



# PORTOBELLO COMMUNITY COUNCIL

## **Minutes of the additional meeting held on 7<sup>th</sup> January 2013 in Portobello Baptist Church Hall**

**Present:** Tom Ballantine, Archie Burns, Celia Butterworth, Dawson Currie, Maria Devoy, Caroline Hosking, Joe Madden (POD), Lawrence Marshall (POPP), Ben McLeish (Gilberstoun Residents), Brenda Molony (Portobello Reporter), David Scott (Portobello Community Centre), John Stewart (Portobello Amenity Society), Nick Stroud, Ros Sutherland (PPAG), Leon Thompson, Anne Ward (PCATS), Sean Watters (Towerbank School Council), Frances Wraith (Brightons & Rosefields Residents' Association).

**Apologies:** Sandra Blake, Diana Cairns, Nelson Johnstone, Cllr David Walker

**In attendance:** Cllr Maureen Child, Sheila Coventry, Malcolm Bett, Mark Cameron, G. M. Culloch, Gillian Dunn, G. Greco, Stephen Hawkins, Damien Killeen, Lee Kindness, Charles Marriott, D. Medcalf, A. Robinson, Margaret Williamson, Ian Wilson, Shirley Wilson, Billy MacIntyre (COEC – Children & Families), Iain Strachan (CEOC – Legal Services), Scott Castle (Thomas & Adamson), Joyce Nisbet (COEC – Children & Families), and other members of the public.

### **1. Chair's welcome**

John Stewart welcomed everyone to the meeting.

### **2. Presentation on Portobello Park Private Bill**

Billy MacIntyre (COEC – Children & Families), Iain Strachan (CEOC – Legal Services) and Scott Castle (Thomas & Adamson), gave a short presentation on the Council's proposals for a Private Bill to allow a new Portobello High School to be built on Portobello Park.

### **3. Questions & Answers**

Q1 – Sheila Coventry stated that the Council claimed that Portobello Park was not extensively used but that was because people had not been allowed to use it. On two occasions people had attempted to organise running races in the Park and both times permission had been refused. Also, the archaeological dig undertaken by the Council had made the pitches unusable and that hadn't been rectified. Why were the Council preventing people from using the park?

A1 – Billy MacIntyre had no knowledge of why running races had been refused permission as that would've been a matter for a different department (Parks and Recreation), but he would try to find out. It was true that the archaeological digs had caused damage that had not been rectified, but it had been hoped that construction work on the new school would soon be starting so spending resources on temporary improvements had not been considered sensible. As circumstances had changed remedial works were now being undertaken to improve the park. The usage survey of the park had been carried out by external consultants in summer 2009, long before the archaeological dig, and had indicated that casual use of the park by the local community was low.

Q2 – Tom Ballantine reported figures from Edinburgh Leisure on the formal use of the football pitches, and that it had amounted to around 180 bookings per year. He asked whether the all-weather pitches would enjoy greater use.

A2 – It was impossible to predict the level of use overall, but synthetic pitches were certainly able to sustain far more use than grass pitches. From experience elsewhere synthetic pitches were very popular and they would certainly be expected to be well used by the community, in addition to the use by pupils.

Q3 – Archie Burns asked: How did the Council propose to demonstrate community support for their proposals? How would Parliament view that? How would the consultation be analysed? What weighting would be given to responses? How were the risks associated with the Private Bill being assessed? Were these proposals not wasting time when other options could be being developed?

A3 – It was hoped that the consultation would demonstrate opinion within the community, but if a Private Bill was taken forward it would be up to Parliament to take a view on that. The consultation would be analysed to see where responses were coming from and to remove any duplicates, but there would be no weighting to responses. The risks were included in a risk register for the project but no details were provided. Also the proposals for a Private Bill weren't preventing other options being developed and consultations on those would follow in the spring.

Q4 – Nick Stroud thanked the Portobello Park Action Group as he felt their persistence had resulted in the proposals for a new park on the existing site. He welcomed that children were also able to respond to the consultation but wondered how the consultation could take into account the generations to come?

A4 – The council could only hope to get an accurate view of the views of the community as it existed currently.

Q5 – Lawrence Marshall stated that whilst he agreed the park was the best site for the school other views within the community had to be considered. Whilst he had previously supported the school going on the park the recent court ruling had changed that. He felt that since the courts had clearly ruled building on the park illegal it would be immoral to try and proceed, regardless of how many people supported it, and that there was a danger of 'tyranny in numbers'. He felt a Private Bill would set a dangerous precedent threatening Common Good land across Scotland. He believed the proposal for a new park on the existing site was pointless given the proximity of Figgate Park, and that whilst Baileyfield would be a compromise, it would still be a good site for the school.

A5 – The passing of a Private Bill was neither simple nor straightforward, and anyone else would still have to go through the same process of convincing Parliament of the merits and demonstrating public support. From the Council's perspective the legal position on the Common Good seemed confused, with other schools having previously been built on Common Good land, and there appeared to be a gap in the law whereby it was legally possible to sell inalienable Common Good but not change its use. Regarding the proposals for a new park, they were encouraged by the responses to the consultation so far and many people seemed keen on the idea. As for the alternative sites; the council didn't own Baileyfield and wouldn't know if there bid had been successful till the end of January; whilst it was possible to locate a school on Baileyfield it would be a compromise compared to the Park site; the adjacent depot had been suggested for additional sports provision but its use was not certain as the Council didn't own it and the site wasn't large enough for a full-sized pitch; the existing combined site was in many ways better than Baileyfield, but it required the prior relocation of St John's, would take longer to deliver, be more expensive, and couldn't accommodate the facilities the Park could.

Q6 – David Medcalf asked why a Private Bill would take 11 months to go through Parliament.

A6 – That was considered a reasonable estimate after discussions with the Bills Unit at the Parliament on timetabling and the process. Hopefully the Bill could be processed more quickly, but there was no certainty as to exactly how long it would require.

Q7 – Why hadn't some areas received the information leaflet, including streets closest to the park?

A7 – Only one distributor had been available at short notice, a company the Council hadn't used before, and there had been problem with the delivery of leaflets. The Council had engaged a second company to undertake a second delivery of 14,500 leaflets commencing Monday 9<sup>th</sup> January. It was also hoped that there had been sufficient publicity around the issue for people to be aware of the consultation and to be able to access information by other means e.g. libraries, on-line.

Q8 – Archie Burns asked what would happen if the Private Bill had not been successful by the February 2014 date identified; would seeking to build on the park be abandoned?

A8- There was no date identified as to when it would be appropriate to focus on another location. If the bill process was started, it would continue until resolved.

Q9 – Ann Ward asked how much the Private Bill would cost.

A9 – It was estimated to be in the region of £60,000 although an exact figure couldn't be determined at this stage.

Q10 – Gillian Dunn raised the issue of children responding to the consultation and asked how young would still be considered appropriate.

A10 - Billy MacIntyre responded that no lower age limit had been set for responses to the consultation and that in his view even young children were capable of expressing a meaningful view on issues that affect them, be it for or against. Clearly it wouldn't be right to fill in a response on behalf of somebody else, but so far they hadn't seen signs of anything untoward in the responses.

Q11 – Franny Wraith raised a concern about future-proofing the building and what would happen in 30 years if the building needed replacing? Would it go on another greenspace?

A12 – The school was designed to last in excess of 40-50 years but that it wasn't possible to say what circumstances would exist when a replacement was needed.

Q13 – Celia Butterworth asked whether the area of the park for the school would be specified in the Private Bill or whether it would allow building anywhere on the park.

A13 – The Bill hadn't been drafted yet but it would only be authorising the building of the school, the form and location of which had already been determined through the planning process.

Q14 – Damien Killeen raised concerns about the consultation process. He felt the exercise wasn't innovative, as required by the Scottish Government guidelines, and opportunities had been missed such as using an outside body to engage children in the process. He feared the consultation had been poorly conducted, would be open to challenge, and could prove to be a waste of everyone's time.

A14 – The Council were satisfied with the arrangements for the consultation, and the exceptionally high level of responses so far (2,840) demonstrated that the community was engaging with the

process. The idea of specifically engaging children had been considered but rejected, due to concerns that it could be seen to unduly influencing responses to the consultation. If the Private Bill was taken forward, the Scottish Parliament would no doubt take its own view on the consultation.

Emma Wood pointed out the pupils at both the high school and feeder primaries had been heavily involved at various stages of the process.

Q15 – Lee Kindness asked if the Private Bill would only relate to the pitch area of the park and not the golf course.

A15 – The Council confirmed that was correct.

Q16 – Caroline Hosking was concerned about the validity the consultation; how could it be known that respondents were real people?

A16 – All responses had to come with a name and address, excessive numbers of responses from a single address would be looked into, and any duplicates would be removed. The IP addresses of on-line responses were recorded and would be similarly checked. No issues had arisen so far but checking and analysing responses would take some time.

Q17 – Sean Watters asked about the Private Bill process. He understood there would be a 60 day period for registering objections to a bill, but was there any mechanism to register support and would supporters have an opportunity to be part of the process?

A17 – The 60 day period was specifically for objections, but it was expected that supporters could be part of the process should the bill go to committee, although that was a matter for the Parliament.

Q18 – Lawrence Marshall stated that he fully agreed that schools were of benefit to a community but that there were other considerations too. Tampering with the law to get round the ruling from the courts was immoral.

A18 – Billy MacIntyre responded that the needs of society change and laws are introduced and altered all the time. The Council still considered the Park to be the best site for the school so were seeking to deliver that.

Tom Ballantine offered the opinion that that laws are rules, rules can have unintended consequences, and legality and morality were different things. For him the moral question was what was the best outcome?

Q19 – Maria Devoy asked whether, in reference to Franny Wraith's point on sustainability, the park site offered the opportunity to re-build on site like Holyrood when the need arose, whereas this would not be possible with smaller sites.

A19 – It was impossible to say what the situation might be in the future, but with the Park site that was certainly a possibility. With smaller sites that would become more difficult or impossible.

Q20 – What were the implications in all this for St John's and what would be the quickest option for delivering the required improvements there?

A20 – The outcomes for both schools were inextricably linked. There was still uncertainty about the preferred options for St John's, between new-build and refurbishment as well as regarding possible relocation, but a consultation on those would be forthcoming. The quickest possible option

for St John's would be a new-build once PHS had been relocated to the Park, or relocation to Baileyfield, with a possible completion by July 2016 for both options.

Q21 – John Stewart asked; if the Council bought Baileyfield but built the school on the park, what would happen with the Baileyfield site?

A21 – Other council uses of the site would be explored and considered. One early suggestion had been housing. Another option would be to sell the land at a later date.

Q22 – Sheila Coventry noted that the possibility of replacement Open Space on the existing site had previously been dismissed as not in a good location and as not being the best use of resources. If this was the case, why was a park on the existing site being proposed now? What certainty was there that the Council wouldn't build upon the new park in a few years time?

A22 – Circumstances had changed given that the Council had been unsuccessful in Court. The issue of loss of open space had frequently been raised by those unhappy with the proposals to build the school on the park. Whilst allocating up to £1 million for a new park and foregoing a capital receipt might not be the optimal use of resources, if it allayed concerns about the loss of parkland and made it possible to deliver the school as planned, then it was financially justifiable. What could be done to provide reassurance on the future of the new park would be looked into.

Q23 - Franny Wraith asked about the cost differences between the different options and whether they were significant sums of money.

A23 – The estimated costs to complete were; £32.3m on the Park, £38.1m on Baileyfield, £39.2m on the combined existing site. By way of example, the £5.8m difference between the Park and Baileyfield options would be more than the Council's contribution to the cost of a new St John's.

Q24 – Archie Burns asked about the capital receipt for the existing site should PHS relocate to Baileyfield and what effect that would have if included in the cost figures. He also asked about the Risk Register for the project and what risks had been identified in pursuing the Private Bill.

A24 - Whilst the figure for an assumed capital receipt was commercially confidential, it was already included in the reported figures for costs to complete. The Risk Register was kept under continual review and the project team were satisfied that proper assessments had been undertaken.

Q25 – Lawrence Marshall was concerned that if the Private Bill went ahead it would set a precedent that would put Common Good across Scotland at risk.

A25 – A Private Bill would only authorise the building of the school on Portobello Park and wouldn't change the law in regard to Common Good land anywhere else.

John Stewart thanked the project team for their time and reminded people of the Public Meetings that were scheduled for Portobello Town Hall and Meadowbank Sports Centre.

#### **4. Fort Kinnaird Cinema**

John Stewart had circulated additional information regarding the application for a new cinema at Fort Kinnaird. After discussion it was agreed to write in support of the application.

## **5. Future meetings**

Meetings are held on the final Monday of each month, except July and December, at 7:30pm, in Portobello Baptist Church Hall, 185 Portobello High Street, Edinburgh EH15 1EU.

The next meeting is on 28<sup>th</sup> January 2013 (305)

Subsequent dates are: 25<sup>th</sup> February 2013 (306)

25<sup>th</sup> March 2013 (307)

29<sup>th</sup> April 2013 (308)

Portobello Community Council on the Web: <http://www.portobellocc.org/>