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Pàrlamaid na h-Alba

Official Report

CITY OF EDINBURGH COUNCIL (PORTOBELLO PARK) BILL COMMITTEE

Wednesday 26 March 2014

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

CONVENER

*Siobhan McMahon (Central Scotland) (Lab)

DEPUTY CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

COMMITTEE MEMBERS

*Alison McInnes (North East Scotland) (LD)

*Fiona McLeod (Strathkelvin and Bearsden) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Archie Burns

Stephen Carr

Jean Douglas

Gillian Dunn

David Kilkerr

Beverley Klein

Charles Livingstone (Brodies LLP)

Billy MacIntyre (City of Edinburgh Council)

Dr Gordon McCulloch

Jennifer Peters

Ian Ross

Iain Strachan (City of Edinburgh Council)

Brian Thomson (JM Architects)

CLERK TO THE COMMITTEE

Mary Dinsdale

LOCATION

Committee Room 1

Scottish Parliament

City of Edinburgh Council (Portobello Park) Bill Committee

Wednesday 26 March 2014

[The Convener *opened the meeting at 09:31*]

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

The Convener (Siobhan McMahon): Good morning, and welcome to the fourth meeting in 2014 of the City of Edinburgh Council (Portobello Park) Bill Committee. I remind members, witnesses and those in the public gallery to switch off all mobile phones and BlackBerrys.

Before we start the oral evidence session, I point out that we have a number of issues to get through today. I remind witnesses that we have the content of all objections and supplementary written evidence. In addition, as the witnesses are aware, we have considered a substantial amount of evidence on a number of issues that were raised in objections and covered in oral evidence at the preliminary stage—in particular, the precedent argument, alternative sites, the court decision and the consultation process.

I will manage proceedings to allow all areas to be covered fairly. I ask witnesses to focus on the main issues that they want to raise and to avoid unnecessary repetition of information that the committee has and which, along with the oral evidence sessions, will all be taken into account.

The expectation is that the focus of the sessions is for each party to probe the other on the issues in question. Indeed, the purpose of the cross-examination is to assist members in making a decision on the issues, but I reiterate that the committee's role is not to carry out a planning inquiry. The committee appreciates that the format will place some people in an unfamiliar situation.

As the session involves groups of objectors appearing together, I will briefly set out the overall format. The lead objectors and the promoter's lead spokesperson will be responsible for co-ordinating the evidence from their respective parties. First, I will invite each group's lead objector to make brief general introductory remarks; the promoter will then have the same opportunity. We will move on to each of the categories, on which a spokesperson from each group on each issue in the category will be invited to outline briefly the concerns on a specific issue. Therefore, for category 1, a lead spokesperson from each group

in turn should speak on each issue—first, on loss of amenity; secondly, on social, environmental and financial impact; and thirdly, on replacement open space. We expect only one person from each group to speak on each issue.

Once all the issues in a category have been addressed, the promoter will be invited to state its position on each of the key issues in the category. Both parties will then have the opportunity to cross-examine each other on all the issues in the category. Following that, lead objectors will have an opportunity for any final comments on that category. Consideration will then move on to the next category of objections and the same format will be followed. Following the conclusion of proceedings on all categories, members will be invited to question witnesses from both parties, although members may raise a question for clarification at any point in the proceedings. To conclude, both lead objectors and the promoter will have the opportunity to make brief closing statements.

If a group does not wish to address a specific topic in a category, I ask that they indicate that intention at the start of consideration of the relevant category. The promoter should also indicate whether it wishes to address any issues that the objectors consider do not require to be raised during the session.

I hope that that is clear.

We move to the first formal session. I welcome the witnesses representing objectors from groups 2 and 4. The two objectors from group 2 are Jennifer Peters, lead objector, and Ian Ross. The objectors from group 4 are Gillian Dunn, lead objector, Dr Gordon McCulloch, Archie Burns and Stephen Carr.

Archie Burns: The clerk told us that more than one person could speak on each issue. Will you clarify the position?

The Convener: We prefer that only one person speaks to an issue.

Archie Burns: That is a preference rather than an instruction.

The Convener: If you have an additional point to make that has not been raised, I will allow time for that, but in order that we get through all the evidence, I ask that you do not repeat the evidence that we have heard. As you know, we have a very long agenda and only a short time available to us this morning.

Representing the promoter we have Billy MacIntyre, head of resources, children and families, and Iain Strachan, principal solicitor, legal, risk and compliance at the City of Edinburgh Council; Charles Livingstone, associate, Brodies

LLP; and Brian Thomson, managing director, JM Architects.

I invite Jennifer Peters, followed by Gillian Dunn, as lead objectors for groups 2 and 4, to provide brief introductory remarks on behalf of their groups.

Jennifer Peters: I am here to represent the 303 formal objectors to the private bill who live around the park and who benefit from its existence. There are many more who object to the park's development but who did not take the time to object in writing. We welcome the opportunity from the Scottish Parliament to highlight our concerns that have not been addressed on the matter.

It is very easy to take the moral high ground and pretend that the issue is all about the children when your local park is not affected and you are unaffected by someone else's loss, but let us be clear: the private bill has nothing to do with benefiting children. The children's school is not in question; only its site is in question. Who cares more for the future of children—those who are fighting for a school and a park or those who are fighting to get a school on their park?

The City of Edinburgh Council has acknowledged that there are alternative site options to build the school on. The issue is not and never has been about a council seeking to provide the best educational facilities that it can for a community; rather, it is about a council trying to get its hands on a free development site.

Andy Wightman and James Perman, who have conducted the most prodigious research into common good, concluded in their 2005 report, "Common Good Land in Scotland. A Review and Critique", that

"the estimated value of the common good assets that should be held on behalf of communities to generate wealth and community benefit might easily stand at around £1.8 billion".

The total value that they could identify from Scottish council figures in 2005 was a 10th of that estimate, with a reported £190 million of common good land in Scotland.

The whole of Scotland, including other councils, is looking to see whether the Scottish Parliament will allow the private bill to proceed and enable protected open space to be removed from the community.

We will cover points in the order that the committee outlined in its communication of 13 March 2014. Ian Ross will cover all the points on road safety, traffic and congestion in category 2; I will cover the remaining points for group 2.

The Convener: Thank you. I ask Gillian Dunn to make her introductory remarks.

Gillian Dunn: Good morning. I am the lead objector for group 4. I am a Portobello resident and my teenage son attends Portobello high school. I am also a member of the school's parent council. I am assisted by Dr Gordon McCulloch, Mr Stephen Carr and Mr Archie Burns.

We will focus primarily on the loss of amenity, the impact of that loss on physical and mental health, historical and current park usage, road safety issues, alternative sites, misinformation provided by the council and the pre-introduction consultation process and the council's role.

It has been clear to us that, since 2006, the council had a very clear objective to develop the park. Everything that it has done since then has been to that end. There has also been a cynical campaign to split the community and silence any opposition to the plan of destroying the park. Anyone who dares to speak for the park is branded anti-school, anti-children, selfish nimbys, liars or just plain stupid for failing to understand the issues involved. We have submitted a number of examples of the comments to which park supporters are subjected, which have appeared on social media. One example is a tweet to a park supporter from Sean Watters, chair of Portobello for a new school and secretary of Portobello community council—

The Convener: Sorry, but may I interrupt you there? I really do not think that that is appropriate. It is not in our remit—

Gillian Dunn: Okay. I just want to say that it is against that background of intimidation, bullying and general undermining that we speak today.

The Convener: That is fine. Thank you.

I invite the promoter to make any opening remarks.

Billy MacIntyre (City of Edinburgh Council): Good morning, convener. You introduced us, so I will not take up time doing that again. First, I thank the committee for giving us the opportunity to attend today. I hope that we can address the issues and concerns that the objectors are raising and respond to the points that they make. I apologise once again for being unable to attend the previous evidence session, and I thank the committee for its understanding regarding the circumstances that prevented me from doing so. I am pleased that my colleagues were able to address all the questions that arose during that session, as I expected.

Portobello high school, which is Edinburgh's largest school, is in urgent need of replacement. It is outdated, it is in poor condition and it is not suited to modern teaching requirements. Since 2009, more than £2 million has been spent on essential works just to keep the school open, and

significant further investment is required to keep it safe and fully operational until a new school is built.

There has been extensive assessment of other potential sites in several locations, and the council firmly believes that Portobello park is by far the best, most cost-effective and quickest location on which we could deliver the new school. We appreciate that building on an area of open space is an emotive issue, but the decision was not taken lightly or without thorough consideration.

We believe that the new school will have fantastic new pitches that will be freely accessible to the local community, and the compensatory and impact-mitigating measures that will accompany the project will result in significant community benefits, more than compensating for the loss of part of Portobello park. We believe that that is reflected in the very strong local support for the proposals.

As you have said, convener, many of the issues to be discussed today—including loss of open space and amenity; social, environmental and financial impact; visual impact; and road safety and traffic impact—were also raised by objectors in the planning process, including many of the objectors to the private bill. They have therefore already been considered in great detail by the council's development management sub-committee, both when the original application was considered and approved several years ago and during the more recent renewal of the planning consent. Where valid concerns were identified, appropriate mitigating measures were proposed and have already been approved, and those will be put in place should the project proceed.

We stress that such issues are not directly relevant to the consideration of the bill, which concerns the status of the park and the council's powers in relation to it. The bill does not authorise the construction of the school, nor does it contain provisions relating to any of the issues that were dealt with in the planning process. We note from the committee's preliminary stage report that it is conscious that its role is to scrutinise and come to a view on a bill that has been referred to it, and not to take over the council's role as a local planning authority. Nevertheless, we note that the objectors continue to raise the detail of matters that have already been dealt with during the planning process, and we will cover many of those today.

Throughout the project, we have listened to the local community and tried to respond to its concerns whenever we can, including by introducing the new area of open space on part of the existing combined site of Portobello high school and St John's Roman Catholic primary school as a direct consequence of concerns being raised about the overall loss of space. In the

introductory remarks, the objectors suggested that the park is "a free development site". Far from it—the significant area of open space that we will reprovide on the existing school site comes at a value that will be very close to that which would be offered by the existing park site, so it is by no means free.

We have consulted the local community on what it would like to see on the new area of open space and we have agreed that local people could book and use the new sports facilities free of charge when they are not being used by the school, to address the concerns that were expressed that local people may not otherwise have been able to access them. As the committee heard previously, during the original planning process we removed from the plans a proposed entrance to the north of the site in response to concerns that it could lead to the golf course being used as a shortcut to and from the school. In addition, the school design is very sympathetic to its location, being set well back from Milton Road and using the existing landform to minimise the building's height and impact.

Other compensation and mitigation measures have also been proposed and will be put in place in respect of many of the other issues that have been identified. The council is confident that the mitigating measures will be effective, but we would nevertheless be happy to engage with any concerned parties who believe otherwise. Such engagement would be usual for the consideration stage of a private bill. Indeed, we invited the objectors to get in touch with us in a letter to you, convener, of 31 January, which was circulated to all the objectors. However, to date no objector has approached the council to discuss any issue or to provide any proposals for enhanced or alternative measures that they believe would address their concerns. We hope that today's evidence session will shed some light on whether there is anything that we can do to alleviate the objectors' concerns.

09:45

The Convener: Thank you. We move to the first category of objections. I invite the spokesperson for group 2 to speak to the first set of issues: the loss of amenity and use of the park, including the associated issues of mental health and wellbeing.

Jennifer Peters: The City of Edinburgh Council's open space action plan, which supports its open space strategy, defines Portobello park as "Large open space not ... meeting standard".

The council does not classify it as "access to playspace". The City of Edinburgh Council manages the park but does not maintain it as it maintains other parks in Portobello.

For the past few years, it has required several residents to call the parks department before the grass has been cut, and last summer you could count on the fingers of one hand the number of times that it was cut. That makes the park practically unusable with small children. The railings are in poor repair and are never painted, there is one bench and there are no formal paths, no planting and no swings or other facilities such as can be found in the other parks in the area and around Edinburgh.

The park is still loved by locals, however, and despite those adverse conditions a race, a park clean-up and a party on the park were all held last year with significant attendance. The park continues to be used by runners, by local childminders and nurseries for nature walks, for the odd kick-around and by the much-maligned dog walkers. The park is free to everyone 24/7, whereas the facilities that will be provided by the school will not be and their access will be limited. It is unethical for the City of Edinburgh Council to fail to maintain the park and then to claim that the park is underused.

Joppa United used to play and train on the park, and football tournaments were regularly held there. A July 2011 email from Edinburgh Leisure confirmed that Joppa United played on Sunday mornings from September 2010 to May 2011 and trained there every Tuesday evening. A training light was installed on the pavilion to allow the club to do that, the costs for which were split between Edinburgh Leisure and the club. However, the goalposts were removed by the City of Edinburgh Council and Joppa United subsequently disbanded, as it could find no other affordable training or playing sites.

At the moment, it is possible to run or walk a circuit around the perimeter of the park. However, the proposed new path across the south side would allow a pedestrian to enter only at either the Park Avenue side or the Hope Lane side and to cross to the other side. That would interrupt the permeability of the site. The tiny amount of 0.6 hectares that would be left, which is dissected by a path, would not be usable for the purposes for which the park is currently used. The drawing in my evidence shows the amount of remaining parkland.

In addition, building a school on the park will change people's relationship with the space, and locals may have concerns about being seen hanging around what will be, in effect, the school grounds. None of the other schools in the city has open access—they are secure by design; yet, there seems to be no concern over the security of the Portobello park development, in apparent contradiction to the council's own policy.

The council has admitted, in its report to the planning committee on 4 December 2013, that the proposed replacement "new park" on the current school site might be a greater walking distance from areas south of Milton Road than Portobello park currently is.

The Convener: Thank you. I invite someone from group 4 to cover any points that have not already been addressed.

Stephen Carr: Good morning. My name is Stephen Carr and I have lived in Portobello, about a mile from the park, for five years. I will cover objections concerning the loss of amenity that will be caused by the proposed development.

That parks provide an important amenity to local residents is well established. Indeed, the executive summary of the City of Edinburgh Council's own parks and gardens strategy of 2006 contains the ringing statement that

"parks are an essential element in the modern city ... Parks are the barometers of a city's health."

The parks strategy's far-sighted and laudable objectives are to

"Ensure that there is an equitable distribution of parks so that everyone can have access to them"

and to

"Provide a diverse range of open spaces for recreation, relaxation and enjoyment".

The point about providing a diverse range of open space is important. I personally use Portobello park to walk my two dogs—I am one of the much-maligned dog walkers. It is unique among the local parks in that it consists of a large open, undeveloped but safe space. Many of the other local parks are smaller and contain things such as play equipment, so a large open field that is fenced off from the road and bordered by attractive woodland on the edge and on the golf course side is particularly valuable to me as a dog walker. I am not alone in that.

The council acknowledged in its parks strategy that

"dog-walkers are amongst the most regular of park users, and ... there are demonstrable health benefits accruing ... from dog ownership."

Dr McCulloch will touch on those health benefits later.

In the past, the park has provided a broader range of amenities. There used to be football goalposts, which were removed and have not been replaced. Going further back, I believe that there were softball pitches, and there has also been the scope for informal games. As a result of the council's neglect, the full potential of the park has not been realised.

As Ironside Farrar's December 2009 report into the usage of the park noted,

"Provision of facilities ... is limited. There are no facilities for young children, school aged children or young adults",

apart from the football pitches, which are now gone. It continued:

"There are only 3 benches in the park"—

that is now down to one—

"located along ... the busy Milton Road",

and

"there are no other facilities".

It concluded:

"Therefore, the park offers very little reason/opportunity for visitors, other than footballers and dog walkers to use the park. This will have a bearing on the overall visitor numbers."

Nevertheless, despite that neglect, the park remains a valuable public asset. The woodland along both sides gives the park an unusual natural feel. Many of the other local parks are smaller and more enclosed and feel much more urban. Many mature trees, woodland plants and wild flowers in the corridor between the park and the golf course and in the millennium wood will be either lost, made inaccessible or put at risk by the development. The council's promise that the wooded areas will be improved by active management begs the question why they have been so neglected for so long by the same council and ignores the impact of the development and the sheer scale of the school's population. A walk in the woods is not the same as a walk round a school.

While walking in the park, I enjoy the spectacular views of Arthur's Seat from the Hope Lane end and the views from the Milton Road end across the Firth of Forth towards Fife. Such views are an important amenity in themselves. To quote the council again, this time from the skyline study,

"Edinburgh's iconic skyline forms an essential part of the character and appearance of the city and is a unique asset that it is important to protect."

Indeed, the view towards Arthur's Seat is what is known as a "protected view", but maybe that just means that it is protected until the council changes its mind. If the park is developed, the view will no longer be available from within the park and the view from the Hope Lane end will be marred by the erection of fencing round the school and by the school building.

Although there are other parks in Portobello, parts of the community, particularly in the Christians area on the other side of Hope Lane, where many properties have limited private garden space, will no longer benefit from being within a 400m walking distance of accessible green space

of at least 500m², which is an objective that is identified in the council's open space strategy of September 2010.

Ideas for compensatory space—should we choose to believe the promises—on the site of the existing school or through improvements at Magdalene glen ignore the distances from Portobello park, in the case of the site of the existing school, or the very different nature of the steeply sloping Magdalene glen site. In other words, we will still lose a space that is unique in terms of its openness, its use for dog walkers, its natural setting and the superb views that it provides.

The open space strategy that I referred to identified Portobello park as one of the city's large parks that were to be improved to a standard of good. Given that the council was already planning to build on the park, under plans that were first unveiled in 2006, that statement was misleading, to say the least. The park usage audit from March 2010 stated:

"existing uses of the park, mainly as a walking venue, should not only be preserved but improved wherever possible."

That is plainly incompatible with current plans.

I hope that I have demonstrated that there is absolutely nothing particularly remarkable or controversial about the values that we seek to protect. Indeed, those values are enshrined in successive City of Edinburgh Council policies on parks, open space and skylines that have been expressed over a decade or more, but the same council now finds it convenient and expedient to ignore them.

The Convener: Thank you, Mr Carr. I now invite a spokesperson from group 2 to speak on the second set of issues, which is the social, environmental and financial impact.

Gillian Dunn: Excuse me, but Dr McCulloch would like to speak on the health issues. We were told that that would be acceptable, if we are still on category 1.

The Convener: Yes. I will allow him in, but I refer you back to what I said, which was to invite "a spokesperson from group 4"—one spokesperson.

Gillian Dunn: So—

The Convener: I said

"I now invite a spokesperson from group 4"—

which is your group—to cover any points that were not already addressed, which is when Mr Carr spoke. "A spokesperson" is what I said. I will allow Dr McCulloch to speak, but I gave Mr Carr some leeway when he was speaking, because he covered a number of points that were not

necessarily to do with group 4. I want to make that quite clear. I ask Dr McCulloch to be concise, then I will go back to group 2.

Dr Gordon McCulloch: I will try to be concise. My name is Gordon McCulloch, and until recently I was a general practitioner in Portobello where, for 25 years, I cared for 5,000 patients living within 1 mile of Portobello park. My old surgery lies just 200 yards from the park. I have also lived in Portobello over that period and have used the park regularly.

I would like to make three points. First, green space is good for health, and the destruction of green space is bad for health. The second point follows on naturally from that: the destruction of the green space of Portobello park will be bad for the health of the community. Thirdly, the cause of that risk to health is the City of Edinburgh Council's failure to consider the health consequences of this private bill.

My first point—that green space is good for health—sounds completely normal and sensible. We all intuitively know that green space must be good. We have all experienced wellbeing during an afternoon walk or another activity in open space and fresh air. Conversely, if we are denied open space and fresh air, we are going to feel less well. Professionally, I have learned that patients with disabilities and chronic diseases benefit from easy access to, and use of, open spaces.

In 1849, John Muir emigrated from Dunbar to America, where he eventually became a national hero. As we do, he instinctively felt that open space and wilderness are essential to our wellbeing and vitality. He felt so passionately about protecting such spaces from building and development that he became a founder of the national parks in America, which became the blueprint for national parks everywhere. John Muir is the father of green space and we should be proud to know that he came from these parts. We would understand—

The Convener: I am sorry. Can I interrupt? Just speak on Portobello park, please. You are obviously making an interesting point, but you should speak specifically on the park and not about the history of that gentleman. I asked for one spokesperson for each set of issues so that we could be concise. I spoke about that at the first meeting and I have reiterated the point today. I ask you to be concise and to speak on the bill, because the committee cannot consider anything else. We are restricted in that.

Dr McCulloch: I am certainly going to come to that.

The Convener: I would like you to come to it now, please.

Dr McCulloch: I am trying to make the point. Point 1 is that green space is good for health and destruction of green space is bad for health. Am I allowed to make that point?

The Convener: You can make the point, but you do not need to talk about the 1800s all the way through to now to make it.

Dr McCulloch: I am sorry, but I am talking about the human intuition of green space, which I think is a reasonable point.

The Convener: It is if you can be concise.

Dr McCulloch: I am now going to come on to a summary of my submission.

The Convener: Right. You can speak on the summary but it cannot be on information that we already have, as I said previously.

Dr McCulloch: No, it is not, but I certainly hope that the committee has read my submission.

There is now burgeoning scientific evidence to back up the human intuition of green space. I have submitted eight research papers that study the various effects of green space on human health. I assume that you will have read them, so I will summarise them briefly.

They show that easy accessibility to green space is associated with lower levels of reported and measured stress, better levels of mental health, a greater tendency to walk and to participate in moderate and vigorous physical activity, a greater sense of wellbeing generally and a greater sense of wellbeing specifically through social engagement, group activities and a sense of space.

The poorest group of Scottish men also live longer when they have easy access to green space. Conversely, lack of accessibility to green space is associated with more neck, back and shoulder complaints, more depression and anxiety, more respiratory, urinary and intestinal infections, more asthma and more chronic obstructive pulmonary disease.

10:00

The Scottish Government and Parliament have been particularly forthright on the issue, with published strategies and policies on green space and health—I have submitted the relevant documents, which are Scottish planning policy 11 and planning advice note 65. Thanks to the Government and Parliament, Scotland was the first United Kingdom country to ban smoking in public and is one of the first countries in the world to have tackled minimum pricing of alcohol. Scotland has also, through land reform and the right to roam, opened up many more open spaces for many more Scots.

As I said, the Government has given recognition to the importance of open space and health in its policy document SPP 11. The first key and overriding objective in the document is

“To protect and enhance open space”.

The document goes on to state:

“Open spaces ... enrich our quality of life and our environments. Access to good quality open spaces and facilities which encourage people to ... walk, run, cycle or ride horses are an essential component in the drive to get more of the population physically active and can contribute to The Scottish Government’s objective of a Healthier Scotland. Physical activity can improve mental health and well-being and the presence of tranquil green spaces close to where people live and work can encourage relaxation.”

I think that that is great. It is concise and pertinent. What follows is even better:

“Providing play space and other opportunities for children and young people to play freely, explore, discover and initiate their own activities can support their wellbeing and development. Open space can also provide a rich and accessible resource for education.”

So, there is plenty of evidence that green space is good for health and plenty of evidence that destruction of it is bad for health.

My second point is that the destruction of the green space of Portobello park is bad for the health of the community. That follows on naturally from the point that I was trying to make about the global perspective on space. Looking at our situation, it is clear that the bill will destroy most of the green space and that there is no adequate replacement for that space. Even if there were such a replacement, the unique qualities of the park are irreplaceable.

We are all unique human beings. You will have read the personal accounts of the objectors and their individual views about how the park has contributed to their health and wellbeing, and how that will suffer from the lack of green space. Those are all unique accounts, but there is a common theme.

Professionally speaking, I can think of many former patients whose medical problems have been improved through easy access to the park, which gives them opportunities for activity, simple access to fresh air, sunshine and the sights and sounds of nature and social engagement, and gives them an oasis and a retreat away from the suffering of disease. For the housebound, simply seeing the space and watching it from afar is beneficial. All those people would suffer if their green space were to be destroyed.

I ask the committee to consider the fact that, if we were poor, socially excluded, disabled or suffering from chronic disease in the Christians or the Magdelenes, Portobello park would most likely

be the only green space that we would ever see or experience.

To summarise my second point, destruction of the green space of Portobello park will be bad for the health of the community.

My third point is that the cause of this risk to health is the council’s failure to consider the health consequences of the bill. That is being done despite the wishes, strategies and policies of the Scottish Government and Scottish Parliament. It seems such a simple and self-evident fact that the health of the community will suffer as a result of the destruction of Portobello park. John Muir would have understood that, I understand that as a citizen and a GP, medical researchers whom I have quoted would understand it, everyone who uses and lives around the park understands it, the committee members—I am sure—understand it and the Scottish Government and the Scottish Parliament understand it, so why does the promoter of the bill, the City of Edinburgh Council, not understand it?

The Convener: Okay. We will go back to group 2. I invite Ms Peters to speak on the second set of issues, which concerns the social, environmental and financial impacts.

Jennifer Peters: Much research has been done on the health and social benefits of open space. A report by the Design Council on “The Value of Public Space” states:

“Public spaces are open to all, regardless of ethnic origin, age or gender, and as such they represent a democratic forum for citizens and society. When properly designed and cared for, they bring communities together, provide meeting places and foster social ties of a kind that have been disappearing in many urban areas. These spaces shape the cultural identity of an area, are part of its unique character and provide a sense of place for local communities.”

It goes on to highlight that

“There is growing concern about the health of the nation and particularly that of our children and young people. A variety of research has identified these startling facts: 20 per cent of four-year-olds are overweight, and 8.5 per cent of six-year-olds and 15 per cent of 15-year-olds are obese. This increase in obesity is linked to ever more sedentary lifestyles and a reduction in outdoor activity. Evidence shows that adult patterns of exercise are set early on in life. Inactivity breeds inactivity, so a lack of exercise when young can in turn create problems in adulthood such as diabetes and heart disease. It is not just the nation’s physical health that is at risk: there are concerns too about people’s mental well-being, given the stressful lives that many now lead. Each year the economy loses millions of working days through stress-related employee absence.”

A report by Operation Groundwork entitled “Grey places need green spaces: the case for investing in our nation’s natural assets”, identifies a survey that found that “Better health” is

“inked to green space regardless of socioeconomic status: rich or poor, your health is better.”

In addition, the Design Council report refers to a study that was carried out in the Netherlands that found that a view of a park would raise a house's price by 8 per cent, and that having a park nearby did so by 6 per cent. It can therefore be assumed that the loss of a park view or of the park itself will result in a fall in the value of properties that are affected in that way. Clearly, that will affect a great many residents who live close to the park and for whom the proximity of the park was a deciding factor in their decision to purchase their homes.

With regard to the environmental impact, there will be many operational disturbances for residents, including day-to-day deliveries, refuse collection, additional traffic in a normally quiet street, hundreds of additional people travelling through the streets on foot and by bike, and littering. That is not to mention the disruption, noise, dust, additional traffic and general inconvenience for residents during the construction period. The goods entrance on Park Avenue will introduce heavy goods vehicles, commercial vehicles and school coaches to a quiet narrow residential street.

There are strong concerns over the lack of a drop-off site, as neither Hope Lane, Park Avenue nor the main road—Milton Road—are suitable. There will be an increase in traffic noise in Hope Lane, Stanley Street and Park Avenue, and an increase in air pollution. There are also concerns about light pollution as external school lights in Edinburgh seem to be consistently left on. There will be parking problems for residents; the council has said that it will introduce parking restrictions in the top section of Park Avenue.

The Convener: Thank you. I now invite a spokesperson from group 4 to cover any points that have not been discussed.

Gillian Dunn: On park usage, I grew up in the Christians, which is the scheme that will be most adversely affected by the build on the park. Back in the 1960s and 1970s, we were surrounded by open green space, which has all been developed: there is now an Asda, the Gilberstoun estate and the bypass. That was our playground, along with Portobello park—or the golfie, as we called it.

The council and PFANS have attempted to paint a picture of the park that I do not recognise. They say that it is unused and unloved now, and that it always has been; the committee heard evidence some months ago from Rosemary Moffat of PFANS who said just that. My experience is very different to hers, and some of my happiest memories involve the park.

Rosemary Moffat's brother, Tony Fusco, wrote to the *Edinburgh Evening News* on hearing her evidence to say:

“As one of Rosemary Moffat's two brothers and having spoken to the other brother I would like to discredit any notion that we have/had any negative feelings regarding Portobello Park”—

The Convener: I am happy to take your evidence and quotations—that is fine—but I ask you not to attribute quotations.

Gillian Dunn: Okay. Someone's brother said—

The Convener: You have already put it on the record, so we will move on. The committee will certainly hear any other evidence that you have as long as you do not name people, but if you identify them we will have to stop the proceedings.

Gillian Dunn: From having spoken to other members of that family it is clear that Mrs Moffat was really only speaking for herself, because the others I have spoken to value the park and want to keep it as much as I do. A contemporary of Rosemary Moffat and her brothers was Alex Cropley, the former Hibs, Arsenal and Aston Villa player, who also had two caps for Scotland. In his recent autobiography “Crops”, he wrote

“The only football that I played during this time was in the traditional but disorganised Sunday afternoon games in the local Portobello Park. The games, that could range from 9-a-side to 14 and sometimes 15-a-side, were keenly anticipated by all the participants, even those who played for organised teams on a Saturday. In the winter we would use the goalposts and in the summer when they had been removed to let the grass grow, jackets on the ground would suffice.”

When I was growing up, all the kids on my street played in the park, either football, rounders, or just hanging around as kids and teenagers, and they still do. The park was also used to host Portobello festival on occasion. If the park is now underused, that is down to the lack of investment and care on the part of City of Edinburgh Council. That is all I want to say about usage.

The Convener: Okay, I now invite a spokesperson from group 2 to speak on the third set of issues, which is about the replacement of open space.

Jennifer Peters: The City of Edinburgh Council initially said that it would replace the open space that will be lost because of the proposed development; then it said that it would not.

I draw the committee's attention to supplementary evidence for category 1.3, which is section 3.32 of a paper that was submitted to the full council meeting held on 11 March 2010. That confirms the obvious replacement site as the site of the existing Portobello high school, but says that that site is not in the right location to mitigate the loss of Portobello park and that, with an

estimated 2010 value of £3.9 million, it would not be an efficient use of council assets.

The subsequent offer of a park on the existing school site reappeared just before the private bill consultation. It was included in the consultation literature for the bill, but it is not included in the bill itself. I am therefore sure that the City of Edinburgh Council and the bill committee can understand our scepticism about the council's intention in that area. There is no binding commitment from the council that it will provide replacement green space.

The Convener: Thank you. I invite someone from group 4 to speak to the issues that have not already been covered.

Gillian Dunn: We just back up everything that Jennifer Peters said.

Archie Burns: I want to add one thing. The school site is a school site and will remain a school site, and so it is not an ideal location for a park. The secure design features that are required around a primary school would militate against the performance of many of the activities that could be performed on that park if it was to be developed.

The Convener: I now invite the promoter to set out its position on all the issues covered in category 1.

Billy MacIntyre: I will cover all three categories in one, if I may, in the interests of time.

We have heard the concerns raised by the objectors about the loss of amenity and open space. It is important to remind the committee and the objectors that the overall net loss of open space in the local area will be the equivalent of half a hectare, which is a little less than a football pitch.

We know that the existing park is mainly used for walking and dog walking. It has been said that the council has maligned dog walkers. I am the owner of two dogs and I am a regular walker of those dogs. I would be the first to defend dog walking, but the areas where I walk my dogs are substantially smaller than the area of space that would be provided on the existing park, should that proceed.

Those activities can continue on the new park site, with new paths added to the area of open space that will remain at the park and improvements made to the paths around the park and the golf course. Those changes will also make it easier for those who have limited mobility or young children to use the park and boundary paths. In other words, it will be made more accessible.

There was limited use of the former football pitches, but the new pitches will bring life back to

the park. Perhaps that will even allow Joppa United to re-form. The all-weather pitches can be used by organised clubs and others seven days a week for extended hours, delivering a greater benefit to the local community. We have seen the difference that all-weather pitches can make at other schools, and there is great demand from local communities to use them.

We can envisage no regular activity that is currently undertaken at the park that would not be possible on the replacement facilities. There should therefore be no discernible loss of amenity for any particular recreational or leisure activity.

Objectors have spoken at great length about close access to green space. As regards the amount of open green space in the local area, we have produced a map, which we thought would be helpful to illustrate some of the points. The map demonstrates that there is, and will continue to be, a large amount of green space in the area, including Magdalene glen, which will be upgraded as part of our compensation measures.

10:15

The map has been prepared by reference to the standards set in the council's open space strategy, to which objectors have already referred, and shows the current position in the area. The open space strategy has two elements, one of which has been referred to. The first is that houses and flats should be within 800m walking distance of a significant accessible green space of at least 2 hectares, which should be of good quality for parks and gardens or of fair quality for other types. Those are the areas that are coloured dark green on the plan.

The second element is that houses and flats should be within 400m walking distance of a significant accessible green space of at least 500m². Again, that should be of good quality for parks and gardens or of fair quality for other types. Those are the areas that are coloured pale green on the plan.

Red indicates dwellings that currently meet both elements of the council's open space strategy; pink illustrates dwellings that currently meet the large open space standard only; and blue indicates dwellings that meet the local open space standard only.

Portobello park is not coloured on the map. It does not count towards compliance with either standard, as it is classed as being only of fair quality. The golf course, similarly, is not included, as it is not classed as being accessible. Nevertheless, it is a very large area of open space right in the middle of the area in question. The map does not take into account Portobello beach,

which, similarly, is not classified as open space for these purposes.

Because Portobello park does not count towards compliance with the standards that are set out in the council's open space strategy at the moment, siting the school on Portobello park would not alter the position of any dwelling in relation to the present standards.

You can see that the vast majority of dwellings in the area are already within 800m of a good-quality area of open space of more than 2 hectares. The map shows that the provision of good-quality open space in the vicinity of Portobello park is generous, despite what the objectors have said this morning, with almost all those living around the park already having areas of large, good-quality open space within an 800m walk. Those areas are Joppa park, Jewel park, Bingham park and Figgate park.

As you can see, in the area there are also a number of other small open spaces, which are highlighted in pale green, that can be used for informal activities. Magdalene glen, to the south of Portobello park, covers a significant area, but it is not classified as a large area of open space.

As the objectors have highlighted, you will see that certain streets in the Christians area, immediately to the east of the park, are within a 400m walk of a local area of open space, although they are not within 800m of a large area of open space. They are, however, within 1km of Joppa park, and that is the distance to which I believe Dr McCulloch referred in his objection to the bill as being relevant to health impacts. The distance to Joppa park is about 900m.

As I indicated earlier, the compensatory open space on the existing combined school site will be provided as a direct result of our listening to people's views during the various discussions and consultations that have taken place on the school project.

Yes, the proposal is different from that of March 2010, but, as I have said, that was in direct response to the concerns that were expressed about a loss of open space in the area. First, we are being criticised for not providing it; now, we are being criticised for providing it.

The sum of £1 million has been allocated for that purpose. By involving the local community in deciding how the site should be developed, we will provide a new open space that will significantly enhance the overall provision of open space in the area. I point out the location on the map—there will be a new area of open space of 2.16 hectares in part of the area. We cannot illustrate the precise area, because it has not yet been defined.

There will also be a new area of open space at the other location that I am indicating, retained on the park. That will further improve the level of compliance with the standards that are set in the council's open space strategy, with the area being within 400m of some of the streets in the Durham area that are coloured pink. The provision of the open space, as shown, will improve accessibility to a large open space for those in the area that I am indicating. Those dwellings will therefore meet both elements of the open space strategy, rather than just the large open space standard, and will become red rather than pink.

I fail to see how the health of the community will be adversely affected as a consequence of the proposals, in light of the very generous provision of green and open space that already exists in the area.

Given the existing provision of open space in the area and our proposals to add new areas of quality open space, those living in the area will very much continue to enjoy the health and social benefits of open space that the objectors have identified.

The objectors refer in particular to the health benefits of encouraging physical activity and exercise, particularly at an early age. We agree with that entirely and stress that one of the principal reasons why the park is by far the best site is that we can provide two pitches there to allow the school to provide all curricular physical education activity on site. That will avoid time being wasted bussing pupils to off-site activities and therefore substantially increase the amount of time available for physical activity and exercise. In addition, the possibility of booking access to the new all-weather pitches for free will give people who live in the area the opportunity to benefit from having new and improved sports facilities within easy reach.

We recognise that those living closest to the park have concerns about having a school on their doorstep, but we have designed the new school to fit in sympathetically with its surroundings. The building will be set back from Milton Road by approximately 28m. Although the building is arranged in parts over three storeys, its overall height will be comparable with the residences across Milton Road, due to the site being at a lower level than Milton Road. It will also be comparable in height to the adjacent properties on Park Avenue and to the existing tree line.

The new pitches will be floodlit, but to minimise any disruption to local residents conditions have been set on the operating hours and the floodlighting has been designed to avoid any light spillage on to neighbouring houses. Some mature trees will have to be removed, but our landscaping plans will enhance the existing planting and enrich

the biodiversity of the park. Scottish Natural Heritage commented on the council's proposals as part of the planning process and confirmed that it had

"no objection to this development."

SNH also noted that

"The Environmental Statement is thorough and contains the required surveys and assessments, as well as robust mitigation proposals".

To address fears of noise, litter and vandalism, I point out that, as the committee has seen, Portobello high school is currently based in a residential area. The headteacher and staff are committed to ensuring a positive relationship with all their neighbours, and they work hard to achieve that. I am sure that the school can address any concerns that local residents may have. Both the school and the council would be happy to engage with neighbours if and when the new school is in place and is built to discuss any behavioural issues that might arise and any steps that can be taken to address them.

Claims by the objectors that house prices in the area would be adversely affected are purely speculative. It could equally be argued that investment in a new state-of-the-art school and the accompanying improvements to community facilities could benefit house prices, not only locally but across the catchment area.

If today's objectors have suggestions for measures that would address or mitigate their concerns about any of these issues, we would be very happy to hear them.

The Convener: I give the objectors the opportunity to question the promoter on any of the issues in this category.

Stephen Carr: At the start of his submission, Mr MacIntyre talked about the new sports facilities that the school will provide, but those benefits would be available wherever the school was built. They are attributable to any new school, and not only to a school on Portobello park, so by building the school somewhere else we would benefit from those things and not lose existing public assets.

The notion that the facilities will be available, but only when not used by the school—in other words, at the weekend and in the evening—is not the same as having a completely open and accessible green space.

I also worry about the notion of open public access to the enhanced pathways that will be provided in the remaining green space, which I find hard to reconcile with the normal security arrangements at a school site.

Billy MacIntyre: Can you clarify your second question, just so that I cover it fully?

Stephen Carr: The first point was about the two pitches. I think that I made the point about the loss of open—

The Convener: Was your question about the security of the school, Mr Carr?

Stephen Carr: Yes.

Mr MacIntyre talked about the pathways that will be provided in the remaining bit of open space.

Billy MacIntyre: I thought that there was a middle point, but I will address those two points and, if I miss anything, I will happily return to it.

Two new pitches will be delivered if the proposal to build the school on Portobello park proceeds. There will be two new pitches in the local area only if the school is delivered on the park; if it is delivered elsewhere, you will be lucky if one new pitch is delivered. Therefore, there will be an increase in provision.

The accessibility of the facilities in question to the people in the area, which is the area around Portobello park, will be significantly improved, as they will be on their doorstep rather than being a short distance away. I believe that Dr McCulloch made reference to that. We have not argued that there will be net additional provision, but new and improved facilities will be available. When the pitches on the existing park were used, they were bookable and had to be paid for. We will provide the new pitches for free. That represents an enhancement of what was previously provided in the park, which is surely of value and interest to the community.

As far as the second point about public access is concerned, paths will be provided through the area to ensure that there is a significant level of permeability for the public. I hope that the local community would welcome that. The school and the areas of it that need to be secured will be secured. The paths that will be provided will be outwith that perimeter, so there is no risk of crossover between those members of the public who will use the paths and the people who will occupy the school during the school day. There is no conflict there. What is proposed is entirely compatible with the security requirements for any school in the city.

Stephen Carr: Am I correct in my understanding that, in effect, you are saying that the trade-off is between having one all-weather pitch, which would be the case if you built the school on the existing site, and losing a 6-acre park?

Billy MacIntyre: That is far from being the trade-off, but I will cover that later, if I may.

Archie Burns: In his introduction, Billy MacIntyre said that the need for a replacement

school had been identified, but he did not tell us when it was identified. Could he clarify that? Why has a replacement school not been provided, given that we are now in 2014?

Billy MacIntyre: To an extent, that predates my joining the council. I know that the issue was first looked at back in 2003—I am sure that we will come to that. An option to rebuild the school on the current site was considered and discounted.

The proposal to deliver a replacement school was subject to a statutory consultation process in 2006, as I am sure you will be aware. The council approved Portobello park as the preferred location for a new Portobello high school, and that was subsequently aggregated into what was called the wave 3 programme, which involved the replacement of five schools in the city of Edinburgh area: Portobello high school, James Gillespie's high school, Boroughmuir high school, St John's RC primary school and St Crispin's special school. When I joined the council in the middle of 2008, I was given the job of prioritising those schools because, at that point, there was insufficient funding to deliver even one of them.

Therefore, part of the answer to your question is that a new school was not delivered before 2008 because there was no funding available to deliver it before that date. The decision to proceed with the new school on Portobello park and to provide funding for that was made in December 2008, and the funding to deliver that in full was secured by the council in March 2009.

Archie Burns: So the decision to provide money for a new school was made in 2008, but you have not been able to deliver it until now. The risks that you have taken in the legal process have delayed things. You have managed to deliver James Gillespie's and Boroughmuir in that timescale. Could you explain why that is?

Billy MacIntyre: I am not sure of the relevance of that to this category.

Archie Burns: In his introduction, Billy MacIntyre talked about—

The Convener: There will be an opportunity to make final comments. We are looking at category 1—in other words, what the objectors brought to the table and what the promoter said on that specific category. We must be concise, given the amount of business that we want to get through. If the objectors have a point that does not relate to category 1, I ask them to please leave it until the end, when they will have an opportunity to raise it.

Gillian Dunn: Could Mr MacIntyre say again what open space will be left? Could he confirm that and explain it to me?

10:30

Billy MacIntyre: We explained that in our written submission to the committee last week. It is an area of 0.48 hectares. In detail, the area of hard standing that will be kept and provided in the park—that is the area of the school building, the playground and the car park—is 2.64 hectares. The area of open space that will be provided on the existing combined site of Portobello high school and St John's RC primary school—after the area for St John's is increased—is 2.16 hectares. That leaves a balance of 0.48 hectares.

Gillian Dunn: I may be being stupid, but I do not understand that. I do not understand how you can build on a 6 hectare park and, if I understand you correctly, end up with a 0.6 hectare park.

Billy MacIntyre: As we have covered in our written submission, 1.57 hectares will remain as the two all-weather pitches, and 1.62 hectares will remain as woodland, improved public pathways and new cycle paths, in addition to the area of 0.6 hectares of open space.

Gillian Dunn: So we are counting paths and cycle paths as park now—is that correct? Is that normal?

Billy MacIntyre: That is how they are counted just now in terms of the assessment of park areas.

Gillian Dunn: Is that done everywhere—for all parks—or just for Portobello park? Is that the system throughout Edinburgh?

Billy MacIntyre: I do not calculate the area for all parks, but that is consistent with the methodology that is applied for all parks in the city.

Gillian Dunn: It just seems really strange that you can build on a 6 hectare park and leave an amount of parkland of 0.6 hectares. Even if we get another park of 2.5 hectares, in my head, that means that we are still losing at least 3 hectares.

Billy MacIntyre: That is your opinion.

Gillian Dunn: Perhaps that is my maths.

Billy MacIntyre: No, the maths is correct, but that is your interpretation and opinion with regard to the loss, which I respect.

Archie Burns: You said that there is nothing that people cannot do on the new site that they can do on the existing site. I am keen on power kites, and I could not possibly fly my power kite on the site after you have put in all those football pitches. Also, there is no space for playing cricket.

Billy MacIntyre: Do you play cricket on the park just now?

Archie Burns: Not at the moment, because it is useless; it is not suitable at the moment.

Billy MacIntyre: So you do not play cricket—

Archie Burns: I cannot play cricket there—

Billy MacIntyre: So there would not be anything that you are doing currently that you could not do—

Archie Burns: I have played cricket there in the past.

Billy MacIntyre: Right. I am not sure what a power kite is, but do you use that regularly in the park just now?

Archie Burns: Not regularly, but I would like to have the opportunity to do that and other people would as well.

Billy MacIntyre: Would any of the other areas of more than 2 hectares of open space in the vicinity be large enough for you to use your power kite?

Archie Burns: Possibly Holyrood park is big enough, but apart from that, no.

The Convener: Specifically, Portobello park would not be big enough?

Archie Burns: That is what I am saying.

Billy MacIntyre: What size of area is required for a power kite?

Archie Burns: It probably needs 100 metres by 100 metres.

Billy MacIntyre: So that is—

Archie Burns: A couple of football pitches.

Billy MacIntyre: If you could provide us with information on that, it would be helpful.

Archie Burns: It is just that the statement that you made is not correct.

Jennifer Peters: In 2010, the council said that the existing school site was the wrong place and would not be an efficient use of council money. I accept that public pressure has probably forced you to rethink that, but you are telling us today that it is the right site whereas you told us in 2010 that it was the wrong site. What changed?

Billy MacIntyre: What changed? Public opinion regarding the loss of open space was quite significant, so we are responding to that.

Jennifer Peters: I accept that public pressure has led you to provide replacement space but, in 2010, you said that the existing school site would be the wrong place to put a park to mitigate the loss and now you are saying that it is the right place to mitigate the loss. I am wondering what changed.

Billy MacIntyre: As I said, it is an area of open space that is available to the council and we are now providing it as part of the revised proposals. As I said in the meeting that was held at

Meadowbank, if you would like me to confirm that I was wrong in that judgment in 2010, I am happy to do that.

The availability of that space will be a beneficial asset to the community. We have illustrated this morning how it will contribute to the improvement of accessibility of open space for many of those who live to the west of the park in the Durhams. As part of the consultation process, we consulted the local community on the use to which it would like that space to be put and the response was overwhelmingly positive. Many positive ideas have been proposed and the local neighbourhood partnership will now consider them.

If you would like me to confirm that I was wrong—or that the council was wrong—in 2010, I am happy to do that.

Jennifer Peters: It is just good to hear the council acknowledge that it gets it wrong sometimes.

Billy MacIntyre: I believe that I did so, and the minutes of the meeting at Meadowbank show that I have previously said that.

The Convener: If the objectors have no final questions that have not already been covered, does the promoter have any questions for the objectors?

Charles Livingstone (Brodies LLP): Convener, a comment was made about the inclusion of the open space in the consultation. I would explore that, but it is perhaps for category 4. Would you prefer that I reserve it for then?

The Convener: Yes. I will come back to you. Please remind me if I have not covered the point. I will make time for it.

Charles Livingstone: In that case, I ask the objectors a simple question: what proposals do they have that would mitigate their concerns?

Gillian Dunn: Build the school elsewhere. Build it on the present site. That would mitigate all our concerns. Everyone would get a brand-new, state-of-the-art school and the residents would get to keep the park. The park could be improved and use could be widened. It is not used only because of the dilapidated state that it is in. To use that as an excuse to build on a park is outrageous.

Archie Burns: The council has funds and could buy other sites if it chose to do so.

Billy MacIntyre: Will you clarify what other sites we could buy on which a school could be built?

Archie Burns: You now know the value of Baileyfield and could make a compulsory purchase of that site.

Billy MacIntyre: A site that has already been acquired and bought.

Archie Burns: Yes. You know the value of it now.

The Convener: We will talk about the sites later on, so I ask you to stick to category 1, please.

Archie Burns: Charles Livingstone asked the question.

The Convener: I understand that he asked the question. I am not directing my comments to you, Mr Burns. If you had looked at me, you would have seen that I was looking at Mr MacIntyre.

Billy MacIntyre: My apologies, convener.

The Convener: We are on category 1, and we wish to get on to category 2 at some point.

Gillian Dunn: Can I ask one last question on category 1?

The Convener: Yes.

Gillian Dunn: I have a question for Mr MacIntyre about the access arrangements for the all-weather pitches. The current school has an all-weather pitch. What are the access arrangements for the community for that?

Billy MacIntyre: The current school has a very small pitch that could be categorised as an all-weather pitch. It is some years old. I do not know what the current arrangements are. I would have to confirm that.

The Convener: The question has been asked, so will you provide us with the details? That would be good.

Ian Ross: Does the school use that pitch regularly?

The Convener: Excuse me, but we are on the promoter's questions. The time has been taken for your questions, but information will be provided. Is that okay, Mr MacIntyre?

Billy MacIntyre: Certainly.

The Convener: Are there any other questions on category 1?

Charles Livingstone: No. The objectors are clear that they have only one mitigation proposal.

The Convener: Do the lead objectors have any final comments on category 1?

Jennifer Peters: It is inappropriate that the council is asking local residents what should be done to mitigate their concerns. That is Mr MacIntyre's job, not mine.

Gillian Dunn: That is what he gets paid handsomely for, we believe.

The Convener: Okay. That is your final comment. That is constructive.

We move on to category 2, which covers road safety, traffic and congestion issues and the effects on the local community. I invite Ian Ross, the spokesperson for group 2, to speak on the category.

Ian Ross: Thank you for the opportunity to do that, convener.

I have lived in Park Avenue for more than 30 years. I have a family of four children. I have enjoyed the Portobello park and all its facilities. It started with the children learning to ride their bikes in a safe environment and then moved on to them playing all sorts of sports in the park. Like many others, I am latterly a family dog walker. I am a chartered civil engineer and have more than 40 years' experience.

I will refer to the documents that I have submitted. I have also provided a map, which the clerk has. He will circulate it to everybody so that I can make my points with a bit more clarity.

As regards the existing conditions, the A199 at Milton Road is a greenway and district distributor road. It is a strategic transport route for all users in and out of the city of Edinburgh, East Lothian, Midlothian and the trunk roads from the south—the A1 and the A68. It is a four-lane carriageway but, during the morning and pm peaks, it acts as a single carriageway, as there are bus lanes in operation during those periods.

Every morning, particularly when the schools are operating—there is a fall-off in traffic when the schools are on holiday—during the am peak, which is generally from 7.30 until 9 o'clock, the westbound or citybound traffic is constantly queued back from the Duddingston Park traffic lights, as shown on the diagram. I hope that you can see that. The traffic is queued back from the traffic signals, well past the access to the new school, and regularly past Hope Lane. That is a distance of around 600m.

During really bad conditions—wet weather and the like—the queue sometimes goes back as far as the Milton Link, which is shown on the diagram, running from the yellow of the Harry Lauder Road. That is the main link where all the hubs of traffic come in from the south. A lot of them distribute down the Harry Lauder Road. On occasions, the traffic gets close back to that point, and it is blocked off by the traffic signals. The congestion is quite significant.

In the evening peak—which is arguably when the bus lanes are in place, which might be after the school is closed—the traffic is queued back in the present situation, often as far as Park Avenue

and back to Duddingston Park. That distance is about 1km.

The consequences of the morning peak, in particular, include frustration for drivers. That causes a significant number of drivers to take evasive action, of three types. One of those is to abuse the bus lanes, which happens regularly. In these circumstances, the people who abuse the bus lanes drive at some speed, because they do not want to be there for long. Those who are citybound, in particular, either duck into Baillie Place, which is shown on the diagram, on the south side of Milton Road, opposite the entrance to where the new school will be, or they try to get as far as the Duddingston Park crossroads.

Another option that drivers pursue is to rat-run down Hope Lane and Park Avenue, which are shown as rat run 1 and 2. They go down there to avoid the main drag and the long queues there, and they fight their way back through Duddingston Road, going back on the main road at Jock's Lodge and the likes.

The other, longer, rat run that drivers use is through Magdalene. It is predicted that the queues are going to be long, as drivers regularly use that route. On the diagram, that is the green line to the south of Milton Road. Drivers go past Brunstane primary school and come on to Duddingston Park South. They can then cut their way back on towards Jock's Lodge.

The proposed development of Portobello high school—which, with 1,400 pupils, is the second-largest school in Scotland—with direct vehicular access and pedestrian access on to Milton Road will generate significant additional car and pedestrian trips. Right in the middle of the length of road where cars queue back in the morning, it is intended to have direct access from the school on to this transport corridor. That will generate significant vehicular and pedestrian movements.

Those turning movements and pedestrian crossing delays would occur particularly at the am peak and would cause queues and delays on Milton Road. I would anticipate that queues will regularly go back to Milton Link. The reasons for that include right turning, which brings about real conflicts in road safety terms.

At the moment, there are two pedestrian crossing locations. One is at the top of Hope Lane. That is not used regularly. The traffic does not get stopped on many occasions for people to use that. The other one is at the Duddingston Park crossroads. It is used relatively regularly, but probably not through every phase.

10:45

If the school is built on Portobello park, the new toucan or pelican crossing will be called upon all the time, because it will be used regularly by people coming off buses from Joppa and the likes—I apologise at this point, as the location of the access to the school is not where it is shown on the diagram but to the other side of Baillie Place; the diagram shows the original proposals, I think, before the site was revisited.

The transport appraisal says that there will be a call for the pedestrian crossings every minute. The capacity of the road will be significantly reduced as a result of the new school, with the turning movements and the pedestrians making the crossing both at the new toucan crossing at Hope Lane, which will be in regular use, and at the crossing at Duddingston Park, which will have an increased use—albeit that it is regularly called upon at the moment.

The result is to cause traffic congestion in the morning peak. That includes buses from the east and south heading into the city centre. The route is a quality bus corridor. It is one of the main links into Edinburgh. If Milton Link got snarled up, that would be a serious point for the city of Edinburgh and commuters coming in and out. There is a strategic park and ride at Newcraighall, and people come in from there to use the corridor. Buses use the corridor, too. The bus lanes are not continuous from Milton Link all the way to Duddingston Park—there are locations where they are not in force—so the buses would get clogged up, too.

I am pretty sure that the Scottish ministers provided 100 per cent funding for quality bus corridors, and this is a quality bus corridor. Money went into that. Any devaluing of the approach, which will inevitably happen, will be a result of the devaluing of the corridor.

I will move on to the accidents that currently take place on Milton Road. I ask you to refer to the table that is included in my evidence. The length of the road that I am talking about is as I have already described, running from the Duddingston Park crossroads to Hope Lane. That covers the frontage and main movements along the corridor that the school fronts on to. The statistics are for personal injury accidents—in other words, people who have been hospitalised. There are numerous other damage-only accidents, which are not recorded. They cannot be used for comparators of road accident types, as they are not all reported to the police.

Over the period between January 2009 and September 2013, there were 13 personal injury accidents on that stretch of road. That is a significant number of personal injury accidents

over a relatively short length of road. Personal injury accidents are generally measured in accidents per 100 million vehicle kilometres. Taking into account the number of accidents on this length of road, the accident rate is 67 accidents per 100 million vehicle kilometres.

According to table 5 of the central Government document that sets out the statistics on this matter—I have copies of the table that the committee can see—the average accident rate for A-class local authority roads, of which the A199 is clearly one, in the Lothian and Borders Police area is 33 per 100 million vehicle kilometres. That means that the accident rate on this section of road is twice the average accident rate—and that is before a new school with direct access is parachuted into the area and before 1,400 more people start making two or even four movements a day along that corridor. Another statistic that might interest you is that the average accident rate for the A9 between Perth and Inverness is, I would say, less than a third of the accident rate on this stretch of road.

We have raised this issue—although not these particular statistics—with the council on a number of occasions. Mr MacIntyre says that he has taken certain decisions, but we have supplied information to the council and have received no real feedback and had no discussion about them.

It is clear that a number of safety conflicts already exist on this section of the strategic transport corridor. As I have said, although the accident rate is already twice the average rate for this type of road, the proposal is to build a new school with direct access from it. We have to think about all the turning movements that will be made, the schoolchildren walking along these and adjacent corridors, cars rat running, people doing turn-offs and so on.

The new school will generate additional traffic, with 1,400 pedestrian movements at least twice and even four times a day, which will inevitably cause additional conflicts and significantly increase the risk to the 1,400 pupils going to the proposed new school at least twice a day, the local residents, the 18,000 drivers and their passengers and the public transport passengers who use this strategic transport corridor.

These road safety and traffic congestion issues were first raised by the local residents at a meeting in August 2010. The meeting was chaired by a member of the City of Edinburgh Council project management team and was attended by a transport appraisal consultant from AECOM. The local residents did not believe that the proposed new school, with its direct junction on to Milton Road, could be built safely. They believed that they would be at risk, as would the 18,000 drivers and their passengers who use the road every day.

At that meeting, it was recommended that the council carry out a road safety audit as recommended in section 11.3 of the council's document "Movement and Development: Traffic and Transport Design Guide for Developments in the City of Edinburgh".

At the same meeting, residents shared their concerns about the existing westbound traffic queues that go past Park Avenue and into Hope Lane. People cannot get out on to those roads safely in the morning, and the concern was that any new proposals would increase the congestion on the network. In the circumstances, they recommended that the council undertake a traffic simulation model as recommended in paragraph 20 of planning advice note 75.

What would the traffic simulation model do? It would clearly demonstrate whether Milton Road, which is a strategic transport corridor, and the surrounding road network would operate safely without unacceptable congestion as a result of the increased traffic of the proposed school.

In addition, at that meeting the issue of the safe drop-off locations for pupils on the local road network was raised, bearing in mind that dropping off pupils on Milton Road would be prohibited because bus lanes are in operation. The question was: where were the drop-off areas to be?

The Convener: Mr Ross, excuse me a minute. We have a lot of this in written evidence, and I am very conscious of all the categories that we have to get through. Could you wrap it up, please, if you do not mind?

Ian Ross: It is very frustrating, because we have been told that we have had a lot of opportunities to say this, but we have had no response.

The Convener: I understand your frustration, but look at all the documents we have sitting in front of us today. We have all read the information.

Ian Ross: You had another day. I am surprised that you have not allowed us to discuss this fully. This was an opportunity for us—

The Convener: This is your opportunity to do so now. Under the standing orders, we have to conclude at a certain time this morning. Feel free to continue to speak about this issue, but if you do so we might not get to the other categories and we will certainly not get to another group. That is the choice that you are leaving yourself.

As I said, the information that you are going through at the minute is information that we have in written evidence. I am asking you to bring forward things that we have not heard or indeed that you want to emphasise, as you have done with the stats and the map. We are aware of all those things, which you are re-emphasising in

order to put questions to the promoter. However, by going through it all, as you have been doing for 12 or 13 minutes now, you are taking time away from other categories.

Gillian Dunn: We were given to understand that we would not be time limited.

The Convener: You are not time limited in each category, but if you continue to take the time for categories 1 and 2, you will not get to categories 3, 4 and 5 and we will not get to other groups. That is how the process works. We have to conclude at a certain time because parliamentary business is starting. We are time limited as a committee as well, in terms of how much time we can give to this each Wednesday morning, under the standing orders of the Parliament.

Gillian Dunn: I understand that but, as Ian Ross said, you have already cut a day off from us anyway.

The Convener: No day has been cut off. We can continue having this discussion, which takes time away from each category. I am more than happy to do that—I will take your advice on that.

Ian Ross: I will try to move on a bit quicker.

At the final meeting, we left some written comments with the management team. They thanked us for the comments and agreed to consider them and give us feedback. That has not happened over the past three and a half years, despite there being hundreds of objection letters and delegations.

The local residents were clearly very disappointed and concerned about the planning authority and the sponsor. There are two roles here, and in questioning I would like to understand the roles of the advisers in the planning authority and the sponsors, and who made the decision not to follow the guidance in the development guidelines.

In any event, as a result of what happened we took the exceptional step of carrying out a road safety audit—it was carried out by a lead road safety auditor. The report was commissioned to assess the requirement of the proposed development—Portobello high school—to undertake a road safety audit and identify potential road safety conflicts and problems that may have been raised by a road safety audit. The road safety audit is part of the evidence.

The report makes three recommendations. It states:

“Due to the significant material changes proposed to the existing road layout, it is our recommendation that a Stage 1 Road Safety Audit ... be commissioned to ensure that the full road safety impact of the scheme proposals can be assessed at this early stage...

The importance and urgency of commissioning the Stage 1 Road Safety Audit cannot be overstated as likely mitigation measures to the problems identified in this report are likely to recommend significant alterations to the existing road layout in order to reduce or remove the adverse safety impact of the scheme”.

11:00

The road safety auditor points out that there have been accidents, as I mentioned, and later in the report he identifies nine areas where the existing road network does not meet the standards, such as on the width of the footpath, visibility at junctions and turning movements for traffic. If the problems were to be addressed, the width of the main transport corridor would have to be cut down to make the network safe to meet the Government, the City of Edinburgh Council and other good standards. The result would be that the main corridor would not be four lanes wide and that therefore the whole corridor, in which there has been a large investment, would be at risk.

As his third point, the auditor strongly recommends that, to demonstrate that, traffic modelling should be undertaken in accordance with the planning advice note.

The road safety report identifies a number of problem areas, and I will quickly go through them. For the Hope Lane and Park Avenue location, the report states that

“Lack of ... drop off zones increase the risk of informal parking”

and uncertainty. That is not really covered in the transport appraisal; nor does that appraisal say where the traffic will go once the children have been dropped off. It is a poor-quality appraisal.

The road safety report states that the shared cycleway and pedestrian footpath leading to the proposed safe toucan crossing is substandard, that the proposal for the footway and cycleway on the north side of Milton Road at Hope Lane is substandard, and that there is substandard visibility for traffic coming out of Hope Lane. Drivers looking to the left there—to the east—cannot see the road properly. Another problem is that there will be substandard access for services and deliveries to the proposed access on Park Avenue to the new school.

The next problem that the report refers to is interesting, and it relates to the A1 adjacent to the proposed school. The intention is to have a 20mph speed limit on that section of the road during school-opening time. However, it is a well-known fact that people do not adhere to speed limits unless the road has been narrowed down and there is evidence of a need to reduce speed. For an open four-lane carriageway, speed limits on their own do not work; we must reduce the width

of the carriageway and demonstrate that there are dangers there in order to get drivers to reduce their speed. Many sections of Milton Road are open road.

The report indicates another problem with a substandard footpath, particularly the length between Park Avenue and Duddingston Park. The road safety auditor uses a very good photograph in the report that shows how narrow the footpath is there. Let us say that 25 per cent of pupils—350—might walk along that footpath four times a day. I would not like to be there at those times. There would be no room for local residents to use the footpath over particular half-hour periods.

The report also states that there are substandard refuge and harbour areas for the signalised junctions, particularly on Duddingston Park. There are also no facilities for disabled people.

I will try to be brief in my summary. The 1,400 pupils at the new school will use an existing road whose accident rate is twice the average. There will be further traffic delays on Milton Road because of traffic movements around the school and because of the pedestrian crossings, which will lengthen traffic queues back to the Milton Link. In addition, the council takes no cognisance of the known housing development in the south-east wedge of the green belt by East Lothian Council and Midlothian Council that will increase traffic on that section of Milton Road.

We are concerned about where the pupils are going to be dropped off, and the local residents believe that the promoter has underestimated the number of pupils who are likely to be dropped off. The Scottish statistics suggest that the school run brings 21 per cent of pupils to school, but the figure that the council uses is 14 per cent. The Scottish statistics assume that pupils will walk up to 600m per day to school, whereas the council assumes that they will walk up to 2 miles. I do not think that in winter many pupils will walk 2 miles, which is more than twice the average in the Scottish statistics. That does not mean that all the others will come by car, but a proportion of them will. I believe that the figure will be much nearer 21 per cent than 14 per cent, which is the figure that the council uses.

The independent safety auditor made the recommendations that I have already referred to, saying that there is a clear need to carry out a road safety audit if we have any care at all for the children who go to the school. Again, I highlight the figures on personal injury accidents, which demonstrate that there are twice the average number of accidents on the existing network, even before the new school comes in.

In summary—this is probably the final statement that I am going to make—I say that the local residents strongly consider that the City of Edinburgh Council, both as a planning authority and as a promoter, has been irresponsible. I could use stronger words, but it has been irresponsible in not following its own procedures and refusing to carry out a safety audit. It has not taken seriously the road safety and traffic issues that are associated with the new school. The decision will inevitably affect the 1,400 pupils who attend the school each day and the local residents as well as the 1,800 drivers and their passengers and the public transport passengers who travel along the A1 strategic transport corridor every day. Thank you.

The Convener: Thank you. Does anyone from group 4 have any points to make that have not already been covered?

Archie Burns: Can I make a couple of points on the traffic issues? Most of the traffic on Milton Road is heading to the centre of Edinburgh, but a lot of it comes from Musselburgh. With the delays and congestion that are anticipated on Milton Road, a lot of the traffic will travel through Portobello High Street and up Portobello Road, which is already a very congested area. What does the council intend to do about that?

Secondly—this is a question rather than a point—should there not be some form of Chinese wall between the council as the promoter and the transport team that assesses the planning application? We see little evidence of that.

The Convener: I ask you to leave questions to the questioning stage. That would help me with the agenda.

Archie Burns: It is a statement as well. I see no evidence of such a Chinese wall. There was a planning application for a nursery on Milton Road—a much smaller development—that would have been close to the school location, but it was turned down because of the traffic congestion, delays and accidents that it would cause. Where is the consistency between the approach to a school with 1,400 pupils and the approach to a nursery with 20 places? It makes no sense to me.

Ian Ross: If I may, I will make a comment on that. If you look at the map that I provided, you will see that the nursery would have been to the east of Hope Lane. I am not sure that you are looking at the map—

The Convener: I am not, because I was just about to say that, first, we are not the planning inquiry, as I said at the start, and, secondly, we are looking only at the bill, which does not include a nursery. If the promoter's representative, to whom I will turn, specifies that he will answer the question, that is fine, but the issue is of no

relevance to the bill, unfortunately, so we will not take evidence on it.

Ian Ross: It was a very small development, and it—

The Convener: It may well have been, but it has absolutely no relevance to the bill. The members who are sitting here this morning are asking for evidence on the bill.

Archie Burns: I would say that it is relevant, because it relates to the way in which the council consulted on the bill and dismissed evidence that is against it.

The Convener: I understand your thoughts on the issue, but legally it is not relevant. We can all be frustrated about what, legally, is set out in the bill but, unfortunately, the issue is not relevant to it.

Archie Burns: I thought that it was relevant because it was part of the bill.

The Convener: A nursery school?

Archie Burns: No—

The Convener: We are talking about a nursery school. We will get to the consultation at another stage.

Archie Burns: No, we are talking about the way in which the council carries out consultations in general.

The Convener: Okay, but that is a different stage. We have not reached that category—

Archie Burns: But it is part of the discussion.

The Convener: We might get to that category—

Archie Burns: We will get to it.

The Convener: Well, we might—I do not know. We have many groups to get through this morning, so we will see.

I ask the promoter to address the concerns that the objectors have raised.

Billy MacIntyre: I will do my best.

The Convener: Thank you, Mr MacIntyre.

Billy MacIntyre: First, I refute utterly the suggestion that the council has been irresponsible. Ensuring the safety of pupils in the wider local community is of paramount importance to everyone who is involved in the project, and the allegation that councillors either failed or refused to consider traffic and road safety issues is simply incorrect.

Ian Ross asked for clarification of roles and responsibilities, so I will try to provide that. My role and the role of the children and families department as the sponsor is to ensure that the new school that is delivered is the best that it can

possibly be, and to ensure that it accommodates all the necessary statutory and planning requirements, including on road safety.

For that purpose we employ a professional design team, which is led in this case by JM Architects, and AECOM acted as our professional design team on traffic matters. The planning authority is entirely separate from the children and families department, and is independent in that regard, as is the transportation department.

The design team takes its guidance from the transportation department to determine the scope of what is required—I will come to that in more detail—in properly considering road safety and traffic matters. The design team then undertakes an assessment and submits it as part of the planning application, and it is considered as part of the planning process, not just by the planning authority but by the transportation department, which is entirely separate. There are no Chinese walls: we are entirely different departments that fulfil entirely different roles. Transport Scotland is involved separately as a consultee on any proposals with regard to the impact or otherwise on the trunk road network or adjacent receptors.

As with any new planning proposal, a transport assessment was submitted as part of the application for planning permission for the new school building on Portobello park, both in the first instance and in the recent resubmission. We brought in a professional traffic consultant, AECOM, and its engineers carried out that work for us.

In addition to carrying out audits of existing transport levels at the existing school site and at Portobello park, the AECOM engineers reviewed existing travel patterns for pupils and staff and how those could change if the location of the school was changed.

AECOM's mitigation proposals include plans for a 20mph zone outside the school at appropriate times; a new pedestrian crossing on Milton Road; and improved access to the sites and pathways within the eastern boundary adjacent to Hope Lane and in the park area itself to draw pedestrian flow away from any pavements adjacent to roads such as Hope Lane and Milton Road. There are also provisions for a new cycle path.

Those elements have all been incorporated into our final plans. I should have added at the start that I assume that the objectors will correct the error in their submission if it is going to be taken as evidence. The entrance to the school has never been where it is suggested to be on their map.

The transport assessment was then prepared in accordance with Transport Scotland's guidance on transport assessment implementation, which is the fundamental guidance document that is

associated with transport assessments. Transport Scotland was consulted as part of the planning process and on the objectors' comments about the wider road network. The response that was submitted on Transport Scotland's behalf by JMP Consultants stated that

"they accepted that there would be no significant traffic or environmental impacts on the trunk road network or its adjacent receptors."

They also confirmed that they did not require any further information in relation to that issue. We would be happy to furnish the committee with the link to that document should it wish us to do so.

We note the independent road safety assessment that some of the objectors have apparently commissioned. I can confirm that the majority of issues that were raised in the assessment were identified and considered by the traffic consultant, AECOM, and the mitigation measures that AECOM proposed were independently assessed by the council's transportation department and approved as part of the planning consent.

The objectors did not offer any equivalent independent assessment during the planning process, which would have been the appropriate forum for that. They certainly had the opportunity to do so, and indeed several of the objectors in groups 2 and 4 submitted objections that refer to traffic and road safety issues.

As matters stand, we had no notice of the existence of that report, having first received it on Friday. We note that the report's author has not made himself available for cross-examination as we believe would be usual with expert witness evidence in such a situation.

In any event, the council disagrees with the opinion of the assessment's author that a road safety audit should have been undertaken by this stage of the project.

11:15

The suitability of the road network to support the new school was reviewed by AECOM as part of the transport assessment, which includes an operational assessment of the network, prepared on an industry-standard basis. The transport assessment met all relevant statutory requirements for a development of this nature. The underlying approach to the transport assessment was in line with statutory guidance and industry practice and was agreed by the council's transportation department. The final version of the assessment was then submitted as part of the planning application and was reviewed and approved by the council's development management sub-committee. There are therefore no significant or fundamental reasons to suggest

that the current outline design for the project would not be appropriate or deliverable.

On the specific matter of a road safety audit, as we said in our written submission—before we were made aware of the existence of this new report—we accept that if the bill is enacted and the project proceeds, a road safety audit will need to be undertaken as part of the design development and before the construction phase. However, it would be premature to carry out an audit at this stage. The correct time to carry out an audit is after the main contractor has been appointed. The contractor will be responsible for progressing the design and the development and construction stages of the project, including changes to the local transport infrastructure. However, based on the transport assessment, it is unlikely that significant changes will be required to transport infrastructure as a result of the council's proposals.

For that reason, and in line with standard industry practice, if the bill is enacted and the project proceeds, a combined stage 1 and 2 road safety audit will be carried out as part of the main contractor's design process. The audit process will be led by a suitably qualified road safety auditor. The purpose of road safety audits is to ensure that operational road safety experience is applied during the design process and implemented in the construction process in order to ensure that the number and severity of accidents is kept to a minimum both during the construction phase and once the development is operational.

Portobello is no different from many other schools in the city. Many are on or close to busy roads. It is inevitable in a city such as Edinburgh that that is the outcome. Given the mitigation measures that have been approved and will be put in place, we do not believe that there will be a high risk of accidents on Milton Road. It should be noted that pupils who live to the south of Milton Road already have to cross it at peak times to reach either the park or the existing school site. The proposed measures, such as the reduced speed limit and new crossing, will therefore make Milton Road safer for those pupils who currently need to cross it at peak times. The crossing will also mitigate risks that might otherwise have risen at other times of the day.

In relation to concerns about pupils being dropped off, council policy is not to have formal drop-off areas, drop-off in the vicinity and increased traffic resulting from that. Portobello high school strongly encourages sustainable travel patterns and an estimated 80 per cent of its pupils walk to school every day. The school's eco-schools project encourages those who do require transport to use sustainable transport and the school has seen a reduction in the number of

pupils travelling by car, which it continues to encourage.

The school's most recent travel survey showed that only 9 per cent of surveyed pupils were dropped off by their parents. I am not sure of the relevance of the Scottish statistical average of 21 per cent in the context of a specific school such as Portobello. I would presume, although I have not seen the data, that the Scottish average would include a significant number of rural areas, where you would expect drop-off to be significantly higher. Drop-off occurs at varying times and locations, not simply directly outside the school or in the streets closest to the school.

It is also important to recognise that the park is close to the existing school site and it is likely that Milton Road is already used for the school run by some existing parents and staff. Some changes in traffic patterns can nevertheless be expected, but those were fully taken into account in the transport assessment that was produced by AECOM and the accompanying mitigating measures, which have been approved as part of the planning process.

During both planning processes, we met local residents to discuss traffic issues. We found that a very useful experience, and any issues that local residents raised were thoroughly considered by our traffic consultants. Feedback on that was provided in the pre-planning consultation report and as part of the planning process. At the most recent residents workshop, there was a suggestion that a crossing would be required at Hope Lane, but when that was discussed with the council's transportation department, it advised that the impact on the area was such that it considered that an additional crossing would not be required.

Again, it would be helpful to get feedback from the objectors about what, if any, alternative or additional measures they believe would address their concerns about traffic and road safety.

I will stop at that.

The Convener: Do the objectors have questions for the promoter?

Archie Burns: Yes. Can Billy MacIntyre tell us where the nearest trunk road is to the school? He said that the council consulted Transport Scotland on trunk roads but, as far as I know, the trunk road is not particularly close to the school.

Billy MacIntyre: I am not sure of the relevance of the question.

Archie Burns: You said something and it is not true.

Billy MacIntyre: I am sorry?

Ian Ross: Can I help Mr MacIntyre with that? Transport Scotland responded through JMP

Consultants, but its responsibility is for how the proposal affects trunk roads. The nearest trunk road to Milton Road and the proposed Portobello high school is the city bypass. That was the context. Transport Scotland said that the procedures had been followed and an environmental assessment had been done but, because the road was 4 or 5 miles away, the proposal had no influence on it. That is what Transport Scotland's comment was about. It did not say that it was perfectly happy with the proposals that AECOM produced; it said that the issue was a delegated matter for the City of Edinburgh Council to deal with.

Billy MacIntyre: I suggest that that is not what it said. I would be happy to furnish the committee with a copy of what Transport Scotland provided to the council as part of the planning process, if that would be helpful.

The Convener: Yes, that would be helpful.

Ian Ross: I have a copy of it, and that is not what it says.

The Convener: Right. Does anyone have a question based on what has been said on category 2?

Billy MacIntyre: Mr Ross referred to trunk roads during his evidence.

Ian Ross: No, I said that the people who use trunk roads such as the A68 and the A1 from the south and who want to come into Edinburgh come off at the city bypass link at Newcraighall and use the quality bus corridor into the centre of Edinburgh. I did not say that it is a trunk road—I would have thought that that was clear.

The Convener: Mr MacIntyre, we are on questions from the objectors at the moment.

Billy MacIntyre: I repeat what I said in my introductory statement: the transportation and road safety impacts of the proposals have been fully considered by Transport Scotland and the council's transportation department.

Ian Ross: I am sorry, but I would like to record that I challenge that. I am not saying that the council did not get a letter, but we should bear it in mind that Transport Scotland's responsibility is for trunk roads and that the letter was in that context.

The Convener: We will see the letter when it comes in.

Ian Ross: I have got the letter.

The Convener: I am sure that you do, but we do not.

Ian Ross: Oh, right—I beg your pardon.

The Convener: We will look at it when we have it.

Mr Burns, do you have another question?

Archie Burns: I ask Billy MacIntyre to provide the brief that was offered to the transport consultants who carried out the road safety audit, so that we can assess that.

The Convener: Mr MacIntyre, can we have the audit?

Archie Burns: No, I am not asking about the audit; I am asking about the brief that set out what the consultants were asked to do.

The Convener: Is that a public paper, Mr MacIntyre?

Billy MacIntyre: Sorry, convener, but I am not entirely sure what Mr Burns is asking for.

Ian Ross: The question is: what was in the brief for the transport consultant for the transport assessment exercise?

Archie Burns: What were the consultants asked to do in producing the report?

Billy MacIntyre: We can furnish that, if it would be helpful.

The Convener: That would be helpful.

Ian Ross: Who did it in your management team? Was it the architects?

The Convener: Mr Ross, could you speak through the chair, please?

Ian Ross: Sorry—I beg your pardon.

The Convener: It is okay.

Mr Thomson, do you want to come in?

Brian Thomson (JM Architects): As Billy MacIntyre said, AECOM was the independent specialist that was commissioned to do the traffic report. On the more general point about the brief, AECOM was briefed to look independently at the safety of transportation and people movement around a school in that area. It was AECOM's independent view that came forward. No direction was given from the design team or from the council to AECOM.

The Convener: Mr Ross?

Ian Ross: Do I ask through you, convener?

The Convener: You can ask a question. I just asked you not to shout across the table. The broadcasting operator is trying to pick up the comments on the microphones, but if you shout across the table, your comments might be lost and might not appear in the *Official Report*.

Ian Ross: Okay—I apologise.

So AECOM had an open brief to prepare a transport appraisal.

Brian Thomson: Indeed—

Billy MacIntyre: I suggest that we are dealing with matters of detail that we do not know about. I would be happy to furnish the full detail of the scope of that.

The Convener: As long as, for every question that has been put, you have the relevant information and we can furnish people with it, I am happy for that to happen.

Archie Burns: It is actually about the second step. Mr Thomson provided a brief to his people. They then go to the council, which also provides them with a brief for what it wants in the transport assessment. Could we see that as well?

Billy MacIntyre: I suggest that we are getting into levels of detail that we do not have to hand. We will provide you and the objectors with—

Archie Burns: I am not asking for it now.

The Convener: Again, Mr Burns.

As long as the information—if you have it, Mr MacIntyre—can be provided to those objectors who are asking the questions at the moment, that is fine.

Billy MacIntyre: As I understand it, what is being requested is to provide the details of the scope that was provided to AECOM on the basis of which it undertook its assessment. We will undertake to provide that.

Ian Ross: On the same subject, who in your team reviewed what AECOM put? I ask that because, in its transport appraisal, it says—

The Convener: Again, Mr Ross, that is not for the bill. As I pointed out at the very start of this meeting, this is not a planning inquiry.

I have asked the council, as you have heard—it will now be on the record—and it will furnish you with all the information, through that report. I am sure that you will have further questions, once you receive the information. However, for this committee, on the private bill before us, we will not be examining what was in that report.

Archie Burns: I am sorry, but that report is part of the consultation process. The information that is given in it is pertinent to the bill, because the consultation is one of the major stumbling blocks in relation to the bill, we find. Everything that we are talking about relates to the consultation. Everything that the council says goes into the consultation. Everything is part of it. There is nothing that you can rule out because it has been covered already, because the council has taken it forward to the consultation.

The Convener: I will take the advice that I am being given from my clerks and from the legal

team, thank you very much, Mr Burns, if you do not mind, with all due respect.

Gillian Dunn: I wish to ask Mr MacIntyre whether the number of kids crossing Milton Road and Duddingston Park at lunch time has been taken into account.

Billy MacIntyre: I do not have that information to hand. I am not sure whether Mr Thomson has it. If not, we can provide that information for you.

Brian Thomson: We should provide that information in detail afterwards. I merely confirm that, as part of the overall discussion with the transport department and the assessment that AECOM provided, all conditions at the school during the day were considered.

Gillian Dunn: I ask because the fast-food outlets around the area near the proposed new school are about a third of the distance to Portobello High Street, where the pupils currently go. I suggest that the vast majority of kids will go either into the Magdalene area—and will be crossing Milton Road at lunch time both ways—or to Duddingston Park. Is it known how many kids the canteen at the new school will be able to accommodate?

Billy MacIntyre: The new school's catering facilities will be able to meet, on a phased basis, the requirement to feed all the children, if necessary. That is not what we expect, but we are delivering new facilities not just in Portobello but in the other high schools that we are building, responding to what children are telling us that they want. It is a different kind of dining environment from what has been provided before. That is geared with the intention of encouraging as many young people as possible to stay within the school and, ideally, to take a nutritionally balanced school meal. If all the children wanted to stay in the school, we would be able to feed them in the school.

Gillian Dunn: Does Mr MacIntyre know what the percentage take-up of school dinners is across high schools at the moment—not necessarily just at Portobello?

Billy MacIntyre: I am not sure that I see the relevance. I do not have that information to hand, but I could provide it.

The Convener: That is sort of outwith the scope of the bill. I understand that it is to do with the fact that children would be leaving the school at lunch time, and with the traffic.

Gillian Dunn: It is about the number of children who we believe will be crossing that road and who could be in danger.

The Convener: I understand the link. We are sort of branching out, but I understand where you

are coming from. If you can furnish the information if you have it, Mr MacIntyre, that would be helpful for Ms Dunn.

Jennifer Peters: On children's safety, we have heard that the statistics for the road are twice the national average for serious accidents involving hospitalisation. The only road improvements that seem to be getting made involve the suggestion of a 20mph limit and a pelican crossing. Can Mr MacIntyre explain to me why he is so confident that the children are not at risk?

11:30

Billy MacIntyre: You say that those are the only road improvements, but they are not the only improvements. I will highlight one of the main improvements. I am not sure of the extent to which the independent road safety auditor referred to this or was aware of it in his assessment. I refer to one of the documents that has been provided in evidence. Is there a plan of the new school design? I will try to explain it.

I point out the location of Milton Road and Hope Lane on the map. As part of the design for the new school, we have provided improved entrances to the park at two points, as shown. We have a path that comes within the site area to allow pedestrian access into the school, so that people do not have to go down the pavement on Hope Lane. There are also entrances that come in directly to the school entrance at the two places that I am indicating, so that no pedestrians would have to walk along Milton Road to get access to the school, other than those coming from the direction that I am indicating, who are already coming from that direction in any event. That is a significant safety measure with regard to the security and safety of the children and anyone else walking along that road. I wanted to highlight that. As I said, I am not sure of the extent to which the road safety auditor has picked that up. He makes no reference to it in his report.

There are further measures, which are all fully contained in the transport assessment.

Jennifer Peters: There will still be a significant number of children who will need to cross Milton Road to get to the bus stops and who live on the south side of the school. Given that significant number and the twice-national-average rate of injury on the road, I suggest that the council should be giving more thought to that.

Billy MacIntyre: Those who live south of Milton Road already have to cross Milton Road to get to the existing school site. Their journey is unchanged. If anything, as I said in my statement, it would be safer, because of the introduction of the measures that we have proposed.

Jennifer Peters: At the moment, at that particular point in their journey, children do not see all their friends standing in the playground or hear the school bell ringing. There are, therefore, additional risks, which I feel the council should take into account.

The Convener: Does the promoter have any questions for the objectors at this stage?

Charles Livingstone: I have a couple of questions about the assessment report that has been prepared. First, how was the author selected? Was there a tender process, or was it a direct appointment?

Ian Ross: It was a direct appointment.

Charles Livingstone: When was that instructed? I know that the report was provided last Wednesday, which was the last day for evidence.

Ian Ross: It was at the beginning of March.

Charles Livingstone: Is the author known to any of the objectors?

Ian Ross: No.

Charles Livingstone: Was he paid for the work?

Ian Ross: Yes.

Billy MacIntyre: I have a supplementary question. If it was a direct appointment, how was the individual identified? In return, we will happily provide a copy of the brief that we provided. Will the objectors provide us with a copy of the brief that they gave to the independent assessor?

Ian Ross: Yes.

Billy MacIntyre: What about the first question, about how the individual, if it was a direct appointment—

Ian Ross: It was on a recommendation.

Billy MacIntyre: From?

Ian Ross: From another road safety auditor, who worked in an organisation that I work for. He is an independent.

Charles Livingstone: On a point of administration, convener, you mentioned that the committee would not be considering the brief documents and so on. If we can provide those directly to the objectors, I ask now, while everyone is in the room, for the objectors to give us some contact details if we do not already have them, so that we can communicate those documents directly to them.

The Convener: We would certainly like copies of those.

Charles Livingstone: Okay. We can do that.

The Convener: We can facilitate through—

Archie Burns: That is—

The Convener: I am sorry, Mr Burns—you are shouting over me again.

Archie Burns: My apologies.

When I asked the question, I assumed that the documents would be made public.

The Convener: My role is to get them to you. That is all that I can do. My role is to get the information to you.

Archie Burns: My question is: will the information be on the website?

The Convener: Will it be on the council's website?

Archie Burns: Not on the council's website, but on the parliamentary bill committee's website.

The Convener: If we receive evidence, everything is published that is relevant to the bill, as you will see from the many, many, many, many, many links and documents.

Archie Burns: I am sorry, but I thought that Charles Livingstone was suggesting that the council could give the information directly to us.

The Convener: You asked for the information. I have asked the council to provide it and the council says that it will provide the information directly to you, if you wish. The committee will also receive a copy, in the same way as every other document has come to us, so there is nothing new about how we will do that.

Are there any final comments from either side at this stage?

Ian Ross: I would like to challenge Mr MacIntyre's response about a stage 1 road safety audit. It is common practice that that is done at preliminary design stage—it is certainly not done at construction stage—so that any measures that are required are incorporated into the scheme. The council has told us all along that there is no money to do any road improvements.

The issue was raised at a meeting at which the planning committee approved the application. It really scares me that all these children will be going along a section of the north side of the footpath between the top of Park Avenue and Duddingston Park that is less than 2m wide. A spokesman from the highways department attended the meeting. We raised the issue in August 2010—I apologise for repeating myself—and the guy said that he had gone to the site the week before the planning committee meeting and did not see a problem.

That seems to be the quality of the transportation department's responses when we have detailed discussion of road safety issues. I think that, when a new school is being parachuted in on a length of road that carries the number of people that it does, the word "irresponsible" is a fairly correct description of how the council has responded.

Billy MacIntyre: I respect Mr Ross's opinion, but it is simply his opinion. I do not accept that as a challenge. From the council's perspective, we have had independent advice from AECOM, which has been independently checked by the council's transportation department. We have followed all the necessary statutory and planning processes and we have got an approved planning application, which—if the private bill is successful—would allow us to deliver the new school on the park, but the school is not part of the private bill process, nor is it part of the scope of the bill. I think that we will just have to leave that as a difference of opinion. I do not accept the view that has been expressed.

The Convener: Thank you.

That concludes that category. I suspend the meeting briefly to allow people to have a comfort break.

11:37

Meeting suspended.

11:44

On resuming—

The Convener: We move on to categories 3 and 4. Some of the issues have been covered in this morning's discussion. I ask, again, for people to be concise. I know that we want to cover everything, but it looks as if the later groups of objectors will have limited time, if they get time at all. Objectors have travelled to be here and they, too, wish to give the committee their opinions. I ask both sides for concise answers. If things have been said, please do not repeat them. That would be great.

Category 3 includes the impact on the golf course, which was the subject of evidence at the committee's previous meeting. Witnesses will probably wish to cover the topic only if they have additional points to those that were made on 12 March. I invite a spokesperson to speak on the first set of issues, which concerns the visual impact and loss of views.

11:45

Gillian Dunn: We have said everything that we have to say about that. Stephen Carr covered the issue slightly in his evidence at the start.

The Convener: Thank you—I appreciate that.

Jennifer Peters: I have some evidence on the subject, but given the shortage of time I would prefer to cover more important matters.

The Convener: Do you have comments on the second issue—the impact on the golf course?

Jennifer Peters: No.

The Convener: Does the promoter have anything to say on the issues, given that no more information has been provided and that we heard a lot about the subject in our evidence session on 12 March?

Billy MacIntyre: The only point that I did not previously cover concerns overshadowing. The distance from other properties to the school will ensure no overshadowing of houses that are adjacent to the park. The tree line will also act as a visual green barrier between many houses and the school. I believe that our written submission covers other points, including the view to Arthur's Seat. In the interests of time, I will stop at that.

The Convener: It appears that the other witnesses have no questions on what they have just heard. I imagine that they have no final comments. That is great. Thank you for your assistance.

Category 4 covers issues that were considered at the preliminary stage. The committee has received a substantial amount of evidence on the issues, so it would not be a productive use of the committee's or witnesses' time for evidence that would restate evidence that we have and which will be taken into account. The committee is interested in new information, for example, but only on issues that are pertinent to the bill.

With that in mind, I invite a spokesperson for group 2 to speak concisely on the first issue, which is the Parliament legislating subsequent to a court decision.

Jennifer Peters: The City of Edinburgh Council has been quick to highlight that it can dispose of the land but cannot appropriate the land for its own use, and it claims that that is inconsistent. However, like much of the information that the council has provided, it is misleading. With the court's permission, the council can dispose of or sell the land, although it seems unlikely that it would get the court's permission. Even if the council could sell, the land could be sold only to someone who would run it in perpetuity as recreational open space that would be available to all. The council would not find many buyers.

As things stand, both legal positions prevent the loss of green space. That is consistent. Allowing the private bill to go through would cause, rather than resolve, an inconsistency. I refer members again to paragraph 5.8 of the parliamentary guidance on private bills, which suggests that a bill should not proceed if it would set an unintended precedent. I reiterate that paragraph 2.24 of the guidance says:

“The Private Bill Committee will wish to satisfy itself that the promoter undertook a consultation process that was open, accessible, helpful, clearly timetabled and, where possible, adopted and demonstrated innovative and best practice.”

Only if Parliament can say categorically and without doubt that other common good land will not go as a result of the example that this private bill sets can it confidently allow the bill to proceed.

The Convener: Does anyone from group 4 wish to add anything?

Gillian Dunn: No.

The Convener: I invite someone from group 2 to speak to the second issue—the precedent argument, which has been mentioned.

Jennifer Peters: In cities across Scotland, councils have chosen to allow developments on parks and playing fields, and only common good land has had any degree of legal security. Unfortunately, councils are now trying to get their hands on that for development, as well.

To suggest that the bill is a one-off underestimates the intelligence of the Scottish people and of other cash-strapped councils. To deny the precedent that a private bill sets looks weak against the backdrop of East Renfrewshire Council following quickly behind with a proposed school development on Cowan park, which is already going through court. Coö’s green in North Berwick faces a similar threat. Both those areas are common good land.

To suggest that the bill might offer a quick solution to the City of Edinburgh Council’s issue is surely at best naive, given the events that have led to the bill’s being considered by Parliament. To dismiss the concerns of 3,000 objectors might well result in yet further legal action, in further delay to a new school for Portobello and, ultimately, in the school having to be built on an alternative site.

The Convener: Does anyone from group 4 wish to address that issue?

Gillian Dunn: No.

The Convener: Okay. We will move to the third issue, which is the consultation process.

Jennifer Peters: I was not going to present on the consultation process, as I believe that the committee is already fully aware of its flawed

nature, but given that Iain Strachan again mentioned it in evidence, I thought that it would be worth reiterating that the process was deeply flawed. Among other things, in a clear effort to skew the outcome, no minimum age was set for participating. The literature that the City of Edinburgh Council provided offered no detail around alternative site options, and the slogans for gathering support for the development were

“Are you for the school or against the school”

and

“vote ‘yes’ for a new school”.

That was meant to be a consultation on the site for a new school, not about whether a new school was wanted or needed. The results are meaningless.

We all expect fairness and consistency from our council. A planning application was recently made to the City of Edinburgh Council for a private nursery at 26 Duddingston Crescent. It is interesting that it was sited on the part of Duddingston Crescent that sits between Park Avenue and Hope Lane. The application was refused, and the first reason that was given was:

“The proposal is detrimental to road safety”.

I am sure that the irony will not be lost on the committee. The full report can be seen in supplementary evidence category 4(iii).

The Convener: Thank you. Does anyone from group 4 wish to speak on the consultation process?

Gillian Dunn: No.

The Convener: Okay. We will go back to Ms Peters to speak about alternative sites.

Jennifer Peters: I have provided two documents in supplementary evidence on the section. The first document gives an aerial view of both sites and demonstrates what a small footprint the eight-floor part of the school takes up. It can clearly be seen from the aerial view that the only difference between the existing school site and the proposed development on the park is the potential for one additional playing field. Did we really need eight years of delay, a legal ruling and now a private bill to get one extra playing field for Portobello high school, which takes it out of line with what other new high schools that are currently being built in Edinburgh by the City of Edinburgh Council are being offered? If the school was built on its current site, the park would more than make up for one fewer pitch, because the school could use the park for a range of outdoor activities. It cannot be argued that there would no longer be a need to bus children offsite for sport, because the internal gym facilities that would be provided on the park site would be significantly less than the

comparative facilities that a rebuild on the current site could offer. Therefore, bussing would still be required.

Ian Ross previously covered the fact that building the school on the park would expose 1,400 children, teachers and locals to more road safety dangers, given that the proposed park site sits on the A1, which is a major artery road from the east into the city.

The second document in supplementary evidence details clearly the differences between the originally proposed rebuild on the existing site from the 2003 Atkins report and the Portobello park building. It is immediately obvious from the colour coding of that report—I do not know whether members have it in front of them—that there are winners and losers on space with both proposals, but what is more glaringly obvious is the similarity in the educational facilities that both provide.

Both schools are built on three floors. As a parent, my eyes are immediately drawn to the facilities for the key subjects of English, maths and science. Compared with a rebuild on the existing site, the design for a school on the park provides 257m² less for the teaching of English and modern languages. Although there is a small increase of 20m² in the floor space for mathematics, sciences lose out by 65m². With a school on the park, the internal space for physical education is 114m² less, and the drama department, which is usually a flexible teaching space, loses out by 111m².

It has become apparent that a primary reason and perhaps the most strongly argued reason for the building of the new school on Portobello park is that it will improve the school's recreational facilities. Yes, there will be one additional outdoor all-weather pitch, but the council failed to mention that the indoor facilities within the proposed new gymnasium will be inferior to those that the school currently enjoys. An example is that the ceiling on the new gym will be lower, which will impact on basketball facilities to such a degree that the game will not be played there. We are told that students will, because of the new smaller gymnasium, need to be taken 1.5 miles by bus to the council-owned Jack Kane community centre. Considering the Scottish weather, it seems incomprehensible that the council would skimp on the indoor gymnasium in the new building but put aside money to transport children to off-site facilities—and that after the hypocrisy of saying that there is a need to build on Portobello park to improve sporting facilities. Separately, but no less importantly, the need to transport children by bus from the proposed school site on the park to Niddrie Mains Road would create greater stress on the road network, especially around Park Avenue and Milton Road.

The design for a school on the park site uses more of the space for circulation at the expense of physical classroom teaching space. Clearly, if less teaching space and more moving-around space is deemed to be essential, it could be accommodated on the existing site. The loss of teaching space has not been highlighted to the community because of the lack of detailed information on alternative options having been provided through the consultation process or any other means.

It is unfathomable how the City of Edinburgh Council can expect to get a private bill through Parliament with the claim that no other options are available. It is very clear that at least one other option—in many important respects it is a better option—is available from a rebuild on site.

The Convener: Thank you. Does someone from group 4 wish to speak to any of those issues?

Gillian Dunn: No.

The Convener: Finally, I invite Ms Peters to speak on the fifth point, which is the role of the council.

Jennifer Peters: There has been much rhetoric from the City of Edinburgh Council around the park site offering the best facilities but, today, that myth has been dispelled with fact.

We have consistently heard that the park is the quickest route, but here we are, eight years on, with a private bill and the potential for further legal action ahead of us, with no known outcome and with no progress being made on the council's twin-track approach.

The City of Edinburgh Council has demonstrated time and again by its actions that it cares little for how long the project takes. It knew that there was potential for legal challenge in 2008 and could have moved quickly to resolve the legal debate in a joint legal action in 2009 but chose not to. It could now be progressing the twin-track approach, as voted for by elected members, as it promised the community it would in 2012, and as it told parents it would. I refer to supplementary evidence category 4(v), which is a letter from Gillian Tee, who is director of children and families, dated 25 October 2012 to all school parents, in which she assured them:

“We will now progress the twin-track approach”

and

“it is important that we have a back-up plan.”

However, no progress has been made on that and should the bill—or, indeed, further legal action—prevent development on the park, the City of Edinburgh Council will yet again have taken the community back to square 1 by its actions.

We have consistently heard that developing the park is the cheapest option. In its cost comparison, the City of Edinburgh Council considered standard building rates for a rebuild on site, but used the negotiated and now out-of-date lower figures in its assumptions for the park development.

It has also taken no account of the cost of reimbursing the common good fund, which, going on the council's 2010 estimate for the existing school site, must equate to more than £5 million for the Portobello park site. Instead, it appears to be burying its head in the sand, assuming that the site can remain common good land and hoping that no one notices.

At every stage and in every communication, the City of Edinburgh Council has chosen to talk in terms of the school and not the school site. There are many written examples of that in the supplementary evidence that has been submitted under category 4, section 5. For example, on 12 September 2012, when the legal result came out, Paul Godzik, the convener of the council's education, children and families committee, made a public announcement that he was "surprised and extremely disappointed" and that there was still "a compelling argument" for a new school. Indeed, his communication was headed up,

"Reaction to ruling on new Portobello High School court appeal".

Of course, the court's ruling was entirely about development of that piece of open space regardless of use. However, such statements from a senior council member have a misleading effect in encouraging local people to believe that the argument is "School or no school."

Councillor Maureen Child's email newsletter on 12 September 2013 stated:

"I want the school building to be the best we can ever possibly have, as quickly as we can possibly deliver it ... the much preferred option—by a very long margin—remains Portobello Park."

What I cannot find anywhere is detail that explains that "long margin" and that justifies an eight-year wait to build the school. We have established that the facilities are similar, and that some would even be better, with a rebuild on the current site, and that the teachers will be the same. So what exactly is the "long margin"? Communications like that confuse the public, and many people who do not read below the headlines believe that the option is either a school on the park or no school. Those are the same people who were encouraged to support the consultation on the side of the council.

12:00

The Convener: The promoter may now address the concerns that have been expressed.

Billy MacIntyre: As noted by the committee, the issues of the court decision, the legal precedents, site selection, the consultation process and the history of the project were considered at the preliminary stage. It is therefore disappointing that the objectors seem to be determined to reopen the issues, notwithstanding the fact that they seem simply to be advancing the same arguments as before.

Turning first to the role of Parliament legislating subsequent to the Court of Session decision, the promoter is content to echo the committee's comment on the issue at paragraph 65 of the preliminary stage report. The courts interpret the law as it stands, but it is for Parliament to amend the law if it believes that it is appropriate to do so. In any event, it may be worth stressing that the Court of Session was never asked to decide, and did not decide, on the merits of the council's proposals for Portobello park. Litigation was solely concerned with whether the existing legislation allows local authorities to appropriate inalienable common good land from one statutory function to another. The court decided that it does not, and the council respects the inner house's judgment on that matter.

The bill does not seek to address that wider legal issue but simply seeks to empower the council to appropriate the park for education purposes. That would give the council a power that it would not have under the general law, which is the very essence of a private bill.

Turning to the precedent argument, once again, I would like to reinforce the fact that the bill applies only to Portobello park. It will not change the status of any other piece of land in Edinburgh or elsewhere in Scotland, and it will not set a precedent. I would also like to emphasise that the outcome of this process will have no bearing one way or another on the ability of local authorities to pursue private bills of their own. Enacting this bill would not make the process any easier for other local authorities and rejecting it would not make the process any more difficult. The council is otherwise content to echo the committee's comments on this issue in its preliminary stage report, at paragraphs 66 to 69, to the effect that the bill

"by definition cannot set a precedent"

and that, although it would be open to other local authorities to pursue private bills if they so chose, any future private bill would

"be considered on its own circumstances and merits"

by a private bill committee and the Parliament as a whole.

I find the reference to East Renfrewshire confusing, because I am not sure how going

through the court would, in itself, set a precedent for a further private bill. However, I am not aware of the details of that case.

On the consultation process, the private bill consultation had the highest response rate for any council consultation. People who were in favour of our proposals and people who opposed them actively campaigned in the local area during the consultation process. Our leaflet set out the council's position clearly and made reference to other options, and those who opposed our proposals had the opportunity to set out their views in both public meetings. The objectors referred to "slogans"—I am not aware of the material that they are talking about. It is certainly not something that emanated from the council.

The council believes that the outcome of the consultation, which was overwhelming support for our proposals, is a fair reflection of the views locally and on a wider basis across the city, and there is no credible reason to think otherwise. In response to the committee's recommendation, we considered what lessons could be learned from the consultation, and we set out the details of that in our written submission.

On the issue of alternative sites, site selection was discussed extensively at the preliminary stage. Potential sites have been considered many times over the past few years and, quite simply, Portobello park is by far the best and most cost-effective location on which we could deliver the new school, and it is also the site where that could be done most quickly.

We provided an update on Baileyfield in our letter to the convener of 31 January, which we asked be circulated to objectors. However, as noted in our written submission for today, there has been a further development. The selling agents for the Baileyfield site confirmed last week that the sale of the site to another bidder has now been concluded, so Baileyfield is no longer available as an alternative site for the school.

That means that the only backup option is a phased rebuild on the existing school site but extended to include the area that is currently occupied by St John's RC primary school. That would deliver a significantly inferior outcome, compared with the park.

The objectors have suggested that the only benefit of building a new school on Portobello park is the ability to provide one additional pitch. They suggest that that, in itself, is a much more important consideration in that it would enable us to deliver all curricular physical education requirements on the site, thereby saving valuable teaching time that would otherwise be wasted in bussing pupils to off-site facilities. I have no idea where the suggestion of bussing pupils to the Jack

Kane centre has come from. All the curricular PE requirements for the new school will be delivered on the site, and the sports facilities have been designed in accordance with sportscotland guidelines.

However, that is far from the only consideration. A phased rebuild on the existing site would entail relocating St John's RC primary school and would cost an estimated £13.4 million more than the cost of completing the new school in Portobello park. That is £13.4 million more of public funds—my funds, your funds. The project would also take an estimated four years longer to deliver, would impose constraints on the site layout and design due to the phasing of the build, and would entail a lengthy period of potentially significant disruption to the education of the school's pupils due to there being a construction site adjacent to the school. We do not believe that it is possible to justify incurring those disadvantages in order to avoid a net loss of open space in the local area that is equivalent to less than the size of a football pitch.

The objectors have referred to the Atkins study and, as a new development, seem to be now casting aspersions on the way in which the school has been designed and the internal space.

Jennifer Peters: I was not "casting aspersions".

Billy MacIntyre: The internal space has been designed by the school in accordance with the requirements for curriculum for excellence, and it has been overseen by Her Majesty's Inspectorate of Education, which was involved in the detailed design development process. The suggestion that the new school will, in some way, be biased towards some areas relative to what the Atkins study illustrated in 2003 is misleading and, frankly, incorrect. The new school has been designed to meet curricular requirements for pupils now and in the future.

The objectors have referred to the Atkins study, which was a desktop study that was produced by an external consultant in 2003. It suggested undertaking a phased build on the existing high school site only, without relocating St John's RC primary school. When council officers considered the proposal in detail at the time, it became clear that that would be unachievable, so it was never progressed further. In their evidence, the objectors refer to option 1 in that study, which was based on an internal school area that would have been 10 per cent smaller than that which is now required, and produced a design that was heavily compromised both internally and externally. It would have been difficult to incorporate even one full-size pitch into that design.

Furthermore, the design made provision for 21 per cent less parking space than the existing plans for the park and would have required substantial

and very disruptive decanting of pupils over many phases. In addition, it did not allow for the necessary expansion of St John's RC primary school but required that it remain on the same constrained site.

A properly scaled overlay of the design for the school in the park relative to the existing combined school site was provided in appendix 4 of the council's report on 25 October 2012, to which the objectors have referred in their evidence. I am not sure what the scale points on the site options analysis purport to refer to, but I refer to that council report, which gives a properly scaled representation.

I turn, finally, to the issue of misrepresentation and misinformation. The issues arising directly from the bill and the related proposals to build the new school in the park are the relevant issues in consideration of the bill. However, we would be happy to address the background history further if that would be of assistance to the committee. Put simply, the council does not accept that there has been any misinformation in respect of either the new school project or the bill. I believe that the community had more than adequate information from multiple sources to form their own views on the matter and to reach their own conclusions. The level of support for the bill within the community, as evidenced by the outcome of the consultation, speaks for itself. The suggestion that there was a misrepresentation of the bill process in the consultation is misconceived. We have covered that in our written submission, so I will not take up the committee's time with that at this point.

The Convener: Thank you. We move to questions from objectors. Ms Peters.

Jennifer Peters: The bill committee is here to hear whether alternative site options are available. To suggest that I am misleading when I am quoting figures from two reports that were produced by the council is itself misleading.

I am not saying that the Atkins report provides the best solution. It is not my place to say that. I am highlighting the fact that it presents an alternative option in which the park would not need to be destroyed, and that is pertinent to the bill committee's decision.

The schools are built on three floors. Some new schools are built on four floors nowadays, so an architect could consider that. If having two playing fields is essential for all new schools, why is City of Edinburgh Council not providing that for the new James Gillespie's and the new Boroughmuir? Why does Portobello have to lose a park in order to gain two playing fields?

Billy MacIntyre: Portobello is not losing a park—[*Laughter.*] With respect, if I could finish.

The Convener: Everyone has listened and I think that we should conduct ourselves in an adult manner. I do not know that that was befitting behaviour for a committee.

Billy MacIntyre: Thank you. I suggest that Portobello is not losing a park, per se. It is losing an area that is less than the size of a full football pitch relative to the open space that is available within the area. The space that is provided on the existing park is being significantly improved and, as we covered in earlier evidence, the overall green space is being enhanced. As I said in my statement, this is not just about a football pitch; it is about much more than that. Yes, there will be the loss of the park in its current form, but we, as a council, believe that the price is worth it relative to the other option, which is considerably inferior in so many shapes and forms, such as time, money and the quality of the school that can be delivered.

Jennifer Peters: To use one of your sayings, Mr MacIntyre, that is just your opinion and I choose to disagree with that. My last question was going to be: are other site options available for the school?

Billy MacIntyre: There is one.

Jennifer Peters: So, in its decision making, the bill committee should fully embrace the fact that there are alternative options, and a private bill is not actually required to achieve a new school for Portobello.

Billy MacIntyre: The private bill is not about the site of the school. It is about the powers that the council has to use Portobello park. The council has never made any secret of the fact that there are other options. When the first consultation exercise was undertaken in 2006, three options were considered, and in December 2006, the council took the decision that Portobello park was by far the best option.

Jennifer Peters: Yes, but—

Billy MacIntyre: Let me finish. Now that Baileyfield is no longer available to the council, one option remains, which is not, as you suggest, a rebuild on the current site, which is what the Atkins report purported to deliver. It is a phased rebuild on the entire school site, including the extended space that is required for St John's. To do that would be to repeat the mistakes of the past and deliver a new Portobello high school on an inferior and small site, and deliver a new St John's RC primary school on an inferior and small site.

One option remains. I have explained in my response why that is so inferior in cost, time, and quality, and we have never made any secret of that. It is not for the private bill committee to take a view on that.

My apologies, convener.

The Convener: That is okay. Ms Peters, you can have a further question.

Jennifer Peters: Is the additional £13.4 million the out-of-date figure, or have some figures been revised? I know that it is out to tender again.

Billy MacIntyre: I am not aware of what you mean by “out to tender”.

12:15

Jennifer Peters: You say that there is a difference of £13.4 million between building on the park site and rebuilding on site. Given that you do not have an accurate pricing for building on Portobello park, as I understand it, because the tender is now out of date, is that £13.4 million an out-of-date figure?

Billy MacIntyre: As I am sure you will be aware, the report to council on 6 February 2014 highlighted the revised arrangements that we have successfully negotiated with the contractor that, if the private bill is successful, will deliver a new Portobello high school at Portobello park. The contract value was set out in that paper, which was approved by council. The contract is not out to tender, and I am not sure where that information has come from.

If the bill is successful, Balfour Beatty will be appointed to deliver the new school. The costs for completing the school in Portobello park and for the phased rebuild on the current site are taken from the council report of 6 February 2014, which is in the public domain.

Jennifer Peters: I have a question.

The Convener: I will let Mr Burns in, and I will come back to you.

Archie Burns: This is a question for Brian Thomson, about the twin-track approach. Could you enlighten us on what you thought you would be able to deliver on the two alternative sites, as they were?

Billy MacIntyre: With respect, that is a question for me.

The Convener: Okay. Mr MacIntyre may answer that.

Billy MacIntyre: Could Mr Burns clarify what he means by what we thought we would deliver on the two sites?

Archie Burns: What difference would there be? You are saying “the best”. What is the actual definitive difference between the Baileyfield site, as it was, the on-school site and the park?

Billy MacIntyre: The differences between the on-school phased rebuild and building the school

in the park are articulated in the response—that was covered in my introductory remarks.

Baileyfield would not have been as expensive, but it would have been considerably more expensive than building on the park. The detailed assessment of the pros and cons, notwithstanding differences in costs and timescales, were set out in the council report of November 2012, which has been shared as evidence. I could read out from that report, but it is already in the public domain.

The Convener: If we already have the evidence, I would prefer that you did not do so.

Archie Burns: Mr MacIntyre, you are really talking about the cost differences, not the educational differences. There seems to be little difference in the education that could be delivered on either of the sites.

Billy MacIntyre: Could you define what you mean by “educational differences”?

Archie Burns: I am talking about classroom spaces, PE facilities, circulation space and access to the school.

Billy MacIntyre: The internal space would be the same, regardless of the site. I am not sure what you meant by “access to the school”—could you clarify that?

Archie Burns: Access to the school where it is situated. I am referring to road safety decisions associated with a rebuild on site and a rebuild at Baileyfield.

Billy MacIntyre: One of the issues that we had identified for the Baileyfield site, which was not explored in detail, because we did not know whether it was going to be secured, involved some concern that we had about accessibility, traffic and road safety. Although those issues were considered at a high level, we did not go into any detail on that. We would have progressed that if Baileyfield had become an option that was available to us.

Jennifer Peters: Given that the legal opinions that you have had in the past have not stood up in court, do you think that it would be pertinent to have it confirmed that the park site can remain common good after the school is built, as the estimated cost of the land—according to a 2010 valuation—must be well over £5 million?

Charles Livingstone: On the status of the park in the event that the bill is passed, an amendment was put to the committee and was circulated to objectors. The issue was not raised by these groups, although it was raised by the group 1 objectors, so it might be dealt with in the next evidence session. I am not sure that that is relevant today. I am in your hands in that regard, convener.

The Convener: It might be repetitive, but if you could address the question, please do.

Charles Livingstone: If there are concerns about the legal status of the park in the event that the bill is passed and the project proceeds, I refer you to the proposed amendment about that, which has been circulated to objectors. We asked objectors to let us know if they had any comments on it, or if they had any concerns about whether the amendment would be effective. We have had no correspondence from any objectors on that issue.

Jennifer Peters: How did you send that to us?

Charles Livingstone: It was in the letter to the convener of 31 January, which I understand the clerks proactively circulated to all the objectors.

Jennifer Peters: Would you mind giving us a brief résumé of that?

Charles Livingstone: Well, it is in that letter.

The Convener: That is in the letter, so it is written evidence, which is easily searched for. Given the time available, we should move on. Are there any further questions?

Gillian Dunn: I have a question for Mr MacIntyre about the consultation. I wonder what the level of support was for the private bill in the Christians scheme. The information was not broken down to that level in the evidence that I have seen so far. Could you provide us with that information? The area is lumped in with Magdalene and Bingham.

Billy MacIntyre: Is it?

Gillian Dunn: Yes. Could I have information on the level of support in the Christians?

Billy MacIntyre: If the objectors could clarify the specific area, street or postcode that they are looking for—

Gillian Dunn: It is just the Christians scheme.

Billy MacIntyre: I would require you to define clearly what properties fall within the area to allow me to do a proper assessment of the responses. If the objectors can furnish me with that, I will endeavour to do that.

Gillian Dunn: I could highlight the area that I am talking about on a map. Would that suffice?

The Convener: Is that okay, Mr MacIntyre?

Billy MacIntyre: I will see what I can do. If I can provide that, I will do it.

Gillian Dunn: I have one other question about the raw data. Mr MacIntyre said in his evidence some months ago that he was the only council official who had seen the raw data from the

consultation. Does the council intend to have the raw data independently assessed?

Billy MacIntyre: As I said in the council report of March 2013, the raw data has been independently assessed. It was independently validated by PricewaterhouseCoopers.

The Convener: You have submitted that report, have you not?

Billy MacIntyre: Yes. That report has been submitted. From memory, around 45 per cent of the overall submissions were validated by PricewaterhouseCoopers. There is no intention or plan to have the data validated in any other way.

Gillian Dunn: So the sample that PricewaterhouseCoopers assessed was 45 per cent.

Billy MacIntyre: Rather than quote numbers, I refer you to the council report of March 2013, in which I provided a full assessment of the analysis and validation that PricewaterhouseCoopers undertook.

Gillian Dunn: It is just that PricewaterhouseCoopers made it clear in the report that it was neither an audit nor a review of the data.

Billy MacIntyre: I am not sure what the objector's point is.

Gillian Dunn: PricewaterhouseCoopers made it very clear that the report was neither an audit nor a review of the raw data.

Billy MacIntyre: PricewaterhouseCoopers, as a professional independent organisation, responded to the scope of the exercise that I asked it to do and validated the data. The full report, with, I think, the exception of a few personal details that were redacted for data protection purposes, was included in the council report of March 2013. I refer the objectors to that.

Archie Burns: Billy MacIntyre said that there will be no need to go offsite for PE facilities, but that is not what he told us at the planning meeting in the town hall, whenever that was—I think that it was two years ago.

The Convener: I am glad that we have an update now. Things have obviously moved on, so we will go with the relevant information that was given this morning.

Ian Ross: I have another question for Mr MacIntyre. The Balfour Beatty tender is three years old and you have obviously negotiated a new price. However, before you finally award, you have to allow the unsuccessful tenderers to decide whether they would like to challenge that, bearing in mind that things have moved on in three years and circumstances have changed. Have you done

a risk assessment to decide the likelihood of a challenge and whether it would be upheld?

Charles Livingstone: The council's choice of contractor and the method by which it is appointed are not relevant to any of the issues that arise here. In essence, the objector is asking the committee to decide whether the council has complied with procurement legislation.

Billy MacIntyre: I add that a notice was placed in the *Official Journal of the European Union*, so all the original tenderers know about the situation. We have not exactly made a secret of it.

Ian Ross: Before you award, under public procurement rules, you have to write to the alternative tenderers and give a stand-down period.

Billy MacIntyre: The council is well aware of its obligation under procurement law and will fully comply with that.

The Convener: That is, indeed, a matter for the council.

As there are no final questions, does the promoter have questions for the objectors on this issue?

Billy MacIntyre: I have one question, if I may, although I hesitate to ask it. It was suggested that the council has not progressed the twin-track approach. I ask the objectors what they feel the council should have done on the twin-track approach, bearing in mind that we made it very clear in the letter of October 2012 that these are fallback options in the event that our preferred approach of building on Portobello park is not successful. What have we not done that you would have expected us to do?

Jennifer Peters: It is my understanding that the bill might still not provide a successful result for the council and that further legal action could occur, which could have the same result. I would prefer it if our community was not starting from square one, so if you are telling me that the alternative option is a rebuild on site, I would hope that some progress could be made to find the best solution for that, because it may well be the council's only option.

You were the one who came up with the twin-track approach, so the council must have something in its mind about how it envisages that it would proceed. You have suggested that there is a twin-track approach but have made no progress and now ask me what I think should be done.

Billy MacIntyre: It was you who suggested that we were not following the twin-track approach.

Jennifer Peters: Are you?

The Convener: Ms Peters, please.

Billy MacIntyre: I remind you that we did say that we would progress the approach in the event that the option to build on Portobello park was unsuccessful.

On the two fallback options, we did not know the definitive outcome on Baileyfield until last week. To have incurred what would have been significant design costs to work up a design for that site, which would have been completely and utterly aborted, would have been a waste of public money. A phased rebuild on the current site is intrinsically linked to what would happen on a new St John's RC primary school, which is also dependent on the outcome of this process.

We established a twin-track approach so that, in the event that we could not build on Portobello park, we would have a fallback option. There is nothing that we could have done up to this point on that twin-track option that would have made any sense and would have represented value for money.

Charles Livingstone: Convener, I have one further question. Ms Peters referred to the possibility of further legal action. Can she explain what further legal action she had in mind?

Jennifer Peters: I do not have anything in mind at this point.

The Convener: Do any of the objectors have any final comments?

Archie Burns: I still have a statement to make.

The Convener: We are not there yet. Does anyone have anything else to say on category 4? I will go to closing comments after this.

Archie Burns: In that case, I had better make my statement now.

The Convener: So you will make it now?

Archie Burns: Yes. It will not take long, as long as I do not stumble too much.

My children attended Portobello high from 1995 to 2009. During that time, I was chair of the parent-teacher association and a member of the school board and parent council. I have always supported a replacement school and the council tells us that it can be delivered without the irreversible loss of Portobello park. The council has demonstrated that it can be innovative and has delivered other schools on their existing sites or on brownfield sites.

I will show that the council has consistently tailored the information that it provides to suit its aims rather than with the aim of being open and transparent. That was apparent from the beginning of the project and continues to be the case.

Freedom of information requests should allow the public to understand the council's decisions and the evidence that they are based on, but that is rarely the case. In the case of the development of Portobello park, the common responses are, "It will cost too much," "We don't hold that information," "We want to keep it confidential for legal or commercial reasons," or, "Here it is—we have redacted everything of interest." I got a pile of stuff yesterday that seems to fall into the latter category. The intervention of the Scottish Information Commissioner has made some information available after a lengthy wait.

It has been clear from the start, more than 10 years ago, that the council was intent on developing Portobello park. The delivery of a new school for Portobello has always seemed to be a secondary consideration—an excuse to build on green space where housing or other development would never be condoned.

12:30

The decision to abandon the well-supported and virtually risk-free option of a rebuild on site, which would have offered certainty, was an early indication that the school was not the driving force for the development. That is reinforced by the total disregard for the potential outcome of the legal issues that have brought us to this point. The council's failure to have a fallback option—a plan B—further delayed the delivery of the school, which is what the community really wants. It also illustrates the fact that the development of the park is more important than the school.

The council made claims in its promotional exercise—or, if you prefer, consultation process—for the bill for which no evidence has been provided. The timescale for delivering royal assent to the bill to allow the proposed development is based on the aspiration to start building before planning consent expires and to avoid the need to retender. Freedom of information requests have not delivered any evidence to the contrary.

The cost of the council's preferred option is based on a low tender from a company that is reputed to be successful in making money from projects sometimes by identifying opportunities in the tender documents. That risk was ignored in the promotion of the preferred option as the lowest-cost option.

As those dates have passed, it is now clear that the community was misled regarding the relative delivery dates for the available options. A review of the project timescales for James Gillespie's high school and Boroughmuir high school indicates that the council could deliver the project expediently and sooner than was suggested in its promotional material.

Portobello park has been subject to planning blight and has suffered from little or no investment since the council decided that it wanted to develop it. The information that has been requested on expenditure on the park would quantify the extent of that, but it has not been made available.

It now seems that the council has identified another issue in the form of a legal challenge that was identified in its response to freedom of information request FOI2506. A response to that was received late yesterday afternoon, but I have had no time to consider it. The council's reluctance to keep the public informed regarding the risks of the project is illustrated by its refusal to deal effectively with FOI requests. A number of FOI requests are included in my evidence. I will undoubtedly have to wait for the Information Commissioner to provide the answers to them. As a member of the public, I find it informative that a council that claims to promote openness and transparency is reluctant to inform the electorate in this highly contentious debate.

Perhaps the council expects the bill to be passed on the back of Kenny MacAskill's statement of 12 September 2012 that

"The Council has my full backing in any attempts to further appeal this decision, or to explore alternative options. There currently is no plan B, but whatever happens a new school needs to be constructed as soon as possible."

Today, I spoke to an MSP who said that he had been whipped to vote in favour of it.

James Dornan (Glasgow Cathcart) (SNP): Excuse me, Mr Burns. That last comment was completely out of order.

Archie Burns: I am sorry. I take it back—it is true, though.

James Dornan: It is not true at all. No one has been whipped to vote in any way in relation to this issue.

Archie Burns: It was suggested that you had been told—

James Dornan: It may well have been suggested, but I can assure you that there is absolutely no truth to it.

Archie Burns: The word "whipped" was used. I do not know what it means.

The Convener: What are you referring to?

Archie Burns: I do not know what "whipped" means.

James Dornan: In that case, you should not have made the comment.

The Convener: Perhaps that should be part of your future research.

Archie Burns: Your colleague seems to know what it means.

The Convener: Mr Burns, I asked for comments specifically on category 4, so you are playing on my good nature.

Archie Burns: The risk register of February 2012 identified a potential cost of £30,000 for delays and legal costs. As we now know, those costs were recently reported as being £172,116.50, which is six times the council's guess. I understand that that does not include the cost of council staff's time, which is a cost to council tax payers, or court costs, which are paid from taxes. Therefore, we could well be looking at costs of £300,000 being incurred because of the council's mismanagement of the risk associated with the legal issues.

The risk register also included a risk description—

The Convener: Mr Burns, I will have to stop you there. What you are saying has absolutely nothing to do—

Archie Burns: Actually it has.

The Convener: No, it has not. I am the convener, and I will decide what is and is not relevant.

Archie Burns: I have got one—

The Convener: I am sorry, Mr Burns.

One of the committee members, Alison McInnes, has some final questions before we go to final comments.

Alison McInnes (North East Scotland) (LD): I have a couple of questions of clarification for the promoter and one for Ms Peters.

Dr McCulloch and Mr Carr made a particular point about the nature of the park. They highlighted its flatness and accessibility, and Dr McCulloch was particularly concerned about access for disabled people. Has the council carried out an equality impact assessment of the proposals?

Billy MacIntyre: I will need to come back to you on that question, because I am unable to give you a definitive answer to it.

Alison McInnes: Can you address the general issue?

Billy MacIntyre: The current park is not level. As you will have seen from your visit, it has a slope. The paths around its circumference and around the golf course are substandard and are more desire lines than anything else. As I think I said in my introductory remarks, we have sought in the overall design proposals to ensure that we improve the park's accessibility, particularly for

those who are less mobile. By improving the entrances and properly surfacing not only the paths throughout the area occupied by the park but the desire lines at the side of the golf course, we should make the park much more accessible to those with disabilities or other infirmities.

Similarly, the provision of lighting will make the environment safer. The school itself will fully comply with all disability and discrimination access requirements.

Alison McInnes: That was helpful.

You did not pick up on Ms Peters's comment that there was no binding commitment to the replacement open space. How will the council ensure that the proposed mitigation on the alternative site will be delivered?

Billy MacIntyre: My colleague Mr Strachan will respond to that question by saying a bit about Fields in Trust status but, first of all, I point out for the committee's benefit that, when the matter was discussed by the council on 6 February 2014 for the last report, the council leader himself reaffirmed the City of Edinburgh Council's commitment to deliver this area of open space. It will be delivered. The council has taken that decision, and it has reaffirmed it on many occasions.

Iain Strachan (City of Edinburgh Council): We have covered in previous evidence taking and in our letter to the Parliament of 31 January why we felt Fields in Trust status to be an appropriate and suitable protection. However, to be brief, we felt that we could not include anything on that in the bill. Not only would it be extremely difficult to identify on a plan but, with regard to what will happen to the current school site if the project were to proceed, we are not yet sure what the land take for the new area of open space would be. We also felt that including such elements would be inadmissible in a bill that was connected to the park.

We considered other options, including the possibility of making those new areas of open space inalienable common good land. However, as we have heard, the law in that area is complex and, to an extent, unclear, and we are not aware of any legal authority that would permit such a dedication or classification. If the law on common good were to be varied in future, we would not be able to guarantee the existing protections.

We also considered title burdens. However, they are generally put in place only where land ownership changes, which is not the intention here, and we would also need to identify suitable and willing landowners to enforce such burdens. Title conditions are also vulnerable to challenge, and we cannot guarantee that they will remain in place for all time.

Some lease or lease-back arrangement could be put in place, but the procedure would be relatively complex, and it would be unusual for a local authority to take such an approach in this kind of situation. There are tax implications to consider; we would again need to identify a suitable and willing counterparty to the leases; it would involve a disposal of land; and, as with Fields in Trust status, it would involve a contractual protection.

Any option that involved disposal of inalienable common good land, which is what the remaining corner of the park is, could well require court consent. As I have already pointed out, the exact land take for the new area of open space on the current school site is not yet known and, given that we cannot do anything about that now, such an approach will not alleviate any concerns that we might not ultimately deliver on this commitment.

As Mr MacIntyre said, we have given a number of commitments to the delivery of these open spaces, including in the October 2012 council report and the February 2014 report. The new areas of open space are one of the compensatory measures that were set out in the council's formal application for planning renewal in 2013. If it is helpful, I can cover some of that, but you have heard it before. We felt that Fields in Trust status is a suitable protection.

Alison McInnes: Ms Peters, you said that the serious accident rate on Milton Road is twice the national average, which is at odds with what Mr Ross said. He said that he was including both serious and slight accidents. Can you confirm your figures? I feel that they are at odds.

Ian Ross: I do not understand the question. Can you repeat it, please?

Alison McInnes: I thought that you were saying that, taking together serious and slight personal injury accidents, the accident rate is twice the national average.

Ian Ross: I am sorry, but that is how we assess it.

Alison McInnes: Yes, but Ms Peters then said that the rate was twice the national average for serious accidents.

Ian Ross: I think that that was a misquote from Ms Peters.

Jennifer Peters: Were the people not all hospitalised, though?

Ian Ross: Yes, but there are three types of accident: fatal, serious and slight.

Alison McInnes: That is fine. That has been clarified.

Jennifer Peters: I regarded any accident that required hospitalisation as serious.

The Convener: Okay. We move to closing comments. I invite Jennifer Peters to make the final comments for group 2.

Jennifer Peters: I value highly good education. Back in 2003, the council identified that a new school could be built on the existing site, but it failed to deliver that. A new school is needed and could have been delivered long ago had the council not been so intent on building on inalienable common good land.

At every stage, the City of Edinburgh Council has treated the process of developing the park as a tick-box exercise to achieve its end goal of building on common good land and securing a free development site. Planning concerns, including concerns about road safety and congestion, fell on deaf ears. Concerns over the consultation process for the private bill fell on deaf ears. Concerns over the legality of appropriating the park fell on deaf ears. Concerns over whether the land can remain common good are still falling on deaf ears. Demands for City of Edinburgh Council to follow the twin-track approach that was voted for by elected members continue to fall on deaf ears. Demands for a road safety audit, which is standard practice for building projects such as this, continue to fall on deaf ears. Concerns over the safety of 1,400 children and residents of Portobello, Duddingston and the surrounding area continue to fall on deaf ears.

The City of Edinburgh Council is treating the bill as a tick-box exercise, hoping that the committee, like many of the residents of Portobello, will believe the headlines and not consider the detail below them, which screams that this is not the right thing for the residents of Portobello and Duddingston or, more widely, for Scotland. That open green space cannot command due consideration of its value or benefit surely cannot be a message that the Scottish Parliament wants to deliver to the people of Scotland and the councils that represent them.

The Convener: Thank you. I invite Gillian Dunn to make any final comments for group 4.

Gillian Dunn: The only comment that I will make is to finish off Archie Burns's statement.

In the risk register, the council's description highlighted Balfour Beatty's

"potential claims due to unrealistically low tender".

With a cost that is an order of magnitude higher than the legal cost, one wonders how that can equate to the lowest cost and whether the true outturn costs were used in the promotion exercise.

I second everything that Jennifer Peters has said.

The Convener: Thank you. Does the promoter want to make any final comments?

Billy MacIntyre: I will keep them brief, as I am mindful of the time. Portobello park is by far the best, most cost-effective location in which we could deliver the new Portobello high school, and it is where we could deliver it quickest. That view was reached after extensive assessment of the various options and is shared by a significant number of people in the local community. We firmly believe that the benefits of delivering the new school in the park, including the new community facilities, the improvements that would be made to the remaining open space on the site and the other open spaces in the area, and the other compensatory and mitigation measures that would accompany the project, would more than outweigh any potential drawbacks.

I reiterate that many of the detailed issues that have been discussed today were raised and considered in great detail during the planning process that the project has now gone through twice. Valid concerns were identified and appropriate mitigatory measures were proposed and have been approved, and those measures will be put in place should the project proceed. I again note that the issues that were considered as part of the planning process are not directly relevant to the bill, which is concerned solely with the status of the park and the council's powers in relation to it.

I hope that the committee will agree with the council's position on the points that have been discussed today. I hope particularly that members will be content that, where issues may arise as a result of the proposals, our compensation and mitigation plans will address them. However, we would be happy to consider any further steps that the committee might recommend that the council take in order to address any concerns that you have. Should you require any further information in respect of the issues that we have discussed this morning, we will, of course, be happy to provide it.

The Convener: Thank you. That concludes the evidence session for groups 2 and 4. We will have a brief suspension to get the group 3 and group 6 objectors seated.

12:45

Meeting suspended.

12:50

On resuming—

The Convener: We move to groups 3 and 6. Where it is appropriate, the promoter may wish to refer to evidence that has been provided earlier in the session if a point has already been covered and the specific concerns addressed, as that will avoid unnecessary repetition. Where a group does not wish to address a specific topic, I ask witnesses to indicate their intention at the start of the consideration of the relevant category; the promoter will still have the opportunity to comment if they so wish.

From group 3, I welcome the lead objector David Kilkerr, and Jean Douglas and Bill Flockhart. From group 6, I welcome Beverley Klein. I ask David Kilkerr and Beverley Klein as the lead objectors in groups 3 and 6 to provide brief introductory remarks on behalf of their respective groups.

David Kilkerr: Thank you, convener. The number of written objections in our group was in fact eight, but 44 other people have signed a petition, so in that sense we are here representing 52 people.

The group consists of those who live not immediately adjacent to the park but very near it. The road itself—Duddingston Park—is approximately 100m to 150m from the edge of the park, so we know the park, live around it, use it and look at it. Some of us have lived in the area for a considerable time and can remember how the park was used in the past, as it could well be used again in the future if the circumstances were right.

We have direct experience of the traffic, and we see how the present students of the high school move around the area. Other than that, we bring no particular expertise. There has been a lot of—almost forensic—detail this morning, some of which is, I confess, difficult to take in at one go. We will not be providing such detail.

We like to think that, as residents, we are applying a degree of common sense to the question and taking a simple, but we hope not simplistic, view of what it is all about. We are asking how appropriate are three particular actions that the council is proposing and on which the committee will have to come to a decision.

First, how appropriate is it that an existing urban park that has been there for decades should in effect be destroyed as a park—whatever has been said—when it does not have to be in order to achieve the end of a new school?

Secondly, how appropriate is it to build a 1,200 to 1,400-capacity high school on a main trunk road? We know—I will give some evidence on this in a minute or two—how busy the road is, and we do not need traffic surveys to tell us exactly how much traffic goes along it.

Thirdly, how appropriate is it to change the laws of Scotland to achieve or to allow the council to achieve those particular ends? That is a very important decision to have to make.

As local residents, we are looking at the matter not merely from a local perspective. We are not nimbys who are simply saying, “Don’t build a school here because it will get in our way.” We are mindful of the wider community of Portobello, which includes all the students who may go to a school and the other residents who move around the area. The traffic considerations also involve people who have nothing to do with Portobello and simply find themselves having to get along an extremely busy road that may become even busier and more dangerous as a result of the proposed action.

Eliminating the park will remove the health aspects of the trees, the open space and the views, and we must also think about future generations of young people—we heard earlier how important they are, at least to some people—who might want to use the area for play, recreation or sporting activities. That happened in the past, but I agree that, as we heard earlier, such use has been actively discouraged in recent times. I fully understand why the council might wish to discourage it, but it seems that the park as it exists at present is not a functioning park in the way that it has been and could be in the future.

The council uses the phrase “preferred site”, so the park, although it is preferred, is—as we have heard—not the only possible site. The council has made a great play of offering replacement space, which misses the point completely. Urban space is important because of where it is. One cannot say, “Oh well, we’ll just get rid of this bit of space and tag a bit more on to some other space,” as that does not in any way achieve the same ends at all. The notion of compensation for what would be the loss of that space bears very little weight.

An issue that bears a lot of weight in considering the question of a new school is the safety of young people. At a previous meeting the council suggested—it has conducted its own surveys—that 75 per cent of the local population was in favour of the new school. However, the problem with surveys is that one needs to know what questions were asked and who they were asked of, which I am certainly not clear about. It has been suggested that, in some street surveys, the question that was asked was, “Are you for or

against the new school?” The answer to that question, of course, would always be predictable.

However, a survey might ask, “Should we build a school for 1,200 pupils on a trunk road, which at 8.30 am carries more than 1,000 vehicles per hour in one direction and 600 in that same hour in the other direction?” I did not lift those numbers from any document or survey—I went up to Milton Road last Wednesday and stood there and counted them. Indeed, I counted just over 1,000 vehicles per hour entering the city travelling from east to west and 583 vehicles travelling from west to east along the road immediately abutting the proposed school main entrance.

13:00

The council seems to rely on the renewed planning permission a great deal, as if it is somebody else’s problem and, as long as they say that it is okay, it is okay. The council seems to rather slough off its responsibility for thinking about that deeply. In the renewed planning permission, it stated that the proposal represents an opportunity to build a school on a

“suitable site ... without creating any adverse impacts in terms of residential amenity or road safety.”

I find that statement literally incredible, meaning that I cannot believe it. It is all very well to look at the current figures for accidents, but how could the proposal not have any impact on road safety when the suggestion is that up to 1,400 young people will enter and walk around the area five days a week?

It is the quality of understanding and decision making on the part of our elected representatives and their officials that bothers me. There are huge and significant worries about the safety of both the students and the general public; in a few minutes’ time I think that you will hear some more details that support that view.

Two members of our group are teachers or ex-teachers and because of that we are aware—in a way that some other professions are perhaps not—of how students behave. We have seen them and worked with them. It is all very well to say, “We have this path and that path and they lead to this entrance and that entrance,” as if students dribble in, causing nobody any particular problem. What we need to think of is what those students do at lunch time. We have heard even today that the school will have such wonderful catering facilities that virtually all the kids will want to stay in at lunch time. I have some familiarity with a number of Edinburgh schools and I can tell you that that is not the case—in my experience, anyway.

By lunch time, the kids are starving—as we probably are, sitting here—and they exit en masse

and head for the nearest pizza or chip shop or whatever. At present, they head down the road into the centre of Portobello, where there are numerous outlets, but there are not numerous outlets in the immediate vicinity of the park. In my view, it is considerably further from the park to the centre of Portobello, although the promoter suggests that it is not significantly further. In my view, 500m plus is significant and, added to the existing distance that pupils walk, it would take at least 15 minutes to get to Portobello. Will they go there? Some hardy souls might, but huge numbers will want to cross Milton Road or Duddingston Park to get to an existing chip shop or other outlets or even to go over to Asda to find some food. All those routes will demand that they cross busy roads.

I will try to finish quickly, bearing in mind the time. I asked whether it is appropriate for the law to be changed to allow the school to be built, and I repeat that question. Is it sound governance for the laws of Scotland to be amended simply to allow a local authority, whichever one it might be, to do such a thing, particularly when there is significant local opposition—there is no doubt about that—and the outcome could be achieved in another way?

In my view, the authority that is involved has not handled the question of the replacement school very well. For example, it almost decided that it would build on the park without considering the implications—whether that would be possible, legal or practicable.

I hope that the committee will be judicious as well as judicial. It is judicial, because it is in a position of being able to change the laws, but I hope that it will be judicious in its consideration of the evidence that has been put before it. Mere numbers, whether of members of the public or councillors, should not necessarily sway a decision. The proposed school is indeed a local issue, but the private bill is a national issue, and the outcome of the deliberations can and will have profound effects in other places and at other times, notwithstanding the council's comment that it will have no future implications for other bills.

I will end on something that may seem rather trivial, but also even rather sinister. If you look at the current Google map of the area, you will see that Portobello park has ceased to exist. Every other green space in Edinburgh on that map is green. The golf course is green, but Portobello park is no longer green. That may or may not be of any great significance, but I wonder whether somebody has been suggesting something. Perhaps I can answer my question. Earlier this morning, I heard that perhaps the reason for that was that the park was not in a fit state to be coloured green. That says it all.

That is the end of my introduction. We will deal only with categories 1 and 2. Jean Douglas will speak to category 1 and Bill Flockhart will speak to category 2. That will be our contribution. Then it will be group 6.

The Convener: Thank you very much. I remind people that we have to be finished by 1.40, so where we will get to is a timing matter. We will then have to reflect on that.

Beverley Klein: Good afternoon.

By way of introduction, I am the mother of a primary 4 daughter, who will attend Portobello high school in a few years' time. She is here today. Despite my arguments against it, she wanted to attend the session. She thought that she would get the chance to take part and get a microphone, but I had to disabuse her of that idea.

Although as her parents we were prepared to allow her to be here today, we are democrats in our family and we did not believe that it was appropriate to allow her to take part in the consultation in which other parents allowed their children to take part. She is eight years old and is bound to have formed views that are based on parental influence. For that reason, she did not get the opportunity to take part in the vote. I will discuss that in my later submissions about the flawed consultation process.

I am speaking on behalf of group 6. Some people who objected as part of group 6 are here. They have submitted objections that are based on the entire consultation process and, to an extent, the participation of children. However, part of what I want to get across is how difficult the process has been for many of us, particularly those of us in group 6. Some of us have been not only significantly financially disadvantaged by having to pay £20 to make our democratic objection to the bill, but vilified in the community and marginalised. I am sure that members will appreciate that that has been terribly difficult. As my sister and I said in our letter of objection, we felt that we had no choice but to put our heads above the parapet and that is what it really has involved—putting our heads above a very nasty parapet.

However, I do not propose to make speeches about the flawed consultation and the loss of amenity but to ask the bill promoter, in a series of questions and answers, about the processes upon which I wish to focus. I hope that that approach will be viewed as a far better exchange mechanism for getting information and getting to the root of the issues—that certainly is the case for me. It is quite a direct approach so I hope that that will be in order.

Part of what I want to get across is that during the consultation process and at a number of public meetings, some of which I attended, council

officials and the bill promoter gave information that they either knew to be incorrect or that transpired to be false. I have lodged some paperwork that I hope will clarify some of those points, which we will be able to refer to. I know that the committee has that paperwork.

Some of the conduct of the council has been—and I do not mean to be overdramatic by the use of this phrase—utterly alarming to me as a parent who has taken out of my daughter's schoolbag bag-drop leaflets that have quite staggered me. I will come to that. I will also deal with the loss of amenity, ask the bill promoter questions about that and again refer to some documents.

Portobello park, as I am sure you will be aware, has two areas of social housing beside it, the Magdalenes and the Christians, where my granny lived when I was growing up—indeed, she lived there until she died, only a few years ago. The Magdalenes and the Christians sit on two of the four boundaries of the park, which is an absolutely amazing resource for the residents—its proximity to them is critical. Many of them do not have cars to take them to other open spaces for recreation, whereas I am able to do that easily with my daughter. Also, many people who live in the Christians and the Magdalenes and other areas nearby have mobility issues. For me and for other people, certainly those in group 6 of the objectors, this is a social inclusion issue. We see the need to fight the bill in order to retain the park—our park.

As I said in my objection letter, I lived in a tenement in Leith until I was eight years old, but my granny lived in the Christians and Portobello park was the only place that my brother and sister and I were allowed to play unsupervised. Like many others, I have rose-tinted memories of that experience and I have enjoyed taking my daughter to the park and sharing those precious memories with her. She has also enjoyed that.

One of the group 6 members, in their letter of objection, put it so well by saying that the park is for recreational use “in perpetuity”. That is not a purpose with no modern relevance. With obesity and public health so often making headlines, the retention of our park is more relevant than ever. For me, it has not been easy to stand up and be counted on this issue, but if we do not act on matters of importance to us, why bother encouraging the active citizenship part of the curriculum for excellence in our schools? That is part of the reason why my daughter is here. I urge the committee: please listen to us; more important, please hear us.

The Convener: Thank you. I invite the promoter to briefly state any opening remarks.

Billy MacIntyre: First, I will resist the temptation to respond just now to Ms Klein's accusations about me personally, which I find deplorable.

In the interests of time, I will not make a statement other than to reinforce the fact that we believe that the disadvantages are significantly outweighed by the many advantages of delivering a new school in Portobello park, as I think that what I covered in my introductory statement for groups 2 and 4 largely covers the issues that are covered by groups 3 and 6. In light of the considerable overlap and duplication between the groups, I think that it would be more sensible to leave time for detailed consideration, if that would be acceptable.

13:15

The Convener: I appreciate that—thank you.

We move to category 1. I invite a spokesperson from group 3 to address the first set of issues, which concerns loss of amenity and use of the park.

Jean Douglas: I am a resident who lives near Portobello park. As has been said, the park is the only large open space in the area. It is on the busy A1, but it offers an oasis of tranquillity, which is acknowledged as having physical and mental health benefits for the community.

The medical school at the University of Exeter recently published research in the journal *Environmental Science & Technology* that shows that green space in towns and cities can lead to significant and sustained improvements in mental health. The lead researcher, Dr Ian Alcock, said:

“We've shown that individuals who move to greener areas have significant and long-lasting improvements in mental health. These findings are important for urban planners thinking about introducing new green spaces to our towns and cities, suggesting they could provide long term and sustained benefits for local communities.”

Portobello park is overlooked on all sides, which makes it safe for everyone—dog walkers, lone women and especially children. Until 2011, when the council dug up the grass and removed the goalposts, the park was a popular area for local children. It was one of the few places where football and other ball games were not restricted. Now, such games are impossible. We know that the Scottish Government is worried about child obesity, so how can the loss of the park be justified?

My children spent a lot of time in the park, where local children met informally for a variety of games. That meant that they all knew one another and became friends and that the families became friends. There was a community spirit. Until recent years, my grandchildren and their friends enjoyed the same freedom of exercising and socialising in

the park, but the council's actions have made that impossible.

Where should the local children play after school, at weekends and in the school holidays? Bookable pitches will not replace free public space that is currently available at all times. The council's vague plans to make the artificial pitches available for informal use were tried elsewhere and did not work. Other schools had to stop free access to pitches because they were being damaged and because they encouraged antisocial behaviour, as at Castlebrae high school. The pitch at nearby Holy Rood high school has never been freely available and the artificial pitch at the existing Portobello high school is not publicly available. The security that is required around a school site is incompatible with unrestricted access to open green space.

The council has made much of its claim that providing two pitches will remove the need to bus children off site for sport, but children at Portobello high school are currently bused off site for indoor sports, too. The new school will have no extra indoor sports facilities.

Holy Rood high is a new school of a similar size. It was built four years ago and is 1 mile along the road. It is an excellent school that caters for a large catchment that covers a third of the city. It has only one pitch, but it still manages to provide the full curriculum requirement for physical education. Few city schools have more than one pitch.

The council's insistence that the new Portobello high must have two full-sized pitches is the only reason why Portobello park is the only option, in spite of the fact that it has so many disadvantages. If the council had acknowledged that one pitch along with good indoor facilities would allow the school to deliver a full physical education curriculum, it would not have ruled out a rebuild on the existing site and would not have come to the conclusion that the only way to deliver a new school is by promoting this private bill on common good land.

There is also a serious moral issue about building on Portobello park. The title deeds from when the park was created are very clear: it is to be used for recreational purposes only, with no buildings except for sporting purposes, such as a club house. Those conditions were to apply, as we have set out, in perpetuity, or for all time. We maintain that the council has a moral responsibility to respect the conditions for that wonderful space and ensure that the benefits that residents of the city have enjoyed for the past 100 years will be preserved for future generations.

We have a question that we would like to ask the representative from the children and families

department. Bearing in mind all the amenities that the residents of the local area will lose, the disadvantage of noise and light pollution until 10 pm and the serious traffic congestion with the ensuing danger of accidents, will he specify in what ways the council believes that putting the school on the park will improve the area and enhance the lives of members of the local community? We have heard time and again that it is simply the best site, but there is substantial evidence of real negative effects that the local community is likely to feel. Where is the recognition of what we are losing?

The Convener: Thank you very much. Does Beverley Klein have any points to raise that have not already been covered by Ms Douglas?

Beverley Klein: No, but I fully endorse what she said.

The Convener: Mr MacIntyre, would you like to come back on the points raised?

Billy MacIntyre: Yes, and I will respond to Ms Douglas's question, although there will be a degree of repetition of what I covered earlier.

On the concerns about the loss of amenity and open space, I again highlight that the overall net loss of open space in the area would be equivalent to a little less than a football pitch. There should be no discernible loss of amenity for any particular recreational or leisure activity. Walking and dog walking, which are the main uses of the park, could continue at the park site. The new paths that will be added to the area of open space that will remain at the park and the improvements that will be made to the paths around the park and the golf course will also make the site more accessible for those who have limited mobility or young children.

The new pitches will bring life back to the park because they will be usable in all weathers, seven days a week, for extended hours. They will deliver a greater benefit to the community than the former pitches, which saw limited use.

I again refer to the map that was used earlier that shows a large amount of green space in the area that will remain. It is already there and it is not going to change. The majority of those who live around Portobello park will still have large areas of green open space within easy reach in Joppa park, Jewel park, Bingham park and Figgate park. Indeed, there is a very large area of green space at the golf course, although it is not classed as accessible—it is only limited use.

Magdalene glen will be upgraded as part of the project's compensation measures, and the map shows the other smaller areas of open space that will be available for informal activities. Those areas are shaded in light green.

As I explained to the committee earlier, the map demonstrates the generous provision of good-quality open space that already exists within the vicinity of Portobello park. The vast majority of residences, shown in dark red on the map, meet the standards set out in the council open space strategy, being within 800m of a good-quality area of open space of at least 2 hectares in size, and within 400m of a good-quality area of open space of at least 500m².

Portobello park does not currently contribute towards achieving those policy standards as it is classed as being only of fair quality, nor does the golf course, as it is not classed as accessible. The map does not take account of the remaining area of open space in the park, nor the new area of compensatory open space of more than 2 hectares in size that will be created on the existing combined school site. Both those areas would be classed as being of at least good quality and would therefore improve compliance with the standards in the council's open space strategy.

The council believes that, in addition to the existing provision of open space in the area and the council's commitment to add new areas of good-quality open space, the new all-weather pitches will give those living in the area the opportunity to benefit from fantastic new sports facilities on their doorstep, with all the health benefits that derive from that. That relates to the objectors' reference to increasing obesity among children.

Another benefit of siting the new school in Portobello park is that that would allow us to have two pitches on which the school could provide all curricular physical education activity on site. That would result in an increase in the amount of physical activity and exercise undertaken by the pupils and would avoid valuable lesson time being wasted by the need to bus pupils to off-site facilities. The park is the only option that could deliver that outcome.

As I indicated earlier, £1 million has been allocated from the project budget for the provision of compensatory open space. The local community will be involved in deciding what form that open space should take, and we are very confident that it will enhance the overall provision of open space in the area.

I will pause at that point, convener, because I am conscious of the time. If today's objectors have any suggestions for measures that could address or mitigate their concerns, we would be very happy to hear them.

The Convener: I am totally at your mercy. As you all know, we are rapidly running out of time. I am happy to open it up for questions or to stop at

this point and reflect—it is entirely up to you. Can you indicate what you would like to do?

David Kilkerr: Madam convener, we are at a slight disadvantage. Bill Flockhart is about to go on holiday and, if further consideration was postponed, he would not be able to give his evidence. We would prefer to move straight to listening to Bill's evidence.

The Convener: But that is on a different category. Is that correct?

David Kilkerr: It is, indeed.

The Convener: Unfortunately, we are not finished with the current category, so at the moment you can speak only on that.

David Kilkerr: Right. So is the next move to ask whether we have any questions?

The Convener: Yes.

Jean Douglas: Mr MacIntyre has made much of the paths that are going to be around the school and the parkland that is going to be there, but the concrete cycling paths would really be part of the infrastructure of the school. As they are to be in the school grounds, I cannot see how they would benefit the community.

Billy MacIntyre: The cycle path will be accessible to not only the school community but the wider community, because it will complete the Sustrans network in Edinburgh and will be outside the boundary of the school grounds.

The Convener: Are there any other questions?

David Kilkerr: Despite what I just said, I have a quick question. If I wanted to use one of the proposed pitches on a Sunday afternoon, what would I have to do?

Billy MacIntyre: We have not yet worked out the detail of how we will manage that process. However, we hope to move to an online booking system rather than the current telephone one for whichever part of the authority—whether the school or a central department—deals with the bookings. If you live within the local area that we defined previously, the pitch will be freely bookable if it is not already in use by another party, such as the school, another member of the community or somebody who has paid for it.

David Kilkerr: Would I have to be let in through an enclosed area to get on to the all-weather pitch? In other words, is the pitch freely accessible?

Billy MacIntyre: When I say that it is freely accessible, I mean that it is free to use.

David Kilkerr: No, I meant freely, not free. How would I actually get on to the pitch if I have phoned

up and said that I would like to be there next Sunday morning?

Billy MacIntyre: If it is a formal booking, a gate will be open for you. At other times, there would be a catflap—that word is used to describe a smaller entrance in a fence or gate to allow casual access to pitches.

David Kilkerr: Right. Could I get in without booking?

Billy MacIntyre: If nobody is using the pitch, yes. You mentioned many other schools in the city, but this is the only school where we are offering that facility, because of the unique circumstances.

Jean Douglas: I thought that Castlebrae had something similar but had to stop it.

Billy MacIntyre: I am not aware that Castlebrae has anything of that nature. This is the only school in the city where free, open access is being offered to the local community at all times.

13:30

The Convener: Are there any further questions on the point?

Beverley Klein: I would like to clarify something, convener. Perhaps I have misunderstood the way in which proceedings are being managed, but is this the final opportunity to carry on the discussion about loss of amenity?

The Convener: Yes.

Beverley Klein: In that case, as I indicated in my opening statement, I have a few questions to put to the other side.

I noticed just the other day that one of the documents on the website is “Health and social benefits of open space”. You will be familiar with that. Paragraph 1 states:

“When properly designed and cared for, they bring communities together”.

Do you believe that the City of Edinburgh Council has done that with the park?

Billy MacIntyre: Which document are you referring to?

Beverley Klein: I understood that the council lodged the document. It was on the Parliament website, and I was directed to it. It is called “Health and social benefits of open space”.

Billy MacIntyre: I am not familiar with that document.

The Convener: I am being told that it was published with the group 2 evidence. It was submitted by group 2.

Billy MacIntyre: Right. I will try to answer, but could you repeat your question?

Beverley Klein: Yes. The document states, at paragraph 1:

“When properly designed and cared for, they”—

open spaces—

bring communities together”.

Do you believe that the City of Edinburgh Council has done that—properly designed and cared for Portobello park?

Billy MacIntyre: I would not be in a position to answer that. I was not involved in the design of Portobello park. I can say that, in designing the proposals for what we would do on Portobello park, we have very much taken those factors into consideration.

Beverley Klein: I understand your comment that you were not involved in designing the park. However, the council has an obligation to care for the park. Do you believe that it has done that in recent years?

Billy MacIntyre: That is not within my responsibility.

Beverley Klein: Yes, but you can express an opinion on it. I did not ask you whether it is in your bailiwick or not. I asked you whether—

The Convener: With all due respect, I say again that we should be focusing primarily on the bill. I think that the point has been addressed, so I ask you to move on to further questions.

Beverley Klein: Part of the issue is about the park not being cared for, and usage is part of the reason why the council thinks that it has the right to proceed with the agenda. Have members of the public had to phone and ask for the grass to be cut? Do you have any knowledge of whether the benches are in a good state of repair or even able to be sat upon? Are the former football pitches able to be used? I suppose that my question is, if you will forgive the choice of words, whether there is a level playing field.

Billy MacIntyre: I am being asked a question about a piece of land that the children and families department is not responsible for. I am not sure of the relevance of the questioning, convener.

The Convener: You have heard the council’s response, Ms Klein.

Beverley Klein: Okay.

The Convener: The question is a matter for the council. It is not a matter for me.

Beverley Klein: I fully appreciate that, convener. Thank you.

Jean Douglas: I return to Mr MacIntyre's response about alternative green space. That is a good bit away from Portobello park. It is not going to make up for what we are losing and it will not be possible for many people in the area to enjoy open green space as we do at present.

Billy MacIntyre: Compensatory measures are being provided in the park, but I refer Mrs Douglas to Dr McCulloch's evidence in the previous group and his suggestion that 1km is a reasonable distance to travel to a new area of open space. Given that the distance that we are talking about is less than that, I am afraid that I do not see the issue.

There is a bit of distance to walk—I think that, when we and the committee walked it, it took about 10 to 12 minutes, and in our evidence we have suggested that it will take 12 minutes—but there are other significant areas of open space that are accessible to all in the Christians, with a few exceptions, within 800m. That is in accordance with the council's open space policy.

The Convener: Thank you. Are there any more questions?

Beverley Klein: I have a couple of questions, convener.

With regard to the matters that I have just raised with you and which you did not feel able to respond to—such as grass cutting, the state of benches, the inability to play on a flat football pitch and what have you—do you imagine that all of those things would have affected the results of the usage survey?

Billy MacIntyre: Again, I am being asked a question to which my response can be only conjecture and opinion. In 2009, Ironside Farrar carried out a usage audit on the extent to which the park was being used at that point in time, and that factor was taken into consideration in assessing not only how well the park was used but the current uses that would be reprovided through our proposals. That is how we have used that information. To offer an opinion would be purely conjecture on my part, and I do not think that that would be appropriate.

Beverley Klein: Thank you.

During a public meeting that took place at Meadowbank in January 2013 as part of the consultation process, a speaker said that 12 football matches used to take place routinely on Portobello park each weekend. Do you recall that comment?

Billy MacIntyre: I cannot recall that specific comment.

Beverley Klein: Okay—

Billy MacIntyre: If you could explain the purpose of your question, that would be helpful.

Beverley Klein: I am partly trying to find out whether after the archaeological dig, which I understand was carried out to ensure that there was nothing of significance that could disrupt a build, the flat playing area where the football pitches had formerly resided were restored and the football posts put back up.

Billy MacIntyre: First, the area is not and never has been flat. The football pitches have a slope. There was a delay in reinstating the park after the impact of the archaeological works because we considered that spending public money on that would not have been sensible, given our hope at the time that we would be able to get on and build the school on the site.

The Convener: On that note, I will unfortunately have to end proceedings. Despite our best efforts, we have run over, and my colleagues and I will now discuss the best way of taking evidence from those from whom we have not already heard.

I must therefore apologise, particularly to Mr Flockhart, who is unable to give his evidence, but I should say that, despite my best efforts to get that evidence, others were not willing to work with me.

Before I close the meeting, I thank all witnesses for their attendance this morning and this afternoon.

Meeting closed at 13:38.

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