



PORTOBELLO COMMUNITY COUNCIL

DRAFT Minutes of the Special Meeting held on 26th April 2012 in Portobello Community Centre, Adelphi Grove

Present: Tom Ballantine, Archie Burns, Diana Cairns, Dawson Currie, Maria Devoy, Caroline Hosking, Ben McLeish, Joe Madden, Lawrence Marshall, Brenda Molony, David Scott, John Stewart, Nick Stroud, Ros Sutherland, Leon Thompson, Anne Ward, Sean Watters.

Apologies: Sandra Blake, Celia Butterworth, Robert Gatliff, Nelson Johnstone, Andrew Patterson, Eva Schonveld, Frances Wraith.

In attendance: Some 250 members of the public.

1 Chair's welcome

John Stewart explained that the meeting had been called in response to a petition signed by 75 members of the public, and would be dealing specifically with that petition. He had obtained advice from the City Council's legal department on what was competent for this meeting. He emphasised that community councils have to take a balanced view of the concerns of their whole community, and he was anxious to maintain the balanced view taken by Portobello Community Council since the planning application for the new school was lodged.

Regarding the appeal by the Portobello Park Action Group–PPAG–to the Courts to try and stop the new high school being built on Portobello Park, he pointed out that everyone has the right to challenge in court the decisions made by public bodies. He acknowledged the Community Council's duty to listen to the views of its community, and conceded that feelings on the issue were running high. He believed that this was the first time a special meeting had been called in this way.

The three points in the petition were to discuss the content of the PPAG website, to ask that PPAG remove certain material from its website, and to ask PPAG to withdraw its appeal. He had taken the decision that the Community Council could not do as the petitioners asked about points two and three, but he emphasised that he wanted to hear public views on all three points, and would ensure that these would be passed on to the City Council.

He had been advised that matters pertaining to the Court of Session appeal, such as the issue of common good land, could not be discussed. He emphasised that the purpose of the meeting was not to criticise the way the Community Council is run, nor to debate the behaviour of either PPAG or pro-school supporters, but to discuss the issues raised by the petition. He asked that all comments and questions be made to the chair, and that everyone listen with respect to all speakers.

The meeting would deal with questions and comments in two sections: first, on the PPAG website, then on the appeal in the court case. He called on Tom Ballantine to explain the reason for the petition.

2 Initial statements by petitioners

Tom Ballantine read a prepared statement on the issue of the PPAG website. He pointed out that the Community Council had a duty to articulate the views of the entire Portobello community, according to a specific code of conduct which demanded integrity and honesty. The view of the petitioners was that PPAG had not acted honestly in making three specific false statements on its website in order to raise money and gain support for its attempt to prevent the school being built on the Park. The first contentious point was to claim that PPAG "represent the significant majority of the community". He suggested that PPAG had no basis for this claim, and had in fact very recently told the press that they represented around 100 people. In contrast, a petition calling on PPAG to drop its appeal had been signed by nearly 2,000 people in the previous three weeks. The second point which he claimed to be misleading was "the golf course will be lost if the school is built on the park". The third unjustified point was the claim that if a school was built "housing will be built on the whole area". Both statements were presented not as a possibility but as fact. They were untrue statements, and deliberately misleading. He said that PPAG had been formally asked by

letter to remove these claims in 2011, and that PPAG had undertaken to the Community Council that it would answer the letter and review its website within 14 days. However it did not remove the claims and gave no substantive reply to the letter. The community should take a stand against any organisation that tries to get financial or other support from the community on the basis of false claims. He noted that confirmation had been given that the Community Council would note the views expressed by the community and pass them on to the City of Edinburgh Council. The people who had signed the petition felt the Community Council should do far more, but had been advised that it would not do so. He asked the meeting to confirm that:

- member organisations of the Community Council must follow the code of conduct and should not mislead the community;
- PPAG had made false claims, should remove any factual misrepresentation, including the three misrepresentations identified, from any publicity and fund-raising materials, and should desist from further factual misrepresentation.

Joanna Hardy, a local parent, made a brief statement in relation to the court case. It was clear that the community very much wanted a new high school, and there was now widespread acceptance that the ground at the corner of Portobello Park was the only realistic site on which to create an exciting, state-of-the-art school. Education and facilities for children should be first-rate, and not forced into a second-rate site. The school planned for the Park would be a fantastic building with two all-weather pitches, a swimming pool and other facilities that would be available not just to young people but to the entire community. The debate around the new high school had dragged on for six years, and the only thing stopping Portobello getting its vital new school was the PPAG court case. Were the Group to win its appeal, it would have defeated the best interests of the community and its young people; if it lost the appeal, it would have wasted time, money, effort and good will. She closed by asking PPAG to have the generosity of spirit to let the new high school be built on the Park.

3 Initial statement by PPAG

Ros Sutherland, for the Portobello Park Action Group, explained that the Group had always been clear in its support for a new high school for Portobello, but that we should also be able to retain green space for the benefit of future generations. It was a realistic alternative to build a new school on the site of the old school. She pointed out that 3,000 people had signed the PPAG petition over the years. The City Council had originally said it would replace the green space that would be lost by building on the Park, but it had since withdrawn that offer. Regarding the wording on the PPAG website, she observed that the City Council had once announced plans to build on the golf course, and had not withdrawn those plans, but was now simply saying that it had “no plans” to build there; this was not a sufficient guarantee that the golf course would survive. The loss of the Park would lead to the irretrievable loss of 25% of Portobello’s parkland. She emphasised that everyone has the right to hold and express views without restriction. It may sometimes be impossible to support particular statements with definite evidence, but that does not mean that such statements cannot be made. Free speech is an important principle, even if it is provocative or unpopular, and this principle is recognised in law. Freedom of expression is an enshrined human right, whether in private or through mass media, and should not be suppressed.

4 Response from petitioners

Tom Ballantine made two points in response to the PPAG presentation. He pointed out that the website does not say that the golf course *might* be lost to development, but that it *will* be lost: it is stated as fact, not as belief. He also said that PPAG’s petition, begun in 2006, had asked the City Council to investigate a full range of options, saying that the Park and golf course should not be built on until a full debate and consultation had taken place. That petition would have been signed by everyone in the room, but those initial supporters would not all support the PPAG position in 2012. He urged that the time for debate was over, and it was now time to build the new school.

5 Questions and comments from the audience

John Stewart opened the meeting to questions and comments from the audience.

Question 1. If the new school were to be built on the existing site, its pupils would have to be moved somewhere else, followed by a lengthy demolition process, and then the rebuilding. This would be complex

and expensive. The speaker asked how PPAG valued the site at £3.9 million. He pointed out that the golf course was not affected by the plans for the new school.

Ros Sutherland responded that rebuilding on the site had been the City Council's own idea under 'PPP2', and she must therefore assume that the City Council knew how it was going to manage the decant, the demolition and the rebuilding. Other schools in Edinburgh had managed this and it therefore must be possible in Portobello. She advised that the sum of £3.9 million as the value of the vacated site was quoted from a City Council report of March 2010. She asserted that the golf course would be affected, as it had been identified as a potential saving for City Council expenditure for two years running by Edinburgh Leisure, and would likely remain vulnerable in future. It was therefore obvious that its continuation as a golf course was at risk, and no guarantee had ever been given by the City Council to keep this land in perpetuity for public recreation.

Question 2. The speaker asked whether the Community Council would ask PPAG to amend its website, and to drop its appeal to the courts; and if not why not. He pointed out that the City Council had mooted the possibility of rebuilding on the existing site, but that on detailed investigation had found this was not practicable, and therefore it was misrepresenting the facts to say that it was an option.

John Stewart responded to the first point by saying that he had taken legal advice from the City Council, and that it would not be right to ask any constituent group to alter its website. He repeated his point that the Community Council must take a balanced view. However, he also repeated his reassurance that every point made in the meeting would be referred to the City Council.

Question 3. PPAG had been asked in 2010 to justify its use of the term "significant majority", but the Group's response had been to make the text larger and in red. What was the basis of that change, as it looked childish?

Ros Sutherland responded that the Group had reviewed the content of its website and had updated it. It was unfortunate that not everyone agreed with the current site, but people who support PPAG are happy with it.

Question 4. The speaker observed that Ros Sutherland had made a point of emphasising human rights, and asked about the rights of his two children to get a quality education. He lived near the Park, and was happy that there is plenty of other open space available locally.

Ros Sutherland responded that it was important for people to recognise that one of the key things required by law before the City Council could build on the Park was that it goes through due legal process, advising of its intention to appropriate the Park for this use. The Council only did this in October 2011, and PPAG had lodged its petition in July 2011. Any delay in building the school was therefore not due to PPAG but to the City Council, which had only completed the due process on the day of this meeting.

Tom Ballantine observed that the fact that PPAG supporters like the PPAG website does not justify it in making misleading statements. The PPAG case had been rejected by the court partly on the grounds of the group's delay in submitting it, but the judge said she would have refused it on merit also.

John Stewart then assured the meeting that the minutes would be circulated to everyone on the Community Council, as well as being sent to the City Council.

Question 5. The speaker reported that her son had been a pupil at Portobello High School, had had a bad accident there from which he would never entirely recover, and the head teacher had admitted that this was due to a defect in the building. That had been 11 years previously. She urged that young people must have a school that is fit for purpose, and that it would cost a fortune to keep the existing school safe. Everything was in place for a perfect new school, and she asked why we should have to wait any longer for it. People have had their say, and it was now time to move on.

John Stewart repeated that the Community Council had to take a balanced view of issues, but the audience pointed out that he should be seeking the views of the community, not of the Community Council. Several comments were made about democracy, and knowing the views of the majority, but John insisted that all views must be taken into account. He pointed out that the letter the Community Council had sent to the City Council in response to the planning application for the new school had deliberately taken a balanced view as the Community Council had known of the diverse feelings in the community. He pointed out that although it later emerged that the majority of letters supported the school, the number of objections had been substantial.

Question 6. The speaker asked Ros Sutherland to summarise the Community Council's code of conduct. Ros Sutherland read a couple of sentences from the code of conduct.

Question 7. The speaker asked why the case ever had to go to court.

Archie Burns stated that the City Council should have gone to court to clarify the law at the outset, six years previously, but as it had not done so PPAG had needed to go to court for a legal opinion. Tom Ballantine responded that the City Council had not needed to go to court, and that PPAG had lost on the basis of delay, and, in the judge's view, would have lost on merit also.

Question 8. The speaker recognised that some people wanted the school while others wanted the Park. This was fine, and it was a process to go through to decide what to do. The community had effectively now made its decision, the vast majority now wanting the school to be built on the Park. The PPAG court case and subsequent appeal had come as a shock to the majority of local people who wanted the school to be built as soon as possible. This meeting made that obvious, backed up by a petition signed by 2,000 people.

Question 9. The speaker wondered what the view would be if all local schoolchildren were asked what they would like: to have a school or to keep the Park. She felt that the school would definitely win.

Question 10. A school pupil pointed out that she would like to go to a school that doesn't sway in strong winds.

Question 11. The speaker doubted that the presence of the school would affect the future of the golf course but wondered if a strong assurance from the City Council on the golf course's future would encourage PPAG to drop its appeal. Sean Watters asked how many people would like to see housing on the golf course, by show of hands; no one did. He drew the conclusion that the community is united against building on the golf course, and it wouldn't happen.

Ros Sutherland said that PPAG had written several times to the City Council asking for meetings and guarantees on the future of the golf course, but that the City Council had refused to meet. She was again asked if an assurance on the future of the golf course would make PPAG drop its appeal, but she said that she couldn't speak on behalf of the Group, and that it would need to be discussed. She emphasised the Group's repeated attempts to discuss the matter with the City Council, and its continuing willingness to do so.

Question 12. The speaker could not see a direct link between the golf course and the school, and wondered how a new school building would have any direct influence on the future of the golf course. There was no obvious link.

Ros Sutherland repeated that the City Council's original intention was to use the golf course for wider development, and although the latest plan for the high school was restricted to the park, it did leave the golf course vulnerable.

Question 13. Cllr Mike Bridgman assured the meeting that the administration of which he was part had never intended to build on the golf course. Edinburgh Leisure had been provided with three years' funding for the golf course, so this was not an issue, and the golf course was not in jeopardy.

Question 14. John Stewart was asked if he personally believed that the vast majority of people in Portobello want a new school to be built on the Park, and as soon as possible. John Stewart replied that he could see that a large number of people in Portobello do want that, but that he felt there was a difficulty because there was no ideal site for the school. He recognised the strong feeling coming from the meeting, but hadn't been able to consult everyone in Portobello and therefore couldn't know what the actual majority might think. He assured the meeting that the Community Council was not delaying the process in any way.

Question 15. The speaker recognised that John Stewart had taken legal advice from the City Council, but wondered about the possibility of conflict of interest. John Stewart responded that he was not a member of PPAG and had not been to any of its meetings. He was keen to hear the community's views at this meeting.

Another speaker asked if the City Council's legal advice had been that the chair could make unilateral decisions about the conduct of the meeting. John Stewart repeated his desire to maintain a balanced view.

Question 16. The speaker observed that John Stewart had said that the Community Council could not ask PPAG to do things, but it seemed that it could do so if that was the wish of the community; he was effectively disempowering the community view.

John Stewart replied that the Community Council's constitution and standing orders define what the chairperson can do at its meetings, and that community councils must be balanced and consistent. He had decided that it was all right to discuss the content of the website or withdrawing the appeal, but not to take the action requested in the petition. He invited anyone who wasn't satisfied with that point of view to

complain to the City Council's legal advice unit. Their specific advice had been that the chairperson could take the decision about what was competent for discussion at the meeting.

Question 17. The speaker suggested that the way the meeting was being run denied the public the chance to send a clear statement.

Tom Ballantine recognised the chairman's right to decide that the Community Council would not take a vote on these issues, but pointed out that a lot of people had taken the trouble to attend the meeting and were entitled to have the weight of their opinion recorded. He therefore suggested that it would be fair and helpful to allow the meeting to vote, and he put four questions to the audience:

- Is it important that member groups of the Community Council follow the code of conduct and not mislead the community?
- Are there misleading statements on the PPAG website?
- Should PPAG remove any misleading statements on its website?
- Should PPAG drop its appeal to the Court?

A show of hands was taken on all these questions, and all answered with 'yes', the first being unanimous, the other three by a large majority (six out of the estimated 250 people present voted 'no').

With the weight of opinion at the meeting thus demonstrated, Tom Ballantine added that while he understood that the Community Council itself would not be allowed to vote on these subjects, which he regretted, he hoped that the Community Council would take account of this public vote.

John Stewart assured the meeting that this would be done, and the information passed on to the City of Edinburgh Council.

Diana Cairns observed that it was not surprising that the weight of opinion at this particular public meeting was on the petitioners' side. She then read a letter from a parent which she said suggested that many people who were not convinced of the need to build the school on the Park were feeling intimidated. She reported that some people living near the Park had received intimidating letters, and that the situation was so bad that people had complained to the police.

Question 18. The speaker pointed out that the meeting only represented the people present, not the entire local community, so the votes just taken were not relevant. There was much more support for PPAG's position than would be apparent at this meeting, many people having stayed away as they felt too intimidated, and it was ridiculous to suggest that there was a majority in Portobello for building the new school on the Park.

Question 19. The speaker referred to Ros Sutherland's claim that it was acceptable to make statements which could not be proved to be true, and that while there were arguments about what the majority wanted, he asked what were the reasons against building a school on the Park.

Ros Sutherland repeated that the Group supports the case for a new high school, just not on this site, and asked people to look on the PPAG website for specific details. It was vital to protect green space for future generations.

Archie Burns intervened to say that he had supported the case for a new high school in Portobello since 2003. The original plan had been to rebuild on-site, but there had been no money. Several sites were identified in 2006, at which point the City Council should have known that use of the Park raised a contentious legal issue; he asserted that Portobello would have a new school by now if the City Council had resolved that issue at the time.

Question 20. A parent of a pupil at Parsons Green Primary School reported that parents were having to raise funds to repair school fabric because the funding from the City Council that should have been available for this purpose had had to be diverted to keep the current Portobello High School fit for occupation. This situation was "diabolical".

Cllr Stephen Hawkins responded that he was sorry to hear of the difficulties at Parsons Green Primary School, but that the current High School had now been brought to a sufficiently good condition to remain fit for purpose for several years, so funding could once again go to the local primary schools.

Stephen Hawkins further reported that the City Council had had the opportunity that afternoon to ensure the future of the golf course, but they hadn't taken it.

Question 21. The speaker wondered why PPAG and the Community Council were not fighting to keep the existing High School site as green space.

Diana Cairns replied that Cllr Marilyn McLaren had said at a meeting of the full Council that morning that there was no way the Council would retain it as green space, the money from its sale being needed for education funding.

Sean Watters clarified this, saying that the next school requiring investment after the High School would be St John's Primary School, adjacent to the current High School site, and this would be redeveloped on to that larger site. Some of the overall site might then be released for housing, or for other development, but no final decision had yet been made.

Question 22. The speaker pointed out that there had been lots of talk about feelings, votes and minutes, but it was not the City Council that needed to be persuaded. He agreed that it would have been better if the City Council had dealt with all the legalities sooner, but they hadn't. PPAG had delayed its court action, and had only submitted its appeal on the last possible day, which looked like a cynical delaying tactic. The Group had been listened to in court, and been resoundingly rejected, so why was it prolonging the case? He asked that the Group accept the judgement, that it had had a point, that this had been considered, but that the court and public feeling were against it, and he wanted to know why the Group would not let the community now move on.

Diana Cairns said that the Group would not be going ahead with the appeal unless it had strong legal grounds for doing so. Its action was not out of malice; it was simply fighting to protect green space. It had only been given three weeks in which to decide whether or not to appeal, and had had much consultation and discussion to go through before it could come to a decision, which had taken up all the time available.

Question 23. The speaker asked why a bit of green space mattered more than the education and welfare of our children?

Diana Cairns said that no one in PPAG disagrees with having a new school, but the Group does recognise the importance of green space; many children play in the Park.

Question 24. The speaker stated that he had written a letter to residents around the Park to provide them with information as background to the case for the school. He had not meant to intimidate anyone, only to speed up the process and to get both sides of the argument talking together. He didn't know anyone in PPAG, but did ask anyone knowing them to use their influence to drop the appeal. He had become aware that some people found this to be intimidating, and he was sorry for that, as it had not been his intention.

Question 25. The speaker asked as a point of clarification if the letter identified by the previous speaker had been the one highlighted earlier by Diana Cairns, which had been reported to the police. He asked how far PPAG could go before the Community Council would look into the concerns about its activities.

John Stewart responded that that was a hypothetical question, and therefore couldn't be answered.

Question 26. The speaker asked if PPAG accepts that the wording on its website is not fact but opinion, and would the Group change the website to reflect that? If PPAG genuinely supports the new school, does it genuinely regret denying a generation of children a decent school?

Ros Sutherland again refused to make any promises on behalf of PPAG, but was sure that the Group would discuss this aspect again.

6 Close of meeting

It was by this time 9:30pm, the advertised finishing time, so John Stewart thanked everyone for their attendance and participation, and closed the meeting.