

## **CITY OF EDINBURGH COUNCIL (PORTOBELLO PARK) BILL COMMITTEE CONSIDERATION STAGE - ADDITIONAL EVIDENCE**

### **Promoter to Committee in response to Group 2 Road Safety and traffic concerns**

We are instructed by the City of Edinburgh Council (“the Council”) to write in respect of the further evidence submitted by Ian Ross on behalf of the Group 2 objectors in relation to traffic and road safety issues. This evidence includes a letter from Jennifer Peters, lead objector for Group 2, to Transport Scotland, the response from Transport Scotland dated 16 April 2014 and an accompanying written submission presumably prepared by Mr Ross (judging by the use of the first person) on behalf of the Group 2 objectors. We understand that this information has been forwarded to Committee members.

This new evidence was only received earlier today, having been submitted by Mr Ross over the bank holiday weekend, notwithstanding that the letter from Transport Scotland was issued almost three weeks ago and the submission relates largely to the Committee hearing of 26 March. Whilst it is not possible to provide a comprehensive response in the very limited time available in advance of tomorrow’s Committee meeting, the Council thought it important to offer some comments to the Committee before that meeting in order to address the key issues raised in this new evidence, and to correct a number of inaccuracies in the submission for the record, so that those need not then occupy any time allocated to the Group 1 objectors tomorrow. However, the Council would obviously be happy to provide any further information which would be of assistance to the Committee in response to any points arising from this new evidence.

### **Inaccuracies in Mr Ross’s written submission**

A number of the assertions made in the written submission are inaccurate.

That the Council suggested that Transport Scotland “supported” the proposals  
Mr Ross’s submission asserts that that “CEC project team claimed at the evidence hearing on 26 March that Transport Scotland in their letter of 28 October 2013 fully supported the CEC proposals for the new Portobello High School.” This assertion is completely inaccurate. No such statement was made at that meeting, as is evidenced by the fact that the submission contains neither a quote to that effect nor a reference to the Official Report of that meeting. No such statement could be found in the Official Report, as no such statement was made by any of the Council’s witnesses. The submission concludes (under point 1) that Transport Scotland neither supports nor objects to the proposals. At no point did the Council’s witnesses suggest otherwise.

- 1) That the Council suggested that Transport Scotland’s interest was not confined to the trunk road network

The submission further asserts that Mr Ross “challenged CEC’s interpretation of the Transport Scotland letter and argued that Transport Scotland was only interested in the effects of the proposed Portobello High School on the trunk road network.” However, the

Council had not suggested otherwise. At the meeting of 26 March 2014 (see Column 186 of the Official Report) Mr MacIntyre stated “Transport Scotland is involved separately as a consultee on any proposals with regard to the impact or otherwise on the trunk road network or adjacent receptors”. He then confirmed (column 187) that the response submitted on Transport Scotland’s behalf by JMP Consultants stated that they accepted there would be “no significant traffic or environmental impacts on the trunk road network or its adjacent receptors” and also confirmed that they did not require any further information in relation to that issue. This was a direct quotation from the original letter sent on behalf of Transport Scotland, and a conclusion which they repeated in their most recent letter of 16 April 2014.

2) That the Council’s witnesses did not know where the nearest trunk road was

The suggestion by Mr Ross that “the CEC team did not know where the nearest trunk road was” is also not reflected in the Official Report, as it is simply not the case. The relevant exchange is that between Mr Burns, Mr MacIntyre and Mr Ross at Column 189-190. At no point during that exchange did the Council’s witnesses indicate that they were unable to identify the nearest trunk road. The Transport Scotland letter from which Mr MacIntyre had already quoted stated clearly that the “the closest trunk road to provide strategic access to the site” is the A1 trunk road located approximately 3.2km south-east of the site (not “4 or 5 miles away”, as suggested by Mr Ross in his oral evidence – Column 190). This information is repeated in Transport Scotland’s letter of 16 April, with more specific reference to the A1/A720 junction at Old Craighall.

3) That Transport Scotland was not formally consulted in the planning process

Mr Ross claims that “Transport Scotland was not formally consulted on the Planning Application. The agency was only consulted in relation to the EIA process”. It is correct that Transport Scotland was formally consulted as part of the Environmental Impact Assessment process, however this is in itself an intrinsic part of the overall planning process. Both of Transport Scotland’s letters referred expressly to the Environmental Statement being prepared / submitted in support of the development / planning application.

4) That Mr Ross’s interpretation of the original letter from Transport Scotland was correct

The final statements made by Mr Ross under point 1 of his submission, that Transport Scotland’s most recent letter “clearly demonstrates that [his] interpretation of the [original] letter was correct” and that “[t]he truth is that CEC did not even submit the Transport Assessment for consultation to Transport Scotland” also misrepresent the evidence given by the Council’s witnesses on 26 March. On the latter point, it was never suggested by the Council’s witnesses that the Transport Assessment had been submitted to Transport Scotland for consultation.

Concerning Mr Ross’s interpretation of the original letter from Transport Scotland, he stated (at Column 190) that, “Transport Scotland said that the procedures had been followed and

an environmental assessment had been done but, because the road was 4 or 5 miles away, the proposal had no influence on it. That is what Transport Scotland's comment was about. It did not say that it was perfectly happy with the proposals that AECOM produced; it said that the issue was a delegated matter for the City of Edinburgh Council to deal with." Mr MacIntyre replied that that was not what Transport Scotland's letter said, and advised that he would be happy to furnish the Committee with a copy. A copy of that letter was provided to the Committee (copied to Mr Ross) on 14 April 2014, and Members will see that what Mr Ross suggested was in the letter was not, in fact, contained therein. The letter did not give the distance of the project from the trunk road network (which as noted above is in any event not the figure Mr Ross gave) as a reason for Transport Scotland's view, and did not say that the issue was a delegated matter for the Council. The latter point is simply incorrect – the local road network is the statutory responsibility of the local authority acting as roads authority. It is not a delegated function.

We note the comment from Mr Ross at his point 2, in relation to the most recent letter from Transport Scotland, that "[u]nfortunately Transport Scotland stated that these issues relate to the Local Road Network, and are therefore the responsibility of CEC". This merely confirms the position the Council has consistently adopted (i.e. that this is a matter which should be and has been dealt with through the planning process), and which we would have expected Mr Ross to already understand. There is nothing 'unfortunate' about Transport Scotland's confirmation of that fact – indeed, it would have been inappropriate for them to suggest otherwise.

### **New/further Information**

Mr Ross has identified what he considers to be new and/or further information, but we can see nothing in the submission that has not already been the subject of written and/or oral evidence to the Committee, and also raised before the Council's Development Management Sub-committee during the planning process. The Transport Assessment which Mr Ross criticises was prepared by professional transport consultants who are expert in the field, and was considered by the Council's independent transportation and planning departments. The Council would, however, be happy to respond to any point of detail on which the Committee may wish to have further information.

The Council would reiterate that the safety of pupils and the wider community is of paramount importance to everyone involved in the project and utterly refute any suggestion to the contrary. The proposal to build a new Portobello High School on Portobello Park complies fully with all legislative and planning requirements for road transport and pedestrian safety, and has been considered by a range of people with significant expertise in traffic and transport matters, including AECOM, the professional traffic consultant appointed in respect of the project, and the Council's transportation department and Development Management Sub-committee. Those independent bodies have now considered the project twice as part of the planning process, and none of them have identified significant risks in relation to the traffic or road safety implications of the new school. Appropriate mitigation measures have been proposed and will be put in place for

those risks that do exist. Mr Ross suggests that “the only positive action appears to be to propose a 20mph speed limit on Milton Road when the extended times for bus lanes are in operation”. However, the Committee will recall evidence given by the Council (e.g. Mr MacIntyre’s evidence on 26 March, at Column 186) of other measures that will be implemented, including a toucan crossing on Milton Road and the school entrances and internal footpaths being designed to encourage pedestrians into the site and off Milton road.

Mr Ross’s submission refers repeatedly to the Council previously “denying” the need for a Road Safety Audit but now “accepting” that a Road Safety Audit is required. However, this is inaccurate. The disagreement between Mr Ross and the Council is not about whether a Road Safety Audit is required, but about the stage of the project at which it should be carried out. Mr Ross and other objectors have suggested that a Stage 1 Road Safety Audit should have been carried out prior to planning permission being granted. The Council as promoter of the project, its professional independent transport consultants, the Council’s independent transport department and the independent Development Management Sub-Committee have all taken a different view. As already covered in written and oral evidence, the appropriate stage at which to carry out the Road Safety Audit in respect of this project is on appointment of a contractor (not when the contractor “starts on site” as Mr Ross suggests), the audit will be carried out by a professional road safety auditor (not “by the contractor” as Mr Ross suggests) and it will be a combined Stage 1 and 2 audit (not encompassing “all three stages” as Mr Ross suggests – a Stage 3 audit would not be carried out until the completion of the works).

Mr Ross suggested that the objectors are yet to receive “the brief clarifying the scope of the transport assessment which CEC should have agreed with AECOM”, per column 192 of the Official Report. However, this was provided by way of the letter sent to you and copied to Mr Ross on 14 April. That letter noted that the Council had not received the brief given to J Mclean Consulting Ltd, in respect of the road safety assessment they prepared on the instructions of the Group 2 objectors (see Column 195 of the Official Report). The Council has still not received that brief, and our Mr Livingstone wrote to Mr Ross on our behalf today to ask that that be provided as soon as possible. A copy of Mr Livingstone’s email to Mr Ross accompanies this letter.

### **Purpose of the Private Bill and Committee process**

In the final paragraph of his submission, Mr Ross states “As this bill is specifically for a school it is essential that road safety is considered for this site as a school and this has not been done”. As the Committee has noted on a number of occasions, the Bill would only authorise the appropriation of Portobello Park for educational purposes. It would not authorise the construction of the new school, this being a matter for the planning process and permission having already been granted.

In the (undated) letter from Ms Peters to Transport Scotland she asserted that “The Portobello Private Bill has given us the first real opportunity to debate the road safety and

traffic congestion issues with the CEC". This is not correct. The appropriate forum to raise these issues was during the (two) planning processes and, to the extent that they were raised during those processes, they were considered by the Council planning and transportation departments and also by the Development Management Sub-committee. Indeed, the Committee may be interested to note that Mr Ross's objection in respect of the Private Bill was almost identical to the objection he submitted in respect of the Council's 2013 application to renew the planning permission in respect of the project. Both the original planning consent and the most recent planning renewal were considered through planning hearings by the Development Management Sub-committee. Any objectors to the proposals had the opportunity to address the Development Management Sub-committee regarding any concerns which they had. Whilst two representatives from Portobello Park Action Group did attend the most recent planning hearing in December 2013 and did convey their concerns that "Traffic and road safety concerns remained unanswered especially in regard to traffic congestion on Milton Road and delivery vehicles being directed through narrow streets which would also increase pollution from vehicle emission" (this is an extract from the minutes of that meeting), neither Mr Ross, Ms Peters nor any of the other Group 2 objectors chose to attend the hearing.

We hope that the clarification of these points will be of assistance to the Committee. Should any further clarification be required, please do not hesitate to contact us or the Council.

Brodies LLP on behalf of Promoter

6 May 2014