

## The New Portobello High School and New St John's RC Primary School

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The City of Edinburgh Council

25 October 2012

### 1 Purpose of Report

- 1.1 The purpose of this report is to provide an update on the project to build the New Portobello High School and, more specifically, to:
- advise on the outcome of the recent appeal to the Inner House of the Court of Session;
  - consider the legal options that might secure part of Portobello Park as the site for the new school;
  - consider what alternative site options are available in the event that building the new school on part of Portobello Park does not, ultimately, prove to be possible;
  - consider the delivery of a new St John's RC Primary School; and
  - seek approval for the proposed next steps.

### 2 Summary

- 2.1 In December 2006 Council approved Portobello Park as the location for the new Portobello High School and in December 2008 approved the project to replace the school as the first priority in the Wave 3 programme. The funding for the project is in place, planning permission granted and a principal construction contractor approved. In April 2012 Council formally approved the appropriation of the land at Portobello Park as the site of the new school having previously intimated its intention to do so.
- 2.2 Since the project was first approved by Council the threat of legal challenge has existed. A Petition for Judicial Review was lodged in the Court of Session in August 2011 on behalf of a local action group, Portobello Park Action Group (PPAG), challenging the Council's legal right to use part of Portobello Park as the site for the new school.
- 2.3 This petition was successfully defended however an appeal was subsequently lodged by PPAG. The Opinion of the Court in respect of the appeal was issued on 12 September 2012. In summary, the Council lost on

all three points which had been considered during the appeal, an outcome that was both extremely disappointing and entirely unexpected. However, the Court was required to provide an opinion on matters that have not previously been litigated in Scotland.

- 2.4 On 26 September 2012, the Scottish Government announced funding support for the replacement of St John's RC Primary School. Due to its location immediately adjacent to the existing Portobello High School, the future of St John's RC Primary School is inextricably linked to how the project to deliver a new Portobello High School is progressed.
- 2.5 This report provides an update on, and the proposed next steps for, the delivery of a new Portobello High School and a new St John's RC Primary School. A detailed history of the project to deliver a new Portobello High School on part of Portobello Park is included in Appendix 1.
- 2.6 The site on part of Portobello Park still remains the preferred location for a new Portobello High School. A number of options that may achieve this objective have been identified and will be progressed.
- 2.7 However, as the ultimate outcome of any legal option cannot be presumed, it is considered prudent to consider what alternative site options could be available in the event that this does not, ultimately, prove to be possible.
- 2.8 The former Scottish Power site at Baileyfield which is in private ownership has been identified as one of the few alternative options and this is now in the process of being marketed for sale by the owner. In view of the time constraint this places on the consideration of this option and the requirement to act quickly as it is a limited window of opportunity; it is proposed to consider this, and other options, in more detail and seek informal feedback from the school communities in advance of taking a further report to Council on 22 November.
- 2.9 The next report to Council will recommend what steps, if any, should be taken regarding any proposed purchase of the former Scottish Power site at Baileyfield for either a new Portobello High School or a new St John's RC Primary School.

### **3 Main Report**

#### **3.1 Legal Options**

- 3.1.1 The Inner House of the Court of Session has, in summary, concluded that although there are powers to dispose of such land, no Scottish local authority (including The City of Edinburgh Council) has the authority or power to appropriate inalienable common good land under the provisions of the Local Government (Scotland) Act 1973, the Local Government in Scotland Act 2003 or indeed any legislation, regardless of the merits of the purpose for which such action is intended.

- 3.1.2 The site on part of Portobello Park still remains the preferred location for a new Portobello High School therefore consideration has been given to the range of options that may achieve this objective.
- 3.1.3 The following options have been identified as the most viable, others having already been discounted:
1. An appeal to the Supreme Court against one, or more, of the legal questions decided by the Inner House of the Court of Session.
  2. A review of the status of the land at Portobello Park to establish whether it might be categorised as alienable common good or not part of the common good.
  3. Disposal of the intended site for the school at Portobello Park which would be permissible under section 75(2) of the Local Government (Scotland) Act 1973 provided it is sanctioned by the Sheriff Court or the Court of Session.
  4. An application to the Sheriff Court or the Court of Session seeking authority to appropriate the Portobello Park site under the above mentioned section 75(2).
  5. A petition to the Court of Session to invoke the nobile officium.
  6. A change to the existing legislation for which three sub-options have been identified:
    - (i) A Private Act of the Scottish Parliament (promoted by the Council);
    - (ii) An Executive Act of the Scottish Parliament; or
    - (iii) An Order made by the Scottish Ministers authorised by statute.
- 3.1.4 Having considered in detail the relative strengths and weaknesses of each option together with the relevant timescales, costs and prospects of success, the following actions are either proposed, or have already been taken.
- (1) Appeal to the Supreme Court*
- 3.1.5 The Rules of Court required that the Supreme Court be advised by 24 October 2012 as to whether or not the Council was intending to take such an appeal forward. In the circumstances the decision has been taken not to appeal. This approach has been taken because it is a requirement of any appeal to the Supreme Court that it be supported by two Counsel who consider the appeal to be reasonable. The alternative Senior Counsel appointed by the Council to assess the Inner House's judgement did not feel he could support an appeal, in other words an appeal would, in his opinion, be unlikely to succeed.
- 3.1.6 This does not mean the Council's proposal to build on part of the Park has been ill-founded, indeed far from it. Before the Council approved the new school as the first priority within the Wave 3 school replacement programme

in December 2008, the Council had obtained a strong legal opinion from two QCs which supported the course of action being taken.

- 3.1.7 However, the matters that were considered by the Court have little in the way of directly relevant precedent and the Inner House of the Court of Session has now provided clarification regarding the law on the question of appropriation and the lack of any applicable or available legislation. It has also provided a very clear opinion regarding the applicability of the power to advance well being on this matter.
- 3.1.8 Alternative Senior Counsel was of the opinion that an appeal was unlikely to succeed and, as such, it was concluded that the limited prospects of success did not justify the time and expense such an action would involve. Efforts to resolve the matter are therefore considered to be better directed towards addressing what has been identified as being a significant gap in the legislation.
- 3.1.9 As a decision on this matter was required before 24 October 2012 and, therefore, in advance of the Council meeting on 25 October 2012, in order to comply with the time limit set out in the Rules of Court on 17 October 2012 a decision was taken by The Director of Children and Families not to appeal to the Supreme Court. As this decision was required as a matter of urgency and could not await the next scheduled meeting, it was taken under delegated authority following consultation with the Convenor of Education, Children and Families under the provisions of Standing Order 63.

*(2) Classification of Portobello Park as Inalienable Common Good*

- 3.1.10 Several years ago the Council first undertook a review of the status of Portobello Park and concluded that it was common good. In light of the recent speculation on this matter a further review of the classification of Portobello Park as part of the common good of the city is ongoing. This is an area of law in which there was, and continues to be, a lack of certainty and on conclusion of this review, in the absence of any new facts coming to light which clarify the matter beyond doubt, we would ask Court for its view on the matter.
- 3.1.11 A decision of the Court on this point would resolve the matter and a petition would be made to the Court at the earliest opportunity. A decision that the Park is not common good would carry a number of advantages. If the site does not form part of the common good, or is alienable common good, then the Council would be able to appropriate it for the new school. It is estimated that a decision could be obtained in approximately six months, although that is dependent upon the Court's diary and availability of Counsel. Such a petition could cost in the region of £55,000 - £65,000 in respect of legal fees. This estimate is based on the cost of earlier proceedings in the Outer House in which the arguments were arguably more complex and it is hoped that the costs associated with the petition could, therefore, be less than the estimate.

*(3) Disposal of the intended site for the school at Portobello Park*

- 3.1.12 In essence, this option is that the Council would transfer ownership of the site to a Council owned company, and the site is then developed for the new school as originally intended. Such a transfer would mean the site no longer formed part of the common good, and consequently the restrictions on appropriation would not apply. However, Senior Counsel was also asked to consider this option, and his view is that it would be unlikely to succeed, as it could be expected that the Court would see this purely as circumventing the apparent absence of any power enabling the Council to otherwise appropriate inalienable common good land. As such, the Council has concluded that the limited prospects of success do not justify the time and expense such an action would involve.

*(4) Appropriation of the intended site for the school at Portobello Park*

- 3.1.13 Given the terms of the Inner House's judgement it is still open to the Council to seek authority from the Courts to appropriate the site under section 75(2) of the Local Government (Scotland) Act 1973, something that had previously not been viewed as necessary.

*(5) Nobile Officium*

- 3.1.14 The Court of Session has the power to invoke the nobile officium, which is in essence the power to provide a legal remedy where one is otherwise unavailable. It can be seen that, following the Inner House's decision, there is arguably a gap in the law if local authorities do not otherwise have the power to appropriate inalienable common good land in terms of the Local Government (Scotland) 1973, no matter what the intended purpose is.
- 3.1.15 An important feature of the applications for options (4) and (5), which would be progressed simultaneously, will be clear evidence that the proposal to build the new school on this part of the Park is the preferred option of the majority of the local community and, in this respect, they will not be pursued immediately, a matter considered in more detail below. The costs involved are estimated to be approximately the same as set out in 3.1.11 above and it is estimated that a decision could be obtained in approximately seven to ten months from any petition being raised with the Court, an action which would be taken as soon as possible following conclusion of the proposed Private Bill consultation process which is covered below.

*(6) Change in Legislation*

- 3.1.16 On the basis that it is considered unlikely that it is the intention of either Ministers or the Scottish Parliament that Scottish Councils should have no means whatsoever to appropriate inalienable common good land the Council Leader and Chief Executive have jointly written to the relevant Scottish Ministers to enquire regarding the extent to which they might be minded to support, and progress, any potential legislative resolution to this matter.

- 3.1.17 It is currently anticipated that the option which is most likely to be taken forward is a Private Act of the Scottish Parliament, which the Council would itself promote. The other options identified at paragraph 3.1.3.6 above could only be taken forward by the Scottish Government/Scottish Parliament. The Standing Orders of the Scottish Parliament require a suitable consultation in respect of any Private Bill prior to its introduction to the Scottish Parliament.
- 3.1.18 While further discussion is required with the Bills Unit of the Scottish Parliament, it is currently estimated that the consultation and other requirements of the Private Bills procedure mean it could be up to five months before the Council would be in a position to introduce a draft Bill to the Parliament. While a timetable for progress of such a Bill through Parliament cannot be guaranteed, and depending upon the Parliamentary diary, it is currently estimated that a Bill could potentially receive Royal Assent within six to twelve months of introduction, assuming it is passed. It is currently estimated that the legal costs associated with such a Bill would be in the region of £50,000.
- 3.1.19 In connection with this, and as commented on above, a consultation on the matter is expected to provide strong evidence that the proposal to build the new school on this part of the Park is the preferred option of the majority of the local community. Given that such evidence would form a key element of any approach to the Court under options (4) and (5) above, and to avoid any unnecessary duplication of time and expense, it is proposed that options (4) and (5) are not formally progressed until such time as the consultation has been completed and assessed. This would also enable option (2) to be progressed, and possibly a decision issued by the Court, which could then make the other options unnecessary.

#### *Change to Proposals*

- 3.1.20 In March 2010, in light of the audit of the usage of the park which was undertaken which showed very limited use of Portobello Park, and the open space strategy which recognised that the quality of open space is as important as the quantity, Council approved a range of compensatory measures be provided as part of the project to deliver the new school.
- 3.1.21 The combination of measures would ensure that the existing uses of Portobello Park, mainly as a walking venue, would not only be preserved but improved where possible. This, in turn, would improve the quality of the existing provision in the area. Council further approved that any receipt from the disposal of the site of the existing Portobello High School be ring-fenced for future reinvestment into the Children and Families estate either for new investment or to assist in addressing the considerable backlog of asset management works which exist within the Children and Families estate.
- 3.1.22 The final proposals for which planning permission was approved include a number of measures to achieve these objectives, including the improvement of the quality of Portobello Park set against the deficiencies identified in the Park Usage Audit. These measures can be summarised as follows:

- Two 3G all-weather pitches will be provided. These will not only meet curricular requirements with surfaces allowing a range of sports including football but also provide pitches for the use of the wider community throughout the year outwith curriculum time including the option to extend hours by sensitive lighting proposals. There will also be a cat-flap access system to enable local children to use the pitches free when not otherwise in use.
- The new layout retains a broad publicly accessible perimeter along the south and east edges of the park without impacting on the existing mature tree belt woodland. It includes a number of opportunities for informal recreation and a significant open grass play area at the south east corner.
- The mature boundary trees to the west, south and east edges of the park are maintained except for the necessary provision of entrances. This is to largely retain the look and feel of the park to the adjacent residential areas.
- The main entrances to the park, from the east and west, will be opened up and improved in order to link into the new network of paths within the park boundary and extending along the west and east perimeter of the Golf Course. The improved path networks will provide greater access for those with pushchairs, disabilities and mobility issues as well as for the existing dog walkers and cyclists.
- The introduction of a cycle path along the eastern edge will also provide a previously missing link for the Sustrans Cycle network across Edinburgh.
- The school itself will bring further recreational opportunities in the form of gym halls, performance spaces, dance studios, fitness facilities and a 25m swimming pool, all of which will be available to the community outwith curriculum commitments.
- Finally, there was a commitment to an investment of £150,000 for measures to be decided by the local community to enable further enhancements outwith the boundary of the site, to where it was considered to be most beneficial. Determination of the most appropriate use of this funding was delegated to the local Neighbourhood Partnership. Services for Communities undertook extensive consultation with the local community on this matter and the Portobello and Craigmillar Neighbourhood Partnership approved that this funding be directed to improving outdoor play facilities in Magdalene Glen. The application of this investment towards the agreed purpose is, regrettably, currently on hold in light of the legal impediment to the project.

3.1.23 In progressing any option for a Private Bill, appropriation under section 75(2) or a petition to invoke the nobile officium it is considered that the prospects of success for these options would benefit from a further improvement to the already very comprehensive proposition for a new school on part of Portobello Park and the measures geared towards improving and enhancing the existing park. It is, therefore, proposed and recommended that the following **additional** compensatory measures be included within the proposal to build a new Portobello High School on part of Portobello Park but that

these measures would only be applied in the event that this was, ultimately, to proceed:

- (i) Once the existing Portobello High School is demolished, the remainder of existing Portobello High School site (after making provision for the necessary increase of the site allocated for St John's RC Primary School from 0.67 hectares to 1.3 hectares) would be converted to open space and the forthcoming consultation exercise would seek views from the Portobello community regarding the most appropriate use of this space for the area; and
- (ii) Regarding access to the two 3G pitches, although any required use by the school for curricular or extra-curricular activities would take precedence; at times when they were available and not otherwise already booked, the use of these pitches would be free to, and could be pre-booked by, residents of the Portobello area rather than the casual access already provided for.

3.1.24 The very significant enhancements to the proposal which these changes represent, and the associated direct compensatory provision would address the issue of a loss of the overall quantity of open space in the Portobello area which, it is understood, has been the main concern voiced by PPAG. This would entail the re-provision of a very significant area of open space (approximately 2.2 hectares) within a very short walking distance from Portobello Park and it is hoped that the members of PPAG, and others holding similar views to them, would accept that this enhanced approach would address their primary concerns and that they would not challenge the revised proposal.

3.1.25 PPAG has, we believe, accepted that a new school is urgently required and, as is exemplified later in this report, the site on part of Portobello Park remains by far the most appropriate site for the new Portobello High School.

3.1.26 As commented on above, while it is possible to progress the different legal options simultaneously, at least to an extent, care needs to be taken in doing so, in order to guard against potential conflicts. Equally, the Council needs to be mindful of the manner in which it uses public funds to progress these options, while at the same time maximising the potential for success, and that within as short a time frame as possible. As such, it is recommended that the Council takes the following actions:-

- (i) Notes and affirms the decision not to appeal to the Supreme Court;
- (ii) In the absence of any new facts coming to light which clarify the matter beyond doubt, seeks a declarator from the Court of Session that the site of Portobello Park is not part of the common good, or is alienable common good. This will be taken forward as soon as possible;
- (iii) Makes an application to the Court of Session for authority to appropriate the proposed site of the school under section 75(2) of the Local Government (Scotland) Act 1973, but that this is not formally

progressed until after the proposed Private Bill consultation has been completed and assessed;

- (iv) Petitions the Court of Session to invoke the nobile officium, to enable the Council to appropriate the part of Portobello Park required for the new school, but that again this is not formally progressed until after the proposed Private Bill consultation has been completed and assessed;
- (v) Investigates further with the Scottish Government possible legislative changes which would enable the Council to build the school as currently proposed on part of Portobello Park but commences immediately the processes involved in promoting a Private Act of the Scottish Parliament to achieve this. The proposals for inclusion in a Private Bill, and the proposed public consultation arrangements which will require to be undertaken in this regard prior to its introduction to the Scottish Parliament, will be taken to Council on 22 November 2012 for approval; and
- (vi) Approves the proposed changes to the compensatory provisions associated with the proposal to build a new Portobello High School on part of Portobello Park.

3.1.27 Regular reports regarding progress on the pursuit of these options will be provided to Elected Members.

### **3.2 Title Restriction**

3.2.1 The Inner House has expressed the view that, even if the Council were in a position to appropriate the part of Portobello Park that is required for the school, the condition in the Council's title to Portobello Park that, in essence, requires it is used exclusively as a public park and recreation ground for the benefit of the community and which also precludes the construction of buildings other than housing for park officers and gate keepers, would present an unresolved difficulty.

3.2.2 The Opinion from the Inner House acknowledges this matter was not fully argued before the Court. However, the Council had previously come to the view that the title conditions in question were no longer enforceable, and this has recently been re-affirmed.

### **3.3 Balfour Beatty**

3.3.1 Arrangements are currently in place to award a very competitive contract to Balfour Beatty which would achieve the earliest date for the delivery of the new school on part of Portobello Park if the Council was in a position to enter into a contract to do so.

3.3.2 Should the opportunity to enter into the contract with Balfour Beatty be lost an entirely new procurement exercise would be required. This would, in itself, be at further cost to the Council but also carries the real risk of an increased contract sum.

- 3.3.3 A new procurement process would take up to nine months, the starting point probably being when the Council has achieved certainty that it may lawfully use part of Portobello Park as the site of the new school as, in light of the potential reluctance from the market in such uncertain circumstances, the process would not be started until any legal option was successfully concluded.
- 3.3.4 Balfour Beatty was approached to consider extending the tender acceptance period again with all other contract terms remaining unchanged. Balfour Beatty has accepted a further extension to 30 November 2012 allowing time for discussions to be progressed with them regarding longer term options; we are very grateful to them for their continued patience and understanding.
- 3.3.5 Should there be an opportunity for longer term arrangements with Balfour Beatty the detail will be taken to Council for consideration.

### **3.4 Planning Permission**

- 3.4.1 Planning consent for the project to build a new school on Portobello Park was granted on 24 February 2011 and included an applicant informative indicating that it was granted subject to the default period of three years. If development does not start on site by 23 February 2014 the consent will expire. As the informative is not a formal condition of planning it is not possible to apply for an extension to the default timescales.
- 3.4.2 However, the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 provide for a simplified application procedure where the consent has yet to expire. Should it be considered that such a re-application becomes necessary, this will be progressed at the appropriate time to ensure that no delay to the project would be experienced.

### **3.5 Alternative Sites for a New Portobello High School**

- 3.5.1 The site at Portobello Park remains by far the best site available for a new Portobello High School in, or around, the catchment area if the legal impediment can be overcome. However, as the ultimate outcome of any legal option cannot be presumed, it is considered prudent to consider what alternative site options could be available in the event that this does not, ultimately, prove to be possible.
- 3.5.2 Consideration has therefore been given to what **potential** alternative site options might be available recognising that any alternative would represent a significant compromise in comparison to Portobello Park. This involved two strands of activity:
- (i) An updated appraisal of the potential sites identified initially during 2006 and, more recently, updated in June 2010.
  - (ii) An investigation into what new potential sites might have arisen in the period since June 2010.

3.5.3 The details of this assessment are included at Appendix 2. Taking all relevant factors into consideration, the following sites have been identified as being possible options albeit each attracting varying degrees of compromise. Not all options would be of a sufficient size to incorporate a pitch, or multiple pitches, immediately adjacent to the school buildings.

3.5.4 These options have been separated between those which would require a decant, and those which would not. Whilst any option involving the use of an off-site decant is, for a number of reasons, not considered to be either preferable or desirable, and the views of many parents in this regard have been very clearly articulated, these remain potentially feasible options and, as such, have been identified for completeness.

3.5.5 Options which would require a full, or partial, decant

Site	Size	Pitches	Constraints and Issues
(i) Existing High School site with no change to the size of site assigned to St John's Primary	2.79ha	0	<ul style="list-style-type: none"> <li>Requires expensive and potentially disruptive decant.</li> <li>No opportunity for full size on-site pitch.</li> <li>Does not resolve the issue for St John's of the current constrained site.</li> </ul>
(ii) Existing High School site reduced with the size of site assigned to St John's Primary increased to (at least) 1.2ha.	2.26ha	0	<ul style="list-style-type: none"> <li>Requires expensive and potentially disruptive decant.</li> <li>Significant reduction in area assigned to the High School compared to existing.</li> <li>Considered to be no opportunity at all for an on-site pitch of any size.</li> <li>Requires Scottish Government approval of reduced site size for High School.</li> <li>Requires Scottish Government approval of site size for primary school (could be mitigated by increasing site size to 1.3ha however that would further reduce the amount available to the High School).</li> </ul>
(iii) Existing High School site combined with the adjacent St John's Primary site with St John's relocated to a different site	3.46ha	1	<ul style="list-style-type: none"> <li>Requires expensive and potentially disruptive decant (which it might be possible to mitigate to an extent subject to detailed feasibility).</li> <li>Requires an alternative location to be found for St John's RC Primary School.</li> </ul>

3.5.6 For these options the availability of potential decant locations requires to be explored together with the associated travel implications and costs. Any site which is not in Council ownership may entail a further rental cost.

3.5.7 Of the options above; the only one which would not result in the delivery of **both** new schools being excessively compromised by having a site which was too small for their requirements would be option (iii) being the use of the existing High School site combined with the adjacent St John's RC Primary School site. This would produce an area of 3.46 hectares for the High School, larger than the existing site but still much smaller than the target site

size of 4.5 hectares and would require St John's to be relocated to a different site, but of a suitable size.

3.5.8 It is very much recognised and understood that this option may **also** prove to be unpopular with the St John's RC Primary School community as it would require the school to move to a different location. However as this remains a feasible option it has been identified for completeness. In the circumstances when options are so limited, everything must at least be considered.

3.5.9 Whilst this option may require a decant, the possibility has been identified of a phased build on the existing site and/or the potential use of some of the existing buildings on the site as at least partial accommodation. This requires further detailed investigation to test the feasibility of such an option.

3.5.10 Options which would not require a decant

Site	Size	Pitches	Constraints and Issues
(i) Baileyfield (Scottish Power) Site	3.0ha	-	<ul style="list-style-type: none"> <li>• Site would have to be purchased so additional cost to the project, albeit would be offset by value released from the existing High School site.</li> <li>• Shape of the site available requires further detailed investigation regarding possible configuration options.</li> <li>• No opportunity for full-size on-site pitch however potential options in adjacent areas including Power-League or Baileyfield Depot require to be explored in detail.</li> <li>• Would not require Scottish Government approval of site size as higher than regulations unless the areas in commercial occupation prove not to be feasible to include in the area available for a school.</li> </ul>
(ii) Brunstane Estate	4.5ha	1	<ul style="list-style-type: none"> <li>• Site would have to be purchased so additional cost to the project, albeit would be offset by value released from the existing High School site.</li> <li>• Poor location to the very south east of, and actually outwith, the catchment area.</li> </ul>

3.5.11 For any option involving a new site the following information has still to be clarified in detail:

1. The availability of the site for acquisition and, were it to be available, the potential acquisition cost;
2. Any other costs associated with the option such as demolition or abnormal costs relating to the site such as remediation works or the requirement to re-divert any services;
3. The acceptability of any proposed use of the site as a school with Planning in relation to the current development plan and the approved North West Portobello Development Brief. Key aspects arising from recent applications require to be included in any assessment; and

#### 4. Any accessibility issues.

3.5.12 Of the two options above, we have been advised that DTZ has been appointed as agents by the site owners, BL Development, and that they have instigated the sale of the 7.74 acre site at Baileyfield constituting the former Scottish Power HQ. The total site extends in total to 3.3 hectares however this includes existing housing which reduces the space available for a new school. The remaining area available for a new school is approximately 3 hectares on which there are a number of properties leased by commercial occupiers, generally on short term rolling tenancies, which would require to be freed up. Marketing materials have been produced and are available via the following link <http://www.baileyfield-portobello.co.uk/>. The Council's potential interest in the site has been noted by the agents. No closing date has, as yet, been set.

3.5.13 Whilst there are aspects of the site, and the potential configuration for a new school, which require detailed investigation to assess its feasibility for a new school, it is the only site available in the near vicinity of the current school.

### 3.6 Potential for a combined New Portobello/Craigmillar High School

3.6.1 On 9 October 2012 the Education Children and Families Committee approved a recommendation to consult on the proposed closure of Castlebrae Community High School with effect from July 2013.

3.6.2 Whilst there is expected to be sufficient spare capacity in other secondary schools in the local area up to 2020 to accommodate expected demand for catchment places; it is anticipated that, through a combination of the expected increase in secondary school rolls and the projected significant new housing development in Craigmillar, ultimately a new school will be required for the Craigmillar area thereafter.

3.6.3 In the circumstances, the potential exists to create a single new school to accommodate both Portobello and Castlebrae catchment populations. The initial assessment suggests the required capacity for this combined school would ultimately be 2,200. This would be one of, if not the, largest secondary school in Scotland and there are educational, logistical, accessibility and financial factors to consider which are assessed in detail in Appendix 5 together with what site options might be available in the area to accommodate a school of this size. Taking all relevant factors into consideration the following sites have been identified as being possible options for such a school.

Site	Size	Pitches	Constraints and Issues
(i) Craigmillar Town Centre	6.5ha	3	<ul style="list-style-type: none"><li>• Position regarding availability and impact on town centre regeneration and associated business case will not be clarified until early 2013.</li><li>• Consider any accessibility issues in detail.</li><li>• Confirm position regarding planning.</li><li>• Consider any abnormal site condition issues and potential costs in detail.</li></ul>

Site	Size	Pitches	Constraints and Issues
(ii) Brunstane Estate	6.5ha	3	<ul style="list-style-type: none"> <li>• Site would have to be purchased so additional cost to the project, albeit would be offset by value released from the existing High School site.</li> <li>• Poor location to the very east of what would be the combined catchment area.</li> <li>• Confirm position regarding planning.</li> <li>• Consider any accessibility issues in detail.</li> <li>• Clarify site availability; ownership and acquisition cost through EDI as appropriate (who own, or have options over, the land).</li> <li>• Consider any abnormal site condition issues and potential costs in more detail.</li> <li>• What would the impact be on the PARC Craigmillar town centre regeneration proposals if the school was not located there; also impact on funding for school.</li> </ul>

3.6.4 The advantages and disadvantage of what would be a very large school have been assessed and are set out below.

#### *Advantages*

- Would provide a fully comprehensive school;
- Would deliver a new school for current Castlebrae Community High School catchment pupils quicker;
- If Castlebrae Community High School did close, avoids complexity of transition to new Craigmillar school in future;
- If a phased build was adopted this would ensure capacity would be right-sized to meet demand in the area;
- Accommodation provided could be more flexible if built to full capacity from the outset; and
- Potential financial savings if it was built to full capacity from the outset.

#### *Disadvantages*

- Location is not in the heart of either the extended community or the separate communities;
- Considerable distance from main areas of pupil population;
- Considerable distance from community population which may prohibit community use;
- Likely to be strong opposition from both communities albeit this might depend on the option;
- Impact on Craigmillar town centre regeneration likely to be negative (but in different ways depending on the site involved);
- Large size results in difficulties in movement of pupils through the school and a loss of teaching time;

- Pastoral care could suffer due to the sheer number of pupils and risk of anonymity;
- More challenging to form an identified school community for pupils, parents and staff with such a large projected roll; and
- Would require significant increase in the initial up-front financial investment required.

3.6.5 Setting aside the community issues, whilst it is not impossible to create a good large school it is considerably more difficult. Research suggests that the optimal school size is between 600 and 1,600 and that any higher would require school structures which are essentially 'schools within schools'

3.6.6 On balance, it is therefore the view of the Children and Families Department that the advantages are outweighed by the disadvantages and that this is not an approach which would be recommended.

### **3.7 St John's RC Primary School**

#### Background

3.7.1 St John's RC Primary School has been operating as a two-stream, 14 class school for many years. The school is currently reliant on temporary unit accommodation for two of its 14 classes and its nursery, alongside a significantly under-sized main building. Accommodation is under considerable pressure and classrooms are significantly under-sized, being some of the smallest in the estate by a significant margin. These compound suitability issues lead to the school's suitability rating as category D - the worst in a scale of A to D. In addition, the school's condition is poor, rated C on the same scale and it is located on a constrained site of only 0.67 hectares.

3.7.2 The necessity to replace the school was acknowledged through its inclusion in the Council Wave 3 school replacement programme and, based on the priority order approved by Council, is the next project to be progressed.

3.7.3 Statutory consultation for the school's relocation to the neighbouring Portobello High School site was conducted and approved in 2006. It had been anticipated this site would have become available once the new Portobello High School was delivered and the current site cleared; relocating to this site would also have allowed the small site size issue to be addressed.

3.7.4 However, in 2008 two further options were identified (i) refurbishment of, and extension to, the existing buildings or (ii) new build with both options being on the combined area comprising the school's existing site together with the pitch area currently used by Portobello High School. The necessity for a whole school decant was, and remains, a key challenge associated with any refurbishment option. In December 2008, as no decision was previously required regarding the option to be progressed, it was agreed to continue discussions with the school on the matter at an appropriate future time.

### Scottish Government Funding

- 3.7.5 Earlier this year the Council was invited to submit an application for funding under the third phase of the Scotland's Schools for the Future Programme. The application was submitted in July and identified St John's RC Primary School as the priority for funding.
- 3.7.6 On 26 September 2012, it was announced that St John's RC Primary School will be one of the next 30 schools to be built under Scotland's Schools for the Future Programme from which the Council has already derived significant benefit with the replacement of both James Gillespie's High School and Boroughmuir High School already being supported.
- 3.7.7 The funding from the Scottish Government is based on defined metrics which are applied to all schools within the Scotland's Schools for the Future Programme. Whilst the precise funding which will be receivable for St John's RC Primary School is still to be discussed with the Scottish Government this is expected to be in the order of £4.424m which is calculated based on a capacity of 502 pupils (including nursery) x a space allocation of 7.5m<sup>2</sup> per pupil x an estimated cost of £2,350/m<sup>2</sup> x 50%.
- 3.7.8 The base costs of delivering a new school on any site would be approximately £9m. Further costs may arise relating to site acquisition, decant or any abnormal costs associated with the particular site e.g. if there was a requirement for the demolition of any existing buildings on the site. No additional funding support would be provided by the Scottish Government for any such costs were these to be necessary.
- 3.7.9 The Scottish Government has subsequently advised that capital funding for this review period has already been fully allocated and it is not anticipated that capital funding for the project will be available until the next spending review. They have, as a consequence, advised that the project will most likely not to be able to commence construction until 2015/16 unless the Council could fund its share up front in which case the project may be able to commence earlier. The Scottish Government has further advised that there will be some specific requirements regarding "Up Front" funding which we have been recommended to discuss with the Scottish Futures Trust. This will be progressed to establish what implications this would have on the timescales for the delivery of a new St John's RC Primary School.

### Updated Feasibility Study

- 3.7.10 To inform the funding application to the Scottish Government, and ensure an accurate position was derived regarding the options for a new school and the associated costs, a feasibility study was recently undertaken, the results of which are summarised in Appendix 6.
- 3.7.11 The study was based on options for refurbishment of, and partial extension to, the buildings on the existing primary school site (using the adjacent land on the existing Portobello High School site) or new build on the adjacent Portobello High School site once the existing buildings were demolished.

- 3.7.12 In tandem with considering options for the replacement of the school, an exercise was also undertaken to establish the potential revenue from the sale of the residual land on the existing Portobello High School site for housing development. This illustrated that a considerable receipt could be realised from the surplus land albeit that, due to a deficit in the realisation of capital receipts expected from other sites, the funding within the existing Children and Families Capital Investment Programme is currently under-pinned by an expectation of in excess of £1m of any such receipt from the disposal of the existing Portobello High School site being reserved to cover this deficit.
- 3.7.13 The conclusion of the study was that the new build option on the High School site was the most economic and simplest process in respect of the clearance of the existing site and delivering the full new build with negligible disruption to the school. This would also release part of the development land earlier than the partial refurbishment option. Whilst the option to undertake a partial refurbishment and new build remains a feasible option and of a comparable cost to new build; the delayed delivery and receipt of land revenue make this less attractive. More significantly, the requirement to decant would also add significant (revenue) costs to this option which would make it considerably more expensive and much less attractive than the new build solution.
- 3.7.14 The Children and Families Department supports these conclusions and, were the option to re-build on the existing High School site to be available, remains of the opinion that new build offers the best option; this being the one already approved by Council in December 2006. In addition to the reasons outlined above; the opportunity to develop a design which is not restricted in any way by the configuration of existing buildings should allow a final solution to be delivered which is a better match to the educational requirements.
- 3.7.15 It is, however, acknowledged that were the option to undertake either new build or refurbishment and extension to be available, further consultation with the school community would be required to determine the final proposal prior to commencement of this project.
- 3.7.16 The timescales for delivery of the project would also be a factor to be taken into consideration in view of the potential dependency on the project to deliver a new Portobello High School and when any sites for a new primary school could be released should that be necessary.
- 3.7.17 In 2008, the representatives from the school advised that the preferred option of the school community was for refurbishment and extension. They advised that in their opinion the key advantages of this option, relative to others, were:
- A first class educational environment could be created within the refurbished and extended building;
  - The history and sense of identity of the school would be retained;
  - The building's character, which is in keeping with its surroundings, would be retained and would maintain the schools civic prominence;

- The existing building is of significantly better build quality than is likely to be created in a contemporary new build, due to the quality of the building materials and the traditional building methods used;
- The school community believe that it is wrong environmentally to demolish and dispose of a structurally sound building, with the associated carbon cost, when the building could be retained and refurbished; and
- Many families in the area have a strong attachment to the building.

3.7.18 The first point above referred to the fact that a first class educational environment could be created within the refurbished/extended building. It was clarified that this was not necessarily an advantage over the other options, unlike the other points which were all unique to the refurbishment option, but they felt it was important to state explicitly that they believed this would be achieved under the refurbishment option, and that it is not some sort of compromise where they were willing to sacrifice the learning environment, as this was not considered to be the case.

3.7.19 The representatives from the school also advised that they believed very strongly that an off-site decant was essential for the St John's redevelopment due to the current site restrictions.

#### Site Options

3.7.20 Consideration of how this project will be delivered is inextricably linked to the approach taken to the delivery of the new Portobello High School and where this would be located. There are a number of options arising regarding where a new St John's RC Primary School could be located as follows:

Site	Size	Constraints and Issues
(i) Existing site with no change to the size of site assigned to St John's RC Primary	0.67ha	<ul style="list-style-type: none"> <li>• Does not resolve the issue for St John's of the current constrained site.</li> <li>• Entire school decant required; expensive and potentially disruptive.</li> <li>• Allows immediate project commencement following statutory consultation regarding decant site.</li> </ul>
(ii) Existing site with the overall area assigned to St John's RC Primary increased using the adjacent High School pitch	1.08ha	<ul style="list-style-type: none"> <li>• This could be either a refurbishment and extension or a new build (with the existing buildings being demolished).</li> <li>• Entire school decant required; expensive and potentially disruptive.</li> <li>• Project could start immediately (following completion of the statutory consultation regarding decant site) if adjacent pitch area released by the High School otherwise would have to await delivery of alternative site option for High School before construction could commence.</li> <li>• Available site area less than the minimum required under the regulations (1.3ha) unless await delivery of alternative site option for High School before construction could commence allowing an increased site size to be allocated.</li> </ul>

Site	Size	Constraints and Issues
(iii) Former Lismore Primary School Playing Fields	1.8ha	<ul style="list-style-type: none"> <li>• Statutory consultation required.</li> <li>• Confirm position regarding planning however this is considered to be high risk.</li> <li>• Confirm any abnormal costs associated with the site.</li> <li>• Confirm any accessibility issues.</li> </ul>
(iv) Baileyfield (Scottish Power) Site	1.3ha	<ul style="list-style-type: none"> <li>• Statutory consultation required.</li> <li>• Site would have to be purchased so additional cost to the project, albeit would be offset by value released from existing site (unless used for a new High School)</li> <li>• Would require the remainder of the site to be sold or re-developed.</li> <li>• Quantify potential acquisition cost and any demolition or abnormal site costs.</li> <li>• Confirm position regarding planning.</li> </ul>
(v) Cavalry Park	1.3ha	<ul style="list-style-type: none"> <li>• Statutory consultation required.</li> <li>• Confirm any abnormal costs associated with the site.</li> <li>• Confirm any accessibility issues.</li> <li>• Confirm position regarding planning; potential risks.</li> </ul>

### Statutory Consultation

- 3.7.21 In the event that it was proposed to build a new school on a different site, a new statutory consultation process under the Schools (Consultation) (Scotland) Act 2010 would require to be undertaken. This would also apply to the location for any intended off-site decant were the refurbishment and extension option or a new build on the existing site to be considered. There are prescribed timescales and processes which apply in these circumstances which would result in this taking a period of six months.

### **3.8 Project Delivery Timescales - New Portobello High School**

- 3.8.1 The original project programme would have allowed the occupation of the new Portobello High School in August 2013 however this was predicated on a decision having been taken regarding the appointment of a contractor in September 2011 as had originally been intended.
- 3.8.2 The start on site for the construction programme was already delayed as a result of the legal challenge. Prior to the recent appeal outcome, had it been possible for the contract to have been awarded fairly soon, the earliest date for an opening would have been the beginning of the 2014/15 school term. Obviously the timescales for the project have now changed significantly.

#### New High School on Portobello Park

- 3.8.3 In the event that one of the legal options resulted in it still being possible to deliver a new school on Portobello Park the associated timescales would be dependent on a number of factors none of which can be predicted with any degree of certainty at this point in time:

1. The time taken to resolve the legal impediment.

2. Whether, or not, we can retain the option to enter into a contract with Balfour Beatty or if a new procurement process would be required which could add up to nine months to the timescales.
3. Whether, or not, it was necessary to progress a revised planning submission if the existing consent expires; this could add up to nine months or more to the timescales. However, steps would be taken to mitigate any such delay as far as possible.
4. The construction period may end at a time when it would not be suitable for the school to migrate to the new building. However, the Council would continue to work towards achieving the earliest date possible for the project delivery whilst aligning this with school curriculum requirements and the necessity to minimise disruption to pupil learning.

#### New High School on a site other than Portobello Park

- 3.8.4 The timescales for the delivery of a new school on a site other than Portobello Park are dependent on the site in question which may have specific issues such as remediation or the relocation of services to be dealt with. The following represents an approximation of what these timescales might be; any proposal to build a combined school would inevitably take longer due to the increased design complexity and a longer construction period. The option to re-build on the existing site should have a delivery timescale comparable to that for new build elsewhere other than timing issues which may arise regarding the demolition of the existing buildings.
- 3.8.5 The timescales include a shorter period than would ordinarily be expected for a project of this scale to take the design development to RIBA Stage C on the basis that considerable work has already been undertaken with the school to get a very clear understanding of requirements. It also reflects a construction period of less than two years which is considered realistic based on the timescales for the existing proposal to build on part of Portobello Park.
- 3.8.6 If a new site was involved which carried any issues this would add to the timescales; the timescale below assumes a 'clean' site with no such complications. Please note that this should be considered as being illustrative and very provisional and possibly overly optimistic and subject to further variation, particularly the period required for planning consideration.

<b>Activity</b>	<b>Timescale (by)</b>
Initial Report to Council	25 October 2012
Initial consultation with Community on options	31 December 2012
Conclusion of statutory consultation and approval of site	31 August 2013
Conclude procurement process and appoint design team	31 August 2013
Design development RIBA Stage C	31 December 2013
Planning pre-consultation process (PAN)	31 March 2014
Design development to RIBA Stage D	30 April 2014

Planning process complete	31 October 2014
RIBA Stage E	31 August 2014
OJEU contractor procurement process	31 August 2014
Construction contract tender process	30 November 2014
Council approval to start of construction contract	31 December 2014
On-site start of construction	28 February 2015
New school construction completion	31 December 2016
New school occupation	January 2017

- 3.8.7 The timeline above assumes that the procurement process to appoint a design team is progressed in tandem with the statutory consultation process. The existing Council architectural framework agreement expires on 8 March 2013 and cannot be extended; it will be re-tendered.
- 3.8.8 This renders the use of this framework, were we to wish to consider that approach, to be of potentially limited value as that might be at a stage which was too early in the process and, given the scale and significance of this project, a wider OJEU process is considered more appropriate.
- 3.8.9 Whilst this does carry a risk that the market would not respond to such an invitation if there was any uncertainty regarding whether any of the option(s) would ultimately be progressed, it does allow a period of six months to be removed from the overall project completion period and, therefore, would be of considerable benefit.
- 3.8.10 The timeline above assumes the appointment of a construction contractor through a full OJEU procurement process. There may, however, be opportunities for savings in time to be possible through using an alternative route such as Hub South East Scotland Limited. This would require detailed consideration at a future juncture and would obviously be dependent on the ability to achieve value for money being fully demonstrated.

### **3.9 Project Delivery Timescales - New St John's RC Primary School**

- 3.9.1 The timescales for delivery of a new St John's RC Primary School are very dependent on the approach taken and whether there are any dependencies on the project to deliver a new Portobello High School. The timescales would also be dependent on the site involved which may have specific issues such as remediation or the relocation of services to be dealt with.
- 3.9.2 The following represents an approximation of what the timescales might be for a new St John's RC Primary School. It assumes a 'clean' start to the project at the end of the statutory consultation period which would be required and that there are no external dependencies on the timing for the start of the project or site issues which could add to the timescales. It also makes no assumptions regarding where the school would be built however

does assume it would be a new build; the construction period for a refurbishment and partial new build would probably be slightly longer.

- 3.9.3 If a revised site was involved which carried any issues this would add to the timescales; the timescale below assumes a 'clean' site with no such complications. Please note that this should be considered as being illustrative and very provisional and possibly overly optimistic and subject to further variation, particularly the period required for planning consideration.

<b>Activity</b>	<b>Timescale (by)</b>
Initial Report to Council	25 October 2012
Initial consultation with Community on options	31 December 2012
Conclusion of statutory consultation and approval of site	31 August 2013
Conclude procurement process and appoint design team	31 August 2013
Design development RIBA Stage C	31 December 2013
Planning pre-consultation process (PAN)	31 March 2014
Design development to RIBA Stage D	30 April 2014
Planning process complete	31 October 2014
Design development RIBA Stage E	31 August 2014
OJEU contractor procurement process	31 August 2014
Construction contract tender process	30 November 2014
Council approval to start of construction contract	31 December 2014
On-site start of construction	28 February 2015
New school construction completion	28 February 2016
New school occupation	March 2016

- 3.9.4 The timeline above assumes that the procurement process to appoint a design team is progressed in tandem with the statutory consultation process. The existing Council architectural framework agreement expires on 8 March 2013 and cannot be extended; it will be re-tendered. This renders the use of this framework, were we to wish to consider that approach, to be of potentially limited value as that might be at a stage which was too early in the process.
- 3.9.5 Whilst this may carry a risk that the market would not respond to such an invitation if there was more than one option and there to be any uncertainty regarding what would ultimately be progressed, it would allow a period of six months to be removed from the overall project completion period and, therefore, would be of considerable benefit.
- 3.9.6 The timeline above assumes the appointment of a construction contractor through a full OJEU procurement process. There may, however, be opportunities for savings in time to be possible through using an alternative

route such as Hub South East Scotland Limited. This would require detailed consideration at a future juncture and would obviously be dependent on the ability to achieve value for money being fully demonstrated. There may also be opportunities for collaboration with other local authorities who may be progressing similar school projects within similar timescales.

### **3.10 Proposed Next Steps Regarding Site Options**

3.10.1 Alternative site options in, or around, the catchment area for a new Portobello High School which would not result in the delivery of **both** the new Portobello High School and St John's RC Primary School being, in some way, excessively compromised (but still representing a compromise) are very limited and can be summarised as follows (not in any order of priority):

1. A new build on the former Scottish Power site at Baileyfield which is currently being marketed for sale.
2. A new build (including, potentially, partial refurbishment) on the existing site but extended to include the site currently occupied by St John's RC Primary School. This would require St John's RC Primary School to be relocated to an alternative site.
3. A new build on part of the Brunstane Estate.

3.10.2 Obviously option 2 above would have a significant impact on the way forward for a new St John's RC Primary School. The site options in, and around, the catchment area which would not result in the delivery of new St John's RC Primary School being, in some way, excessively compromised are also very limited and can be summarised as follows (not in any order of priority):

1. Either a refurbishment of, and extension to, the existing buildings or a new build on the combined area comprising the school's existing site together with the pitch area currently used by Portobello High School.
2. A new build on part of the existing Portobello High School site once it was vacated.
3. A new build on the Scottish Power site at Baileyfield which is currently being marketed for sale.
4. A new build on the former Lismore Primary School playing fields adjacent to Bingham Park.
5. A new build on Cavalry Park, potentially adjacent to the existing Holy Rood RC High School.

3.10.3 Feasibility studies are being progressed regarding the above options to consider all relevant factors regarding the potential for these sites to accommodate a new Portobello High School or a new St John's RC Primary School including the necessity for, and location of, any required decant arrangements and clarification regarding any planning risks.

3.10.4 Once completed, the information from these studies will be used to get informal feedback from the two school communities to inform the extent to

which the Baileyfield site would be an appropriate fall-back should the intention to build the new Portobello High School on part of Portobello Park prove not to be possible.

- 3.10.5 Due to the very limited time available between the October and November Council meetings, and the necessity to reach a quick decision on this matter, the time available to get this feedback is only a matter of weeks.
- 3.10.6 The immediate question which requires to be answered is if the potential acquisition of the former Scottish Power site at Baileyfield should be considered for either a new Portobello High School or a new St John's RC Primary School and this will be the subject of a report to Council on 22 November.
- 3.10.7 It should be noted that even if the acquisition of the former Scottish Power site at Baileyfield was to be progressed for either school, a full statutory consultation process would still have to be undertaken in advance of any project to deliver a new school on that site being progressed.
- 3.10.8 This process would take approximately six months and involve extensive consultation with the school community and other key stakeholders. Thus, whilst the outcome of any statutory consultation obviously cannot be presumed, the opportunity for initial feedback from the school communities would be beneficial in informing a decision regarding the potential acquisition, or not, of the Baileyfield site.

## **4 Financial Implications**

### **4.1 New Portobello High School**

- 4.1.1 The project to build a new Portobello High School is included in the Council's Capital Investment Programme, the existing project budget being £41.5m. Costs incurred to date to take the project to its current stage including provision for potential further legal costs are estimated to be approximately £2.5m leaving an estimated balance of £39m available.
- 4.1.2 Due to the very competitive tender price which had been achieved from Balfour Beatty relating to the construction of the school on part of Portobello Park; after taking into consideration an appropriate provision for contingency and risk, significant savings of £8.6m were already expected within the existing budget. The total costs of delivering the school on part of Portobello Park were estimated to be £32.9m.
- 4.1.3 The additional compensatory measures which it has been recommended now be included within the proposal to build a new Portobello High School on part of Portobello Park would have the following financial impact:
  - (i) The cost to deliver the project would increase by the extent of any works required to convert the remaining site to open space. The costs can only be assessed with any certainty once the final proposals have been determined however, as an estimate, the cost of converting the site to

grass and including fencing, lighting and a small play park (essentially the same as at Portobello Park) would be up to an estimated £650,000.

- (ii) The loss of a potential capital receipt from the disposal of the existing site of approximately £3.5m would not have a direct impact on the project budget for the delivery of a new Portobello High School. However, this anticipated receipt had been identified for other purposes, mainly the part funding required for a new St John's RC Primary School. The headroom within the existing Portobello budget could, however, be available for that purpose.

- 4.1.4 The cost of any alternative proposals to deliver the new Portobello High School will require detailed consideration and will be very much dependent on the approach adopted and, in particular, the site and any associated acquisition and/or abnormal costs which may arise as a consequence.
- 4.1.5 The project budget which remains would have to absorb any design and other professional fees associated with any new proposal and the actual construction costs might be higher than the very competitive position which resulted from the last procurement process. Indeed, the design for the school on an alternative site would inevitably be different in any event which would have an impact on construction costs. Similarly, other sites may carry significant acquisition and/or abnormal costs.
- 4.1.6 Whilst the acquisition cost of alternative sites cannot be established with any certainty, assuming a cost of £0.5m per acre, or £1.2m per hectare, the cost of a 4.5 hectare site would be in the order of £5.4m with the cost of a 2.8 hectare site being in the order of £3.4m.
- 4.1.7 However, there is a fair degree of headroom within the budget to deal with any such new costs and potential variations. Taking the costs to deliver a school on Portobello Park of £32.9m as a proxy, this would leave a balance of £6.1m against the remaining project budget.
- 4.1.8 What is, however, clear is that if any option were to be progressed which involved the necessity for an off-site decant, the additional project costs which would arise only through this option would be **very** significant (estimated to be £7.5m for temporary accommodation alone over the period of a few years excluding any provision for transport and other costs) and would have to be funded from revenue budgets within which there is currently no provision for any such costs.

## **4.2 Combined Portobello and Castlebrae School**

- 4.2.1 A combined school is estimated to have a capacity of around 2,200.
- 4.2.2 Initial analysis has suggested that a capacity of 1,670 could accommodate pupils to 2020. The capacity requirement would shift over time which would suggest a phased approach to construction with an initial core size and an associated expansion strategy might be an option to ensure that the capacity of the school is right-sized over time to meet catchment demand. However,

such an approach would constrain the design, be more expensive in the long term and result in disruption on the site over time when future building extensions and/or adaptations were required.

- 4.2.3 The alternative approach would be to build a larger school from the outset than is required to meet the expected catchment demand up to 2020 however that would require a considerably higher initial financial outlay. This would require further detailed consideration.
- 4.2.4 The Council has no experience of building schools of this size therefore we have drawn from the programme metrics which the Scottish Government would apply for a school of this size which are 10m<sup>2</sup>/pupil and a base cost of £1,900/m<sup>2</sup> as at Q2 2011. For recent secondary school projects we have found that the Scottish Government space metric is slightly insufficient to meet the accommodation requirements therefore a slightly higher metric of 10.4m<sup>2</sup>/pupil has been assumed.
- 4.2.5 For a school with a capacity of 2,200 this would equate to a projected total cost of £43.472m (£1,900/m<sup>2</sup> x 10.4m<sup>2</sup>/pupil x 2,200) to which the estimated cost of a swimming pool of £2m would have to be added giving a total of £45.472m. Estimated construction inflation would also have to be added using a base date of Q2 2011 and an assumed construction start date of February 2015, which would result in a gross projected cost of approximately £46.3m.
- 4.2.6 If a phased approach to construction was taken, the initial outlay would be lower however the overall cost, over time, would be higher due to the inefficiency of building in a phased way and the impact of inflation. The estimated initial cost for a school with a capacity of 1,670 would be £36.172m (£1,900/m<sup>2</sup> x 11.4m<sup>2</sup>/pupil x 1,670) to which the estimated cost of a swimming pool of £2m would have to be added giving a total of £38.172m. Estimated construction inflation would also have to be added using a base date of Q2 2011 and an assumed construction start date of February 2015, which would result in a gross projected cost of approximately £38.9m.
- 4.2.7 These costs exclude any acquisition and/or abnormal costs which may be associated with any site. For a site other than in the Craigmillar area, whilst the acquisition cost cannot be established with any certainty, assuming a cost of £0.5m per acre, or £1.2m per hectare, the cost of a 6.5 hectare site would be in the order of £7.8m.
- 4.2.8 The funding for a stand-alone new Castlebrae Community High School in Craigmillar is expected to come from a combination of Council funding and from PARC from the Craigmillar town centre regeneration initiative. The level of funding, and when it would be available, has yet to be determined and, were this option to be progressed, the level of funding would inevitably be significantly reduced if the site were to be in the Craigmillar Town Centre due to the larger land take required.

### **4.3 New St John's RC Primary School**

#### Cost of New Build on Portobello High School Site

- 4.3.1 The costs of delivering a new build school on part of the existing Portobello High School site once it was vacated are estimated to be £8.923m (as shown in Appendix 6) of which an estimated £4.424m would be provided by the Scottish Government leaving a balance to be met by the Council of £4.499m.

#### Refurbishment and Extension

- 4.3.2 The costs of delivering a refurbishment of, and extension to, the existing buildings on the combined area comprising the school's existing site together with the pitch area currently used by Portobello High School are estimated to be £8.935m (as shown in Appendix 6) of which an estimated £4.424m would be provided by the Scottish Government leaving a balance to be met by the Council of £4.511m. The option for a new build on this extended site would have broadly the same financial implications.
- 4.3.3 However, either of these options would require an off-site decant. The additional project costs which would arise as a result would be very significant (estimated to be £1.4m for temporary accommodation alone over the period of construction excluding any provision for transport and other costs) and would have to be funded from revenue budgets within which there is currently no provision. No additional funding support would be provided by the Scottish Government for these costs.

#### Other Site Options

- 4.3.4 Any alternative proposals to deliver the new St John's RC Primary School on a different site would require detailed consideration. Whilst the actual construction cost of the school is likely to be around the £9m estimated in the recent feasibility study; any other costs would be very much dependent on the approach adopted and, in particular, the site chosen and any associated acquisition and/or abnormal costs which may arise as a consequence.
- 4.3.5 Whilst the acquisition cost of alternative sites cannot be established with any certainty, assuming a cost of £0.5m per acre, or £1.2m per hectare, the cost of a 1.3 hectare site would be in the order of £1.6m.
- 4.3.6 The funding expected to be receivable from the Scottish Government would still be £4.424m however no additional funding would be available for any other costs which may arise relating to site acquisition, decant or any abnormal costs associated with the particular site e.g. if there was a requirement for the demolition of any existing buildings on the site.

#### Sources of Funding

- 4.3.7 There is currently no funding for a new St John's RC Primary School included in the Children and Families Capital Investment Programme.

- 4.3.8 Taking into consideration the funding receivable from the Scottish Government, the funding which would require to be met by the Council is approximately £4.5m (excluding any decant or site acquisition and/or abnormal costs). There are a number of potential sources for this funding:
- (i) Any balance remaining from the Portobello High School budget.
  - (ii) If neither the option to build the new Portobello High School on Portobello Park or via a rebuild on the existing (extended) site is progressed then the capital receipt expected from the disposal of the excess land on the existing combined site is estimated as being approximately either £2.39m or £2.57m depending on the option (in each case calculated as being the anticipated gross receipt less £1m required as under-pinning the Children and Families Capital Investment Programme).
  - (iii) Future funding allocated to the Wave 3 Programme within the Children and Families Capital Investment Programme. The Acting Director of Finance has advised that the forecast £7m which is allocated in the 10 year capital investment programme in 2016/17 remains earmarked for Wave 3 but is obviously subject to the approval of Council during the budget process in February 2013.

4.3.9 It is considered feasible that the funding required from the Council to deliver a new St John's RC Primary School could be accommodated through a combination of the options identified above. The only potential issue which may arise was the extent to which a deficit may arise in the funding required for a new Portobello High School where the costs of delivering the project in a different way could not be accommodated from the headroom which exists in the existing budget for that project.

#### **4.4 Essential Improvement, Repair and Maintenance Works**

- 4.4.1 When Council considered the matter of the Wave 3 schools replacement programme in December 2008; in addition to agreeing that Portobello High School be progressed as the first project for replacement it was agreed that investment in essential improvement works were necessary at all five schools within the Wave 3 programme.
- 4.4.2 The costs incurred to date on these essential improvement works at Portobello High School are £2.025m however, with the delay to the delivery of the new school, it is necessary to review the position again and establish what further works might be required. The continued poor condition of the school has been very recently exemplified by its closure for a day as a result of roof damage.
- 4.4.3 It is not possible at this point to quantify what further costs would be required to maintain the school going forward; this is now being assessed in consultation with the school and an updated condition survey to facilitate this has been requested. Once the scale and costs of any works required has been assessed, consideration will be given to how these will be funded.

## **5 Equalities Impact**

- 5.1 The implications have been taken into consideration during the project development and procurement stages.

## **6 Environmental Impact**

- 6.1 Environmental Impact Assessments were submitted as an integral part of the Planning Application and were considered and approved within this process.

## **7 Conclusions**

- 7.1 The existing Portobello High School needs to be replaced as a matter of priority and every effort should be made to ensure this is achieved at the earliest opportunity.
- 7.2 The approved location for the new Portobello High School on part of Portobello Park remains by far the best option in, or around, the catchment area for the new school. The funding for the project is in place, planning permission secured, the appropriation of the land at Portobello Park approved and a preferred contractor identified and approved at a very competitive tender price.
- 7.3 The recent outcome from the appeal hearing has created a legal impediment to delivering a new school on Portobello Park. A range of legal options have been identified which may have the effect of removing this legal impediment and will be progressed.
- 7.4 In order that the Council maintains an overview of all reasonable alternatives, consideration has been given to what alternative site options could be available in the event that the option of building the new Portobello High School on Portobello Park does not, ultimately, prove to be possible.
- 7.5 The recent announcement of funding support from the Scottish Government for the delivery of a new St John's RC Primary School provides the opportunity to progress this much needed project.
- 7.6 The former Scottish Power site at Baileyfield has been identified as one of few alternative options and this is now in the process of being marketed for sale by the owner. In view of the time constraint this places on the consideration of this option and the requirement to act quickly as it is a limited window of opportunity; it is proposed to consider this, and other options, in more detail and seek informal feedback from the school communities in advance of taking a further report to Council on 22 November.
- 7.7 The next report to Council will recommend what steps, if any, should be taken regarding any proposed purchase of the former Scottish Power site at Baileyfield for either a new Portobello High School or a new St John's RC Primary School.

## 8 Recommendations

8.1 It is recommended that the Council:

- a) notes the contents of this report and the latest position relating to the progress of the project and the associated legal challenge;
- b) reaffirms the view that the site on part of Portobello Park still remains the preferred location for a new Portobello High School and endorses the actions which are either intended, or have already been taken, that may achieve this objective as set out in this report;
- c) approves the actions and recommended next steps regarding the pursuit of legal options and the recommended changes to the compensatory provisions associated with the project to build a new Portobello High School on part of Portobello Park, as set out in paragraph 3.1.26 of this report;
- d) welcomes the funding support provided by the Scottish Government towards the delivery of a new St John's RC Primary School; and
- e) notes the progress made regarding the consideration of alternative site options for both a new Portobello High School and a new St John's RC Primary School and the intention to seek informal feedback from the respective school communities in advance of taking a further paper to Council on 22 November 2012 regarding what steps, if any, should be taken regarding any proposed purchase of the former Scottish Power site at Baileyfield for either a new Portobello High School or a new St John's RC Primary School.

**Gillian Tee**  
Director, Children and Families

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Appendices	<ol style="list-style-type: none"><li>1 Project History</li><li>2 Alternative Site Options for a new Portobello High School</li><li>3 Site Appraisal - Options for a new Portobello High school</li><li>4 Rebuild of Portobello High School on Existing Site</li><li>5 Potential Combined School for Portobello and Craigmillar</li><li>6 New St John's RC Primary School - Feasibility Study</li></ol>
Contact/tel/Email	Billy MacIntyre Tel. No. 469-3366 e-mail: <a href="mailto:billy.macintyre@edinburgh.gov.uk">billy.macintyre@edinburgh.gov.uk</a>
Wards affected	14 Craigentinny/Duddingston; 17 Portobello/Craigmillar
Single Outcome Agreement	Supports National Outcome 4 – 'Our young people are successful learners, confident individuals, effective contributors and responsible citizens'.

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Background  
Papers

- Castlebrae Community High School: Consultation on Option for Closure - Education, Children and Families Committee Report, 9 October 2012
- The New Portobello High School - Council Report, 26 April 2012
- The New Portobello High School - Council Report, 22 September 2011
- Update on Major Projects - Education, Children and Families Committee Report, 21 June 2011
- Capital Investment Programme - Council Report, 10 February 2011
- Portobello High School - Council Report, 11 March 2010
- Wave 3 Schools - Council Report, 12 March 2009
- Wave 3 Schools - Council Report, 18 December 2008
- Wave 3 Business Case Report - Council Report, 26 June 2008
- Consultations on Site Options for the Replacement of Portobello High School - Council Report, 21 December 2006

## **Appendix 1**

### **Project History**

#### **1 Introduction**

- 1.1 The project to deliver a new Portobello High School has already been a very long and complex process. Whilst the detail can be seen in the previous Council reports on the subject, the following represents a summary of the history of the project and the associated legal challenge.

#### **2 Delivery of a new school on Portobello Park**

- 2.1 During 2006 an extensive and comprehensive assessment was undertaken of any potential sites in, and around, the school catchment area for a new Portobello High School and St John's RC Primary School considering factors such as site size, accessibility from the school catchments, site assembly and ownership constraints and any technical and design issues.
- 2.2 As a result of this exercise three potential options for a new High School were short-listed and taken forward as the subject of a full education statutory consultation. These were as follows:
- New High School on the existing site (incorporating St John's RC Primary School);
  - New High School on Portobello Golf Course; and
  - New High School on Portobello Park.
- 2.3 In respect of the replacement of St John's RC Primary School the same three sites were identified for consultation along with a fourth option; to build a new school on Bingham Park. During the subsequent consultation process this fourth option made no public impact and other, better located, options took precedence from a community perspective.
- 2.4 On 21 December 2006 Council approved Portobello Park as the preferred location for the new Portobello High School and a rebuild within the existing Portobello High School site as the preferred location for a new St John's RC Primary School.
- 2.5 On 18 December 2008 Council approved the replacement of Portobello High School as the first project in the Wave 3 Schools Programme and the school in greatest need of replacement. In February 2009, funding was confirmed in the Council's Capital Investment Programme and the project was progressed. The educational vision was established with the school through the production of a Strategic Educational Design Brief which informed the physical aspects of the design which was then developed.
- 2.6 In approving Portobello Park as the location for the new Portobello High School; Council did so subject to a number of conditions all of which were

covered in subsequent reports, concluding with the revised approach to open space compensation approved by Council on 11 March 2010.

- 2.7 As part of the planning application process, the original feasibility study regarding potential sites in, and around, the catchment area was updated and an investigation undertaken regarding any changes which had occurred in the intervening period. The report in June 2010, which formed part of the formal planning application submission for the new school, concluded that the overall position remained unchanged from that undertaken in 2006.
- 2.8 The planning application was advanced through an extensive pre-planning consultation and engagement process with the local community and key stakeholders resulting in the granting of Planning Permission on 24 February 2011.
- 2.9 The full OJEU procurement process for the construction contractor started in December 2010. Following a comprehensive procurement and selection process in full compliance with procurement legislation, the most economically advantageous tender was considered to be that from Balfour Beatty in the sum of £26,114,107. Balfour Beatty achieved the highest overall score and also the highest individual scores for both quality and price. The prevailing market conditions produced an extremely competitive tender value.
- 2.10 Shortly after the completion of the tender evaluation process, a petition for Judicial Review was submitted to the Court of Session questioning the Council's legal ability to use the proposed site at Portobello Park. This required a review of project risks and consideration of the most appropriate next steps.
- 2.11 In order to mitigate the risks going forward, Balfour Beatty was formally approached by the Procurement Team to consider extending the tender acceptance period to ensure the very favourable outcome from the procurement process could be preserved whilst allowing time during which it was hoped that the legal challenge could be dealt with before Council committed to the full construction contract. The resulting confirmation of this extension allowed the procurement process to complete. The contract price, quality and all other contract terms remained unchanged with only the tender acceptance period being extended.
- 2.12 On 22 September 2011 Council approved the recommendation that Balfour Beatty be approved as the preferred contractor and be awarded the contract, with the actual timing of the award of the contract requiring the further approval of Council at an appropriate future date.
- 2.13 The history of the legal challenge is described in more detail in section 3 below. Following the successful conclusion of the initial legal challenge; at its meeting on 26 April 2012 Council:
  - (i) noted the outcome of, and approved the responses to, the consultation exercise under the Town and Country Planning (Scotland) Act 1959;

- (ii) approved the appropriation of the land at Portobello Park for use as the site of the new Portobello High School under the powers available within both the Local Government (Scotland) Act 1973 and section 20 of the Local Government in Scotland Act 2003;
- (iii) approved the acceptance of the tender from Balfour Beatty as the principal construction contractor for the new school, on the condition that the existing appeal be first successfully concluded in favour of the Council or withdrawn; in each case to the satisfaction of the Chief Executive in consultation with the Director of Children and Families and Director of Corporate Governance; and
- (iv) Delegated the authority to take the decision on this matter to the Chief Executive in consultation with the Director of Children and Families and Director of Corporate Governance.

### **3 Legal Challenge**

- 3.1 Since the project was first approved by Council the threat of legal challenge has existed from a local action group, Portobello Park Action Group Association (PPAG), challenging the Council's legal right to use part of Portobello Park as the site for the new school.
- 3.2 At the Council meeting on 18 December 2008 when the project was approved PPAG intimated their intention to submit a legal challenge.
- 3.3 No formal action was taken by PPAG until March 2011 when they wrote to the Council's Head of Legal Services suggesting a joint court action. It was the considerable period of time between the project being approved (and PPAG having first intimated their intention to proceed with a legal challenge) and there being any suggestion of legal action actually being initiated which precipitated the Council's later assertion to the Outer House of the Court of Session during the initial hearing that the subsequent petition be dismissed due to excessive delay.
- 3.4 On 11 April 2011 the Council confirmed that they had counsel's opinion, and stated: "The Council is of opinion that there is no requirement for it to obtain the court's consent for its proposed use of the park, in terms of the Local Government (Scotland) Act 1973 and there is not any mechanism for obtaining such consent in the circumstances currently envisaged. As such, we would not be willing to enter into any kind of joint approach to the courts in this regard."
- 3.5 A few months later, on 6 July 2011 PPAG sent the Council an e-mail advising that they were proceeding with a judicial review and, on 14 July 2011, PPAG's solicitors sent a copy petition to the Council, asking for their undertaking not to commence building works. The petition was lodged with the Court of Session on 9 August 2011.
- 3.6 The petition was heard in the Outer House of the Court of Session over three days in January and February 2012. On 7 March 2012, the Court of Session published the Opinion of Lady Dorrian, finding in the Council's favour <http://www.scotcourts.gov.uk/opinions/2012CSOH38.html>.

- 3.7 Lady Dorrian found that there had been a considerable delay in bringing the petition and the Council's first plea-in-law that the petition from PPAG should be dismissed on grounds of mora, taciturnity and acquiescence (delay) was upheld.
- 3.8 In addition to dismissing the petition on these grounds, Lady Dorrian also expressed her 'obiter' views on the merits of the case, concluding that the Council did have the power to appropriate inalienable common good land under the Local Government (Scotland) Act 1973. This judgment therefore supported the position adopted by the Council since December 2008.
- 3.9 The Rules of Court make provision for an appeal to be made to the Inner House against an opinion of the Outer House of the Court of Session. Any appeal had to be submitted by 28 March 2012; this being 21 days from the publication of the original judgment. The solicitors acting for the Council were advised on 27 March 2012 that a 'Reclaiming Motion' was to be enrolled in Court that afternoon i.e. lodging an appeal against the Outer House decision.
- 3.10 PPAG were advised that the Council would use all measures at its disposal to rigorously defend against this appeal and a motion was submitted by the Council to the Court for urgent disposal of the appeal; this was heard in the Court of Session on 10 April 2012. The Court accepted the necessity for urgency in this matter and agreed that the appeal hearing would be held in late May being the earliest date that sufficient time was available in the Court diary.
- 3.11 The appeal was heard in the Inner House of the Court of Session on 23 and 24 May 2012 during which the Court, in response to PPAG's request that the Court reviewed the decision taken by the Council in April 2012, also considered the right of the Council to appropriate the land at Portobello Park under the powers contained within the Local Government in Scotland Act 2003.
- 3.12 On 12 September 2012, the Opinion of the Inner House relating to the appeal was published <http://www.scotcourts.gov.uk/opinions/2012CSIH69.html>.
- 3.13 The Inner House of the Court of Session found in PPAG's favour on the delay point and concluded that the Council could not appropriate the land on part of Portobello Park under either the Local Government (Scotland) Act 1973 or the Local Government in Scotland Act 2003.

## Appendix 2

### Alternative Site Options for a New Portobello High School

#### 1 Existing School Site

- 1.1 The existing site for Portobello High School extends to 2.79 hectares and is adjoined by St John's RC Primary School which extends to a further 0.67 hectares. The combined site extends to approximately 3.46 hectares.
- 1.2 The existing school, completed in 1964, is set out in eight separate buildings. The main teaching accommodation is a multi-storey tower block. The remainder is housed in a two to three storey annex along with more recent additions for games and dining facilities.

#### 2 Size of Site Required

- 2.1 The size of site for any new (or replacement) school is prescribed in the School Premises (General Requirements and Standards) (Scotland) Regulations 1967. For a new Portobello High School with a roll of 1,400, the total site size should be 6.8 hectares comprising two elements for which the appropriate sizes are defined separately:
  1. A main school site on which the actual school buildings are located of not less than 2.8 hectares; and
  2. An area for playing fields of not less than 4.0 hectares.
- 2.2 In certain circumstances, a smaller site area for either element can be provided with the consent of the Scottish Government subject to it being agreed that it would be impractical or unreasonable to apply the standards within the legislation.
- 2.3 The regulations do not actually require that playing fields (or pitches) are adjacent to the actual school building but that they are *available* to the school i.e. could be elsewhere and off-site.
- 2.4 It should also be noted that the playing fields areas stipulated in the 1967 regulations pre-dated the introduction of synthetic playing surfaces. By providing full-sized all weather pitches, significantly greater functionality and availability can now be offered than a grass area of greater size. This is an approach very much supported by sportscotland so there should be no perception of any reduction in area being a deficit in the amount of space which is necessary, usable and appropriate.
- 2.5 In Edinburgh there are many schools where the maximum prescribed areas for playing fields are not met however the city complies with the regulations by virtue of the extensive alternative pitch provision which is *available* to schools throughout the city (such as Cavalry Park, Meggetland and Kirkbrae). Taking the area of such off-site facilities into consideration the area available more

than exceeds the minimum requirement. The position at Portobello is no different.

- 2.6 The following configuration options could deliver a dedicated high school building site of a minimum of 2.8 hectares (or lower subject to this being feasible and any proposal having the consent of the Scottish Government) with pitches being available to the school through either:
- (i) no pitches being adjacent to the school with provision being elsewhere in the area through off-site facilities (perhaps all or, in part, through new provision);
  - (ii) a single pitch being adjacent to the school supplemented by off-site facilities (again, perhaps through new provision); or
  - (iii) two pitches being adjacent to the school; considered to be very much the preferred and optimum scenario and that which is the design proposition for the new school on part of Portobello Park.

### **3 Previous Consideration of Site Options**

- 3.1 In August 2006 Smith Scott Mullan Associates completed a feasibility study which considered potential site options in, and around, the Portobello catchment area and evaluated their suitability for a new Portobello High School together with a number of sites for the possible re-location of St John's RC Primary School. The sites were subject to a detailed assessment based on a range of relevant criteria including educational, technical, ownership and planning considerations.
- 3.2 In light of the difficulties of finding a site in the area which would extend to a full 6.8 hectares, a target site size of 4.5 hectares was set to allow for one all-weather pitch on-site. This was, and remains, very much a target and the actual requirement for any site would need to be subject to a detailed specific assessment taking into consideration factors such as site topography and any building height restrictions due to adjacent properties or protected views; however it remains a reasonable baseline to use.
- 3.3 The study investigated the suitability of 15 sites (including three for the potential re-location of St John's RC Primary School) most of which were considered to be unsuitable for a variety of reasons including being too small, being poorly located, not being in Council ownership and subsequently being too expensive to deliver or would face planning difficulties.
- 3.4 Three options were taken forward for statutory consultation being new build on the existing site (in combination with the St John's site); a new build on Portobello Golf Course and new build on Portobello Park which was ultimately approved by Council in December 2006.
- 3.5 The project to build a new school on Portobello Park was initiated in December 2008 when Council approved it as the first priority for replacement in the Wave 3 school replacement programme.

- 3.6 In June 2010, as part of the planning application process, Smith Scott Mullan Associates were commissioned to update the original feasibility study on potential sites in, and around, the catchment area and to investigate any changes which had occurred in the intervening period. Their report, which formed part of the formal planning application submission for the new school, concluded that 'Although we identified a number of changes which had occurred to the sites over an almost four year period, our conclusion from this process was that none of these had altered the fundamental position stated in our initial report'.
- 3.7 The June 2010 report includes a great deal of detail regarding the sites considered and the assessment of their suitability; the details are not replicated here however the full report can be accessed through the following link <https://citydev-portal.edinburgh.gov.uk/portal/getEdmDoc?docid=532672371>

#### **4 Alternative Site Options**

- 4.1 Whilst the site at Portobello Park remains by far the best available for a new Portobello High School in, or around, the catchment area; in light of the outcome of the recent appeal to the Court of Session, consideration has been given to what other options may exist now recognising that any alternative would represent a significant compromise by comparison.
- 4.2 In the limited time available, a review has been undertaken of the area using the June 2010 report as the baseline point of reference. The previously identified sites have been reviewed and any changes in the interim assessed. A mapping of these sites, together with an identification of any changes in circumstances in the intervening period, is shown in Appendix 3.
- 4.3 This assessment has re-considered the issues with each site which prevailed in June 2010 and has also taken into consideration informal feedback from Planning.

##### *New Sites*

- 4.4 The Council Estates team has also undertaken a search for any new potential sites in the area. Only one has been identified which is the 'Big W' site located between the A1 'Milton Link'.
- 4.5 The site is 2.76 hectares and, therefore, slightly smaller than the existing school site and well below the target site size. This site is sandwiched between the A1 and the East Coast main line railway and is a long, rectangular area running north-south with road access from a roundabout on the A1 at the southern end. Pedestrian routes and general accessibility is constrained as is only available through two underpasses beneath the A1 from the main catchment area to the west and north plus a route across the railway footbridge from the east. No bus routes directly serve the site and the location and access is considered to be poor. For these reasons, this site was discounted.
- 4.6 Several other options which are not existing, or obvious, sites were highlighted in the press or local social media and were considered but discounted due

primarily to either the excessive complexity which would be involved and the time and cost which would be associated with site assembly for those which would involve the displacement of many existing, established businesses.

## **5 Re-build on Existing Site**

- 5.1 Included at Appendix 4 is a study which takes the footprint of the intended school design at Portobello Park and overlays this on the existing school site; the current secondary school and primary school sites are shown by dotted red-lines. Whilst the final design of a school on the existing site would inevitably be different, this clearly shows that the existing (even combined) site is far too small to incorporate the design and full range of facilities planned for Portobello Park.
- 5.2 Whilst the sites are obviously different in nature and a different design would be required; the massing of the building form should be fairly comparable as the permissible maximum height for any new build on the existing site is expected to be three storeys which is similar to that for the existing design for a school on part of Portobello Park.
- 5.3 Whilst a detailed feasibility study is required to consider the option of re-build on the existing site in more detail, the following general conclusions can be drawn:
- Whilst a new secondary school could probably be accommodated on the existing secondary school site, this would not permit the inclusion of even a single all-weather pitch or allow for the desired expansion of St John's RC Primary School.
  - A new secondary school and a single pitch could possibly be accommodated on the combined existing site however that would still be a tight site and would require St John's RC Primary School to be relocated to another site.
- 5.4 The costs of delivering a new Portobello High School on the existing site would be very much dependent on the design. Options such as the potential refurbishment of the existing building, or retention of the more recently completed sports halls as part of a new school on the existing site, require detailed consideration and assessment.

## **6 Decant**

- 6.1 Any option to re-build on the existing site would potentially require an off-site decant which would entail significant challenges and a potentially negative impact; would require the identification of an appropriate off-site location and would entail significant additional revenue costs.
- 6.2 The costs associated with decant would require detailed assessment however, for illustrative purposes, the costs associated with the installation and rental of temporary accommodation alone for 16,000m<sup>2</sup> over a period of 24 months are

estimated to be £7.5m. This excludes any provision for transport and other costs which may arise such as the rental of any site not in Council ownership.

- 6.3 The costs associated with any decant could be reduced considerably if there was any suitable alternative accommodation within a reasonable distance from the existing school site. One potential option could be the use of the existing Castlebrae Community High School building regarding which a statutory consultation is due to commence shortly regarding its potential closure at the end of the 2012/13 school year. The conclusion and final decision from this process will not, however, be known until the end of April 2013 therefore the availability of such an option could not be presumed.
- 6.4 In addition, the capacity of Castlebrae Community High School of 700 (including 100 for vocational places), is considerably lower than the Portobello school roll. Were this option to be available and to be contemplated, consideration would have to be given to how, and where, any additional accommodation would be provided either adjacent to Castlebrae or elsewhere; perhaps adopting a split site arrangement between the upper and lower school as has been required for the decant of James Gillespie's High School.
- 6.5 A feasibility study was undertaken in 2003 by Atkins which looked at several new build options for a new school on the existing site and also ways in which a phased build programme could be undertaken to allow an on-site decant to be progressed. This involved a combination of some temporary accommodation being located on the site but the overall requirement being reduced by adopting a phased approach to the new build and gradually deploying staff and pupils into parts of the new building on completion.
- 6.6 Whilst this feasibility study did conclude that such options were possible there are significant doubts regarding whether this would actually be achievable or deliverable. Such an approach would, if feasible, probably reduce the additional cost of temporary accommodation and the necessity for an off-site decant site. However, this would introduce significant risks to the project and would inevitably compromise the design as this would have to be capable of delivery in a specifically phased way. A phased approach would also prolong the construction period by potentially an additional year, further exacerbating the disruption to operating a school on-site for the duration of the project.
- 6.7 There are also factors used in the original Atkins study which are inconsistent with the current approach to the school. The original study allowed no space for the necessary expansion of St John's RC Primary School (from its current very constrained site) and was based on an area of either 14,600m<sup>2</sup> or 15,200m<sup>2</sup> (two options were identified) compared with the area identified for the current new school of around 17,000m<sup>2</sup>.
- 6.8 If such an option were to be contemplated as being worthy of further consideration, an updated detailed feasibility assessment would require to be undertaken and this would be based on the entire existing site incorporating the area currently occupied by St John's RC Primary School.

## **7 Statutory Consultation Requirements**

- 7.1 In the event that any change is proposed to the previously agreed and approved site for a new school on part of Portobello Park, a new statutory consultation process under the Schools (Consultation) (Scotland) Act 2010 would require to be undertaken.
- 7.2 This would apply to any new site and also for any intended off-site decant site were a re-build on the existing school site to be proposed for consideration. There are prescribed timescales and processes which apply in these circumstances which would result in this taking a period of six months as was the case when this was undertaken recently for proposals in respect of a new Boroughmuir High School.
- 7.3 On 9 October 2012 the Education, Children and Families Committee approved a recommendation to consult on the proposed closure of Castlebrae Community High School with effect from the end of the 2012/13 school year. This proposal is based on changing the non-denominational catchment area for the Castlebrae area (with the exception of Prestonfield which would be assigned solely to Liberton High School) to Portobello High School.
- 7.4 If the recommendation to consult on potential closure is approved, and any proposal to close the school was ultimately agreed by Council, the final decision would not be realised until the end of April 2013. During this period, although the outcome of any consultation process regarding closure would not be concluded, it is likely that any consultation regarding potential new site (or decant) options for Portobello would require to be undertaken.
- 7.5 The legislation requires us to consult with anyone affected within two years of any proposal being implemented which would suggest we would also have to consult with those within most of the Castlebrae catchment area which could be amended (to Portobello) were the school to close. This would not be to pre-judge the outcome of the separate consultation process relating to the potential closure of Castlebrae Community High School however could obviously be perceived as doing so.



## 2 Site Appraisal

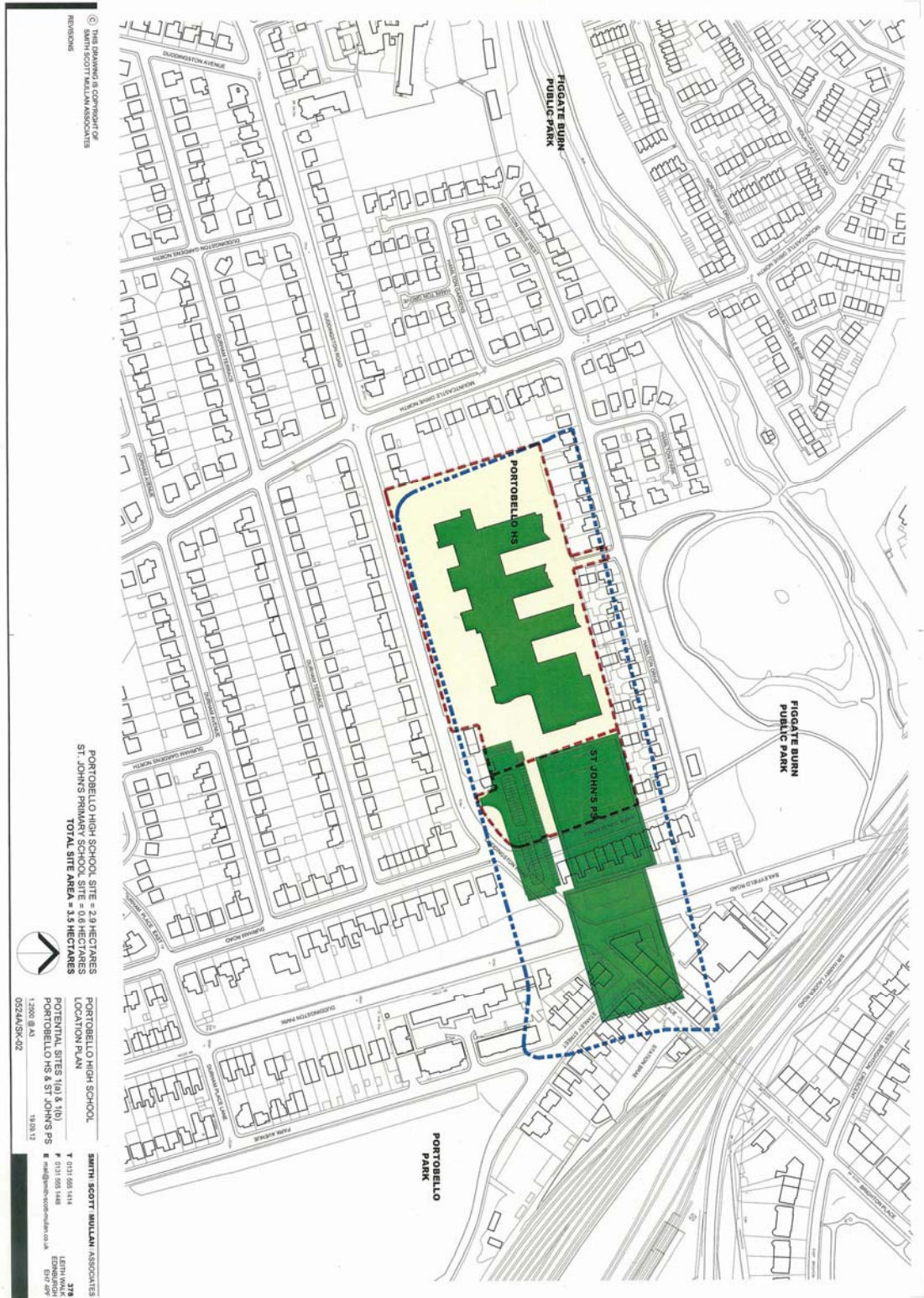
- 2.1 The text from the last feasibility report updated in June 2010 is shown below with any changes which have been identified in the intervening period being shown in italics.

Site	Appraisal
<p>Site 1 (a) (b) Portobello High School and St John's Primary School. Site area: 3.5 HA</p>	<p>The high school site on its own was too small to deliver the specification for the new high school. A combination of the high school and primary school sites would still fall short of the anticipated site of 4.5 HA but could provide opportunities to deliver a school and an all weather pitch.</p> <p>This site was therefore taken forward for detailed analysis and subsequently it was agreed should be one of the original consultation proposals.</p> <p><i>Update : No change to appraisal</i></p>
<p>Site 2 (a) (b) Portobello Park Area 1 (golf course) and Area 2 (pitches) Site area: 19 HA</p>	<p>Both sites were considered central to the catchment area. Pitch site more accessible due to location on main road.</p> <p>Both sites were taken forward for detailed Stage 2 analysis and subsequently it was agreed both should be considered individually as consultation proposals.</p> <p><i>Update: Regarding 2(a), The Golf Course, this is one of the Parks and Open Spaces which may potentially be dedicated as a Diamond Jubilee Field. Area 2(b) remains the Council's preferred site.</i></p>
<p>Site 3 (a) (b) (c) Bingham Park Area 1 (Lismore playing fields) and Area 2.</p> <p>A further assessment to consider the further extension of the site was made following the closure of Lismore Primary School. Site area: 6.8 HA</p>	<p>The Bingham Park Area sites were poorly located in relation to the catchment area and access was difficult given the narrow streets leading there, creating potential traffic issues. For these reasons these sites were discounted. The closure of Lismore Primary School has made the available site around 1HA larger however the issues of location and accessibility remain.</p> <p><i>Update: For 3(a) and 3(b) there has been no change. For 3(c) the former Lismore Primary School has subsequently been demolished and the site selected as the location for the replacement Seaview Respite Centre which is currently under construction.</i></p>
<p>Site 4 Freightliner Terminal Site area: 2.9 HA</p>	<p>Too small with difficult pedestrian and vehicular access. Also unlikely that planning permission would be granted for school use as it had been identified in the local plan as a business and industry area.</p> <p><i>Update : No change</i></p>
<p>Site 5 Cavalry Park Site area: 14.9 HA</p>	<p>Discounted due to insurmountable planning issues. The greenbelt, nature conservation and designed landscape designations meant the only remaining developable area was utilised for the new Holy Rood High School. Site also poorly located on the periphery of the catchment area.</p> <p><i>Update: No change regarding the potential for a secondary school however, whilst there may be some associated planning risks, a potential option for St John's RC Primary School requires further investigation and has not been discounted.</i></p>

Site	Appraisal
Site 6 (a) (b) Baileyfield (BLD Developments) – formerly Scottish Power and Baileyfield (Standard Life) Site area: 7.6 HA	<p>The BLD development site on its own was too small but if the Standard Life site was included it would be big enough. However the cost of acquiring these sites, including the disturbance claims resulting from the relocation of businesses would have been extremely costly and alternative locations required for the businesses. These costs mean this site was not deemed feasible or deliverable and was therefore discounted.</p> <p><i>Update: Regarding 6(a) the site is now for sale and is being considered with an option appraisal and feasibility study underway. Regarding 6(b) no change other than the potential for Baileyfield depot site to be used being explored.</i></p>
Site 7 (a) (b) The Jewel Site area: 9.7 HA	<p>Poorly related to the catchment area, located on the southernmost boundary. Its development would also lead to the loss of a significant proportion of existing open space in the area. The site itself has flooding issues and its development would require the relocation of sewers crossing the site.</p> <p><i>Update: The advice from the hydraulic modelling of the area confirms the risk of flooding and the recommendation not to consider this area as a development site.</i></p>
Site 8 Powerleague Site area: 1.9 HA	<p>Discounted as too small for the high school.</p> <p><i>Update: No change overall, potential for link to Site 6(a) as a way of potentially meeting some of the sports requirements (albeit only through 5-a-side pitches) is being evaluated.</i></p>
Site 9 Marine Bus Garage Site area: 3.3 HA	<p>The depot size on its own is too small for a school and to achieve this would require the purchase of the adjacent garage and workshop in ownership of the John Martin Group. The cost of purchase together with the disturbance allowances in relocating both businesses, assuming alternative sites could be found, would run into many millions. These sites were therefore discounted as being too costly and undeliverable.</p> <p><i>Update: No change.</i></p>
Site 10 (a) Meadowbank Stadium Site area: 9.9 HA	<p>The site is outwith the catchment area and is unlikely to become available in the timeframe.</p> <p><i>Update: No change.</i></p>
Site 10 (b) St Margaret's House Site area: 0.8 HA	<p>Discounted as too small and outwith the catchment area.</p> <p><i>Update: No change.</i></p>
Site 11 City Edge Greenbelt Site area: 5.8 HA	<p>Discounted as unlikely to secure planning permission as release of further greenbelt land for development.</p> <p><i>Update: Planning Consent granted for housing to the south. The site is poorly located relative to the majority of the catchment population however due to the size of the site potentially available an option appraisal is underway to assess its potential and overall feasibility. The area potentially available is now larger as shown on the overall sites drawing in section 1.</i></p>
Site 15 Waterfront Site area: NA	<p>Discounted on the advice of planning given the international nature of conservation designations and the difficulties with construction.</p> <p><i>Update: No change.</i></p>

# Appendix 4

## Re-build of Portobello High School on Existing Site



## Appendix 5

### Potential Combined School for Portobello and Craigmillar

#### 1 Introduction

- 1.1 On 9 October 2012 the Education Children and Families Committee approved a recommendation to consult on the proposed closure of Castlebrae Community High School with effect from July 2013.
- 1.2 Whilst there will be sufficient spare capacity in other secondary schools in the local area to 2020 to accommodate the expected demand for catchment places; it is anticipated that through a combination of the expected increase in secondary school rolls and the projected significant new housing development in Craigmillar, ultimately a new school will be required for the Craigmillar area.
- 1.3 In the circumstances, the potential exists to create a single new school to accommodate both Portobello and Castlebrae catchment populations. This would be one of, if not the, largest secondary school in Scotland and there are educational, logistical, accessibility and financial factors to take into consideration which are assessed in detail below together with what site options might be available in the area to accommodate a school of this size.

#### 2 Projected Capacity

- 2.1 The required capacity for a combined school will depend on a number of factors.
- 2.2 The latest projected rolls for the two schools up to 2020 are shown below which have been based on a number of assumptions including the continuation of existing pupil patterns. The detailed assumptions are set out in the Report to the Education Children and Families Committee on 9 October 2012.

Year	Portobello Roll	CCHS Roll	Combined Total
2013	1,251	174	<b>1,426</b>
2014	1,218	164	<b>1,382</b>
2015	1,189	158	<b>1,349</b>
2016	1,165	161	<b>1,328</b>
2017	1,164	183	<b>1,348</b>
2018	1,176	209	<b>1,385</b>
2019	1,191	237	<b>1,428</b>
2020	1,211	273	<b>1,484</b>

- 2.3 Current stay-on rates at Portobello are around 90% at S5 and 75% at S6. Using these stay-on rates, the capacities of a new school and its corresponding intake limit would be as shown in the table below. Stay-on rates from the

Castlebrae population are lower however the majority of the cohort would be formed of Portobello pupils.

Intake	Capacity
260	1,450
280	1,560
300	1,670
320	1,785
340	1,900
360	2,010
380	2,120
400	2,230

- 2.4 A capacity of 1,560 could contain the rolls until 2020 with a corresponding intake limit of 280. However, the forecast rolls above are based on an assumption that a proportion of the existing catchment population in each area would attend schools other than their catchment school. This is particularly significant in Castlebrae which currently retains only 31% of its catchment population (albeit 15% already attend Portobello). The position is far less acute in Portobello.
- 2.5 It is conceivable that the opening of a new combined school could change these existing patterns and result in a shift of the catchment population to the new combined school in the future. This has been considered, including the potential for the proportion of the catchment population attending local denominational secondary schools to come more into line with the city average; it is currently very high in the Castlebrae area by comparison. All things considered, a capacity of 1,670 (and an S1 intake of 300) would give greater certainty that pupils could be accommodated to 2020.
- 2.6 The combined existing proposed capacity of the two school projects is 2,100 places (1,400 at Portobello and 700 at Castlebrae; the latter excluding the requirement which had been identified previously to also have the opportunity to expand capacity to 900 at a later date should that be required but including 100 vocational places). There is, however, a question regarding what effect the creation of a single school that no longer solely serves the individual areas would be.
- 2.7 One would assume that a higher catchment population capture rate would be achieved from the Castlebrae area. New housing development in the Craigmillar area could eventually lead to the current Castlebrae catchment population rising to above 1,000 pupils. Assuming a 20% loss rate from that catchment population (to denominational and other schools) would equate to 800 pupils. Accordingly an ultimate combined pupil capacity of up to 2,200 may be required in the longer term and has been used as a working assumption.

- 2.8 Consideration of such factors is relevant in determining capacity and the size of site required. The shift in capacity requirement over time would suggest a phased approach to construction with an initial core size and an associated expansion strategy being sensible to ensure that the capacity of the school is right-sized over time to meet catchment demand. However, such an approach would constrain the design, be more expensive in the long term and result in disruption on the site over time when future building extensions were required.
- 2.9 The alternative approach would be to build a larger school from the outset than is required to meet the expected catchment demand to around 2020 however that would require a considerably higher initial financial outlay. These issues would require further detailed consideration.

### **3 Size of Site Required**

- 3.1 The size of site for any new (or replacement) school is prescribed in the School Premises (General Requirements and Standards) (Scotland) Regulations 1967. For a new combined Portobello and Craigmillar High School with a roll of an assumed 2,200, the total site size should be 9.2 hectares comprising two elements for which the appropriate sizes are defined separately:
1. A main school site on which the actual school buildings are located of not less than 3.6 hectares; and
  2. An area for playing fields of not less than 5.6 hectares.
- 3.2 In certain circumstances, a smaller site area for either element can be provided with the consent of the Scottish Government subject to it being agreed that it would be impractical or unreasonable to apply the standards within the legislation.
- 3.3 The regulations do not actually require that playing fields (or pitches) are adjacent to the actual school building but that they are available to the school i.e. could be elsewhere and off-site.
- 3.4 It should also be noted that the playing fields areas stipulated in the 1967 regulations pre-dated the introduction of synthetic playing surfaces. By providing full-sized all weather pitches, significantly greater functionality and availability can now be offered than a grass area of greater size. This is an approach very much supported by sportscotland so there should be no perception of any reduction in area being a deficit in the amount of space which is necessary and appropriate.
- 3.5 In Edinburgh there are many schools where the maximum areas for playing fields are not met however the city complies with the regulations by virtue of the extensive alternative pitch provision which is *available* to schools throughout the city. Taking the area of such off-site facilities into consideration the area available will more than exceed the minimum requirement. The position for a combined school would be no different.

- 3.6 The following configuration options could deliver a dedicated school building site of a minimum of 3.6 hectares (or lower subject to this being feasible and any proposal having the consent of the Scottish Government) with pitches being available to the school through either:
- (i) no pitches being adjacent to the school with provision being elsewhere in the area through off-site facilities (perhaps all or, in part, through new provision); or
  - (ii) up to an estimated three pitches being adjacent to the school supplemented by off-site facilities (again, perhaps through new provision).
- 3.7 As highlighted above, the minimum requirement is that set out for the school site (i.e. the building) and provision for pitches can be made off site. However, a hybrid size is recommended if we want to locate some pitches on site. Each full size pitch takes around 0.7 hectares therefore an additional 1.4 hectares (2 pitches) or 2.1 hectares (3 pitches) would be added to the immediate school site.
- 3.8 For a combined school with three adjacent pitches this would result in a hybrid site size of 5.7 hectares. The actual requirement for any site would need to be subject to a detailed assessment of requirements taking into consideration factors such as site topography and any building height restrictions due to adjacent properties or protected views. However, for the purposes of considering options at this point a target site size of 6.5 hectares has been identified to allow a degree of headroom against the hybrid 5.7 hectares.

#### **4 Site Options**

- 4.1 Using a target site size of 6.5 hectares only two options have been identified in the general area which could accommodate a site of this size; these are both in the Castlebrae catchment area and are described in detail below.

##### *Brunstane Estate*

- 4.2 Brunstane Estate, the location of which is broadly Site 11 in Appendix 3, is understood to have the potential to realise an area of sufficient size for a combined school.
- 4.3 This requires further consideration and exemplification of any issues or site constraints and other factors such as accessibility all of which is currently being assessed in detail.

##### *Craigmillar Area*

- 4.4 PARC has confirmed that there is the potential for a site of this size to be identified in the Craigmillar area as part of the town centre regeneration proposals.
- 4.5 The existing master-plan for the regeneration of the area showed the school in a town centre location although planning permission for the school design was

never sought as the project was put on hold due to the economic down-turn. The existing site for the school and surrounding green area extended to 5.73 hectares. Adjacent housing plots within the existing master-plan could have further extended the area available. Whilst the area allocated to the school was only a fraction of this total, it was a much larger site due to a number of factors including:

- The inclusion of other uses such as community library and a leisure/sports facility which were part of the brief at the time;
- Around half of the green area provided the grass pitch and green spaces that were to be "shared" by the community; and
- The school buildings had been designed generally as two-storey buildings but, in turn, the school was to share the car park at the proposed food-store which, at the time, was intended more as general town centre parking than solely for food-store use.

4.6 PARC has advised they are currently considering the future direction for the regeneration of the Craigmillar town centre and that a new community high school remains a critical part of their master plan for the Craigmillar town centre. PARC is currently reviewing the bids of potential development partners who will be delivering the new town centre, and an announcement will be made on the preferred partner by early 2013. The intended location for a new school will form an integral part of any proposals. In the event that any change is proposed to the previously agreed and approved site for a new school, a new statutory consultation process under the Schools (Consultation) (Scotland) Act 2010 would be required.

4.7 As part of the process of securing a joint venture partner to deliver the town centre vision; PARC have been doing so on the understanding that, whilst the various town centre uses are secured under the outline-planning of the existing master-plan, the locations of each of these uses are not and can be reviewed and revised as the master-plan and the business plan are developed.

4.8 PARC has advised that, whilst an area of this size could be accommodated, no matter where the final site would be for such a combined school in the town centre area, it would be a significant development. In light of the potential physical size and intensity of use, consideration would have to be given to many factors including place-making, infrastructure, transportation and the impact on, as well as possible opportunity for, the local community. The implications of such a proposal would, however, require to be considered in far greater detail.

4.9 One thing which is, however, clear at this point is that the additional land-take involved would inevitably have significant commercial implications in the business plan as this land would otherwise be earmarked for commercial and/or residential uses. More recently PARC has been working on the basis of an urban school in Craigmillar which would require a land-take more in the order of between 2.5 and 2.7 hectares. A combined school could have an additional requirement of up to a further 4 hectares.

## **5 Statutory Consultation Requirements**

- 5.1 In the event that such a proposal was to be considered, a statutory consultation process under the Schools (Consultation) (Scotland) Act 2010 would require to be undertaken with the Portobello and Castlebrae school communities and wider stakeholder interests in the respective areas.
- 5.2 There are prescribed timescales and processes which apply in these circumstances which would result in this taking a period of approximately six months.

## **6 Educational and Other Factors**

- 6.1 Consideration has been given to the educational and other factors associated with large schools however further more detailed assessment and research would be required to fully explore this as an option. The following represents an initial assessment.

### *Context*

- 6.2 The City of Edinburgh Council has not, historically, pursued a strategy which focuses on building large schools and has, instead, focused on building schools which are located within their communities.
- 6.3 There are examples elsewhere in Scotland of large schools which are high performing and meet the needs of learners. Holyrood High School in Glasgow currently has 2,000 pupils (but has had up to 2,400 in the past) and there are two large schools in Fife - Bell Baxter High School (1,800 pupils) and Queen Anne High School (1,600 pupils).

### *Curriculum*

- 6.4 Larger schools are often perceived as being able to offer a greater range of curriculum options however all schools of between 1,000 and 1,200 pupils are able to offer the same choices. There is no obvious advantage in having a school of around 2,200 with regard to the curriculum.
- 6.5 Within the City of Edinburgh, consortia arrangements exist for the delivery of senior school courses across neighbouring schools and curricular provision will be strengthened as we move to full implementation of the Senior Phase of Curriculum for Excellence. The provision offered by the new Edinburgh College will also contribute to the Senior Phase delivery. There is no obvious curriculum area which we are not currently able to offer in our schools or through consortia approaches already being operated.

### *Learning and Teaching*

- 6.6 There is educational research to suggest that the optimal size for a secondary school is between 600 and 1,600 pupils. It is not impossible to have a successful school which is larger than this however it is more difficult.

- 6.7 It can also be disruptive to learning and teaching if the school building is spread out over a large physical area where, for each period change in a secondary school, there is a loss of teaching time of more than 5 minutes.

#### *Pastoral Care*

- 6.8 A large school would have appropriate pupil support staffing ratios. Pupil Support staff are likely to have a caseload of between 200 and 250 pupils as is the case across the city at present and so there are no obvious disadvantages in delivering an appropriate level of pastoral care within a large school.
- 6.9 There are potential disadvantages in terms of perception that, in a very large school, pupils would not be seen as individuals nor known to staff. In the case of pastoral support this would not be the case given the Pupil Support staffing ratios however a very large school would have to ensure that there were a range of measures in place in order that young people felt safe and knew what staff they could approach.
- 6.10 It is also likely that within a very large school, pupils would be organised into cohorts so that there are schools within the overall school e.g. a year group cohort of 400 pupils or a House group of between 500 and 600 pupils.
- 6.11 In Holyrood High School in Glasgow, Pupil Support is delivered in a horizontal Pupil Support structure as opposed to a vertical structure. This means that there are two Pupil Support staff for a year group cohort of 400 and a Depute Head Teacher who fulfils the role of Year Head.
- 6.12 In the City of Edinburgh it is considered best practice to have vertical structures as is the case in the majority of our schools where pupils across all year stages are organised into 'Houses' with associated Pupil Support staff and a Depute Head Teacher as House Head. Young people stay within this House or 'family' for their whole school experience from S1 onwards. This has the advantage of forming strong links with the family and is easier for parents to get to know key staff who will be involved with all of their children as they move through the school as opposed to the horizontal structure where pupils are passed on an annual basis to different Pupil Support staff and a different Year Head requiring considerable information transition towards the end of each session.

#### *Number of Teaching Staff*

- 6.13 In very large schools, there are likely to be around 200 teaching staff. A disadvantage for pupils is that it is highly unlikely that all staff will know all children. The advantages of having a greater number of staff in terms of staff professional development are not strong within the context of the City of Edinburgh where we regularly collaborate with staff within our schools, within Clusters, within Neighbourhoods and at city wide level given the ease of travel within a city as opposed to a more geographical rural area.

### *Promoted Staff*

- 6.14 With the exception of having only one Head Teacher, it is not obvious that there would be any less promoted staff when considering promoted posts within a very large school. In the case of Holyrood High School in Glasgow there are seven Depute Head Teachers and in most faculty/subject departments there are two Principal Teachers or Curriculum leaders.

### *Ethos*

- 6.15 There is the potential for there to be a greater range of extra-curricular opportunities in a very large school as there would be a greater number of staff who can offer different skills and interests. However, in most of our existing secondary schools the range of extra-curricular activities is wide and varied. Issues of behaviour management can be more challenging in a very large school.

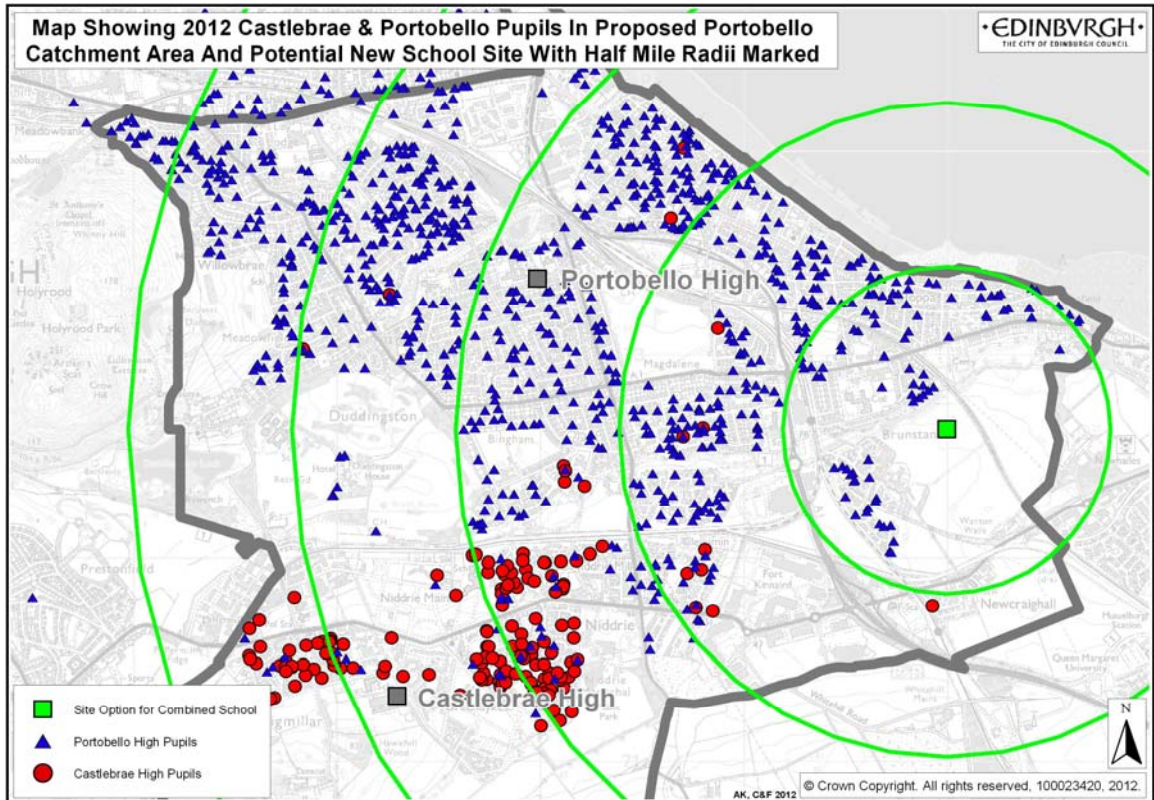
### *Transition*

- 6.16 Transition practices in very large schools are very similar to those followed by the City of Edinburgh, simply on a larger scale. The combined school is likely to have nine associated primary schools. Transition is predominantly carried out by Pupil Support staff and the staffing ratios would be in place to allow this to take place effectively. There are, of course, issues in constructing new S1 classes. Our current practice is to ensure that there are a number of pupils from each primary school in each class. This becomes more difficult to achieve the greater number of associated primary schools you have.

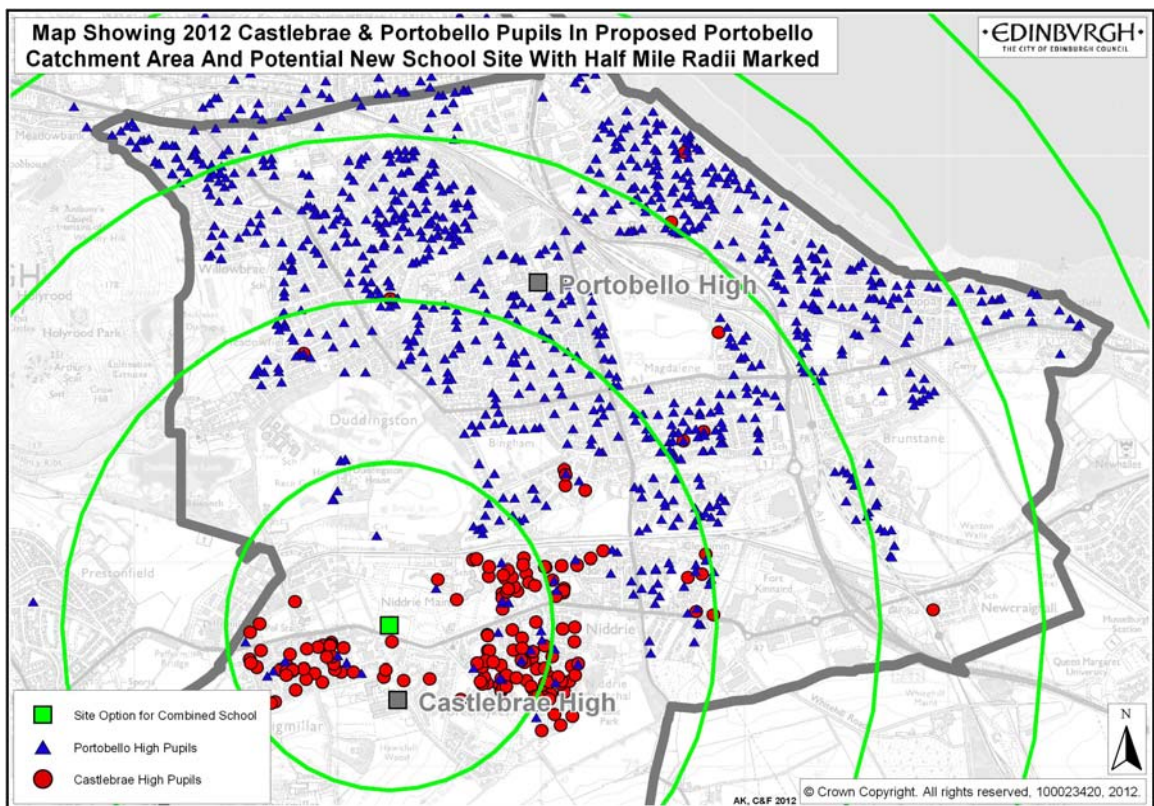
### *Proximity to Pupil Population*

- 6.17 An exercise has been undertaken to assess the proximity of each of the two potential sites to what the pupil population would be for a combined school. This analysis is based on those pupils currently attending both Portobello and Castlebrae and will, therefore, include out of catchment pupils in each school but exclude any catchment pupils who do not attend their catchment school. This should, however, represent a reasonable proxy.
- 6.18 The maps below show the location of each site and the areas where pupils currently attending both schools live; concentric circles at distances of 0.5 mile intervals from the site are also shown. In each case the location is an approximation as, in each case, the final site would require further consideration. For the site in Craigmillar town centre the area assigned in the existing master-plan has been used.

Map 1: Potential site location in Bruntsane Estate



Map 2: Potential site location in Craigmillar Town Centre



6.19 As can be seen from the maps, in both cases a significant proportion of the pupil population is located outwith 1 mile from the site; this being most acute for

the Brunstane option for which the majority of both current school populations fall outwith a 1 mile radius from the site.

- 6.20 Neither site allows the strategic objective of having schools at the heart of their communities to be achieved. To varying degrees depending on the site option, the distance from the majority of the pupil population which such a school would serve is high. This would also create an issue for the pursuit of extra-curricular activities within the school by each of the two communities and also wider community access.

#### *Flexibility of Accommodation*

- 6.21 In a very large school, as a result of the economies of scale which can be achieved, subject department and/or faculty accommodation could become more specialised and flexible. This is particularly relevant in practical subjects, sports facilities and performance spaces. For example, science accommodation could have specialised laboratory areas for each of the three sciences. Also, the opportunity to create a double-sized games hall would allow a very large eight court space to be provided and allow this to be used for activities which a standard sized hall would not be able to accommodate e.g. competitions and enhanced extra-curricular club activities.

## **7 Financial Implications**

### *Revenue Costs*

- 7.1 Whilst there will, perhaps, inevitably be savings in ongoing revenue costs as a result of the economies of scale resulting from running two schools rather than one this has not, as yet, been assessed in any detail.

### *Capital*

- 7.2 It is very difficult to predict the costs of delivering what would be very different schools in a way that would be directly comparable. Factors such as the timing of delivery and the associated effect of inflation would have a significant bearing on the costs however the main variable would be whether, or not, a phased approach was taken to its construction.
- 7.3 The expected shift in capacity requirement over time would suggest a phased approach to construction with an initial core size of 1,670 (which initial analysis would suggest would accommodate pupils to 2020) and an associated expansion strategy thereafter up to the projected final requirement of 2,200. The alternative approach would be to build a larger school from the outset than is required to meet the expected short to medium-term demand however that would require a considerably higher initial financial outlay.
- 7.4 To allow a comparison at the most simplistic level the following analysis sets out the comparative cost information based on the projected costs of building two separate schools compared to building a single large school from the outset. The cost of delivering a new Portobello High School on part of Portobello Park is estimated to be £32.9m with the cost of delivering a new

Castlebrae Community High School estimated to be £18m. The total combined cost of £50.9m excludes any provision for inflation or any site acquisition or other related costs.

- 7.5 Regarding a combined school the Council has no experience of building schools of this size therefore we have drawn from the programme metrics which the Scottish Government would apply for a school of this size. For a school with a capacity of 2,200 using this approach would equate to a projected total cost of £45.472m including the estimated cost of a swimming pool to ensure a like with like comparison. This total again excludes any provision for inflation or any site acquisition or other related costs.
- 7.6 This analysis suggests that a saving in construction cost of £5.428m (£50.9m - £45.472m) could be possible as a result of the construction and space efficiencies achieved by having one building rather than two. Looking at site acquisition costs it would be reasonable to expect a reduction in the area required which, assuming this was around 1 hectare, would be in the order of £1.2m. This obviously assumes that for each option involved a site would require to be purchased.
- 7.7 Thus, a combined school could result in a saving on overall capital costs of up to £7m however such an approach would require a significant increase in the level of capital investment funding required to progress such a school within the current timescales. The current approach would involve the delivery of a new Portobello High School at the earliest opportunity with a new school in the Craigmillar area not being required until much later; around 2020 on latest estimates. It is assumed that this will be at least partially funded by PARC from the proceeds from the town centre development however the amount, and timing for which, remains to be confirmed.
- 7.8 The issue regarding the level of investment required earlier than expected could be largely mitigated by adopting a phased approach to the delivery of a new school by providing only a core capacity of an estimated 1,670 from the outset and having an expansion strategy thereafter as, and when, demand arose.
- 7.9 This has considerable merits as it would entail a far lower initial outlay and ensure that the capacity of the school is right-sized over time to meet its catchment demand. However, such an approach would constrain the design, be more expensive in the long term and result in potential disruption on the site over time when future building extensions and/or adaptations were required.

## **8 Conclusions**

- 8.1 Educationally it is not impossible to have a successful large school but it is more difficult. Research suggests that the optimal size for a secondary school is between 600 and 1,600 pupils. Schools that are larger than 2,000 tend to operate as 'schools within schools'.

8.2 Any decision to progress with such a school is not one which can be determined on educational or financial grounds alone. Several other factors have to be considered:

- (i) The strategic objective of having schools at the heart of their communities. As illustrated in the maps above, this would not easily be possible in a very large school on either of the potential sites due to the comparatively high distance from the majority of the pupil population which such a school would serve. This could also have an impact on the level of extra-curricular and wider community use of the facilities.
- (ii) Parental choice would also be a key factor as parents may have a preference for their child to be educated in a school of a (smaller) size with which they are comfortable.
- (iii) The impact this might have on the plans for the regeneration of Craigmillar. The Brunstane Estate site is nearly two miles from the Craigmillar town centre. Building such a large school in the Craigmillar town centre would require a significant increase in the land take and would have an impact on the level of alternative development possible (such as housing) and the level of funding which could be achieved.

## Appendix 6

### New St John's RC Primary School - Feasibility Study

#### 1 Feasibility Study based on Options for Existing or Adjacent Site

- 1.1 Whilst no detailed discussion has yet been undertaken with either the school management team or the wider school community regarding options for the new school; to inform the recent funding submission to the Scottish Government the previous feasibility study was updated to consider the options for replacement on the existing site or using the adjacent Portobello High School site (assuming this was vacated).
- 1.2 The study pre-dated the recent appeal outcome and considered options which assumed the demolition of the existing Portobello High School towards the end of 2014 providing a vacant site adjacent to St John's. An option appraisal was conducted based on the following four options:
  1. Complete new build primary school as a single entity;
  2. Complete new build primary school and retain the existing Portobello High School gym block and associated accommodation either as an independent but complimentary community facility;
  3. Complete new build primary school but integrate the existing Portobello High School gym block directly with the new primary school building; and
  4. Refurbish and extend the existing primary school building.
- 1.3 The feasibility report assumed the demolition of the existing Portobello High School is financed from the budget for that project. The costs associated with the demolition of the existing St John's RC Primary School and nursery are included in the option costs as appropriate.
- 1.4 In tandem with considering the options above, an exercise was also undertaken to establish the potential revenue from sale of the residual land on the existing Portobello High School site for housing development. To assist this process, indicative housing master-plans were prepared for the options and initial feedback obtained from the Council Planning Department. The proposals were then reviewed in light of the planning comments and potential variations to density and layout and valued accordingly.
- 1.5 In all of the options the primary school and nursery has a small dedicated 3G sports pitch and the building footprint was based on an agreed space budget of 3,700m<sup>2</sup>.

#### 2 Size of Site Required

- 2.1 The size of site for any new (or replacement) school is prescribed in the School Premises (General Requirements and Standards) (Scotland) Regulations 1967. For a new St John's RC Primary School, with a primary school capacity of 462

and capacity for a further 40 pupils in the nursery, the total site size should be 1.9 hectares comprising two elements for which the appropriate sizes are defined separately:

1. A main school site on which the actual school buildings are located of not less than 1.3 hectares; and
  2. An area for playing fields of not less than 0.6 hectares.
- 2.2 In certain circumstances, a smaller site area for either element can be provided with the consent of the Scottish Government subject to it being agreed that it would be impractical or unreasonable to apply the standards within the legislation.
- 2.3 The regulations do not actually require that playing fields (or pitches) are adjacent to the actual school building but that they are *available* to the school i.e. could be elsewhere and off-site.
- 2.4 In Edinburgh there are many schools where the maximum areas for playing fields are not met however the city complies with the regulations by virtue of the extensive alternative pitch provision which is available to schools throughout the city. Taking the area of such off-site facilities into consideration the area available will more than exceed the minimum requirement. The position at St John's RC Primary School is no different.
- 2.5 Recent experience in considering design options for other primary schools in the city has suggested that a site size of 1.2 hectares could provide an appropriate environment for a primary school and nursery of this size and also incorporate provision for a small pitch adjacent to the school buildings. This was used as the target size for a site for the new school in the feasibility study albeit that this is only marginally lower than the minimum site size specified in the regulations of 1.3 hectares.

### 3 Financial Implications

- 3.1 The net financial position arising from each of the four options considered is set out below; in each case showing both the construction cost and also the anticipated value of the residual land on the combined site.

Option	Cost £'000	Land Value £'000	Net Cost £'000
1 - new build	8,923	(3,390)	5,533
2 - new build variant	12,060	(2,090)	9,970
3 - new build and integrate	10,563	(3,070)	7,493
4 - refurbish and extend	8,935	(3,570)	5,365

- 3.2 A significant capital receipt could be expected from the disposal of the surplus land on the existing site were the existing High School to be demolished and the replacement St John's RC Primary School delivered. This receipt was

expected to have formed part of the overall funding for the project however the following points should be noted:

- For some options, the excess land could only be sold once the works on the site were completed; this would present a timing issue and the potential necessity for interim prudential borrowing;
- The land value for Option 1 is slightly lower than for Option 4 as the site area allocated to the new primary school is slightly higher under the new build option hence leaving a lower amount of surplus land; and
- Due to a deficit in the realisation of capital receipts expected from other sites; the funding within the existing Children and Families Capital Investment Programme is currently under-pinned by an expectation of an excess of £1m of any such receipt being reserved to cover this deficit.

#### **4 Decant**

- 4.1 It should be noted that the costs shown above for option 4 exclude any additional decant costs which would inevitably arise. This option would require an off-site decant to minimise disruption and additional restrictions arising from the need to avoid impact on classes from Health & Safety restrictions (primarily access and egress, noise and dust issues) and other logistical matters.
- 4.2 The nature of the decant would require a further detailed study to establish the best option available which would, dependent on other factors, be either re-use of the existing Portobello High School, the use of alternative accommodation (should anything suitable be available) or the provision of a temporary accommodation solution on an appropriate site.
- 4.3 Were it to be an option which was available, the extent of new and refurbishment works to Portobello High School to make it fit for purpose as a temporary primary school, including sectioning off areas and re-working of spaces, would require a detailed review and assessment before costs could be established. This option might add a delay to the start date of works on St John's RC Primary School while the temporary works were completed. The timing of the demolition of the existing High School would also be delayed up to 16 months in comparison with all other options. In addition, a statutory consultation exercise would be required regarding any temporary change of site for the school.
- 4.4 The location, and extent, of any temporary decant facility would need to be established and design completed to enable an appropriate level of cost surety to be obtained. Different site options would entail different transport requirements and associated costs and the level of any enabling works required could vary considerably depending on the nature of the site. This was not explored in detail as part of the updated feasibility exercise.
- 4.5 The costs associated with decant would require detailed assessment however, for illustrative purposes, the costs associated with the installation and rental of temporary accommodation alone for 3,700m<sup>2</sup> over a period of 16 months are

estimated to be £1.4m. This excludes any provision for transport and any other costs which may arise such as the rental of any site not in Council ownership.

## **5 Conclusions from Feasibility Study**

5.1 The feasibility update identified the various realistic options for the re-provision of St John's Primary School within St John's RC Primary School with the following conclusions:

- The two options involving the retention of the existing High School sports halls both incur significant additional costs with little, or no, prospect of any offsetting benefits from external usage and revenue.
- The new build option is the most economic and simplest process in respect of the clearance of the existing site and delivering the full new build with negligible disruption to the school. This process also releases part of the development land earlier than the partial refurbishment option.
- The option to undertake a partial refurbishment and new build remains feasible and of a comparable gross and net cost to new build however the delayed delivery and receipt of land revenue make this less attractive. More significantly, the requirement to decant would also add significant (revenue) cost to this option which would make it considerably more expensive and much less attractive than the new build option.
- The feasibility report recommended that the new build option is developed along with the master plan in order to facilitate an application for planning consent in principle, and that the actual primary school design is further developed. Further more detailed investigations into services and the existing land would also be beneficial to de-risk the proposals.

5.2 The Children and Families Department supports these conclusions and recommendations and remains of the opinion that new build offers the best option in the circumstances were it to be available. In addition to the reasons outlined above; the opportunity to undertake a design which is not restricted in any way by the configuration of existing buildings should allow a final solution to be delivered which is a better match to the educational requirements. The new build option is articulated in more detail in Section 6.

5.3 It is acknowledged that, were the option to undertake either new build or refurbishment and extension to be available, further consultation with the school community would be required prior to determining the final option for the new school. This option is also articulated in more detail in Section 7.

## **6 New Build Option on Existing Portobello High School Site**

6.1 This option assumed the existing Portobello High School site was fully cleared and proposed locating the new build primary school at the western end of the existing Portobello High School site with a prominent frontage on Duddingston Road and the small pitch and other playground and ancillary areas to the north. The pitch would be bounded by existing housing to the west and north and by the proposed new housing development to the east.

- 6.2 The new primary school site would take up approximately 1.2 hectares leaving 2.254 hectares available for sale including the existing primary school buildings which would be demolished.
- 6.3 This option would enable the existing primary school to continue operating as normal while the existing Portobello High School was demolished, the land cleared and the new primary school built ready for occupation. This option would also enable the land sale to be progressed pending the school move including the potential for housing to commence in tandem with the primary school build on the central area of the site.
- 6.4 The Council Planning Department was generally supportive of this proposal.
- 6.5 Construction costs for this option comprise the combined refurbished and new build primary and nursery and one small 3G pitch. The schedule of accommodation used to develop the design and costs for the building works identified a total gross floor area of 3,635m<sup>2</sup> which was increased to 3,700m<sup>2</sup> to include an additional 65m<sup>2</sup> allocated to plant and circulation space.
- 6.6 The estimated construction cost of £8.923m was based on a build programme commencing in Q3 2014 and comprises the following.

	£
Demolition	100,000
General Conditions	420,000
New Build	4,040,000
FFE General	400,000
FFE Kitchen	120,000
Externals	555,000
3G Pitch	400,000
<b>Total Construction Cost</b>	<b>6,035,000</b>
Inflation Q3 2014	465,000
<b>Sub-Total</b>	<b>6,500,000</b>
Construction Contingency (7.5%)	490,000
<b>Net cost before Professional Fees and Risk</b>	<b>6,990,000</b>
Design Team Fees (10%)	700,000
Development Costs (2%)	140,000
Contingency (10%)	700,000
Risk Evaluation	393,000
<b>Total Project Cost</b>	<b>£8,923,000</b>

- 6.7 This option assumes a surplus land value of approx £3.39m for 2.254 hectares or thereby of surplus land assuming the Council pays for demolition works. This valuation does not include fees as these will vary depending upon the timing and nature of the market. Legal fees and stamp duty land tax are normally borne by the purchaser.

## 7 Refurbishment and Extension

- 7.1 The design for the refurbishment and extension option comprised a number of adjacent interconnected buildings and a separate detached teaching block. The distribution and split of the space budget areas within the school varied compared to the new build option due to the size of the existing rooms however the full space allocation assumed for new build of 3,700 m<sup>2</sup> was budgeted for within the costs as was the provision of a small 3G pitch. The design was indicative and primarily for the purpose of assessing the options and would require a full review if it was to be progressed further.
- 7.2 The new primary school site would take up approximately 1.1 hectares leaving 2.42 hectares available for sale.
- 7.3 This option would require a decant to minimise disruption and additional restrictions arising from the need to avoid impact on classes from Health & Safety restrictions (primarily access and egress, noise and dust issues) and other logistical matters. The nature of the decant would require a further detailed study to establish the best option between re-use of the existing Portobello High School or the provision of a temporary accommodation solution.
- 7.4 The Council Planning Department was generally supportive of this proposal.
- 7.5 The estimated construction cost of £8.935m was based on a build programme commencing in Q3 2014 and comprises the following.

	£
Demolition (nursery)	25,000
General Conditions	420,000
New Build	2,400,000
Refurbishment	1,300,000
Modifications	75,000
FFE General	400,000
FFE Kitchen	120,000
Externals	640,000
3G Pitch	400,000
<b>Total Construction Cost</b>	<b>5,780,000</b>
Inflation Q3 2014	446,000
<b>Sub-Total</b>	<b>6,226,000</b>
Construction Contingency (10%)	620,000
<b>Net cost before Professional Fees and Risk</b>	<b>6,846,000</b>
Design Team Fees (10%)	685,000
Development Costs (2%)	137,000
Contingency (10%)	685,000
Risk Evaluation	582,000
<b>Total Project Cost</b>	<b>£8,935,000</b>

- 7.6 This option assumes a surplus land value of approx £3.57m for 2.42 hectares or thereby of surplus land assuming the Council pays for demolition works. This valuation does not include fees as these will vary depending upon the timing and nature of the market. Legal fees and stamp duty land tax are normally borne by the purchaser.