

Date 25 May 2010

Our Ref CT/RF

Your Ref

Dear Mr Wightman

INVERLEITH PARK

I refer to the above and to your email of 21 May 2010 to the Chief Executive which has been passed to me for a response.

As advised in the initial reply to you of 24 May 2010 the activity to which you refer in Inverleith Park is in relation to the holding of the 'Taste of Edinburgh' event which opens to the public this Friday, 28 May 2010.

This event has been widely publicised and has been the subject of significant consultation with local residents and the local community council to ensure that any concerns expressed by the local community have been fully met. Indeed, contrary to the impression given in your email, I understand that you yourself have been aware of the event for several months and have been involved in discussions.

The position, as I think is known to you, is that The City of Edinburgh Council have leased to a third party organiser an area of Inverleith Park for holding this particular event.

I note the request made by you for the Council to take action in terms of Section 13 of the Land Reform (Scotland) Act 2003.

Following consideration it does appear that the Council have statutory authority in terms of the Local Government and Planning (Scotland) Act 1982 to allow an area such as Inverleith Park to be used for any cultural or social activity such as that to be provided by the 'Taste of Edinburgh' event. This authority includes the power to set apart an area of a park for any purpose which the Council consider appropriate in terms of their functions.

In these circumstances it appears that any provisions of the Land Reform (Scotland) Act 2003 which could be relevant are not applicable in the circumstances where the Council have a particular statutory power.

Head of Legal and Administrative Services – Alastair Maclean

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INVESTOR IN PEOPLE

2RF01619.Ltr Mr Wightman

Further in terms of Section 13(2) of the 2003 Act as you will be aware a local authority is not required to do anything in pursuance of the duty under Section 13(1) which would be inconsistent with the carrying on of any of the authority's other functions.

Finally, I would note that the Scottish Government guidance issued in respect of the 2003 Act does not envisage the requirement for Section 11 exemption being mandatory.

I hope this is satisfactory as a response to your request and would advise that this response is made without prejudice to the Council's rights and pleas in this matter.

Yours sincerely

For Head of Legal & Administrative Services

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