

CITY OF EDINBURGH COUNCIL (PORTOBELLO PARK) BILL

WRITTEN SUBMISSION FROM LAWRENCE MARSHALL

I wish to make the following observations regarding the general principles of the Portobello Park Bill.

I do so as someone who actually has no particular planning concerns about a new Portobello High School being built on Portobello Park. Indeed, I was the local councillor for Portobello when the City of Edinburgh Council (CEC) agreed that Portobello Park (henceforth the "park") should be the preferred site for the new High School.

However, the September 2012 judgement of the Inner Court of Session that building a school (or, indeed, anything) on the park would be illegal is, in my view, a game-changer. The proper response of CEC would have been to have directly appealed this decision. They have chosen - no doubt on legal advice - not to do so. Moreover - presumably also on previous legal advice - CEC chose, in the first place, not to even challenge the assertion that the park was in fact "inalienable" common good land (for the record, I do not believe that it is as it was purchased by - not gifted to - the city council as part of the deal which incorporated Portobello into the city council. The September 2012 legal judgement was thus silent on the issue of whether the park was inalienable common good land or not).

Instead, CEC are now trying to use the processes of the Scottish Parliament to, in effect, circumvent - some might even say subvert - a decisive and clear legal judgement issued less than one year ago. This is not some dusty legal judgement from many decades ago that we are talking about here. I believe that this demeans the Scottish Parliament - and the Scottish judiciary.

Moreover, were the Scottish Parliament to grant CEC its wish to build a school (admittedly a "common good") on the park, I believe that this would set a dangerous precedent whereby other councils and public authorities would be encouraged to appropriate inalienable common good land when they too find themselves in a situation where there is little available land on which a new school or hospital, etc. can be built to serve the local community. There can be no doubt that such bodies - funded by the public purse - have the financial means to pursue the submission of a similar private bill through the Scottish Parliament.

It is not credible to argue that the bill before you is site-specific and thus has no implication whatsoever for any other land in Scotland. It will undoubtedly be seen by the legal profession - and others - as setting a precedent whereby other specific sites can be put forward for the purposes of building much-needed local facilities - with submission of a private bill to the Scottish Parliament if need be to overcome any local opposition.

I tend to agree with CEC that more people in the Portobello area are in favour of building the new school on the park than are against such a course of action. The fact remains that the community of Portobello has become bitterly divided over this issue. The important point, however, is this - that this is not a numbers game. If

something is illegal, it is illegal. Trying to inveigle politicians - who must always have an eye on popular opinion - in a process of, in effect, overturning a clear and dispassionate legal judgement is plain wrong, in my view. I urge you not to be complicit in this.

Finally, although the above argument is based solely on principle, it has also to be mentioned that an alternative site for a new Portobello High School has been identified at Baileyfield. Such a site would allow a new school to be built almost in the centre of the community whose name it bears. Lying at the entrance to Portobello on Portobello High Street, such a site is more constrained than the greenfield land which Portobello Park presents - but it is surely a key planning policy to build key facilities in and adjacent to town centres and to do so where possible on brownfield rather than greenfield sites. In any case, school design is often at its best when constrained by available land supply. An imaginative new school at Baileyfield with views towards the city and across the Forth to Fife should be well within the capabilities of the many talented architects available to CEC. It would also greatly enhance the townscape of our community.

Moreover, a deal could surely be reached with the operator of the five-a-side football pitches immediately opposite (on land owned by CEC) to allow school use of these pitches and associated changing facilities. A further large area of land immediately adjacent to the Baileyfield site off Fishwives' Causeway is leased by CEC. This could be used to provide a playing pitch for a new High School on the High Street.

Finally, CEC own the Portobello Indoor Bowls and Leisure Centre which Edinburgh Leisure have just closed down to convert into a "soft play" arena. This facility - facing the beach and Portobello Promenade and just yards away from the Baileyfield site - is an excellent modern building which could be used to provide much-needed physical education and many other activities for the school and the wider community. It would also enjoy a fantastic outlook over the immediately adjacent seaside - allowing our community's great beach to be the "lungs" for the school rather than relying on building on a park to in part realise that worthwhile goal.

Some folk say that it would be wrong to make pupils cross Portobello High Street to reach the five-a-side pitches and the adjacent Bowls Centre. I can only respond that hundreds of pupils cross the High Street already every school day to reach the many food shops on the north side of the High Street when they are free at lunchtime to purchase lunch outwith the current somewhat distant school grounds.

I would therefore urge you to reject the CEC Portobello Park Bill.

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