

CITY OF EDINBURGH COUNCIL (PORTOBELLO PARK) BILL

OBJECTION 52 – SHEILA COVENTRY AND 6 OTHERS

We refer to the Bill which has been introduced to make provision for an Act of the Scottish Parliament to change the status of Portobello Park so as to permit the Promoter to appropriate it for the purposes of the Promoter's functions as an education authority; and for connected purposes and wish to assert our objection to the Bill in its **entirety**.

We object to the Bill for the following reasons:-

1. The benefits that green space has both physically and mentally is beyond doubt. The outcome of research undertaken by the VU University Medical Centre in Amsterdam confirmed that green spaces create 'oases' of improved health around them. It was found that the biggest impact was on anxiety disorders and depression with Dr Jolanda Maas of the VU University Medical stating: "It clearly shows that green spaces are not just a luxury but they relate directly to diseases and the way people feel in their living environments. Most of the diseases which are related to green spaces are diseases which are highly prevalent and costly to treat so policy makers need to realise that this is something they may be able to diminish with green spaces."

The Mental Health Foundation advises that 1 in 4 people will experience some kind of mental health problem in the course of the year with mixed anxiety and depression the most common mental disorder in Britain. Given that the NHS budget has recently been cut, surely one of the legislator's main priorities is to make decisions that lessen the impact on the NHS's budget and promote both a physically and mentally healthy Scottish public.

We are a family that has lived in Portobello for generations and use Portobello Park on a daily basis for many different activities. As children we use Portobello Park for playing football and rugby and generally promoting the health of our children. We walk our dogs daily on the park and generally enjoy the existence of such a beautiful area of land that is so easily accessible.

In this day and age, we should be promoting the retention of green space and to lose such an important area will have a massively detrimental impact on us as well as to future members of our family.

2. The Scots legal system is based primarily on legislation and legal precedent. Devolved matters are legislated on by The Scottish Parliament;

a democratically elected body with that legislation being interpreted by the Courts.

The Inner House of the Court of Session, the court with the highest authority in Scotland, determined that the park is inalienable common good land and belongs to all people for all time. This decision affirms that the legal principles are not outdated and apply just as much today as they did in 1898. The intention is that the land issued for recreational purposes and the court has upheld this. The park is for all people, for all time, and not for the convenience of parents who will have children at the proposed new Portobello school for the five/six years of their secondary education.

Lady Paton states that should the Promoter's rights of appropriation be unfettered then:-

"members of the local community would no longer have any legal right or title to prevent such encroachment; so long as a local authority's plans involved a transfer of the land from one of their functions to another, they could proceed unhindered and at will; and for practical purposes the future of every piece of inalienable common good land in Scotland, notably public parks and other open space recreational and amenity provision, would be in jeopardy. Subject only to planning constraints, local authorities would be free to appropriate open space common good land, even if nominally inalienable, away from dedicated recreational or amenity use. They could construct over the land housing, offices, schools or slaughterhouses, or use it for sewerage or waste disposal purposes. All or any of these would fall within the ambit of one or other of their statutory functions"

It is not in the public interest to have a local authority permitted to undertake any course of action in respect of common good land as they see fit.

It is also constitutionally unsound for a local authority to attempt to bypass a decision made by a court which has been made in accordance with the intrinsic legal principles of Scots law.

The purpose of The Scottish Parliament is to be responsible for the laws that apply to **everyone**. Surely it strikes at the basic principles of equality to have one rule in respect of Portobello Park and another for others.

If the Bill is passed, it will personally affect us as our confidence in the ability of current Scottish Parliament to adhere to the basic democratic principles would be shattered.

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