

*"The city's difficulties are perhaps in microcosm those of a nation uncertain about its future.  
Before Scotland can be a country, its capital needs to get its house in order."  
"Scotland's decaying capital city..." Foreign Policy by Professor Richard Williams*

## **'Caltongate'**

### **Introduction**

Of the various planning issues across the City that are attracting public attention perhaps the most controversial is the proposed 'Caltongate Masterplan' in the heart of Edinburgh's World Heritage Old Town. The **magnificent location, as framed by the exceptional vista looking out across the Waverley Valley from Calton Hill, represents one of the finest development opportunities in the country, and has been described as the most considerable development in the area "since the 12th century". Yet to date the plans have been plagued with controversy and have attracted widespread opposition and condemnation with accusations of "cultural and architectural vandalism", threatening the coveted status of the Old Town as an area of Outstanding Conservation Value.**

### **Overview**

The extensive master plan encompasses the site of the old bus depot on New Street and the sale and threatened demolition of public assets, including significantly historic and well regarded listed buildings, council housing, common good land and the notable arches of Jeffrey Street. Such a portfolio of assets in this outstanding location, and at such a significant time when the Nation is aspiring to assert its identity, is worthy of a visionary world-class exemplar development. Yet a cursory look at the recently published 'artists impressions' (see attached), reveal that the latest plans fall tragically well short of this aspiration.

### **History**

In 2005 the site of the old bus depot was cleared to make way for development. However, due to mismanagement and the volatility of the market the site has remained an empty gap site since. This considerable blight to the area has been compounded with the neglect of public buildings co-opted into the scheme which have been allowed to lie empty and unused for over 5 years. This has resulted in significant deterioration to these listed buildings which has now rendered them "unsafe". Such negligence has been allowed to occur due to controversial closed deals struck between the Council and developers. In 2008 the first of these deals was investigated by the European Commission and deemed "illegal". However, this ruling was never enforced as the original developer Mountgrange had by then gone into administration.

Following this bankruptcy, local community groups approached the Council to champion alternative proposals. However these plans were ignored and in 2010, in another closed deal, the assets of 'Caltongate' were transferred to Artisan Real Estate Investors, an Isle of Man registered South African Company. This decision was highly criticised by all opposition parties, having been rushed through at the final committee meeting of 2011, only months before council elections which saw many supporters lose their seats. Commenting on this, Marion Williams, Director of the Cockburn Association, said, "*the planning committee's decision was one of the worst she had ever seen*". The favour show to the developer in this deal is evident upon scrutiny where, among other questionable details, the Jeffrey Street arches are to be "sold by way of a 125 year internal repairing and insuring leasehold basis **on a peppercorn rent**".

Following the election new Council Leader Andrew Burns pledged that the Council would, *"listen to, and work with, local people. There needs to be strong process for looking at the quality of how the Council has reached decisions so that there is genuine scrutiny and questioning of the actions it has taken."* Yet in spite of public opposition the new Council revealed their continuing commitment to the 'Caltongate' development by granting 3 year extensions to the controversial and outdated planning consents, explicitly in favour of the developer's private speculative interests.

Revised plans for the development have now been submitted which Artisan Real Estate Investors claim will create "*one of Europe's most exciting and vibrant mixed-use communities which will set an international benchmark for sensitive and innovative development*". These plans envision hotels, office and conference infrastructure, shops and significant provision for unspecified 'leisure' uses such as bars/cafés/restaurants/nightclubs to provide 'night-time' activity. With the onslaught of supermarket 'metros', chain pubs and 'pod' hotels etc that reveal the favour shown towards multinationals and the possible 'revolving door' phenomenon, this will considerably damage small local businesses leading to 'leakage' in the local economy.

In spite of claiming “*a genuine understanding of the area’s community and civic context*”, the new plans have failed to impress individuals and public groups who continue to challenge the development in the face of despair and attrition.

Having studied the **thousands of pages of documentation**, which the Council showed **no clemency** towards the public for granting time extensions for, the Old Town Community Council submitted an objection to the revised plans stating, “*the proposals are bland ‘anywhere’ architecture, not appropriate in the Old Town... and do not comply with Edinburgh Local Plan Design Policies Des1, Des 3 and Des 6*”, while raising serious misgivings relating to due diligence, development viability and the lack of traffic and environmental assessments. Described as treating the historic environment with “*contempt*” the proposed plans instead reflect the Council’s new Waverley Court headquarters which attracted controversy for insensitive and unimaginative design. This has come to set a worrying precedence which threatens the coveted World Heritage status of the Old Town as evidenced by the visit of UNESCO in 2008.

These revised plans are now recommended for approval at the pre-Christmas committee hearing on the 18<sup>th</sup> December 2013 with key support from Historic Scotland and Edinburgh World Heritage who have to the great dismay of local campaigners and independent heritage groups acquiesced in favour of the development.

## **Summary**

Considering the evidence of administrative mismanagement and the criminal neglect of listed public buildings it is evident that the Council have failed in their duty to serve the best interests of the public and the City. **The criteria for achieving 'Best Value' is far from satisfied given the dubious closed sale of public assets, the prolonged closure and deterioration of these properties, the subsequent loss of earnings, and the continuing deterioration of these listed buildings which crucially strengthens the case for their demolition.** Consequently Historic Scotland and Edinburgh World Heritage Trust have also failed in their duty of care to “protect and enhance the Outstanding Universal Values of the World Heritage Site”.

The vociferous objections of many individuals and public bodies such as the Old Town Association, the Old Town Development Trust, The Cockburn Association and Architectural Heritage Society of Scotland have been disregarded throughout the process. Moreover, representations of the Old Town Community Council, as a statutory body representing the most vital, ‘grass root’ tier of the democratic process, have been consistently ignored.

## **Appeal to Scottish Ministers**

Given the failings of the process and the essential historical context and cultural value of the site, this major development “*of national importance*” merits the attention of Ministers, as cited in SEDD Circular 5/2 07 guidelines.

Though Ministers are usually mindful to leave planning matters in the hands of local authorities, there has been a recent precedent for intervention in the sensational case of the Menie Estate golf course, albeit in favour of private interests.

Ministers may recall that they were previously consulted in 2008 regarding the original plans, which had attracted some 2000 objections. The resulting Government assessment stated “*the circumstances of the ‘Caltongate’ proposal, which has attracted substantial objection about the impact on the historic environment, raises issues of national importance*”.

Referring to the public objections the report stated that “*the majority of those who have made representations are directly at odds with those of the Council. In broad terms, the representative organisations listed... consider that the design of the proposals are not of sufficient quality and distinctiveness for this location and that they will have adverse and unacceptable impacts on the Old Town Conservation Area, the Edinburgh Old and New Towns World Heritage Site and on listed buildings on and near the development sites.*

Referring to the Council’s position the report goes on to state that “*On the contrary, the Council considers that the proposals are of high design quality and will have either no significant impacts on these interests or that any impacts identified are outweighed by the benefits of the proposals*”.

Yet having entered into closed negotiations regarding the sale of public properties, the Council has a vested interest in the development, and by offering such favourable terms to the developer **has placed considerable liability on the Public should this sale of public assets ever be challenged. Moreover, the terms offer no assurance for the protection of public listed buildings included in the sale.**

## **Conclusion**

With the recent controversy surrounding the issue of the trams and statutory notice repairs this particular matter is potentially of even greater import in challenging the credibility of the City of Edinburgh Council. Contrary to the Council's stated commitment to "*co-operation, fairness, accountability and responsibility*" the damning evidence in the case of 'Caltongate' suggests otherwise, revealing a breach of trust and a failing of duty.

**If such a failing of the process can occur at the very heart of the Nation then what hope is there for other communities challenging Council decisions when Our officials and elected representatives have become so apparently beholden and enthralled to a discredited system of economics which shows such favour to private speculative interests at the expense of the local economy and the long term wellbeing of society?**

The Old Town community has become so overwhelmed and demoralised in recent years as to have lost faith in the democratic process, which is now reflected in the **recent resignations and consequent collapse of the Old Town Community Council**. The stress involved with responding to such large and objectionable developments has had a bearing on the health of individuals, and some in the community have even opted to leave the area. Having come under considerable pressure with a barrage of applications for hotels and student accommodation, the long term liveability and cherished character of the Old Town is now fundamentally in question with the area developing a disreputable image as a contrived, 'tourist tat', late night party-drinking destination, to the shame of the Nation.

For those in the local community not wholly disaffected there is growing impatience for the blighted 'Caltongate' gap site to be redeveloped. However, it would be disingenuous to suggest that those who have chosen to live in the Old Town would prefer to see the soulless, 'anytown', big box development proposed in favour of genuinely sensitive, thoughtful, world-class design. Given the significance of the site such an alternative vision would be worthy of a national design competition, encouraging public participation and engagement in order to achieve a exemplary outcome. To address the compromising nature of this private speculative development the 'Caltongate Masterplan' could become the first significant urban community buyout scheme in the country.

To realise such a vision and to restore public faith, Ministers are encouraged to call in the 'Caltongate' application and undertake an independent judicial review, broadening the remit of the investigation to include the other speculative developments currently attracting public disquiet across the City as well as an investigation into the potential 'revolving door' phenomenon. Such a review should ideally be undertaken by an impassioned local firm of the highest reputation. The impartiality of the process is essential since the firm which negotiated the dubious transfer of 'Caltongate' to current developer Artisan is the same firm tasked with investigating the statutory notice repair scandal. The report should include a thorough assessment of all relevant parties, public and private, that are influencing the planning process in favour of commercial interests such as "arms length" Council bodies and private consultancy firms.

With the Community Empowerment Bill currently at the consultation stage in the Scottish Parliament this is a poignant moment for reflection. For communities that challenge planning applications the process is overwhelming and blatantly biased in favour of private interests. Developers, in cahoots with agents and even the support of Council officials, can 'buy-off', bully, 'land bank' and prevail through the process of attrition as explicitly demonstrated in the case of 'Caltongate'. Even when objectors are successful developers have a right of appeal, unlike the public.

In the face of this cynical climate, the introductory paragraph of the Community Empowerment Bill offers hope that public trust in the planning system can be restored by affirming the fundamental democratic principle that, "*Scotland's people are its greatest asset, and best placed to make decisions about their future... Our belief in local self-determination, through a strong Scottish Parliament, strong local authorities and strong communities, is the key principle which underpins the proposals in this consultation document. At its heart, community empowerment is about communities taking their own decisions about their futures*".

Thank you for your time and consideration,

Yours faithfully,

Simon Byrom

(ex-member of The Old Town Community Council)



CGI Visualisation - View from corner of New Street and East Market Street



CGI Visualisation - Along East Market Street, at the junction of Cranston Street

Tom Parnell of the Architectural Heritage Society of Scotland has said of the revised master plan:

*"It is inappropriate, contrary to all planning guidance on good quality architecture and in clear contravention of local plan policies... We urge the council to look beyond misleading sales-brochure material – look at the 'architecture'. Look at the proposed uses of the buildings. Look at how awful the whole scheme still is."*



The blighted gap site of the old bus depot with the incongruous Waverley Court Council offices which have set a worrying precedence threatening the coveted World Heritage status of the Old Town.