guidance and so on, you might establish the detail, which would allow you to respond over time to changes in practice. As Sarah Madden and I have said, for us, public interest tests would be the framework and would provide the balance between primary and secondary legislation.

If you define that in the bill, you would be talking about, for example, maintaining or restoring biodiversity and natural processes, protecting and enhancing relevant human rights and furthering sustainable development. Those examples would give flexibility in a management plan to respond to local circumstances, whether that involves building affordable housing or native forestry schemes.

Dr Wight: Tara Wight has indicated that she wants to come in.

Dr Wight: Actually, what I was going to say has pretty much been said. We support having the public interest consideration—as a tried and tested legal mechanism, to some extent—at the framework bill level, with the detail worked out in secondary legislation. I completely agree that we cannot have detail on, for example, how many houses to build or what the priority is in each specific area. The idea of the public interest test is a good way to set out the framework in primary legislation; anything more detailed would come later or, indeed, should come from local

communities, because the needs are different in different places.

That is similar to what has already been said.

The Convener: Max Wiszniewski, you might get in on the deputy convener's question. I leave it to him whether to bring you in.

Michael Matheson (Falkirk West) (SNP): Sarah Madden, can I pick up on your position—about which I am absolutely confused—about what should or should not be in the bill on land management plans, just so that I am clear in my understanding? What aspects of the land management plan should be in the bill, and what aspects should be in regulations? I am conscious that you mentioned the issue of there being dangers if we put too much in the bill but, equally, in response to Kevin Stewart's question, you said that you wished to see certain things in it. What are those things, and what could be dealt with through regulation?

Sarah Madden: As I said earlier, in the context of the existential nature of the climate crisis, it would not be unreasonable to see in the bill obligations on landowners—for example, to improve biodiversity, restore ecosystems in some way or demonstrate how they are contributing to net zero targets. However, perhaps the bill is not the right place to set out how they go about that and the individual land management actions that they should take, because every landholding or region has a totally different context. The broader aspect of improving biodiversity and any action that would contribute to climate mitigation and increased climate resilience for a particular area is really important.

However, the public interest considerations can set out a number of things that include improving biodiversity or contributing towards the net zero targets, as I mentioned. The broad principle of those should be in the bill but, as I said, the way in which landowners go about those things—for example, through the control of non-native invasive species—and the mechanisms for how they are achieved could perhaps come in guidance or secondary legislation.

Michael Matheson: That is helpful. My interpretation of what you have said is that you think that the bill should deal with the broad principles of the framework of what should be in a land management plan; it should set out the key principles rather than a specification of the detail that should be in a land management plan. Am I getting that correct?

Sarah Madden: Yes, pretty much. A balance needs to be struck. I would like to see more than what is currently in the bill, but, for practical reasons, the bill does not need to go into absolutely minute detail about how a landowner should operate on their land.

Michael Matheson: Specifically, what is missing from the bill?

Sarah Madden: As I said in my opening statement, the biodiversity part of the land management plan reads—at the moment—as a landowner having to demonstrate how they are sustaining or improving biodiversity. If you are already operating on a very nature-depleted landholding, for example, sustaining biodiversity in a nature crisis is not the right direction to be going in. In that example, stronger obligations on improving biodiversity could be widened to include wider ecosystem recovery and, potentially, climate mitigation.

Michael Matheson: Max Wiszniewski, is that what you wanted to come in on?

Max Wiszniewski: I agree with all the contributions, including Sarah Madden's, but I want to reinforce the notion that the land management plans are probably the most crucial intervention that can be made in the bill.

I reiterate that the stronger the obligations on land managers in the public interest, the more likely it is that we are to achieve some of the bill's stated goals, which would be to break up the concentration of power of the few landowners who own large portions of Scotland.

If we attach strong public interest concerns to the land management plans or, as Sarah Madden said earlier, all parts of the bill, either landowners would act in that public interest or they would be measured against it, rather than all the burdens being placed on communities. In that respect, having those strong obligations in the bill as guidance and a framework could be extremely useful going forward.

The Convener: I will ask each of you a question that requires one answer and then I will come back with a follow-up. Please do not be tempted to give more than one answer, because I will take your first one—it is a bit like those TV games.

Halfway through the bill process, the Scottish Land Commission has come up with additional evidence on the size threshold for land management plans. It recently came up with recommendations on part 1 and I am led to believe that it will come up with further recommendations on part 2. It is somewhat late in the bill process, because we have already taken evidence from the SLC. It has recommended reducing the size threshold for land management plans from 3,000 hectares to 1,000 hectares. Can you give me one reason for or against that?

Dr Wight: We support the reduction in the size threshold. We would go further than the Land

Commission and say that it should be reduced to 500 hectares and that it should include sites of community interest, regardless of size. The reason for that is that, otherwise, this complex, big piece of legislation will apply to only a few landholdings in Scotland. While those might cover a large area, they do not necessarily cover that many areas where people actually live. As it stands—

The Convener: Tara, that is your one answer. I am sorry, we are really short of time and I am going to try to drill down into it.

Dr Wight: No worries.

The Convener: Sarah, would you like to go next? Do you support the recommendation and, if so, what is one reason why?

Sarah Madden: We support the thresholds being brought into line with each other. The reason for that is that land management plans would be a stronger basis for the transfer test or the lotting decision that is brought up later in the bill, so it would make sense for ministers to have a bit of context when making that decision later on.

Max Wiszniewski: Yes. If you are defining what a large landholding is via the bill, it would make sense to bring the thresholds for land management plans and transfer tests in line with each other. However, I agree with Tara Wight that 500 hectares would be a good consideration for the committee to adopt.

David Fleetwood: The largest threshold that we would like to see is 1,000 hectares, so I agree with my fellow witnesses. That would bring 60 per cent of Scotland's land within the scope of the bill, and that is the kind of scale that we need to talk about to achieve the landscape-scale change to respond to the biodiversity and climate crises that are in front of us.

The Convener: Okay. Given the fact that, based on the bill as it stands, the management plans are going to exist, whatever the size of the holding, somebody has to draw up that plan and bring it all together, including the community consultation. Sarah Madden, your organisation has been involved in that. If you include your volunteers' time and all the other costs involved, how much will it cost to produce a management plan for a holding of, say, 1,000 hectares?

Sarah Madden: I cannot give you that figure. I apologise, but I do not have it in front of me. To draw up a management plan, we operate on templates that have been held within the Woodland Trust for a while and are flexible to each of the—

The Convener: I understand that it might be formulaic and interpreted, but I am looking for actual time and costs. You are proposing to impose a cost on people and I am trying to understand whether you understand what that cost will be.

09:45

Sarah Madden: As a landowner ourselves, we are not naive to the burden that the plans could place on a larger number of landowners, especially on smaller landowners and family farms. I do not have the monetary costs for you at the moment, but I know that a plan can take several hours of our Livingston site manager's time, for example, although sometimes, if a project is already in force, it is about smaller tweaks. With regard to community engagement, a plan goes out to the community for up to a month—a few weeks. Again, I can come back to you with a more exact figure.

The Convener: It would be useful to understand what you believe the cost of a management plan is.

David, you have done management plans. I think that some of them have worked and some have not: some have upset the community and some have not. How much do they cost to produce for 1,000 hectares?

David Fleetwood: I do not think that a uniform stat across 1,000 hectares is necessarily a particularly useful measure—

The Convener: Give us a rough ballpark of where you think that it would start.

David Fleetwood: I will not give you a specific stat because, like Sarah, I do not have a specific per-hectare stat to hand. Costs vary on the basis that they respond to the requirements of that particular landholding. As I touched on earlier, we have done digital engagement and very traditional letter-drop engagement—I have a letter in my bag under the table—there is a variety of tools.

To zoom out a bit, a Scottish Land & Estates report suggests that large landowners make a profit of between £130 million and £180 million every year—

The Convener: No, sorry, I asked you a specific question and I am trying to get a specific answer. If you are not in a position to give me the answer, I am very happy to take a letter to the committee afterwards. From my point of view, I am trying to identify the costs of producing the plans. We have heard that it is £75,000 from, I think, Moray Estates, and a reasonable figure of £10,000 from somebody else. I am interested to know what you think those plans would cost, because I think that that burden is interesting.

David Fleetwood: There is undoubtedly a cost, which varies depending on the circumstances of the management of the particular estate or land

that we are talking about. When I gave you those overall stats, I was going to follow up to say that the same Scottish Land & Estates report identifies that around £1.2 million a year—less than 1 per cent of those profits—are put into activities that support communities.

What I am illustrating to you, just as we do as a landowner, is that, in the returns from the land as set out by those figures, there is scope to encompass good-quality community engagement and land management decisions, which estates will have in place in any case if they are managing themselves well.

The Convener: With respect, I take the point that you have made. I have read the John Muir Trust accounts and seen where it is financially, so I understand some of the costs. I am just trying to identify them. Bob Doris, do you want to come in on that?

Bob Doris (Glasgow Maryhill and Springburn) (SNP): That was a helpful conversation between Mr Fleetwood and the convener. The debate is really about the cost versus the affordability of land management plans.

We have heard evidence through our scrutiny that good landowners will already be doing all the things that you would expect to see in a land management plan. That will now be placed on a statutory footing. Landowners come to the committee and tell us that they do the consultation anyway. Is it not the case, convener—the question is for Mr Fleetwood, of course—that good landowners would have nothing to fear and that the work to draw up a land management plan, including community consultation, should already be taking place, if they are a good, responsible landowner? What are your thoughts on that?

David Fleetwood: I agree. We have land management plans in place for all our properties, some of which have been referred to in exchanges. There is something important here about community engagement, too. Again, I will put a bit of statistical evidence on the table. Rural estates self-assess their approach to community engagement: 3 per cent reported that their approach was empowering for local communities; 40 per cent—self-reporting on their own community engagement—reported a tokenistic engagement; 23 per cent self-reported a minimalist engagement; and 13 per cent did not answer the question. That underlines how important it is that a well-managed estate, and the landholdings that we are responsible for, should have management plans in place. The bill is an opportunity to make sure that those management plans encompass conversations with the local community and other actors in the sector about the decisions that are being taken on that land.

Bob Doris: That is helpful. The committee has to contrast cost and affordability with what best practice looks like out there.

The Convener: The proposals are limited to single, composite and contiguous holdings and do not include aggregated corporate holdings. Some organisations might have lots of smaller holdings all over Scotland but be massive landowners—I cannot think of the name of the organisation that I am thinking of—and would not be caught by the provision on management plans. Is that helpful? Please just answer yes or no and give a reason why.

Max Wiszniewski: For clarification, convener, please could you repeat the question?

The Convener: The legislation as drafted refers to single, composite and contiguous holdings—technically, if a holding is divided by a railway track or road, it is not contiguous—and does not take aggregated corporate holdings into account. Although I do not, I might own 500-acre holdings here, there and everywhere all over Scotland and those bits of land would be excluded because they were below the limit. Is that right? Are you happy with that and what is the reason why? If you are not happy, what is the reason why?

Max Wiszniewski: That is an excellent question. There will inevitably be some loopholes in the legislation. Later on, you will hear from Gresham House, which owns an immense amount of land—around 50,000 hectares. Very few of its landholdings will actually come under the 1,000 hectare threshold that the Scottish Land Commission recently proposed in its new evidence. That is not ideal.

Because of those loopholes, other things will need to happen with regard to land reform legislation, in either this bill or the next. Frankly, at this rate, we will need another bill in the next parliamentary session. One way to deal with the issue is to add taxation, which is currently absent from the bill. The committee can decide whether that is within the scope of the bill—some might argue that it is. Taxation might fulfil some of the bill's objectives to break the concentrated power of large landholdings in Scotland. It is one of the fundamental areas that the bill has not touched on.

That may help to answer your question about whether the situation is right. It might not be right, and it might not be possible to deal with through the hectarage threshold. If that is the case, we need other mechanisms, not currently in the bill, to capture some of those other landholdings.

The Convener: Thank you for that one reason.

David Fleetwood: I will give you one clear reason. Large landowners need to be responsible for the overall impact on land in Scotland as a

whole. To add colour to what Max said, only 28.6 per cent of Gresham House's 55,227 hectares of land would be caught under the 1,000 hectare threshold, whereas a sum total of 0 per cent would be caught under the 3,000 hectare threshold that is in the bill as it stands. The bill should aim to have a proportionate impact on how that land is managed.

Sarah Madden: I agree that the cumulative effect of non-contiguous holdings can be significant, especially in localities where they are cut only by a road or railroad, for example, so it would make sense to have to take those holdings into account.

However, we are focusing solely on scale here. When I think about our sites, one of our 5-hectare sites that sit in the middle of a town will have a more significant impact on a larger number of people than our 3,000-hectare Glen Finglas estate, which tends to bring visitors rather than communities of place. I do not know how it should be done, but a distinction needs to be made in the bill about the impact of a particular holding based on its concentration rather than just its scale.

Dr Wight: We would support aggregated holdings rather than just contiguous holdings coming under the scope of the bill. The main reason is that, as laid out by the Scottish Land Commission, the biggest issue with large-scale land ownership is the concentration of power in the hands of a few people. That is true whether the holdings are contiguous or spread across the country: those individuals, corporations or organisations have power over a large amount of land.

I am sorry for adding a second reason, but there is an element about transparency on who owns land in Scotland. It is unusual that we know so little about who owns land in Scotland. Including aggregated holdings under the scope of the bill would be a mechanism to make sure that the Government has a better record of who owns what land.

From a transparency perspective as well as taking into account the issue of who has power, it is important that the bill goes further and includes aggregated holdings.

The Convener: We have talked about management plans and size and we have tried to identify the costs of making a plan. We have not identified the costs of implementing the management plans where there are community demands, but must I move to the next question, which is from Michael Matheson.

Michael Matheson: The bill as it stands has a provision for pursuing a complaint about a breach of the community obligation provisions in land management plans, but it is a qualified provision. The Scottish Land Commission suggests in its recently published report that that qualification should be expanded to include in its scope a greater range of organisations that could make a complaint or allege breaches. Do you agree with the provisions in the bill as it stands, or do you think that the expansion of the range of organisations in line with what the Scottish Land Commission suggests is more appropriate?

I will start with David Fleetwood, given that your organisation is a significant landholder. What is your view on the scope of the existing qualification?

David Fleetwood: We support a greater breadth of interests being able to engage the land management plans. The conversations that we open up with communities on the land that we own and manage have been strengthened by their breadth. A clear aim of the bill is to widen the conversation in Scotland between landowners and the communities that are engaged in and impacted by their land management practices. We support that conversation being as broad as possible.

Michael Matheson: Are community councils, enterprise agencies, national park authorities and the Crofting Commission the right additional agencies to include, or should the list be broader, and if it should, who is missing from that list?

David Fleetwood: That is a useful set of suggestions for widening the scope of the list. As I have said, there is the potential for primary legislation to set out the principle for that to be as broad as possible and for us to then think through how we make that conversation as broad as possible. That is a good place to start, and it takes us forward from the narrower list that we have at the moment.

Michael Matheson: Just so that I am clear, should the list of the organisations that can make the complaints be dealt with in secondary legislation so that it could be varied at some point in the future if there was a gap?

David Fleetwood: I think that you have that option, yes, which potentially gives you the chance to respond to changing circumstances and the evolving development of community organisations and bodies over time, rather than setting it out in primary legislation. I would support anchoring the principle in the primary legislation and having the power to vary it a bit more flexibly as you go along.

Michael Matheson: Dr Wight, I put that question to you as well.

Dr Wight: We support the broadening of who would be able to submit complaints in line with the suggestions put forward by the Land Commission. I do not necessarily have a stance on whether the actual list of organisations comes under primary or

secondary legislation. I can see the benefit of having that in the secondary legislation so that it could be changed, but as it stands, having in the primary legislation a really narrow group of people who are able to make that complaint does not seem sensible, so we very much support the Land Commission's perspective on expanding that list in the primary or secondary legislation.

10:00

Michael Matheson: Thanks. I turn to Max Wiszniewski, because he offered up a quotation from someone who is experiencing a challenging situation associated with the land adjacent to them, which has been managed and used in a way that causes them a significant amount of difficulty.

It has been suggested that there should be scope to make anonymous complaints. I understand, from what I have heard, that there is a concern that there could be repercussions for individuals or organisations that make a complaint, that doing so could have a significant impact on them and that having anonymity would give them protection from that.

Should there be a provision in the bill for anonymous complaints? It may be that, in making an anonymous complaints, an individual or organisation would give details of who they are, but the Land Commission would withhold their identity.

Max Wiszniewski: Yes, you said it yourself—that would be inherently sensible. People who have got in touch with me in the past about intimidation have often asked to be anonymous due to their being near a certain estate—that is the case with the quote that I shared—or whatever other circumstance it may be. For obvious reasons, they did not want the area that they live in—or even the region—to be stated. As a case in point, although I know who the person is and I am confident that that real person has made their case known to me, I do not have to make it known publicly who they are.

Michael Matheson: Sarah Madden, I put that question to you.

Sarah Madden: I do not have a view on that, to be honest with you. We support having a wider scope for who can report a breach, but we do not have a view on the anonymity part.

Michael Matheson: Okay—thank you.

The Convener: The next question comes from Bob Doris—sorry, Tara has her hand up. Both the deputy convener and I missed that, so we will let her come in briefly.

Dr Wight: Sorry about that. We also have members who have struggled with intimidation from large-scale landowners in their area, or, indeed, from the owner of the land on which they have a tenancy—sometimes, the intimidation is from large-scale landholders themselves. Community tensions can also be difficult to deal with, so we support having a mechanism for anonymity.

Michael Matheson: Apologies for missing that you had put your hand up, Tara. Could you give us a bit more detail? What is the form of the intimidation that is experienced? How does it manifest itself?

Dr Wight: It is mostly to do with a fear of exclusion from the community and of job loss if people speak out against the actions of large-scale landowners; that is the biggest issue that we see. A lot of people who live and work on large estates are very anxious about saying anything against their landowner, although they might be aware of practices that are not ideal. They are anxious because their livelihood, and the livelihood of much of their community, depends on the landowner. That power dynamic needs to be taken into account when we are looking at who can make complaints and what the procedure for that is.

Michael Matheson: That is very helpful. Thank you.

The Convener: Over to you now, Bob.

Bob Doris: Thank you. I will go to Tara Wight first with this question, as it is easy to forget that we have a witness online, and I want to make sure that we do not do that.

My question is about identifying breaches in land management plans. You will know that the Land Commission suggested that the new land and communities commissioner should be able to instigate an investigation into potential breaches of community engagement obligations within the drawing up of a land management plan. It also suggested that there should be a more general power for the new commissioner to act where they think that there are reasonable grounds to suspect a breach of any kind with a land management plan, irrespective of whether there has been a complaint. What are your views on that?

Dr Wight: We support that. It is worth saying that we are talking about people who own more than 1,000 hectares of land; they are some of the wealthiest and most powerful organisations and people in Scotland. We do need to hold those people to account, because a huge amount of responsibility comes with that power.

The land commissioner's having the ability to investigate, even without reports of breaches, is

important. We need as many mechanisms as possible to address the power dynamic that comes with a huge concentration of land ownership. We therefore very much support that.

Bob Doris: That might be the general view of all witnesses. We will hear from one more witness on that, and then I will ask a follow-up question. Max, do you concur with what Tara said?

Max Wiszniewski: Yes, I concur. If the plan is measured against the public interest—to reiterate, it certainly should be—there must be other ways to measure breaches, other than merely as a result of a complaint. If the land management plan is publicly available, it should be broadened out so that multiple people can investigate.

Bob Doris: The provision says that there should be a reasonable grounds test. The commissioner could say, for example, that they have not had a formal report of a potential breach from a group that has a statutory right to report it, but that something has been brought to their attention and that they have reasonable grounds to investigate—there will be a permissive power to investigate. Are you fine with that, Max?

Max Wiszniewski: Yes, absolutely.

Bob Doris: Are all other witnesses okay with that?

Sarah Madden: Yes, but we do not have a view on it.

Bob Doris: Okay. Sarah, I want to know whether you have a view on my follow-up question.

The bill will be amended and I imagine that it will be enacted, and we will be left thinking about what the quality of land management plans across the country will be—whether we decide on 3,000 hectares or 1,000 hectares. We will also be left wondering what outcomes we have achieved. Should the new commissioner do a bit of sampling of land management plans to ensure that they are of good quality and that they have positive outcomes, rather than waiting for a breach? What about a proactive role for the new commissioner? Maybe a sample survey of various landowners' land management plans could be carried out to drive up good practice.

There will also be some plans that do not cut it—not because of wilful acting against the interests of communities but only because landowners have not got it together. What are your thoughts on a proactive role for the new commissioner?

Sarah Madden: We have not thought about that. However, there is already a precedent. There are farm inspections, for example. That proactive, and co-operative approach—rather than beating the landowner with a stick—is already written into legislation in some ways. There is an opportunity to improve things before we get to penalties or such things.

Bob Doris: So, the new commissioner does not have to be involved in conflict; they can do some proactive work to build relationships.

David Fleetwood: I will set that in the context of the wider management information on how land is being managed in Scotland. I have referred to a couple of the statistics already. The Scottish land and estates survey says that 66 per cent of estates are not involved in managing or creating woodland, 70 per cent are not restoring grassland, wetland, heathland and or coastal habitats, and 71 per cent are not engaged in peatland restoration.

We could balance the proactive, investigative role of a commissioner with looking at that wider set of statistics. We would hope that the commissioner would see improvement. If there is improvement, it could be suggested that land management plans have begun to do their job.

Bob Doris: This is my final comment. You are almost suggesting a risk-based approach to that proactive work. That would flag up a potential risk if some landowners do not have track record of complying with best practice already. Do you want to say any more about what that risk-based, proactive work of the commissioner might look like? You mentioned some things already. Is there anything else that we could consider?

David Fleetwood: There is a broad range of statistics. I quoted one particular survey. The Government already collects a range of statistics. Native woodland coverage is around 4 per cent, for example. We could bring together that basket of statistics at the national level, or if the commissioner wished to zoom down to a more regional or local level, there would be an opportunity to do so.

Douglas Lumsden (North East Scotland) (Con): I thank the witnesses for coming in today. We move on to the community right to buy and registration of interest part of the bill. In the bill, there is a proposed 1,000-hectare threshold for prohibiting and notifying land transfers. Is that figure appropriate, or should it be higher or lower?

Sarah Madden: Our understanding is that, if every single disposal or acquisition of land is set up for such a prior notification, that would be a de facto ban on off-market sales. I completely understand the rationale for that but, on a practical point—I speak for a charity environmental NGO—off-market sales, acquisitions and disposals are a regular and often necessary part of land acquisition for ENGOs.

On acquisitions, for example, we cannot compete in the open market. Often, prices are too high or there is a lot of internal bureaucracy in fundraising or getting things signed off. Often, off-market sales allow us to negotiate best value for money to meet our charitable objectives, which are, inherently, in the public interest.

On a more practical point, about disposals, small sales of land—regular pockets of woodland or farmland or whatever it might be—are important for us, to meet charitable objectives. By definition, that inherently continues the diversification of ownership and use of land on a very small scale.

On your point, we would support the commission's de minimis suggestion, albeit on a more streamlined, practical point.

Douglas Lumsden: As it stands, it would be harmful for certain charities to buy little pockets of land, because—

Sarah Madden: It is more on the disposal side of things. For example, getting rid of little parcels of land would probably be a bureaucratic nightmare. I understand the rationale for it, and I definitely think that we need a mechanism like that, but it should perhaps be more streamlined, to allow the regular disposals that a farmer or charitable landowner might undertake.

Douglas Lumsden: In this part of the bill, the definition of a large landholder involves 1,000 hectares. Is that the right number, or should it be higher or lower?

Sarah Madden: We do not necessarily have a view on what that particular threshold should be. We are sensitive to the fact that, if we bring the threshold down, there is scope for a lot more land to be brought into the obligations to have a stronger influence on how land is used and managed in a nature and climate crisis; however, we are not naive to the bureaucratic and administrative burdens that that would place on people.

Douglas Lumsden: Tara Wight, I notice that your hand is up.

Dr Wight: Sorry for the delay; I was just unmuting. This is one of the points on which I diverge a little from Sarah Madden, in that we support a much lower threshold than the 1,000 hectares that is being proposed. We suggest 500 hectares, or more than 25 per cent of an island or site of community interest. Given that we are talking about making land available to communities, not that many sales of land are of more than 1,000 hectares each year. Unless more land comes under this element of the bill, it will lack the impact of empowering communities to access land. We therefore support the reduction of that threshold.

I have talked about transparency in who owns land. Moving sales into the public eye is important for getting a better sense of who owns what land and what land is being transferred between whom. We support a reduction in the threshold further than the 1,000 hectares that is currently being suggested, to make more land available for communities.

However, it is not just about communities. If there is to be diversity of ownership, we need other people—for example, small-scale farmers, foresters and so on—to know that sales are taking place and to have some potential to access that land. For that, we need those thresholds to be reduced considerably.

Douglas Lumsden: Tara Wight, do you agree with Sarah Madden and the Scottish Land Commission that there needs to be a bit more flexibility on people selling small pockets of land—maybe a house or something else on their land—so that it would not fall into the legislation? They mentioned de minimis considerations.

10:15

Dr Wight: I do not think that we have a strong view on that. I can see how, from a bureaucratic point of view, it would make sense if we were talking about a very small section of land; however, from our membership's perspective, small parts of land are really important. You can produce a huge amount of food on just a couple of hectares of land, so we should not underestimate the importance of small portions of land with regard to the public interest in Scotland. That said, we do not have a particularly clear stance on that question.

Douglas Lumsden: Thank you. David, I want to come to you on that question.

David Fleetwood: We would be relatively comfortable with the 1,000 hectare threshold being harmonised across the bill. From 2020 to 2022, there were just 17 sales at 3,000 hectares or above, and 14 between 1,000 and 2,000; in fact, there are only 400 landholdings above 3,000, which should give you a sense of how coming down to a 1,000 hectare threshold potentially opens up scope.

The other thing that I would add brings us back to the discussion on the public interest test. For us, such a test provides a stronger set of criteria at this point than the transfer test set out in the bill.

Douglas Lumsden: Let us say that you had 1,000 hectares and were therefore deemed a large landholder. I guess that you could not sell a minor part of that land—perhaps, say, with a house on it—without having to go through the community right-to-buy and prohibition-of-sale

processes. Do you think that there should be more flexibilities in that respect?

David Fleetwood: I would point to the evidence that you have just heard from Tara Wight on the role of smaller landholdings. Our view is that harmonising the 1,000 hectare threshold across the bill is where we should be looking to go.

Douglas Lumsden: Thanks.

The Convener: We have about 15 minutes of this session left. Time is always the enemy of the committee, so if we have short answers and short questions, I will be able to get in all the committee members who want to ask questions and not make enemies of them, too. I will just keep time as my enemy.

The next question comes from the deputy convener.

Michael Matheson: Do you think that the community right-to-buy provisions in the bill, as drafted, strike the right balance between public and private interests? That question is for Max Wiszniewski.

Max Wiszniewski: I would say that the bill does not do enough in that regard. I know that work on the community right to buy is happening in parallel, and we have yet to see the results of that, which is not fully ideal.

However, if we are talking about the point of transfer, the missing element is the public interest test. Having land in community ownership is, of course, in the public interest, but unfortunately, the bill does not have enough provisions with regard to a strong public interest test to allow that to happen as easily as it should.

Michael Matheson: So you think that a public interest test needs to be set out more explicitly in the bill.

Max Wiszniewski: Definitely—100 per cent. It is one of the key things missing from the bill that was included, initially, in the consultation on a new land reform bill. As I have said, it has to be either at the very top or in every part of the bill, with strong obligations on landowners.

Michael Matheson: Okay. Sarah, can I put the same question to you on the balance between public and private interests with regard to the right to buy?

Sarah Madden: That balance would be struck if public interest considerations were covered in some sort of framework on the face of the bill. Allowing a public interest consideration would inherently allow that balance to be investigated.

Dr Wight: I agree with what has been said. The public interest test, rather than a transfer test, will be really important in getting that balance. Otherwise, we are just taking local communities into account; of course, that is really important, and the transfer of land to local communities is essential, but the public interest is broader than that and needs to be taken into this conversation, too.

It is not just about community versus private; it is about the broader public of Scotland—that interest needs to be taken into account, too. Having a public interest test at the point of transfer, as 70-something per cent of the people who were consulted thought was a good idea, would be a way of addressing that issue and giving that balance.

Michael Matheson: David, do you want to comment?

David Fleetwood: I will help with the convener's battle against time and just agree with my fellow panellists.

Michael Matheson: I am very grateful.

The Convener: Thank you, David. The next questions are from Mark Ruskell.

Mark Ruskell: I want to get your reflections on the ministerial powers over lotting decisions. I will go to Tara Wight first, as she had quite a few reflections on that issue in her written evidence, so it is obviously a concern for her members.

Dr Wight: We can see a benefit of lotting and allowing smaller parcels of land to become available, but there needs to be a public interest mechanism at that point. As the Land Commission pointed out, the current legal wording that sets out when ministers will be able to make a lotting decision is not clear enough. There needs to be a clear sense that it is about public interest, and the public interest test also needs to apply, at the point of acquisition, to the person acquiring land.

However, we support the idea that ministers could suggest that land be broken into smaller parts and sold at the scale suggested, because that could make more land available for food production and for new entrants who are trying to get into farming. That issue has not come up much today, but one of the key and serious issues that we face is about people who work in farming and small-scale forestry being completely priced out of the land market.

We support smaller parts of land becoming available, but there needs to be a much clearer mechanism, involving a public interest test, for deciding when lotting decisions are made.

Sarah Madden: The transfer test assumes that scale alone is the problem, but we know from the Scottish Land Commission's 2019 research that concentration is the main issue and that scale can actually be an advantage, especially when it

comes to the landscape-scale change that we need for climate and nature. Therefore, I am not convinced that the lotting approach is the best way to meet the objectives, for a number of reasons.

The administrative burden will be very high. I think that the bar for going ahead with a lotting decision would be too high, which would, in effect, make the provisions meaningless. Therefore, there needs to be a more robust framework around that. A public interest test relating to the buyer of land, as set out in the original consultation, would be a more appropriate mechanism to influence how land is used and managed, especially at the landscape scale, which is vital for ecosystem recovery and all our national ambitions.

In a charitable context—many of our Scottish Environment LINK members are charities—that would also allow land to be managed for charitable objectives. Charities have a legal obligation to fulfil their charitable objectives, and those would be inherent in the public interest test.

If those considerations are not set out at the beginning, some sort of public interest framework should be set out at the point of the transfer test. At that point, the importance of scale needs to be considered. For example, we would need to think very hard about selling part of a landholding that is strategic for wider ecosystem recovery. That goes back to the balance between local community interests and the national interest of nature recovery. It is sometimes hard to get that balance.

Mark Ruskell: Yes. Clearly, the land management plans need to reflect the aspirations of people who want to hold land and wider landscape-scale recovery.

Sarah Madden: Yes—those issues could inform the plans.

Mark Ruskell: Max or David, do you have anything to add?

Max Wiszniewski: Lotting is a mechanism. It will not in itself achieve what we want with regard to land reform. It could potentially be useful, although only if we add consideration, at the point of sale, of the two dreaded words that we have heard all day in this committee: public interest.

Mark Ruskell: Yes. We have heard that point.

Max Wiszniewski: Of course, that will not be enough. The public interest at the point of sale and who is buying the land must be considered, but we must really broaden the mechanisms. That alone will not achieve what we want.

Mark Ruskell: David, do you have any brief comments?

David Fleetwood: I again agree with my fellow panellists. The only issue that I do not think has been covered is whether the bill should include consideration of the landowner's track record on compliance with the provisions on publishing land management plans, the statement of land rights and responsibilities and so on within the consideration of lotting.

Mark Ruskell: Sarah, I will come back to you briefly. Is anything else missing from the bill? A few anomalies have arisen as a result of the Wildlife Management and Muirburn (Scotland) Act 2024 and they are not covered by the bill that is before us. Are there any loose ends that the bill should cover and which it could include as we move forward?

The Convener: I remind members that we are short of time. I am keen to hear the answer to that question, but I must get Rhoda Grant in, because she has sat patiently throughout our discussion, so short answers would be very helpful.

Mark Ruskell: I will pose my question only to Sarah, then.

Sarah Madden: I will make two points. We would like the definition of communities to be widened out to include other groups—for example, fisheries trusts, which might be restoring the downstream part of a river but need large-scale nature restoration to happen. Ecosystem restoration requires upper catchments, which are usually on a different landholding, to be restored. Unfortunately, we have seen instances where a landowner has tried to frustrate that process or refused to engage with the organisation. We would like to see a widening of the definition of who a landowner has to engage with.

Mark Ruskell mentioned the wildlife management legislation. The only point that I would make on that is that there is precedent for land reform acts to amend previous legislation if loose ends remain from it. An example that springs to mind, which Scottish Environment LINK has been concerned about, is the provision that effectively means that estates can set their own parameters on where grouse moor licensing applies. There would be precedent for the current bill to tighten up that previous provision and make it apply to a whole estate if there is an argument about that.

The Convener: I have not taken part in our discussion on riparian management but, because Sarah Madden has mentioned it, I point out that my entry in the register of members' interests shows that I have an interest in a salmon fishery, which involves the carrying out of such activities.

Sarah Madden: It does.

The Convener: I add that so that there is no dubiety.

Kevin Stewart wants to come in, after which I will go to Rhoda Grant.

Kevin Stewart: Earlier in the meeting, David Fleetwood mentioned the landholdings of Gresham House, but he was unable to give a figure for the landholdings of the John Muir Trust. As you will probably have seen from our other meetings, I am very interested in openness and transparency on landholdings. Currently, it can be difficult to find out about the landholdings of individuals, companies and so on. Should that situation be improved? Is there a lesson for us all as regards knowing what land we all own?

I will start with you, David, since I mentioned you.

David Fleetwood: We would support having the transparency that you mentioned. At the start of the meeting, I did not give you a specific figure because I wanted to give you the right one. Actually, I would say that there is transparency there because, through a quick search of the internet, the deputy convener and the convener were able to give you the figure that I could not find.

Kevin Stewart: I will stop you there, because some previous quick internet searches, including by our people here, have come up with the wrong answers.

David Fleetwood: Yes—that is absolutely fair. I have already committed to coming back to the committee in writing to clarify that figure. The principle of transparency on the management of landholdings, which is at the core of the bill, should extend into our discussion on land management plans. I will leave it there.

Max Wiszniewski: In short, transparency is key, including in relation to land management plans.

Sarah Madden: I fully support greater transparency in ownership and management.

10:30

Dr Wight: I, too, support greater transparency. It is worth noting that it is very unusual that the Scottish Government does not know who owns all the land in Scotland. For quite a lot of land, that information is not on record or available to the public. One of the key things that the bill can do is to improve transparency and bring into the open the power dynamics that we are talking about. Knowing who holds that wealth and power is really important if we want to address those dynamics, so transparency is key.

The Convener: We are up against the clock, but I will bring in Rhoda Grant.

Rhoda Grant (Highlands and Islands) (Lab): I will try to keep my questions short—I do not know about the answers.

A number of you have talked about compulsory sale orders. In what circumstances should those be used? Who should be able to exercise that power? Sarah, do you want to comment on that?

Sarah Madden: No. We do not have a particular view on that. I was just signalling that the other witnesses are the best people to answer that question.

Max Wiszniewski: I can talk about land management plans and the consequences of not having them. As we have stated again and again, tying a land management plan to a prominent public interest test is central. If the standards are not complied with, in the first instance, there should be a reasonable fine—we have not discussed fines that much today, given the time. In the next instance, there could be cross-compliance penalties. In the third instance, should the landowner still not be meeting the public interest, that might be the point at which the compulsory purchase of land should be considered.

Dr Wight: I think that I raised that issue earlier. If we are talking about compliance with not only creating but enacting land management plans, the penalties that are currently being suggested are extremely low. They would mean nothing to the wealthiest landowners. For people who are not managing large-scale land in the public interest, there needs to be escalation of consequences up to and including a compulsory sale order, which would mean that, if land was being used in a way that worked against the public interest over a long period, that land could be sold to somebody who would use it in a way that benefited the broader public interest of the people of Scotland. It is essential that penalties go beyond small fines up to and including a compulsory sale order.

Rhoda Grant: Many of you have talked about a public interest test. Should that apply to anyone who seeks to buy land, and not just communities? Should a private purchase of land be subject to a public interest test, too?

Dr Wight: It is very important that private purchases of land are subject to a public interest test. Indeed, all transfers of land, including transfers by inheritance, should be subject to a public interest test. The test should be based on whether the person acquiring the large amount of land will use it in the public interest. What are their plans for the land? If their plans are not in the public interest, the sale should not be allowed to progress and we should move to, for example, a lotting decision. That is essential.

As has been demonstrated fairly well by research by Community Land Scotland and the Scottish Land Commission, the acquiring of land by communities is generally in the public interest. Private ownership of land can sometimes be in the public interest, but it can sometimes very much not be, so it is essential that a public interest test is applied at the point of acquisition.

David Fleetwood: To round off on the topic of penalties, I note that I agree with colleagues and suggest that the committee might want to think about cross-compliance as a route to go down in that regard where land managers are in breach.

You have heard strongly from all the witnesses that we would like a public interest test to be embedded in the bill. That is one of the key asks of those of us who are around the table. We would strongly support the application of such a test through the bill.

Max Wiszniewski: I agree that a public interest test is needed, especially in the case of the largest private landowners, because community ownership and public ownership can largely be seen to be part of the public interest. It should be noted that we should not look at public interest tests as being only for the point of acquisition or sale. They should also apply for existing landholdings, particularly—but not exclusively—those that are defined as large landholdings as per the bill.

Sarah Madden: My answer to Rhoda Grant's question is yes. Having an idea of how land will be used and managed in future, regardless of who owns it, would be sensible.

The Convener: I will ask a question that I have asked all our witnesses as a closing question. No doubt you have looked at the previous evidence sessions so you will be able to work out what it is.

The cabinet secretary has defined what she wants from the bill, which is to strengthen the rights of rural communities, enable greater involvement in decisions, create more diverse land ownership, achieve environmental improvements and modernise legal frameworks for tenant farming and smallholdings. Will the bill as introduced deliver that—yes or no?

David Fleetwood: I will end where I started. I will not give you an answer, whether yes or no. I do not—

The Convener: That is an undecided.

David Fleetwood: Let me finish my sentence. We cannot afford not to do the bill, for the reasons that we have set out, including in the statistics that I used earlier. Some 71 per cent of large landowners are not engaged in peatland restoration. The situation needs to change, and we have talked this morning about things that we can do to achieve that.

The Convener: Is that a yes or a no?

David Fleetwood: We cannot afford not to do it.

The Convener: Okay. Max?

Max Wiszniewski: There were a lot of stipulations in your question.

The Convener: Is your answer a yes or a no?

Max Wiszniewski: It is a no for the bill as introduced. If it was amended, the bill could do some of what you mentioned, but it would not break up the concentration of power of land ownership without the other aspects that we really need, such as land taxes.

Sarah Madden: My answer regarding the bill as introduced is no, but there is potential.

Dr Wight: The bill as introduced will not do those things. However, with significant amendment, it could be very useful for achieving some of those objectives.

The Convener: Thank you. I am sorry that I had to cut you all short. At times, it is very difficult sitting in this chair and cracking the whip, as it were, but I have to let other people in. Thank you very much for coming and giving evidence to the committee this morning.

We will have a brief pause and reconvene at 10.50.

10:38

Meeting suspended.

10:47

On resuming—

The Convener: Welcome back to our meeting of the Net Zero, Energy and Transport Committee. This is our second panel on part 1 of the Land Reform (Scotland) Bill and it is made up of investors and/or investment experts. We have Rob Carlow, director of investment and operations, forestry, at Gresham House; Finlay Clark, head of energy and climate at Bidwells; and Sandra Holmes, head of community assets at Highlands and Islands Enterprise.

I remind members that I made a full declaration of interests at the start of the session, which remains extant. I also say for clarity that I have known Finlay Clark for some years because we worked together until 2006—I do not mean that, since then, we have worked against each other, but that we were in the same company until then.

I start with an easy question to Rob Carlow. For the record, could you clarify the scale and extent

of the landholdings of Gresham House and its subsidiary companies—however that land is actually held, not just managed?

Rob Carlow (Gresham House): Of course. Good morning, everyone, and thank you for inviting me along as a representative of Gresham House. From our perspective, it is obviously very positive that a voice from the forestry sector is being heard.

Let me address the specific question, because it is a good opportunity. Gresham House is significantly less influential than many people would report—I think that Gresham House's name has come up a few times during previous meetings here.

I will explain the nature of our business. We are, in effect, a financial services business with investment managers and asset managers, and we have arm's-length agreements with the various funds that we manage. In terms of direct ownership, Gresham House really owns very little land. We have an interest in some land because we take a position in some of those funds, typically at the fund launch. I do not have the exact figure, but that would correspond to a few hundred hectares of land being in Gresham House's ownership.

I would certainly argue that Gresham House is not the fourth, fifth, sixth—or whatever—largest landowner in Scotland. However, we obviously have a management interest in the land, so I am certainly not looking to suggest that we do not have influence over areas of land in Scotland. If we look at the total area that we manage in Scotland, which is almost exclusively forestry, I think that we manage about 8 per cent of the woodland area of Scotland, which is a little over 1 per cent of Scotland's land area. That puts us in context. I think that the Scottish ministers own a little over 30 per cent of the woodland in Scotland.

The Convener: What is that 8 per cent translated into hectares?

Rob Carlow: We have management over around 120,000 hectares in Scotland, give or take. I am sorry that I do not have the exact number, but that is a pretty good estimate of what we manage. That is a combination of discretionary funds, where we are engaged as the discretionary manager and we have discretionary authority over the management of the land, and the provision of services to what we call managed accounts, whereby we do not have discretionary power but we are there as an investment manager or asset manager to make recommendations to the owner of the land on how best to manage it sustainably from a forestry perspective.

The Convener: Would it be fair to say that where you are involved in managing land that is owned by a separate body, you have an interest in that body as well?

Rob Carlow: In some cases, yes. In some of our discretionary funds, we will have an interest—

The Convener: Is that the position in the majority of cases? I am sorry, but we have hedged around this for a fair while and I am looking for some clarity, in the same way that I drilled down into the matter when the John Muir Trust was here. It is fine to say, "We manage it, but it's owned by the Gresham House number 2 account", but that is not the openness and transparency that I am looking for, so I push you to be a bit clearer on that, please, Rob.

Rob Carlow: I am happy to be pushed. If we launch a new fund, it is typical for us to put circa 1 per cent of our target raise into the fund, and the reason why we do that is to demonstrate our belief in that fund. It is to demonstrate to investors that we are aligned with them. I think that we typically have a cap of about £1 million, as a general rule. It is Gresham House balance sheet money that goes into the fund, and the reason is really to align with the investors.

The Convener: Is it 1 per cent—

Rob Carlow: It is about 1 per cent—

The Convener: —of most of the separate holdings?

Rob Carlow: Yes, exactly.

The Convener: Okay. Kevin Stewart has a question.

Kevin Stewart: I am going to push you even further, Mr Carlow. Obviously, you act in the main on behalf of investors. How do we, as the public, find out who those investors are and what their landholdings in Scotland are?

Rob Carlow: There are probably two aspects to that—the discretionary and the non-discretionary. For our discretionary funds, the investors have simply made an investment in a fund so, in truth, I am not sure that that information is necessarily in the public domain for you to find out who has put an amount from their retirement fund into one of our forestry funds. You could certainly look at the land register and find out which of our funds owns which asset. If a forestry asset is owned by one of our funds, Registers of Scotland will have that information.

Similarly, for the non-discretionary funds, or the managed accounts that we have, you would look on the land register, I think, to find out who the owner of a specific asset is.

Kevin Stewart: For many people, it is not so easy to look at the land register. Over the past few weeks, we have had folk in front of us who have

suggested that all the information is available on their websites, but that is often not the case. How can you be more open and transparent, rather than folk having to do searches on the land register and so on?

Rob Carlow: I have never understood why the land register is not more searchable and why it is not searchable by entity.

Kevin Stewart: Forget the land register. Why can you not be open and transparent in your communication and on your website about what you are doing and who is involved? It is a simple question.

Rob Carlow: The simple answer is that, in many cases, there is no real reason for any secrecy, although there are sensitivities in some cases. We would typically give ourselves two, three, or possibly four years to raise capital into a fund, before we deploy the capital into forestry assets. During the capital raising and deployment period, there would be sensitivities about where we are buying assets, how much we are paying for them and the types of assets, as that is commercially sensitive information. The forestry market is competitive. For a fund that was in its deployment phase, I am sure that you would understand why it would be commercially sensitive to publish information on all the assets that we were acquiring, as well as how much we were paying for them and everything else.

Kevin Stewart: Forget the deployment phase. Why can you not publish information about the assets that you own currently and the people who are involved in investing in your funds? Can you not be open and transparent on that?

Rob Carlow: As far as I know, we have never been asked to publish that, and we have never said that we would not publish that information.

Kevin Stewart: If I were to ask you now, would you go and do so?

Rob Carlow: If you can give me a good reason and follow up with the justification for it, then we would certainly consider it. We are not obliged to do it, but there is no reason that we would not. If the Scottish Government said, “This would be helpful for these reasons,” then we would be very happy to engage in a conversation about it. You have asked us to do that, but I will not go and do that on the back of the committee meeting, although, of course, we would be very happy to discuss it. As I said, I do not see any reason not to publish the information about assets that are in active management and are mid-rotation in a well-established fund.

Kevin Stewart: You have said that your organisation has been mentioned a number of times during the course of the committee’s evidence sessions on the bill. Would it not be easier for your organisation to be more open and transparent and do what I have asked?

Rob Carlow: I would argue that we are open and transparent, and we engage with communities at all the different stages of forestry asset management. I reiterate that, if there is something that we could be doing that the Scottish Government would like to see us doing, I would welcome having a conversation about it. To date, we have not had that conversation.

Kevin Stewart: You would not publish the information voluntarily.

Rob Carlow: That is what you have said. If you came to us and asked, there would still be nothing binding us to do that. We would be very happy to do it if there was a good rationale for it.

Kevin Stewart: Openness and transparency is a good rationale.

I will leave it there, convener.

The Convener: I will move on to questions from the deputy convener, as I want to get on to the rest of the conversation, which is about the legislation, not land ownership. I assume that Gresham House complies with land ownership legislation and has declared any controlling interest in land in the land register, as has everyone else. I think that the requirement was to do that by April this year.

Rob Carlow: That is correct.

The Convener: Have you complied with that?

Rob Carlow: Yes, everything that we manage will be on the land register.

Michael Matheson: For clarity, if I go to the land register for information about your non-discretionary fund landholdings, those will be registered to the owner of the piece of land that you are assisting them to manage. Will discretionary fund landholdings be registered to Gresham House?

Rob Carlow: They will not. You are absolutely correct about the non-discretionary fund landholdings. For the discretionary fund landholdings, the fund the entity will own the asset. For example, the title sheet for that asset would have Gresham House Forest Fund VI on it, for example, and the land registry would reflect that name. The investors in that fund would have an interest in the ownership of the asset.

Michael Matheson: That is helpful. Gresham House Forest Fund VI could have 10, 20 or 30 different investors with ownership of it. Is that correct?

11:00

Rob Carlow: I suppose that it depends on how you define it. Fund VI is an open fund, but the fund that we closed before the split was circa 80 per cent from state institution and local government pension schemes, and 20 per cent from private clients—that is, individuals who wanted exposure to forestry but did not want a single asset. The local government pension funds obviously have many thousands of members, and those members effectively own the forestry assets.

Michael Matheson: Just to understand what you said in response to Kevin Stewart, you as an organisation would have no problem with publishing the list of those who happen to be in Gresham House forest fund VI, so that we can see exactly who has invested in that piece of land.

Rob Carlow: Obviously I did not make my response clear enough, because, in truth, I am not sure that I know whether we can provide the information of who specifically invests. If we are allowed to, I am not sure why there would be any sort of obstruction to that. However, I am also not sure whether, simply with the general data protection regulations and so on, we can give individual people's names or put the names of those individuals who have decided to make a specific investment in the public domain.

Michael Matheson: We can clarify that through other means.

The Convener: If only it were as easy as recording one's interests on the parliamentary register.

Let us get back to the legislation, with questions from Mark Ruskell.

Mark Ruskell: That was an interesting exchange. I note that the bill does not cover the register of controlled interests, but maybe it should—who knows?

Land management planning is obviously a way of delivering openness and transparency. Perhaps I can come to Sandra Holmes first with this question. I am interested in hearing where community consultation is working well, where it is not working well and what the barriers are. After all, what lie at the heart of LMP production are good liaison and good consultation with communities. Can you offer reflections from your perspective on how that can be improved?

Sandra Holmes (Highlands and Islands Enterprise): Yes. Highlands and Islands Enterprise very much welcomes the land management plan proposals. I am here to represent an enterprise agency, but my work is really about supporting communities in owning and managing land assets. There are lots of examples of communities working very effectively with private landowners; indeed, most community land purchases are done through negotiation, and not many have to have recourse to the legislation. That said, the legislation provides a good backdrop and helps drive public policy with regard to the Scottish land fund, which I am involved in delivering to enable community land transfers. Sometimes there are challenging relationships with landowning interests, but those interests can be public as well as private.

One of the key things about land management plans is that they are all about transparency of ownership, having dialogue and involving communities in that dialogue. Therefore, we are supportive of them. We advocated for bringing the threshold for the plans down to 1,000 hectares, and we are pleased that that has been recognised by the Land Commission. We have read the commission's recent submission to the committee, and are very much aligned with what it is saying.

Mark Ruskell: Finlay, do you have any reflections on this issue?

Finlay Clark (Bidwells): Good morning. Thank you for inviting me to give evidence this morning.

If there is a purpose to land management plans and an output that is understood and desired, I have no issue with them. My concern relates to the fact that, currently, a multitude of organisations and other things are involved in managing land. Scottish Forestry, NatureScot, the Scottish Environment Protection Agency, the rural payments and inspections division of the Scottish Government, local authorities, national planning framework 4, the Scottish Land Commission, the Crofting Commission and the national parks are all are involved in one way or another in managing land, and every landowner and land manager whom I come across and know will have plans that commit them to delivering the objectives of them all.

Do we need another plan that simply co-ordinates all those plans? If it is desired, if there is a public requirement to produce it and if it has a public benefit, I have no issue with it. However, I do have concerns that this is about simply producing another plan, which could come at a significant cost to individuals, charities and whoever the manager or landowner is. The question I would pose, therefore, is whether there is a benefit to that.

Mark Ruskell: If that work is already happening under other, more national, strategic plans, is it not just a case of bringing everything together so that people who come along to the village hall, for example, can see where the public interest is?

Finlay Clark: Yes, that sounds easy. It should be recognised that land ownership does not necessarily mean land control and that a multitude

of legal frameworks can sit behind land ownership, such as crofting tenure, an agricultural tenancy or a commercial lease. Therefore, it is not just about the landowner. For a reasonably large and complex landholding with a multitude of occupiers, it could be incredibly time consuming and, therefore, expensive to produce a land management plan. I am not against that, if the output is in the public interest and there is benefit. However, I simply question where the cost benefit analysis is.

Mark Ruskell: Rob Carlow, do you have anything to add? There is a question about how Gresham House Forest Fund VI LP, as an entity, books a village hall and tells people what it is doing. What is good consultation in that regard?

Rob Carlow: I will stay on the issue of forestry because that is where my expertise sits. As you will know, forestry is heavily regulated. We have long-term forest plans—typically, they are 20-year documents—and there are three stages of consultation. The first stage relates to the formation of the plan, on which there is a public consultation, and village hall and community council meetings are routes to doing that. Beyond that, over a forest's life, we have pretty comprehensive community engagement at the point of woodland creation and again at the point of harvesting, with regard to exactly how a forest will be restructured over time, so that is the second stage. The third stage at which it is often important to engage with communities is the point of the mobilisation of timber—timber transport—because, typically, we are moving large volumes of timber on fairly small roads.

Mark Ruskell: Sandra Holmes, I will come back to you about specific recommendations that the Land Commission has made in relation to LMPs. One recommendation is that they need to refer to local place plans—where those exist, because not all communities have the capacity, the interest or maybe even the population to develop them.

Sandra Holmes: The inclusion of local place plans—where those exist, as you say—is very helpful. A lot of work goes into community place plans, and they tend to be rooted in communities. A place plan is a spatial plan that looks at the community's aspirations for what might happen where, so it provides a lot of clarity about the community's needs. The recommendations from the Scottish Land Commission are almost about building on a lot of the information that already exists and having an online portal to make that information easily accessible. Until you see what a land management plan will entail, it is quite difficult to talk to—the devil is always in the detail—but I hope that they can be pragmatic and proportionate. The larger the landholding, the greater the significance that it might have in the community, so more detail might be needed than would be the case for smaller landholdings. However, above the threshold, there might be a more pragmatic approach.

The Scottish Land Commission has really good codes of practice and a lot of guidance is being developed in other areas to support responsible land management and land use. If templates and information are available, creating the plan should not be too onerous a task. There will be a sunk cost initially, but, once the plan is in place, it is hoped that refreshing it whenever that is required will not be overly onerous. Time spent on the overall principles of encouraging better engagement, transparency and openness and enabling a dialogue to happen, perhaps before something comes up for sale, is time well spent and, overall, in the public interest. That is why we support that approach.

Mark Ruskell: Finlay, do you have any reflections on local place plans?

Finlay Clark: Where there is genuine public interest and public benefit, I do not see why the plans should be onerous. The issue is when you find yourself with a legislative framework that becomes cumbersome and difficult, because, thereafter, the law of unintended consequences takes over. There are lots of areas in which there are consequences that were never really intended.

It is about not overcomplicating things and making them too difficult or onerous. However, it is difficult to argue when there is genuine public benefit.

Mark Ruskell: I will bring you in, Rob, on where you see the boundary. We could talk about local place plans and the urban environment, but then all the land management decisions are up in the straths and in the hills and really have little to do with the community. In taking evidence, we have spoken to communities around Aberfeldy, for example—Forestry and Land Scotland is doing a consultation in the surrounding area. There is genuine community interest there in, say, forest crofts, as well as in people taking smaller lots, which might well fit with wider management objectives for forestry in the area. Where do you see local place plans fitting into that?

Rob Carlow: In simple—

Mark Ruskell: That is about housing, ultimately, as well as management—

Rob Carlow: Sure—

Mark Ruskell: I know that you are not investing in housing and that it is not your interest, but—

Rob Carlow: Well, I think that it is our interest. From my perspective, local place plans are fantastic because they define exactly what the

community's objectives are. Typically, we come to community consultations without there being a unified community approach, but a place plan helps define that—it says clearly what a community wants to do and how it wants to interact with the land around it. If we happen to be the managers of a part of the land around the community, the process allows us to design the long-term forest plans that we need in order to deliver the long-term sustainable supply of timber—it allows those forest plans to interact with local place plans. Often, in our experience, there are very achievable outcomes with local place plans, which can be included not just in long-term forest plans but in the day-to-day management of assets. In summary, nine times out of 10, we are in favour of local place plans.

Mark Ruskell: It looks like Finlay Clark does not have any final reflections on that point, so I hand back to you, convener.

The Convener: Monica, do you want to come in on that?

Monica Lennon: Yes. Rob, do you have some examples of current land management plans and the consultation that you mentioned? I looked on your website before today and had another look today and, although there was lots of information for investors, I could not find anything on it that was for the community. Where do we find case studies on community engagement and examples of consultation? Can you give us a brief example?

Rob Carlow: I can. A starting point for that, which I hope is on our website—it certainly should be, but if it is not, I can send you a copy—is perhaps our forest charter, which defines at a relatively high level exactly how we will go about the management of those assets. In forestry, we have a lot of regulations—we have the Forestry Act 1967, the United Kingdom forestry standard and the UK Woodland Assurance Standard. We also have certification in the form of the Programme for the Endorsement of Forest Certification and the Forest Stewardship Council, which are two large international forestry certification bodies. We have a lot of things that interact, but, with our forest charter, we want to try to define how we are going over and above, in the instances when we are doing so, to ensure that we are delivering the things that we think are important, whether they relate to the rural economy or community engagement, employment, carbon sequestration or various other key performance indicators. I would suggest that document as an example—if you cannot get a copy, I will happily provide you with one.

Monica Lennon: I am grateful to hear about the document, but I am keen to get a real-world example of how you apply those different charters and best practice ideals. Could you give the committee a place-based example?

Rob Carlow: Sure. I can give you a current example—it is happening right now—of a community in the Scottish Borders. The project is in its infancy, but I will take you through it at a very high level. The Scottish Borders is a pretty key timber-growing area—a lot of softwood is grown there, there are a lot of sawmills and a lot of the rural economy is dependent on forestry in the area. There are a number of local community councils there. As local place plans become more evolved, we are trying to create a sort of forestry community hub, where rather than having to attend multiple community council meetings, there is a clearer conduit back to Gresham House to understand from representatives from each of those community councils the key points in their local place plans that touch points with forestry.

The obvious things are the low-hanging community bugbears. What frustrates people when they walk in the forests that we manage? Is it that core paths have not been cleared? Is it that signage is poor? What simple things could we address? We get very direct and immediate feedback on those things, and they are typically things that we can act on. There are some things that we cannot act on, but we can act on many of them.

11:15

An example of the requests that we get is, "Why do forest gates have to be locked? Why can't you leave them unlocked?" Our answer is that we do not want vehicles being able to drive into forests, as fly tipping is one of the big consequences of that. It is a horribly antisocial activity, and the things that are dumped can be very difficult to get rid of. If you end up with a pile of asbestos from a roof dumped in a forest, the forest owner has to pay a huge cost to get rid of it.

We need security on some of those assets, but that does not mean that we could not put in an access gate next to the locked forest gate so that a dog walker can easily get into the forest. We get other requests, such as whether we could develop circular routes and incorporate them into a restructuring or harvesting plan. We can do all those things, but we can only do them when we interact with communities as they develop their local place plans.

The project is a very live issue, and it is one on which we are interacting now. Ideally, we would tie it into the natural capital innovation zone in the Scottish Borders—I think that that is what Kate Forbes called it.

Monica Lennon: How would you try to balance public access aspirations with security? Would you

consult communities on a land management plan that would set out principles for the short, medium and, possibly, long term? That is the kind of work that you do already—is that correct?

Rob Carlow: That is just good management.

Monica Lennon: Is there anything that you would like to say to the committee about what should be different from what the Government proposes on land management plans in the Land Reform (Scotland) Bill? Would you like to see any changes?

Rob Carlow: I do not, but I suspect that the long-term forest plans that we produce will be considerably more detailed than the management plans that are required for typical land management in Scotland. That is my understanding. In truth, I do not know the exact detail of the management plans, but I do not think that we have any great concern about them.

Monica Lennon: I will ask a final question, because I know that the convener will want to move on. We heard from the first panel of witnesses that perhaps there needs to be more emphasis on biodiversity. Rather than just sustaining biodiversity, the land management plan should be a tool to improve and increase biodiversity. Do you have a view on that?

Rob Carlow: Certainly. I mentioned UKFS and UKWAS, and all the assets that we manage are dual-certified under PEFC and FSC. The UK forestry standard is on to its fifth edition since it was first launched in 1998, so that document goes through pretty regular reformation. During my time in forestry, we have been taking on the ownership of assets that were established in the 1970s. They were planted with the maximum amount of a single species that you could possibly get. What we have now under UKFS is a 65 per cent maximum of a single species. We then need to have a minimum of 10 per cent of a different species, 10 per cent, I think, of open ground and 5 per cent of broad-leafed trees.

As we restructure the assets that we manage, we are converting them into what we call a modern forest, which, I would argue, gives biodiversity a great deal of recognition. It is not just looked at at a single-asset level. What we are trying to do, both with the assets that we manage and with the adjacent assets that we do not, is link up biodiversity corridors. When we create new forests—when we do woodland creation—we have the opportunity to make sure that the landscape change that we are trying to enact when we design the asset interacts with the environment around it.

For example, having riparian planting down watercourses is a standard thing to do. We also link up different habitats, so if there are areas of ancient woodland or simple broad-leafed trees on the side of a hill, we make sure that anything that we are establishing works in conjunction with that.

I could go on and talk about how we restructure forests and how we make sure that we are harvesting forests in the appropriate way.

Monica Lennon: No, that is okay. My question was just about the land management plan, because the committee's job is to make recommendations on the bill and say whether we think that it is rubbish or needs some tweaking—other views are available. My question was really just to find out whether you agree that we need to enhance biodiversity through land management planning.

Rob Carlow: Yes, I agree.

Monica Lennon: Thank you.

The Convener: I am going to move on to more open ground and leave trees—which, thankfully, do not cover all of Scotland, yet.

On land management plans, I have a question for Sandra Holmes. Finlay Clark made the point that, sometimes, landowners might not have a controlling interest in the land that they manage—that is, there might be other interests, such as crofting or agricultural tenancies. Would it be appropriate for the land manager to draw up a land management plan if he or she could not affect the outcomes? I am thinking of HIE and its involvement in crofting estates. Although it might want to do something, crofting law still dictates what can and cannot be done.

Sandra Holmes: The land management plan would be missing something if it did not recognise tenanted holdings, be they agricultural holdings or crofts. In crofting, a multitude of individual crofters have rights and responsibilities in relation to the crofted land.

A lot of communities own crofting estates: the community landowner is a landowner, like any other private landowner, and it does its best to work with the crofting stakeholders. Where community landownership works best is where there is good open dialogue with the crofters. After all, if you do not have co-operation, agreement and aligned outcomes, there is not an awful lot that a community landowner, or private landowner, of a crofting estate can do.

In a lot of the crofting estates, particularly those in the Outer Hebrides, we are seeing strong alignment. The community landowner and the crofting tenants are all part of the same community, and they all have the same vested interests. Tough decisions have to be made—indeed, any management plan will involve difficult decisions—but, on the whole, there needs to be open dialogue and clear recognition that crofting is

a statutory right that the crofters have. You cannot do anything without taking full cognisance of that.

However, some of the crofting estates are doing lots of work on biodiversity and peatland restoration, and that is happening with the co-operation and participation of the crofting tenants. The same thing is happening on private estates elsewhere, too. My involvement is closely linked to community ownership of the crofting estates, but the fact that the holdings are tenanted should not mean that the landowner has no responsibilities. It is a matter of coming together and trying to find common ground.

The Convener: I understand that, but it is sometimes quite difficult to get the various parties to agree—the landowner is only a vehicle. One might think of the spaceport that is being developed in Caithness, and whether all the crofters agree with that. Drawing up a land management plan for that estate—I think that it is the Hope and Melness estate—might be quite difficult, because the crofters there do not agree.

My next question is on the Land Commission's recommendation that the size threshold for having a land management plan be reduced from 3,000 to 1,000 hectares. Sandra and Finlay, do you agree with that? If we were talking about a 1,000-hectare mixed-ownership estate, including tenancies of some description, what would be the actual cost of producing that land management plan? Moray Estates has told us that it would cost £75,000—I think that that was in relation to the Tornagrain investment—while others have said that the cost would be somewhere between £5,000 and £10,000. It could be more. What do you think it would cost, Sandra, given that all HIE personnel who might be contracted to drawing up the plan would be paid in full for their time?

Sandra Holmes: I totally recognise that, as a public body, HIE is in a different position, because we have paid staff. As I have mentioned, we advocated in our response to the consultation that the threshold for land management plans should, in our opinion, be 1,000 hectares. HIE has a lot of property interests. Most are very small-scale light industrial units, office buildings and development sites, but we also own two rural estates. I have their hectarages, if you want to hear them.

Collectively, we own about 3,200 hectares of land, most of which is in the Cairngorm and Orbost estates. We own those two estates for historical reasons. When we purchased Orbost 25 years ago, we did not intend to be the landowner 25 years later; it is largely tenanted, and we work with that community. We are actually looking to divest ourselves of our asset holding there and are currently working with a local development trust, which is seeking to purchase some land from us to create woodland crofts.

On your point about the costs, it is fair to say that the Cairngorm estate has absorbed a lot of staff time. A stakeholder management plan for the Cairngorm estate was produced some years ago, but I was not directly involved in it. As committee members will be well aware, there is a lot of interest in what is happening on the estate, which has some challenging infrastructure, so the work is taking a lot of effort and staff time. Engagement with the community and wider stakeholders is a key part of that. In some ways, if we were not doing that wider stakeholder engagement, we would be spending more time dealing with representation, over time. As a publicly accountable body, we take representation all the time.

The Convener: How much does that cost?

Sandra Holmes: I could not possibly attempt to put a figure on it, but I could seek that information and get back to you. I have not been involved in that work, but the cost will be significant. The Cairngorm estate is unique and at the more extreme end in relation to some of the challenges with land management plans.

The Convener: I agree. I promised that I would not get on to the issue of the Cairngorms, where £25 million was sucked up in the funicular railway repairs, but I have attended three public consultations and know that the consultations keep going on. It is a never-ending story. It is probably not the right thing, and it is expensive, so it would be helpful to the committee if you could quantify the cost.

Finlay Clark, do you have a view on how much a management plan for a 1,000-hectare estate would cost?

Finlay Clark: Depending on the complexity—which could involve different land uses, tenures, ownership structures and objectives—there could be some fairly involved community engagement. I do not think that a professionally competent and qualified person could produce a management plan for a 1,000-hectare property in under a week—say, 37 or 38 hours, which would produce a pretty basic management plan.

To be worthy of inspection, the plan has to run for a significant period, because land management is sometimes slow. The growing seasons for forestry and agriculture are cyclical and slow, so if we want to see change, the plan has to run for a reasonably long period. The plan will be out of date on the day on which it is published, so it needs to be updated regularly, and to be valid and realistic.

I think that the simplest of plans could not be produced for less than £10,000, and I suspect that, if there was a complex situation on a large-scale holding, it could cost many tens of

thousands of pounds to produce a competent plan.

The Convener: Rob Carlow, under the forestry scheme, how much would it cost to produce a management plan for a holding of about 1,000 hectares? Would it be 50p?

Rob Carlow: I agree broadly with Finlay Clark. Forests of 1,000 hectares are less typical, but a simple plan, with not too many contentious points, for a forest of between 350 and 400 hectares might cost between £8,000 and £10,000. However, depending on the variables on the site, scoping exercises might be needed, and an environmental impact assessment might be required—things might grow arms and legs. An entry-level plan for something about half the size of what you are talking about would cost roughly £10,000.

Bob Doris: I will ask the same question that I asked the previous witnesses on the affordability of a good-quality land management plan. When Mr Carlow gave the forestry example, he helpfully said, "That is just good management"—that is what I have written down—in relation to engagement with communities, good stewardship of the land and the relationship in that regard. A lot of the things that we are talking about are things that a good landowner would be doing anyway, but they would be drawn together in one place, so I genuinely cannot comprehend how it would cost many tens of thousands of pounds to do something that, as nearly all the witnesses have said, good-quality landowners would be doing anyway. Something does not quite compute. Mr Carlow, what are your views on that?

Rob Carlow: In relation to forestry, it would be a 20-year plan, so a lot would go into it: a lot of design concepts would go in. The plan would need to include when harvesting was to be done and what was to be put in place of what was harvested. The first point to make is that the plan would span a long time, but we also need to consider the infrastructure that would be required, so expertise might well be needed.

A lot of the costs would come from finding the answers that would be needed to populate the plan. You could come up with the bookends of a plan and say, broadly, what you were going to do. However, if the plan is to be worth anything, there will be a cost to producing it. That might seem like a lot of money to produce a plan, but the reality is that the details, whether for forestry or for land management, will require a lot of input.

11:30

Bob Doris: I get all that, and although that answer is very helpful, I am slightly concerned that work that landowners are doing anyway and that has a cost to it will be subsumed under what will be a new endeavour for the land management plan, and that it will be quantified as a cost of the new endeavour rather than an on-going cost that exists anyway, as Mr Carlow has outlined.

Mr Clark, it sounds to me as though those tens of thousands of pounds are moneys that will be spent anyway on all the things that we would expect responsible large landowners to do as a matter of course. Will you say more about what happens already and whether there is a cost to that? Are we perhaps double-counting some of the costs?

Finlay Clark: It might help if I give an example. If we take a 1,000-hectare upland family farm in the Highlands, it will be complying with the requirements for rural payments, those of the inspections division, Scottish Forestry, if they have a forestry interest, and with SEPA regulations—in other words, the requirements of several different organisations—but they will not necessarily have a written land management plan. The typical 1,000-hectare family farm with 750 ewes and 20 to 30 cows would be lucky to turn over £100,000 a year, as a farming business, at the absolute maximum. The simplest of plans would probably cost £10,000 to pull together, and those businesses are not profitable businesses.

If there is a genuine benefit to asking a business like that to come up with such a significant amount of money, and there would be outputs that are in the public interest, let us understand those, but do not underestimate the costs that might have to be met by landowners and land managers who are not rich. It is not just about applying a blanket policy to deal with what is regarded as a specific situation around land management plans. There are many nuanced situations, so I hope that that example will help a little.

Bob Doris: It does help. I have a final brief question, which I will ask more about later. Is that an argument for a proportionate approach to what the new commission would deem to be an appropriate level of endeavour to produce a good-quality plan rather than an argument against land management plans? Is it more about being balanced in how we take this forward, rather than about not taking it forward?

Finlay Clark: Yes, I think that that is fair. It is about it being proportionate, balanced and incentivised. As I have always said, the most important thing about land is not who owns it but how it is being managed. If the objective is to promote good land management, by which I mean land management that contributes to net zero and to dealing with the climate change emergency, woodland degradation and peatland challenges, land management plans—if they are required—should help to address that kind of management

and the big gap in funding to promote those projects.

The Convener: Before we move on, do you think that it is right for the land management plans for farms and agricultural land to be for a period of five years? Surely, they must be for a longer period.

Finlay Clark: Yes. That covers only five cycles of the seasons of lambing, calving and cropping. Farmers are working in decade-long plans; they plan for a minimum of 10 years. That is why plans that run for 10 to 20 years are appropriate. One-year plans would serve no purpose.

The Convener: Rob Carlow, if you were out to buy some land for a woodland and you took on a management plan, which you were then forced to abide by, and you had to continue farming for another five years before you could plant your trees, because that was the duration of the plan, would that stop you investing in the land?

Rob Carlow: The plan would simply be something that would impact on the value, so we would value that land appropriately. We manage assets over a very long term, and our funds typically have 25-year lives, so if there were a constraint on putting trees in the ground in the very short term, we would account for that in value.

The Convener: So, would that make it less attractive?

Rob Carlow: Quite possibly.

Michael Matheson: I will stick with land management plans. The bill includes provisions that qualify earlier provisions on who can make complaints about public engagement and how it has been taken forward. At present, those provisions are quite restrictive.

A few weeks ago, the Scottish Land Commission published a paper suggesting that the list of bodies that can make such complaints should be expanded to include

"Community Councils, Enterprise Agencies, National Park Authorities, and the Crofting Commission".

Is the existing qualification for making complaints right, or should it be expanded? If it should be expanded, have the right organisations been suggested for that?

Rob Carlow: That does not sound unreasonable to me. Someone who has had input to a plan should probably be in a position to comment on the execution of that plan. It sounds to me as though all the people that you have listed would have had such input, therefore the suggestion seems to be reasonable.

Finlay Clark: If the qualification is reasonable, in the public interest and genuinely there to improve matters, I have no issue with it.

Michael Matheson: The question takes on a slightly different shape for you, Sarah, because the commission proposes expanding the list to enterprise agencies, which would include yours. Is it right that a body such as Highlands and Islands Enterprise should be able to make complaints about the handling of a public consultation on a land management plan?

Sandra Holmes: Yes. In our response to the consultation, we said that that feels as though the qualification is drafted far too restrictively. We welcome the suggestion and are happy for Highlands and Islands Enterprise to be included, along with our sister agencies. We have a local presence in many communities throughout the Highlands and Islands, so we have strong community engagement and are known to people there. If we can be a conduit, we would be open to that.

Michael Matheson: Is the list that the Scottish Land Commission has suggested the right group to which the qualification should be expanded? Is anything missing? [*Interruption*.]

I put that question to Sarah.

Sandra Holmes: To put it simplistically, perhaps the issue is the breach rather than who is complaining about it. I do not see anything that is obviously missing from the proposed list. If it were to appear in secondary legislation it could be amended more easily, which might be helpful.

Michael Matheson: I apologise for calling you Sarah, rather than Sandra.

Sandra Holmes: That is quite all right.

Michael Matheson: I will move on to another issue that has been raised, about the potential risk to a tenant from a larger landowner who might want to make a complaint. This morning we have heard evidence about the risk of repercussions. There appear to be instances in which that has been the case: landowners take offence at the idea that one of their tenants who is renting land, or a neighbouring owner of land, has complained about them. Should there be provision for anonymous complaints to be made to the Scottish Land Commission, in order to avoid such repercussions? From Highlands and Islands Enterprise's perspective, would an enterprise agency require to use such a provision?

Sandra Holmes: I do not know HIE's position on that. On our landholdings, we have engagement with our tenants. For example, Orbost estate is tenanted and we have a tenant on Cairngorm. There is very open dialogue there. I do not currently have HIE's view on our having a

broader role in holdings that we do not own, whether complaints were to be anonymous or not.

Michael Matheson: Finlay, in your experience have you come across such challenges or concerns?

Finlay Clark: That has been very seldom. Most of the relationships between landowners and tenants that I am aware of tend to have been long term. In the agricultural context, in particular, they tend to be mutually beneficial. Occasionally, relationships break down, but there are well-documented and rehearsed statutory procedures to deal with such matters. The challenge lies in how you could resolve a problem by using a mechanism that is not open. How could the two parties involved communicate in a way that might resolve it? I struggle to see how those two bits could be connected if there had been a non-open declaration. I reiterate that, in my experience, most landowners and tenants have long-term relationships that work well.

Michael Matheson: I suppose that the process works well when the relationship is good. The problems arise when the relationship is not good.

Finlay Clark: If the relationship is not open, I do not know how a problem would be addressed.

Michael Matheson: We should also recognise that there might be a power imbalance in the relationship, and we should consider how that should be balanced to manage some of the associated risk when dealing with complaints or issues.

Finlay Clark: I genuinely do not recognise the power imbalance issue, because tenants have very well prescribed rights that landowners understand.

Michael Matheson: That is interesting. Some tenants feel that there is a significant power imbalance, which poses a significant risk to them.

Finlay Clark: I have also heard that it can occasionally be the other way around.

Michael Matheson: I can imagine that.

Rob Carlow, as a landowner, would you take offence if a neighbour or a tenant on your land raised a complaint about how you had gone about your community engagement and taken forward your land management plan?

Rob Carlow: No, of course not. Putting on a commonsense hat, that sounds like a valid point. I agree with what Finlay Clark said. In my experience, which is through observation rather than direct practice, we do not come across a power imbalance and I do not see it, particularly in the rural landscape, although I am sure that it exists and, as Finlay said, that the argument goes both ways. We would have no objection to people coming to us and saying, “We don’t think that you are doing this right.”

Bob Doris: I want to ask a little about how we identify breaches in land management plans. The commission has recommended that the proposed new land and communities commissioner should have the power to instigate investigations into potential breaches resulting from a lack of a proper community consultation and engagement process. It has also recommended that the commissioner also have a more general power to instigate its own investigations, irrespective of who can or cannot report a breach, if the new commissioner is aware that there are reasonable grounds that there has been a breach about any matter to do with land management plans, and not specifically to do with a consultation. I would like Mr Carlow’s initial views on that.

Rob Carlow: We are well used to having a regulatory body—Scottish Forestry, which has the power to look at how we implement long-term forestry plans. That is not an alien concept. However, as you have mentioned, my worry is that, if we are to have a single commissioner, we would need to have a very impressive man or woman in post. They would have to have a broad spectrum of knowledge so that they could look in as much detail as possible at forestry and at any of the other situations that I am sure the committee has discussed in depth, including crofting, tenants or whatever. I am not convinced about having an individual commissioner. Certainly, Scottish Forestry oversees the sector.

Bob Doris: I do not want to put words in your mouth, but are you, in effect, saying that, although it is perfectly good to award the power, because of the resource that an individual commissioner might have their ability to use it might be pretty limited?

Rob Carlow: I am not convinced that it is sensible to expect any one individual to know what the appropriate course of action would be in the myriad different rural situations that could present themselves.

Bob Doris: That is very interesting. I am tempted to ask more questions, but I will not, because of time.

Finlay Clark: We all work in a world of regulation. If there are genuine breaches that require investigation, and if it is used proportionately, the power would be reasonable.

Bob Doris: It seems that there is no resistance to that. It seems to be commonsense stuff, as long as it is all proportionate.

Sandra Holmes: I agree. I do not see any disbenefit to having that power. It would be at the

discretion of the commissioner to choose whether to exercise it.

Bob Doris: That is helpful. Over the past few evidence sessions, I have tried to paint the role of the proposed new commissioner as being more proactive, their resources permitting. Of course, Mr Carlow, that could help to drive up standards for land management plans, because there could be breaches. Although those breaches may not be wilful, it could be that expertise is still being acquired around the development and implementation of land management plans, including in community engagement. If resources permit, should sample inspections take place on a thematic basis, not with a view to identifying and prosecuting breaches but with a view to identifying weaknesses in delivery, which would help to drive up standards? Would it be helpful for the commissioner to have a proactive power to do more thematic work?

11:45

Sandra Holmes: If that was done collaboratively and added value in a beneficial way, it would be welcomed. We have had experiences, particularly in crofting areas, of landowners taking over a crofting estate, not understanding crofting and getting themselves into situations through that lack of understanding.

The Scottish Land Commission's good practice team often works with landowners to support them to exercise their responsibilities appropriately. Often, they are willing to do the right thing, but it has not been clear to them how to engage and to go about doing so. I would favour coming in from a supportive angle to add value, as opposed to a more draconian angle to penalise them.

Bob Doris: Does anyone else have thoughts on that?

Finlay Clark: The key word that you used is "resource". At the moment, there are a multitude of things to do and not enough resource. Bidwells has been involved in a number of FIRNS—facility for investment ready nature in Scotland—projects on the financial gap between what is needed to deliver woodland and peatland projects and how much is needed from the private sector in order to do that. Before we embark on different expenditures, we should recognise the large cost of delivering our peatland action ambition and 18,000 hectares of new woodland every year and the big gap that exists in the funding for them.

We looked at three different projects, covering more than 3,500 hectares, and the financial gap between the public funding and what was needed to deliver the projects was between £5 million and £6 million. Before we start to put in place some really expensive things, there is a lot that we can do to facilitate the work that needs to be done to meet the Scottish Government's ambitions around net zero and climate change.

Bob Doris: I will resist asking further questions about that, Mr Clark, because of the time pressure. Mr Carlow, do you have any reflections on the points that I made?

Rob Carlow: In relation to the point about a land commissioner doing spot visits?

Bob Doris: Yes—they would not necessarily be to catch the landowner out but to see what is happening out there in the real world and make recommendations about how land management plans can be improved more generally.

Rob Carlow: I am a believer in common sense, and that sounds like a commonsense thing to do. I refer to what I said a moment ago: I am not convinced that having a single individual commissioner is the appropriate approach for that position. However, it seems practical to go out and see what is happening in the real world.

The Convener: Thank you. Douglas Lumsden, you are up next.

Douglas Lumsden: I will move on to section 2 of the bill, on the community right to buy and the registration of interest in large landholdings. The bill proposes that a 1,000 hectare threshold for prohibiting and notifying land transfers would be appropriate. Do the witnesses agree with that?

Finlay Clark: I go back to my earlier comment that it is not so much about who owns the land as about what is happening to it. In one of the roles in my day job, I am secretary to the Association of Deer Management Groups. In that role, I deal with a lot of big-scale land management issues including the herbivore impacts over tens of thousands of hectares of land.

A key aspect of delivering collaborative management is that those large landholders are good at communicating with each other and agreeing what should happen at a landscape scale. That goes back to the Scottish Government's objectives about the uplands. The challenge in a 1,000-hectare area of landholding comes when it ends up being made of lots of small landholdings. Getting lots of small landholders to co-operate for the greater good and deliver landscape-scale projects is really challenging.

Douglas Lumsden: Does anyone else have a view on the 1,000 hectare threshold?

Sandra Holmes: We agree with the 1,000 hectare threshold and advocate that it should apply to the entities' ownership collectively, particularly in localised areas where there might be multiple holdings under the same control. The

threshold should apply beyond single or composite holdings.

Douglas Lumsden: I will move on to my next question. Even those with what are classed as large landholdings of 1,000 hectares would have to go through the community right-to-buy process if they wanted to sell a small part of that land—for example, a house. Do you think that that is right, or should there be some flexibility to ensure that those landholdings are not caught?

Sandra Holmes: I would welcome a pragmatic approach when it is perhaps not in the public interest for very small areas to go through the process.

From our experience, we would very much welcome the community right-to-buy provisions, which I know are being reviewed separately from the legislation. If the community right to buy were easier for communities to act on in a more proportionate way than is currently drafted, it would encourage them to be more proactive outwith land being offered for sale and making timeous registrations, which would have far more benefits to them. It would also potentially not stymie land transactions by their being caught up in the process if there is no interest. A simplified community right to buy or an ability for communities to register an interest in assets of significance or importance to them are ways in which that could be done, which might be easier in practice.

Douglas Lumsden: Finlay Clark, do you think that what is set out could stymie some land transactions?

Finlay Clark: It would be incredibly challenging—it is the law of unintended consequences. In today's world, even the simplest small corrective conveyance will cost several thousand pounds. I do not know whether anyone has had the unfortunate experience of having to buy a piece of land that they occupy but find out that they do not own, but even the simplest small transactions can cost several thousand pounds. I suspect that adding that layer of complexity will be extremely challenging for many people on both sides of that particular transaction. It would be a debilitating piece of legislation to introduce as it stands.

Douglas Lumsden: As the bill stands, do you think that it would prevent many of those transactions from happening?

Finlay Clark: It would make them difficult, because so much difficulty and cost would have been added to the process that both the acquiring person and the selling person probably could not afford to go through it. It is a really challenging process.

Douglas Lumsden: The Land Commission has recently proposed that "de minimis considerations" be taken into account. Do all witnesses agree with that?

Finlay Clark: I agree as long as the approach is proportionate, pragmatic and reasonable. "De minimis" can mean many different things, so I agree as long as it is not there to stop reasonable, normal transactions.

Douglas Lumsden: Rob Carlow, do you want to add anything?

Rob Carlow: I agree. Finlay has far more expertise in that space than I do, but I agree with the first point. Obviously, some definition would be required around those levels if "de minimis" were included. However, it looks to me as if it could cause a bit of a clog in the Scottish rural land economy.

On a wider point, and from a forestry perspective, we take the view that lotting is not helpful—Finlay has just referenced it as well. I would happily list eight or 10 unintended consequences thereof that would impact forestry—things that would all be detrimental. If we, as a country, fundamentally believe that wood is good and that we want to deliver on the Scottish Government's plans for increasing afforestation and improving our current timber insecurity, any legislation that we put in place must surely be a facilitator, not a blocker, of forestry. Just from a practical perspective, lotting is a blocker of forestry on a number of fronts. I am very happy to give examples of why.

Douglas Lumsden: I think that we will speak about lotting later, so I will hand back to the convener at this point.

The Convener: I do not know what the deputy convener will speak about, but he wants to ask a question.

Michael Matheson: I am conscious of witnesses raising the concern about the potential for unintended consequences around some of the thresholds that have been set and how they might impact on land. Would it be more appropriate to deal with any threshold issues through regulation as opposed to the bill? From a parliamentary perspective, it would mean that you could change the threshold without the need to go back to primary legislation. If significant issues started to emerge, you could deal with them within months, through the introduction of regulations to the Parliament. Would that be a useful safeguard against any issues being brought about through unintended consequences?

Finlay Clark: There are a lot of challenges with lotting from a practical land management perspective. If the ambition is to deliver land

management that contributes to the work on the climate emergency, biodiversity net gain and improving the diversity of land ownership, there has to be a much more nuanced approach than attaching a very unwieldy figure to how people dispose of land.

For example, if someone has 10,000 hectares of land and they chop it up into 10 different segments, how do people go from one segment to the next without access rights or the ability to get there? There are all sorts of downstream management issues and a whole load of practical land management complexities attached to that, which will not be in the best interest of delivering good land management across Scotland at a landscape scale. It is challenging.

Michael Matheson: Okay. Do you think that the community right-to-buy provisions in the bill strike the right balance on private and public interests?

Finlay Clark: I will say what I said in my previous comments: it is about good land management. If the bill can help to deliver good land management, regardless of ownership, that is a good thing.

Michael Matheson: Rob Carlow, do you think that the bill strikes the right balance between public and private interests on community right-to-buy provisions?

Rob Carlow: In truth, I struggle a bit with that. In many ways, I do not see the need to add to or to further refine the community right to buy. It was mentioned that it is being consulted on at the moment. Good legislation was put in place to allow communities the pre-emptive right to take ownership of land, and I am not sure that any further legislation is needed, although there are things that could be done to improve some other parts of the land market.

Sandra Holmes: It is very challenging to get that balance—and there has to be a balance. As drafted, the bill makes it very challenging for communities to act within the timeframes that are proposed. The Land Commission's proposal to extend the hold period from 30 plus 40 days up to 90 days makes it a wee bit less challenging but still challenging.

I reiterate my point that if communities are encouraged to be more proactive with a streamlined community right to buy, to get registrations in and not to respond to an opportunity within a timescale that is dictated by the landowner, and if they can choose when they might wish to sell, the community will respond. It would be preferable if the community were to notify the landowner, through land management plans and so on, that their intention was to have a registration of interest that is timeous. It is about advocating for community right-to-buy legislation to be made a wee bit easier for communities to utilise.

The Convener: Before we leave the question on lotting, let us say that a 1,500 hectare estate that was suitable or partly forested came up for sale. If somebody decided that they wanted to invest in it or that they were going to get some investors together—whether a bank or individuals—they would know that, when they came to sell it, which they might be forced to do early, they would have to go through the lotting process, and, if the Land Commission's proposals were in place, there could be a 90-day hold on the sale. Do you think that that would put investors off investing in that potential 1,500 hectares of woodland, which might meet the Government's net zero targets?

Finlay Clark: It is quite tricky to answer that question. Investment in Scotland has been much more challenging during the past two or three years. We recognise that, to deliver the woodland expansion ambition and the peatland work that needs to be done, private money is needed. Any barrier to private money helping with good land management that delivers on the Scottish Government's objectives is quite a difficulty.

12:00

The Convener: Rob Carlow, I think that many of your holdings are under 1,000 hectares, but, if the threshold was dropped to 500 hectares, would you be worried about having to go through a lotting process? Would you wish not to be exposed to those sorts of challenges if you were going to invest in forestry?

Rob Carlow: I think that your initial question was about whether it would theoretically discourage investment. For us, it is not a question of whether it would theoretically discourage investment—it is discouraging it. We have examples of people who have been investing in the Scottish rural economy for the past five years now saying that even the discussion around further reformation of land in Scotland is enough.

A large part of my job is understanding the value of an asset pre-acquisition. When you have uncertainties around the residual value of an asset—we are talking about what happens at the end of the life of that ownership—it is almost impossible to put a value on it other than a very low value. You can work out what it would be worth if you cut it up into its constituent parts, but that value is different to where the market is today. Investors would no longer invest in forestry assets if there was an uncertain outcome. Bear in mind that investors in forestry today are typically very large-scale institutions such as pension funds, and the one thing that pension funds are 100 per cent

of the time is risk averse. They are conservative, long-term custodians of capital, and the last thing that they would do is take a risk on an unknown exit value at some point in the future.

The Convener: They are conservative with a small "c". Mark Ruskell, the next question is yours.

Mark Ruskell: I was going to ask questions about lotting, and we have explored certain aspects of that, but I have a residual question in mind. We are dealing with hypotheticals here, because it is ultimately a ministerial decision, and ministers will look at viability and decide whether it makes sense to lot. It has been put to us in evidence that an outcome of lotting could be that Gresham House or another organisation might see lotted areas of land and say, "This is great—we will just buy these up for our shareholder," and then, in effect, re-amalgamate land into a single consolidated holding for all intents and purposes. Is that a concern from the other side? Where there is a genuine case for lotting that is in the public interest—perhaps not in commercial forestry but in another setting—do you see the potential for organisations such as yours to, in effect, buy up and re-amalgamate forestry?

Rob Carlow: That is very unlikely because of the uncertainty around it. We would not invest in a 20 or 30-hectare block of forestry, so it is unlikely that we would develop an aggregation strategy, which is what you are describing, that would target 20-hectare blocks in the hope that we would secure enough in a contiguous block to find and realise the benefits of large-scale management.

That bleeds into another point. Yesterday, I had a cursory look online at currently available forestry assets under £1 million on the periphery of urban areas. I did not add up the values in my head, but I think that there was probably between £50 million and £100 million or so worth of assets there. Those are all areas that communities could be interested in. We are not going to buy those assets, and it appears that communities are not going to buy them, because they have been sitting on the open market for some time. That led me to think, "Why is that?" We are in the business of buying and managing assets on behalf of our clients, so why are we not buying those assets? The reason for that is that it is cost prohibitive to buy a small 20-hectare block of mixed forestry in the knowledge that you are going to have to put in a bell mouth and an access road, and you are going to need a plan. The chances are that you would need to fence the perimeter of that 20 hectares. If it was a square with a 2,000m perimeter and it cost £15 a hectare to fence it, you would need just over £30,000-worth of fencing. Those are all big-ticket items on a small 20-hectare block. The reality is that it is not cost effective to buy such a block, so we would never look to buy small assets in those areas or any others. It just does not make sense.

Mark Ruskell: You make a case for a blanket exemption for commercial forestry, but is it possible that there might be an element of seminatural or ancient woodland in a commercial forestry holding that could be lotted off to a community interest or another interest that has a completely different type of objective?

I am trying to think of an example where potentially—it is all about potential—it would make sense for ministers to step in and say that a piece of land could be brought into wider conservation. It might not be relevant to the restructuring or commercial development of the forest, but they would see it as a potential lotting decision.

Rob Carlow: Certainly. Our interest is in the integrity of the productive forest, which includes the open ground that we need to support the productive elements, including broad-leaved trees. It is all part of the same forest. Often when we buy forestry assets, some areas—typically, those at the bottom of a hill—are simply too good to put trees on. There are lots of constraints on the land that we can use for forestry. At the moment, we will look to split those parts off and remarket them on the open market. As long as we are maintaining the integrity of the productive forest, though, I am very happy.

Mark Ruskell: Sandra, do you want to come in on that?

Sandra Holmes: I will do so very briefly. We are in favour of lotting. We have had a long journey with land ownership, which will continue for some time because of our current concentrated pattern of land ownership. The lotting provisions are one element of the proposals that will help with diversification. From that perspective, there is a public interest case, notwithstanding what my colleagues on the panel have said.

We also see private landowners lotting their estates, for various reasons, before they sell them. There are, therefore, two sides to lotting. For diversification reasons—not only for communities, but for other interests—we would have an opportunity to purchase smaller areas of land, which we would welcome.

Mark Ruskell: Would you be concerned about reaggregation of land after lotting?

Sandra Holmes: That is not something that we have given thought to. It does not seem to me to be the easiest way to proceed—it is quite complicated to get to the overall outcome. If there is a concern there, I cannot add value to our discussion of it, unfortunately.

Mark Ruskell: Finlay, have you any reflections on that?

Finlay Clark: No—not particularly.

Mark Ruskell: Okay. Related to that is the transfer test. The original recommendation was for a public interest test. You will have heard our earlier witnesses talk about the advantages of that, rather than a transfer test being applied to the seller before sale. May I have your reflections on that? I go to Sandra Holmes first.

Sandra Holmes: We are a bit disappointed because the transfer test is a dilution of the public interest test that has been proposed. It does not do anything for land that is not being offered for sale or help in assessing the merits or otherwise of the proposed purchaser, other than perhaps by limiting a purchase to one lot. We think that it is a dilution of the original intentions behind the bill.

Finlay Clark: I have no particular comments on that.

Rob Carlow: My only point, which is more from a layman's perspective, is that the public interest test is something that people can look up—it is better defined. In my understanding of the two tests, I would say that the public interest one seems to me to be a much more established route. If I were to go and ask our lawyers to define the public interest test for me, they could probably do that, but I am not sure that they could do so for the other one. I like having that sort of clarity.

Mark Ruskell: Do you see the interests of your clients, in particular those in commercial forestry, as being a version of the public interest? Do they clearly lie within the public interest?

Rob Carlow: I am sorry—do you mean the disclosure of those clients?

Mark Ruskell: You would see the activities that are invested in commercial forestry as being clearly within the public interest. Is that right?

Rob Carlow: Yes. It is about large-scale land management, so I do not see why not.

The Convener: Monica, do you want to follow up?

Monica Lennon: No. However, a number of other points that have been made do not sit comfortably with me. I am thinking about comments on taxation and community wealth that were made by the previous witnesses. We have not talked about the amount of public funding that Gresham House benefits from—for example, from the Scottish National Investment Bank—and the foreign interests that have been reported in the media. We members sometimes struggle to understand how to debunk those things and discover what is true.

Rob Carlow, I think that you have come here today and minimised the influence that Gresham House has. You have said that it is quite a minor player in land ownership. Do you want to leave the committee with the impression that you are very much a marginal stakeholder as regards land ownership and land management, or have you a more significant role in Scotland? Certainly, the impression that you have given is that you are really on the margins of the debate.

Rob Carlow: We manage assets in a very niche space, and we have been doing that for 40 years or so. Another reason why people do not want to take on small assets is that forestry is complex. It can be difficult to translate value that is standing on the side of a hill into pounds and pence. There are a lot of steps that you need to take. We bring an element of expertise that is not particularly easy to find. From that perspective, we are very glad to be talking to the committee today, and I hope that we can at least add value to the discussion through our experience of land management in Scotland.

The numbers that I gave you are the reality. We are not landowners: we manage assets on clients' behalf, through arm's-length relationships. We could be fired as managers, just as anyone else could.

That is our role, but I do not want to suggest that we do not have influence, because we take active management decisions about the land, we design and sign off long-term forest plans, and we work with woodland managers to populate plans, so we certainly have an influence. However, I often think that that influence is overstated. It is very easy to say that we are the X-largest landowner in Scotland, but it is simply not true, and if you want to quote a factual statement, that is not one. So, I am stuck between two points, here.

Monica Lennon: It is helpful to get that on the record. We might revisit the matter in the future. Thank you.

The Convener: I think that that is enough advertisement of Gresham House. We shall move on to Rhoda Grant's questions.

Rhoda Grant: First, I will address a couple of questions to Sandra Holmes. You talked about the community right to buy. How could we make that easier? Are there simple things that we could introduce to the bill that would make it easier for communities to buy?

Sandra Holmes: At the moment, the Scottish Government is doing some in-house research into options to improve the community right to buy. Community right-to-buy legislation was implemented in 2004, so we have had it for over 20 years, during which fewer than 30 acquisitions have actually gone through under the legislation. It is a really helpful piece of legislation, but it is very onerous for communities, which have an awful lot

of work to do before they can get their registration in place.

Our experience is that communities are dealing with a lot and do not have much capacity to spend a lot of time on developing an application, getting community support, doing various bits of mapping and putting forward a case for registration. It would be a better use of communities' time if there was streamlined support so that they could submit a note of interest, then have more time to develop the application, if the opportunity came up.

At present, communities also have to be set up in a very specific way to be able to use the legislation, so it would be better if those requirements could be reduced so that they could more easily submit a note of interest, then become compliant if the opportunity were to arise.

Looking back at how the community right to buy has been rolled out over time, I note that there was a lot of interest in the legislation when it was first passed, but a lot of communities have not re-registered at the five-years stage, and they fall off the records at five years if they do not re-register. As they have no indication as to when an opportunity might crystallise, it is difficult to maintain the effort, first, to put registrations in place, and secondly, to keep them current. The overall principles are good, but it would be better to rework the process to make it easy at the point of application.

Rhoda Grant: Would there be a greater chance for communities to have the right to buy, for example, landholdings that were not being managed in the public interest, in the form of compulsory purchase?

Sandra Holmes: I am aware that there is a review of compulsory purchase. I am not close to the detail of that review. It tends to be a measure of last resort for the public sector. HIE has compulsory purchase powers, but if we were looking to make a difference, that would not be our first course of action.

The thing that I always feel is missing from the suite of community right-to-buy measures is compulsory sales orders, which have been talked about. That would mean that someone who is sitting on or land banking an asset and doing nothing with it could be forced to sell if they had no further plans to do anything with the asset. That would create an opportunity for anyone who might have plans and the ability to do something with the asset. Such assets are often difficult assets and might be more of a liability. So, it might be interesting to look at compulsory sales orders. They could be very beneficial to communities.

Rhoda Grant: I have a slightly niche question about crofting. Should the bill include a provision to compel landowners to put more land into crofting and to transfer small holdings into crofting legislation, rather than creating a whole bureaucracy around small holdings?

Sandra Holmes: I am not close to the details in relation to small holdings, but HIE is a strong advocate of crofting, as I am, personally. The ability to extend crofting beyond the crofting counties would be very useful. When we look at our more remote and rural areas, it is clear that the population pattern very much reflects crofting holdings. Crofting holdings contribute a lot in terms of community wealth building, in that there are lots of stakeholders who are creating homes and opportunities, managing small bits of land and re-rooting communities, so there is a lot of scope for crofting to contribute to many of the bill's objectives.

Rhoda Grant: If I may, I have a tiny question for Rob Carlow about a public interest test. If an investor invested with you to offset polluting behaviour elsewhere—investing in forestry to make themselves look less polluting—would that be in the public interest? Would that pass a public interest test? Do you collect that information from investors?

Rob Carlow: That does not sound like something that would pass such a test. It is not something that we do, so I am afraid that I cannot offer much information on it. We are in the business of growing sustainable timber over the very long term. In some instances, some woodland-creation sites can be eligible to generate carbon credits, but it is very difficult in the UK to marry up carbon credit generation and the long-term production of softwood, because of the way that the woodland carbon code is designed. Therefore, our focus is on productive forestry to produce timber and not on the generation of carbon credits. We have some assets that generate carbon credits, but, for us, it is a bit of a by-product from our business case rather than an investment focus.

The Convener: I have one techy question—maybe it is too long since I was a surveyor. The Scottish Land Commission has proposed that

"Ministers have the ability to make a fair market value offer".

That is not a definition that I ever used in my past work. Do you understand what "fair market" means? Is that the same as an open market, or are those two different things, Finlay Clark?

Finlay Clark: My interpretation is that a willing buyer and a willing seller reach a fair market value.

The Convener: That is exactly the same. Is that laid down somewhere?

Finlay Clark: I would have to check that, but that is my understanding of it.

The Convener: I hoped that that was what it meant, but I could not find it laid down definitively in any valuation manuals that I remembered from my days of being a surveyor, which are long gone.

I have a final, very straightforward, yes-or-no question that I have asked everyone who has come to give evidence on the bill. The cabinet secretary has said that the Land Reform (Scotland) Bill aims to deliver strengthened rights for local communities and greater involvement in decision making, development that takes account of local need, more diverse land ownership, environmental purposes and modernisation of the legal framework for tenant farming and small holdings.

As it stands, is the bill going to deliver that, Rob Carlow—yes or no?

Rob Carlow: No.

Finlay Clark: Nope.

Sandra Holmes: May I give two answers? Yes in relation to community involvement and the environmental elements, but no in relation to the diversity of land ownership.

The Convener: You must be a politician—trying to give two answers to the same question.

Rob Carlow: I want to say—particularly to Mr Stewart and Ms Lennon—that what I am taking away from today's meeting is that there is some ambiguity around the understanding of what Gresham House does. I want to reiterate that, if members have follow-up questions, my email addresses and my phone number are readily available. We are very happy—we would hugely welcome the opportunity—to engage with you both, either through correspondence or face to face. I want to state that so that that is absolutely clear.

The Convener: Okay, that will be on the record, and it will be up to the committee members whether they want to take that forward.

Thank you very much for coming to give evidence this morning. We will now move into private session.

12:19

Meeting continued in private until 13:08.

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