

KING'S PARK, STIRLING

A Briefing Paper

October 2008

Introduction

King's Park forms part of the ancient possessions of the Crown in Scotland held in trust for the Scottish people. Since 1956, it has been administered by the Crown Estate Commission (CEC) who, whilst they do not "own" the land, do have powers to dispose of it. This they attempted to do in 2006 by negotiating the sale of the golf course land to the Stirling Golf Club until local pressure brought proceedings to a halt.

Stirling Council are now proposing that the Park be acquired by a Public Trust at a cost of £600,000 paid for by a £450,000 payment from Stirling Golf Club for a 175 year lease and £150,000 from the Stirling Common Good Fund.

A Public Meeting to discuss these proposals is to be held in the Municipal Buildings, Corn Exchange, Stirling at 7pm on Tuesday 14 October to which the public is invited.

This Paper

This Briefing Paper has been prepared to highlight problems with the Council's proposals and to argue for further detailed consideration of the issues that these proposals raise. In particular: -

- *There has been inadequate public consultation and discussion.*
- *There has been inadequate consideration of the national interest in this historic site.*
- *There are specific objections to*
 - *fragmentation of the King s Park estate*
 - *paying any money to acquire this site;*
 - *granting such a long term lease to Stirling Golf Club;*
 - *using the capital of the Stirling Common Good Fund.*

Above all, the current proposal developed by Stirling Council is only one of a number of possible solutions to the long term ownership of the Park. To properly determine what might be the best solution will require: -

- *full and adequate public debate (and not simply a paper consultation);*
- *adequate consideration of the specific issues raised in this paper;*
- *appropriate thought given to value for money.*

There follows more detailed discussion of the issues outlined above.

Public Consultation

There has been very limited and inadequate public consultation on the Council proposal.

The July 2008 paper prepared and circulated by the Council fails to address the issues raised in this briefing, explores and develops no alternatives to the Council's preferred option, has been issued during the summer when many people are on holiday, and imposes an unrealistic timetable on decision making.

The October public meeting has been arranged at 11 days notice and falls in the week of the school holidays.

Finally, the King's Park is an area of National importance but no national bodies have been consulted.

The National Interest

The national interest has not been adequately considered. King's Park is a Scottish Royal Park and thus is of significant national importance. To date the CEC have seemingly been ignorant of this fact, stating on their website that Windsor Great Park is the "*only Royal Park that is managed by The Crown Estate*".¹

Holyrood Park and other ancient Royal possessions have already been transferred at zero cost to Scottish Ministers in recognition of the historic nature of the land involved (see *Why Pay Anything* below). King's Park is of equal historic and national interest and no decisions about its future should be made until this national interest has been properly recognised and understood since it may be that a more appropriate solution to local concerns would be to include King's Park with these other ancient possessions and have it transferred at no cost to Scottish Ministers.

Fragmentation

The proposals that have been developed by Stirling Council and the Crown Estate Commission will lead to the fragmentation of the King's Park with the main part owned by the new Public Trust, adjoining farmland remaining with the CEC, and the King's Knot and Stirling Castle with Scottish Ministers.

Why Pay Anything?

One vital question raised by the current proposal of Stirling Council is why the Crown Estate Commissioners should be paid a sum of £600,000 or indeed be paid anything.

The core of the King's Park forms part of the ancient possessions of the Crown in Scotland and has been part of the Crown lands of Scotland since at least the 12th century. The CEC became responsible for the Park in 1956. They paid nothing for the land which up until then had been held in trust on behalf of the Scottish people.

¹ See http://www.thecrownestate.co.uk/tce_faqs.htm viz.

Does The Crown Estate manage the Royal Parks?

Windsor Great Park is the only Royal Park that is managed by The Crown Estate. All other Royal Parks are administered by [The Royal Parks agency](#).

In 1999, 26 ancient possessions of the Crown were transferred from the CEC to the Secretary of State for Scotland. Following the establishment of the Scottish Parliament, these properties became vested in Scottish Ministers (see attached list).

This transfer is quite astonishing in its scope and marks a welcome move to transfer ownership of the ancient possession of the Crown to a more appropriate entity. The questions that arise, however, include,

- *If Holyrood Park in Edinburgh and the King s Knot in Stirling were transferred at zero cost (together with a string of other properties such as Stirling Castle itself), why is the CEC demanding £600,000 for King s Park?*
- *Why was the whole of the King s Park (rather than just the King s Knot) not transferred in 1999 and why did it thus become the only ancient possession left in the hands of the CEC?*
- *If there is £600,000 available for expenditure to ensure the future of the King s Park, would that not best be invested in a fund to finance ongoing investment and management rather than go into the pockets of the CEC in London?*

The King's Park remains the only ancient possession of the Crown in Scotland administered by the CEC².

There is a serious question to be addressed therefore as to why Stirling Council should pay £600,000 for land which is (or should already be) held in public interest as an ancient possession of the Crown in Scotland. Until this is properly explored, debated and resolved, there should be no moves to enter into any commercial transactions.

Long Lease to Stirling Golf Club

The Scottish Law Commission published a report. in 2006 recommending that all leases in Scotland of over 175 years and with more than 100 years left to run should be converted to full ownership³. These recommendations have yet to be taken up by the Scottish Government or Scottish Parliament. If and when they do, there is no guarantee that the cut off for conversion will remain at 175 years.

It is therefore imprudent to be granting long leases of any land to any third party whilst the law relation to conversion remains uncertain. To grant any such runs the risk that the tenant may, in the near future, become vested with full ownership.

Common Good

Stirling Council are proposing that £150,000 of the £600,000 acquisition price be paid for out of the capital of the Stirling Common Good Fund. As far as can be ascertained this proposal has never been put to the Provost's Panel.

In normal circumstances, the capital of any Common Good Fund should be invested in assets (financial securities, shares, land and property) which will earn a commercial return

² with the exception of 12 acres of West Princes Street Gardens in Edinburgh forming the north and west banks of Edinburgh Castle rock.

³ Report on Conversion of Long Leases, (Scot Law Com No 204), Scottish Law Commission, 2006. pg.12

for the Fund. Committing £150,000 of capital to acquire land which will produce no return, which is already held for public benefit, and where there are alternative options for acquisition, is a highly questionable proposition.

Moreover (and perhaps more importantly), the capital of any Common Good Fund should be maintained and not eroded. If it is used to acquire an asset then that asset has to become an asset of the Common Good Fund. If the capital is used to contribute to the cost of an asset then the equivalent proportion of the asset becomes an asset of the Common Good Fund.

In the case of the King's Park, if £150,000 of Common Good Fund is used to acquire the Park, then the Common Good Fund will own a one quarter share of the asset. If this is then transferred to a Public Trust, the Public Trust in turn should pay for it. As things stand at present it is proposed to alienate a significant part of the Common Good Fund's capital for no return whatever.

In all of these circumstances, Councillors would be well minded to consider whether any decision should be made about spending Common Good Funds on a project such as this and should be aware that any decision to proceed with the current proposal is open to potential challenge from the beneficiaries of the Fund (the people of Stirling).

Conclusion

No decisions should be made on the future of the King's Park until there has been adequate consultation and consideration of the issues and alternatives highlighted in this Briefing Paper.

List of Twenty-Six Historic Properties in Scotland conveyed by the Crown Estate Commissioners on behalf of the Crown to the Secretary of State for Scotland in 1998/9

Edinburgh Castle
Stirling Castle
Blackness Castle
Dumbarton Castle
St. Andrews Castle
Broughty Castle
Fort Charlotte
Linlithgow Palace and Loch
Dunfermline Palace, Chapel and Grounds
Glasgow Cathedral
Elgin Cathedral and Burial Ground
Dunkeld Cathedral and Grounds
St Andrews Cathedral and Precincts
Dunblane Cathedral
Fortrose Cathedral and Precincts
St.Machars Cathedral, Aberdeen
Brechin Cathedral Round Tower
Arbroath Abbey and Precincts
Dundrennan Abbey
Beaulieu Priory
St.Mary's Kirk, St.Andrews
Blackfriars Chapel, St. Andrews
Brechin Maison Dieu Chapel
Holyrood Park, Edinburgh
Kings Knott, Stirling
Argyll Lodging Stirling

Source: List supplied by CEC, 6 July 2006 and published in *The Crown Estate in Scotland. New Opportunities for Public Benefits*. Crown Estate Review Working Group. 2006.