



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# NATIONAL GALLERIES OF SCOTLAND BILL COMMITTEE

Thursday 8 October 2015



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**NATIONAL GALLERIES OF SCOTLAND BILL COMMITTEE**  
**2<sup>nd</sup> Meeting 2015, Session 4**

**CONVENER**

\*Anne McTaggart (Glasgow) (Lab)

**DEPUTY CONVENER**

\*Fiona McLeod (Strathkelvin and Bearsden) (SNP)

**COMMITTEE MEMBERS**

\*Jean Urquhart (Highlands and Islands) (Ind)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Michael Clarke (National Galleries of Scotland)  
Mark McMurray (CMS Cameron McKenna LLP)  
Ann Wilson (National Galleries of Scotland)

**CLERK TO THE COMMITTEE**

Clare O'Neill

**LOCATION**

The James Clerk Maxwell Room (CR4)



## Scottish Parliament

### National Galleries of Scotland Bill Committee

*Thursday 8 October 2015*

*[The Convener opened the meeting at 09:34]*

### Decision on Taking Business in Private

**The Convener (Anne McTaggart):** Good morning and welcome to the second meeting in 2015 of the National Galleries of Scotland Bill Committee. I ask everyone to switch off mobile phones and any other electronic devices, as they interfere with the broadcasting system even when switched to silent. However, committee members may use tablets for committee business, as the meeting papers are now provided in digital format.

Agenda item 1 is a decision on taking business in private. Does the committee agree to take in private item 3, which is consideration of the evidence that we will hear this morning to inform our preliminary stage report?

**Members** *indicated agreement.*

## National Galleries of Scotland Bill: Preliminary Stage

09:35

**The Convener:** Item 2 is our main item of business, which is an evidence-taking session with the bill's promoters: Michael Clarke, director, Scottish national gallery; Ann Wilson, project manager, National Galleries of Scotland; and Mark McMurray, senior associate of CMS Cameron McKenna LLP. I welcome the witnesses to the meeting and ask Michael Clarke whether he would like to make a short opening statement.

**Michael Clarke (National Galleries of Scotland):** Thank you, convener, and I thank you and your fellow committee members for allowing us this early start. It is greatly appreciated.

The board of trustees for the National Galleries of Scotland was established in statute in 1906 in order to manage the National Galleries of Scotland, which comprised three galleries: the national gallery of Scotland, the Scottish national portrait gallery and the Scottish national gallery of modern art. The board's functions are, among others, to secure that the objects are exhibited to the public and to generally promote the public's enjoyment and understanding of the fine arts.

In particular, the board wishes to ensure that Scottish art is presented to the widest possible audience in a gallery of world standing, and it is very mindful of the advances that have been achieved elsewhere in respect of top-standard displays of national schools. For example, Tate Britain in London has had a complete £45 million refit and displays the British national school extremely well. As for our cousins across the Atlantic in America, the Metropolitan museum of art in New York has had a complete refit of its American wing and the Boston museum of fine arts has constructed a new building to display its American collection. Of course, nearer to home, the musée d'Orsay across the Channel in Paris is almost exclusively devoted to the display of the French national school.

Those are the standards that we are looking to and wish to attain by expanding and improving the display of the Scottish collection here. However, all the space within the current Scottish national gallery building is currently being used for permanent collections or exhibitions, so the proposal is to extend the national gallery building into the relevant land in Princes Street gardens to create approximately 500m<sup>2</sup> of new gallery accommodation in which the collection of Scottish art will be exhibited. We will thereby triple the space that is devoted to the Scottish collection and

greatly improve the circulation throughout the building.

Additional benefits that are expected from the project include improvements to the conflicting external elevation designs, improved landscaping in the gardens and improved disabled access. Throughout the planning stage, there has been on-going consultation with relevant bodies with an interest such as the City of Edinburgh Council, Historic Environment Scotland, Network Rail and the Edinburgh World Heritage Trust. We hope that the scheme will very much build on recent successes such as the redevelopment of the Scottish national portrait gallery, which celebrates Scotland's history and people, and in the modern sphere, our artist rooms scheme, which has very successfully displayed leading contemporary art throughout Scotland.

**The Convener:** Thank you very much, Mr Clarke. It is super to hear what has been happening with the bill. We have questions on an array of topics, and we will hear first of all from Jean Urquhart.

**Jean Urquhart (Highlands and Islands) (Ind):** It was really good to hear what Mr Clarke had to say, and I am particularly pleased to hear the comments about the Scottish collection. It is not necessarily a planning issue, but it would certainly be of great interest not only to artists but to all of us in Scotland to see the national collection presented in a much better way.

What are the financial benefits to the gallery? Will the development produce more revenue and result in greater throughput?

**Michael Clarke:** We see the development as increasing our visitor numbers, which inevitably will mean a greater number of customers in the commercial areas of retail and catering. Circulation through the gallery will also be greatly improved. At the moment, less than 20 per cent of our visitors get down to the so-called new wing area, where the Scottish collection is housed. As I think you saw on the site visit, beyond that area are offices. According to the scheme, they will leave, and therefore there will be much greater access through that area to the commercial areas, which will improve the financial resilience of the organisation in the coming years.

**Jean Urquhart:** Further on the financial side of things, what is the cost of the project altogether, and what funding is in place? What is the timeline for the work beginning and ending?

**Michael Clarke:** The cost of the project is a little over £15 million. We have a stage 1 heritage lottery pass for a grant of just under £5 million. We have other funding initiatives under way that are drawing in funds from elsewhere, and there will be a public funding campaign as well.

If everything goes according to plan, we envisage breaking ground, as it were, in early 2017 and finishing round about the autumn of 2018.

**Jean Urquhart:** Good. Thank you.

**Fiona McLeod (Strathkelvin and Bearsden) (SNP):** Can I take you through the need for a private bill, please? In the promoter's memorandum, you summarise the legal obstacles to your being able to do what you want to do. It is about the rules in the City of Edinburgh District Council Order Confirmation Act 1991 and also about whether it is common good land that is alienable or inalienable by the council. I would like to look at that first, and I ask you to talk me through the reasoning on that and on how we ended up with a private bill.

My understanding is that, if the land is inalienable, only the Court of Session or a sheriff court can allow the disposal of it. If it is alienable, the council can change the purposes of it, under the Local Government (Scotland) Act 1973. Can you talk me through the question of whether it is alienable, and, if it is, why does a bill supersede the Court of Session?

**Michael Clarke:** I ask my colleague Mark McMurray to answer.

**Mark McMurray (CMS Cameron McKenna LLP):** The starting position is that the land is currently regarded as inalienable common good land, which, as you said, under the terms of the 1973 act would require approval from the court before the council could dispose of it to the National Galleries to allow the scheme to proceed.

The City of Edinburgh District Council Order Confirmation Act 1991 is another statutory restriction. Because a piece of legislation is required to deal with the hurdle in that act, it was thought that the two processes could be combined into one act so that there was one opportunity and one consistent approach, and members of the public would be allowed to participate. The Parliament obviously offers further advantages of accessibility and openness to members of the public to participate.

**Fiona McLeod:** So it is inalienable land.

**Mark McMurray:** Yes.

**Fiona McLeod:** Right. I am still not clear how, if it is inalienable land, we can deal with it through a private bill and it does not have to go to the Court of Session.

**Mark McMurray:** The drafting in the legislation would change the status of the land to alienable, which would allow the council to use its powers under the Local Government (Scotland) Act 1973

to dispose of it in accordance with the procedure that is set out in that act.

**Fiona McLeod:** It is clear, then, that as inalienable land it can become alienable through an act of Parliament, and therefore the council can dispose of it to the National Galleries. Thank you.

Another section of the bill deals with the 1991 act, so that the bill allows the council to change the land from inalienable to alienable in order to dispose it to the National Galleries but limits what it can do with the land to the terms of the 1991 act.

09:45

**Mark McMurray:** The 1991 act has a separate restriction. The bill proposes to change the land to alienable, which would allow the council to dispose of it in accordance with the procedures in the Local Government (Scotland) Act 1973, but the use of the land would be restricted to the purposes of the scheme. Indeed, the council could not dispose of the land for another purpose; its use would have to be linked to what the National Galleries is proposing.

**Fiona McLeod:** Right. The second section, on the 1991 act, ensures that, in the disposal of the land to the National Galleries, it is only on this piece of land that buildings could be built—no other buildings could be built anywhere else on the common good land of the gardens.

**Mark McMurray:** Yes. The 1991 act has a restriction on construction within Princes Street gardens that is designed to keep the gardens for public space. Certain building and construction can be carried out, but it is predominately linked to the gardens' function as a park. The purpose of amending the 1991 act is to remove the small piece of land that the National Galleries is seeking to acquire from the council from Princes Street gardens so that there is no longer a restriction on construction on that land.

**Fiona McLeod:** That is all quite clear, but I want to explore whether the matter can be dealt with in any way other than a private bill. The National Galleries required an act of Parliament—the National Galleries of Scotland act 1992—for the Playfair project for reasons that are similar to those behind your current request. Why can that act not be amended to allow for this further extension?

**Mark McMurray:** The 1991 act is the starting point, because that act covers the Princes Street gardens. We are trying to limit the bill to what is necessary to carry out the project. In order to remove the land from Princes Street gardens, we would need to amend the definition of Princes Street gardens in the 1991 act.

**Fiona McLeod:** The act that allowed the Playfair project to go ahead, would not, were it amended, deal with the inalienable versus alienable common good land issue. Is that correct?

**Mark McMurray:** I will have to look at my notes to answer that.

**Fiona McLeod:** Maybe you could come back to us in writing about that.

**Mark McMurray:** Yes, I could do that, if that would be helpful.

**Fiona McLeod:** That would probably be easier. I know that I am getting very technical, but the question is whether a private bill is necessary in order to achieve what you want to do.

That has covered all the technical issues that I wanted to ask about, convener.

**The Convener:** We will write to Mark McMurray asking for further explanation of the issue. Would you be happy to provide the information in writing?

**Mark McMurray:** I am happy to do so.

**The Convener:** Thank you. One of my questions is about the relationship with the City of Edinburgh Council. Where are we at with that?

**Ann Wilson (National Galleries of Scotland):** We have a healthy relationship with the council. It agrees with the bill and has been involved in its promotion. The council's finance and resources committee has approved the transfer of the land, should the private bill be passed. There are ongoing discussions with the council.

On the project itself, there has been a lot of discussion and consultation, particularly with the parks manager, on the current and longer-term use of the parks, as well as with the planning department about the shape and form of the building. We are in a grade 1 listed building in a world heritage site, so there has been a lot of attention.

As you will have seen on your visit, the site is a very active city-centre location; as well as the galleries there is the upper-concourse level, which is in the control of the council. There is a lot of joint work with the council on the management of those areas, how the public move around them and enhancing the visitor experience. There is ongoing discussion with the council on the project; we are not at the end of the journey but are having an open dialogue with the council. We have also been in contact with the council's legal team and estates team to discuss the promotion of the land transfer at the next stage.

**The Convener:** Thank you. I have a more in-depth question about the construction process and about access. On our visit, we viewed access to

the gardens and the Playfair steps. Can you explain a bit more about the relationship between you and the council with regard to that access?

**Ann Wilson:** At the moment, the gardens close at dusk. The parks department closes the gardens down in the evening, but we work with it on access when the National Galleries is running any evening events. There is also on-going discussion with the parks department on arrangements for the maintenance of the garden grounds. Clearly, the work that we will be promoting with the project will require a greater interface with the garden grounds. We will be remodelling some of the land and creating better disabled access into the garden space.

What we are trying to do on the external elevations through the project will enhance the gardens as well. We see that as a massive benefit to the council because, ultimately, the funding for the work that will be carried out will come from the National Galleries. We see that as a very positive offer to the council in relation to the transfer of the land. We will be doing quite a high level of work in the gardens to enhance what is already there.

**The Convener:** Thank you. That ties in quite neatly with what Jean Urquhart wants to ask about.

**Jean Urquhart:** Yes. I have a question about common good land. There is often a great deal of controversy over common good land being sold or how it is used being regarded as taking it out of the common good. However, in this case, the land will remain in the common good because it is not being sold to a private developer and nothing will be done that takes it away from public use, although its status will be changed. Another criticism sometimes is that common good land is sold at less than market value. Is there any financial transaction in this regard between the National Galleries and the City of Edinburgh Council?

**Ann Wilson:** I am sorry but, as I am quite new to this, I will pass that question on to Mark McMurray.

**Mark McMurray:** The bill will change the status of the land to alienable common good land which, as I said earlier, requires compliance with the procedures for disposal under the Local Government (Scotland) Act 1973. The council will be required to comply with best value and take into account other considerations. There is a wealth of case law about what "best value" means and what the council can take into account in that regard. However, there is certainly no suggestion that there would be a disposal for less than best value.

**Jean Urquhart:** I think that members of the public would be delighted by the plans that we

saw, which show disabled access and improvement to the Playfair steps, and more prominence being given to the Spanish civil war memorial. I think that there are lots of benefits to be had from the project. I presume that the cost of the landscaping and so on will fall within the National Galleries of Scotland's budget for the project as opposed to the council's budget.

**Michael Clarke:** Yes, it will.

**Jean Urquhart:** So there is a kind of quid pro quo in that sense.

**Ann Wilson:** Yes.

**Jean Urquhart:** It occurred to me after our visit to the site that, although the project is about having better access to the Scottish collection, in the beaten way of things extending the gallery space might give an opportunity to improve access to all the collections, rather than just to maintain that collection in that space. Is there ever discussion about moving paintings around the gallery generally?

**Michael Clarke:** Yes. We move paintings around the galleries for all sorts of reasons and we redisplay parts of the permanent collection. At the end of the day, one is creating a shell, and future generations might choose to dispose the collection differently within the galleries. We already have examples of the Scottish school intermixed with the European paintings on the first and second floors, and we will certainly continue with that. We also envisage bringing some of the European paintings into the Scottish context in the proposed new gallery, because there are important links that we would like to demonstrate. The situation will remain fluid in that sense.

**Jean Urquhart:** Thank you.

**The Convener:** Members have no further questions, but is there anything that the panel members wanted to tell us that has not been covered by the questions?

**Michael Clarke:** No. Thank you.

**The Convener:** You can write to the committee if you have anything to add. I thank the witnesses for coming along this morning and giving us this information.

**Michael Clarke:** Thank you.

09:56

*Meeting continued in private until 10:06.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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