

## CITY OF EDINBURGH COUNCIL (PORTOBELLO PARK) BILL

### WRITTEN SUBMISSION FROM PORTOBELLO PARK ACTION GROUP

#### PORTOBELLO PARK PRIVATE BILL

I am writing on behalf of Portobello Park Action Group (PPAG) with further evidence that we wish to be considered regarding the above bill.

As you are aware, we previously submitted a legal opinion to the effect that this bill will set a precedent by providing a route which other local authorities will follow in order to appropriate other common good land in Scotland.

#### Loss of open space in Scotland

I have attached the Holmwood Hills Action Group report of October 2005, which carried out a survey of completed or proposed school rebuilding projects. Section 2.2 states that: "Based on survey results, a conservative estimate is that 130 hectares of public greenspace is currently earmarked for development or being built on as a result of schools PPP projects. **This is an area equivalent to over 180 full-size football pitches.** This loss of open space encompasses parkland, playing fields and other sports pitches, recreation grounds, amenity space and informal green space". Portobello Park fulfills most of the aforementioned functions.

The fact is that already a lot of open space has been developed in Scotland, to name but a few for example: Denny High School was rebuilt on the Herbertshire Playing Fields, Dingwall Academy was built on the adjacent playing fields, a school is currently being built on East Toll Park in Burntisland, and the merged Cathkin High and Rutherglen High school was built in Holmhills Wood community park. In Glasgow alone there has been development on the following parks: Ruchhill public park, Kelvingrove Park, Queens Park and Richmond Park.

More parkland is set to be developed, for example:

- Coo's Green, North Berwick (proposed car park)
- Westerton Park, East Dunbartonshire (proposed school site)
- Bogton Park, Forres (proposed retail development)
- Cowan Park, Barrhead (proposed school site)

- Postie's park, Dumbarton (proposed new school and care home)
- City Park in Edinburgh (planning permission granted for housing).

This is not in any way an exhaustive list.

Large areas of green space are already under threat all over Scotland and those in favour of development say: "it's just this one park" but it's not just one park or piece of common good land, it is many parks. Whilst not all of what is under threat is common good land, the bill, if passed, would undoubtedly set a precedent by providing a route for easy appropriation of common good land by other local authorities without their having to go through the checks and balances that the current legal protection of common good affords presently, thus increasing the risk of development of open space.

### **Benefits of Green Space**

The benefits of green space for human health and wellbeing, both physical and mental, are well documented and are backed up by another recently published study led by Dr Matthew White and colleagues at the European Centre for the Environment and Human Health who found that individuals reported less mental distress and higher life satisfaction when they were living in greener areas.

This was true even after the researchers accounted for changes over time in participants' income, employment, marital status, physical health and housing type. Dr White said: "These kinds of comparisons are important for policymakers when trying to decide how to invest scarce public resources, such as for park development or upkeep, and figuring out what bang they'll get for their buck," While the effect for an individual might be small, he pointed out that the potential positive effects of green space for society at large might be substantial.

"This research could be important for psychologists, public health officials and urban planners who are interested in learning about the effects that urbanisation and city planning can have on population health and wellbeing." To read more, please follow this link: <http://www.bbc.co.uk/news/health-22214070>.

The high amenity value and overall desirability attached to living in proximity to accessible green space is well documented and clearly shown. The net effect therefore of loss of swathes of open space can only have a damaging impact on local residents' health but perhaps also on the public purse in the long term. Green space is a precious and ever-decreasing commodity and there should be an absolute presumption against it when alternative brownfield sites exist, as is the case for Portobello High School.

### **Failure by City of Edinburgh Council to acknowledge their own *Open Space Strategy* and *Pitch Strategy***

In recent papers reporting the alleged benefits of building on Portobello Park, Edinburgh Council have announced an intention to make the school artificial pitches available to the local community outside school hours, at no charge.

It has been difficult to determine exactly what this means, as questions have been raised about who qualifies as local, and more importantly how any booking system will

work, especially for the casual, as opposed to club, users. If these pitches are available at no cost, they are likely to become very popular, and groups currently using and paying for pitches elsewhere may well choose to book these ones meaning that casual users locally will have little opportunity to gain access to the pitches. This is in stark contrast to the situation on Portobello Park previously before the football pitches were dug up as even if there were organised football matches taking place there was still space for casual users. The council has previously portrayed the existing football pitches as only having been used during the month of August, however we are enclosing an e-mail from Edinburgh Leisure that clearly states that the pitches in the 2010-11 season were used for matches almost 70 times and at other times for training.

The council have made no reference to their own report about the "Community Sports Facilities Project"

[http://www.edinburgh.gov.uk/meetings/meeting/143/culture\\_and\\_leisure\\_committee](http://www.edinburgh.gov.uk/meetings/meeting/143/culture_and_leisure_committee) which details the Council's intention to implement a "single customer focussed pitch booking system" as proposed in Edinburgh's Sports Pitch Strategy – Quality Pitches for All. These strategies have not been mentioned in any of the documentation regarding Portobello Park, and again suggest a lack of joined up thinking within Edinburgh Council.

More general than the narrow matter of sports pitches, the Council have ignored their own findings in the Open Space Strategy

[http://www.edinburgh.gov.uk/downloads/file/2016/open\\_space\\_strategy](http://www.edinburgh.gov.uk/downloads/file/2016/open_space_strategy)

In this document they identify on page 13 a Local Greenspace Standard "Houses and flats should be within 400 metres walking distance of accessible greenspace of at least 500 sq.m and good quality (for parks and gardens) or fair quality (for other types). Further on on this page they talk about the need to improve Portobello Park.

On page 27 of this document, a graph demonstrates that walking is a key physical activity, and is enjoyed by a significantly greater proportion of adults than other forms of physical recreation, yet it has been claimed by proponents of building on the park that two artificial football pitches will somehow compensate for the loss of open parkland that many people use for walking in the fresh air, exercising their dogs and running, as well informal games and gatherings. The reality is that the park, as it currently stands with freely accessible open space and a wide variety of flexible uses, is of more benefit to more people than two artificial football pitches will be.

On pages 38-39, a map shows the dispersal of good quality play areas throughout Edinburgh, and identifies those urban areas falling short of the standard. There is a large area of housing immediately to the west of Portobello Park which does not meet the standard for access to good quality play areas, yet the value of access to safe yet challenging play space in early years education is widely acknowledged. Local residents are keen to see this kind of facility installed on Portobello Park, which would be well used and would greatly improve the provision of play space in the area. However, with the threat of development hanging over the park for several years there has seemed little point in trying to lobby for such facilities.

The Council have made no reference to either the Pitch or the Open Space Strategy in their documents supporting the Private Bill, as by doing so they would have to

acknowledge that the plan to build on this green space contravenes their own policies and strategies developed separately.

### **Feasibility studies**

We have enclosed the various feasibility studies for the replacement of Portobello High School. The earliest studies were carried out by Atkins and show two possibilities for the rebuild of Portobello High School on its current site, showing that it was possible and acceptable to do so, even without the re-location of St John's RC primary school. The only reason that Portobello High School was not replaced was that the council revisited the assumptions and scorings used to rank the schools in terms of need and PHS was then ranked eleventh on the list, therefore it was not replaced. At about the same time the feu superiority condition that protected Portobello Park and golf course fell as a result of land reform legislation. (For more detail please refer to Section 5 of our letter of objection sent in to the planning application in submitted at the previous stage of objections).

Next came the feasibility studies by Smith, Scott and Mullen in 2006, where, after having announced its intention to build on Portobello Park and Golf Course, the council then carried out a site investigation of 15 sites, arriving right back where it had started, i.e. with a shortlist of sites: the park, the golf course and the current site. As mentioned in our letter submitted to the educational consultation, the studies and the process were deeply flawed. Factually incorrect information was provided and an inconsistent approach was taken, for example some of the park sites considered were dismissed on the grounds that they were open space or had Millennium planting within them but these criteria were not used to dismiss Portobello Park. The phrase "The planners' view was not favourable as this is open green space" is used in relation to the Bingham Park site but not in relation to Portobello Park where it merely states that: "Planners noted that there are circumstances under which they may support development", yet there was no explanation of the differing opinions.

The Thomas and Adamson study in 2008 highlighted the risk of a legal challenge but failed to explain what measures would be put in place to manage, mitigate or eliminate that risk. It later transpired that the council wrongly thought it would be sufficient to seek a legal opinion to the effect that they did not need to go to court to seek permission and this resulted in a major delay. Had they stuck to their previous plan, announced in April 2008, by the then Convenor of Children and Families, Cllr Marilyn MacLaren to go to court to seek permission, the common good issue would have been resolved and the school would have been completed by now.

The revised Smith Scott and Mullen studies in 2010 downgraded many of the risks associated with the project without any explanation whatsoever of what had prompted that change. Some of the changes between the 2006 and 2010 Smith Scott Mullen studies were not explained or properly considered. Please see section 2.7 of our objection letter to the planning application in 2010 for our full comments.

It could be surmised that at key stages, the desired outcome led the research, not the other way around. CEC wanted the school built on the park and all the research was subjectively assessed to achieve this goal.

In conclusion, we wish to reinforce strongly the point that the creeping development of open space across our country is insidious. This bill, if passed, will open the door for more development of open space by providing an easy route which will be used by other local authorities to appropriate common good land. Does the Scottish parliament wish to be instrumental in opening the doors to the erosion of protection of common good land and open space across Scotland?

The council has identified acceptable alternative brownfield sites for the school that would provide the same educational facilities, the only difference being one less artificial outdoor pitch, therefore it is not necessary to pursue a private bill through the Scottish parliament because there are clearly alternative means of meeting the objective, which in this case is to provide a new school.

We sincerely hope that the committee will give full consideration to this and the evidence submitted previously and stop this private bill.

Winifred Aitken  
Chair, Portobello Park Action Group

20 August 2013