

CITY OF EDINBURGH COUNCIL (PORTOBELLO PARK) BILL

OBJECTION 64 – ROBERT CAMPBELL

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I wish to object, in whole, against the City of Edinburgh Council (Portobello Park) Bill as, if it is passed into law, it will create a most undesirable precedent for the appropriation, by Councils throughout Scotland, of public parks located on Common Good land for purposes other than recreation.

Background

As a former resident of Balloch and Dumbarton in West Dunbartonshire; the City of Edinburgh, and now resident in Paisley, my particular knowledge relates to public parks in Dumbarton, Glasgow, Edinburgh and Paisley. While completing a MA (Honours) degree at the University of Edinburgh in 1992-6 I resided in Edinburgh's eastern suburbs and it was then that I first became acquainted with Portobello Park. Although I no longer visit Portobello Park on a regular basis, its loss for development could potentially affect my enjoyment, and that of many others, of public parks throughout Scotland.

Comment

In Portobello Park Action Group's presentation in connection with Edinburgh City Council's (ECC's) Portobello Park Private Bill Consultation the group stated, "If the Bill is passed into statute...then other Councils would follow a similar path....So other Councils were following very carefully any procedural precedent which was established (in order to) circumvent Common Good protection."

This is in fact already happening, as West Dunbartonshire Council recently announced that its preferred site for a new Our Lady and St Patrick's High School and a care home in Dumbarton is Posties Park, which, together with the adjacent Levensgrove Park, provides a most pleasing verdant prospect across the River Leven from the town centre. As if to add insult to injury, the Council also considered using Argyle Park in Alexandria as a possible site.

Back in 1995-6 the Council also tried to sell 1.5 acres of Common Good land at Dumbarton Common to the Scottish Courts Administration for the construction of a new Court House. However, this was thwarted when three Dumbarton residents took the matter to the Court of Session in Edinburgh for adjudication. In rejecting the petition brought by the Council for authority to dispose of the land, Lord MacLean commented that he did not see why the Common, which had been gifted to the townspeople in 1609 for their loyalty to the Crown, "should not be enjoyed by the people for several more years" and he stated, "I agree that the land is, and should remain, public open space available to all the inhabitants of Dumbarton". He observed that, "the Common was indeed a green lung for the town. Such a public open space used for recreational purposes is a vital amenity".

The Council then replaced the greensward on the west side of the Common with red blaise football and hockey pitches, which were, not surprisingly, unpopular on account of their rough surface. Then, in 2011-2012, the Council approved plans for the Brock Bowling Club to build a new club house and bowling green on that part of the Common, thereby denying access to the general public. This development replaced the club's existing facilities, as that site was required for construction of the new Dumbarton Academy. As a result of their earlier downgrading of the west side of the Common, Council officials were able to claim that the Common pitches were rarely used and would be replaced with superior ones at the new Academy.

In the case of Portobello Park, ECC has likewise deliberately allowed the park to fall into decline over the past decade. As I recall, the park had, until recent years, several sets of goalposts for football games which were regularly held there; a modern pavilion; various public events were held in the park and seats were placed along the pathways, which afforded splendid views towards Arthur's Seat. However, after the Council began to view the park as a possible site for a new High School the goal posts were removed; the pavilion was closed and almost all the seats were removed. This enabled the Council to claim, in its Promoter's Memorandum (para. 65), "The Park is not well used; an audit of usage of the Park carried out by Ironside Farrar in 2009 demonstrated that the Park was mainly used for dog walking, with very little wider recreational use."

In the feu disposition granted by Sir James Miller in 1898 transferring the land at Portobello to the City of Edinburgh Council it was provided that the land disposed, which also included the present Portobello Golf Course, was to be used exclusively as a public park and recreation ground for the behoof of the community. It also contained a condition against building on the park, other than buildings consistent with the use of the land as a public park or recreation ground.

Therefore, should the Bill be passed into law, thereby legally enabling ECC to build on Portobello Park, it would establish a morally repugnant precedent, whereby the expressly stated wishes of donors could be easily set aside by Councils throughout Scotland. This would adversely affect my interests by preventing me from being able to continue to use such land for recreational purposes: in particular, Posties Park in Dumbarton, which West Dunbartonshire Council recently proposed as a possible site for a re-located school.

Conclusion

Should the present Bill be passed into law it will create a most undesirable and morally repugnant precedent, whereby Councils throughout Scotland will be enabled to easily set aside the legally stipulated, express, wishes of donors of land for the purposes of public recreation. It would also encourage Councils to deliberately downgrade, or neglect, Common Good park lands in order to reinforce their case for future development. As this would affect my interests by preventing me from using such land for recreational purposes, I therefore pray that the Bill in question be refused. My cheque for the lodging fee of £20 is enclosed.

21 June 2013