



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

CITY OF EDINBURGH COUNCIL (PORTOBELLO PARK) BILL COMMITTEE

Wednesday 7 May 2014

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**CITY OF EDINBURGH COUNCIL (PORTOBELLO PARK) BILL COMMITTEE
6th Meeting 2014, Session 4**

CONVENER

*Siobhan McMahon (Central Scotland) (Lab)

DEPUTY CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

COMMITTEE MEMBERS

*Alison McInnes (North East Scotland) (LD)

*Fiona McLeod (Strathkelvin and Bearsden) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Ian Alexander (JM Architects)

Diana Cairns (Portobello Park Action Group)

Alison Connelly (Portobello Park Action Group)

Stephen Hawkins (Portobello Park Action Group)

Charles Livingstone (Brodies LLP)

Billy MacIntyre (City of Edinburgh Council)

Iain Strachan (City of Edinburgh Council)

CLERK TO THE COMMITTEE

Mary Dinsdale

LOCATION

Committee Room 5

Scottish Parliament
City of Edinburgh Council
(Portobello Park) Bill Committee

Wednesday 7 May 2014

[The Convener *opened the meeting at 08:33*]

**Decision on Taking Business in
Private**

The Convener (Siobhan McMahon): Good morning. I welcome everyone to the committee's sixth meeting at the consideration stage, and remind everyone to switch off all mobile phones and electronic devices.

The first item on the agenda is to decide whether to take item 5 in private. Are members agreed to do so?

Members *indicated agreement.*

City of Edinburgh Council
(Portobello Park) Bill:
Consideration Stage

08:33

The Convener: As the group 1 oral evidence session was not completed on 23 April, the witnesses for that group and the promoter have been invited back to conclude proceedings. Obviously, the committee will consider the evidence from this session during its consideration of objections later in the meeting.

I welcome back the witnesses from group 1 and the promoter.

We will recommence proceedings at the point at which the session on 23 April ended. It is expected that this part of the proceedings will conclude around 10 am.

As the witnesses will now be familiar with the process for the evidence sessions, I will not take up valuable time restating the format that we will follow. However, following the previous meeting, it may be of assistance if I clarify that the committee has not yet reached the stage in proceedings for formal consideration of amendments to the bill. Once the consideration of objections has been completed, there will be an opportunity for any party to comment on any draft amendments that are considered to be admissible before formal proceedings on amendments begin.

From the group 1 objectors, I welcome back Stephen Hawkins, Diana Cairns and Alison Connelly. From the promoter, I welcome back Billy MacIntyre from the City of Edinburgh Council; Charles Livingstone, associate, Brodies LLP; and Ian Alexander, design director, JM Architects.

I invite the objectors to continue to question the promoter on issues that are covered in category 5.

Alison Connelly (Portobello Park Action Group): Thank you for inviting us back to continue the evidence session. I would like to make a few final comments on category 5.

The committee has indicated that it is interested only in matters subsequent to the Court of Session ruling. Because of that and the time constraints, we have curtailed the evidence that we intended to cover and the questions that we had for the promoter.

In the aftermath of the Court of Session ruling, the City of Edinburgh Council feigned shock and disappointment. In the words of the director of children and families, the ruling was "entirely unexpected". We have proved that that is not true. The City of Edinburgh Council has portrayed itself as the innocent victim of an unforeseen judgment

and has produced further propaganda to persuade the public that the only prospect of delivering a new school is through supporting the private bill.

Even in the letter that was written last week by Brodies on behalf of the council to the Portobello park action group, the truth was withheld. That letter states that the

“earlier opinion was ... superseded, and so was not relevant to the decisions subsequently taken by the Council.”

However, the hidden opinion of August 2008 was not withdrawn. The two opinions from 2008 are based on different questions and I presume that they reflect the instructions that were given to the Queen’s counsel. The August opinion has not turned out to be incorrect—far from it, as it aligns closely with the view that was accepted by the Court of Session and the judgment that was delivered by the inner house.

The council has consistently refused to provide information about its decisions to appropriate Portobello park, and at no time did it even acknowledge the existence of the August 2008 opinion. In fact, its release in April 2014 may have been an accident, as it was released among other information that was marked as redacted, but for which the redaction had not been properly applied.

It remains a concern that the City of Edinburgh Council continues to refuse to disclose accurate information and that the information that it does provide is strewn with inaccuracies and errors. We do not wish to dwell on the past, but there are many instances of misleading information, and the promoter’s case is riddled with discrepancies. One example is the information about free pitch bookings that was provided during the consultation and how that contradicts information in the children and families department report in December 2013 on community access to schools.

We will come to that in category 1, but I will stay with category 5 in the meantime. We would like to raise red flags about the evidence that Billy MacIntyre provided in the previous oral evidence sessions, the first of which relates to the consultation. Mr MacIntyre said:

“As I said in the council report of March 2013, the raw data has been independently assessed. It was independently validated by PricewaterhouseCoopers.”—*[Official Report, City of Edinburgh Council (Portobello Park) Bill Committee, 26 March 2014; c 212.]*

In its executive summary, PricewaterhouseCoopers stated:

“Because the above procedures do not constitute either an audit or a review made in accordance with International Standards on Auditing ... or International Standards on Review Engagements, we do not express any assurance on the Portobello Consultation Responses Summary”.

There was another inaccuracy about the assessment of alternative options when Mr

MacIntyre answered a question from Mr Flockhart about using Holy Rood high school as decant accommodation to allow rebuild on site. In column 286 of the *Official Report*, Mr MacIntyre told Mr Flockhart that using Holy Rood high for decanting was not an option because its rebuild predated his joining the council in 2008 and that it was not considered as decant accommodation because

“funding was not identified for ... Portobello high ...until early 2009.”—*[Official Report, City of Edinburgh Council (Portobello Park) Bill Committee, 23 April 2014; c 286.]*

In fact, the old Holy Rood high school was not vacated until summer 2009, and it was demolished the following year. Therefore, it had not been demolished by the time that funding was identified for Portobello high school.

We dispute the council’s claims about the perceived disadvantages of the alternative options. According to the council, a major drawback of rebuilding on site is the delay and expense involved because of the need to relocate St John’s primary school first. However, despite being asked many times why the option of rebuild without relocating St John’s was discarded in 2006, Mr MacIntyre has been either unable or unwilling to provide any answers.

Our view is that the council is also deliberately misrepresenting the position on the tender from Balfour Beatty. The Scottish Government procurement guidance states:

“in open and restricted procedures all negotiation with candidates or tenderers on fundamental aspects of contracts, variations in which are likely to distort competition, and in particular on prices, shall be ruled out”.

However, as we have heard from council officials, the Balfour Beatty tender has been renegotiated on price and, therefore, falls open to challenge. Is that another example of the City of Edinburgh Council simply considering itself to be exempt from the rules or should we assume that the council will retender but does not wish to make that public because of the further delay in building a new school that that will create?

The Brodies letter of 30 April to PPAG repeats the council’s desire for objectors to engage in discussions about mitigation. However, that is a pointless and insincere invitation as it has been absolutely clear throughout the private bill process that we do not agree that legislation should be passed to allow the appropriation of the inalienable common good land and that the only possible mitigation is the bill’s withdrawal.

That concludes our comments on category 5.

The Convener: Thank you.

Mr MacIntyre, if you have any comments to make on what Ms Connelly said, make them very brief, because we are on final comments.

Billy MacIntyre (City of Edinburgh Council):

Thank you, convener. I know that it is not normally appropriate to make final comments, but I utterly reject any assertion that I in particular or any of my colleagues have misled the committee, our elected members or the public in any way. I will pick up some of the points made and will be brief.

Malcolm Thomson provided the original counsel opinion in August 2008 and was one of the co-authors of the subsequent opinion in, I believe, November 2008. What happened was based not on different questions but on a change of opinion. I remind PPAG that, although the judgment of the inner house of the Court of Session was not in favour of the council, the original judgment of the outer house was. Therefore, the council was entirely justified to proceed on the basis on which it did, which was the joint counsel opinion that it had received. That was reported by the then council solicitor to the council at the meeting of December 2013.

I will not dwell on the evaluation by PWC. It was not an audit undertaken in accordance with international standards, but PWC is a recognised firm of auditors and, through me, the council asked it to do a degree of independent validation. The scope of that review and the report are in the public domain.

Ms Connelly referred to things that I said at column 286, but I do not recognise what she said that I said there. Having been asked about Holy Rood high school, I said:

"I would have thought that it would have been down to an absence of funding."—[*Official Report, City of Edinburgh Council (Portobello Park) Bill Committee, 23 April 2014; c 286.*]

I made no reference, as far as I can see, to issues of decant or otherwise. I suggest that the *Official Report* shows exactly what I did and did not say.

The committee has already indicated that procurement is not a matter for it but, as I have said in previous meetings, the council is well aware of its procurement obligations and will comply fully with them. Notice was given to the unsuccessful contractors through the *Official Journal of the European Union* after the council took its most recent decision on 6 February and we have had no expressions of concern or any objections from any of them.

The Convener: We now move back to the sequential order of categories and on to category 1. I invite a spokesperson for group 1 to speak on the first set of issues in category 1, which is loss of amenity and use of the park, including associated health and mental wellbeing.

Diana Cairns (Portobello Park Action Group):

I will speak on that this morning. I will not make an opening statement. We stand by the evidence that

we submitted prior to the committee meeting. Previous groups that have given evidence have amply demonstrated the health benefits and the negative impact of the loss. I have a few questions.

The Convener: We are not at questions yet. I will come back to you for those. I invite a spokesperson for group 1 to speak on the second set of issues, which is the replacement of open spaces. Is that you?

Diana Cairns: Yes.

The Convener: You do not have any statement to make on either set of issues.

08:45

Diana Cairns: Just that, as we have said in our previous submissions, we remain highly sceptical that the replacement open space will ever be provided, because the council has changed its position on it at least twice and because it will not be part of the bill so there is no obligation on the council to provide it. Because of what went on in the past, we do not have any faith that the space will be provided, which is a big concern to us. The council has also acknowledged that that open space would not adequately compensate for the loss of Portobello park and that it would be only partial and not full recompense.

By the same token, we are sceptical about the Fields in Trust protection because the bill seeks to overturn inalienable common good status, which is the strongest form of protection. If the bill succeeds in that regard, I am sure that it would be much easier to overturn Fields in Trust status.

I understand that Mrs Connelly previously submitted evidence to say that Fields in Trust stated in its information that, if a council makes a good case for using a park for other purposes and it promises to improve facilities elsewhere, Fields in Trust would be persuaded that that piece of land can be dispensed with. Therefore, we do not find that to be a strong or reassuring form of protection.

The Convener: Thank you. I invite the promoter to speak on all category 1 issues.

Billy MacIntyre: I will keep my introductory remarks for each category as concise as possible while endeavouring to provide the council's response to the issues raised by the group 1 objectors.

The group 1 objectors have largely repeated concerns that were raised by other groups about the issues in the category. The committee previously heard evidence from me, mainly on 26 March, about the very high level of provision of accessible green space which is and will remain in

the local area. I do not propose to repeat that evidence. However, I will address the other issues raised by the group 1 objectors today and in their original objections and written evidence.

At the previous session, Mr Hawkins indicated that a topic that would be of significant interest to group 1 objectors was the council's compliance with its open space strategy, which we assume refers to land use policy OS 1 in the council's local plan. That matter was considered in detail during the planning process and the 4 December 2013 planning report noted that, because the proposal involves the loss of open space it, by definition, did not comply with the provisions of that policy. However, the policy does not preclude the development of open space in all circumstances.

The development management sub-committee's view was that the

"clear benefits to the local community from the replacement school"

and the proposed compensatory open space

"outweigh the loss of open space at the park. As such, this is a justifiable departure from the development plan".

It is also worth reiterating that we cannot envisage any regular activity undertaken at the park that would not be possible using either the replacement facilities in the park or the area of new compensatory open space or the many other areas of open space in the locality. Therefore, there should be no discernable loss of amenity for any particular recreational or leisure activity.

The original objection from Ms Cairns and PPAG suggested that the loss of park would result in

"a reduction of 25% of Portobello's parkland."

It would be helpful if the group 1 witnesses could explain that figure's basis and the definitions of "Portobello" and "parkland" that they have used in making that calculation, as that is not a figure that the council recognises. The objectors may find it helpful to refer to the map that we have produced in evidence before showing the many other areas of accessible open space which are and will remain in the area.

The net loss of open space to the area is 0.4 hectares. Although not a 100 per cent replacement of space, the provision of the significantly improved facilities will more than compensate for that loss, which represents just 7.5 per cent of the area of Portobello park in isolation and excludes the many other areas of open space in the area.

The committee will be aware of the council's position that the park is not well used, which is based on the 2009 usage audit. The group 1 objectors have suggested that usage has fallen in recent years as a result of the council's failure to

adequately maintain the park. I explained at the previous session with the witnesses from groups 3 and 6 that, for a period, part of the park was affected by archaeological works in connection with the proposal to build the new school but that the usage audit predated those works by a considerable time. I will not repeat that evidence; I observe only that I assume that the photographs that were provided by group 1 objectors in the written evidence, although undated and unaccompanied by any descriptions, relate to the archaeological works that were, as the committee saw last year when it visited the park, fully remediated a considerable time ago.

The group 1 objectors have largely raised the same issues that earlier groups did about the council's proposals for replacement open space on part of the existing combined site of Portobello high school and St John's RC primary school. We have addressed that issue, in particular the Fields in Trust issue, in our written submissions in respect of this group of objectors and in respect of groups 2 and 4 and 3 and 6, as well as at previous committee meetings, so I will not repeat that evidence now.

I refer the committee to minutes of the public meeting that took place at Meadowbank on 17 January 2013, during the private bill consultation process. The minutes were included in the group 6 objectors' materials for the committee meeting of 26 March 2014. At page 47, those minutes record me asking:

"Would Field and Trust status be supported by PPAG?"

The answer from the PPAG representative was:

"Yes this would be welcomed."

It is not clear why PPAG now seems to have departed from that view.

The objectors appear to suggest that it was inappropriate to have mentioned the council's proposals for replacement open space in the consultation materials, because that is not mentioned in the bill. They also suggest that there is a conflict between the terms of the consultation documents and the council's view that an amendment mentioning the replacement space would be inadmissible. We explained that in our letter of 31 January and reiterated it in our written submission in respect of group 1.

There is no such conflict. It was entirely appropriate for the council to include that replacement space in the consultation. The compensatory open space is an integral part of the council's project. Although the project cannot proceed without the bill, not every element of the project is relevant to, or needs to appear in, the bill. It is worth pointing out that the bill does not mention our proposals for the layout of the school,

the design for the facilities and so on, yet there would rightly be complaints if the consultation documents had not included any information on those matters, which are similarly integral to the project. The council's position therefore remains that an amendment to the bill relating to the replacement park would be practically unworkable and inadmissible. We are conscious, however, that it is for members of the committee, at consideration stage, to propose amendments, and for the convener to decide on their admissibility. We will be happy to comment on any amendments that are lodged.

I believe that the council has been as clear as it possibly could be about its commitment to providing the replacement open space. However, judging by the comments that have been made this morning and those that have been made previously, I think that the objectors seem determined to assume bad faith on the part of the council, despite reassurances on many occasions, including by the council leader at the most recent council meeting when the matter was discussed, on 6 February 2014. Given that, I feel that, unfortunately, there is probably nothing that the council could do or say that would reassure or satisfy the objectors.

In relation to this and other categories being considered today, the council would ordinarily have asked whether objectors had any suggestions as to how their concerns about our proposals might be mitigated. However, I note—in the interests of time—that it is clear from previous comments that they have no suggestions to make other than that we should abandon the entire project. We will therefore refrain from asking that question in each category. Nevertheless, we would of course be happy to hear any proposals that are made.

The Convener: We now move to cross-examination of the issues in category 1. I invite the objector Diana Cairns to question the promoter.

Diana Cairns: I refer to the Ironside Farrar report, which was included with the council report that went to the council in March 2010. Everybody has a copy, as the report was submitted a while ago. I refer in particular to page 5. I ask Mr MacIntyre to tell me what it says about the management of the park.

Billy MacIntyre: I am sorry—could you—

Diana Cairns: This is on page 5 of the Ironside Farrar report, which was attached to the council report of March 2010.

Billy MacIntyre: Perhaps you would be good enough to read out what you think I should be reading out myself, rather than have me speculate.

Diana Cairns: Okay—I am supposed to be asking you questions, but I will help you out by telling you. It says that the site has a “Very poor score” for management of the park. Similarly, under the heading “Weaknesses”, the report says that it is a “Poorly maintained park”. The council has deliberately run down and neglected the park to bolster its case for development, has it not?

Billy MacIntyre: No, it has not.

Diana Cairns: I think that there is a clear case of neglect of the park. The Ironside Farrar report said:

“There are only 3 benches in the park”.

That was before PPAG got funding to put one in. There is now only one functioning bench, which is the one that PPAG put in. There has been a rundown of facilities.

What does it say about the construction of the pitches on page 16 of the report?

Billy MacIntyre: The construction of the pitches?

Diana Cairns: Yes.

Billy MacIntyre: I assume, Ms Cairns, that you are referring to the penultimate sentence on page 16:

“This relatively limited use is due to the low maintenance specification of the pitches, the lack of drainage and poor pitch construction.”

Diana Cairns: That is correct, yes. Low maintenance specification and poor construction—in other words, if the pitches had been properly constructed and properly maintained, they would have been even better. They have been decried as being poor quality and not used but that may be because of the poor maintenance of the pitches.

Can you tell me when the park usage survey was carried out?

Billy MacIntyre: In the middle of 2009.

Diana Cairns: And can you tell me how many hours people would have been at work or at school when the survey was carried out?

Billy MacIntyre: I do not have that information to hand.

Diana Cairns: I can tell you that only a small number of children were identified as using the park. However, there were only six hours within the sample when children would not have been at school. Of those six hours, three were recorded as rainy. One of the findings of the survey was that the park was not used very often by children, but there were only three hours within the 10 hours of the sample—just 30 per cent of the time—when children could have possibly been out playing in

the park. That is too small a sample to be representative.

How many other parks had a similar survey carried out at that time to provide a control?

Billy MacIntyre: There was no necessity for a control. The survey was looking at the usage of this park.

Diana Cairns: With respect, I think that when you are collecting data, you have to have some kind of control, some comparison and some sort of baseline.

Billy MacIntyre: I do not agree.

Diana Cairns: How can you say whether something is well used or not unless you compare it with something similar?

Billy MacIntyre: I think that the numbers speak for themselves, Ms Cairns.

Diana Cairns: I beg to differ with you.

On page 16 of the report, it also says that the pitches were used for only a seven-week period and adds:

“The season will begin on the 15th August and will end at the end of September”.

That is untrue, is it not?

Billy MacIntyre: That is incorrect and it has subsequently been clarified—

Diana Cairns: Yes, good. I am glad to hear that.

Billy MacIntyre: However, the bookings that were made were referenced elsewhere within the report, as confirmed with Edinburgh Leisure.

Diana Cairns: Yes, but that is an untrue statement about the season.

Billy MacIntyre: I would not say that it is untrue; it is inaccurate.

Diana Cairns: No, it is not true.

Billy MacIntyre: It is inaccurate.

Diana Cairns: We have submitted many photos to the committee that show the uses to which the park has been put: parties, fundraising events, races, football matches and so on.

As you know, following the archaeological dig, the park was left in a parlous state and it was unusable. It took the council until 2014, after many emails and phone calls, to rectify that. That is correct, is it not, Mr MacIntyre?

Billy MacIntyre: No, that is not correct, Ms Cairns. I think that you were there at the committee visit to the park in 2013, when the park was fully remediated. You said that it took the council until 2014.

Diana Cairns: Sorry, that is my mistake. I meant 2013. However, it was after numerous phone calls.

The photographs that have been submitted in evidence do not just show the reseeded that took place after almost three years of neglect but show the big tracks that were left after logs were felled and tractors were driven across the park. That was part of the remediation work that was done. Do you know how that work was paid for, Mr MacIntyre?

Billy MacIntyre: Can I just correct you? It was not three years of neglect; it was a considerably shorter period than that.

The remediation works were paid for by the project.

Diana Cairns: Well, there was neglect in 2011, 2012 and 2013. That is three years in my book. It was a long period of neglect. Things were not rectified when they should have been.

Billy MacIntyre: I explained to the committee at the last meeting why the mitigation measures were not done immediately—they were pending the outcome of the Court of Session judgment.

Diana Cairns: The smaller photos show fly tipping at the changing rooms at the east end of the park. That debris was left lying for seven months and it took at least six phone calls before it was shifted. Why was that?

Billy MacIntyre: I cannot answer that question, Ms Cairns. Has it subsequently been collected?

Diana Cairns: After six phone calls it was cleared, but that just contributes to the growing picture of deliberate neglect by the council.

09:00

Billy MacIntyre: There has not been “deliberate neglect”. As I reported to the committee at the previous meeting, the standard of maintenance that was being supplied to Portobello park was reinstated to its previous level in early 2013, following remediation of the archaeological works.

Diana Cairns: Do you know where the remediation was paid for from?

Billy MacIntyre: Why it was paid for?

Diana Cairns: No. I mean from which fund was it paid?

Billy MacIntyre: It was paid from the project budget—the project to deliver a new Portobello high school.

Diana Cairns: No, it was paid for from the common good fund—£13,000-worth.

Billy MacIntyre: No, it was not.

Diana Cairns: Yes, it was. I am afraid that you are incorrect, Mr MacIntyre. It was paid for from the common good fund and it was £13,000. It is part of the project, as you quite rightly say, yet you are trying to rob the common good fund by developing the park, and you have also taken money out of the common good fund to pay for remediation that is associated with the project to rebuild on Portobello park.

Billy MacIntyre: Convener, could I clarify that?

The Convener: Could you just give me two seconds?

Where are we trying to go with the money question? Obviously, we do not have the facts in front of us at the minute, but—

Diana Cairns: No, okay, but I can submit—

The Convener: Give me a second, please. You have used the word “rob”, which I really do not think was appropriate. It may be your opinion, but I do not think that it is appropriate. You are saying that the money came from the common good fund.

Diana Cairns: Correct.

The Convener: The council is saying—please bear with me, Mr MacIntyre—that it did not. You are saying that it did, and the council is saying that it did not.

Diana Cairns: Yes.

The Convener: Do you wish to continue on that point?

Diana Cairns: No, I will provide written evidence to that effect for you after the meeting.

Billy MacIntyre: May I clarify that briefly, convener? It is my understanding that the remediation work should be paid for by the project budget, because that was my instruction. If, for whatever reason, those moneys were taken from the common good fund—that clearly needs to be checked—that would have been incorrect and not in accordance with my instructions, and I will ensure that that is corrected.

The Convener: If you could get that information, that would be good.

Diana Cairns: I would like to have a look at the development management sub-committee meeting report from December 2013, which states on page 11:

“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”.

The Convener: Could you repeat what you said?

Diana Cairns: Page 11 of the development management sub-committee report of 4 December 2013 states:

“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”.

Is that correct?

Billy MacIntyre: Is that what the report says?

Diana Cairns: Yes.

Billy MacIntyre: If that is what the report says, it is correct.

Diana Cairns: So, why at the meeting on 26 March 2014 did you say:

“Because Portobello park does not count towards compliance with the standards that are set out in the council’s open space strategy at the moment, siting the school on Portobello park would not alter the position of any dwelling in relation to the present standards”?—[*Official Report, City of Edinburgh Council (Portobello Park) Bill Committee, 26 March 2014; c 167.*]

That is not correct, is it?

Billy MacIntyre: It is correct.

Diana Cairns: The report from planning says that it

“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”.

Who is correct?

Billy MacIntyre: It is my assertion that the information that I provided to the committee is correct. I provided the illustrated map showing the evidence to support that.

Diana Cairns: So, are you saying that planning is incorrect in what it says.

Billy MacIntyre: I am saying that there appears to be an inconsistency between what I said and what is in the planning report.

Diana Cairns: I suggest that the planning people are the ones who work with those standards day in, day out, and I would expect them to be correct.

Billy MacIntyre: I will consult the planning department and we will clarify the matter.

Diana Cairns: Okay. Thank you. Further on, that paragraph states that there will be

“the retention of approximately 0.6 ha on site for enhanced amenity space”,

and that that “does not compensate for” the loss. That report says that there will only be 0.6 hectares of parkland left on the park, does it not?

Billy MacIntyre: It does.

Diana Cairns: I would like to distribute a plan, for ease of communication, although it has been referred to previously.

Billy MacIntyre: The report states that there are "0.6 ha on site for enhanced amenity space".

Diana Cairns: Yes.

I would like to look at a plan that has been submitted previously. I can pass copies of it up to the council's representatives—it is a map of Portobello park.

The Convener: I suspend the meeting briefly while copies of the document are handed out, and because a member has urgently to leave for two minutes.

09:05

Meeting suspended.

09:07

On resuming—

Diana Cairns: Everybody has the map in front of them and can see the red hatched area, which is the area that will be left as open space, or parkland, following development of the park. The park is roughly 6ha. Take away the 0.6ha and that leaves 5.4ha of the park being lost, does it not?

Billy MacIntyre: No, it does not.

Diana Cairns: Well, it looks to me as though it is not parkland any more. You say that the new park at the current site will be 2.6ha. Subtract this from 5.4ha and you get 3.24ha. The loss of open space will be 5.4ha without the new park. If you believe that there will be a new park at the current school site, there will be a loss of 3.2ha, yet you say that the loss will be only 0.48ha. That is not correct, is it?

Billy MacIntyre: It is correct, Ms Cairns. I have previously referred to this in evidence to the committee. The size of the park is 6.43ha. Of that, 1.57ha would be assigned for two all-weather pitches, which would replace the park's existing grass pitches, and 1.62ha, which is a quarter of the parkland, would remain or have improved public walkways, woodland or new cycle paths. I note that your hatched area is referred to as "Including wooded area" but significant other wooded areas form part of the park. The area of 0.6ha to which you refer, which is correctly referred to as "enhanced amenity space" in the planning report, would be converted to a landscaped open space in the south-east of the park.

That leaves 2.64ha, of which the compensatory open space on part of the combined existing site of 2.16ha would be a significant compensation that

would leave a residual area of 0.48ha, to which I referred in my introductory statement.

Diana Cairns: Right. Well, that is a statement that you have repeated umpteen times during these evidence sessions.

Billy MacIntyre: Correct.

Diana Cairns: The bottom line is that the map tells you what is going to be left. Plastic pitches are not open space. We are talking about parkland that is freely accessible 24 hours a day, seven days a week, and what is going to be left of it is 0.6ha. If you believe that there is going to be a new park, there is still going to be a loss of over 3ha in an area that is, despite what you say, not well served by open space, as was acknowledged in a previous local plan; the north-east Edinburgh local plan identified a deficit in open space in the area. However, there is going to be a loss of at least 3.24ha, and perhaps a loss of 5.4ha. You cannot dress it up as anything else: that is the amount of parkland that will be left.

Billy MacIntyre: I am not dressing up anything, Ms Cairns. What I have said is a statement of fact, and we have repeated that evidence to the committee on many previous occasions. I refer you to the map, which shows the many areas of open space, large and small, that exist in the local area. I think that that speaks for itself. In addition, there is the extent to which the households in the area have access to those spaces already—

Diana Cairns: Yes, but—

Billy MacIntyre: —which you have not questioned.

Diana Cairns: As has been reported in the council's planning report, a number of households will be left worse off. The report also says that some people will have further to walk to the replacement park and that it will be close to an existing park, so it may be deemed superfluous. It is not as large as Portobello park. That is correct, is it not?

Billy MacIntyre: What is not as large as Portobello park?

Diana Cairns: The proposed replacement space is not as large.

Billy MacIntyre: No, it is not.

Diana Cairns: No—and it is next to an existing park.

Okay. I think that it is clear for all to see that a paltry amount of space will be left in the park. Let us not beat about the bush: there is going to be at least a 3ha, if not a 5ha plus, loss if this park is developed.

The Convener: Do the objectors have any other questions?

Diana Cairns: I will hand over to Mrs Connelly.

Alison Connelly: I would like to ask a couple of questions about use of the park. Can Mr MacIntyre tell us whether there is a system in place for booking pitches? How will the eligibility for free access be determined? I have jumped ahead to the issue of the artificial pitches that the council proposes to provide on Portobello park.

Billy MacIntyre: At present, no such system has been identified, because the necessity for the system is some years hence, assuming that the bill proceeds. As has previously been reported to the committee, eligibility will be determined by people within the local area.

Alison Connelly: The council has been preparing over quite a few years a policy and a strategy for community access to school facilities. You will be aware of that. You are suggesting that there will be special arrangements for Portobello high school that will be justified and accommodated within that policy.

Billy MacIntyre: I am.

Alison Connelly: However, in a report that Gillian Tee made to the council's education, children and families committee on 10 December 2013, she said:

"It is proposed that a revised scheme of charges would be applied systematically across the city ... An on-line booking and payment system for lets of school facilities will be tested from April to June 2014. A full rollout is scheduled for September 2014".

There is no mention of exceptions or special arrangements in that document, and it is clear from the document that the proposals for Portobello high school, as described in your consultation, are unworkable. Can you shed any light on that?

Billy MacIntyre: I am not sure how you are coming to the conclusion that the proposals are unworkable. The fact that the previous report from Gillian Tee does not make reference to the exception does not in any way suggest that there will not be an exception. The exception has been previously approved by the council, which is the—

Alison Connelly: Well—

Billy MacIntyre: If I could finish, Ms Connelly.

Alison Connelly: Sorry.

Billy MacIntyre: That is the overriding authority in terms of decision making for the council. The arrangements will be put in place at the appropriate time to ensure that the proposals are workable. An exception has been applied in Portobello on use of the pitches and access to

them because of the unique situation that the school will find itself in if the bill goes ahead and the school can be built there. To suggest that we would not implement that or manage it effectively is totally wrong.

09:15

Alison Connelly: It seems to be very strange that there is no mention of such an important issue in a document that clearly states that

"a revised scheme of charges would be applied systematically across the city".

I also note that the document comes from the same department—the children and families department. I do not have the time to labour the point just now, but the committee might find it interesting to refer to this review of community access to schools. Perhaps I can leave copies of it with you.

Billy MacIntyre: Could I respond to that final point, convener?

The Convener: Absolutely—if you let Mrs Connelly finish.

Billy MacIntyre: I apologise.

Alison Connelly: As its title says, the document sets out the council's strategy for community access to schools.

Billy MacIntyre: There would be occasions on which Portobello high school would charge for use of the facilities, which it is why it is entirely proper for that document to have referred to "charges ... across the city". Access to the pitches would not be free in all circumstances; in some circumstances, it would be chargeable. There are circumstances in all schools across the city in which lower rates are charged for certain groups. What Ms Tee said in her report is entirely consistent with what—I should remind you—the council has approved as being the policy that will be applied to use of the pitches in the future.

Alison Connelly: It sounds like we are moving into a very grey area with a lot of different circumstances.

Billy MacIntyre: No, it is not a grey area at all.

Alison Connelly: Is there anything to stop a future council withdrawing any special arrangements that have been suggested for Portobello high school?

Billy MacIntyre: I am sorry, Mrs Connelly—could you repeat the question?

Alison Connelly: Yes. Is there anything to stop a future council withdrawing any special arrangements that you have suggested for Portobello high school?

Billy MacIntyre: Why would a future council withdraw—

Alison Connelly: I am not asking why—I am asking whether it could.

Billy MacIntyre: The council has decided that that is the practice that will apply to the pitches in Portobello park.

Alison Connelly: In 2010, the council decided that it did not need a replacement local park, only to decide later to support it. Is there anything to stop the council changing its mind?

Billy MacIntyre: I cannot speak for what future councils or administrations would do.

Alison Connelly: So the council could change its mind.

Billy MacIntyre: The council has, across two separate and different administrations, given a commitment to build the new school on Portobello park and to provide the open space compensatory measures. I see no reason why any future council would renege on that.

Alison Connelly: Unless it felt in the future that the circumstances make it appropriate for it to do so.

Billy MacIntyre: I certainly would not advocate that there would be any circumstances that would suggest that that would be appropriate.

Alison Connelly: Is there anything in the bill that commits City of Edinburgh Council to providing free access to the pitches?

Billy MacIntyre: No.

Alison Connelly: I want to move on to the Secured by Design guidelines. Secured by Design is a police initiative that is owned by the Association of Chief Police Officers, and its guidance document “New Schools 2014” is one of several that aim to reduce crime in our built environment. In its most recent planning application, the City of Edinburgh Council refers to a “Secured by Design Statement”. We were unable to find a copy of the statement on the council’s planning portal, but the reference suggests that the council is adhering to that guidance.

The guidance itself states:

“Multi-use games areas and artificial playing surfaces, usually with lighting for night time use, are expensive facilities that are often targets for intrusion, vandalism and misuse. They need to be carefully planned, managed and protected using all appropriate Secured by Design guidelines and specifications.”

It goes on to advise that

“Illumination of facilities will inevitably draw local attention to them at night. Lighting needs to be coordinated with actual occupation and use of the particular facility, such as

evening community use, to avoid wasting energy and unwanted attention at times when there are no users or ‘capable guardians’ present.”

We believe that implementing those principles will affect unsupervised access, especially for children. Does the council have any comments on its plans for the informal access that it has referred to?

Billy MacIntyre: Informal access will be as we have previously set out and will be entirely consistent with the council administration’s desire to improve access to all school facilities in the area. They are public utilities and should be as open and accessible as possible.

Alison Connelly: It is in accordance with the wish to make the facilities available, but is it in accordance with the Secured by Design guidelines, which I presume have to integrate with that desire? The security aspect has to be taken into account in the arrangements that are made.

Ian Alexander (JM Architects): On Secured by Design, a document has been produced by Lothian and Borders Police that covers a number of the items that you are talking about. Secured by Design places an emphasis on passive surveillance, which means having spaces that are open and clearly visible, and there is also an emphasis on lighting. We will have adequate lighting at the site, because there is a Sustrans cycle route and paths. We want the place to be adequately lit at night; there will be no awkward or unlit areas. The lighting on the building will be at 10m centres, which is standard, and at a height of 2.8m. The lighting poles on the site will generally be about 6m high. We believe that the place will be adequately lit, and we have had a report produced that endorses that. We will follow the spirit of the report.

Alison Connelly: The Secured by Design guidance also suggests that lighting can attract unwanted attention at times when the facilities are not booked, and that arrangements should be made to control that.

With regard to paths, which you mentioned, the Secured by Design document refers to the importance of a site boundary and states:

“A clearly defined boundary using a fence, wall or other effective barrier against intrusion is a prerequisite for a secure site and to define ownership. A secure boundary will help staff manage the school site by limiting trespass and by channelling visitors to the site through appropriate entrances. A secure boundary will also frustrate the intruder intent on breaking into the school out of hours and or limit the quantity or type of goods that can be stolen.”

The document also advises that

“Public footpaths immediately outside the boundary fencing can affect security”,

but a key feature of the scheme that you propose is the provision of public footpaths around the site, with the express intention of encouraging public access. Does that not contradict the Secured by Design principles? Has the council consulted the police on the potential security of the proposal?

Ian Alexander: We consulted Lothian and Borders Police on the design of the scheme, and it carried out an audit of the proposals. We are satisfied that the scheme meets the Secured by Design requirements. A report on the security of the building has been released by the community safety department and is in the public domain.

Using a map of the site, I can perhaps explain a little more about the nature of the proposals and the nature—

Alison Connelly: I think that we have all been at meetings where we have had that description provided.

The Convener: Given that a lot of information has been given this morning that we have all heard before, it is entirely correct that the council should make this particular point. However, it is now 22 minutes past 9. I will allow the meeting to continue until 10 past 10, because we lost some time earlier, but the meeting will close then—I just want to make you aware of that.

We will go to the map.

Ian Alexander: The principle of the security of the school is that there will be a 2.4m-high fence right along the back of the school round to a point on Park Avenue. The front will be protected by a 1.2m-high fence, which is low. The area along the Sustrans cycle route will be lit by 6m-high poles and, within the courtyards and on the building, there will be lights at a height of 2.8m and at roughly 10m centres. Secured by Design guidance states that there should be no dark corners or other places where people can lurk and do untoward things, and we believe that we have designed the scheme in a way that achieves that.

The front of the school will have a double-door entry, which will be open during times of access to and egress from the school at the beginning and end of the day and at lunch time. However, it will be controlled during the day. Somebody will be permanently situated at the front door, so access to the school will be controlled.

The manner of the school is to be open at the front, with a public plaza—that is an important aspect. As it is a community-based high school, it is important that it is open and that it looks open, but it is also really important that it is secure. That is how the school has been designed.

Billy MacIntyre: That is what the authority has sought to do wherever possible. There is a balance to strike between security and

accessibility. The new Boroughmuir building on the Fountainbridge site is similarly configured; it is adjacent to a new area of open space of about 0.3 hectares, which will be a small public park. The frontage of that school will look out on to the canal, and it, too, has been designed with minimal fencing and barriers to ensure a high level of permeability for the public and the school. After all, these buildings are public amenities, and we need to ensure that they blend into their surroundings instead of surrounding them with 2.4m-high fences.

Alison Connelly: Presumably, a 1.2m-high fence at the front of the building will allow anyone or at least most people to access the site, if they want to do so.

Billy MacIntyre: Yes, but I suggest that, given where the school would be located and its locality, that would be better than having a 2.4m-high fence along the frontage—unless those in the local area would prefer that. Perhaps not.

Alison Connelly: I do not have any more questions on the Secured by Design guidelines, but Stephen Hawkins has a couple of questions.

Stephen Hawkins (Portobello Park Action Group): With regard to the replacement open space, you have stated that the design of the replacement park has started. Why are those who might lose the park not involved in that?

Billy MacIntyre: I have never stated that the design of the park has started.

Stephen Hawkins: So you did not state that.

Billy MacIntyre: I do not believe so.

Diana Cairns: He said that it was being consulted on.

Stephen Hawkins: Okay. What consultation are you doing?

Billy MacIntyre: The consultation has not begun in earnest; indeed, that would be rather premature, given that the open space would be created only if the project to deliver a new high school in Portobello park were to proceed, but the—

Stephen Hawkins: So the consultation—

The Convener: Excuse me, Mr Hawkins, but Mr MacIntyre was speaking.

Stephen Hawkins: My apologies. It is just that—as you have said, madam—time is pressing.

The Convener: Yes, but when someone is speaking you do not speak over them—that is a basic rule of manners. I ask Mr MacIntyre to continue.

Billy MacIntyre: Thank you, convener. As Mr Hawkins will undoubtedly recollect, the council agreed to delegate the matter to the local neighbourhood partnership, which has committed to consult all those in the local area on the potential future use of the space. That consultation will be informed by the considerable number of responses that were received on that same issue during the consultation on the bill.

Stephen Hawkins: In previous discussions and consultations, the two neighbourhood partnership subsections, Craigentenny and Duddingston and Portobello and Craigmillar, took a joint approach. Why was that not considered this time?

Billy MacIntyre: They are part of the overall local area, and I am sure that there will be close working between the two in considering the matter.

Stephen Hawkins: Why have you designated the matter to the Craigentenny and Duddingston neighbourhood partnership?

Billy MacIntyre: Because it is in the area that the—

Stephen Hawkins: As opposed to a joint one—

The Convener: Mr Hawkins, you are interrupting again.

Stephen Hawkins: Okay—I hear you.

The Convener: Given your previous acknowledgement, I thought that you had heard me the first time. Continue, Mr MacIntyre.

Billy MacIntyre: That was the proposal. I cannot recollect that having a joint approach was ever suggested by any local elected member as an amendment or by you or any of your colleagues in your deputations at the meeting. That could have been considered had the issue been identified but it was not identified until you made that suggestion.

Stephen Hawkins: Why can the council not commit to providing an area of land with designated boundaries as part of the bill?

Charles Livingstone (Brodies LLP): The council's reasoning was explained in our letter of 31 January, in which we said that it would be difficult to define that because the exact footprint of the replacement or expanded St John's RC primary school has not yet been identified. In any event, that would not be admissible in the bill. If objectors feel otherwise, they are free to propose to members an amendment that they would like at phase 2 of this stage, and it would then be for the convener to decide on admissibility.

Stephen Hawkins: Mr MacIntyre, you set much store by the fact that the council leader has

committed to providing the open space. How did the council leader approach the situation in 2010?

Billy MacIntyre: You would have to ask the council leader that question.

Stephen Hawkins: From the public record, I can tell you that the council leader voted not to support converting the area into open space.

The Convener: It is not for Mr MacIntyre to speak on behalf of the council leader.

Stephen Hawkins: It is not, no.

The Convener: It is not. The council leader's opinion has changed, as you have now told us, and different administrations have come in. I am not quite sure what your point is.

Stephen Hawkins: Well, the council leader was part of the council at that time.

The Convener: But we are talking about different administrations.

09:30

Stephen Hawkins: Okay. Mr MacIntyre, you said that two administrations have now supported the proposal. I thought that the previous administration had ruled out providing the open space and that, as recently as 2012—just before that administration fell—it refused to accept the mitigation of providing open space on the existing site. Is that not correct?

Billy MacIntyre: I might have confused my timings, and if I have, I will apologise.

Stephen Hawkins: Right. Are you confused about whether it has been two administrations or one administration?

Billy MacIntyre: I would need to clarify that, which I will. I can spend time doing that now, Mr Hawkins, or I can do it outwith—

Stephen Hawkins: No—I am asking for a simple yes or no. Sorry for speaking over you.

Iain Strachan (City of Edinburgh Council): Mr Hawkins, we are at risk of going round in circles. I will not go over the detail again unless the convener or the committee wishes me to, but we believe that Fields in Trust protection is the most appropriate protection to put at rest—we hope—concerns that the council might do something else with the replacement open space if it is delivered should the project go ahead. As we have heard, you and your colleagues have previously supported that measure. If something were to happen—which we do not believe it would, given the commitments that the council has given, which are still relevant and active—and if you or others wished to do so at the time, you could go and

speak to Fields in Trust about it. It would have to agree to any changes.

Billy MacIntyre: Convener, I would like to clarify that I was incorrect—I confused the timing of the change of administration—but I remind Mr Hawkins that the council gave unanimous approval to go ahead with the revised open-space proposals.

Stephen Hawkins: Thank you. Tell me again how quickly the council can reverse a decision.

Iain Strachan: I think that that has changed. I think that, under standing orders, it would take six months.

Stephen Hawkins: As has been said, that is one of the difficulties. Commitments have been made but, as Mr MacIntyre has said, the council has the overriding authority. As for the commitments and promises that have been made here, I do not know.

On the issue of Fields in Trust, which Mr Strachan brought up, I think that you will find very few people who would not say that Fields in Trust status is an extra layer of protection, but it is not as good as the protection provided by, for example, common good status or an act of Parliament. Do you agree?

Iain Strachan: I agree—well, given the council's position, it is the best protection that is available. You have mentioned common good protection. The council is not minded to do anything with the park but, if it wanted to sell it, the legislation would allow it to do that subject to the consent of the court. The courts are clear that they will weigh up the benefits to the community of proposals for the disposal of inalienable common good assets. There is case law on that, and the court would be bound by those previous case law decisions. Fields in Trust is not so bound, and it would have to weigh up any such proposals as it saw fit. That is why we believe that, in the circumstances, Fields in Trust protection is the best proposal for allaying any concerns that objectors might have.

Billy MacIntyre: I remind Mr Hawkins that he proposed a motion to a council committee to confer Fields in Trust status on an area of land that was already part of the common good. He must have considered that it had considerable merit.

Stephen Hawkins: I stated that very few people would not regard Fields in Trust status as an extra layer of protection. You raised the issue of the protection of the golf course. The council deliberately dropped the golf course from its list of 20-odd parks to have Fields in Trust designation.

Billy MacIntyre: However, you presented a motion to a council committee, which was approved and which conferred Fields in Trust

status on an area of land that was already part of the common good. You have suggested that common good protection is higher than Fields in Trust protection but, nevertheless, you felt it sufficiently important to press the council to confer Fields in Trust status on that land. We are suggesting a similar level of protection for the area in the existing park and the new open space.

The Convener: The point has been made. Thank you.

Stephen Hawkins: I take it that you have accepted my point that the council can change its opinion and its mind on what it does about charging and the protection of open space, and that Fields in Trust status is an extra level of protection, but only that.

The Convener: I did not accept Mr MacIntyre's point. I said that it had been made.

Stephen Hawkins: Okay.

The Convener: Are there any further questions?

Diana Cairns: Yes, I have questions about the replacement of open space.

The council has changed its mind twice now about the replacement of open space. It said that it was going to replace it in 2006, but then it reneged on that in 2010. It said that the current site was in the wrong place and that it needed the capital receipt. If it was in the wrong place in 2010, it is still in the wrong place, is it not, Mr MacIntyre?

Billy MacIntyre: No. If I may correct you, the council has changed its mind once, not twice. The decision not to pursue compensatory open space in 2010 was the first time that the council took that decision. There was no previous decision to the contrary. However, it is in entirely the right place, as was evidenced by the significant level of responses to that effect that came through from the local community as part of the private bill consultation process. Those responses were significant and many, and invariably positive about the prospect of that new area of open space.

Diana Cairns: Do you accept that the March 2010 report stated that it was possible to get a capital receipt of £3.9 million for that site? Is that not correct? The March 2010 report identified a capital receipt of £3.9 million, and you have said that you will commit a further £1 million to the park, so the total cost of that new park—in other words, replacing the existing park, including the lost capital receipt—is £4.9 million. Can you tell me whether that has been factored into the cost of the new school on the park?

Billy MacIntyre: The cost of the new school on the park?

Diana Cairns: Yes.

Billy MacIntyre: No, because it is not technically a cost. The site is already in council ownership, and it would be a cost only if further expenditure was required by the council. As you will know, because I have furnished you with a detailed analysis of the elemental costs for the new school on the park, the costs include that further £1 million, which excludes the demolition of the existing buildings but does not include any lost capital receipt, because it is not actually a cost. We are using an area of land that the council already owns, but for a different purpose.

Diana Cairns: You are forgoing a capital receipt of £3.9 million and committing a further £1 million.

Billy MacIntyre: Rebuilding on the current site does not include the intrinsic value of that site. Neither option includes the intrinsic value, so it is not a cost.

Diana Cairns: Well, I beg to differ with you on that. It seems that, back in 2010, the council said that forgoing a capital receipt for the site of £3.9 million was

“not considered an efficient use of Council assets, particularly given the unprecedented financial difficulties and pressures on capital budgets.”

Given that it was reported in the news that the council had written off £5.5 million of debt following the repairs scandal, I find it amazing that you are really prepared to forgo the money that you could raise for the site.

Billy MacIntyre: I remind the committee that the differential cost of delivering the alternative, which is a phased rebuild on the current site, would be £13.4 million more than the cost of building the new Portobello high school on Portobello park. In terms of the finances, the proposed option is by far and away the most effective use of public funds.

Alison Connelly: You refer continually to the £13 million, which includes—I cannot remember the figure off the top of my head—an amount in excess of £10 million that is an inflationary adjustment. I think that the £13 million that you just quoted is a little bit misleading.

Billy MacIntyre: No, it is not misleading. I am a chartered accountant by profession, so I am—

Alison Connelly: So am I.

Billy MacIntyre: I am therefore familiar—as you will be—with the way in which cost projections should work. Cost projections should take into consideration the expected cost at the time of delivery. Construction inflation is increasing. The provisions for future inflation within the costings that I have shared with you are based on the latest construction industry projected indices. That is entirely appropriate. If we were to build the alternative solution and I were to go to council to

ask for funding for that, that is the amount of money that I would ask for.

Alison Connelly: A lot of factors that are built into that model are assumptions that we would disagree with, but I do not think that we have time to go into the detail of that.

Diana Cairns: I return to the subject of replacement open space. As recently as April 2012, the council rejected an amendment by the Greens to create an area of open space on the site, did it not?

Billy MacIntyre: I believe so.

Diana Cairns: Yes, it did. Fast-forward by six months. What changed?

Billy MacIntyre: There was a change in circumstances following the outcome of the Court of Session case and there was obvious pressure from the local community to put in place some form of alternative open space provision. We have now done that. We were criticised for not providing it; now we are being criticised for providing it. We cannot win.

Diana Cairns: All I can say is that the council was very slow to respond to the concerns about the loss of open space. That happened fully six years after the plans to build on the park were announced. You were very slow to respond.

Why did you suddenly introduce the promise of a new park just before the private bill consultation? It was to provide an inducement to people to support the bill, was it not?

Billy MacIntyre: No. It was an appropriate response to the concerns that had been articulated, including by PPAG, regarding the necessity for further open space compensation. We were responding to what the local community was telling us that it needed and wanted. That was entirely appropriate.

Diana Cairns: Let us take a look at the report to full council of 25 October 2012. Paragraph 3.1.23 says:

“Once the existing Portobello High School is demolished, the remainder of”

the

“site ... would be converted to open space”.

Is that correct?

Billy MacIntyre: Yes, it is.

Diana Cairns: Let us turn to appendix 6.6.2 of the report.

Billy MacIntyre: Could you perhaps indicate the page number?

Diana Cairns: I do not know if there is a page number.

Billy MacIntyre: The page numbers are at the bottom of the page.

Diana Cairns: It is on page 62. It says:

“leaving 2.254 hectares available for sale including the existing primary school buildings”.

I emphasise “hectares ... for sale”. In the next paragraph, the report, still referring to the current site, says:

“This option would also enable the land sale to be progressed pending the school move including the potential for housing to commence”.

In one part of the report, you say that you will create a park on that space; elsewhere in the report, you say that it will be sold for housing. Are you really surprised that people are sceptical about the replacement of open space on the site?

Billy MacIntyre: Yes, I am surprised. That was the outcome of the feasibility study, which predated the decision of council.

Diana Cairns: It was in that report.

Billy MacIntyre: Yes.

Diana Cairns: Should it have been amended?

The Convener: I am sorry—I missed that comment.

Diana Cairns: Should—

Billy MacIntyre: Should I have amended—

Diana Cairns: In the report of October 2012, one part says that the council will create a park on the existing school site. Elsewhere in the report, it says that the land will be sold.

The Convener: I missed what you said just after that.

Alison Connelly: It should have been amended.

The Convener: The report should have been amended? Right—thank you.

Diana Cairns: The report should have been amended—that is what I am saying.

The Convener: Thank you.

Billy MacIntyre: The feasibility study predated the production of the report by some time. I was reporting back the results of that feasibility study. Perhaps, with hindsight, that should have been made clear in the report. However, the final decision that the council took is unambiguous and clear, and it has been since it took it.

09:45

Diana Cairns: Moving on to the bill, Gillian Tee says in her letter of 31 January that

“the Bill does not itself authorise the construction of the school”

and that the provision of a new park is outside the scope of the bill. The private bill consultation describes the bill as the “Portobello school private bill”—not the Portobello park private bill—yet according to the letter, the bill allegedly has nothing to do with the school. The majority of the consultation form is taken up by bullet points about a new park, is it not? The form has a lot of bullet points about the wonderful new park that will be built on the current site.

Billy MacIntyre: Which document are you referring to?

Diana Cairns: It has information about a new area of open space and a whole question about a replacement park. My point is that, if the bill has nothing to do with providing a new park, why did a new park feature so prominently in the council’s consultation literature?

Billy MacIntyre: The question that we asked was:

“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?”

Diana Cairns: Yes, but there is a lot of information about a replacement park. There is a whole question on it and it featured prominently in the consultation literature. That was misleading. If a replacement park is not part of the bill, it should not have been in the consultation literature, should it?

Billy MacIntyre: To go back to what I said in my introductory statement, it was relevant to the bill because it was an intrinsic part of the project, as was information about designs and alternative site options. I am sure that you would have criticised us if we had not made any reference to that.

Diana Cairns: I think that it was disingenuous to pretend that the bill had nothing to do with the construction of a school and then to call it the “Portobello school private bill” in the consultation documents and to feature a park as an inducement to people to support the bill when the provision of that park was not to be part of the bill. The bottom line is that there is no obligation on the council to provide a new park and it will never be provided.

Charles Livingstone: Ms Cairns, if you disagree with the council’s view on the admissibility of an amendment to include a replacement open space in the bill, you are free to submit an amendment to one of the committee members to propose and the convener can take a view on its admissibility. It is not a decision for the council to take; ultimately, it is a decision for the convener to take. The council has expressed its

view, but if you disagree, you can take matters into your own hands.

Diana Cairns: Thank you.

The Convener: Just to clarify, you referred to the Portobello school private bill. Is that in relation to council documents or in relation to the bill itself?

Diana Cairns: That is how the bill is described in the council's consultation.

The Convener: I just wanted to clarify that point because, obviously, this committee is not called the Portobello school committee.

Diana Cairns: Precisely. It is the Portobello park private bill, so why does the consultation on the bill call it the "Portobello school private bill"?

The Convener: Okay.

Diana Cairns: To me, that is an anomaly.

Billy MacIntyre: The information leaflet refers to the Portobello park private bill.

Diana Cairns: The consultation document uses the word "school", not "park". Anyway, that is all our evidence on this category.

The Convener: So you have asked all your questions and the promoter has no questions. Are there any final comments on category 1?

Diana Cairns: The council has claimed that Portobello park is not well used in order to bolster its case for development and to argue that the park is surplus to requirements. If usage of the park has fallen, that is because of the council's removal of facilities and its underinvestment in and neglect of the park. Research shows that, once a park becomes neglected, it is a self-defeating cycle—people stop going there.

The development of the school in Portobello park will lead to a loss of 90 per cent of the parkland; only 0.6 hectares of parkland will remain. There will be a deficit of at least 3 hectares—if not 5 hectares—of open space in the local area.

The council has changed its mind on the provision of open space previously and it may well change its mind again. That is why we do not believe that there will ever be a new park in part compensation for the loss of Portobello park. We are not reassured about the protection of the golf course in the new park by Fields in Trust, as—by its own admission—Fields in Trust will not oppose development if the council can make a good enough case for it. That is all I have to say.

The Convener: Okay. Thank you. We now move on to category 2. As I said, I will be closing the meeting at 10 past 10. I invite a spokesperson from group 1 to speak on traffic and road safety issues.

Stephen Hawkins: There is not really time to go into in-depth questioning, so with your permission, I would like to read out just the closing remarks for category 2. Maybe we will do the same for categories 3 and 4.

The Convener: Okay, but I have to offer the promoter the opportunity to speak.

Stephen Hawkins: I understand that. Obviously, we would have time for a closing statement. We are trying to manage the time correctly, convener.

The Convener: I have to wait till closing statements. I have to go to the promoter and then come back to you.

Stephen Hawkins: We do a closing statement for each section—a summary.

The Convener: Yes, I know. What I am saying is that, because of the format, I now have to open proceedings to the promoter, then I will come back to you for a closing statement.

Stephen Hawkins: I have confused you. I will just read out the closing statement for each section, rather than ask questions through it.

The Convener: But the promoter still has to take part. If you want to use your closing statement as your opening statement, that is the only way it will work. It is up to you when you want to read that statement.

Stephen Hawkins: Okay. This is my opening statement on road safety. Local residents have raised many concerns with the promoter over the many years that the project has been developed, yet few mitigation proposals have been accepted. A special meeting was held four years ago when specific issues, especially road safety issues, were raised and the promise was made that they would be looked at. However, there has been no acceptance of the local residents' concerns and the council has relied on a modelling exercise without carrying out a safety audit. The residents experience the traffic congestion and recognise the safety implications, as they live with them on a daily basis.

As has become the practice of the promoter, repeating a statement that everything meets safety requirements or providing misleading information is substituted for careful analysis of what actually takes place. It is repeated that a nursery on the same stretch of road is a hazard, while a school for 1,400 pupils is not. It is presented that Transport Scotland is happy with the proposal when, in fact, it was presented with an environmental analysis and it expressed no opinion for or against the proposal, as the nearest trunk road is 3.2km away. We are told that no greater number of children will cross Milton Road than do so at present, but the promoter wilfully

ignores the dinner-time exodus and those who will travel by bus from the west.

When considering Baileyfield, the promoter marked it down for its proximity to the main road, despite the barrier of a quiet cul-de-sac, but the main A1 feeder route into and from the city is deemed not to be a problem. There are drop-off points, crossings of bus lanes and the infamous 1.2m-wide pavement at the top of Park Avenue, along with many other unaddressed concerns, but nothing is a problem for the promoter.

Local residents are rightly concerned for the safety of those who will use the school and the safety of their own families. The objections on road safety grounds remain.

The Convener: Thank you. I now turn to the promoter. Again, I point out the time issue that we have.

Billy MacIntyre: I will keep it very brief, convener. I do not believe that the group 1 objectors have raised anything substantive that has not already been fully addressed in previous written or oral evidence to the committee—*[Interruption.]*

The Convener: I am sorry, but could the objectors please stop talking to one another when Mr MacIntyre is speaking?

Billy MacIntyre: I must stress, as I have done previously, that safety is of paramount importance. The council proposal has fully complied with all aspects of applicable legislation and planning requirements for road, transport and pedestrian safety. The proposals have been considered by a range of people who have expertise in traffic and transport matters, including Aecom, a professional consultant appointed to the project, the council's transportation department and the development management sub-committee, which have now fully considered the proposal twice through the planning process. None of them has identified significant risks in relation to road traffic or road safety implications of the new school, and appropriate mitigation measures have been proposed and will be put in place for those risks that do exist.

I reject utterly the suggestion that we provided misleading information. I reject utterly the suggestion that we said that Transport Scotland supported the proposals. We received some additional information that had been presented by group 2 at midday yesterday, but there was a significant level of inaccuracy in what it conveyed to you, so we provided a written submission to you last night, which we hope will be of assistance.

In the interests of time, I will stop there.

The Convener: I note what you said at the start, but do you have any questions, Mr Hawkins?

Stephen Hawkins: No.

The Convener: Does the promoter have any questions?

Billy MacIntyre: No.

The Convener: Are there any final comments that you wish to make?

Stephen Hawkins: No. I have made them.

The Convener: We move to category 3. I invite the spokesperson for group 1 to speak to issues that are related to the visual impact, including loss of views and the height of the building.

Diana Cairns: We stand by the evidence that we sent in, but I have a couple of questions.

The Convener: We will have to go through the promoter first and then come back to you.

Billy MacIntyre: In the interests of time, we have covered everything in either earlier written submissions or oral evidence, and the matter has been considered twice during the planning process, so we have nothing to add.

The Convener: Okay. Thank you. Ms Cairns can now ask questions.

Diana Cairns: In the meeting on 23 April, Mr MacIntyre said:

"the protected views across the park to Arthur's Seat will remain unobstructed."—*[Official Report, City of Edinburgh Council (Portobello Park) Bill Committee, 23 April 2014; c 261.]*

How do you know that?

Ian Alexander: Because we have modelled the building in three dimensions and made a computer-generated image view of the situation.

Diana Cairns: Why has that not been shared with the public?

Ian Alexander: I think that it has been.

Diana Cairns: No, it has not. I have with me a map that I will distribute, which shows the viewpoints that were assessed. The protected view of Arthur's Seat is from where I am indicating. That view was not assessed.

Ian Alexander: I am holding up the view that we presented at the consultation meeting. It is a view from the far end of the park looking towards Arthur's Seat.

Diana Cairns: The view was not assessed. The map quite clearly shows that the views along Brand Drive and Milton Road were assessed, but the protected view across Arthur's Seat from Hope Lane was not assessed.

Billy MacIntyre: Convener, that has been covered through the planning process.

Diana Cairns: There is misinformation, because you do not know how it will look, apart from the fact that there will be 5m-high mesh fencing in the foreground. That is the bottom line. That view has not been assessed. It is commonplace to provide photomontages for planning applications to show the effects of buildings, is it not?

Ian Alexander: There is a photomontage. There is a photograph. A three-dimensional model has been produced that has been located on the site. A view was then taken.

Stephen Hawkins: I am sorry, but for clarity, is the photo that you are referring to the one that I have here?

Ian Alexander: I cannot see; I will have to put on my glasses.

Stephen Hawkins: It is in the Portobello park private bill information leaflet. That is not accurate, is it?

The Convener: What is not accurate about it?

Stephen Hawkins: The depth of the field is distorted in the representation. It is longer. The width of the development is also extended by around 10 per cent in comparison with the height. You have therefore given a long-distance view and not represented how the development will appear.

Ian Alexander: The foreground comes up when one makes perspective views. In terms of perspective and depth of field, if you go to the National Gallery of Scotland and look at paintings, you will see that the foreground can look like that. The representation has been sized and dimensioned. There is nothing else that we can do about that, apart from present technically what we have been told.

Stephen Hawkins: I disagree. The representation is distorted by widening it and making it look further away. That reduces the impact.

Diana Cairns: Yes. It is clear that the materials that have been provided on views and the building's impact in its surroundings have been sadly lacking, if not misleading.

Alison Connelly: Has the council done anything to assess the impact on people who currently enjoy the visual access from Milton Road to the Firth of Forth across the park? If a person currently travels along Milton Road on a bus or in a car, they can look at the views. Has anything been done to assess that impact?

Billy MacIntyre: That is not a protected view.

Alison Connelly: I did not ask whether that is a protected view; I just asked whether anything had been done to assess that impact. It was a protected view in the parks and gardens strategy

of 2010, I think, or in a document that we looked at earlier.

Ian Alexander: We presented various views of the park. We presented views from the east and the west, and we were very interested in the views along Milton Road.

Alison Connelly: So you did not consider anything north to south.

Ian Alexander: As Mr MacIntyre said, that was not a protected view, so we did not produce any image in that direction.

10:00

Billy MacIntyre: The school was designed in a way that would minimise its impact on the local surroundings and maximise the views that can be preserved. Architecture and Design Scotland considered the design in 2010 and identified it as being potentially an exemplary design.

Alison Connelly: Can I go back to the issue of the site visit, Mr MacIntyre? When we were in the park in October with the committee members, we spoke—or you spoke, and I did not say anything about it—about the height of the school building. You described it as coming up to the height of houses that were in our line of sight as we looked towards Park Avenue. In fact, it has been put on record—I just want to draw the committee's attention to this—that that statement was incorrect. You were looking at the houses on Park Avenue, but the school building will be as high as the houses on Milton Road, so there is a full storey of a difference. The school building will in fact be at least one storey higher than the impression given by the verbal information that was given to the committee.

Billy MacIntyre: It will not be one storey higher. That was clarified in information that we provided to the committee back in November 2013, I think.

Alison Connelly: I think that it is close enough to being one storey higher, but we can clarify that. We do not have time to do it just now, but I will put in a submission on it.

Billy MacIntyre: Do you have a question?

The Convener: Mr MacIntyre, it is for me to ask that.

Billy MacIntyre: My apologies, convener.

Alison Connelly: No, because we do not have time. I have lots of questions, but unfortunately we do not have time.

The Convener: Does anyone have questions on this?

Diana Cairns: Was the protected view pointed out to the committee during the site visit last October?

The Convener: Yes.

Diana Cairns: Right, but it has not been assessed.

The Convener: That is not a question but a statement. Does the promoter have any questions?

Billy MacIntyre: No.

The Convener: Okay. Are there any final comments on category 3?

Diana Cairns: No, but as has been said, it is clear that there has been misinformation or a lack of information about the visual impact that the school building will have on its surroundings and the landscape. I think that people will get a nasty shock if it is built.

The Convener: Okay. We move to category 4. I invite a spokesperson from group 1 to speak on the environmental issues covered in category 4, which include light pollution, noise pollution, operational disturbances, and loss of wildlife and biodiversity.

Stephen Hawkins: Again, I will simply read out our opening/closing statement. Conflicting information has been given with reference to optimum lighting levels. The environmental impact assessment states that they should be as low as possible in order not to deter bats, but the SBD report says that they should be as high as possible for security. We have heard what the lighting level will be like, so we know that it will conflict with the environmental impact assessment.

High levels of sports pitch floodlighting from the 16,000 watt, 10m-high lighting poles will cause light spillage into people's homes and could lead to sleep disruption for children and elderly people. There will be general light pollution associated with the site up until 10 o'clock, whereas in other areas in the city the control time is 9 o'clock. There will be 13.5m-high lighting columns with luminaire lighting.

There will be significant loss of amenity to local residents in terms of noise pollution from additional traffic, the sports pitches and plant. The introduction of a large number of people and vehicles circulating every day in the area, including heavy goods vehicles in Park Avenue, will have a severe impact on the residential amenity. An unknown number of mature trees will be lost, as will around 50 per cent of the millennium planting, and that reduction of habitat will lead to a loss of wildlife and biodiversity. There will also be increased disturbance to neighbours.

The Convener: Thank you. Does the promoter have any brief comments?

Billy MacIntyre: In the interests of time and as nothing new has been raised—we have covered what Mr Hawkins said in previous written and oral evidence—I will make no further statement.

The Convener: Do you have any questions for the promoter, Mr Hawkins?

Stephen Hawkins: No.

The Convener: Do you have any questions for the objectors, Mr MacIntyre?

Billy MacIntyre: No.

The Convener: Do you have any final comments, Mr Hawkins, other than those that you just gave?

Stephen Hawkins: No.

The Convener: Okay. That concludes the detailed evidence from the objectors and the promoter on the five categories of objection. We move to questioning by committee members. Alison, do you have a question?

Alison McInnes (North East Scotland) (LD): Yes. I have a question for the promoter on loss of amenity and open space. Obviously, the replacement open space is very significant. You have tried to protect it by having Fields in Trust status for the replacement space. In terms of the commitment to free access to the new football pitches, what kind of guarantee can you give in perpetuity? What can you do to reassure the objectors about free access for local residents in perpetuity?

Billy MacIntyre: The council has taken the decision to provide that free access in perpetuity, but I would need to consider whether there was anything else that we could ask the council to do to further reinforce the decision that has already been taken. I am not sure whether there is anything that we can do, given that council has already taken a very clear decision on the matter, but I will certainly take your point away and see whether there is anything further that we can do to provide that assurance.

That said, given that they form part of the very public discussions and debate that we have had about the bill and the compensatory measures associated with the planning consent for the new school, I think, frankly, that it would be ludicrous for the council to renege on the very strong commitments that have already been provided. From a children and families department perspective, I would say that that is not something that we would countenance or propose, and ordinarily recommendations to the council come from officers.

Alison McInnes: I understand that, but you have taken that extra step in relation to the replacement open space by proposing to give it Fields in Trust status. It would be useful if you could consider the matter.

Billy MacIntyre: We will certainly look at the matter to find out whether we can do anything further.

The Convener: As members have no more questions, I invite Mr Hawkins as lead objector for group 1 to make some final comments.

Stephen Hawkins: We have co-operated as far as possible in trying to meet the timetable set for the hearing of objections, at which we thought that there would be detailed examination of why the council has arrived at this position. We are disappointed in the ruling to curtail our evidence. After more than 10 years of the council's failure to provide a new school, it seems unnecessary for this democratic process to be cut short for the sake of an hour or two, and we are unclear about how the committee can move on to the next stage without having heard all the objections from all the group's objectors.

We have faced difficulties of trust and clarity in dealing with the council. Even now, it is withholding information from us that would be evidence for the consideration stage. Over the years, it has said one thing and then done another. It said that if the park was common good, it would not be built on, and then it proposed to build on it. It said that a new golf course would be purchased, but it has not been. Replacement open space was promised, but the mitigation of the loss of parkland was removed because it was in the wrong place. The same site was promised again, only it was now, inexplicably, in the right place.

The council says that access will be freely granted to the artificial pitches, but I do not believe it because that contradicts the current and future policy on community access to schools. It also says that access will be in perpetuity, as an inducement to support the bill, but the proposal forms no part of it.

What of the problem of trust? The council had said that Portobello park was to be recreational parkland in perpetuity, but the council's definition of perpetuity with regard to parkland is a period of time until it wants to build on it. We have heard no clear reason from the council as to why in 2008 it decided to follow a course of action that its own legal opinion unequivocally stated was extremely risky and which was proven to be totally flawed. Perhaps the term "extremely risky" is not correct; "wilfully negligent" might be more apt. Officers in the council knew that there was no power to build on the park, but that was not made public

knowledge even to councillors when they followed the recommendations that were put to them.

It is a pity for everyone in Portobello that the pressure from some for Portobello high school to be prioritised first above the other wave 3 schools resulted in the initial advice being buried, a different question being asked and a different opinion being given. The first legal opinion, which was obtained by the council in August 2008, was not superseded. It exists and is valid—it has not been withdrawn. However, it was hidden from councillors and the general public alike, including supporters and objectors to the plan to develop the park. As the committee will be aware, the council was found to have no powers to take the park for development, and its decision of 26 April 2012 was considered by three senior judges and ruled ultra vires. That decision should have not come as a surprise to the council, given that, as we now know, it had received clear legal opinion telling it as much as long ago as 2008.

For this unusual bill, you cannot disentangle the past from the present. We know that that is contrary to the statement that anything that happened before 2012 has no bearing on this matter, but we can find no reference or guidance that precludes consideration of the bill's historical context and we maintain that what happened before the court judgment is totally germane to this process. The council had the opportunity to do something different in 2008, but it chose to gamble on a risky course of action to the loss of all in Portobello. It is now looking to Parliament to get it out of the disastrous mess that it has created for itself by not listening—but it is still not listening.

You have heard evidence that, although a particular private bill will confer no powers on others for any act, passing this bill will set a behavioural precedent highlighting a route that others will follow. How can you pass a bill for one body but not for another? You have heard evidence that the private bill process should not be followed as the legal constraints should be addressed through public legislation. You have heard that for many years the council has deliberately run down Portobello park so that it can say that it is unused, and there is ample evidence of schools in Edinburgh being provided without any adjacent urban parkland being taken. Importantly for the process, you have heard many concerns about how the consultation for the bill was targeted at the school community and manipulated by the council as the developer to get the result that it wanted. Indeed, you have criticised the consultation.

At this point, it is unclear how the committee will assess the evidence and how it will be validated and checked for accuracy. The amendment with regard to Portobello park's future legal status,

which has been presented by the promoter, is not understood and could not be easily explained by the promoter when clarification was sought. The convener has actually clarified some of those points.

We, the objectors to the private bill, support a new Portobello high school, but we can have a new school and also retain Portobello park. From the start, the council has failed to manage the risk of the project; has hidden legal opinions and then publicly feigned surprise at losing the appeal that rendered its decision *ultra vires*; has threatened to sue us; and has blamed us for the delay in providing a new school when all the delay has been of its own making.

There are still too many uncertainties about whether all the objections have been addressed and the ramifications that might come from passing the bill. We and other objectors have provided you with ample evidence of the promoter's failure to manage the process and provide legal clarity, and we have raised many doubts about the trust that can be placed in any promise made by the City of Edinburgh Council. The oral and written objections that have been presented contain sufficient evidence to recommend that the bill not be passed.

Thank you for listening.

The Convener: Does the promoter have any brief final comments?

Billy MacIntyre: I have some closing remarks, convener.

The Convener: Be very brief.

Billy MacIntyre: I will.

Thank you again for the opportunity to address the committee. I have emphasised the following point in previous evidence sessions, but I hope that the committee will forgive me for reiterating it one more time.

No one will deny that Portobello high school needs to be replaced as soon as possible, and we are firmly of the view that Portobello park is by far the most cost-effective, the quickest and the best location on which to build the new school. The only other feasible option of a phased rebuild on the combined site of Portobello high school and St John's RC primary school would be far more expensive and take far longer to deliver and we would have to significantly compromise on the educational facilities that could be made available in comparison with what can be delivered by siting the new school on the park. It would also require the relocation of St John's RC primary school.

The decision to locate the school on Portobello park has not been taken lightly. It has been reached after careful consideration and

assessment on several occasions of all the possible alternative options as well as extensive public consultation, and the council is pleased that a significant majority of people in the local community agree that the park offers the best location for the new school. We appreciate that the proposal has generated some opposition, and the objectors today and at the other evidence sessions have strongly expressed what they regard to be the downsides. However, although we respect individual objectors' views, we simply cannot accept the validity of many of the claims about the negative consequences that would result either from the passage of the bill or from building the new school itself.

10:15

I yet again make it absolutely clear that the council categorically refutes any suggestion of impropriety on its part at any stage of the project and any suggestion of withholding information. They are completely untrue.

We cannot and do not claim that we have a perfect solution to the problem that we are faced with. However, a perfect solution does not exist. We believe that the benefits of building the new school on the park, including the improvements to the remaining open space on the site and other spaces in the area and the other compensatory and mitigation measures that will accompany the project, such as the creation of a significant and entirely new area of open space, will result in a net gain for the local community.

We have taken steps to address and as far as possible alleviate legitimate concerns that have been raised about the council's proposals, and we have repeatedly said that we are open to suggestions from objectors about how we might improve our proposals and further alleviate their concerns. However, they persist in saying that the only solution is to build the school elsewhere, and that is not something that we can accept or are prepared to do.

We remain firmly of the view that none of the issues that has been raised by the objectors either today or in earlier sessions constitutes a valid reason for abandoning our proposals. Such a move would require the council to pursue the far more expensive, far more time-consuming and far more disruptive alternative option of a phased rebuild on the existing site, with all the compromises that would result.

We hope that the committee shares our view that none of the issues of detail discussed today or at earlier evidence sessions constitutes a reason for recommending that the bill not proceed and that any disadvantages in the proposals would be adequately addressed through the compensatory

and mitigation measures that we have proposed. However, we would, of course, welcome any suggestions from the committee about further steps that it believes we could take to allay any concerns that members might have, including proposing or discussing any further amendments to the bill that they might consider appropriate. Likewise, if we can provide additional information to assist the committee's consideration of the issues that have been raised, we are more than happy to do so.

Finally, I thank the committee, again, for the opportunity to address it at this meeting and at previous sessions during the bill's preliminary and consideration stages.

The Convener: Thank you.

I thank all participants for their attendance. That concludes the public part of the meeting, and we now move into private session.

10:17

Meeting continued in private until 12:54.

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