

# **NATIONAL GALLERIES OF SCOTLAND BILL COMMITTEE**

Monday 3 February 2003  
*(Afternoon)*

Session 1

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## **NATIONAL GALLERIES OF SCOTLAND BILL COMMITTEE** **2<sup>nd</sup> Meeting 2003, Session 1**

### **CONVENER**

\*Rhona Brankin (Midlothian) (Lab)

### **DEPUTY CONVENER**

\*John Young (West of Scotland) (Con)

### **COMMITTEE MEMBERS**

\*Maureen Macmillan (Highlands and Islands) (Lab)

\*Alasdair Morgan (Galloway and Upper Nithsdale) (SNP)

Mrs Margaret Smith (Edinburgh West) (LD)

\*attended

### **WITNESSES**

Mr Michael Clarke (National Galleries of Scotland)

Ms Sally Dyer (City of Edinburgh Council)

Mr Richard Griffith (Edinburgh World Heritage Trust)

Mr Martin Hulse (Cockburn Association)

Mr Terrence Levinthal (Scottish Civic Trust)

Mr Jim McKay (City of Edinburgh Council)

Dr Elaine Murray (Deputy Minister for Tourism, Culture and Sport)

Mr Scott Robertson (National Galleries of Scotland)

### **CLERK TO THE COMMITTEE**

David Cullum

### **SENIOR ASSISTANT CLERK**

Alison Campbell

### **ASSISTANT CLERK**

Zoé Dean

### **LOCATION**

Committee Room 2



## Scottish Parliament

### National Galleries of Scotland Bill Committee

*Monday 3 February 2003*

*(Afternoon)*

[THE CONVENER *opened the meeting at 14:32*]

**The Convener (Rhona Brankin):** I welcome the press and the public to this meeting of the National Galleries of Scotland Bill Committee. We have apologies from Margaret Smith, who has a major problem that she has to deal with.

I remind everyone to turn off their mobile telephones—and I will remember to check that I have turned mine off as well. There you go: I have asked everyone to turn off their phones but I have not done so myself. Absolutely fatal.

### National Galleries of Scotland Bill: Preliminary Stage

**The Convener:** Our main agenda item today is evidence taking as part of the preliminary stage of the National Galleries of Scotland Bill. The first witnesses represent the trustees of the National Galleries of Scotland, who are the promoters of the bill: Michael Clarke, the project director, and Scott Robertson, the project adviser. Our witnesses may make an opening statement.

**Mr Michael Clarke (National Galleries of Scotland):** I am the director of the Playfair project and the director of the National Gallery of Scotland. We are here to promote the application for the disapplication of the effect of paragraph 22 of the schedule to the City of Edinburgh District Council Order Confirmation Act 1991 as it affects the project.

The project is designed to reunite two venerable institutions, which both date from the 19<sup>th</sup> century. The Royal Scottish Academy building, originally known as the Institution building, dates from the 1820s and 1830s, and the National Gallery of Scotland building dates from the 1850s. The interwoven history of the two buildings is reflected in the fact that they were both designed by one of Scotland's greatest architects, William Henry Playfair.

In the intervening century and a half, since the National Gallery was opened, various societies have been in and out of the Institution building, although things have now settled down. Between the 1850s and around 1910, the Royal Scottish

Academy was housed in the National Gallery building. Then, in the early 20<sup>th</sup> century, the RSA took tenancy in the former Institution building.

The Playfair project has been under way since the late 1990s, when we fundamentally repaired the academy building. We turned our attention to the foundations, which had rotted away over the years. The project is triple funded by the Scottish Executive, by the Heritage Lottery Fund and by moneys raised from many different sources by the National Galleries of Scotland. Many prominent trusts, foundations and individuals have already either pledged or given their support.

The aim of the project is ambitious for Scotland. We intend to deliver for Scotland a world-class exhibition facility in the exhibition rooms of the academy building. In the underground space, which is now well on the way to completion, we intend to upgrade the visitor facilities to the whole complex, concentrating in particular on the important areas of education and information technology.

There will be an added advantage to the scheme, in that the permanent collection in the National Gallery, which often has to come down when we stage major exhibitions—most recently “Rembrandt's Women”—will remain undisturbed, allowing visitors from Scotland and abroad to enjoy the incomparable treasures that the building contains.

The matter that we are here to consider today concerns a minor intrusion into the adjoining garden space, measuring approximately 5.5m by 59m or, I think, a total area of 319 sq m. I will ask my colleague Mr Robertson to talk about that in more detail.

**Mr Scott Robertson (National Galleries of Scotland):** As Michael Clarke has said, the three main phases of the Playfair project are to stabilise the Royal Scottish Academy building, which was in some danger of collapse; to restore that building so that it can house international exhibitions and preserve undisturbed the permanent collection of the National Galleries; and, most important as far as the bill is concerned, to create a whole new series of facilities both between the Royal Scottish Academy and National Gallery buildings and linking in to the edge of east Princes Street gardens.

The National Galleries of Scotland and visitors to the RSA have lacked such facilities since the 19<sup>th</sup> century. It is ironic that it is only now, in the 21<sup>st</sup> century, that we are starting to provide them. For many years, the National Gallery has housed an exceptional collection and has attracted a high number of visitors from Scotland and abroad, yet it has not been able to provide all the facilities that those visitors would expect in comparable major

institutions, not only in Britain but across Europe—even former eastern bloc countries have been rather better provided for.

The facilities fall into two elements. The larger part comprises education facilities, including a 200-seat lecture theatre; seminar and schools activity rooms; schools lunch rooms and cloakrooms; and a large IT gallery, which will allow people to access information on our collections—remotely, in time. The other part comprises visitor facilities, including a shop, cloakrooms, toilets, visitor information centre and a restaurant. Those areas abut east Princes Street gardens.

Apart from creating the space, the reason for taking the small strip of ground that takes up part of a grass banking on the edge of the top footpath of the gardens is to allow us to address a number of other issues, which will complement the aims of the City of Edinburgh Council, the Executive and our trustees.

With the sorts of exhibitions that Mr Clarke referred to, we anticipate a much greater number of visitors coming to the site on the Mound. A large proportion of those visitors will come not from within Edinburgh, but from other parts of Scotland and from the north of England. Indeed, we considered where the 50:50 point would be for a visitor who was deciding whether to come to an exhibition on the Mound or in London—in terms of travelling time, the point was as far south as York and Leeds.

We anticipate large numbers of people coming through Waverley station to the site across Princes Street gardens. Taking the small strip of ground would afford them a particularly suitable entrance for that type of visit. The new facilities in the lower level would also enable disabled visitors, mothers with pushchairs and people with mobility difficulties to access the building in a much more user-friendly and easy way than they can at the moment.

On the architecture, we are conscious of the sensitivity of the gardens and their importance to people in Edinburgh and, in a wider sense, throughout Scotland. The architects of the project—John Miller and Partners, who were selected after a two-stage international design competition—have been very aware of that and have designed the building extension to fit with its surroundings, using natural stone with windows that are deeply recessed to avoid glare into the gardens. Materials have been used sensitively.

As Michael Clarke said, the building abuts only 5.5m of the gardens. It is a fairly de minimis strip of ground, which is not really useable to the public for most of the time, because it is at a slope of 45 deg and in shadow for more than half the day. There would also be a benefit above ground in the

Mound pedestrian area, because the useable area for visitors would be extended. That would be of particular benefit during hogmanay celebrations and during the fringe, when events go on there for a large part of the late summer.

The construction will be fairly restrained and will take place from the existing site out into the gardens. It will not require a considerable amount of access within the gardens, so any damage to the gardens will be minimised. We have undertaken a long series of discussions with the City of Edinburgh Council on minimising the damage and reinstating the landscaping in a way that is acceptable to the city and, we hope, to amenity bodies.

**The Convener:** I open up the meeting to questions.

**Maureen Macmillan (Highlands and Islands) (Lab):** What else will have to be moved? What about the Spanish civil war monument?

**Mr Robertson:** The monument to the Spanish civil war veterans will be moved from its current site, which is where the entrance will be, and relocated about 50m to the south, on the same banking and the same footpath. It will be sited just in front of the National Gallery's Scottish collection, which is in the 1970s extension. It will stay on the same line and will still be accessible to the public, but it will move 50m further south.

**John Young (West of Scotland) (Con):** If the bill does not become law, do you have any contingency plans?

**Mr Robertson:** If that circumstance occurred, we would have to reconsider the design. The architects have looked at that. It would mean that visitor facilities would be reduced by approximately a third. The restaurant would be able to hold perhaps two thirds of the number that we have seen previously and cloakroom space and so on would be reduced. There would still be a requirement to form an access into the gardens for the purposes of fire escape and, we would hope, for disabled access into the building. However, if the bill was not enacted, the useable public area above would be reduced in size. The problem could be overcome, but we believe that there would be longer-term penalties, not only in relation to the number of users, but in relation to the revenue that would be generated, which would help to sustain the cost of running the project.

**Alasdair Morgan (Galloway and Upper Nithsdale) (SNP):** I can understand why, if you want to utilise the lower level, east Princes Street gardens is the only sensible site. Clearly, if you are going to have offices there or any kind of facility that needs daylight, you will need to remove the banking. However, that does not explain why you need to build on that area, as

opposed to simply removing the banking and building within your existing walls. You said that you would gain an additional 300 sq m. How much additional space are you creating, not including the 300 sq m?

**Mr Robertson:** Within the lower level link?

**Alasdair Morgan:** Yes.

**Mr Robertson:** Just over 2,500 sq m of education and visitor facilities.

**Alasdair Morgan:** John Young asked whether the additional space would make a significant difference and yet we are talking about only 300 sq m, which is a fairly small addition.

**Mr Robertson:** In terms of the overall area of the gardens, it might be—

**Alasdair Morgan:** No, I meant in terms of the overall area of your development.

14:45

**Mr Robertson:** It is not a large area, but the large part of the underground link will be given over to education and other uses that can fit into artificially lit black-box spaces between the two existing galleries and the Mound. The amount of space that we can use for visitors, for which we want to use natural daylight, is therefore fairly constrained.

The rear part of the leg of the L-shape, which lies under the pedestrian area against the RSA building, is needed for a number of art-handling and technical facilities that support the use of the RSA building for exhibitions. That requirement pushes the visitor facilities slightly further forward.

Even if we took the existing building line and cut out the bank to create a slightly broader footpath, the result would not be particularly useable and the loss of green space would be exactly the same. We felt that we might as well create a space that would add architecturally to the setting of the two buildings and allow us to create more facilities for the visitors whom we expect to attract.

**John Young:** In the policy memorandum to the bill, you indicate that there are no alternatives to the bill. How did you reach that conclusion?

**Mr Robertson:** We did so after the change of status that occurred during the project. Originally, the National Gallery and the RSA buildings were in the ownership of the Crown. The trustees were keen to undertake a land exchange with the council to provide part of the space for the project and the titles of both buildings were transferred from the Crown to the National Galleries of Scotland board of trustees.

Prior to the transfer, the land would have had Crown immunity. Before the establishment of the

Scottish Parliament, the situation would have been resolved by means of a minister making an order in council. With the establishment of the Scottish Parliament during the development of the project, following approval of the project by the Executive, the situation changed. It was for those reasons that the bill was submitted.

**Maureen Macmillan:** Concerns have been raised about light pollution into the gardens at night. How will you deal with that issue?

**Mr Robertson:** When the restaurant is in use in the evenings, we anticipate that the lighting levels will be lower than the full-on office lighting levels that can be seen from the gardens from our existing extension. We will also use a system of blinds to reduce the amount of light pollution into the gardens. We believe that light spillage into the gardens will be fairly minimal.

Although the lighting will be set at a lower level, we are also conscious that the National Gallery and RSA buildings are floodlit, as are most of the major public buildings around the periphery of the gardens. That is a precedent—for most of the year, those buildings form the boundary of the dark space that is the gardens.

**Maureen Macmillan:** Do you envisage putting out tables and umbrellas, for example?

**Mr Robertson:** That does not form any part of our plans. The drawings that were submitted for planning permission show the windows with fixed glazing. Had we considered putting out tables and so forth, the glazing would have been shown as being able to be opened, but that is not an option.

**Maureen Macmillan:** There is a worry that your proposals are the thin end of the wedge and that they will give the green light to other developments in the gardens.

**Mr Robertson:** I am aware that a number of bodies have expressed concern not so much about our project as about other projects in the centre of Edinburgh. Those bodies may be concerned that our development is being seen as a stalking horse or that it will create a precedent.

The City of Edinburgh Council makes significant use of parts of the gardens during the fringe festival and the city's hogmanay celebrations. One-off events are also held in the gardens: I am thinking of the opera stand and staging that was set up in east Princes Street gardens at the time of the opening of the Parliament. All those uses require ancillary facilities.

Our small extension could help to meet the need for facilities associated with many of the uses that people welcome in the gardens, including the ice rink or fringe events. Those events require generators, portable toilets and burger stands, some of which will not be required if we provide

facilities that users of the gardens and visitors to the galleries would be able to make use of.

**The Convener:** Will you tell us more about the land swap that took place?

**Mr Robertson:** The title deeds for the two buildings are differently drawn. The title deeds for what was the Royal Institution building dealt with a small area—that within the railings that surrounded the building closely. The title deeds for the National Gallery of Scotland were more widely drawn and included land between the National Gallery and what is now the Royal Scottish Academy building; land across the roadway of the Mound and into part of west Princes Street gardens; and land up the banking at the back, which most people recognise as an area where the City of Edinburgh Council announces various events and places a Christmas tree every year. The council has maintained and used that land for a long period.

The City of Edinburgh Council owned part of the area that we required for our project to the east side of the Royal Scottish Academy building. To support its aims of making Edinburgh a world-class city and of encouraging greater visitor use of heritage sites such as ours, the council agreed to transfer a small piece of the land that it owned in return for the piece of land that we owned and did not use. That tidied up two ownerships in the city centre and allowed us to develop the project. It also gave the council ownership of land that it had maintained and used for well over a century.

**The Convener:** I thank the witnesses for their evidence. If needed, a further opportunity to question the bill's promoters will be available at the end of the meeting.

The second witness should be the Deputy Minister for Tourism, Culture and Sport, but she is not here yet, so I ask Martin Hulse, who is the director of the Cockburn Association, to give evidence now. I welcome him and ask him to make an opening statement.

**Mr Martin Hulse (Cockburn Association):** I am the director of the Cockburn Association, which is the Edinburgh civic trust. The Cockburn Association is run by a council of 25 members and I am that council's public face.

The Cockburn Association has supported the Playfair project, which it believes will have a huge cultural impact on the city. I have visited the site twice and Mr Robertson has taken me round the buildings to show me the work that is being undertaken.

The short submission that I have provided says that we support the project and that we will not object to the bill. We are slightly critical of the time that it has taken for the bill to be discussed by the

committee, because the building works are taking place. The discussions should have been held earlier. We acknowledge that new procedures are involved and that it has taken time for the Parliament to become acquainted with the matter, but if Railtrack or the EDI Group—the City of Edinburgh Council's private property arm—proposed future developments, we would like those developments to reach a committee earlier. I do not know how that would be achieved.

It is important for the bill to remain in place when it is passed. We do not want it to be removed, but we will monitor the process to ensure that it does not open the gates to further developments in and encroachments on the gardens. The project has been handled correctly.

**John Young:** What impact will the development have on the character and amenity of east Princes Street gardens and the surrounding area?

**Mr Hulse:** At the moment, I sit on the Princes Street gardens working group, which is about midway through its consideration of how the gardens as a whole should be used in future. For example, we are examining how cafes should be included in the gardens, where we should put public toilets, what kind of developments should be allowed in the gardens and so on. Those questions are currently running through my mind.

We accept that the project is for the public good and will vastly improve facilities. However, we are worried about developments that are slightly for private gain such as the plan for the Princes Street galleries, which the Cockburn Association has been hugely opposed to.

**John Young:** I agree with much of what you say. However, is there a real danger that some private developer might try to gain access in future?

**Mr Hulse:** The development has already been cited as a precedent in discussions with other developers. Although that concerns me, I do not know how we can stop it happening. After all, the act in question has been amended before to allow the construction of toilets, the police kiosk and so on.

**John Young:** I must admit that I am not fully conversant with the provisions of the Edinburgh Improvement Act 1816, which is the earliest legislation in this respect. Does that act make any comment on the matter? I know that we are talking about a long time ago, but the sentiments then might not be all that different from the sentiments that are being expressed today.

**Mr Hulse:** Lord Cockburn himself was heavily involved in protecting the gardens, especially in relation to building on the south side. The 1816 act and the various subsequent acts have been very



important in protecting the environment of the gardens.

I should point out that EDI prepared a very good precognition as part of the inquiry into the Princes Street galleries which sets out the changes that have happened over time and the historical progression of the various acts. I imagine that the committee has already received enough information on this issue, but the paper could be submitted as evidence.

**John Young:** Thank you very much.

**Maureen Macmillan:** Are you convinced that the bill would not automatically open the door to commercial development?

**Mr Hulse:** Yes, but I want it recognised that this is a public development that is being built for the public good. It is not a private development by the Parliament. We must protect east and west Princes Street gardens; we do not want them to become highly commercialised.

The difficulty will arise with issues such as fire escapes. For example, will we have to light the gardens as part of the fire escape routes? Planning has to address such questions.

**Alasdair Morgan:** Your submission mentions a lost opportunity to link the east and west gardens. Are you talking about having a pedestrian walkway under the Mound?

**Mr Hulse:** Yes. People who walk along through west Princes Street gardens have to come up the steps, cross the road and then go back down into east Princes Street gardens. We have always felt that it would be nice to link the two gardens to allow people to continue their walk through them.

**Alasdair Morgan:** Equally, it could be argued that it is far nicer to force pedestrians to go up the steps so that they can see the vista at street level before they go back down into the gardens again.

**Mr Hulse:** Yes. However, when I walk through the gardens to work, it is a joy to be away from the hustle and bustle of the street.

**Alasdair Morgan:** But would it be much of a joy to be in an underground passageway that ran the width of the Mound?

**Mr Hulse:** I am sure that architects' designs for such a passageway would be exceptional.

**John Young:** There would be the danger of muggers in an underground passage.

**Mr Hulse:** I am sorry—I did not hear that.

**The Convener:** I think that it is important to reassure you that the Parliament would have to scrutinise any other such development on its own merits. Secondly, I am assured by the non-Executive bills unit that the matter has been dealt

with as expeditiously as possible. Indeed, the draft bill and accompanying documents were lodged for introduction on 14 August, which means that we are within our time frame.

**Mr Hulse:** I agree. It is just that if EDI came to Parliament with the Princes Street galleries proposal, I would not want it to start preparing the site before it gained parliamentary approval.

**Alasdair Morgan:** But EDI would not be able to build in the gardens until it had approval. Otherwise, it would be acting illegally.

**Mr Hulse:** Yes.

**Maureen Macmillan:** Obviously, we will not be anybody's rubber stamp.

**The Convener:** I welcome the next witnesses: Dr Elaine Murray, who is the Deputy Minister for Tourism, Culture and Sport; and Gavin Barrie, who is from the sports, arts and culture division of the Executive. The deputy minister will make an opening statement and then I shall open up the meeting for questions.

15:00

**The Deputy Minister for Tourism, Culture and Sport (Dr Elaine Murray):** I am pleased to be here in front of this ad hoc committee, which is considering legislation that has not been introduced by the Executive, but is supported by it. We believe that the bill will produce a world-class cultural facility in Scotland's capital city, and we are pleased to support it.

**John Young:** Do you think the bill sets a precedent for building in Princes Street gardens?

**Dr Murray:** No, I do not think that it sets a precedent. The bill will involve building on a small strip of land beside the galleries. However, if any precedent has been set it was in building the two galleries and the Scott monument in the first place. I do not believe that the development will set a precedent because any development in Princes Street gardens will have to come back before Parliament.

**John Young:** Let me put it another way and convey my personal opinion. If you do not want to answer my question, I will understand. Do you feel that—for want of a better phrase—an iron curtain should be brought down and no further development should take place in Princes Street gardens, assuming the bill is passed? Would you as an individual or as a minister want something like that to be introduced?

**Dr Murray:** I presume that you are referring to the possibility of other commercial developments in the gardens, which would obviously have to go first to the City of Edinburgh Council for permission. I therefore have no particular or

personal view on that. The council would have to consider any application on its merits, and Parliament would have to do the same. I do not think that the provision of additional cultural facilities or the provision of such things as disabled access and education facilities would necessarily set a precedent for commercial development.

**Alasdair Morgan:** I suppose that the argument would be that to take out 300 sq m of the gardens to provide space for toilets, a restaurant and a cafe is hardly a cultural imperative. Developers may think that if we are prepared to allow that, we will allow further building in the gardens.

**Dr Murray:** There is a strong argument relating to what is available at other cultural facilities. National galleries in other capital cities have catering facilities, and our gallery is well behind much of the rest of Europe in the facilities that it is able to offer. The estimate is that we will probably attract an extra half million visitors if, when they popped in, they could have a cup of coffee or tea as well as take in the latest exhibition. It could be argued that the bill will bring our National Gallery up to the standard of galleries in the rest of Europe—indeed, it may make it better than other galleries.

**Maureen Macmillan:** You said that the Executive supports the project, although it is part of a non-Executive bill. What involvement has the Executive had in the project?

**Dr Murray:** The Executive's involvement has centred on refurbishment and the underpinning of the RSA, which became urgent because of significant structural problems in the building. We originally allocated—this was before my time—somewhere near £1.6 million, which was increased to £10 million, for the production of an exhibition space in the RSA. We are not involved in the link project, but we support it.

**The Convener:** How does the bill tie in with Executive policy on the arts?

**Dr Murray:** You will be well aware, having been the minister who launched the national cultural strategy, that we have a commitment to excellence in the arts and equality of access to the arts, such as access for disabled people, which will be enabled by the link project. That fits in with our equality of access commitments. Generally, the project fits in well with the main objectives of the national cultural strategy. From that point of view, we would be keen to see it progressed. Wearing a slightly different hat—as the deputy minister for tourism—I am fairly convinced that this would be an enhanced visitor attraction in the centre of Edinburgh.

**The Convener:** There are no more questions. I thank you very much for your brief appearance.

Gosh, we are romping through witnesses this afternoon. The next witnesses are Jim McKay, who is acting head of leisure and culture at the City of Edinburgh Council, and Sally Dyer, who is a senior surveyor at the City of Edinburgh Council. Would you like to make an opening statement?

**Mr Jim McKay (City of Edinburgh Council):**

Yes. I am head of parks for the City of Edinburgh Council. I work in the culture and leisure department. We have been very much involved with the developer. We have had several detailed meetings on site about the reinstatement and landscaping that will be required as part of the proposed development within the gardens. I pass over to my colleague, Sally Dyer, who has been very much involved in the land transaction and the transfer of the two areas of ground.

**Ms Sally Dyer (City of Edinburgh Council):**

I am a senior surveyor at the City of Edinburgh Council. I refer members to our written submission, which I will sum up.

The executive of the City of Edinburgh Council gave consent in June 1999 for the sale of an area of the basement beneath the Mound to the National Galleries of Scotland. The sale would allow the extension of the gallery. The site was owned by the council under the common good account. The main area is located under a public highway. As the committee is aware, the new gallery extension includes an area that encroaches into Princes Street gardens and it is proposed that there will be access from the gardens to the basement level.

Under section 75 of the Local Government (Scotland) Act 1973, any local authority that is contemplating disposal of common good land must—where there is seen to be a significant community interest in its retention—make an application to the court before it can proceed with the disposal. The underlying intention of the provision is judicial evaluation of the benefits of disposing of the land and the protection of the interests of the community. The council applied to the sheriff court for authority to release the site. It argued that the development of the area in which the site is included would be of benefit to inhabitants of the council's area and to others in that it would improve the cultural and commercial life of the city.

On 20 August 2002, the sheriff granted a decree that authorised release of the site. As part of the land transaction, the National Galleries of Scotland has agreed to transfer at no cost by way of excambion—a land swap—an area of garden land that is currently in its ownership to the west of the Mound, in front of New College. That land will be transferred for the common good, so it will be held on the common good account.

Consent under section 75 of the Local Government (Scotland) Act 1973 has been given by the Scottish Executive for the sale of the basement area at no consideration. The area has a negative value due to the high level of construction costs for the underground development.

The ladies' toilet that is located in the area of the gardens that is proposed for development is to be relocated within the new building, with access provided for the public during gallery opening hours. The air quality monitoring station has already been relocated.

In April 2002, the council's development quality sub-committee granted full planning consent for the link between the Royal Scottish Academy and the National Gallery and for the restoration and improvement of the existing buildings. The application included the creation of the frontage in Princes Street gardens. On 10 May 2002, listed building consent was also granted for the proposed scheme. Both applications were subject to statutory planning procedures relating to consultation.

We have already covered the City of Edinburgh District Council Order Confirmation Act 1991. The bill would disapply the restriction in that act to the area of proposed development and allow the scheme to proceed.

**Maureen Macmillan:** Are you not wearing two hats, as some have suggested? You have a role in enforcing the 1991 act's provisions. Some people think that the bill sets a precedent for future building on Princes Street gardens, and it is suggested that the council has a conflict of interest over the gardens. On one hand, the council seeks to preserve them under the 1991 act; on the other, it is part of a company that wants to build on them. How do the two sit together?

**Mr McKay:** The council is committed to a study of the gardens at the moment. A restoration management plan on the best use of the gardens and future developments in the gardens is being undertaken. That study will inform the future of the gardens. Council officials are not wearing two hats at all.

The intrusion into the gardens is minimal: 319 sq m of the gardens are affected. Approximately 9,000 sq m of the area to the south of New College will be transferred to the common good account.

**Maureen Macmillan:** The worry is that, although that is fine as far as everybody is concerned, it might set a precedent for commercial developments in the gardens or that are accessed from the gardens.

**Mr McKay:** What was said earlier applies. Any future proposals would have to be considered by the council and probably referred to a parliamentary committee for further consideration.

**Maureen Macmillan:** Does the council not have an interest in the commercial development of the gardens? It seems that a commercial arm of the council is proposing the commercial developments.

**Ms Dyer:** The difference with the bill is that the council stands to make no profit from the scheme, which is viewed as being of community benefit. It would be different if we stood to profit from the sale of the land, but we do not.

**Alasdair Morgan:** I have a question about the committee that is sitting to consider future uses of the gardens—one of the previous witnesses also referred to it. Does the establishment of such a committee indicate that there is a degree of dissatisfaction with the way in which the use of the gardens has developed thus far?

**Mr McKay:** No. It is council policy. We have set up a working party on Princes Street gardens mainly to restore and enhance the gardens. We hope to apply for lottery funding. At the moment, a restoration management plan for east and west Princes Street gardens is being prepared. The working party is made up of elected members, representatives from the Cockburn Association, the Edinburgh World Heritage Trust, Scottish Natural Heritage and various other bodies, as well as a representative from one of the friends of parks groups.

**Alasdair Morgan:** I do not know whether my next question is relevant. You talked about restoration, but what exactly are you restoring? How does the bill fit in with that restoration?

**Mr McKay:** The study that is being carried out at the moment looks back at what the historic landscape in the gardens was originally. It will ask questions such as whether east Princes Street gardens should be restored to the Playfair landscape that was put in alongside the railway, whether the paths below the castle slopes should be restored in some way and whether the path layout should be changed in some way. It will also consider statues and monuments in the gardens.

**Alasdair Morgan:** Does the proposal in any way cut down the options that are available? Clearly, the proposal is not for a restoration, but for a further development.

**Mr McKay:** That has been taken into account in the study that is being carried out—the consultant who is carrying out the study has been made aware of the proposals.

15:15

**John Young:** I wonder whether you could give a brief outline of the concerns and objections that were raised at the planning stage of the proposed development.

**Ms Dyer:** I cannot give details on that.

**John Young:** Perhaps I should rephrase that. Can you tell us one or two outstanding objections to it? I am thinking not so much of technical objections as of outstanding concerns.

**Mr McKay:** We would need to send in a written submission containing the exact details.

**The Convener:** The Cockburn Association has raised concerns about statutory protection for the gardens. What is the council's view on the 1991 act? Is it strong enough?

**Mr McKay:** In dealing with submissions for developments in the gardens, we adhere strictly to the 1991 act. For instance, a proposal was agreed that a kiosk be erected in east Princes Street gardens, immediately to the east of the RSA. That kiosk was designed in the shape of a bandstand, which is permissible under the 1991 act.

**John Young:** Let me take another tack. Do you think that the bill sets a precedent for any future developments in Princes Street gardens, or do you think that this is a one-off situation?

**Ms Dyer:** I think that it is a one-off situation because of the nature of the development that will take place.

**Mr McKay:** I fully support that statement. It is a one-off and it is for the public good. It will increase the use of east Princes Street gardens and make them more enjoyable for citizens and visitors.

**The Convener:** The committee has no more questions. Thank you very much for your evidence.

The next panel of witnesses consists of Richard Griffith, the director of the Edinburgh World Heritage Trust; Terrence Levinthal, the director of the Scottish Civic Trust; and Dr Seán O'Reilly, the director of the Architectural Heritage Society of Scotland. Are you each going to make a brief statement or will someone make a statement on behalf of you all?

**Mr Richard Griffith (Edinburgh World Heritage Trust):** If you want a statement, I will make it. My colleagues will be better able to answer certain questions than I will, but I shall make the opening statement.

None of the parties here has any direct concerns over the bill. Like the other witnesses, we all enthusiastically support the Playfair project. However, one concern is worth mentioning at this stage, although what the previous witnesses said

has allayed some of our apprehensions. We are concerned about the character of the gardens. A balance of private and public interests is inevitably involved in any area of the public realm and we must be cautious about that. We are apprehensive that the balance might be disturbed without proper consideration—it should certainly not happen by default.

The two issues that might disturb the balance are mentioned in my brief submission. The first is the principle of building in the gardens and the second is the use that is made of the gardens. Although the bill deals with land that will be transferred out of the gardens, the work will be in or immediately contiguous to the gardens. On those issues, we want to ensure that members understand the bill's implications.

The obvious proposal for building is the one for a commercial shopping development in the north side of the gardens, which has been mentioned several times this afternoon. The Edinburgh World Heritage Trust, the Architectural Heritage Society of Scotland and the Scottish Civic Trust have objected to such proposals in the past, but the objections were based on the impact on the public realm, which means principally the gardens, but also the pavement of Princes Street that is above the gardens. If such a proposal could be carried out without an impact on the gardens, our concerns would be allayed, but that would be very difficult. Past proposals for commercial shopping developments in the gardens would have had a direct effect on the gardens.

We are concerned about the principle of building and the uses associated with such building. The National Galleries proposes a cafeteria, about which we have no concerns, although I am not sure whether we are concerned about the cafeteria spilling out into the gardens. Scott Robertson said that the National Galleries does not intend for that to happen, although the glass may be changed at any time. The principle of building is an interesting one and should be established at this stage.

I do not think that there are reservations about the possibility of the cafeteria coming through the windows and into the gardens. However, if that happens, the decision about the extent of such a development should be based not on commercial imperatives, but on the public interest, which means the extent to which society thinks that a commercial development is acceptable. If the cafeteria spilled into the gardens, that might establish a precedent. However, Scott Robertson said that the glazing is fixed, which appears to deal with the potential for commercial activity to spill into the gardens.

The minister said that the precedent for building in the gardens was established by the National

Gallery, the Royal Scottish Academy and the Scott monument. However, those are public buildings; they relate to the public realm and the public interest and not to commercial development, which means that perhaps a line can be drawn. Those are our two areas of concern.

**Maureen Macmillan:** You talked about preserving the gardens and said that you do not want too much commercial activity, but you also talked about the public's wishes. What should happen if there is a conflict between those two things? The public might want tables with umbrellas; they might want to be able to sit in the gardens drinking wine.

**Mr Griffith:** I did not draw a distinction between those two things—I assumed that they were identical. I can remember a discussion with Jim McKay about the damage to and disturbance in the gardens when the ice rink is put down. There was a discussion about how much time it took the gardens to recover and whether, because of the events that take place there throughout the year, the gardens are permanently damaged.

In my opinion, such a situation is unacceptable. We need to debate where the line runs between the use of the gardens as a garden resource and their use for other purposes—such as the ice rink and commercial activity—that overwhelm them. The idea of putting out some tables and chairs may be extremely welcome, but presumably the idea of covering the whole east garden would not be. As we make an allowance in one area, we must consider the repercussions of that elsewhere. We need to decide what the lines are and how control should be exercised.

**Maureen Macmillan:** When you talk about the effect of some events on the gardens, is your concern the degradation of grass and the trampling of flower-beds, or is it whether activities are public or commercial?

**Mr Griffith:** I cited the damage to the gardens as another example of the use that can be made of the gardens. The use of the gardens for the ice rink is damaging.

**Maureen Macmillan:** Are you referring to physical damage?

**Mr Griffith:** Yes.

**Maureen Macmillan:** So you are not talking just about damage to the ambience.

**Mr Griffith:** Clearly, physical damage to the gardens has an impact on the ambience. That is the point that I am trying to make. We are dealing with a garden resource. Some physical damage to and commercial use of the gardens is acceptable. That is the position at the moment. However, we need to decide where the breaking-point is. We must assess the possible consequences of the National Galleries' proposal.

**Mr Terrence Levinthal (Scottish Civic Trust):**

It may help the committee's deliberations if I give members an idea of the terms of the 1991 act. The act does not define Princes Street gardens, but it does define the term "building". The definition used is derived from the Building (Scotland) Act 1959, which states that a building is

"any structure or erection of what kind or nature soever, whether temporary or permanent, and every part thereof including any fixture affixed thereto."

For the purposes of the 1991 act, a table with a Heineken umbrella sticking out of it is a building or erection. We must focus on exactly what the act is telling us.

**Alasdair Morgan:** Presumably the National Galleries could get round that provision by making the facility look like a bandstand, just as City of Edinburgh Council has done.

An earlier witness said that the proposed facility would attract more people to the gardens. It strikes me that east Princes Street gardens are fairly busy already. Do you think that they would suffer from an increase in the number of people using them?

**Mr Griffith:** That is the perennial issue for all successful tourist attractions. It takes us back to the question that we were debating earlier—what is the breaking-point? If we think that a particular activity takes us beyond the breaking-point, we must find a way of controlling it. I do not think that we have yet reached the breaking-point. We wish the National Galleries success and hope that many people will visit. There is room for more visitors. If the number of visitors becomes excessive—as has happened in one or two locations, such as Edinburgh Castle and the top of the Royal Mile—we may have to consider ways of dispersing them.

**Alasdair Morgan:** The conundrum for any successful heritage tourism site is that tourists destroy what they are coming to see. However, once a facility exists, we cannot stop people visiting it. We must decide now whether the number of visitors will be acceptable.

**Mr Griffith:** We do not object to the proposal in principle, although we may live to regret that.

**Mr Levinthal:** There is certainly an issue within that. As I understand the plans, it is the intention that the main entrances to the gallery and the RSA will remain the principal entrances to the development. Of course, a secondary entrance would be put into the gardens and it is entirely possible that that would generate more traffic, but the access to it would be on tarmac paths.

Issues around disabled access were raised. It should be noted that the only two points at which we could get wheelchair access to the gardens would be at the corner of Market Street and

Waverley Bridge, where Cockburn Street comes down, and at the far end. Someone in a wheelchair would have to go down quite a long ramp to gain access, unless they accessed the gallery the other way and dropped down using the lift to gain access to the gardens, which is another possibility.

15:30

**John Young:** In your joint statement, you say:

"We are concerned that a public realm development such as the Playfair project - carried out in the public interest, for and by a public body - may be cited as a precedent for the introduction of private commercial development within the gardens. We would welcome any action by the Committee".

The joint statement continues:

"It might also offer a precedent for other commercial undertakings to extend their areas of activity in the gardens. Here again we would welcome any action by the Committee".

The words "any action" are powerful words to say to politicians. If you were sitting where we are sitting, I wonder what action you would propose—short of using machineguns, of course.

**Mr Griffith:** I was not thinking of machineguns.

In relation to the shopping proposal, I cannot think of any reason why people should want to go underground in Edinburgh of all places. The matter of principle that arises is not that that cannot be done but whether doing so would affect the public realm, either above in Princes Street, which would raise access issues, or in the gardens, which would raise all sorts of issues.

The issue that we highlighted is that of commercial use spilling out. The previous scheme certainly showed tables and chairs sitting outside restaurants. Many other issues associated with such a commercial development are liable to affect the gardens. Means of escape in the event of a fire have to be separate from ordinary exits. Routine ventilation and ventilation for getting rid of smoke in case of fire are big considerations. Areas of the gardens would be sterilised. Such servicing issues are of great concern, as is what might have to go on in the street above.

I prefaced my remarks by saying that I was not thinking of machineguns because we are not trying to machinegun people or anything like that. We are simply concerned about whether the development could affect the gardens adversely. You are asking what should be done, but I am not sure what specific powers the committee has, although I believe that you are dealing only with the transfer of the strip of land in question.

**John Young:** I appreciate the sentiments that you have expressed, for which there is a lot of support. I was curious about the phrase that you

used when you said that you would "welcome any action". I do not know the extent of our powers. Perhaps the convener could clarify that.

**Mr Griffith:** I did not mean to emphasise the words "any action". I am not a lawyer, so perhaps they have a legal meaning that I missed. If the development was to go through the glazing, the committee might have considered whether the galleries should have asked for land beyond the wall as well, if they were intending to use it. You could have asked, "Should we draw a line and say something about whether they should go through it all?" I have not voiced an opinion about that so far because I am in two minds about it. My opinion is that it would not necessarily be disastrous for the development to go through the glazing. I am just interested in the extent to which such a development would have an adverse effect—both in itself and in terms of its impact on other parts of the gardens—on what is a public recreational area, which should not be dominated by commercial activity.

**The Convener:** I will provide clarification on the point that John Young raised. As we are dealing with a private bill that was introduced by the promoters, it is not up to the committee to make such suggestions. We are dealing with the bill as presented and with a specific proposal, as has been said. Any other development would be required to come back to the committee to be considered on its merits.

What are your views on the City of Edinburgh District Council Order Confirmation Act 1991? Do you think that it is robust enough to protect the gardens?

**Mr Levinthal:** The 1991 act is as robust an instrument as is needed. I have already explained how that act defines a building. If an *Edinburgh Evening News* kiosk were put into the gardens, it would be considered to be a building.

There might be a wider question about performance to date. How well have we been dealing with some of the aspects of the order? The very popular Christmas market, the Ferris wheel and some of the other attractions that we enjoy are not supported under the order. Perhaps that matter should be addressed.

It is important to acknowledge that there has been a progression of legislation, starting with the Edinburgh Improvement Act 1816, which was a private act of Parliament. Those measures have ensured that east and west Princes Street gardens remain an asset available to the city, its citizens and the people who come to visit. It is unique to find a garden of such a scale in a city centre.

**The Convener:** As there are no other questions, we thank you for your evidence.

I ask Michael Clarke and Scott Robertson to come back to the table for our final session. Do you have anything to add, given what you have heard from the other witnesses?

**Mr Robertson:** As we said earlier, we are aware of the concerns raised by the witnesses. They have all acknowledged that the bill does not set a precedent, so perhaps the worry is about how the legislation might be interpreted by others who might seek to use it to smooth their road. It is worth reiterating that the proposal is specific to the Playfair project and covers only its intended purpose, as outlined in the bill. We do not believe that it sets a precedent for other developments.

All that has been said about the importance of the gardens to visitors and Edinburgh residents moves away slightly from the main purposes of the project, which are exhibiting art, conservation and better display of our permanent collections. As Mr Levinthal said, the gardens are a wonderful resource that people enjoy; indeed, many people come to Edinburgh to enjoy them. To that extent, we believe that what is proposed by the architects and the trustees—allowing views from a restaurant into that unusual and wonderful site—would enhance rather than detract from the gardens.

Mention was also made of the temporary uses of the gardens, which have increased in recent years. Aside from the main structures—temporary opera staging or ice rinks for example—much of the physical damage to the gardens is done by ancillary structures such as toilets and catering facilities. We suggest that our project would provide such facilities in a more sustainable way and would therefore minimise long-term damage to the gardens.

The proposal would deal sensitively with such an important site in a way that would enhance the gardens and allow more people to enjoy them than happens at present. We should also bear in mind the fact that, other than curating, caring for and displaying the permanent collection, the objectives of the trustees of the National Galleries is the promotion of the understanding and enjoyment of the fine arts. We believe that the latter is quite important in a wider sense.

The trustees have recently been working on widening the National Galleries' audiences. They are not just trying to get more audiences; for the first time, they are bringing in people who would not normally visit a national art collection. I am talking about people who visit the gardens and who come to Princes Street for—dare we say it—some of its commercial facilities, which make up most of the street. We hope that the visitor facilities will bring in people who do not usually come to museums and galleries and that they will introduce them to our collections in a way that is non-threatening and inclusive. They would be

brought in through the use of facilities that they would use anyway if they were already on Princes Street.

**Alasdair Morgan:** Am I correct to say that the gardens are usually closed at sunset? How would that impact on access from the gardens?

**Mr Robertson:** The visitor facilities are accessible from the gardens during the day when the gardens are open. As you saw on your site visit, there will also be entrances from the RSA building and the National Gallery building down to the visitor spaces, and those entrances could be open at night. We are aware that that proposal is being considered as part of the parks review that the City of Edinburgh Council is undertaking. At present, many people who live and work in the centre of Edinburgh find that, except during high summer, the gardens are not accessible during their leisure hours. If the council wanted to open the gardens for longer, and if the new facility could help it to do that, that would be of benefit to people who do not get the chance to enjoy the gardens other than at set times of the year.

**Alasdair Morgan:** The existing plans show that that exit would close when the gardens close, unless it was already closed. Is that right?

**Mr Robertson:** Yes, except for purposes of fire escape. If somebody had to escape into the gardens as a place of safety for a short time, that would obviously take place, but we have to go along with how the council manages the gardens at present.

**The Convener:** I thank all the witnesses for attending and for allowing us to get through our business so efficiently.

## Item in Private

**The Convener:** All that remains is for me to seek the views of the committee on consideration of the draft preliminary stage report in private at our next meeting on Wednesday 19 February. Do members agree to consider that report in private?

**Members indicated agreement.**

**The Convener:** I thank everybody for attending.

*Meeting closed at 15:42.*





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