

## **CITY OF EDINBURGH COUNCIL (PORTOBELLO PARK) BILL COMMITTEE**

### **CONSIDERATION STAGE**

#### **Correspondence and supporting documentation from PPAG to Committee members following 7 May Evidence Session**

Thank you for the opportunity to give oral evidence at the Portobello Park Private Bill consideration stage. We are concerned that because of time constraints at the meeting held on 7 May we have been unable to fully explore all of the evidence that is relevant and as such we feel that our evidence has been compromised. We are aware that you have had many submissions of evidence however the lack of time to explore the promoter's position in depth leaves us with a feeling of total dissatisfaction with this democratic process. PPAG was the only group of objectors that was given a time constraint (at the session on 7 May), yet it was the group representing the largest number of people, with the most comprehensive range of objections.

Our objections have been repeatedly dismissed as planning issues by the promoter and we were told on more than one occasion that the evidence sessions were not a planning inquiry, however we framed our objections around the parameters given in the private bill guidance, i.e. how the bill would have an adverse impact on our interests. Inevitably, there is an overlap between these issues and what might be considered as "planning issues" but this does not make our objections any less valid.

Throughout the long gestation of the project to replace Portobello High School we have been ignored by the council and have not felt included in this imperative development within our community. The session on 7 May has compounded that.

We suspect that there is some other time pressure being exerted other than the requirements of the normal management of the legislative process. Whilst it is agreed that a new school is required urgently, the promoter was willing to waste four years by not obtaining legal certainty over the plan to develop Portobello Park. It is now difficult to understand why a further few hours to allow us to exhaust our examination of the promoter's statements is critical.

We welcome the opportunity to draw your attention to questions we would have raised in oral evidence if time had allowed (please see appendix). Had we been able to ask these questions at the evidence sessions, we would have been able to cross-examine the promoter on their responses and we believe that this would have been helpful in explaining to the committee the evidence base and extent of our objections. Unfortunately we are now unable to do this, and we are concerned that the council may provide answers that simply raise more questions or deflect the points we are trying to make. Any issues we raise are in the context of the case put forward by City of Edinburgh Council (CEC) as promoter of this private bill, through the Promoters Memorandum, or in the consultation documentation and information sessions. Any questions we have posed can be clearly linked to information provided by the promoter during the private bill introduction, and they are therefore of relevance to the consideration stage.

Over many years the promoter has given out misinformation or has kept important information from the public. The most serious is the existence of a legal opinion from August 2008, which stated that CEC would be following a high risk strategy by building on the park unless legal certainty was obtained. We are the ones who have to live with the

consequences of this private bill, should it be passed, and yet have been treated with disdain at times by the promoter. At no time has the promoter been totally honest, even in the evidence sessions. By obtaining accurate answers to the questions, we can evaluate the true adverse impact likely to be suffered by local residents.

The promoter has made a number of statements through the course of the preliminary and consideration stages of the bill about the level of public support for the proposals, however in looking for support for the Private Bill, CEC has misled the public by claiming, amongst other things, that supporting this bill will deliver:

- A new school quicker
- A better school than at any other site
- Significant savings in financial terms compared to other options

### **A new school quicker**

Why was the option from 2003 and 2004 Atkins proposal dropped? If it had been considered in 2009, in the light of both the legal opinions available to CEC, the timescales for rebuilding on site would have been considerably shorter. Even after the court ruling in 2012, if the council had considered rebuilding on the existing 2.9 hectare site, the timescales would have been comparable to the park option. There would have been additional work and time required to design and progress the proposal through the planning system, but that is less than the timescale for this legislative process, and it is likely that a rebuild on site would have been at least as quick if not quicker than the declared preference of building on Portobello Park.

### **A better school**

The council promoted attractive images of the design for the school on the park, but failed to make it clear that equally attractive buildings with equally good facilities could be provided on the existing 2.9 ha site. We would suggest you look at the plans for James Gillespie's and Boroughmuir to see the proposals for schools elsewhere in the city.

### **Significant savings**

Financial information has been manipulated which is unacceptable. In the most recent report (February 2014) the council projected a £13 million difference by rebuilding on site. This is entirely due to an inflationary uplift (£13.6 million, or 40%), and given previous comments casting doubt on the project timescale.

Even in the unlikely event that the timescales are realistic (and we will never know, because the council will drive at whatever speed it chooses), it would be appropriate to provide a discounted present value for comparative purposes. The report to Council of 6 February said: "The main reasons for the additional cost are the necessity to undertake entirely new design, planning and procurement processes together with the additional construction cost inflation which arises due to both these fall-back options having a completion date which is far later..." but in fact the entire difference between the park option and the existing site is accounted for by the inflationary uplift of £13.6 million which was not made clear in the council report.

Once again, the reports to council present an incomplete story. After all, £47 million to the council in eight years' time is not the same as £47 million now. Full comprehensive financial information has not been made available publicly at any time, and requests to

obtain breakdowns have only been partly successful with limited information being made available.

There are related issues with the base prices used. The price used for Portobello Park is based on the Balfour Beatty tender whilst other options were based on industry standard prices. If the Balfour Beatty price was fixed, then there would be some merit in using it as an approximation, but as we argued at the last evidence session, we believe that there is a significant likelihood that the tender will have to re-run. In the report of 6 February, the council acknowledge that: "Should the opportunity to enter into the contract with Balfour Beatty be lost, an entirely new procurement process would take up to nine months". They then refer to an increase that has been negotiated on the original tender of £2.4 million, which we believe contravenes the EU procurement regulations.

There are other factors about the detailed cost breakdowns that have not been shared. It is our view that the council officials have sought to present information in such a way as to imply that the Park site is a substantially better option when the underlying justifications do not stand up to scrutiny. If the new school was rebuilt on site, there would be options such as retaining the extension which was only built a few years ago housing the highly valued sports hall. Has this been considered?

### **Evidence we were unable to cover fully due to time constraints**

We state that our evidence has been compromised because we could not, due to the time constraint put on us, fully cover, challenge or even introduce the following areas:

1. Column 341, Billy MacIntyre describes the "change of [legal] opinion" from August 2008 to November 2008. Vital evidence has been withheld of what happened between obtaining the first legal opinion in August 2008 and November 2008 when the second opinion was given. Unfortunately, despite requests, there has been a total failure by City of Edinburgh Council to respond to Freedom of Information requests for this period in connection with this area of consideration. We find it strange that there are no meetings recorded between officials and legal advisers and no written instructions or correspondence to legal advisers.
2. In the same column Mr MacIntyre suggests that the discussion about Holy Rood High School was not about the decant, but referring back to column 286 (previous session on 23 April) it is in response to a question Mr. Flockhart asked about decant. This demonstrates that the council did not want to consider any options which assisted a rebuild on site.
3. Traffic assessments, for instance why the traffic consultants changed the parameters between 2010, which showed the junction between Milton Road and Duddingston Park as being saturated, and 2013 which now shows it as satisfactory. This is only one area where the statistics were manipulated in favour of the proposal;
4. Why road user safety audits were not conducted at the appropriate stages in accordance with the CEC guidelines and why it is the contractor's responsibility to provide the final audit. This may be the case for a PPP development but in this case the promoter is the developer. To suggest that audits are only carried out after a school is built suggests either there are never safety issues with new schools or that CEC are content with locating schools on primary roads regardless of safety

considerations. Compromising on the safety of 1400 pupils and thousands of motorists and hundreds of local residents is not acceptable.

5. Why manipulated and distorted images were used throughout the consultation period which reduced the visual impact the school would have if it is built, why the impact on views have not been thoroughly considered and the impact on the protected view of Arthur's Seat not at all. The impact on some views and the townscape in general is rated as "Major Adverse" in the council's Environmental Statement that formed part of the planning application. No photomontages have been provided to represent a realistic impression of how the school will affect the surrounding area.
6. The loss of important public and private views, which will result in a loss of amenity for a great number of people, both residents and passers by.
7. We append a visual representation of how the school and the 5 metre high metal fence will intrude into the protected view to Arthur's Seat which, whilst being somewhat crude, is as accurate as those provided by CEC. The view closest to this presented by CEC is actually from 80m along Brand Drive and not from where the viewpoint is identified in the planning department studies.
8. The impact of the height and mass of the school building, which has not been accurately represented anywhere, especially for Duddingston Crescent and Park Avenue residents.
9. The effect on biodiversity and removal of an unspecified number of mature trees and Millennium planting, when this latter item was never taken into account in the assessment of sites;
10. The impact of high levels of lighting on wildlife;
11. The disruption and loss of amenity that would be caused to residents by the introduction of a goods entrance in Park Avenue.
12. The light pollution caused to residents by the high level of lighting on the site generally and the floodlighting to the sports pitches.
13. Potential noise nuisance from the pitches, from increased traffic in the area and from school plant.
14. Why compulsory purchase of the Baileyfield site was not considered in 2008 when the promoter knew there was a very high risk that to proceed with appropriating Portobello Park would not succeed;

### **Incorrect or inconsistent information provided by the promoter**

In the evidence presented by the promoter, a number of errors and inconsistencies have been identified in its statements and, without exception, these favour the promoter's position and desire to build on Portobello Park. It is more than coincidence that the errors or exaggerations only occur to present the benefits of building on the park in a more favourable light or minimise the impact of developing this site. During the many years this project has been pursued and especially during the consultation period of the Christmas

2012 period, this has led us to believe there has been a deliberate policy to mislead and misinform.

Many people believe that CEC is acting as 'honest broker', whilst disregarding the fact that CEC, in this project, is behaving just as any other developer would and is primarily driven by the financial benefits it perceives accruing from releasing the current site, in part, for other uses. If there is serious intent by the promoter to dedicate the current site for parkland then this could be part of the bill being considered instead of which there is a deafening silence on this matter in what is before the committee.

During the short period of questioning there were several instances when statements made with confidence by the promoter were shown to be wrong. These include:

15. The claim that the Council were committed to free access to the artificial pitches indefinitely – the council can change this decision within six months of making it. This Private Bill does NOT guarantee unrestricted access to high quality artificial pitches. The Community Access to School Facilities Strategy report, from 10 December 2013 makes this very clear. In the promoter's response to the Convener's letter of 11 October, the promoter writes: "The process for how access will be managed is still to be considered in detail and there is currently a review taking place of management arrangements across the city for community access to all schools. Opening times for the pitches are still to be finalised, but we envisage that these would be similar to those currently operating at other schools". After more than 18 months of this proposal being talked about there is still no detail on how it would operate, for example, how would the community of Portobello be defined to decide who is entitled to free access; who manages this process; what staff presence is required to open up changing rooms, etc? The council could get round any commitment by saying the pitches are free but there will be a substantial charge for the changing rooms which need to be booked in order to use the pitches.
16. The statement by the promoter that it had only changed its mind once about replacement open space. The council promised replacement open space in 2006, then reneged on this undertaking in 2010, only to suddenly change its mind in October 2012, when it announced its intention to create a "new park" on the existing school site, i.e. it has changed its mind twice on this matter;
17. The council has given mixed messages about the replacement open space. For example, the report to full council on 25 October 2012 it says In paragraph 3.1.23 (i) with reference to rebuilding Portobello High School on its existing site: "*Once the existing Portobello High School is demolished the remainder of existing Portobello High School site ... would be converted to open space.*" However in appendix 6, point 6.2 (p 62) in the same report it says: "*The new primary school [St John's] would take up approximately 1.2 hectares leaving 2.254 hectares available for sale*" and in paragraph 6.3 it says: "*This option would also enable the land sale to be progressed pending the school move including the potential for housing to commence in tandem with the primary school build on the central area of the site*";
18. The council insists that the bill has nothing to do with the construction of a new school, yet the consultation form was headed "Portobello **School** Private Bill. Similarly, they claim that they cannot make the provision of a new park in part replacement for what would be lost part of the bill, yet both the benefits of the new school and the new park featured prominently on the consultation form and leaflet

influencing how people responded to the consultation. This Private Bill does NOT guarantee a new park, either on the existing school site or the remaining 0.6 ha space at Portobello Park. As Billy MacIntyre eventually reluctantly conceded, the council can change its position at a future time. The statements claiming that £1m would be sent on a “new park” were used as an inducement to people to support the bill. Moreover, when the council is in financial difficulties, it is hard to believe they will have the luxury of spending £1 million on replacement open space or forgoing a capital receipt for the current site.

19. The council claimed that replacement open space was supported by two administrations – this is patently untrue as the previous administration had, at its last meeting in April 2012, refused the Green party amendment on this issue and Mr. MacIntyre, speaking on behalf of the council, knows this.
20. The claim that the idea for a “replacement park” was made in response to people’s concerns about the loss of open space when these concerns had fallen on deaf ears from 2006 - 2012.
21. The reinstatement of the park after it had been left in a parlous state was paid for from the common good fund. Appendix 1 of the report (attached) to the Finance and Budget committee of 29 August identifies the sum of £13,243 as 2012/13 expenditure and that this was used to reinstate the park following the archaeological dig is confirmed in the attached e-mail from a council officer;
22. The claim that the protected view to Arthur’s Seat would be “unobstructed”, when this view was never assessed in the council’s Environmental Impact Assessment of the planning application;
23. The claim that no dwellings would be worse off in terms of access to open space as a result of the development of the park, when the Development Management Sub Committee’s 4 December 2013 report (p 11) clearly states that: “The proposal would result in an increase in the number of households in the locality which do not have access to the expected quantity and quality of publicly accessible open space”;
24. The claim that there would be a net loss of only 0.48 ha of open space when the reality is that there would be a loss of 5.4 ha if no new park is provided and 3.24 ha if a new park is provided on the existing school site (please see attached document). The fact that only 0.6 ha of amenity space would remain as the park on the Portobello Park site is highlighted in the Development Management Sub committee report of 4 December 2013, where it says on p11: “and the retention of approximately 0.6 ha on site for enhanced amenity space does not compensate for this” i.e. the loss of the park. Synthetic pitches are not, and cannot be considered as, a substitute for freely accessible parkland;
25. The claim by the promoter that there is an abundance of open space in the area is not correct. In fact, a previous local plan, the North East Edinburgh Local Plan, identifies a deficit of open space in Portobello in paragraph 2.19 (p13), which says that: “The Council seeks to improve provision of open space giving priority to areas of deficiency; in this area North Leith, Newhaven, Craightinny and Portobello have been assessed as being deficient in this respect”. There has been no change to this deficit;

26. Information about usage in the Ironside Farrar report was incorrect, for example on p16 where it is claimed that the park was only used for seven weeks during the football season. The committee has seen usage figures provided by a council officer and submitted by PPAG last year which show that to be untrue;
27. The claim that a totally inadequate park usage survey was in any way meaningful was shown to be unfounded as the sample was so small and no other park was used as a comparator. On the same day and time, there may have been no one on Leith Links or Inverleith Park, for example, but this is not a reason to build on them.

The failure to provide equitable information on options has persisted throughout this process over eight years but was particularly biased towards developing the Park during the consultation for this bill. Alternative sites were marked down even when they offered a better option, for instance on public transport connections. Of particular note is the consultation form as it is the document that the majority of respondents would read, and more importantly, complete with their response. This was deliberately headed “Portobello **School** Private Bill”, not “Portobello Park Private Bill”, as stated previously.

The conclusions reached from the pre-introduction consultation have been arrived at from responses obtained under false pretences because of inaccuracies in the information provided by CEC. Much of the information in the consultation was to encourage a positive response in favour of the bill, it was not balanced and there were other deficiencies, a point acknowledged by the private bill committee, which renders it unreliable. The council has used underhand methods, including the use of a campaign group to generate parental support, the failure to disclose additional legal opinion that highlights the risk of their legal position, and the attempts to intimidate objectors into silence. (threats to sue PPAG, collaborating with PFANS to convene a meeting to pressurise PPAG into dropping the appeal).

## **Conclusion**

We believe that the promoter, City of Edinburgh Council, has backed itself into a corner over the new Portobello High School. A serious error of judgement was made in 2008 by deciding to disregard the legal risk of continuing with this project without court approval. The emergence only now of the opinion from August 2008, following a Freedom of Information request, vindicates PPAG's belief all along that the council had no power to develop Portobello Park and is a prime example, among many, where the promoter has not been open and transparent.

This indefensible abuse of power is central to the criticisms being levelled at the promoter. The decisions made by City of Edinburgh Council since 2008 have been based on inaccurate, misleading and incomplete information and the re-provisioning of Portobello High School should be referred back to the council for them to arrive at a fresh proposal within the current established legal framework. It would be utterly wrong for our Scottish Parliament to condone this past malfeasance by enacting a Private Bill as it is not a unique situation for cash starved councils seeking to build on common good land and parkland throughout Scotland.

There is clear evidence that there may be significant adverse impact on many city residents in a part of the city where it is acknowledged there is a deficiency of open space; this is supported by the council's own evidence that this proposal reduces accessible parkland. The promoter, in its evidence, stated more than once that it does not recognise

the term parkland and cannot define it. Perhaps this is at the root of its problem because the many supporters of PPAG have, over the course of eight years, fully understood what the threat to and loss of parkland means and have unswervingly maintained their opposition.

It cannot be lost on the members of the Portobello Park private bill committee or on the other members of the Scottish Parliament what the loss of parkland means. Portobello Park Action Group supports a new high school, a modern place for learning and the community benefits a new building will bring; however, all of these benefits will arise regardless of the site chosen. We urge you, on the basis of the evidence we have presented rather than the emotional desire for a new school, to recommend that this bill should not proceed.

Portobello Park Action Group  
14 May 2014

## ***Appendix***

### **Unasked/ unanswered questions for the promoter to answer: Category 1**

- a. Will the council confirm that they are aware that in some circumstances, Fields in Trust agree that green space need not be preserved?
- b. According to Secured By Design, lighting and security should be arranged to exclude access when there are no “capable guardians” present. What does this mean and how will it work?
- c. Will this have an impact on unsupervised access, especially by children?
- d. If individuals from the local area can book the proposed new pitches for free, can teams that currently pay to book other pitches book Portobello instead if they have a single team member from the local area?
- e. What activities will be allowed on the pitches?
- f. If there is vandalism and littering, what will happen regarding future access?
- g. The promoter's response to the convener's letter of 11 October asking about access to artificial pitches (among other things) says “ Informal access to the pitches through “cat flaps” would also be available at any time when there were no pitch bookings. Again the actual management of this will be finalised at a later date” Does the council still believe this to be workable in view of the Secured By Design guidance and the Community Access To School Facilities report?
- h. Can you provide details about number of respondents who made suggestions for the new replacement park on the existing school site? Were these all respondents who had also supported the Private Bill proposal? What % of total responses was this?

### **Category 2**

- i. At what stage in a large development would the City of Edinburgh Council usually require a Road Users Safety Audit?
- j. How many pupils are expected to cross Milton Road or Duddingston Park at lunchtimes when no temporary speed restrictions will apply?
- k. In common with all other areas in Edinburgh the pedestrian controlled lights at the crossing outside the school entrance will have to be linked to the lights at Duddingston Park so they will not respond immediately, encouraging pupils to cross when the lights are at green. How has the council assessed this safety risk?
- l. Why is it that the busy A1 at Milton Road is not regarded as a concern by the council?
- m. Where will parents drop their children off when driving them to school?
- n. The city of Edinburgh has the tenth worst road safety record around schools in the whole of the UK as evidenced by an article in the Edinburgh Evening news of 30 August 2013 (<http://www.edinburghnews.scotsman.com/news/education/edinburgh-10th-worst-uk-city-for-school-road-safety-1-3067997>) which shows a complacent attitude in this regard. Why do the council continue to downplay the road safety risks posed by siting this school on the A1?

### **Category 3**

- o. Why were to scale photomontages not provided as part of the planning application for the school to show people an accurate image of the impact on the surrounding area and the protected view?
- p. Why was the protected view of Arthur's Seat from Hope Lane not included in the assessment of views carried out as part of the planning application?
- q. Why has there never been any representation of this protected view showing the disruption to the view by the high fencing round the pitches and elsewhere within the site?
- r. Does the council have any comments to make about the significant view identified in the Parks and Gardens Strategy across the golf course to the Firth of Forth, and the impact of the loss of this view?
- s. The impact on two out of 12 of the viewpoints assessed in the Environmental Statement (chapter 6) of the planning application was rated as "major adverse" even after 15 years and the impact of a further six out of the 12 viewpoints assessed was rated as either moderate or minor adverse. The townscape impacts assessment also identified that the impact on Portobello park and Golf Course would be "major adverse" remaining so for 15 years. However, the promoter stated at column 261 on 23 April that: "I explained at the previous meeting that the new school has been designed to fit sympathetically with its surroundings". How can these two contradictory statements be reconciled and why does the promoter assert that its view takes precedence over a considered professional assessment?

### **Category 4**

- t. The pitches will be sunk down and lower than Milton Road. The floodlights will be about the height of the ground floor windows of houses in Duddingston Crescent. If deflectors don't work, as in other parks, what will the solution be?
- u. In other residential parts of the city floodlighting is subject to a 9 pm curfew but it is proposed to have floodlighting on the pitches at Portobello Park until 10 pm. Why?
- v. How will you mitigate any problems experienced as a result of light spillage from the floodlighting?
- w. Plant design has not taken place yet so noise levels are as yet unquantified. How will you mitigate the noise levels?
- x. How can you guarantee that plant noise won't be a nuisance?
- y. What impact will the increase in traffic plus 1400 extra children and over 100 teachers travelling to the site every day will have on noise levels in the surrounding area?
- z. There is a goods entrance planned for Park Avenue and LGVs and HGVs will use that. In the promoter's response to Group 1, 4.2 they say that: "The volume of traffic on Park Avenue resulting from deliveries, etc. once the school is operational is *likely* to be low. Other smaller delivery vehicles would be *likely* to use the car park entrance on Milton Road to drop off supplies." What does likely mean in this context?
  - aa. The planning application identifies that bats commute, forage and perhaps roost on the site. What will happen to any bat roosts found on the site?
  - bb. In the Environmental Impact Assessment, it is recommended that in order not to deter bats from the park that light levels be kept as low as possible. Yet in direct contrast the advice on lighting in the Police Secured By Design (SBD) report suggests an even higher level of lighting, including floodlighting of the school site (as opposed to the pitches) and a high uniformity of light. How have these two contradictory bits of advice been reconciled?
  - cc. The current planning permission is conditional. For example: "Submission of a fully detailed landscape plan and habitat management plan, including full details of the extent of the removal of Millennium Planting on the site's northern boundary will be submitted to the Planning Authority for approval". Has this been done yet?
  - dd. How many tall trees will be felled and what is the commitment to replacing with tall tree species?
  - ee. You will recall that in the assessments of other sites for the school they were marked down as they contained Millennium planting yet there was no mention of Millennium planting on Portobello Park. How much of the Millennium planting will be removed (as a % of the total amount)?

## Category 5

- ff. The Atkins Report of 2003 confirmed to the council that it was possible to rebuild Portobello High School without moving St John's RC Primary School. When and by

whom was the decision made that Portobello High School could only be rebuilt on its current site if St John's moved first and where is this decision recorded?

- gg. Have council considered rebuild of PHS with St John's in situ with longer term plan to use St John's area for artificial pitch if/when St John's is rebuilt elsewhere?
- hh. Do the council acknowledge that in both 2003 and 2004 there were plans to rebuild on site, and if this option had been adopted in 2009 when funding became available the school would be built by now?
- ii. Which councillors knew about the August 2008 legal opinion regarding the need to seek court permission to build on the park?
- jj. Can we see written correspondence, records of meetings, telephone calls and emails between council officials and any legal advisers involved in either of the QC opinions regarding these opinions?
- kk. In 2009 when funding was identified, both legal opinions were in council possession. Did the council consider the risk in deciding to pursue park option rather than rebuild on site, given there has been no evidence for discarding that option?
- ll. Why was legal risk not factored in when funding became available in 2009?
- mm. Does the council agree that a school with similar accommodation, with exception of artificial pitches was proposed in the Atkins study?
- nn. Does the council agree that it is satisfied with the design and facilities that are being provided at Boroughmuir and James Gillespie's, and that there are highly regarded school buildings on constricted sites elsewhere in the city?
- oo. In previous evidence it was stated that all physical education would be provided on site. What are the areas of physical education that are not currently provided on site?
- pp. Can the council provide a list of the off-site facilities that have been booked in the past year in respect of physical education?
- qq. Does the council have more detailed cost analysis information with fully disclosed assumptions available for scrutiny? We have made various requests to the council for figures to support some of the comparisons of costs but have had very limited feedback.
- rr. Can the council guarantee that it will not have to re-tender this project, particularly given the very high level of contractor interest in the original tender?
- ss. The council indicated at the last evidence session that they put a notice in OJEU to advise previous unsuccessful bidders in Feb 2014 and that they have had no expressions of concern. Can the council confirm that they made this notification because they are aware that changing the terms of a contract can lead to challenges by previously unsuccessful contractors?
- tt. Can the council provide a copy of the Notice in the OJEU?

- uu. Can the council advise if they were aware of this requirement to notify potential contractors when they provided the information regarding the tender/procurement during the consultation in 2012/13 and the introduction of the bill in April 2013?



## Portobello School Private Bill – Public Opinion Survey

The City of Edinburgh Council is consulting on a proposal to take a Private Bill to the Scottish Parliament in early 2013 to seek authority to use Portobello Park as the location for a new Portobello High School.

As we already have planning permission to progress the new high school in the park, the Private Bill would simply remove the legal issue that currently stops us from locating the school there. If the Council is able to use the park as the site for the new Portobello High School we would also:

- create an entirely new area of open space of roughly 2.2 hectares at the existing combined site of Portobello High School and St John's RC Primary School.
- give St John's RC Primary School the additional space it very much needs (increasing the area the school occupies from 0.6 hectares to 1.3 hectares).
- improve entrances to the park and create better paths to give everyone better access and especially people with pushchairs, disabilities and mobility issues.
- improve public paths down the edges of the golf course and introduce a cycle path along the eastern boundary.
- keep mature boundary trees wherever possible around the park to help preserve its look and feel.
- create a pleasant, good-sized grass area slightly smaller than a full-size football pitch between Hope Lane and Milton Road for recreation and play.
- provide two all weather pitches to replace the park's current grass pitch area and ensure there would be no charges for people who live in the Portobello area who wanted to book and use them when the school was not using them.
- invest £150,000 in improving outdoor play facilities in Magdalene Glen.

More information on our proposals can be found on our website [www.edinburgh.gov.uk/newportobelloschool](http://www.edinburgh.gov.uk/newportobelloschool) or, alternatively, in the information leaflet which we have produced – if you would like a copy of this to be sent to you please call 0131 469 3161.

This brief questionnaire is one way you can tell us if you support our plans and asks you to answer just a few questions.

### QUESTIONS:

**Q1** Do you support the Council's proposals to change the use of Portobello Park from a public park to being the location for a new Portobello High School?

- Yes, I support the Council's proposals
- No, I do not support the Council's proposals

**Q2.** Do you have any reasons for your view that you would wish us to consider?

**Q3.** If the Council does decide to go ahead with a Private Bill, and that Bill is passed so as to allow Portobello Park to be used as the site for the new Portobello High School, a new area of open space would be created at the existing combined site of Portobello High School and St John's RC Primary School. We can do this under the powers the Council already has so this would not actually be part of the Private Bill. However it is an important part of the proposals to use Portobello Park as the site for the new Portobello High School and we want to know what people think the best use of this new space would be. What would you like to see in that new area of open space, which would be roughly the size of three full-size football pitches, if it was created?

Please provide the following information. We are asking for this personal information in order to confirm which survey responses have come from the local community or elsewhere in the city, and ensure that only one response per individual is recorded. **Please note that this is for internal use only and no personal details will be published.**

Name .....

Address .....

Postcode .....

Please return this questionnaire either to the mailbox at the road-show, at Portobello or Piershill Libraries, or by post to Portobello School Private Bill, 1/2 Waverley Court, The City of Edinburgh Council, 4 East Market Street, Edinburgh EH8 8BG. You can also complete this questionnaire online at [www.edinburgh.gov.uk/newportobelloschool](http://www.edinburgh.gov.uk/newportobelloschool). If you would prefer to put your comments in writing this can be done either by email to [NewSchoolBuildings@edinburgh.gov.uk](mailto:NewSchoolBuildings@edinburgh.gov.uk) or in writing to the address shown above.

**The consultation period runs until 5.00pm on Thursday, 31 January 2013 and to be considered your response has to reach us by then.** The results of the consultation process will be reported to the Council in March 2013 for a decision on whether the Private Bill should be taken forward.

# Finance and Budget Committee

**10.00am., Thursday, 29 August 2013**

## **Common Good Annual Performance 2012-13**

**Item number** 8.4

**Report number**

**Wards**

### **Links**

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**Coalition pledges**

**Council outcomes**

**Single Outcome Agreement**

### **Alastair D Maclean**

Director of Corporate Governance

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# Executive summary

## Common Good Annual Performance 2012-13

### Summary

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1.1 The City of Edinburgh Council has a statutory obligation under the Local Government etc. (Scotland) Act 1994, Section 15(4)(b) in administering property held as part of the common good to have regard to the interests of all of the inhabitants of the City. In effect the Council holds the Common Good Fund for the benefit of the City as a whole. All expenditure and income relating to Common Good property, including that which is incurred from within main Council budgets, will be included in the Revenue Account for the Common Good Fund. A recharge equal to the net cost is then made against the Council for the use of the assets.

#### Financial Outturn

1.2 The unaudited accounts of the Common Good fund for 2012-13 show a deficit in year of £9,068.

1.3 The following table summarises the expenditure and income for the Common Good Fund for the year:

2011-12		2012-13		
Restated		Direct	From Council	Total
(£000)		(£000)	Budgets	(£000)
2,818	Property Costs	2	3,043	3,045
19	Other Expenditure	18	0	18
<hr/>		<hr/>	<hr/>	<hr/>
2,837		20	3,043	3,063
(973)	Rents, Fees and Charges	0	(901)	(901)
(1,845)	Recharges	0	(2,142)	(2,142)
(13)	Investment Income	(11)	0	(11)
<hr/>		<hr/>	<hr/>	<hr/>
6		9	0	9
<hr/>		<hr/>	<hr/>	<hr/>

The detailed statement of accounts is shown in Appendix 1 attached.

- 1.4 The classification of assets on the Common Good balance sheet as been reviewed to reflect their use as being for the benefit of the community as a whole. Therefore, assets previously classified as either 'Other Land and Buildings' or 'Surplus' have been reclassified as 'Community Assets'. The 2011-12 statements have been restated on this basis to provide a meaningful comparison to 2012-13. There was no net change to the final outturn position for 2011-12.
- 1.5 The Common Good Fund incurred expenditure on legal expenses of £5,390 (£5,627 in 2012) in respect of the prospective sale of 6.64sqm of land at the rear of 123 Bishop's Close which was reported to Finance and Resources Committee on 31 July 2012. The Common Good Fund will be reimbursed this cost by the purchaser on completion of the sale.
- 1.6 The sale of the land will generate a receipt of £38,000 which will credited to the Common Good account. The sale is expected to be completed during 2013-14.
- 1.7 The Council funded net expenditure of £2.142m (£1.845m 2012) on Common Good properties.
- 1.8 From 1 April 2012, £1.577m of the cash resources of the Common Good were invested with the Council's cash fund. The interest earned on this investment amounted to £10,523 (£12,217 in 2012). The interest was re-invested with the cash fund throughout the year.
- 1.9 The Council's cash fund investments annual rate of return to March 2013 was 0.67% (0.78% 2012). This performance has been benchmarked against the 7 day London Inter Bank rate. The Council's cash fund investments out performed the benchmark rate of return of 0.40% by 0.27% (0.29% in 2012).

#### Common Good Property

- 1.10 The minute of the Finance and Resources Committee on 31 July 2012 requested that the 2012/13 annual report would address the best use of common good assets to maximise best value. Members are asked to note that this will be the subject of a separate report to this committee by the Director of Services for Communities in two cycles (31 October 2013).
- 1.11 No further assets have been identified to be added to the list of Common Good properties.
- 1.12 The net value of the Common Good property holdings was increased by £4.897m (25.5%) due to net revaluation gains.
- 1.13 The deficit in year of £9,068 for the Common Good reduced the balance of the fund to £1,615,184 as at 31 March 2013.

## Recommendations

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Members are asked to note:

- i. the contents of this report; and
- ii. a further report by the Director of Services for Communities on the best use of common good assets to maximise best value will be brought to this Committee in two cycles (31 October 2013).

## Measures of success

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None.

## Financial impact

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The deficit in year of £9,068 for the Common Good reduced the balance of the fund to £1,615,184 as at 31 March 2013.

## Equalities impact

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There is no relationship between the matters described in this report and the public sector general equality duty.

There are no equalities implications arising from the report.

## Sustainability impact

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There are no impacts on carbon, adaptation to climate change and sustainable development arising directly from this report.

## Consultation and engagement

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None.

## Background reading / external references

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None.

## **Alastair Maclean**

Director of Corporate Governance

## Links

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<b>Coalition pledges</b>	n/a
<b>Council outcomes</b>	n/a
<b>Single Outcome Agreement</b>	n/a
<b>Appendices</b>	Appendix 1 - Detailed Statement of Accounts of the Common Good Fund 2012-2013

**COMMON GOOD FUND**

2011/2012 £	<b>REVENUE ACCOUNT</b>	2012/13 £
	<b>Expenditure</b>	
	<i>Property Costs</i>	
91,213	Bruntsfield Links	74,585
3,440	Burns Monument	<b>-627</b>
8,000	Calton Hill / Calton Road	38,673
33,379	Canongate Tolbooth	173
1,778,247	City Chambers	2,048,675
7,558	City Observatory	58,402
7,617	East Market Street Garage	7,994
47,392	Inch Park	49,235
19,726	Lady Stairs House	6,825
108,719	Meadows	98,852
11,362	Nelsons Monument	10,376
12,893	Portobello Park	13,243
9,153	Port Edgar Marina	0
22,038	Roseburn Park	22,896
656,968	Princes Street Gardens (including Ross Theatre and Scott Monument)	615,447
0	South Queensferry Harbour	0
13	Other Incidentals	14
<u>2,817,717</u>		<u>3,044,762</u>
	<i>Other</i>	
0	Capital Charges - Impairment of Fixed Assets	0
0	Capital Charges - Depreciation	0
19,072	Central Support Costs	18,238
<u>2,836,788</u>		<u>3,063,000</u>
	<b>Income</b>	
973,430	Rents	900,744
0	Other Contributions	110
12,479	Investment Income	10,668
<u>985,909</u>		<u>911,522</u>
1,844,474	Recharge to City of Edinburgh Council for Use of Assets	2,142,410
	0 Transferred from Fit for Future Earmarked Reserve	0
2,830,383	0 Transfer from Disabled Access Grants Reserve	0
<u>6,405</u>	<b>(Surplus) / Deficit for Year</b>	<u>3,053,932</u>
		<u>9,068</u>

£	<b>STATEMENT OF MOVEMENT ON THE COMMON GOOD FUND</b>	£
6,405	Deficit / (Surplus) for the Year on the Common Good Income and Expenditure Account	9,068
0	Net Additional Amount required by Statute on Non-Statutory Proper Practices to be credited to the Common Good Balance for the Year	0
<u>6,405</u>		<u>9,068</u>
	Whereof:	
<b>-6,405</b>	Added to (Transferred from) Common Good Fund	<b>-9,068</b>
<u><b>-6,405</b></u>		<u><b>-9,068</b></u>

**COMMON GOOD FUND**

31st March 2012		<b>BALANCE SHEET</b>	31st March 2013	
		<b>Operational Assets</b>		
	0	Other Land and Buildings	0	
19,088,036	<u>19,088,036</u>	Community Assets	<u>23,980,935</u>	23,980,935
		<b>Non-Operational Assets</b>		
0		Surplus Assets Held for Disposal		0
<u>0</u>		<b>Deferred Charges</b>		<u>0</u>
19,088,036				23,980,935
100,340		<b>Heritage Assets</b>		104,340
1,740		<b>Investments (at cost)</b>		152,905
		<b>Current Assets</b>		
	0	Debtors	0	
	170,414	Short Term Investments	91,978	
	0	Provision for Bad Debts	0	
	24,183	Balance with Loans Fund	4,591	
	<u>1,407,605</u>	Cash and Cash Equivalents	<u>1,345,400</u>	
	1,602,202		1,441,969	
		<b>Less: Current Liabilities</b>		
	0	Creditors	0	1,441,969
<u>1,602,202</u>		<b>NET ASSETS</b>		<u>25,680,149</u>
<u>20,792,318</u>				
		<b>Represented by :</b>		
		Revaluation Reserve		24,085,274
19,188,375		Capital Adjustment Account		<u>-20,678</u>
<u>-20,678</u>		Disposals/Revaluations		0
0				24,064,596
<u>19,167,697</u>		<b>Common Good Fund</b>		
	1,630,657	Fund at start of year	1,624,252	
1,624,252	<u>-6,405</u>	Surplus for year /Deficit	<u>-9,068</u>	1,615,184
369		Unrealised Gains on Investments		369
		<b>Fit for Future Earmarked Fund</b>		
	0	Balance at start of year	0	
	0	Surplus for year /Deficit	0	
	<u>0</u>	Transferred to Revenue Account	<u>0</u>	
<u>0</u>				<u>0</u>
<u>20,792,318</u>				<u>25,680,149</u>

**COMMON GOOD FUND**

	Community Assets £	Land and Buildings £	Surplus Assets Held for Disposal £	Total £	Heritage Assets £
Balance as at 1 April 2012	926,701	17,755,726	204,644	18,887,071	100,340
Restated	18,161,335	-17,755,726	-204,644	200,965	0
Revaluations increases/ (decreases) recognised in the Revaluation Reserve	4,892,899	0	0	4,892,899	4,000
Balance as at 31 March 2013	<u>23,980,935</u>	<u>0</u>	<u>0</u>	<u>23,980,935</u>	<u>104,340</u>

**(B) Information on Assets Held:-**

The Fixed Assets owned by the Common Good Fund include the following approximate numbers as at 31st March 2011

Community Assets - Monuments and Other Activities Parks and Open Spaces	20 31
Non Operational Assets Shops, Industrial Units and other commercial lettings	17

**(C) Revaluation Reserve**

Balance brought forward as at 1 April 2012	-6,299,108
Restated - Capital Adjustment Account to Revaluation Reserv	-12,889,267
Revaluation of Assets Upward revaluation of assets	-8,833,485
Downward revaluation of assets	<u>3,936,586</u>
	-4,896,899
Difference between Fair Value Depn and Historic Cost depn	0
Balance as at 31 March 2013	<u><u>-24,085,274</u></u>

**(D) Capital Adjustment Account**

Balance brought forward as at 1 April 2012	-12,667,624
Restated - Accumulated Depreciation	-200,965
Restated - Capital Adjustment Account to Revaluation Reserve	12,889,267
Net written out of cost non-current assets consumed in year	<u>20,678</u>
Revaluation Losses on Property, Plant and Equipment	0
Adjusting Amounts w/o of Revaluation Reserve	0
Other Movements	0
Balance as at 31 March 2013	<u><u>20,678</u></u>

From: Andrew Edward MacLeod [REDACTED]  
Date: 4 March 2014 15:08:38 GMT  
To: [REDACTED]  
Cc: Karen Reeves [REDACTED], Scott Thomson <[REDACTED]>  
Subject: RE: PARK EXPENDITURE

Good Afternoon,

Thank you for your recent correspondence. There are a number of cost areas associated with looking after our parks and these are funded through multiple channels – parks & neighbourhood teams, other council departments, grants bodies, the voluntary sector, central government & private organisations. Unfortunately, our existing accounting system is not designed to associate the costs incurred to an individual park. Costs are invariably linked to groups of parks and to the wider park estate, including housing areas, school grounds, woodlands, nature reserves and green corridors. It is therefore not possible without a redefinition of our accounting / costing system to provide the information requested.

In a report of 29 August 2013 to the City of Edinburgh's Finance and Resources Committee, on page 1 of Appendix 1 it is stated that there had been expenditure of £13,243 on Portobello Park. While I cannot provide a detailed breakdown of this cost as it did not come from our internal budget I can confirm that this money was used to reinstate the area cleared as part of the archaeological dig that you may have been aware took place there.

I hope this is of assistance, should you have any further enquiries please contact me on the details below.

Kind regards,

Andrew Macleod

## **PPAG ASSESSMENT OF LOSS OF OPEN SPACE IF PORTOBELLO PARK IS DEVELOPED**

From the CEC Parks and Gardens strategy we included the following accessible Portobello parkland in our assessment:

Portobello Park - 6.072 ha  
Abercorn Park - 0.809 ha  
Brighton Park - 0.864 ha  
Figgate Park - 12.614 ha  
Joppa Quarry Park - 2.337 ha  
Rosefield Park - 1.353 ha

Total - 24.049 ha.  
Portobello Park = 25.25% of the total.

Going by the Council's Development Management Sub Committee report of 4 December, i.e. that only 0.6 ha of Portobello Park would remain as amenity space, then the loss of Portobello Park (6.072 ha - 0.6 ha that they say will remain) is 5.472 ha and as a percentage of the total (24.049 ha) is 23%.

If you accept that a "new park" will be created on the current school site of 2.16 ha then the loss of accessible parkland - 3.312 ha - is 14%, which is still significant, however there is no provision for a "new park" within the bill.

At the private bill meeting on 26 March, the promoter mentioned the following parks as being closest to Portobello Park. Basing our assessment of the loss of accessible parkland on these parks the loss is still significant.

Portobello Park - 6.072 ha  
Figgate Park - 12.614 ha  
Joppa Quarry Park - 2.337 ha  
Jewel Park - 11.453 ha  
Bingham - 3.811 ha

Total - 36.287 ha

Portobello Park = 16.7 % of the total

Based on the loss of 5.472 ha, the loss of open space as a percentage of these parks would be 15%. With a "new park" it would still be amount to a loss of 9% of accessible parkland.