

CITY OF EDINBURGH COUNCIL (PORTOBELLO PARK) BILL

OBJECTION 47 – STEPHEN HAWKINS

I wish to object to the whole of the Portobello Park private bill as proposed by the City of Edinburgh Council (CEC). I believe that as a resident of Portobello and a user of the Park that my future use and enjoyment of this urban green space will be taken away should the school be built on the park. My association and enjoyment of the Park extends back beyond the time when I came to live in Edinburgh in that I used to travel from the south in the latter 1970s along the A1 and I welcomed the view across the Park to Fife and the river. It seemed that here was a civilised, sensible society that appreciated the merit of open space.

I pass the park most work days and at the weekends I enjoy walking across this area of urban green space on the way to Brunstane. With its fringe of trees and the ability to get away from the bustle of speeding traffic it contributes to my relaxation and wellbeing. There are times when I use it for simple recreation and this enjoyment will be destroyed should the Park be developed with its large tarmac area of car park and 5 m high fencing.

The provision of a new school is something that I welcome and is long overdue, however, I firmly believe that the vast majority of the benefits claimed for a school on Portobello Park will be delivered by a new school building wherever it is located. CEC has identified suitable alternative sites, if they are not suitable then they would not have been identified and preliminary design work carried out to confirm that a school can be built there. In particular, the Baileyfield site offers overall a more beneficial solution for everyone in Portobello whilst keeping the existing parkland for future generations to enjoy.

I object to the use of this private bill process for CEC to circumvent the prohibition of building on this inalienable common good land. The illegality of developing the Park was established in the appeal hearing following the request for a judicial review by

Portobello Park Action Group. I ask you to familiarise yourselves with the whole sorry history of the mis-handling of the project by CEC to provide a new Portobello High School. In particular I ask you to note:

In 2003 or thereabouts, CEC drew up a plan to re-build the school on the current site. There was no objection from the school community, or others, to this;

CEC prioritised other schools for replacement that were in a better physical condition than Portobello High School and which did not have the circulation difficulties of a multi-story school;

CEC saw an opportunity to pay for the school by the sale of both the existing school site and the golf course adjacent to the park. It was stated by a leading councillor that a replacement for the golf course had been bought. This was not so;

The council originally denied that the Park was a common good asset;

The council said there was no legal impediment to building on the Park;

A park usage survey was undertaken that had no comparator parks surveyed in order to establish whether the usage of Portobello Park was normal for a park where no investment by the council has taken place. The scale of use by footballers was totally incorrect, being played down, with all the challenges to the accuracy of the survey being ignored by CEC;

The council originally ruled out an alternative site, Baileyfield, but later showed that it is feasible to provide a new school on this site;

The original choice of the Park was qualified by the condition that replacement open space would be provided. The council later reneged on this commitment; CEC, under pressure from a vocal minority in the community, prioritised Portobello High School before two other secondary schools for replacement by dismissing the risk of a legal challenge;

Before the successful appeal, two senior administration councillors threatened to sue the action group opposing this proposal for £75,000 in an attempt to intimidate and put pressure on them to drop the appeal; CEC has colluded with some in the community and have encouraged behaviour to help prevent open and free debate on this issue;

The council, by its failure to manage risk and not understand the legal situation, has delayed the provision of a much needed new facility by a minimum of four years and now seeks the Scottish parliament to extricate it from this mess of its own creation.

Alternatives

My understanding is that a private bill is only to be pursued when there is no alternative to achieving the end result. This begs the question as to what result CEC wants to achieve. This can be reduced to two possible aims: providing a new school or building on the park. There are many other ways of providing the new school, or education, for the young people of Portobello. However, there is only one way of building on the Park and that is by getting the approval of parliament through this private bill. So the logic is that the council wishes to build on the Park at all costs. And to date they have wasted over £250,000 of tax payer's money in legal fees alone pursuing this goal.

Consultation

During the course of this project there have been several consultations but none of them have been conducted in a manner that would facilitate a robust debate on equal terms that allowed the important issues to be raised and interrogated in order to arrive at a better decision. Democracy is not a simple poll of local views but a fair negotiation and balancing of competing interests – educational, social, environmental and economic needs in the present and for the future. I object to the way that CEC conducted the consultation and the simplistic presentation of a 'Yes' or 'No' for a new school thereby conflating the provision of a new school with building on the Park.

The information presented for the consultation prior to introducing the private bill did not provide a balanced presentation of the situation and any result taken from it has to be viewed with a great deal of caution as being a true reflection of what the people in Edinburgh want. CEC did not equally consult with a broad range of citizens across the city and deliberately skewed consultation towards those with connections to the primary feeder schools. The timing of the consultation over the Christmas period, when most people have their minds on other matters, supports the above assertion as many schools have special events just before the break up of term enabling the dissemination of the survey forms and information about the consultation through these events.

The council, from their website would have one believe that many consultation events were held in the community. Two public meetings were held and were publicised, however, as the consultation was a hastily drawn up affair, not all local consultation events were arranged at the start of the process. Many were arranged at short notice and very poorly advertised, often only being listed on the website. This action disenfranchised those in the community who do not regularly use the internet.

The two main public meetings were deliberately designed by the council to deflect attention from the actual process of the bill. The two opposing pressure groups, one for keeping the Park and one for building on the Park, were set up to provide the majority of the input to the meeting rather than to make a short position statement and then allow questioning of the council. After six years of argument within the community these meetings added nothing new to the debate especially with regard to the purpose of the proposed bill.

The council has never validated the consultation to ensure that the views of hard to reach groups or those in particular age groups have been represented. If this had been a professionally conducted survey it would have quickly been realised that the survey population was from a particular strata of the whole population and therefore would produce a skewed result. The checking that did take place was by auditors who were simply ensuring that the rules set by CEC had been followed. This is not the same as being able to verify that the result was accurate. There is a discrepancy between written submissions that had been authenticated as having Edinburgh addresses with postcodes and the number reported by CEC in their analysis. When asked for examples a firm refusal was given.

Interestingly the claim was often made by the CEC Project Sponsor that the survey was being conducted similar to the consultations carried out for planning applications. However, there were marked differences in that anyone who comments or objects to a planning application has their opinion open for public scrutiny. No such public scrutiny is available for this major consultation. In addition, if an elementary error is made when commenting on a planning application, such as the omission of the postcode, then the person making the comment is contacted to correct this. Again this was not done as part of the consultation process on Portobello Park.

The council, as they were asked to, could have conducted the consultation through an independent contractor with the relevant skills in conducting consultations impartially. This would have given more weight to the result of the consultation and given Parliament confidence that it does reflect the feelings of residents in Edinburgh.

This consultation was heavily slanted towards getting the results CEC wanted. This was freely admitted by one local councillor who had originally proposed locating the school on the Park. As a local authority that represents all in its area, some respondents I spoke to believed that the council would be unbiased in what they included in the distributed leaflets. This was clearly not so as the simplistic question on the consultation form was designed to elicit a 'Yes' response; after all, who would not want a new school for our children?

Other Concerns

I ask you, as Scotland's legislative body, to consider whether it is wise to overturn an established legal position to simply get a council out of a mess it has created when there is an alternative by which it will achieve the objective of building a new Portobello High School. The council has stated how relatively cheap and simple the process of obtaining a private act is and this will encourage others to follow thereby setting a precedent for this process as a way of circumventing inconvenient legislation.

This is not simply an issue of allowing a council to do what it wishes. Neither should the bill be passed because it is the popular choice of a particular section of society, living mainly within one part of Edinburgh, when the issue affects all of us and is Edinburgh wide.

The principles behind what CEC is asking for, and the legal effects on all common good assets, should be thoroughly examined during consideration of this bill. I ask you to ensure that all evidence presented is critically assessed in the Parliament's judiciary role.

I am happy to attend your committee should you wish to explore further any comments I have made in this objection.

19 June 2013