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## Representations

**Committee** MAINDY PARK TRUST ADVISORY COMMITTEE

**Date and Time of Meeting** WEDNESDAY, 12 OCTOBER 2022, 2.00 PM

**Save Maindy Velodrome Representations***(Pages 3 - 86)*

**Association of the Beneficiaries of the Covenanted Land at Maindy Park & of the Maindy Park Trust Representations***(Pages 87 - 138)*

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# Save Maindy Velodrome Campaign Group

## INDEX

The following documents are submitted to the Advisory Group highlighting the failures of Cardiff Council to properly address the proposed land swap issues.

1. Analysis carried out on behalf of the Save Maindy Velodrome campaign group by Christine Wyatt of:

- the **cover report** prepared by legal officer;
- the **summary of responses to land swap consultation** prepared by estates;
- the **equality impact assessment** again prepared by legal officer.

2. A letter from the **Maindy Flyers** coaches and Chair, highlighting serious concerns about Cardiff Council's proposed replacement of the velodrome.

3. Concerns About the Decision Making Process and Formation of Maindy Park Trust Committee

4. Land Swap Issues & Objections

5. The Save Maindy Velodrome Press Release which highlights failures and issues with the Council's proposed move of the historic Maindy Velodrome, a facility that can be used by all, to a **new inferior ISV velodrome** on the edge of Cardiff and which is planned for elite cyclists, discriminating against most of Maindy Velodrome's current users.

6. An analysis of Cardiff Council's **Surveyor's Valuation Report** highlighting significant failures.

7. Blackweir & Caedelyn Parks – Cllr Huw Thomas & Cllr Jennifer Burke-Davies Contradict Each Other.

8. Blackweir Park - Existing Protection Status Representation

# Save Maindy Velodrome Representation #01

Analysis carried out on behalf of the Save Maindy Velodrome campaign group by Christine Wyatt of:

- the cover report prepared by legal officer;
- the summary of responses to land swap consultation prepared by estates;
- the equality impact assessment again prepared by legal officer.

For the attention of the Maindy Park Trust Committee to assist their consideration of whether there is equivalence in Cardiff Council of land to be swapped in exchange for charity property held in trust by the Maindy Park Trust.

Dear All

My written representations will be centered on the information (and the lack of it) you have been supplied with to inform your decision on the land swap at the time of this meeting

That includes the cover report prepared by legal officer, the summary of responses to land swap consultation prepared by estates, and the equality impact assessment again prepared by legal officer.

All the information I have included is directly related to the decision you are making today as it is inextricably linked to the removal of the covenant.

However I also have serious concerns in respect of conflicts of interest that need to be considered as they directly impact on your decision on the land swap and acting in the best interests of the charity that I would like to bring to your attention first.

These concerns are directly relevant to the land swap decision you will be making and I hope they will be taken on board and discussed before reaching your decision.

Apologies if my submission covers certain points repeatedly but I need to reinforce the concerns that I have with this land swap proposal.

## **Conflicts of Interest**

The whole purpose of this committee being established was to manage the conflicts of interest that exist, and enable the Corporate body as sole trustee to discharge their duties and responsibilities for the Maindy Park Charity.

However the decision making arrangements will compound the conflict not negate it.

This process has been recommended by the council leader who has been involved in every decision previously at Cabinet to proceed both the replacement velodrome and school expansion, projects which both necessitate the removal of the covenant, a decision you will be recommending on today.

It is these very decisions which have given rise to the conflict, and he is therefore seriously conflicted and should have been excluded from any involvement in matters and decisions that necessitate and lead to the removal of the covenant.



The school expansion gave rise to the conflict in December 2020 as this is where it was first recorded that the Council wanted to build the school on the charity land. It would therefore follow that any further decisions made which are directly connected to the school project which necessitate the removal of the covenant i.e. the replacement velodrome and formation of this committee are unlawful as conflict exists.

The Council leader is seriously conflicted yet he has recommended and had approved a process which aims to remove the covenant to enable the council to deliver the school project!

The leader also claims that the Council was unaware of issues surrounding the covenant and the trust status until recently. And because they had only been recently identified that they were putting these decision making arrangements in place now to manage the conflict. Thus is untrue and is covered in the attachment named davinadoc. Evidence again that conflict exists.

So the decisions taken to put in place the process i.e form committee along with all previous decisions are at total odds with the Councils duty and responsibilities for the Charity as the aim of these is to remove the covenant. This is clear evidence that conflict exists.

These decision making arrangements that have been put in place to manage the conflict associated with the land swap decision will only compound the conflict further.

How do I know this because the Council only sort legal advice on behalf of the developer. What we have is a process that has been devised to remove the Covenant to allow the Council to expand the school onto the Charity land. Below is an extract from the Council Leaders report to PRAP scrutiny which is proof positive that the supposedly independent steps( i.e. your committee ) to internally manage the conflicts of interest is a complete sham.

***4. The attached report to Cabinet makes proposals, based on Counsel advice, as to the decision-making arrangements that need to be put in place to manage the Council's conflict of interests in delivery of its proposal to expand Cathays High School***

It is ridiculous to propose putting in decision making arrangements – formation of a supposedly independent Maindy Trust committee to make a decision on the land swap, when every decision and action (unlawfully) taken by the Corporate body to date has approved the removal of the covenant in one way or another, and the Corporate body acting as trustee had already agreed to dispose of the Charity land before the consultation on the land exchange had ended.

The Corporate body is not even allowing your committee to make the decision on the land swap, you can only make a recommendation to Cabinet and then 4 members who are apparently not significantly conflicted will make the decision.

These actions will not manage the conflict, they will compound the conflict even further.

Another reason the conflict still exists is because the Council have not sort legal advice on behalf of the Charity in its capacity as sole trustee in order to challenge the decision making arrangements which are being put in place to remove the covenant. This advice would be needed by your committee in order to make an informed and sound decision on the proposed land swap

There is no reference to the Charity Commission in respect of how this scheme accords with and meets in full the Regulators advice and guidance on managing conflicts of interest, in particular where the sole trustee is a Corporate body.

There is no reference to the Charity Commission that these decision making arrangements to manage the conflicts have been discussed and/ or approved by them.

The fate of the Charity land will ultimately rest with the Charity Commission but until then the Council should be at least following the Councillors guide to councils role as Charity Trustee. This guidance states that any charitable assets for which the Council is trustee, are managed independently in accordance with their charitable purpose and any restrictions in the governing document.

The actions and decisions to date surrounding the Maindy Park Trust Charity Land evidence they are clearly not and are in breach of this guide ,more so than ever now as the Corporate body is not allowing the `independent' trust committee to make the decision on the land swap. The Council is instead saying 4 Cabinet members who are bound by previous decisions taken by the Corporate body that necessitate removing the covenant can make the decision! The conflict still exists.

The conflict arose on the 17th December 2020 and the Corporate body as developer has continued to take decisions and actions that necessitate the removal of the covenant even though they are fully aware of the ongoing conflict and that these decisions and actions are unlawful.

The Corporate body as Sole Trustee has already made the decision to dispose of the land (without seeking legal counsel as sole trustee) despite the actual area of land concerned not yet being determined. They even made the decision before the consultation had finished!

Under charity law a conflict of interest is a conflict - there are no different levels. The corporate body is the trustee and conflicts of interest have arisen and still exist because that body is both the developer and sole trustee for the proposals that directly affect the land in question that you are being asked to make a decision on.

The governance of the charity is quite clear in that officers will be bound by previous decisions taken and all these necessitate the removal of the covenant.

The Council Chief Executive has confirmed in writing that there are no individual trustees. So it doesn't matter who actually sits in Cabinet (or who has left the room) because it is not them as individuals making the decision it is the Cabinet as a body. And that body is still conflicted by the issuing of the Section 42 legal Notice in June last year to build a school on Maindy Park.

For the council to state 4 cabinet members have no conflict to declare and can therefore make the decision on the land swap is not correct.

If you recommend against the land swap the decision will then be made by 4 cabinet members who are bound by previous decisions taken by Corporate body who approved projects which gave rise to the conflict.

Case law shows that judges will - and have - set aside schemes proposed by local authority even if they have been approved by Charity Commission where the terms of a covenant make clear that the scheme should never have been considered in the first place due to conflict of interest.

The primary role of this trustee committee is to protect the land, not give it away. The swap is worthless to the Charity and beneficiaries as the areas identified are already open access parkland with a level of protection. If the swap were to go ahead it would result in a net loss of open access green space for Cardiff residents.

There has been huge opposition to these proposals since day one and it is growing. The consultation on the land swap received 253 responses of which 248 were objections. There were over 400 objections to the school expansion onto the charity land with a further 100 plus received by the Scrutiny committee. There were also over 4000 signatures on a petition. Each consultation has revealed that there is overwhelming support to retain the Charity land which includes the velodrome.

If the committee were to approve the land swap that would be clear evidence not acting in the best interests of the Charity.

So you seem to be in a catch 22 situation - if you choose to recommend the exchange it would be evident you weren't acting in the best interests of the Charity, but if you don't recommend the land exchange the Cabinet will be bound by decisions taken previously to remove the covenant.

This process has clearly been devised to remove the covenant.

This process means the Council are still sole trustee and will therefore continue to be conflicted as they would benefit by millions of pounds from the land swap. A recent foi 15767 confirms the real reason they want the land – because they don't want to pay for land for the school at the current market rate and Maindy would negate the cost to the Council.

So to sum up on this point the conflicts still exist, the recommendations of this committee will not resolve the conflict, and because of the conflicts ongoing existence all previous decisions made and actions taken, and future decisions and actions on removal of the covenant i.e. land swap and the progression of development projects that necessitate the removal of the covenant will continue to be unlawful.

The Council are trying to manage a conflict of interest incorrectly when the entire Council as a corporate body is conflicted under charity law by the decisions they have already made to use the Maindy Park land for purposes other than it was gifted for.

## **COVER REPORT**

### **Para 4**

The Charitys land has been reduced by **3** disposals to the Council as local authority of which only 2 were authorised . The 3<sup>rd</sup> disposal has given rise to a conflict of interest as the Council as trustee has disposed of the land to itself as LEA. They have breached the covenant by converting an area to an overflow carpark for Cathays High School without approval from the Charity Commission. This breach is detailed in the valuation report.

### **Para 7**

The area of land to be swapped is described as 'land anticipated to be required'. Surely the decision you are being asked to make wouldn't be possible until the actual area to be swapped has been determined? This revelation would automatically void the valuation.

The campaign group identified that the area of land to be swapped had not been determined while the consultation on the land swap was running. We brought this to the attention of the Director of Legal & Governance and advised that this voided the consultation and the upcoming meeting where a decision was to be made on the land swap. It would not possible to make an informed decision on a land swap if you are not informed of precisely which land exactly the proposed swap

applies to. To date we have had no response but given that this committee is meeting to make a decision and using the responses received we have been ignored. Alarming this means that the consultation was run despite full details of what land is actually being proposed for the swap not yet being determined – Surely this cant be legal?

### **Para 8**

This section fails to mention that this velodrome project also presents with a conflict as interest as it is totally reliant on the removal of the covenant to proceed. If the land swap decision is not approved it cannot proceed. Similarly the school expansion cant proceed unless the business case for the velodrome is approved **and** the land swap is approved.. They are both totally reliant on the land swap being approved as without the removal of the covenant neither can proceed. The replacement velodrome was included in the school expansion consultation so both are reliant on the other progressing to proceed. *The outcomes of the consultation on the relocation reported to Cabinet in March 2022 were that the majority didn't support it!*

This project has been allowed to incur huge costs to date which include nearly ½ million pounds on design fees alone even though the Council know that this progression is unlawful due to the existing conflict.

### **Para 9**

This conflict has been in place since December 2020 – yes December 2020! We now have the Council claiming that they weren't aware of the covenant and trust issues until recently and that's why they are only now putting in these decision making arrangements to try and manage the conflict. These arrangements will compound the issue as the legal advice sort was to come up with a process which could remove the covenant, and the decision will not be made by your trust committee, but instead by 4 cabinet members who are conflicted, but apparently not significantly! The legal advice was for the benefit of the developer, most certainly not the trustee. It couldn't be any clearer as it states they want to facilitate the expansion of Cathays High. Where is the reference to legal advice sort on behalf of the trustee? Where is the reference that it complies with Charity law and regs? Where is the reference that this process/ scheme had been approved by Charity Commission? No legal advice has been sort on behalf of the trustee to challenge the disposal of the land.

Clear evidence that the conflict still exists for the Corporate body even with this process, and it was based on legal advice.

Please refer to Davinadoc attachment for further detail on the conflict issues.

### **Para 10**

Any past and future decisions and actions taken in respect of the Maindy Park Charity that necessitate the removal of the of the covenant and disposal of the Charity land are unlawful as conflicts of interest exist. The recommendation, approval and establishment of the trust committee at the full council meeting on the 29<sup>th</sup> September 2022 was unlawful as conflict still exists.

The independent valuation advice is flawed and void as the area of land to be swapped has not been determined and the basis for the valuation was incorrect. This is covered in more detail later on. This committee should have been given the opportunity to obtain a truly 'independent' valuation as trustee and not have been made to rely on one commissioned by the developer

All the relevant evidence to inform your decision which would allow you to act in the best interests has not been provided. Again, covered in more detail later on.

The limited and selective evidence that you have been provided with is misleading, contains factual inaccuracies and misrepresentations.

### **Para 12**

Again you are being asked to use advice and information that has been obtained on behalf of the developer whose sole aim is to remove the covenant. Trustees should be able to commission their own valuation report. As detailed previously this valuation is null and void as the area of land has yet to be determined. Another concern is that there is only one report. Surely it would be best practice to obtain more than one valuation before making such an important decision.?

If trustee is prepared to dispose of the charity land and obtain the best for the charity surely the disposal should have been advertised to other parties, not just restrict consideration only to a related party with a conflict of interest. In other words we should have a minimum of 2 valuations. Other parties may be able to make offers that are better than that proposed by the developer and the trustee should consider how best to maximise the value of the asset.

### **Para 13**

The consultation should never have taken place given that the area of land hadn't been determined. Ridiculous and devious of the Council to run a consultation asking people to make a decision on an area of land to be swapped when they knew it hadn't been finalised – beggars belief. A decision on the land swap considering the responses was previously scheduled for July 14<sup>th</sup>. It was only pulled because the campaign group highlighted that 9 of the Cabinet were seriously conflicted. This consultation and the school consultation did not reference the covenant and local residents have said everything that has gone before that involves the Charity land and removal of covenant should be scrapped and rerun as this changes everything. A view I tend to agree with.

The notice was placed as a means to ensure wider consultation. If that was true why was it placed in the Western Mail because that would have the opposite effect. Population of Cardiff is 485,000 – sales of newspaper in Wales is 7,000. The notice was miniscule and appeared for a single day. The council didn't put any notices up at the site, no leafleting to local residents and didn't hold one public meeting. The campaign organised a meeting which they refused to attend citing the decision had already been made and they were standing by it. We put up notices around the site to advertise the meeting and a senior manager at Cardiff Council had them removed. Local councillors were asked to hold a meeting for concerned local residents – they refused. It was around 7 days after the notice was published before information became available. The council did not extend the closing date to take account of the delay in publishing the information. The email address was only way to respond and excluded many and it didn't respond to queries. It is clear from the Councils actions that they wanted as few people to know about the land swap in order to prevent objections, as they knew there was already huge opposition to the loss of the Charity land which included the velodrome. There were 253 responses of which 248 were objections. This section states that all responses are to be considered in your decision making process but you have not been provided with them – why not? Clear evidence of conflict of interest by Corporate body.

### **Para 15**

The Council as trustee, your committee is to consider the land exchange and make a separate decision. However you are being told you can only make a recommendation and that 4 Cabinet members will put their trustee hat on and make the decision. They are able to do this because although they are conflicted it is not significant! These actions will compound the conflict, not manage it and will most certainly not safeguard the interest of the beneficiaries to ensure the land

swap is in the best interests of the Charity. Surely they are not expecting the committee to believe that this process which doesn't allow the trust committee to make the decision is in the best interests of the Charity? The process the Council are putting in place totally contradicts the aims of what the Corporate body was trying to achieve - manage the conflict. Taking the decision out of the hands of the 'independent' trustee whose members have no perceived conflict and letting the conflicted members of the Cabinet who are bound by previous decisions taken by the Corporate body to remove the covenant make the decision is clear evidence that conflict still exists.

#### **Para 16**

By not letting your trust committee make the decision conflict of interest still exists – as detailed above

Conflicted members do not have to declare an interest and therefore can make decision on land swap – more evidence that conflict exists.

The land being offered in exchange is worthless as it is already open access parkland and both alternatives have an equal or greater protection in place.  
if it was agreed would result in a net loss of open access green space. No benefit to the Charity.

Blackweir

This is a designated historic park under Cadw

Caedlyn

This is 2.5 miles from Maindy and not 1 mile as stated later on in the report. About half of the site is protected by a covenant – 7<sup>TH</sup> Baron Rodney.

#### **Para 17**

To suggest that the committee should be satisfied that there is nothing in the governing document that prevents a disposal of land it is a ridiculous statement.

There is no express power of disposal in the governing document because the Council is supposed to protect the land in perpetuity!

#### **Para 20**

In order for your committee to make a decision in the best interests it states you *may* wish to have regard to a number of matters but not limited to etc. Looking at the matters listed it would not be a case of you may have to, you would have to because if you didn't you would most certainly not be seen to be acting in the best interests of the Charity and its beneficiaries.

A number of these matters I suspect are detailed in the information that has been exempted.

***The financial value of the land offered in exchange*** – This cannot be considered in the best interests as the Maindy land has been incorrectly valued and the area of Charity land to be swapped has not been determined. There also appears to be a huge undervaluation on the Charity land that needs to be investigated further.

***The amenity value of the land offered in exchange*** – this is worthless, it doesn't come close to what is available to the beneficiaries at Maindy Park as what is being offered is simply areas of flat grass. I will cover this in more detail under the heading Well Being of Future Generations

**Advice contained in the surveyors report** – given that the valuation has been incorrectly calculated, the area of land detailed as the swap is void because it hasn't been determined and there appear to be numerous flaws in many other areas this should be disregarded and cannot be used to inform your decision. A new valuation should be commissioned by the trustee committee. I have attached a copy of my objection which highlighted many of the discrepancies in this report.

**Consideration of the alternative land swap sites** – As a minimum the trustee committee needs to carry out site visits to establish the facts for themselves and not have to rely on the pictures, opinions or recommendations provided in this report. The information provided on the alternative pieces of land have been written in such a way to suggest that they can reprovide and /or replicate what's available to the beneficiaries at Maindy, possibly with some improvements. To make a decision without gathering information as trustee would mean that this committee would not be seen to be acting in the best interests of the Charity. This information has been provided by officers bound by previous decisions taken by the Corporate body which necessitate the removal of the covenant.

**Assessment of the option of retaining the existing land** – The council have refused point blank to consider any options to retain the land. It's been tunnel vision all the way which involves destruction of the velodrome and removal of open access community space, claiming there wouldn't be enough space for the school if retained. There is not enough land for the school full stop even if they took the whole site. If they retain the land they would have to pay millions of pounds for land for the new school and they wouldn't be able to divert millions of pounds from the education budget to the sports village. The FOI detailed earlier on clearly evidences they want the land for free and if the land swap is approved the Council will benefit by millions of pounds.

As the governing document doesn't specify Cathays I have no doubt that the council will use this argument for not retaining the charity land (for the specified purpose) at Maindy and that it could be provided anywhere in Cardiff. However this argument could be turned on its head as the designated land was gifted specifically within the ward of Cathays as detailed in the governing document and it doesn't state that it can be provided anywhere else in Cardiff

The developer had a similar scenario for the new Willows High School. They had to find a piece of land for the new school. They put forward plans to build on Tremorfa park. There were objections raised and the Council agreed not to build on it and sourced an alternative.

The question needs to be asked why hasn't the Council afforded the same value to the objections and sort a more suitable site to the beneficiaries of the Maindy Park Charity land?

**Consideration of all representations by those opposed to the land swap** – It is imperative that you have sight of all the representations in full in order to inform your decision on the proposed land exchange. Not to do so would mean you would not be acting in the best interests. The scale and depth of these objections has not been adequately reflected in the summary report. There were 253 responses with 248 being objections – 98%. This result should be considered alongside the results of the other consultations for the other projects as these necessitate the removal of the covenant. There is a clear pattern – beneficiaries have been opposed at every stage yet Council have ignored the beneficiaries and ploughed on with their agenda at all costs with a conflict in place.

**Para 24**

There is no reference to a Environmental impact assessment as was the case with the valuation report. Does this mean one hasn't been carried out?

This seems to be a strange omission given that the site was previously a clay pit filled with tonnes of rubbish. There are vents dotted around the site to release toxic gas that builds up.

Are there any protected species resident on the area of Charity land proposed to be swapped?

The committee would need site of this particular assessment in order to inform their decision.

### **Paras 25 – 28**

These focus on the Well-Being of Future Generations Act 2015. The proposed decision will most certainly not accord with the underlying principles of this Act.

The destruction of a fully functioning velodrome to construct a smaller inadequate replacement has huge negative implications for the environment.

Not an efficient use of resources to replace a community velodrome with an elite track bike facility when an elite facility exists in Newport.

Loss of natural environment and green open space.

Destruction of a cultural heritage velodrome that has produced world class cyclists and continues to inspire generations – a place that encourages people to participate in sports (velodrome, playing fields, walking/jogging track, ) and recreation

Destruction of a community asset that was invaluable during the pandemic. It is a place to meet, gather and connect with the community. A safe space even on dark winter evenings.

Expanding Cathays – only school in Wales where girls have lower attainment levels than boys. Out of catchment girls attending will be put at an educational disadvantage.

The Council will be putting in artificial pitches – fake plastic grass and concrete Mugas.

There will be increased car journeys to the new velodrome, in fact the Council are relying on income from a multi storey car park to fund the revised strategy for the sports village. A business case for it is included in the recently expanded velodrome business case which is detailed in the Cabinet report Cardiff Bay Regeneration Overview which you have been provided with.

Building a school where over 1000 pupils would be out of catchment. This would mean the majority would be making journeys by car or bus from the other side of the city to get to school and then back again daily. This adds up to 10,000 car journeys a week. Thought the Council were supposed to working towards reducing carbon emissions not increasing them.

### **Para 29**

Legal advice – is this coming from the same advisor who has been involved in putting these decision making arrangements forward which lead to the removal of the covenant?

Surely this committee needs legal advice sort on behalf of the trustee to inform your decision?

### **SUMMARY OF CONSULTATION RESPONSES**

The glaring omission from the author of this section is that it doesn't mention that there were 253 responses of which 248 were objections – 98%

As I am part of Save Maindy I have had sight of 40% of these objections as the residents copied us in.



The consultation responses were varied and impassioned with many personal stories of what a loss it would be to remove the covenant from Maindy. One common theme was that the proposed land swap was nonsensical. The other sites are already parkland so the proposed transfer doesn't gain anything and would still lead to the loss of the much valued community open space that was gifted in perpetuity.

Other common themes included outrage concerning the conflict of interest for this proposal and the total disbelief of the valuation that had been calculated.

As detailed in para 20 of this report you need to see all the responses in full to inform your decision.

## **EQUALITY & IMPACT ASSESSEMENT**

### **Section 2**

***There is no requirement to expand the school as local demand is static at 400.*** The expansion is only being proposed in order to take children mainly from South Cardiff that can't obtain a place at their local school, namely Fitzalan. The majority of out of catchment children that currently attend Cathays are from the Fitzalan and Willows catchments. These were the findings of Estyn and the Scrutiny committee. Scrutiny went further as they were of the firm opinion that expanding to 8 forms of entry was clearly not sustainable as new schools were being built in the North. They also questioned that why when 2 new high schools were being built in the South they weren't being built to accommodate demand. Inexplicably Willows intake was being reduced by 300.

***It is crucial that this committee has access to and sight of all the documents relating to this school project, including Scrutiny and Cabinet meetings inclusive of 17/12/20 to October 2021 in order to inform their decision.***

***It is the school expansion being proposed by the developer that necessitates the removal of the covenant, and given that the expansion is not a requirement, is it really considered in the best interests of the Charity to approve the proposed land swap?***

The LEAs argument has been we will be changing catchment areas in the future. However changing catchment areas does not make the school any nearer for the children that live in South Cardiff and how many schools would they pass to get to Cathays?

'Sections of the land have previously been removed' - one section has breached the covenant as the LEA converted it into an overflow carpark for the school.

'The Health and Safety Risk Assessment outlines the two proposed sites' - The information that has been provided to this committee for the replacement land has been provided by Council officers bound by previous decisions made by the Corporate body which is to remove the covenant. As a minimum this committee needs to carry out its own site visits to establish the facts for themselves and not have to rely on the pictures, opinions or recommendations provided in this report for the aforementioned reasons. To make a decision without gathering the information as trustee would mean that this committee would not be seen to be acting in the best interests of the Charity.

The remaining trusts land of which there is very little if this is approved will be subject to an upgrade of the public open space. I beg to differ as it now transpires that the section of the velodrome that is apparently being left to the community as open space will in fact be MUGAs that can only be used outside of school hours! I have copies of tweets from a local Cathays councillor who also sits on the Cabinet as deputy leader, and is the lead officer on the school project.

### **Section 3**

The proposal will only have a negative impact .

Bookings for the velodrome are roughly 26hrs a week of which only 3.5hrs are for track bikes with the rest being road bikes. Maindys banking is 18 degrees which makes it suitable for all ages, all

abilities and all types of bikes. The new velodrome by contrast will be at least 28 degrees, could be as steep as 32. This will make it a track bike only facility with age restrictions. Please refer to the attachment Maindy Flyers.

**The audacity of this report to suggest that the new velodrome will have a positive impact and it will be fit for purpose - it will exclude the vast majority of the current users of Maindy and the cycling and triathlon communities.**

The site and facilities available at Maindy which include the cycle track and grassed area in the centre of the velodrome (which is available when not booked out) are used for picnics, football, skateboarding, rugby, school sport days, social gatherings, learner drivers, and the land around the velodrome which is used for walking / running / dog walking by all walks of life will be lost forever. Given what has been revealed on twitter the beneficiaries might be lucky enough to have a small strip of green grass left at the Gelligaer Street end of the velodrome that would be open access. 'Proposals to improve the retained trust land will be subject to further consultation' – question is will there be any trust land left? I have copies of detailed plans that the Council didn't want us to know about and all 3 versions show the LEA using all of the trust land for the school

#### **Section 4**

The purpose of placing the notice in the Western Mail was to engage and consult with a wide audience – what an outrageous statement to make as the placing of the notice in this paper would engage the least amount of people. Cardiff has a population of nearly 500,000 people and this paper only has sales of 7,000 for the whole of Wales.

The PAC involved putting up notices at a derelict site in Cardiff Bay. There were no notices put up at the velodrome that was to be relocated or leaflets delivered to local residents to make them aware of the imminent submission of the planning application. Only 2 clubs were made aware of this consultation – the 2 that apparently supported the proposals at the time. Although the replacement velodrome was supposed to reprovide the facilities currently available at Maindy – this was the Councils design brief, the company who ran this consultation stated that the design and uses at Maindy were not a consideration when designing the replacement!

The Consultation report referred to in the Councils Cabinet March 2022 meeting by the author of this report has omitted one crucial detail – the responses revealed that the majority did not support the relocation of the velodrome.

**I urge this committee not to recommend the land swap for the following reasons:**

- The proposed land swap is not in the best interests of the Charity as the Charity will gain nothing, it will result in a net loss of open access green space. The land being offered is already open access parkland with varying degrees of protection. There is quite simply no reason for this committee to accept this offer as it will be detrimental not only to the Charity but to the residents of Cardiff as a whole. The Charity is being offered 2 flat pieces of grass!
- The beneficiaries have been inexplicably prevented from contacting this committee directly with their views on the decision you have been tasked to make. They have been prevented from commenting on the information you are being asked to use to inform your decision by the Corporate bodies legal officer who has recommended the approval of a process where the aim is to remove the covenant to allow the LEA to expand the school onto the Charity land. The legal officer who is conflicted in these matters. These are disgraceful actions by the Council and again evidences the continuing conflict of interest.
- The information provided to you at the time of this meeting cannot be used to inform your decision on the land swap. It has been provided by officers who are conflicted as they are

actively involved in a personal and/or departmental level in progressing the projects that necessitate the removal of the covenant.

- ***There is no requirement to expand the school as local demand is static at 400.*** The expansion is only being proposed in order to take children mainly from South Cardiff that cant obtain a place at their local school, namely Fitzalan. These were the findings of Estyn and the Scrutiny committee. Scrutiny went further as they were of the firm opinion that expanding to 8 forms of entry was clearly not sustainable as new schools were being built in the North. They also questioned that why when 2 new high schools were being built in the South they weren't being built to accommodate demand. Inexplicably Willows intake was being reduced by 300. It is the school expansion being proposed by the developer that necessitates the removal of the covenant , and given that the expansion is not a requirement, therefore it would not be considered in the best interests of the Charity to approve the proposed land swap.
- ***It is crucial that this committee has access to and sight of all the documents relating to this school project, including Scrutiny and Cabinet meetings inclusive of 17/12/20 to October 2021 in order to inform their decision.***
- The whole report has been written to support the case that the swap is in the best interests of the Corporate body as developer. There is not a single piece of information contained in the report to counter this proposal. Not a good look for the Corporate body who are trying to evidence that this process is managing the conflict.
- There has been no evidence provided to date that confirms whether the site can have a school building built on it. **There has been no surveyors report provided to your committee evidencing that any of the Charity land is suitable for building on.** If your committee does not have this information how can the trustee reach an informed decision on the land swap and be deemed to be acting in the best interests of the Charity?
- The process i.e. this committee) has been recommended by the council leader who is seriously conflicted. The same council leader who stood up at full council and declared he was seriously conflicted. He has been party to every previous decision taken on both projects, which include these decision making arrangements that all necessitate the removal of the covenant. These previous and current decisions were and still are unlawful as conflict still exists. These decisions are proof positive of the Corporate Bodys continuing inability to manage the conflicts.
- The process has been seconded by the Councils legal officer who is also directly conflicted. She recommended full council approval of this process even though they were recommended by the leader who is seriously conflicted. Proof positive again that conflict still exists.
- A conflict is a conflict under Charity law and there are no separate degrees that mean a conflict doesn't exist. The whole Council is conflicted, therefore any decisions on the Maindy Park Trust would have to be taken by persons outside of the Council In its entirety. The suggestion that 4 cabinet members are not 'significantly' conflicted so they can make the decision on the land swap is incorrect – they are conflicted!
- The Councils own legal and monitoring who has written the cover report and produced the Equality Impact Assessment that your committee has to use to inform your decision on the

land swap is conflicted. The conflict arose on the 14/10/21 when Cabinet agreed to expand the school onto the Charity land. Details can be found under resolved decisions for the Cabinet meeting on this date.

- The parcels of land being offered in exchange are existing open access parkland which are already protected. There is no benefit to the Charity, only a significant loss. It would therefore follow that If the committee agreed the land swap they would be seen to be not acting in the best interests of the charity.
- Just because the governing document doesn't make any reference to disposing of the land and doesn't specifically reference Cathays should it follow that the committee should be satisfied to approve the land swap. The governing document makes no mention of disposal because the Council are supposed to protect the land in perpetuity . The document may not make specific reference that the charity land has to be provided in Cathays but neither does it state that charity land can be provided somewhere else in Cardiff. What is does evidence is that that the designated land – the gift encompasses land located entirely within the ward of Cathays. This whole report has been drafted with a view to the best interests and outcomes for the Council as the developer and not the trustee. It has been written to try and influence the committee into determining that the net loss of open green space and the removal of the covenant from Maindy will somehow be in the best interests of the charity. Whatever way they try to `dress up` their proposals any recommendation to remove or transfer the covenant is detrimental to the aims of the charity, responsibilities as trustee and significantly disadvantages the beneficiaries. The Councils proposals to develop Maindy Park and strip it of its protected status will be absolutely detrimental to its responsibilities and obligations as sole trustee and will be damaging to the reputation of the Council as a self styled protector of open green spaces.

You should not be satisfied to approve a disposal which would involve moving the charity land elsewhere in Cardiff just because..... as the information has been provided by a conflicted officer.

- You are being expected to rely on legal advice and guidance that has been obtained by the Corporate body in its capacity as developer whose aim is to remove the covenant This totally contradicts the committees aims which as trustee are to ensure the land is protected and can only be used for recreation, sport and leisure by the inhabitants of Cardiff in perpetuity.
- You have not been given the opportunity to obtain your own legal advice for this meeting but are expected to reach a conclusion on legal advice which has been sort in order to facilitate the removal of the covenant.
- You have not been given the opportunity to request advice in your capacity as trustee from the charity commission as to whether these decision making arrangements are a legal and lawful way to manage conflicts where a Corporate body is the sole trustee and conflicts exist.
- You have not been given the time or opportunity to request legal advice in your capacity as trustee on declaring conflicts of interest, in particular where the Corporate body has already taken decisions that have resulted in the whole council being conflicted

- This committee should not be sitting here today tasked with deciding if the land swap is in the best interests of the Charity. The area of land to be swapped has not been determined and the basis for the valuation on the area of land to be swapped is incorrect. The consultation should have been declared null and void but this hasn't happened. Evidence of continuing conflicts of interest.
- No decisions can be made on the land swap until the area of Charity land to be exchanged has been determined.
- The basis for the valuation supplied is incorrect as it has been calculated with the covenant still in place. This is wrong as it will be a fully functioning asset **without** a covenant, on land which will be developed. A plot of land of roughly 90 sq metres recently sold on the corner of Maindy Park with a guide price of £125,000. That's roughly £1,400 per sq metre. The surveyor's valuation of Maindy is on 21,260 sq metres of land. Applying the same 1,400 per sq metre valuation to Velodrome site gives £30 million. So the surveyor's valuation of £215 thousand is approximately 140 times lower than it would be if it was based on the sale of individual housing plots at that location.
- Valuation figure of 215,000 is incorrect for the above reasons. Also how could this be correct when the developer i.e. LEA have stated the demolition of the velodrome will raise funds to be diverted to the tune of 2.4 million for the new, smaller velodrome in the bay?
- The terms of the transaction detailed in the surveyors report, especially the valuation are most certainly not the best that can be reasonably obtained for the charity as there appears to be a huge undervaluation of charity land which is of great concern as the proposed replacement land is based on this undervaluation. The council as developer look to make a huge financial gain on this transaction to the detriment of charity beneficiaries. Obviously this point is irrelevant as per the above but have included this to support the undervaluation.
- Consultation and engagement by the Council on the land swap has been diabolical as has been the case with the school expansion. Its been a case of this is what we are doing and you will accept it. This consultation was simply one tiny advert in the Western Mail newspaper, a paper with the smallest reach in Wales. Cardiff has a population of 485,000 and this paper has sales of 7,000. There was no public meeting or notices put up to inform and explain by the Council. The local councillors refused to attend the meeting organised by the campaign group and refused to organise one themselves as they `had already made the decision to expand the school last october". We advertised a meeting to discuss the land swap by way of notices around the Maindy site. Inexplicably a Council officer instructed the staff at the leisure centre to remove them. What information they did make available, which was only about 7 days after placing the advert in the paper was confusing and flawed. The email address did not answer queries. This consultation like the school one did not include any reference to the covenant in the documentation.
- You have only been provided with a summary of the responses received for the land swap consultation. This summary doesn't come close to the depth and breadth of the information contained in the objections and you will need to see all 248 in full. This information would be needed to inform your decision – even the cover report suggests this as para 20 (v). It would

not be possible to make a recommendation in the best interests if you did not have sight of these responses. I have attached a copy of my objection as an example. The result of this consultation cannot be viewed in isolation – this committee needs to have knowledge of the full results of all previous consultations on projects that necessitate the removal of the covenant in order establish the full scale of opposition to these proposals which has been evident from day one . Without these this results the committee will not be able to make an informed decision in the best interests of the charity and the beneficiaries.

- You have not been provided with copies of minutes, reports and correspondence from the Children & Young persons Scrutiny meetings or **all** the Cabinet reports and associated documents relating to the school expansion project. This scrutiny did not even recommend that the school expansion proposals went out for consultation! The **full** results of the school consultation have also not been provided. **This information is required to inform your decision on the land swap as it is this school expansion that necessitates the removal of the covenant by way of land swap. You need to be certain that the expansion is necessary, sustainable and can be accommodated as you cant actually build on the velodrome. These documents will need to range from 17.12.20 until 14.10.21 inclusive.**
- The replacement velodrome is also reliant on the removal of the covenant yet this committee have not been provided with all of the relevant documents. This committee will need to see copies of **all** minutes, meetings, reports, correspondence and outcomes of Consultations relating to this project. **Again this information is needed to inform your decision as in order for the project to proceed it requires the removal of the covenant by way of land swap.** The removal of the covenant will also mean millions of pounds of education monies will be diverted to part fund this replacement velodrome. You need to be certain that if the current velodrome is lost that the replacement is adequate. The business case for the new velodrome is reliant on all users transferring but this will just not happen as it will be a track bike only facility. The business case is not due for a decision until Feb 23 and this will seriously impact on the financial viability. As the school expansion is dependent on this being approved at the very least your decision on the land swap needs to be deferred until the decision on the business case has been decided.
- You have not been provided with any evidence that supports the Councils statement that the current velodrome is not fit for purpose and that the replacement velodrome will be fit for purpose. Views need to be sort from the current stakeholders, in particular those that put their concerns in writing with the main issues being that the new design will exclude the majority of users of the current facility as it will be track bike only and age restricted. The majority of users of the current velodrome use road bikes. Only 3.5hrs a week of the regular bookings is for track bikes and that is one club. This information is needed to inform your decision on the land swap as this facility will be lost if swap goes ahead. Again, you need to be certain that the removal of the covenant is in the best interests of the Charity and residents of Cardiff. You will need to refer to the attachment Maindy Flyers regarding the unsuitability of the new velodrome.
- Whilst it is correct that the trust does not have to provide a velodrome on the Charity land you may be questioning why would you need to see the documents relating to the replacement velodrome and seek views from the users of the current velodrome to inform your decision? Because the removal of the covenant by way of land exchange will impact directly on both. It would be prudent before any decision is taken by yourselves to clarify the situation on the current and replacement velodromes. The decommissioning of the current velodrome is essential in order for the replacement to proceed and the school to

expand. The replacement velodrome can only proceed if the school expansion is approved and this can only happen if the land swap is approved. The school expansion onto the charity land can only proceed if the new velodrome is approved, the land swap is agreed, a planning application is approved and Welsh government approve funding. So you see everything is interlinked but everything is absolutely reliant on the removal of the covenant and that is the decision you are making. Hope that makes sense.

The information you have been provided with to inform your decision is woefully lacking and what has been provided is very selective, misleading and contains several factual inaccuracies. All this information has been provided by conflicted officers and departments of the Council who want to remove the covenant in order to progress the developers proposals.

Although you only have my word, there has been huge opposition to the proposals at every stage that would lead to the loss of the Charity land which includes the velodrome and it is growing. However the Council have pushed on with their agenda regardless.

This committee should not recommend the land swap as it would not be in the best interest of the charity or its beneficiaries. I urge you to reject the Councils proposals to exchange either parcel of land identified under the recommendations detailed in the report.

Submitted for consideration  
Mrs Christine Wyatt  
9/10/22

I am a member of the Save Maindy campaign and the Maindy Park Charity Trust Association



Maindy Flyers  
Maindy Velodrome  
Crown Way  
Cardiff

26 January 2022

Cllr H Thomas  
Cllr R Goodway  
Cllr P Bradbury

Dear Councillors Thomas, Goodway and Bradbury

**Re : Velodrome Relocation concerns**

As you will be aware the Maindy Flyers Cycling Club are a major user of the current Velodrome in Maindy and to date have been broadly supportive of a move to an upgraded facility at the International Sports Village. We are pleased to see investment in our sport and believe the concept of a cycling specific building and facilities will improve provision and enrich our community.

However, as we are not yet clear on some of the details which will make a big difference to the club we don't feel that we are able to be overwhelmingly positive.

We appreciate there is complex process to follow. Therefore, we wanted to write to you directly in the first instance so that you can understand our point of view. We hope we can positively influence decisions regarding the velodrome and ensure it maximises the opportunity to create a cycling facility that can truly support the development of cycling for the whole community rather than one that is more performance-focused.

Between us, over many years our volunteer Coaching team and Committee have spent many hours track side. Whether from training in all weathers, coaching children of all abilities and organising national-level racing we are unique in our experience and knowledge to advise on the things that have made Maindy Flyers, youth cycling and the Maindy facility such a huge success over the years, and which may not be so obvious to others.

It is worth noting that our sessions to youth riders make up approximately 70-80% of the current velodromes use and the concerns detailed below will significantly impact on training provision for youth riders.

**1. Road Circuit Uncertainty**

Given that the proposed velodrome is significantly shorter in length the way we deliver our activities may be compromised. We believe Cardiff will only see an improvement in cycling facilities when the road circuit is also complete.

If constructed to the correct 'competition' specification with the correct width, surface, run off areas, lighting and fencing it will be a huge asset which will be adopted by all parts of the cycling community. The ability to attract large scale race events will also help to raise the

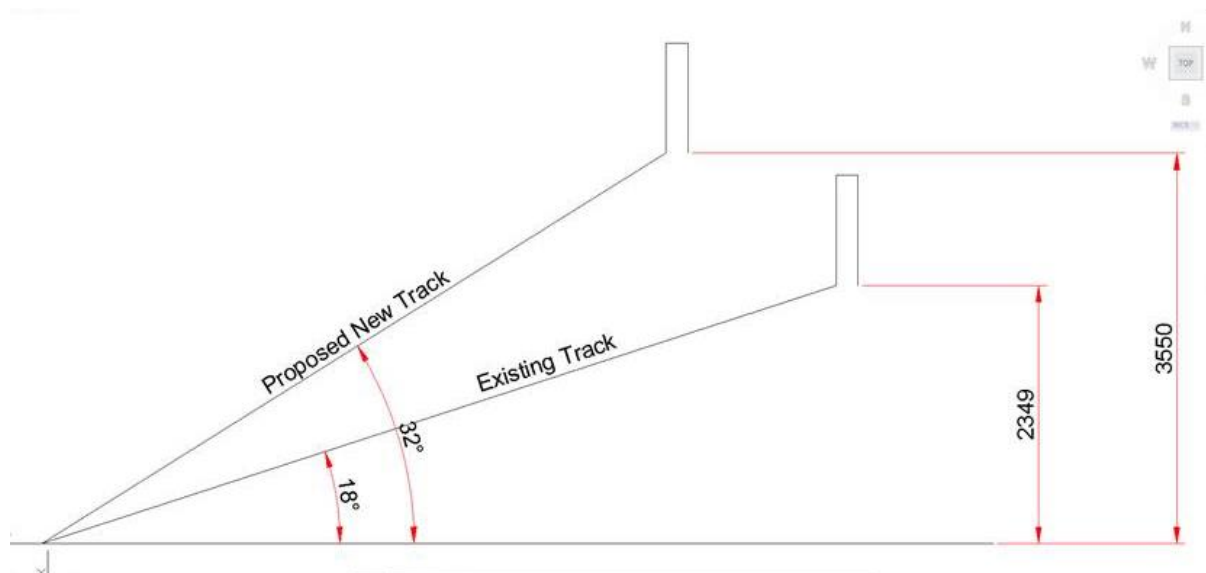


profile of cycling in the area. However, if a compromised road circuit solution is delivered, we do not foresee that it will be of any use to the club at all.

We fully support this part of the project and see it as a vital part of the overall project and will truly make it a facility of which Cardiff, its residents and the cycling community can be proud.

## 2. Track banking may be too steep

Maindy Velodrome has a relatively shallow banking (18 degrees, which is suitable and useable by a wide range of bikes including all sizes of road bikes (those with gears and brakes) and also track bikes (single speed, no brakes). We have been advised in a recent technical meeting that the banking for the new Velodrome will have an angle of 32 degrees. The illustration below demonstrates what a difference this makes.



This detail is important to us because we believe that inclusivity and accessibility is more important for a community-use facility such as this one than performance. As a club we coach children as young as 5 to ride the velodrome and it is important to us that they can confidently use the whole track. A banked track which is too steep will put potential participants off taking part in the sport, and all have minimum age requirements that are considerably higher than that which applies to Maindy Flyers.

Firstly, the steeper banking is a concern because of local weather conditions. Newport velodrome has a 42-degree banking but is a performance-focused, indoor venue that is only suitable for track bikes and riders aged 10+. Wet weather will significantly impact on delivery of safe sessions for mixed ability riders (youth & adult). Cancellation due to weather conditions rarely happens in Maindy as we are able to swap sessions between road and track sessions if the weather is particularly wet. It is unlikely that the proposed banking angle of 32-degrees would be safe to ride on in the wet, leading to lots of cancelled sessions. This would have a significant impact on the revenue the facility is able to generate, not just from our club but from other users of the facility.



Secondly, if the track is too steep the chance of “pedal strike” on the banking increases particularly for road bikes. We also have to take into account the differing and ranging sizes/geometry set ups in both youth and adult road bikes.

We appreciate that the steeper banking will continue to accommodate track bikes. However, a steeper angle requires the rider to maintain a higher speed which is good for the more confident rider but may exclude some at the lower ability end. Those that are more confident can already access excellent facilities at Newport. Two tracks with strikingly similar profiles would likely be both be detrimental to each other and the athletes/participants. The indoor facility would likely be more successful due to the control of weather conditions.

If the future goal is to expand and increase inclusivity in youth sport and cycling more generally in Cardiff and South East Wales, we feel a banking angle of 32 degrees will again compromise the ability to deliver upon this goal. Something closer to the banking at Maindy would be far more accessible to all.

### **3. Track Length / Capacity is reduced**

The new velodrome is planned to be 333m which is shorter than the existing 460m facility. We understand that this is due to the national governing body’s preference for metric tracks and that a 500m track is not achievable without the removal of Olympic Drive. Our opinion is that a 500m Velodrome would be a direct replacement for Maindy and would be the ideal solution.

Our main concern is regarding track capacity and design. A reduced sized velodrome will reduce the number of participants able to train at any one time. Part of our “magic formula” in producing future world class athletes, is that we train mixed ability groups together, this gives riders a target regardless of age and gender. The larger the group the better. When younger riders are able to shelter behind older faster riders, they are able to train for longer, faster and harder than if they are training just within their own age group alone.

Inspiration and mentoring is crucial for any youth sport. Riders have always been able to look up to older riders within the club. We see time and again the inspiration younger riders gain from the many older youth role models in the club, with whom they are able to train. If the track capacity is reduced significantly, we are afraid we are likely to lose a fundamental element of that magic which makes Maindy Flyers such a successful and unique cycling club.

On a practical note, if the groups are smaller and our membership numbers remain the same or swell then we will need to compromise on session length in order to accommodate everyone. This is due the limited track time being available outside school hours. The ability for riders to get the required training time to make them competitive is compromised.



The potential impact of a smaller track is also critical in the importance we place on the closed road circuit. Delivering this to the right specification is vital to maintaining overall training capacity alongside a 333m velodrome.

#### **4. Track Centre Design**

The area in the centre of the Velodrome at Maindy is a vital part of our training and racing. We use it to simulate and develop the cornering skills needed in most races. . As the area is smaller within a reduced sized track, we are very keen to ensure that design meets our needs.

#### **5. Costs**

Put simply, cycling is an expensive sport and we make every effort to make it accessible to all by keeping costs as low as possible. We do this through maintaining a fleet of bikes and keeping our monthly subscriptions as low as possible. Additional costs would be unwelcome, particularly as we may see an initial drop in numbers whilst we move between venues. Long term viability and access to the sport relies on keeping costs sustainable.

#### **6. Continuity**

We are pleased to have received a commitment that there will be no break in cycling provision. However, we must highlight the importance of this. Any delay or gap in provision could have a disastrous impact on our club and cycling in Cardiff and South East Wales.

We would welcome the opportunity to meet and discuss any of the points in more detail should you wish. Although the points raised may on the surface appear negative, we hope this is a constructive approach to contributing and providing solutions to the delivery of a facility of which the city can be proud.

Yours faithfully

A handwritten signature in black ink, appearing to read "Deian Jones".

Deian Jones  
Chair

A handwritten signature in blue ink, appearing to read "R. Price".

Richard Price  
Head Coach

A handwritten signature in black ink, appearing to read "Alan Davis".

Alan Davis MBE

Maindy Flyers Committee and Coaches

## **Save Maindy Velodrome Representation #03:**

### **Concerns About the Decision Making Process and Formation of Maindy Park Trust Committee**

The following analysis was carried out on behalf of the Save Maindy Velodrome campaign group by Christine Wyatt. It highlights many concerns and raises many questions about the Decision Making Process and Formation of Maindy Park Trust Committee

Dear Davina,

Following discussions and decisions made at last week's Scrutiny, Cabinet and full Council meetings relating to Maindy Park I have considerable concerns and request your clarification on a number of points.

Before I discuss these I have serious concerns over the following specific occurrence :

#### **Council's Claims of not knowing about covenant issues and sole trustee status**

I was staggered to see and hear the Council leader and Cabinet member for Investment & Development at Cabinet and full Council stating that the council weren't aware until recently of the Covenant issues and trustee issues! 'It would have been much clearer around the process had we known about the covenant issues', 'I'm pleased that our officials did identify this matter before we'd got any further' and 'it was indeed our council officers who established the position'.

Huw Thomas has stated incorrectly that council officers have only just discovered the Covenant issues and trust issues and this is the reason steps are only now being taken to internally manage the conflicts of interest.

The Council leader is also claiming that the deeds of conveyance and land registry documents don't contain any information that evidence the Council holds the land in trust.

The charges register under land registry documents is quite clear at point 1 in that there are restrictive covenants in place and that the land was gifted to the lord mayor of and the citizens of Cardiff. At point 2 it is also clear that the land detailed at point 1 is subject to the rights reserved by the conveyance dated 15/8/22.

The charges register document details any matters that affect the land. So if the Council were planning on building on the land surely the Estates team would have requested this document as basic due diligence?

The conveyance is the indenture dated 1922 which states 'the Marquis of Bute has agreed with the Corporation (alternative term for Council) ..... the covenants on the part of the Corporation...grant to them that the piece of land .... For the purpose of its being kept for the purpose of a park, open space or recreation or playground.'

The title deeds also refer to the conveyance.

So on balance of probabilities the Estates team would have requested either the charges register or the title deeds, perhaps both. Both of these documents would have referred to the conveyance and basic due diligence checks by Estates should have obtained this conveyance document also known as the indenture.

There can be no doubt that reference to the Corporation in the indenture is indeed Cardiff Council as under point 1 on the charges register the land was gifted to the high ranking official of the Corporation at that time, (which would later become known as Cardiff Council) and their title was lord mayor of Cardiff.

This indenture is easily obtainable from either land registry or Charity Commission.

So the Leaders claims that the conveyance and land registry documents dont reference Cardiff Council don't seem to add up as the information detailed says otherwise. It would appear the Council are claiming ignorance on a simple technicality.

However if the Council maintain this stance how did the officers actually establish the Councils position in respect of the covenant and trustee status if not from the conveyance and land registry documents?

So we have the Council leader claiming over 2 meetings that the Council weren't aware of covenant and trustee issues. It is pretty clear from the land registry documents and the conveyance document that the covenant is restrictive and that Cardiff Council have been gifted the land and entrusted to uphold the covenant.

The Council are also on written record stating that the covenant restricts the charity land in its use for park, open space, recreation and playground.

As sole trustee of said land they are fully aware of their responsibility of upholding that covenant in perpetuity and I don't really see how they could claim otherwise.

So what are the issues surrounding the covenant that the Council leader is claiming have only recently been identified?

The 'issues' surrounding the covenant are well known and simple. The Council are sole trustees responsible for upholding the covenant to protect the land in perpetuity for leisure and recreation. That covenant is restrictive and is detailed in land registry documents.

The only 'issues' are the sole trustees decisions and actions to date, as they are in direct breach of their obligations as trustee and this is why the conflicts exists.

These claims are totally untrue and a complete distortion and misrepresentation of the true facts you will already be aware of.

Back in November 2021 the Charity Commission confirmed and communicated to Save Maindy that the Council had contacted them to run the proposals by them. That the Commission had advised the Council that conflicts of interest existed and that these had arisen primarily because the Council was acting as **both the developer and the sole trustee in relation to the Maindy Park Charity and associated covenant.**

Huw Thomas now claiming the council did not know they were sole trustee or of the restrictive covenant is therefore a complete and utter falsehood.

Also of concern is that Huw Thomas then went on to say that the spending on the associated development project (the school) shouldn't be paused as they would need additional portacabins for the school because of the delay.

From this statement it is clear that his view is that the school rebuild and expansion on to Maindy Park is still going ahead irrespective of the outcome and that the covenant issue has delayed the development.

If this is true, then he must believe that the removal of the covenant is a foregone conclusion, rendering any supposedly independent steps to internally manage the conflicts of interest a complete sham. His statement evidences that he already knows what that the outcome of decisions yet to be made are or that any unfavorable findings will merely be set aside by Cabinet in favor of developing the land for the new school.

Huw Thomas's totally incorrect statements regarding the covenant and trusteeship were clearly made to try and mitigate and distract from the seriousness of the situation in respect of unlawful decisions made and spending to date on the linked development projects necessitating the removal of the covenant.

Falsely claiming they didn't know about the covenant issues and responsibilities as sole trustee does not suddenly make everything that's gone before legal and lawful and introducing retrospective decision making arrangements does not suddenly solve the conflicts of interest.

Evidence can easily be found that totally disproves the Council leader and Russel Goodway's absurd claims that the council had no knowledge of covenant issues or that they were sole trustee.

The Council have been fully aware of the implications of the covenant and their responsibilities as sole trustee for many years, and therefore must have also known that their development proposals for Maindy Park would have given rise to serious conflicts of interest.

A timeline of the council's prior knowledge of the covenant issues and their trusteeship is detailed below:

**1922:** Land gifted to Mayor of Cardiff and its residents. Document **details restrictive covenants applied to land.**

**1970's:** Part of the charity land was sold off resulting in **alterations to the covenanted land protected by the charity of which the Council were sole trustee.** The transaction would have clearly given rise to conflict of interest as Council sold the land to itself. It is not clear whether the Charity Commission approved this sale or were even notified.

**1988:** Council tried to develop charity land. They were defeated by a campaign group spearheaded by Eric Hodge of Cardiff Ajax Cycling club. **He discovered the covenant which saved the land.**

[https://www.walesonline.co.uk/news/wales-news/eric-fought-save-cycling-track-1856549?utm\\_source=facebook.com&utm\\_medium=social&utm\\_campaign=sharebar&fbclid=IwAR0cwtCV01GO5a20\\_-eUbApgwFRef96WamCVcaWlxCcUAWVDGpg2j-vBr-Q](https://www.walesonline.co.uk/news/wales-news/eric-fought-save-cycling-track-1856549?utm_source=facebook.com&utm_medium=social&utm_campaign=sharebar&fbclid=IwAR0cwtCV01GO5a20_-eUbApgwFRef96WamCVcaWlxCcUAWVDGpg2j-vBr-Q)

**2010:** Cardiff Ajax uploaded an article detailing how a previous founder and member saved track from development **by discovering the existence of the covenant.**

**2017 to present:** Records are held on the Charity Commission website **detailing Cardiff Council submitting annual returns as sole trustee for Maindy Park Charity for the at least the last 5 years.**

**2018:** Chair of Maindy Flyers informed the Flyers committee that there was an exciting opportunity for Maindy Flyers to get a new club house and that she would be stepping down by the end of the year to concentrate on this project.

Was unable to reveal any more details at that time. Did not reveal that the development would not be at Maindy or that she was to be the council project manager for a replacement velodrome in Cardiff Bay! I was present at that meeting as at the time I was a committee member.

Holding a position of authority in the club, as was the case with senior coaches, other committee members and a large proportion of member's parents, as chair she would have been fully aware of the existence at the covenant in both her capacity as Chair and as a council officer.

The existence of the covenant was the sole reason Cardiff Council had previously been unsuccessful in developing the site and was the sole reason the velodrome still existed which, in turn, enabled the formation of the Maindy Flyers cycling club – an important and well known part of their history.

Note: Once the plans were revealed to move the velodrome for the school to expand, the first question many at the club immediately asked was “what about the covenant?”!

**2019 to present:** The Council project team have had discussions with the main stakeholders of the current velodrome – Maindy Flyers and Cardiff Ajax since 2019. Both clubs were fully aware of the covenant and its implications and its existence would have been discussed.

**2020:** Cabinet meeting 17/12/20 Agenda Item 6 Appendix This is significant as these are the first published plans that absolutely created the clear conflict of interest due to the council being both developer and sole trustee.

*Replace the Cathays High School buildings with new build accommodation **on the Maindy Centre site adjacent to Crown Way and North Road;***

**Also of interest is the following:**

*127. The Strategic Estates Department are part of the project team for delivery of the new Cathays High.*

In addition to already having prior knowledge of the covenant, basic due diligence checks that should have been carried out by the estates team at this point (i.e. check land registry docs before deciding to develop the land) would have easily confirmed its existence !

It is pretty clear from these docs about the restrictive covenant – points 1 & 2

## C: Charges Register / Cofrestr Arwystlon

This register contains any charges and other matters that affect the land.

Mae'r gofrestr hon yn cynnwys unrhyw arwystlon a materion eraill sy'n effeithio ar y tir.

- 1 (16.09.2008) A Conveyance of the land in this title dated 15 August 1922 made between (1) The Most Honourable The Marquis Of Bute and (2) The Lord Mayor Aldermen And Citizens Of The City Of Cardiff contains restrictive covenants.

NOTE: Copy draft Conveyance filed.

- 2 (16.09.2008) The land is subject to the rights reserved by the Conveyance dated 15 August 1922 referred to above.

- 3 (16.09.2008) The parts of the land affected thereby are subject to the rights granted by a Lease of an electricity sub station dated 21 February 1994 referred to in the schedule of leases hereto.

NOTE: Copy Lease filed under WA706157 .

- 4 (16.09.2008) The parts of the land affected thereby are subject to the leases set out in the schedule of leases hereto. The leases grant and reserve easements as therein mentioned.

- 5 (26.02.2013) The parts of the land affected thereby are subject to the rights granted by a Lease of an electricity sub station dated 5 September 1960 referred to in the schedule of leases hereto.

NOTE: Copy lease filed under CYM397252.

- 6 (26.04.2013) By a Deed dated 22 April 2013 made between (1) The County Council of the City and County of Cardiff and (2) Western Power Distribution (South Wales) Plc the terms of the lease dated 5 September 1960 referred to in the schedule of leases hereto were varied.

NOTE: Copy Deed filed under CYM397252.

2020.

public meeting held on the 24/2/21  
is aware of the covenant issues ,  
with Estates as detailed December

*Q. I understand that the land was bequeathed to the City by Lord Bute and there is a covenant to retain the land as public open space? I also believe it is not possible to build on the site as the land is the site of an old dump, is that correct?*

**RP - The Council is committed to public open spaces and we are looking at solutions to enhance facilities for the community. The covenant will be assessed as the scheme progresses.**

The following paragraphs in the report also evidence Councils knowledge of covenant.

**68. A pre-existing land covenant** sets out that the Maindy Centre land is restricted to use for park, open space, recreation and playground.

**126. The Estates team are aware of the covenants and will work with the Education and Legal teams as and when appropriate.**

**17/12/21** - The valuation report provided for the land swap proposal:

8.3 The Land Registry Title states **there are restrictive covenants** in favour of Marquis of Bute but does not set out the extent of the restrictions. **The Council's Cabinet minutes from 17th June 2021 set out that the covenant restricts its use for park, open space, recreation and playground.**

Although the deeds title don't set out the extent of the restrictions, it does refer to the conveyance (indenture) in point 2 which goes into detail.



30.6 Part of the Maindy land 0.06 hectares(0.1647 acres) currently provides overflow parking for Cathays High School which is in **breach of the Trust's objectives**.

There is a letter attached to this report dated 22/9/21 addressed to Eirian Jones (Estates Department surveyor) **referring to the Council as trustee and** clearly highlighting that the lands use is restricted (protected by a covenant).

Cardiff Council have previously used this company to value the velodrome so that report would, in all likelihood, also have detailed the covenant and the Councils status as sole trustee.

**2021 – 2022** For the last 18 months there have been discussions and written correspondence between the public, the Save Maindy group and Cardiff Council, including local councillors - in particular Sarah Merry and Chris Weaver relating to the covenant and sole trusteeship.

I have personally written to Paul Orders referring to the covenant and the council's position as sole trustee.

Lee Bridgeman, Neil Hanratty, Paul Orders, Giles Parker, Richard Crane, Melanie Godfrey, Keith Jones and Nigel Howells are just some of other council officers who have been copied in to correspondence detailing the covenant and the council's conflict of interest as sole trustee.

#### **21/10/21 HUW THOMAS LETTER**

*Huw states 'it is correct that there is a covenant on the land requiring its use for recreation and the Council is likely to require consent from the Charity Commission to allow the land to be used for education purposes'*

#### **23/12/21 FOI 17243**

Cardiff Council sent a letter to the Charity Commission that outlines the conveyance / indenture became registered as a charity in 1966. So Cardiff Council have been sole trustee of the Charity since 1966.

#### **9/6/22 FOI RESPONSE 17984**

*'To confirm the Council is the sole corporate trustee and ultimately makes decision for the Charity. It is supported by officers from a range of departments including Legal, Finance, Strategic Estates and Parks.'*

So Council are confirming they are sole corporate trustee and that there is no separate structure for the trust.

To conclude this point, the evidence detailed above is proof positive that both Huw Thomas and Russel Goodway **deliberately mislead full council and Cabinet by stating that they only just found out about the covenant and trust issues.** I trust that you will be taking action over this clear breach of standards?

**The next area I wish to cover is points that need clarification relating to the formation and operating procedures of the Maindy Park Trust Committee.**

- Will the beneficiaries have the opportunity to comment and /or make representations to the committee before the meeting> These voews would be relevant and would help inform the decision
- Will the recommendations and/or decision reached be going through scrutiny first or straight to Cabinet?
- How many times will this committee be meeting?
- Who will be selecting and appointing members to this committee?
- Will anyone be providing support to this committee and in what capacity?
- Which council officers will be present at the meeting and in what capacity?
- Will the committee have sight of the legal advice obtained which detailed the formation of this committee?
- Who is the legal adviser that will be present at the meeting, are they au fait with Charity law and regulations, in particular conflicts of interest where a Corporate body is the Sole Trustee, and who appointed them – the Council as developer or the Trust committee?
- Which Council officers will be involved in the committee and what will their roles be?
- Will members of this committee be able to obtain their own legal advice on conflicts of interest? Also, as they are council employees, to what extent will they be bound by previous decisions taken by the Corporate body?
- Will these members be told that the Corporate body acting as trustee has already made the decision (on the 17<sup>th</sup> June 2022) to dispose of the Charity land to itself as detailed under Cabinet forward plans before the consultation had finished?
- Will these members be told that the Corporate body acting as trustee has already made the decision to dispose of the land to itself as detailed under published decisions 28/9/22?
- How can this committee be expected to make a subjective and independent decision when all the decisions that have come before (including the corporate trustee decision to dispose of the land) are reliant on Maindy Park losing the covenant protection?
- Will the committee be provided with an independent land survey detailing its actual developmental value based on the removal of the covenant? If not will they be able to request one?

- Will this committee be made aware that the valuation has been carried out incorrectly – it has been valued assuming that it is restricted to public recreational use.
- Will these members be told that the area of land detailed in the land swap consultation is in fact not the final determined area required by the LEA (as evidenced by the Chris Weaver WhatsApp conversation)? In other words the exact land area required has yet to be determined.
- Did the Council seek legal advice from Charity law experts in identifying what advice it needed to enable these committee members to make a sound decision on the land swap?
- Did the Council seek legal advice on behalf of the Charity in its capacity as sole trustee in order to challenge the decision making arrangements which are being put in place to remove the covenant? If not why not? as this advice would be needed by the committee in order to make an informed and sound decision on the proposed land swap.
- On what basis does the Council consider the members of the Standards & Ethics Committee appropriately qualified in Charity matters to be appointed to this committee?
- Are those being appointed sufficiently au fait with Charity law and regulations?
- What is the procedure for appointing these members – will they be selected from the current make-up of the Standards & Ethics committee and if so will these officers have a choice of whether they want to participate in this decision process?
- What is the nature of the meetings to be held by this committee and what information will they be provided with? Who will decide what information they receive?
- Will they receive a copy of all of the objections in full to the land swap consultation – if not why not?
- Will they be having an initial meeting to discuss their structure, roles and what information they need or will they just be formed to immediately make the decision on the land swap?
- Will the decisions of this committee be subject to approval by scrutiny and Cabinet?
- Will Cabinet have the authority to disregard the findings of this committee or will they be bound by them?
- Will this committee just be required to make a decision on the land swap or will they be tasked with looking at interrelated development decisions linked to the proposed removal of the covenant?
- Will the meetings and decisions made by this committee be held and discussed separately and not alongside the other members of the Ethics committee?

- Will the discussions on how they arrive at the land swap decision and information provided to this committee be exempted or will it all be made public?
- If these decision making arrangements haven't been discussed with or approved by Charity Commission will the committee be told? Will they be told if it does not follow Charity Commission advice and guidelines?
- Will the committee be told that the Council has already breached the covenant as they have built an overflow carpark for the school on Charity land without authorisation from the Charity Commission?
- Will the committee be told that this breach has occurred because the Charity Commission were not consulted and didn't approve change of use ?

I accept that there are a lot of questions, but they cannot be avoided due to the uncertainty of the true purpose of this committee and minimal terms of reference for its function, duties and powers as detailed in your report.

If this process is to be seen as fair, open and transparent then the beneficiaries (including myself) require full and clear answers and clarification.

If the Council were truly acting in the best interests of the Charity they would be following guidance, best practice and requirements set out in charity law and by the charity commission. This would involve an open process to appoint independent trustees.

The Council are not doing this – instead they are using local government provisions , so it is understandable to suspect that the purpose is to achieve what they as the local authority want, and not to protect what the Charity owns.

The adoption of this highly unusual, if not unique, process does little to inspire any confidence that it will be truly independent.

The legal advice taken was supposedly sought to enable the Corporate body to manage the conflicts and discharge its duties and responsibilities as Sole Trustee, however the process being implemented only serves to compound the issue further.

Why is this legal advice being hidden? By exempting this information from the beneficiaries it leaves me in no doubt that the Corporate body are pushing the Developers agenda only and that its obligations to the Trust have not been considered. In other words conflict of interest still exists.

Along with all the previous unlawful decisions made to date by the council as developer, which necessitate the removal of the covenant, the Corporate body as trustee has also already made the decision to dispose of the Charity land detailed in the land swap exchange.

The decision was made and published before the public consultation had even ended and the area of land to be exchanged detailed in the surveyors report is not the actual area proposed in the exchange, compounded by the fact that the exact area involved has not yet been finalised!

The Corporate body now wants to put a process in place that it has obtained legal advice on purely on behalf of itself as the developer in order to enable the removal of the covenant.

The Corporate body as Sole Trustee has already made the decision to dispose of the land (without seeking legal counsel as sole trustee) despite the actual area of land concerned not yet being determined!

The Council are now setting up a committee who's sole purpose appears to be to retrospectively ratify decisions that have already been made in breach of the covenant!

No legal advice appears to have been obtained by the Corporate body in its capacity as trustee to counter this process.

There is no reference to the Charity Commission in respect of how this scheme accords with and meets in full the Regulators advice and guidance on managing conflicts of interest.

The conflicts still exists, therefore all previous decisions made and future decisions on these development projects are unlawful.

The setting up of this committee within the council is further evidence that not only do the conflicts of interest still exist but they continue, by these actions, to get more serious.

The decision to approve the formation of this committee is unlawful as conflict still exists.

The primary role of the trustee is to protect the land, not give it away. The swap is worthless as the areas identified are already open access to the beneficiaries. If the swap were to go ahead it would result in a net loss of open access green space.

This process is clearly being put in place to remove the covenant.

The Council will still be sole trustee and will therefore continue to be conflicted as it would benefit by millions of pounds from the land swap

### **Advice to Council Officers on Declaring Conflicts in Respect of Decision Making process**

The legal advice sort was for the sole benefit of the developer, not the trustee as the process identified would lead to / is clearly being geared to the removal of the covenant which would pave the way for the school expansion onto the charity land, something which Huw Thomas has voraciously supported over the last 2yrs and who just happens to be the lead officer on these recommendations.

You advised members of the Cabinet with specific conflicts of interest and members at Full Council that they could vote to approve the decision making arrangements as this is only a process and not a decision on the land swap. However the decision to vote on this process was a matter for them personally.

So astonishingly what that meant at Cabinet on the 28/9/22 was that 8 of the 12 members who had serious conflicts as they had already been involved in decisions that would necessitate the removal of the covenant, could approve a process which could result in the removal of the covenant!

Again these serious conflicted officers were allowed to vote on the same process at full council.

Your report also stated that 4 Cabinet members could make the decision on the land swap as they have no conflict to declare.

I have to disagree that Council and Cabinet members were and are able to vote on this process – reasons detailed later on.

The process they were asked to approve is one that results in the formation of an in-house committee, rather than one being set up totally independent of the council.

This path of action is likely to result in decisions being made that will be different to those that would be made by if truly independent trustees were appointed instead to decide trust matters.

This would be to the benefit of conflicted officers who wish the land swap to go ahead as this committee could make a decision that paves the way for the school expansion. This is likely as the members will be bound by previous decisions taken by the Corporate body.

Therefore you have allowed all Council officers to vote on a process that increases the likelihood of an outcome that would be of benefit to the projects over which conflicts of interest still exist.

There are 23 Council officers so far identified (including Cabinet members) with serious direct conflicts as they have all been directly involved in previous decisions and actions that necessitate and support the removal of the covenant or have expressed their full support for the interrelated developments.

Although the 23 Council officers would be excluded from taking the decision on the land swap, they along with the rest of Council have been permitted to approve a process which relates directly to a decision that could see the school built on the Charity land.

What was very concerning was that the leader seemed to be playing down the serious concerns around declaring an interest that had been raised. He told full Council that “we are all perfectly entitled to take part in this decision today”

Therefore I disagree with your decision which has allowed councillors directly and indirectly conflicted - see below, to vote on setting up this committee. If they had not been permitted to vote, the decision making arrangements would not have been approved.

In my opinion all the officers at full Council meeting should have been excluded from voting on the setting up of the committee, as they are bound by the previous decisions made by the Corporate body and therefore the council as a whole is therefore conflicted.

The advice given does not accord with the Charity’s existing governance which is the Council as Sole Trustee acting as body corporate.

Person Specifications” document dated May 2022 which reflects the very latest position following the Local Government and Elections (Wales) Act 2021 sets out in its template for the Cabinet Member Role Description, under the very first item “Accountabilities” with the topmost in the list being “To the Leader” followed by “To the Cabinet (through collective responsibility)” and then to “To Full Council”.

Council is Sole Trustee acting as a body Corporate. The Council Chief Executive has confirmed in writing that there are no individual trustees. So it doesn’t matter who actually sits in Cabinet or who has left the room because it is not them as individuals making the decision, it is the Cabinet as a body. And that body is still conflicted by the issuing of the Section 42 legal Notice in June last year to build a school on Maindy Park.

A loyalty is therefore owed to the Leader and, as the Councils own governance arrangements also make clear, to decisions taken collectively by the Cabinet, irrespective of whether it is in their portfolio or not, and regardless of whether they were in office or not when the decision was made if

it is still an agreed decision – and the statutory notice for building the school on the Charity land completed its legal process in July last year.

The Charity Commission is quite specific that owing a loyalty to another person or organisation who would benefit from the decision made on behalf of the Charity also gives rise to a conflict of interest. If such conflicts are not declared and the individuals do not recuse themselves then the validity of the decision can be set aside. It says:

*“[to] Act in your charity’s best interests you must... avoid putting yourself in a position where your duty to your charity conflicts with your personal interests or loyalty to any other person or body”.*

Decisions have already been made in the past 2 years which were subject to the same conflict of interest, despite the council being well aware that it was unlawful for Maindy Park to form part of the education estate. Therefore any scheme / process agreed now and any decision which follows not in the best interests of the Charity would likely be declared void as clearly a breach of duty.

We have recently provided evidence directly to yourself that clearly shows the Corporate body acting as trustee has already made an unlawful decision to dispose of the Charity land by way of land exchange before the consultation had finished, and that the area of land to be exchanged hasn’t been finalised, both of which should have voided the consultation.

Despite all of the above and the Corporate bodies continuing unresolved conflicts of interest, you still signed off a report to full Council which recommended approval of a process by which the Council only sort legal advice to benefit the developer. The process identified, which you recommended for approval would enable the developer to remove the covenant by way of a land exchange, which was subsequently approved.

I believe the actions you have taken will now mean you are personally conflicted and will have to recuse yourself from any further involvement.

As you know, all decisions that have previously been taken necessitate the removal of the covenant. These decisions are unlawful due to the existing conflict of interest that the Council have failed to manage and are still failing to manage.

Therefore any scheme agreed now and any decisions which follow are also likely to be declared void in subsequent litigation that upheld a breach of duty in the making of any of those earlier decisions.

All decisions and spending to date including the approval of the decision making arrangements i.e. formation of Trust committee at council last week are unlawful. The conflict of interest that arose in December 2020 still exists rendering all these decisions unlawful.

There can be no argument that the conflict doesn’t exist as the corporate body has only sought legal advice which will benefit the developer i.e. implement a process which will remove the covenant and allow the developer to build a school on the charity land. The decision to approve the process along with all previous decisions are at total odds with the Councils duty and responsibilities for the Charity. Again, clear evidence that conflict still exists.

It is ridiculous to propose putting in decision making arrangements – formation of a supposedly independent Maindy Trust committee to make a decision on the land swap, when every decision and action (unlawfully) taken by the Corporate body to date has approved the removal of the covenant in one way or another, and the Corporate body acting as trustee had already agreed to dispose of the Charity land before the consultation on the land exchange had ended.

The members of this committee will be bound by the previous decisions taken by the Corporate body – removal of covenant, even though 98% of the respondents to the public consultation objected to the land exchange.

The formation of this committee will not resolve the conflicts of interest

It is my opinion that this process is just window dressing to try and convince the Charity Commission that the Council have taken steps to deal with the conflict of interest. However, the steps that you as a council are now taking are worsening the conflict of interest rather than addressing it.

If the Council were acting in the best interests of the Charity they would be following guidance and best practice and requirements set out in Charity Law and by the Charity Commission. This would involve an open process to appoint independent trustees. Council aren't doing this - instead they are using local govt provisions, so clearly the purpose is to achieve what they as the local authority want, and not to protect what the Charity owns

Council is Sole Trustee acting as a body corporate. Council Chief Executive has confirmed in writing that there are no individual trustees. So it doesn't matter who actually sits in Cabinet (or who has left the room) because it is not them as individuals making the decision it is the Cabinet as a body. And that body is still conflicted by the issuing of the Section 42 legal Notice in June last year to build a school on Maindy Park

Case law shows that judges will - and have - set aside schemes proposed by local authority even if they have been approved by Charity Commission where the terms of a covenant make clear that the scheme should never have been considered in the first place due to conflict of interest

In reality the Maindy Park Decision Making Arrangements report and recommendation to approve should have not even been on the agenda for the following reason:

The resolved decision of the Cabinet on 14/10/21 in respect of School Organisation Planning:

**21st Century Schools: The expansion and redevelopment of Cathays High School included the following powers that were given:**

*“(v) Authority be delegated to the Director of Education & Lifelong Learning (in consultation with the Cabinet Members for Education, Employment & Skills and Finance, Modernisation & Performance, **the Director of Governance and Legal Services**, the Director of Economic Development and the Corporate Director for Resources) to determine all aspects of the procurement process (including for the avoidance of doubt development of all procurement documentation and selection and award criteria, commencement of procurement through to award of contracts) for the new build schools.”*

So your own role and that of your department became conflicted, albeit by default on this date as the decision taken by Cabinet was unlawful as there was an existing conflict of interest which had arisen in December 2020 (still ongoing as of today) because the Corporate body was both developer and sole trustee for the proposals.

Given the ongoing seriousness and worsening of the situation, the decision making arrangements that were approved following deliberate misinformation provided by the Council leader should be cancelled.



The formation of an inhouse sub-committee will not resolve the conflicts of interest. The Council will still be sole trustee and will continue to be conflicted as it would benefit by millions of pounds from the deal.

There has been huge opposition to these proposals since they were announced and this continues to grow. The Council have chosen to ignore this every step of the way and have pushed on with their agenda regardless. This is quite astonishing given that the conflicts of interest that arose in December 2020 still exist.

The fate of the Charity land will ultimately rest with the Charity Commission but until then the Council should be following the Councillors guide to councils role as Charity Trustee. This guidance states that any charitable assets for which the Council is trustee, are managed independently in accordance with their charitable purpose and any restrictions in the governing document.

The actions and decisions to date surrounding the Maindy Park Trust are clearly in breach.

The only way to fully deal with the council's clear conflict of interest is to have fully independent trustees appointed to the Maindy Park Charity to replace the Council.

Any further decisions or actions relating to the covenant and / or linked developments will evidence the Councils continuing failure to manage the conflict and the inability of the council to fully discharge its duties as sole trustee.

Submitted for consideration

Mrs Christine Wyatt

4/10/22

# Save Maindy Velodrome Representation #04

## Cardiff Council Land Swap Issues & Objections

**This report is an analysis carried out on behalf of the Save Maindy Velodrome campaign group by Christine Wyatt of the Land Swap Issues**

**For the attention of the Maindy Park Trust Committee to assist their consideration of whether there is equivalence in Cardiff Council of land to be swapped in exchange for charity property held in trust by the Maindy Park Trust.**

Before I get into the specifics as to why I fully object to these land swap proposals I would like to bring the following to your attention:

- Cardiff Council, in their capacity as sole trustees, have missed a very important step in this process.
- Before any views were requested on the proposed Maindy Park covenant land exchange, they should have first sought the approval of we (the beneficiaries) for any alteration or removal of the covenant and any change of ownership of the land.
- The suggested land exchange is the end of the process that should have begun with them seeking the views of and permission from the beneficiaries on any major changes to or loss of land protection by the covenant.
- As the trustees are primarily charged with protecting the land on behalf of us, the beneficiaries, surely they require our authorisation?
- I do not give my permission as a beneficiary, or does anyone who objected to the school expansion onto the land or anyone from Cardiff who signed the "Save Maindy" petition.
- Therefore, the trustees do not have any mandate or authority to continue to work towards the removal or transfer of the covenant.
- The Council have acted unlawfully by agreeing to appropriate the charity land for education purposes, so please instruct the trustees (your council) to halt any steps they are taking re: the covenant until such a time as they have the full permission and authority to do so from a majority of the beneficiaries.
- The Council leaders recent comments that the charity land is a disposable piece of public land for them to do with what they want is outrageous and shows nothing but utter contempt for the people he's supposed to serve and listen to, and that charity law and regulations simply don't apply to them.

The following are details of objections that relate to the proposed Land Swap:

- 1. Non compliance with legal notice/ Inadequate Consultation with Beneficiaries**
- 2. Lack of /Contradictory Information**
- 3. Consultation Issues – Failure by Trustee to Inform Beneficiaries of Process**
- 4. Legal Issue**
- 5. Further Land Swap Issues**
- 6. Non-Compliance with LDP & Welsh Government Strategies**
- 7. Conflict of Interest Between Trustee & Developer**
- 8. Charity Trustee Issues**
- 9. Trustee Engagement Issues**
- 10. Conclusion**

## **1. Non compliance with legal notice/ Inadequate Consultation with Beneficiaries**

Council put a tiny advert in the Western Mail on one day (20<sup>th</sup> May) giving 'notice' of the charities intention to dispose of land. It contained details of a link to information on the proposals and an email address for comments. There was a postal address for a council department, but this did not match the trustees details on the Charity Commission website. This press notice did not indicate the relevance of this department.

The link to information was not working for 6 days and even when the link did work the information couldn't be found under the section detailing consultations on the councils website. It was only on the 8<sup>th</sup> day after posting the notice that it appeared in the correct place on the councils website.

These failings were notified promptly to the Trustee with a reasonable request that they either suspend the Notice or to extend the period for responses. All these requests were ignored

It was 9 days after posting the notice that details of the so called consultation was posted to the councils facebook page.

Beneficiaries and users of the Charity Asset have been discriminated against because only digital responses are permitted via a single email address. ***The Councils consultation page only details this email address for response.*** This email address was not able to answer any legitimate queries arising from the Notice - the failures outlined above and, when incomplete information did eventually appear, there was insufficient information and the contradictions were apparent

Only publicising the 'consultation' on the Council website and facebook page also excludes vast numbers of beneficiaries from participating – this is unacceptable.

It is quite clear that Cardiff Council have had no intention of holding meaningful consultation with the beneficiaries, users and community on this matter and want as few people as possible to be aware of it and respond. If this wasn't the case the consultation would have included letters to residents, public meetings – in person or Microsoft teams / Zoom and notices put up around the site / immediate area. Details should have also been posted on the Councils online newsroom. All these options were taken full advantage of by the Council in its capacity as developer.

Cardiff has a population over around 485,000 - advertising the notice in the Western Mail which only has sales over just over 7,000 for the whole of Wales speaks volumes. It has the smallest reach in the target area of newspapers readily available in the community. It is quite clear that the council are trying to get this through with as little attention as possible.

There are specific groups of people who the Council should have made aware of the consultation and made sure can access it – this has not happened – Why – because they know there is huge opposition.

Call me cynical but look at the timing of this consultation – the notice may have been printed on the 20<sup>th</sup> May but the date the actual information became available on the Councils website just so happens to coincide with a school holiday.

Instead of *extending* the consultation due to the information not being available for 8 days and that it coincided with a school holiday, *the Council shortened it!*

In direct contrast the `developers' proposals have been widely published and publicised. There have been full page spreads in local press, numerous releases on social media and wide exposure on the Councils own website. They even put up posters advertising the plans around the Maindy velodrome site.

## **2. Lack of /Contradictory Information**

The information surrounding the proposals is woefully lacking in detail both in terms of process and inconsistencies in what has been provided.

It is nothing more than a statement informing us that the Council in its capacity as developer (LEA ) would like to swap some land for the Maindy Park charity land. They would like our views and if the decision to proceed is made they would need permission from the Charity commission.

There is no where near enough information being given to ensure that those consulted understand the issues and can give informed responses.

What information has been supplied- 3 images and a surveyors report is confusing and contradictory – we now have 2 different maps for land to be swapped out at maindy park, 3 if you include the red line boundary map from the school consultation last year.

The trustee has been asked to confirm which is correct but have not responded. They have also been asked to confirm whether part or all of the covenant is to be removed, again no response.

Why does the report not mention the promised community park – just highlights how dangerous the land left will be and it will need to be developed?

The report states the velodrome and leisure centre have previously been valued as financial assets, however these values are not detailed.

Why have these values not been reflected in the value of the land swap as the council appear to be removing the whole covenant ?

**Chris Weaver, a local Cathays labour councillor has now stated that the LEA have not decided how much land they want to take for education purposes!**

For this reason alone the consultation should be null and voided as people have not been provided with the information that will allow them to make an informed decision on the main issue – area of land to be swapped at Maindy.

As the Council have clearly failed to provide information relating to the exact area of land this will also render the valuation worthless.

To be honest this consultation appears to be nothing more than a feeble attempt by the Council in its supposed capacity as `trustee' to try and convince the Charity Commission that they are acting in the best interests of the charity and `managing ' the conflict of interest.

The suggestion that the Council will listen to our views before they make a decision is farcical given that the Council under its `corporate' hat has already made the decision to appropriate the land.

### **3. Consultation Issues – Failure by Trustee to Inform Beneficiaries of Process**

No explanation by trustee to explain why or how these proposals would be beneficial to charity.

No mention of what action will be taken following receipt of views.

How will they be reported , when and how will they be used?

If the trustee decides to proceed is there an avenue/ options for beneficiaries / users to appeal?

Would this be via the Council and/or Charity Commission, and if appeal successful would this result in a full review of the conflicts of interest?

This Consultation is meaningless until these issues and many others are resolved. The trustee also needs to makes it clear as to what action it will take if the majority of submissions are not in favour.

### **4. Legal Issue**

The proposal fails in one major legal aspect. It claims that the land received by way of swap shall be protected by the terms of the covenant.

However, if the covenant is insufficient to protect the land at Maindy Park from development then it will also be insufficient to protect any other piece of land, as the same strategy could be used by the Council to dispose of this land.

The covenant can only be seen to be working if it actually saves Maindy Park in perpetuity.

### **5. Further Land Swap Issues**

It is clearly totally unacceptable to offer land that is already public and we have access to as a land swap. There is no benefit to the charity, only to the Council in its capacity as developer. They would be gaining financially and materially from these proposals. The alternative land is already in their ownership so no expense there. On top of this they would get free land at Maindy Park which in turn would then enable them to divert millions of pounds from the education budget to fund the sports village.

Both options offered for land swap do not have the same accessibility as that provided at Maindy, in fact the Caedelyn option has no right of access which is not addressed in the proposal which leaves the Charity owning land to which no beneficiary could lawfully gain access.

The suggestion of the replacement land having the same level of protection as Maindy is worthless as is the land being offered, as the council as trustee could agree to develop it just as is happening at Maindy.

For the trustee to agree to this land swap i.e. existing public open space owned by the people of Cardiff is swapped for existing public open space owned by the Council, what is in effect nothing in return for Maindy Park is ludicrous.

How can this be a serious proposal as it would result in a net loss of open, green space for the beneficiaries? The land swap offer by the trustee clearly evidences beyond reasonable doubt they are complicit with the developers wishes to remove the covenant.



## **6. Non-Compliance with LDP & Welsh Government Strategies**

The removal of the charity land at Maindy including the demolition of the velodrome and removal of open green space to facilitate the expansion of the high school directly highlights the Council's complete failure to comply/ adhere with its own LDP, the Wellbeing of Future Generations Act and the One Planet Strategy.

This non-compliance was previously highlighted by multiple residents during the school consultation last year – examples below.

Policy C2 – Protection of Existing Community Facilities. The policy states *'Proposals involving the loss or change of use of buildings currently or last used for community facilities will only be permitted if:*

*An alternative facility of equal quality and scale to meet community needs is available or will be provided within the vicinity or ; It can be demonstrated that the existing provision is surplus to the needs of the community.'*

Maindy Park charity land comprises open green space and a velodrome. Proposing to build a smaller, inadequate velodrome on one side of the city, and offering what is effectively a piece of grass on the other side does not equate to providing an alternative facility of equal quality and scale!

*"The proposals are not compliant with a number of adopted Council policies including LDP Key Policy (KP) 13 (Responding to Evidenced Social Need), KP14 (Healthy Living), KP15 (Climate Change), KP16: (Green Infrastructure), KP17 (Built Heritage) KP18 (Natural Resources). Page 22 of 36*

*"This development proposal does not take into account any of the points in policy EN9 (Conservation of the historic environment)."*

*"The proposal does not comply with Community Policy C4 (Protection of Open Space)."*

The developers response was staggering and clearly evidences total disregard for LDP policy when drawing up these proposals

***'Compliance with key planning policies, as published in the Council's adopted LDP, are a matter for consideration at the formal planning stage.'***

At odds with Wellbeing of Future Generations Act: Certainly not local schools for local children as over 1000 children attending would be out of catchment  
Council and WAG have declared climate emergency – strategic response to this was development of One Planet Strategy with the aim of reducing carbon footprint. The demolition of a fully functioning velodrome has huge un-necessary environmental costs as has the un-necessary, smaller, inadequate linked replacement.

## **7. Conflict of Interest Between Trustee & Developer**

The trustee (Cardiff Council) has failed to declare its relationship with the body corporate (Cardiff Council) benefitting from the disposal of the charity asset.

Absence of this declaration of being related parties means there is no transparency in how the conflict of interest has been managed and how the decision was reached to dispose of the charity land.

### **A conflict of interest therefore exists.**

Failure to declare erodes public trust and confidence in charities to act solely in the best interests.

Multiple requests to appoint an independent trustee have been ignored.

Dates of correspondence and the valuation report show the trustee has been withholding material facts for many months from the beneficiaries. This clearly evidences a conflict of interest with the body corporate being afforded information that was deliberately withheld from the beneficiaries by the trustee.

Cardiff Council is both the developer and trustee. It is not possible to separate the two regardless of the recent claims by the Council's chief executive and principal solicitor. The proposals by the developer i.e. LEA have progressed at all stages, sailing through Cabinet (against the wishes of Scrutiny Committee and beneficiaries) with not the slightest objection from the trustee.

The trustee's silence at every stage and total lack of engagement with both the developer and beneficiaries on these proposals clearly evidences the Council's inability to manage the conflict of interest, and that the trustee is simply not acting in the best interests of the charity.

The expansion of the school was first recorded in a Cabinet report in December 2017. There has been no engagement by the trustee with the beneficiaries up until now – a staggering 3.5 yrs!

The trustee's ability to act in the best interests of the charity has already been totally compromised as the developer has already agreed to build on the land (October 2021) and progressed the replacement velodrome, although the final business case has yet to be approved. The corporate body's ability to manage the conflict of interest evaporated once the decision in October was made.

Recent sighting of an FOI response- 15767, which predates the October decision has revealed the following: the developer wanted the charity land as they would get it for free which would enable them to divert millions of pounds from the education budget to the Economic Development budget (as they have no funds), who would then fund the sports village.

***By commissioning the surveyors report the trustee is clearly complicit in the developer's wishes.***

***The terms of the transaction detailed in the surveyors report, especially the valuation are most certainly not the best that can be reasonably obtained for the charity.***

***There appears to be a huge undervaluation of charity land which is of great concern as the proposed replacement land is based on this undervaluation. (This is covered in more detail later on)***

***For the trustee to accept the findings which are seriously flawed evidences beyond reasonable doubt they are complicit with developer's wishes and not acting in the best interests of the charity.***

***Surely the trustee should have engaged with the beneficiaries / users to discuss their intentions to dispose of the charity land? Apparently not – they chose Instead to have discussions with the developer, commissioned a report and accepted the findings! Clear conflict of interest as developer will unequivocally gain materially and financially with a net loss for the beneficiaries.***

In recent email communications with both the chief executive – Paul Orders and the Councils principal solicitor - Richard Crane, both are now claiming the Council has separate Council officers acting as developer and trustee, with the LEA being the developer and the Strategic Estates Department acting on behalf of the trustee.

***How could Strategic Estates possibly be acting as trustee and in the best interests of the charity given that they have been explicitly involved in purchasing land for the replacement velodrome which is intrinsically linked to the Cathays expansion onto the charity land? In other words the developers proposals. This department would have purchased the ice arena and 10 acres of land for the revised sports village masterplan. The revised master plan, which is reliant on millions of pounds of education money, which can only happen on removal of the covenant.***

If these claims were true, why has nobody from the Strategic Estates department been present at anytime during the process and why have they not advised Scrutiny or Cabinet over matters to do with the Charity.

These claims by the Council, trying to create an artificial separation that is neither recognised in law nor evidenced by actions, events, correspondence and Cabinet decisions to date actually helps expose the sham.

***These claims have highlighted the inability to manage the conflict***

I have viewed all the live webcasts and read all the relevant minutes, decisions and correspondence. Not once has there been any input from officers acting in the role of trustee.

If everything is `separate' then why do the Charity trust documents supplied with this consultation have Neil Hanrattys name on them? Neil Hanratty, Director of Economic Development who has stated that the replacement velodrome is absolutely reliant on the school expanding onto the charity land. And whose department is set to gain millions of pounds of education monies on the successful removal of the covenant.?

Why do we have Steve Morris – Senior Council Manager for Development of Sport/Culture who just happens to be directly under Neil Hanrattys management instructing the management of GLL to remove the posters and leaflets put up by Save Maindy on the 8<sup>th</sup> June to publicise a public meeting organised by them ( local councillors had refused) on the land swap proposals and details of where to send objections?

I must point out here this is something the Council as trustee should have done.

The main reason for the posters being removed ? The leisure centre was putting on a yearly triathlon event on the 11<sup>th</sup> June that attracts hundreds of participants to the site.

These actions by Mr Morris were deliberate to prevent the people of Cardiff and these participants knowing about the land swap, public meeting and how to object, in other words suppressing the likely opposition. **Just to be clear we have a council officer on the developer side taking action *against* what the Council themselves should be doing as trustee.**

**Not a good look for a corporate body who is looking to convince the Charity Commission that they have managed the conflict.**

These claims are just another flawed attempt to try and persuade the charity commission that they have managed this conflict.

Mr Orders has stated recently that that the Council, as a corporate body, act as trustees of Maindy Park.

This means that the corporate body responsible for the plans to expand Cathays High School onto the Maindy Park site, remove the velodrome and green space, demolish and build a smaller inadequate “replacement” velodrome in Cardiff Bay is the SAME corporate body who’s responsibility it is to protect the land in perpetuity?

**This is a total and absolute conflict of interest.**

On the one hand the corporate body plans to remove or transfer the covenant from the site whilst at the same time it is duty bound as trustee not to allow this.

Also, the method by which Mr Orders states the decision will be made further highlights the Council’s clear conflict of interest.

The Council’s Cabinet will decide if this “land exchange” goes ahead, which will lead to the removal of the covenant from Maindy Park.

This is the same Cabinet that has previously approved the expansion of Cathays High onto the Maindy site (which will require the removal / transfer of the covenant).

This is also the same Cabinet which has previously approved the removal and replacement of Maindy Park Velodrome (which will also require the removal / transfer of the covenant). Therefore, due to these previous approvals, the Cabinet have already decided (by default) to change the use of Maindy Park, necessitating the covenant removal.

Mr Orders goes onto state that Council officers advise and support Cabinet members in exercising this role.

This may be what is supposed to happen, however the track record of the Cabinet shows they are more than willing to disregard this advice and support.

For example, Council Officers (in the form of the scrutiny committee) raised serious concerns over the proposals to expand Cathays High School, requested more information and advised the Cabinet *against* proceeding at that time with the school consultation.

Inexplicably the Cabinet totally disregarded the findings, recommendations and concerns of the Scrutiny Committee and voted unanimously to launch the school consultation.

Because the Cabinet has a track record of ignoring the advice and recommendations of council officers reporting to it (if it does not support their corporate strategy agenda), I have no confidence in the Cabinet taking any regard or notice of the results of the current consultation.

The mostly negative response to the consultation on the new velodrome had no effect on decisions.

The 400+ public objections to the school expansion and over 4,400 signatories to the Save Maindy Velodrome petition were also totally dismissed by Cabinet when making their decisions.

If the results of the consultation are overwhelmingly against the land transfer and supportive of retaining the covenant at Maindy Park how can the beneficiaries of the Maindy Park Charity have any confidence in the Cabinet (as trustees) in making a decision that is in compliance with their wishes?

Another thing, two labour councilors are governors at Cathays High School. One is a cabinet member, the other is the chair of governors and now chair of the Economy and Culture scrutiny committee. The scrutiny committee which will be making recommendations on whether to approve the replacement velodrome business case.

At a governors meeting on the 29/9/21 they are minuted as stating the following ;

[file:///C:/Users/cwyat/AppData/Local/Packages/microsoft.windowscommunicationsapps\\_8wekyb3d8bbwe/LocalState/Files/S0/1/Attachments/FullGovernorsMinutes29.9.2021\[2305843009221890798\].pdf](file:///C:/Users/cwyat/AppData/Local/Packages/microsoft.windowscommunicationsapps_8wekyb3d8bbwe/LocalState/Files/S0/1/Attachments/FullGovernorsMinutes29.9.2021[2305843009221890798].pdf)

In reference to those campaigning over the loss of maindy park and velodrome, Pete Wong replied

“the cycling club are happy with the proposals and the objections wont change the planning or process”

In response to the “Save the Maindy Velodrome” Norma Mackie replied “a petition has 4,000 signatures, but not all are from the local area or in Wales so it shouldn’t affect the proposals” These statements were made prior to the final decision on the school expansion in October 2021.

Norma Mackie incorrectly informed residents during the local election campaign that “ the velodrome was not fit for purpose.

The only conclusion that can be reached is that the final decision had already been made before the official cabinet findings.

The Cabinet members insistence on the related projects going ahead (which lead to the loss of Maindy Park) evidences that it is impossible for them to properly discharge their responsibilities as trustee. How can they protect the land in perpetuity if they are the same corporate body who are desperate for the land for other purposes and uses?

To sum up the Chief Executive – Paul Orders, Head of Education – Melanie Godfrey, Director of Economic Development - Neil Hanratty, Council leader – Huw Thomas, Cabinet Member for Parks – Peter Bradbury and Cabinet member for investment and development- Russell Goodway are all in favour of the removal of the covenant to facilitate the expansion of Cathays, and divert education funds for the sports village to progress.

The trustee is in effect the body corporate i.e. the whole Council and all the senior managers and heads of multiple departments within the Council are in favour of the projects tied directly to the covenant removal.

This body corporate made the decision to appropriate the Charity the land for education purposes on the 14<sup>th</sup> October 2021. So once they made this decision every department, every office and every person employed by the Council is bound by that decision.

It is impossible for any Council officer be able to act as trustee.

The only conclusion that can be drawn is that the Council have completely failed to manage a serious conflict of interest. Their actions and decisions to date mean there is no way back and an interim trustee needs to be appointed.

## **8. Charity Trustee Issues**

The surveyors letter is dated September 2021 – why is the trustee only now, 8 months later revealing its intentions for the charity land – surely the beneficiaries should have been made aware at the time?

There is no information from the trustee detailing how this land swap would be beneficial to the charity. There is no information from the trustee on how this impacts on the covenanted land that will remain if there is any. There is no information from the trustee to explain what will happen if the consultation results don't support the land swap.

Why this utter silence if the trustee is holding the consultation? Surely the trustee should be fighting to retain the site for the beneficiaries? Further evidence of conflict of interest.

The terms of the transaction detailed in the surveyors report, especially the valuation are most certainly not the best that can be reasonably obtained for the charity. There appears to be a huge undervaluation of charity land and the proposed replacement land is based on this undervaluation.

***As the `trustee' has accepted the findings, again it evidences beyond reasonable doubt they are complicit with the developers wishes and not acting in the best interest of the charity***

## **9. Trustee Engagement Issues**

Trustee has been provided with multiple opportunities to engage with beneficiaries, users and the wider community over several months on these land swap proposals. In fact I would say the trustee would have been obliged to do so with effect from December 2020 when the developers consultation on the proposals was approved. All opportunities have been ignored.

Charity commission website which holds contact details for trustee is inaccurate and incomplete. There is no email or web address and the telephone number doesn't work. The address for the charity trustee on the commission website which was recently updated, is *different* from the address used by the surveyors! Its as if the trustee doesn't want to engage with its beneficiaries!

A recent email from Paul orders states the press notice is the trustee engaging !

Unfortunately I will have to disagree as the email address supplied, and only avenue may I add to `engage' under the Councils consultation webpage was not able to or should I say refused to answer any legitimate queries arising from the notice and incomplete information.

**Why did the trustee not attend the public meeting with its beneficiaries to discuss the land swap proposals?**

## **10. Conclusion**

Maindy is totally unsuitable for a school expansion, but never mind that insignificant fact because the land will be free and the Council i.e. developer get to 'legally' divert millions of pounds of education monies to the sports village.

Maindy Park is the wrong place to build a new 1,450 pupil school.

Cardiff Council need to find places for the 1,000+ out of catchment pupils in their own localities and communities. Stop using Cathays as an "overflow" for pupils that deserve better from you.

Taking facilities and park land away from the community to build artificial plastic school pitches to "fiddle" the land figures is cynical and immoral. Artificial pitches are not "playing fields" - playing fields have real grass that you want to remove.

Building a smaller, steeper cycle track miles away in the Bay that can't be used by most existing users is wrong and certainly shouldn't be funded from the schools budget.

So how is forcing so many children to travel further to school, removing a valued green space and destroying a community velodrome to be replaced with an inadequate smaller facility miles away better for anyone other than that the council? How does this benefit the charity beneficiaries?

We are not stupid or short sighted and are quite capable of seeing through your unpalatable "bigger picture". Finally, no one can be convinced of the benefit of moving the covenant to another already existing park, especially as it still involves the loss of green space and environmental, cultural and sports heritage vandalism.

Pupil numbers in the Cathays catchment area have shrunk. Every conversion of a family home to a student HMO accelerates this trend. Further evidence of why Cathays is not the location to expand school places. These places need to be provided in the areas where there is high and increasing demand, not static or falling! Further evidence that Maindy Park is not the place to build a new school.

Expanding Cathays will just highlight the failures and short-sightedness of the council's schools policy and the negative impact it will have on the beneficiaries of the covenant.

The whole process to date has been an utter shambles. I would go as far to say the Corporate bodies behaviour has been downright devious, underhand and shown nothing but utter contempt towards the beneficiaries and users of the charity land.

The Council has effectively done things backwards. Before they made any decision to take the charity land they should have first established if they were able to do so!

Consultations relating to the covenant should have taken place at the start of the process and either before or during the school consultation period. To date there has still not been any public consultation specifically relating to the Maindy Park covenant. This land swap consultation is not the required covenant consultation and cannot be deemed as such.



All the documentation, statements and decisions made by the Council to date prove that from the outset they have been totally committed to taking Maindy Park. They have ignored Estyn, their own Scrutiny Committees, public opinion and the results of consultations.

**On the other hand, Council as trustee has yet to make an appearance although they are duty bound to protect the site!**

**This is further evidence of their absolute undeniable conflict of interest.**

The cynical land grab is bad for the community, bad for the pupils and will only benefit the corporate aims of Cardiff Council.

I have no confidence that this consultation will have any impact on their decision to destroy Maindy Park

Report Prepared By:  
Mrs Christine Wyatt  
Cardiff Resident

# Save Maindy Velodrome Representation #05

## The Save Maindy Velodrome Campaign Submit Objection to Smaller Replacement Velodrome in Cardiff Bay

Media Release reference: SMV/Press Release #3/2022-01-14

Date: 15 January 2022

**Cardiff Council have asked for responses to a Planning Application for a new velodrome in Cardiff Bay.**

**There were 40 responses to the planning consultation, 39 against and 1 in favour (on the Council website it's showing as 2 in favour but that's the same comment submitted twice, and one is marked as neutral but from the text is clearly an objection).**

**The Save Maindy Velodrome campaign have submitted the objection below which includes the following points:**

- Over 4,300 have signed a petition against moving Maindy Velodrome
- .All types and sizes of bikes can be used at Maindy. This won't be the case in the Cardiff Bay velodrome.
- Appropriation of the covenanted Maindy site will result in a loss of public green space which is already scarce in Cathays.
- Why are the Council intending to repurpose £2.4 million from the Education budget to pay towards the costs of a smaller replacement?
- The Business case is poor.
- The Council have not guaranteed the full proposed velodrome will be complete before Maindy is closed.
- The reduction in size of the track will also reduce rider capacity.
- The design specifications of the new track are a total mismatch when compared to the needs of existing users. It's just not a suitable replacement venue.
- The documents submitted with the plans do not appear to include a disability access statement or plan. It is not clear if disabled / mobility impaired riders will be able to access and use the track and associated facilities.
- Cardiff Council launched a consultation questionnaire on plans for the ISV in December 2021. This consultation is on-going until 17<sup>th</sup> February. Views are supposedly being sought from the public to inform and shape the plans for the new velodrome and wider ISV project. So the consultation should have been completed before the plans were submitted for approval and not after. This is a clear failure of process.

## The Full SMV Objection:

The Save Maindy Velodrome Campaign Group (we have had over 4,300 sign a petition objecting to the demolition of the velodrome) wish to object to the plans for a new velodrome in Cardiff Bay.

All types and sizes of bikes can be used at Maindy. This would not be the case with the shorter track proposed for the track in Cardiff Bay, which is too steeply-banked for younger riders, disabled cyclists, and potentially even for road bikes.

Appropriation of the Maindy site will result in a loss of public green space. Maindy is one of the only green spaces in Cathays where residents can safely relax, walk and run.

Competitive cycling in Cardiff is already well-served by the superb Maindy Velodrome and it would be a disaster to demolish this wonderful facility to build a smaller, lesser velodrome in the Bay. Unlike cycling, there are many sports which Cardiff Council have given poor quality provision (eg. Baseball/Archery/Trampoline/Sport climbing etc).

How can it be right for the Council to repurpose £2.4 million from the Education budget to pay towards the costs of a smaller replacement?

The new velodrome would be privately operated, for profit. The Council is not sure that it will even be able to find a suitable operator to run it; if one is found, charges are likely to be higher than at Maindy and to increase over time to recoup the costs of building and running it.

The Council has refused to guarantee that the proposed velodrome (including the proposed closed-circuit track around the Bay, which would be essential to compensate for the smaller size of the new central track) would be open before Maindy closed.

The reduction in size of the track will also reduce rider capacity. The maximum number of riders allowed on the track at a training session is currently 60. As the new track will be a third smaller the senior coaches at Maindy Flyers expect that figure to reduce to around 40. Rider capacity is dictated by British Cycling who carry out a training risk assessment.

The design specifications of the new track are a total mismatch when compared to the needs of existing users, again further highlighting its unsuitability as a replacement venue. By creating what will be a track bike specific training velodrome, it will be in direct competition with the existing Newport indoor velodrome. By contrast, Maindy is a complementary facility which develops riders who can progress to the Newport facility. By directly competing with Newport, the new velodrome would put at risk the future viability of both venues.

In conclusion, we have evidenced that the design of the new velodrome is incompatible with the needs of the bulk of existing users and is therefore categorically not an adequate replacement in size, scale, geometry or useability. Therefore the plans should not be approved.

The documents submitted with the plans do not appear to include a disability access statement or plan. It is not clear if disabled / mobility impaired riders will be able to access and use the track and associated facilities. The Design and Access Statement says "*Early on in the design process it was clear what the main guiding design principles were for the development of the new velodrome, these are best summed up in a statement: "The new Cardiff Velodrome will provide an outstanding new sports facility that will not only match the facilities currently provided at Maindy, but will improve upon the existing velodrome offer Cardiff has"* But it fails to do this? Amazingly the Design and Access Statement doesn't mention the word "para cyclist", or "disabled" once. Why have those with disabilities been ignored?

Finally these plans have been submitted prematurely. Cardiff Council launched a consultation questionnaire on plans for the ISV in December 2021. The consultation focused heavily on the new velodrome facility. This consultation is ongoing and views are supposedly being sought from the public to inform and shape the plans for the new velodrome and wider ISV project.

However, the consultation started after the plans were submitted. The results of this ongoing consultation should have been considered in advance of the plans being presented, not after.

Therefore, the plans need to be withdrawn and resubmitted (if at all) only after the public consultation has ended and the results published and considered as part of the process.

Yours sincerely,

Anthony Warland

Chair, The Save Maindy Velodrome Campaign Group

## Save Maindy Velodrome Representation #06

### Review of the Cardiff Council Surveyor's Report Titled 'Maindy Velodrome Land' Report Dated 17<sup>th</sup> December 2021

The report sets out the Cooke and Arkwright valuation of part of the Maindy Park site, 2.126 hectares (5.254 acres) which it values at £215,000 (£30,000 per acre + £55,000 for the velodrome and hard court). The report acknowledges the land is held in a charitable trust.

The following comments highlight errors in the report or areas of concern about the impartiality of the report.

Text from the report is shown in black, comments **shown in red**.

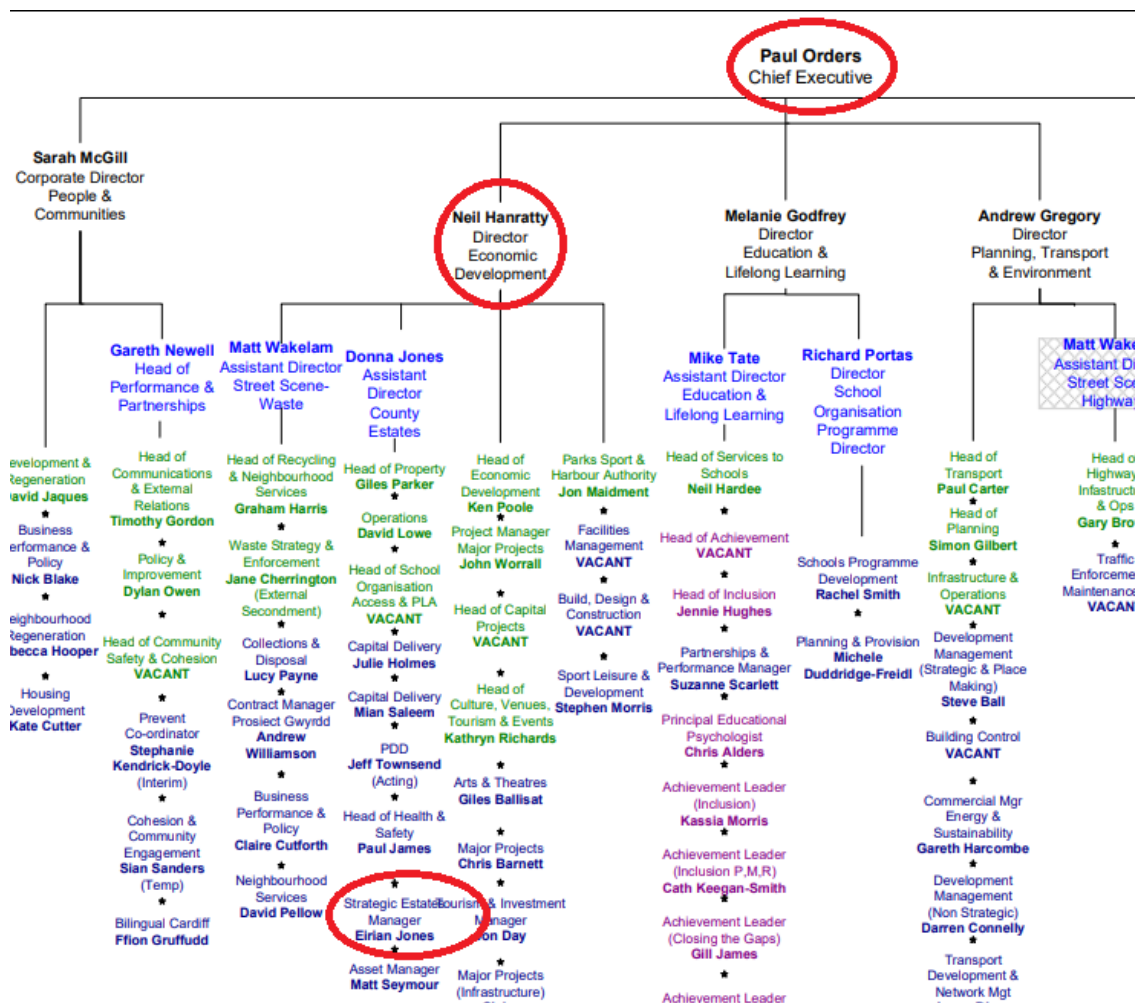
pdf page 2:

Private & Confidential  
Cardiff Council as Charitable Trustees  
The Courtyard  
County Hall  
Cardiff  
CF10 4UW  
Sent by email to: eirian.jones@cardiff.gov.uk  
For the attention of Eirian Jones – Principal Surveyor

The chart below is from <https://foi.cardiff.gov.uk/ENG/FOI/FOI17265/FOI17265%20Response%20-%20Attachment%201.pdf>. Cooke and Arkwright sent the report to Cardiff Council as Charitable Trustees for the attention of Eirian Jones. Eirian Jones is the Principal Surveyor and, as the Cardiff Council Management Chart shows, part of Neil Hanratty's team under Paul Orders.

Neil Hanratty's team produced the detailed plans sent to the Ministry of Defence for discussion about taking the Maindy Park Charity land together with part of Maindy Barracks. This was done as part of Cardiff Council as 'developer'.

So Eirian Jones is part of the Developer's team, not an independent Charitable Trust for Maindy Park which should have been set up by Cardiff Council. So the Surveyor who commissioned the report had a conflict of interest and should have stated that as it will affect the validity of the report.



## **Page 5:**

### **Report Text:**

The LEA would like the Trustees of the Charity to consider either selling the land to Cardiff Council or swapping the land for an appropriate alternative parcel of land that could still meet the Charity's objective.

As the property is held in Trust, the Council as Trustees require a qualified surveyors report to comply with the requirements of the Charities (Qualified Surveyors' Report) Regulations 1992 prior to any disposal.

The property has been fully inspected in preparing this report. The inspection was undertaken on 19th October 2021 which means the report was commissioned earlier in 2021.

**Response:** These paragraphs confirm the Council were aware of their duties as Trustee when they commissioned the report (before 21/10/21).

## **Page 7**

### **Report Text:**

8.1 We have not had the opportunity of inspecting the title deeds of the property and therefore our valuation is on the assumption that there is good and unencumbered freehold title free from onerous restrictions, covenants or easements, other than those listed below. The property has therefore been valued freehold with the benefit of vacant possession.

8.2 Your legal advisors have informed us that the land is held in Charitable Trust with the objective of the Charity being to keep the land as a public recreation ground. The legal advisors have also confirmed that no Trust Deed nor declaration of Trust has been found, which restricts the use of the land for the benefit of inhabitants of a particular locality.

8.3 The Land Registry Title states there are restrictive covenants in favour of Marquis of Bute but does not set out the extent of the restrictions. The Council's Cabinet minutes from 17th June 2021 set out that the covenant restricts its use for park, open space, recreation and playground.

### **Response:**

**8.1 says Cooke and Arkwright have not seen the title deeds. Why?**

**8.2 says Council's Legal Advisors told Cooke and Arkwright about the Covenant. Cardiff Legal Advisors have also been advising the Council developer so a clear conflict of interest.**

**8.3 is not correct that the covenants do not set out restrictions. The Land Registry Title states "A Conveyance of the land in this title dated 15 August 1922 made between (1) The Most Honourable The Marquis Of Bute and (2) The Lord Mayor Aldermen And Citizens Of The City Of Cardiff contains restrictive covenants." The Title Deed Conveyance is the same as the Trust Indenture with the requirement to keep the park as open space.**

### **Report Text:**

9.1.1 The Maindy Park site is let to Greenwich Leisure Limited (GLL) for 15 years from 1 December 2016 who operate it as a Leisure Centre and Velodrome. Heads of Terms have been drafted for a deed of variation of the existing lease to exclude the land required by the LEA. The draft Deed of variation that we have been provided with does not include copies of the plans and we have assumed that all of the land required from by the LEA is available with vacant possession.

### **Response:**

**GLL have yet to agree to Cardiff Council's proposal. Why were no plans given?**

## Report Text:

9.1.2 Access to the velodrome land is currently restricted, being managed and controlled by the tenant GLL who charge for its use.

## Response:

**This should be clarified. When the track is not in use (most of the day) then access is open also the gate access to the velodrome track, together with the field inside the track, remains unlocked at all times. This is because GLL follow their title deed lease obligations. The GLL lease (extract below and not the proposed draft Heads of Terms deed of variation of the existing lease given to Cooke and Arkwright) shows the covenant remains in force – that is, the Maindy Park Trust open access requirement remains in force. So people access to the large green open space field within the velodrome.**

### REGISTER EXTRACT

#### DETHOLIAD O'R GOFRESTR

Title Number	: CYM698818
Rhif Teitl	
Address of Property	: Maindy Swimming Pool & Cycle Track, Crown Way, Cardiff (CF14 3AJ)
Cyfeiriad yr Eiddo	
Price Stated	: Not Available
Pris a Ddatganwyd	
Registered Owner(s)	: GREENWICH LEISURE LIMITED (Registered Society No. IP27793R) of Middlegate House, 1 Seymour Street, London SE18 6SX.
Perchnogion Cofrestredig	
Lender(s)	: None
Rhoddw'r Benthyc	

### C: Charges Register / Cofrestr Arwystlon

This register contains any charges and other matters that affect the land.

Mae'r gofrestr hon yn cynnwys unrhyw arwystlon a materion eraill sy'n effeithio ar y tir.

- 1 (22.12.2016) A Conveyance of the freehold estate in the land in this title and other land dated 15 August 1922 made between (1) The Most Honourable The Marquis Of Bute and (2) The Lord Mayor Aldermen And Citizens Of The City Of Cardiff contains restrictive covenants.

*NOTE: Copy draft Conveyance filed under CYM415764.*

- 2 (22.12.2016) The land is subject to the rights reserved by the Conveyance dated 15 August 1922 referred to above.
- 3 (22.12.2016) The land is subject to the rights granted by a Lease of an electricity sub station dated 21 February 1994 made between (1) The Council Of The City Of Cardiff and (2) South Wales Electricity Plc.

*NOTE: Copy filed under WA706157.*

**Please also note that on entry to the park from the Gelligaer Road public access point there is a sign erected by the Council approx 12 months ago. The map of Maindy Park shows that the entire site is openly accessible to the public. It is unclear how the surveyor would fail to at least walk around the perimeter of the park, checking all the access points and then fail to see a prominently displayed notice and ensure that their observations are accurate in respect of all the charity land being openly accessible to the people of Cardiff. This suggests that the surveyor did not, in fact, do a complete inspection.**

## Report Text

10.3 As a result of our site visit and our visual inspection, we can confirm that the site is currently used for recreational purposes. This is a use which is unlikely to have given rise to serious site



contamination. The adjacent sites are used for public sector and residential purposes and are unlikely to have a contamination problem which might affect this property. As a result of this superficial review we consider that the contamination risk is unlikely to warrant further investigation. However, our investigation has not been by any means exhaustive. Depending on your views and in view of the potential liabilities you could consider commissioning an Environmental Audit. If such further investigation establishes adverse factors, then this might reduce the values now reported and we reserve the right to reconsider our valuation in the light of that. For the purposes of this report and valuation we are proceeding on the assumption that there is no adverse contamination impact.

**Response:**

**CW: Given what's underneath and that there are things dotted around the site to let gas escape, if they start drilling and demolishing .....**

**JS: Land was originally a quarry and there's been suggestions that it is unsuitable – presumably this is info in the public domain and therefore readily available to the surveyor?**

**JS: Former quarry infilled with waste is unsafe – can it actually be built upon it? Even if so, what is range of costs involved in making it safe? Would these costs make the project unviable?**

**Pdf page 9 & 10**

**Report Text:**

Para 11.1 Unless the council agree to undertake remedial works within the retained land, it may suffer injurious affection because it will be partially covered by an unusable section of velodrome.

**Response:**

**CW: This suggests to me that there has been no mention of what they were planning to do with e. Create a park. Surely this would have been discussed with surveyor and noted in their report? As no reference do we think the council have gone back on their word to the community?**

**Report Text:**

We have used the Depreciated Replacement Cost Method of valuation assuming that the velodrome would continue to be used whilst planning permission is sought and the new velodrome constructed and thus have allowed 2 years remaining life. Although, only part of the velodrome is on the subject land we have applied the value for the whole as the retained part would no longer be usable. We have used a similar depreciated replacement cost method for the hard court which is on the land to be taken but allowed a 10 year remaining life. This creates a combined value of £55,000 for the infrastructure.

**Response:**

**The Velodrome creates an income for the Trust. The land swap means the Trust loses that income and any oversight in protecting the velodrome facility for the people of Cardiff. This has been ignored in these valuation figures.**

**Report Text:**

It will also be essential that if the Trustee's agree to transfer the land, they ensure that full unrestricted vehicular access is in place to the Trust's retained land from Crown Way.  
[Section 11.1, pg 10, 5<sup>th</sup> para ]

**Response:**

**JS: Proposed "swapped" land does not ensure full unrestricted vehicular access to what will be the Trust's land – therefore, it is detrimental to the Trust as access is not legally ensured, and**

therefore the Trust is in a much worse position than at Maindy Park where it owns outright the land that gives access

## 11.2 Comparable Evidence

Comparable	Details of Transaction	Date
Land at Junction 33 of the M4	14 acres sold for £6,363 per acre	2018
Land at Pentyrch	21.63 acres of agricultural land sold for £10,402 per acre subject to clawback agreement in respect of future development potential.	2018

**Response: This land is nowhere near the city centre where Maindy Park is located?**

### Report Text:

11.4.1 Properties of this nature do not transact on the open market and so it is necessary to adjust comparable transactions and this creates a high degree of uncertainty.

**Response: This is nonsensical. Firstly, even a cursory look at land and property values in Cardiff would indicate that there is nowhere that the Council could buy that gives them 5 acres so close to the city centre for just £200,000. Secondly, a property adjacent to Maindy Park was advertised several months back and the asking price indicates a pro rata value for land in Cathays of between £1m-2m per acre.**

**There is, therefore, no reliable basis for the valuation of Maindy Park given which is clearly many millions of pounds below its value on the open market with restrictions removed as the Council intends to do.**

**Also the admission that the report has “a high degree of uncertainty” is also an admission the report is unfortunately rather worthless?**

### Report Text:

11.3 Various assumptions relating to matters such as services, tenure, roadmaking, environmental issues and planning have been made for the purposes of this report

### Response:

**In 11.3 the report confirms assumptions have been made with regards services, tenure, roadmaking, environmental issues and planning. Market value depends on these factors being accurately assessed. The fact they have not been renders the report rather worthless?**

## Blackweir

### Page 15

#### Report Text:

**18.1** We have not had the opportunity of inspecting the title deeds of the property and therefore our valuation is on the assumption that there is good and unencumbered freehold title free from onerous restrictions, covenants or easements. The property has therefore been valued freehold with the benefit of vacant possession

#### Response:

With regards there not been any onerous restrictions, the site is listed as an Historic Park by CADW. However on <https://cadw.gov.wales/advice-support/cof-cymru/search-cadw-records> it shows the area of Bute Park/Blackweir which the Council want to 'swap' already has an important level of protection from CADW as a 'Registered Parks & Gardens'. This means consultation must take place with CADW

When the Save Maindy Velodrome campaign applied to CADW for listing status for the velodrome, in CADW's response email turning down the listing request they said "**CADW's inspector of historic gardens has also considered whether it might be appropriate to designate as a historic park, but her recommendation is that it falls short of the published criteria for registration.**" So the Council are proposing to move the Covenant to land which already has a higher type of status (so inconceivable it could be developed) than Maindy Park.

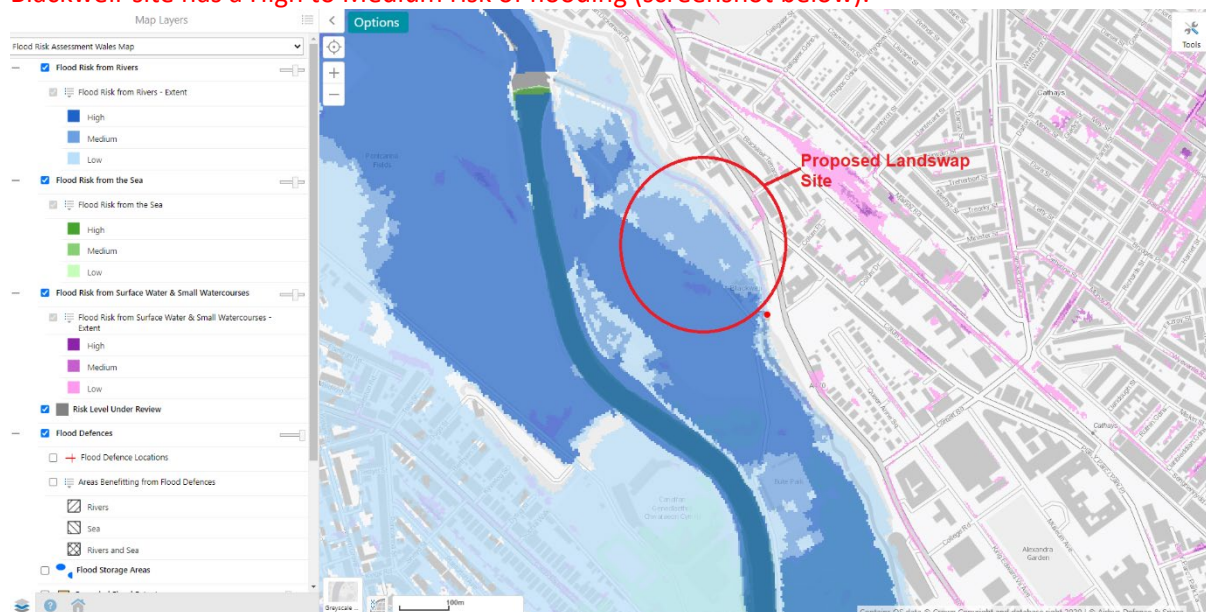
### Page 16

#### Report Text:

**19.3** Flooding - We have inspected the Natural Resources Wales website which does not show the site to be in Flood Zone 3.

#### Response:

The Blackweir site is very near the River Taff. The NRW website shows the proposed landswap Blackweir site has a High to Medium risk of flooding (screenshot below).



#### Report Text:

20.1 Children's play equipment could be installed which would satisfy the requirement as a recreation ground provided planning permission could be obtained.

**Response:**

The area is a CADW Historic Park so proposed children's play equipment would require CADW approval, so would be opposed by users of current users of Blackweir Park so unlikely to be allowed.

**Report Text:**

21.1 Market Value We are of the opinion that the market value of this freehold property is currently in the region of:- £230,000 (Two Hundred and Thirty Thousand Pounds) with the benefit of vacant possession throughout.

**Response:**

Where else in Cathays could Council obtain 5 acres of land for only £230,000? With the development restrictions mentioned in the response to 18.1, also the land value rate is compared with land values which are not located in the city centre, makes this report's land valuations unrealistic and unreliable.

**Caedelyn**

**Page 20**

**Report Text:**

**28.1 Valuation, Locational and Property Factors**

This ground includes three football pitches, although, they are showing some signs of wear. We have applied £30,000 per acre which is the same as we have applied to the Maindy and Bute Park sites even though they are closer to the city centre, this value reflects the cost of recreating the pitches.

29.1 Market Value: We are of the opinion that the market value of this freehold property is currently in the region of:- £220,000 (Two Hundred and Twenty Thousand Pounds) with the benefit of vacant possession throughout

**Response:**

**With the restrictions mentioned in the response to 18.1 also the value rate is compared with values not located in the city centre, this is not a realistic valuation.**

**Report Text:**

30.4 It will also be important that the Trustees undertake appropriate consultation with the community prior to agreeing any swap.

**Response:**

**This was carried out in a very underhand way – the notice was put in the Western Mail which has a much lower readership than it's sister paper the Echo; the notice was very small, almost hidden amongst adjacent much larger notices. The Council did not organise a public meeting, but one was set up by the Save Maindy Velodrome campaign group and which was boycotted by Labour politicians.**

**Report Text:**

30.6 Part of the Maindy land 0.06 hectares(0.1647 acres) currently provides overflow parking for Cathays High School which is in breach of the Trust's objectives. The bowling greens has not been maintained and no longer appears to be in use and the shelter between the greens is derelict.

**Response:**

**The Council broke the Trust's objectives with regards installing an overflow car park on the site. The Council also evicted the bowling club despite the bowling club advising they wanted to remain. The Council then left the site to go derelict again breaching it's duty of care as the Trustee.**

**See:**

<https://www.walesonline.co.uk/news/wales-news/bowling-green-maindy-bowls-cardiff-16245158>

<https://www.walesonline.co.uk/news/local-news/bowling-community-astounded-proposal-close-2505070>

**This is another example which shows the Council as Trustee has failed and been shown to be negligent so cannot be relied upon to act in the best interests of the Trust.**

# SURVEYOR'S VALUATION REPORT - QUESTIONS RAISED BY SMV MEMBERS

Neil MacKenzie was one of many SMV members who submitted objections. Neil MacKenzie's information below to Cardiff Council is typical. He also posted it on the Save Maindy Velodrome Facebook page.

## Maindy Park Trust – Registered Charity 524137

I write to you in respect to the proposed plans to develop Maindy Velodrome in Cardiff and with particular regard to the level of professional advice obtained by Cardiff City Council acting as Trustee of the Maindy Park Trust who have legal control of the site.

Cardiff City Council has published a copy of a Valuation report prepared by Cooke & Arkwright dated 17th December 2021, as part of the Consultation papers issued 25/05/2022. It is stated within the report that it is required to satisfy the requirements of the Charities Act 2011 and the Charities (Qualified Surveyors' Report) Regulations 1992.

The 1st issue I would draw your attention to is that it is clear from the instructions and information provided to the Valuers that there is a clear conflict of interest within Cardiff City Council

Under 2.1 the Valuers state:

*We understand that Cardiff Council hold the land as Charitable Trustees with the objective of the charity being to keep the land as public recreation ground. Cardiff Council as Local Education Authority (LEA) are proposing to redevelop the adjoining Cathays High School. The LEA would like the Trustees of the Charity to consider either selling the land to Cardiff Council or swapping the land for an appropriate alternative parcel of land that could still meet the Charity's objective. The LEA would then utilise part of the subject land for the school redevelopment.*

The requirements of the Charities Act for the valuation report are detailed in a Schedule to that legislation and set out below, these and the requirements of the RICS set the standards to which this report should be assessed.

### SCHEDULE

#### INFORMATION TO BE CONTAINED IN, AND MATTERS TO BE DEALT WITH BY, QUALIFIED SURVEYORS' REPORTS

1.—(1) A description of the relevant land and its location, to include—

(a) the measurements of the relevant land;

(b) its current use;

(c) the number of buildings (if any) included in the relevant land;

(d) the measurements of any such buildings; and

(e) the number of rooms in any such buildings and the measurements of those rooms.

(2) Where any information required by sub-paragraph (1) above may be clearly given by means of a plan, it may be so given and any such plan need not be drawn to scale.

2. Whether the relevant land, or any part of it, is leased by or from the charity trustees and, if it is, details of—

(a) the length of the lease and the period of it which is outstanding;

(b) the rent payable under the lease;

(c) any service charge which is so payable;

(d) the provisions in the lease for any review of the rent payable under it or any service charge so payable;

(e) the liability under the lease for repairs and dilapidations; and

(f) any other provision in the lease which, in the opinion of the surveyor, affects the value of the relevant land.

3. Whether the relevant land is subject to the burden of, or enjoys the benefit of, any easement or restrictive covenant or is subject to any annual or other periodic sum charged on or issuing out of the land except rent reserved by a lease or tenancy.

**4. Whether any buildings included in the relevant land are in good repair and, if not, the surveyor's advice—**

*(a) as to whether or not it would be in the best interests of the charity for repairs to be carried out prior to the proposed disposition;*

*(b) as to what those repairs, if any, should be; and*

*(c) as to the estimated cost of any repairs he advises.*

**5. Where, in the opinion of the surveyor, it would be in the best interests of the charity to alter any buildings included in the relevant land prior to disposition (because, for example, adaptations to the buildings for their current use are not such as to command the best market price on the proposed disposition), that opinion and an estimate of the outlay required for any alterations which he suggests.**

**6. Advice as to the manner of disposing of the relevant land so that the terms on which it is disposed of are the best that can reasonably be obtained for the charity, including—**

*(a) where appropriate, a recommendation that the land should be divided for the purposes of the disposition;*

*(b) unless the surveyor's advice is that it would not be in the best interests of the charity to advertise the proposed disposition, the period for which and the manner in which the proposed disposition should be advertised;*

*(c) where the surveyor's advice is that it would not be in the best interests of the charity to advertise the proposed disposition, his reasons for that advice (for example, that the proposed disposition is the renewal of a lease to someone who enjoys statutory protection or that he believes someone with a special interest in acquiring the relevant land will pay considerably more than the market price for it); and*

*(d) any view the surveyor may have on the desirability or otherwise of delaying the proposed disposition and, if he believes such delay is desirable, what the period of that delay should be.*

**7.—(1) Where the surveyor feels able to give such advice and where such advice is relevant, advice as to the chargeability or otherwise of value added tax on the proposed disposition and the effect of such advice on the valuations given under paragraph 8 below.**

*(2) Where either the surveyor does not feel able to give such advice or such advice is not in his opinion relevant, a statement to that effect.*

**8. The surveyor's opinion as to—**

*(a) the current value of the relevant land having regard to its current state of repair and current circumstances (such as the presence of a tenant who enjoys statutory protection) or, where the proposed disposition is a lease, the rent which could be obtained under it having regard to such matters;*

*(b) what the value of the relevant land or what the rent under the proposed disposition would be—*

*(i) where he has given advice under paragraph 4 above, if that advice is followed; or*

*(ii) where he has expressed an opinion under paragraph 5 above, if that opinion is acted upon; or*

*(iii) if both that advice is followed and that opinion is acted upon;*

*(c) where he has made a recommendation under paragraph 6(a) above, the increase in the value of the relevant land or rent in respect of it if the recommendation were followed;*

*(d) where his advice is that it would not be in the best interests of the charity to advertise the proposed disposition because he believes a higher price can be obtained by not doing so, the amount by which that price exceeds the price that could be obtained if the proposed disposition were advertised; and*

*(e) where he has advised a delay in the proposed disposition under paragraph 6(d) above, the amount by which he believes the price which could be obtained consequent on such a delay exceeds the price that could be obtained without it.*

**9. Where the surveyor is of the opinion that the proposed disposition is not in the best interests of the charity because it is not a disposition that makes the best use of the relevant land, that opinion and the reasons for it, together with his advice as to the type of disposition which would constitute the best use of the land (including such advice as may be relevant as to the prospects of buying out any sitting tenant or of succeeding in an application for change of use of the land under the laws relating to town and country planning etc.).**

Upon review of the report, I would submit the following comments:

It is noted in the summary that the report relates to Land adjoining Maindy Leisure Centre, Crown Way amounting to 2.126 hectares (5.254 acres). The land is stated to be freehold. The freehold owner is the Charity Trust.

Under section 9.1.1 the Valuers note the tenancy of the Maindy Park site to Greenwich Leisure Limited (GLL) and the fact that Heads of Terms have been drafted for a Deed of Variation to the existing lease to exclude the land required by the LEA. It is not clear if the Charity has agreed to these Heads of Terms, as they are the Freeholder. It is further unclear if they consulted upon this action or obtained any professional advice in that regard.



The existence of the lease is not addressed in section 11 *Valuation Considerations* and the only conclusion which can be arrived at is that the Valuer's have not accounted for the fact that the Trust would be entitled to the income from the lease. It is not stated what the income currently is or what it is proposed to change to under the Deed of Variation and it is therefore unclear to the Trust what the valuation implications would be.

Under 2.1 the Valuers state that the land is valued with vacant possession, however as it is clear from the above the land is subject to a lease of part.

Schedule requirement: 1.(1e) requires the number of rooms in any buildings and measurements to those rooms. This is absent from the report and should cover the area leased to GLL by the Trust.

Schedule requirement:2. The rent payable under the lease, Service charge, rent review provisions, repairing liabilities, – these are not stated in the report.

Schedule requirement 6. The best method of disposal – it is assumed in this report that the only method of disposal is to the Council, other possible methods are not explored.

### **Valuation report:**

10.1 It is noted that the Valuers consider the use of the land to falling under use Class D2, this is significant when considering the comparables the Valuers have adduced.

10.3 It is noted that the Valuers appear not to have been informed by the Council of the history of the site.

### 11.Valuation Considerations

The restriction of the use of the land stated in the report are more restrictive than they are actually are believed to be:

*“Recreation or other leisure-time occupation for the benefit of the inhabitants of the City of Cardiff with the object of improving the conditions of life for those inhabitants”*

The valuers state that they have applied the rate of £30,000 per acre which is three times the value of agricultural land. The relevance of agricultural land is not explained, rationalised or justified in the report. As stated above the Valuer notes that the land use is Class D2, this is not agricultural use and it is of note that the Valuers have not provided any evidence of land in the same planning use class. If the Valuer considers it appropriate to adjust values from land in other uses, why have they limited this to agricultural and not explored a wider range of uses and values.

Under 11.2 the Valuer gives very brief details of two land sales dating from 2018. One relating to 14 acres and another of 21.6 acres. They do not detail the use of the 1st land area but confirm that the second is agricultural land. These land areas are substantially larger than the subject land, in a different use, located in very different environments and the transactions are extremely historic. There are no details of adjustments for market changes between 2018 and 2021, are the Valuers suggesting that the property market did not change between 2018 and 2021?

The extract below is from the Royal Institution of Chartered Surveyors (RICS) Guidance Notes for comparable evidence in valuations. It is suggested that the comparables are considered against this Guidance Note:

*A comparable can be defined as an item of information used during the valuation process as evidence to support the valuation of another, similar item. Comparable evidence comprises a range of relevant data used by the valuer to support a valuation.*

*Valuation of any asset relies on the well-established economic principle of substitution. This states that the buyer of an item would not pay more for it than the cost of acquiring*

*a satisfactory substitute. Therefore, a person assessing the price to pay for a particular item will normally look to the price achieved for similar items in the market (the comparable evidence) and make a bid accordingly.*

*Ideally, comparable evidence should be:*

- *comprehensive – there should be several comparables rather than a single transaction or event*
- *very similar or, if possible, identical to the item being valued*
- *recent, i.e. representative of the market on the date of valuation*
- *the result of an arm's-length transaction in the market*
- *verifiable*
- *consistent with local market practice and*
- *the result of underlying demand, i.e. comparable transactions have taken place with enough potential bidders to create an active market.*

*Comparable evidence underpins the valuation of almost all traded assets. Provided the above criteria are met, it should provide an accurate indication of value.*

It is noted that the infrastructure element has been valued by a Depreciated Replacement Cost Method. In short this would entail calculating the cost of constructing the infrastructure today and then discounting this sum to take account of the degree of obsolescence of the existing infrastructure. This method is extremely subjective and requires detailed costings as it's foundation and a good understanding of the performance and obsolescence of the existing infrastructure. The valuers have not provided any costings for the replacement costs, calculation of obsolescence discount or rationale. They have stated that they assumed that the existing infrastructure will only have a 2-year lifespan. The logic of this assumption is clearly based upon the premise that the Trust will agree to the disposal. If the site is being valued in it's existing use then the valuation should be based upon the real lifespans of the infrastructure without the assumption of sale.

The valuers state in section 11.4.1 *Properties of this nature do not transact on the open market and so it is necessary to adjust comparable transactions and this creates a high degree of uncertainty.* As stated above there are several areas where the valuation approach is questioned and for the reasons set out above it is not considered that the report provides the information necessary for the Trust.

Regards

The following are concerns raised about the Surveyor's Valuation Report by SMV Member Christine Wyatt:

### **Surveyors Report**

As we now have a consultation on the land swap this means that the trustee has accepted the findings in the surveyors report. This is a serious cause for concern as this report has thrown up multiple issues and errors that render it worthless.

#### ***9.1 Gll have yet to agree the removal of the velodrome from their contract***

If this is the case, why is the trustee considering a land swap at this point in time?

#### ***9.1.2 Access to the velodrome land is restricted and GLL charge for its use.***

This is very misleading as this only applies to formal training sessions. The majority of the time, like other sport areas in public parks, it is a free open access facility for community use.

#### **10.3 & 10.5 Environmental Considerations**

Report states the sites current use means its likely to be uncontaminated! However they suggest the trustee carries out an environmental audit.

The site was a flooded former clay pit which was used as a refuse dump yet the surveyor has given no consideration to contamination and/ or asbestos.

Para 31.2 states they didn't carry out or arrange for specialist tests of the ground – ridiculous given that the surveyor apparently had current local knowledge!

Interestingly in para 31.6 the surveyor states they have not been made aware of the content of any environmental audit, land quality statement or soil survey which may identify contamination / pollution. The council have carried out tests on the land so why have they not provided this information to the surveyor?

#### **10.6 Flooding**

Whilst the 'site' is not in a flood plain, the previous use – former pool turned in to a refuse dump will require flood management and drainage.

#### **11.1 Valuation**

The valuation approach is incorrect as Cooke & Arkwright are treating this land as if the velodrome is decommissioned **and** the restrictive covenant is still in place.

This is wrong as it will be a fully functioning asset **without** a covenant, on land which will be developed.

The surveyor also states the value of 215,000 has been applied to the **whole** velodrome as the retained part would no longer be useable. So there can be no mistake we are talking about the value of the whole velodrome.

This surveyor has previously valued the whole velodrome but not detailed the value in this report. It is not clear on what basis this has been done.

A market value of 215,000? How could this be correct when the developer i.e. LEA have stated the demolition of the velodrome will raise funds to be diverted to the tune of 2.4 million for the new, smaller velodrome in the bay?

Given that the report also states the velodrome and leisure centre were previously valued as assets and the council appears to be removing the whole covenant from the charity land leased by GLL, the trustee appears to have accepted a significant undervaluation of the charity land making the replacement land offer to the beneficiaries even more worthless than originally thought.

The council as developer look to make a huge financial gain on this transaction to the detriment of charity beneficiaries.

The surveyors report includes a letter dated 22/09/21 which mentions that they have previously valued the velodrome and leisure centre as financial assets for the Council. These values have not been included in the valuation report dated December 2021.

This glaring omission confirms that the beneficiaries cannot reach an informed opinion on the market value of 215k.

Access to all these valuations are required before anyone can be convinced that the figure arrived at is the fairest and most advantageous that the charity can obtain. Surely it would be best practice to obtain more than one valuation before making such an important decision.?

if trustee is prepared to dispose of the charity land and obtain the best for the charity surely the disposal should have been advertised to other parties, not just restrict consideration only to a related party with a conflict of interest. In other words we should have a minimum of 2 valuations.

Other parties may be able to make offers that are better than that proposed by the developer and the trustee should consider how best to maximise the value of the asset.

As we only have 1 valuation beneficiaries cannot make an informed decision as to whether this is best that can be obtained for the charity.

Could it be to do with para 2.1 - valuation report cant exceed 250k - who knows?

A plot of land of roughly 90 sq metres recently sold on the corner of Maindy Park with a guide price of £125,000. That's roughly £1,400 per sq metre. The surveyor's valuation of Maindy is on 21,260 sq metres of land. Applying the same 1,400 per sq metre valuation to Velodrome site gives £30 million. So the surveyor's valuation of £215 thousand is approximately 140 times lower.

<file:///C:/Users/cwyat/Downloads/tempBrochure-14377-16496930401.pdf>

So whichever way you look at it the figure of 215,000 doesn't stack up.

The recent statement by Chris Weaver that the developer hasn't decided how much land they want to take for education purposes also render this valuation worthless.

**The beneficiaries have not been provided with the actual area of land to be replaced.**

### **11.1 & 30.7 Injurious Affection**

The surveyor makes mention of the land left and that it will need to be redeveloped as it would be dangerous - Why is there no mention in the report of the community park? Surely this would have been discussed & noted – have the Council changed their minds?

This statement reveals that the surveyor knows what is planned for the site i.e. they've seen the plan which the council have refused to share with beneficiaries. Surely the trustee should have made this available if they were acting in best interest?

This highlights conflict of interest with the body corporate being afforded access to information that the trustee has not provided to the beneficiaries.



## **SAVE MAINDY VELODROME REPRESENTATION #07:**

### **BLACKWEIR & CAE DELYN PARK PROTECTION STATUS:**

#### **COUNCILLOR LEADER CONTRADICTS CABINET MEMBER FOR PARKS**

##### **Cardiff Council Leader Huw Thomas' Claim That Blackweir and Caedelyn Require Additional Protection is Contradicted By His Cabinet Member for Parks, Jennifer Burke-Davies**

In an interview conducted by **Wales On-line** with Leader of the Council, Cllr Huw Thomas he claimed that Blackweir and Caedelyn Parks are in need of something which "gives additional protection to that land." (<https://www.walesonline.co.uk/news/wales-news/cardiff-councils-leader-big-city-24158806>)

Jeremy Sparkes sought to clarify this statement by writing to the Cabinet Member for Parks, Jennifer Burke-Davies. In Mr Sparkes' letter dated 12 June 2022, he asked

*"Leader of the Council, Huw Thomas, makes reference to 2 parcels of land – which I believe are in the north area of Bute Park (at Blackweir) and at Caedelyn Park – as needing extra protection. As the Cabinet Member with responsibility for parks I am sure you will share mine and others concern that 2 much loved and used areas by the public are under such a threat that they are in need of something which "gives additional protection to that land."*

In her reply dated 17 August 2022 The Cabinet Member with Responsibility for Parks said:

*"As Cabinet Member with responsibility for parks, I can advise that I do not share your concerns in that the two areas of parkland that you refer to are under threat."*

Clearly if the Cabinet Member responsible says they are not under threat then she is the one who would know. Also in the following extract from her letter she also references specifically **Fields in Trust Cymru** which is a charity dedicated to preserving open access green spaces, rec grounds and sports fields

*"Furthermore, the Council is committed to protecting its park and public open space provision, for current and future generations and has, over time worked with **Fields In Trust Cymru** in doing so protecting sites in perpetuity. From 2012 a total of nine sites, across the city have been afforded such protection."*

**So if either Blackweir or Cae Delyn did ever need additional protection then the Council knows this can be achieved in partnership with Fields in Trust Cymru. So a transfer of a covenant from Maindy Park is not required to protect them.**

## Information About Fields in Trust:

In their brochure titled 'Watch This Space':

<file:///C:/Users/user/Desktop/OneDrive/Documents/Save%20Maindy%20Velodrome/Fields%20in%20Trust.pdf>, the Fields in Trust charity state:

Fields in Trust champions and supports our parks and green spaces by protecting them for people to enjoy in perpetuity. Because once lost, they are lost forever.

Parks and green spaces in the UK are under threat and it is up to all of us to stem this cycle of disappearance and decline. We believe that everyone, irrespective of who they are and where they live, should have the right to enjoy and benefit from local parks and green spaces.

Parks and green spaces are proven to help people stay physically and mentally well; places where we can all move, breathe, run and play. They are an important tool to drive social cohesion, combat loneliness and build community spirit. Fields in Trust is an independent charity with 95 years' experience protecting parks and green spaces. We work with landowners, community groups and policymakers to champion the value of our parks and green spaces to achieve better protection for their future at both local and national level.

The brochure also has a section on 'People power protects parks'. It highlights how in 2007 an open space Recreation Ground in Llanrumney was saved by locals after the Council proposed to build a school on the site. At the celebration event to mark the saving of this public open space was the current Council Leader Huw Thomas. So it's rather disappointing that he values an historic covenanted open space in Cathays as not worth protecting.



### People power protects public park

**RUMNEY RECREATION GROUND CARDIFF**

Located between the districts of Llanrumney and Rumney in eastern Cardiff, Rumney Recreation Ground is a nine-hectare space, well-used for play and team sports.

**It is popular with the whole community, catering for children, young people, the elderly and families. Local people treasure this green oasis among the densely populated urban surroundings.**

In 2007, Cardiff City Council's controversial school re-organisation programme included plans to build a new school on the Recreation Ground. Local people were outraged and formed the RREEL (Rumney Recreation and Eastern Leisure) Action Group to act on behalf of the affected neighbourhoods and all those who used the green space. The politically neutral, inclusive campaign organised a widely supported referendum which demonstrated the

CASE STUDY



overwhelming desire of thousands of local people to oppose any development on the Rumney Recreation Ground.

The campaign used petitions, posters, press briefings and public meetings to keep up the pressure whilst a comprehensive 140-page dossier of objections was researched and presented.

Finally, the campaign succeeded in its primary aim of protecting the Recreation Ground, when, supported by Fields in Trust Cymru, it successfully challenged the council's application for Planning Assent. The local authority changed their approach and withdrew the plans.

Cardiff City Council subsequently protected the Recreation Ground with Fields in Trust for future generations to enjoy. The commitment of the successful community campaign is recorded on a memorial stone at the space which also contains a Fields in Trust plaque.



CARDIFF

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FIELDS IN TRUST WATCH THIS SPACE - SECTION THREE

FIELDS IN TRUST WATCH THIS SPACE - SECTION THREE

41

## An Open Letter

[1<sup>st</sup> line of address redacted]  
Cardiff CF [postcode redacted]

12 June 2022

Councillor Jennifer Burke-Davies  
Cabinet Member for Culture, Parks & Events  
Cardiff Council  
Member Services  
Room 286  
County Hall  
Atlantic Wharf  
Cardiff CF10 4UW

Sent by email: [Jennifer.Burke-Davies@cardiff.gov.uk](mailto:Jennifer.Burke-Davies@cardiff.gov.uk)

Dear Councillor Burke-Davies

### **Cardiff parks and their communities – protecting open access**

I am writing in a personal capacity but as I believe that the following is a matter of public interest I am doing so as an open letter, with only the identifying parts of my home address redacted. I understand, therefore, that any future FoI or similar requests may mean that my name is not redacted and I accept that this may happen as a consequence of putting it in the public domain myself.

By way of explanation, it may help to let you know a little about my background. I consider it a privilege to have worked in the charity sector for many years supporting those who either have the vision of how to make the world a better place and/or recognise the value of things which are good in their communities and wish to preserve them to be enjoyed today and also by future generations. I support registered charities, volunteer groups, community organisations and other not-for-profits, and several of these are based locally in and around south Wales.

In recent days I have seen two communications of which I believe you will be aware – firstly, an interview conducted by Wales On-line with Leader of the Council, Cllr Huw Thomas; and secondly, a Facebook post from the Llandaff North Labour Group, of which you are shown as being a member, in respect of answers to questions being asked by your local residents concerning a legal notice published over the Jubilee Bank Holiday about Hailey Park – and I will own up that it was me that spotted the tiny notice and asked a friend who lives in Llandaff North about it.

The online links to these communications are as follows:

[www.walesonline.co.uk/news/wales-news/cardiff-councils-leader-big-city-24158806](http://www.walesonline.co.uk/news/wales-news/cardiff-councils-leader-big-city-24158806)

[www.facebook.com/photo/?fbid=388376599988383&set=pcb.388376906655019](https://www.facebook.com/photo/?fbid=388376599988383&set=pcb.388376906655019)

Leader of the Council, Huw Thomas, makes reference to 2 parcels of land – which I believe are in the north area of Bute Park (at Blackweir) and at Caedelyn Park – as needing extra protection. As the



Cabinet Member with responsibility for parks I am sure you will share mine and others concern that 2 much loved and used areas by the public are under such a threat that they are in need of something which "gives additional protection to that land."

I then saw the Llandaff North Labour Group post and its reference among the answers provided by your (Parks) officials about the potential to use transfers to the community for land that the Council can no longer protect.

Through my work and contacts in and around the community, I have become aware of at least 1 local group which would welcome the opportunity to discuss the feasibility of such a transfer in relation to one of the areas referred to by the Leader of the Council as needing additional protection. As I understand it, their aims are consistent with the need to preserve the current status of the land and to help safeguard the same degree of public access and use that is enjoyed at present. My work contacts suggest there are likely to be others who would welcome a similar opportunity.

I should be grateful, therefore, for your written confirmation by return that the Council welcomes, will engage actively and in good faith with, and support any and all groups and organisations whose aims and purposes would help sustain and maintain these areas identified as needing additional protection.

However, if this not the case then I should be grateful if you would set out the reasons why so that these will be a matter of public record and help inform the people of Cardiff as to the direction that the new Council intends to take public access to open spaces.

Thank you for your attention to this matter and I look forward to hearing from you in the very near future.

Yours sincerely

Jeremy Sparkes

**SWYDDFA CYMORTH Y CABINET  
CABINET SUPPORT OFFICE**

Fy Nghyf / My Ref : CM47738

Eich Cyf / Your Ref :

Dyddiad / Date: 17 August 2022

Jeremy Sparkes  
Millbrook  
32 Kimberley Road  
Cardiff  
CF23 5DJ

Annwyl / Dear Mr Sparkes

**Cardiff Parks And Their Communities**

Thank you for your letter of 12 June 2022, please accept my apologies for the delay in responding.

I do note your comments in connection with the two items detailed in your letter, these being the walesonline news feature and the Llandaff North Labour Group Facebook posts.

As Cabinet Member with responsibility for parks, I can advise that I do not share your concerns in that the two areas of parkland that you refer to are under threat. The leader of the Council, Councillor Huw Thomas has clarified the Council's position in meeting the requirements of the Charity Commission arising from the implications of the expansion of Cathays High School. Furthermore, the Council is committed to protecting its park and public open space provision, for current and future generations and has, over time worked with Fields In Trust Cymru in doing so protecting sites in perpetuity. From 2012 a total of nine sites, across the city have been afforded such protection.

The Council is also committed and will continue to work with others in securing asset transfer arrangements for parks sporting facilities. Such arrangements are not driven by the protection of public open space but enable investment and infrastructure improvements through grant funding, result in increases in participation, engender a sense of local ownership, promote community cohesion, and help to sustain service provision. The Council has been active in this area over a number of years and has a wide range of arrangements in place with clubs that include Cardiff Beach Volleyball at Victoria Park, Cardiff Draconians Football Club at Lydstep Crescent Open Space, Ely / Careau Sports Trust at Trelai Park, Prince of Wales Boxing Club at Sevenoaks Park, Fairwater Rugby Club at Fairwater Park, and Splott Albion Football at Splott Park.

I trust that the above clarifies the Council's position, should any matters require clarification then please contact [JMaidment@cardiff.gov.uk](mailto:JMaidment@cardiff.gov.uk).

Yn gywir / Yours sincerely

**Cynghorydd / Councillor Jennifer Burke-Davies**  
**Aelod Cabinet dros Ddiwylliant, Parciau, Digwyddiadau a Lleoliadau**  
**Cabinet Member for Culture, Parks, Events and Venues**

# SAVE MAINDY VELODROME REPRESENTATION #08: BLACKWEIR PARK EXISTING PROTECTION STATUS

INFORMATION FROM CADW SHOWS BLACKWEIR IS PROTECTED AS A DESIGNATED REGISTERED HISTORIC PARK. THIS DESIGNATION WAS TURNED DOWN FOR MAINDY

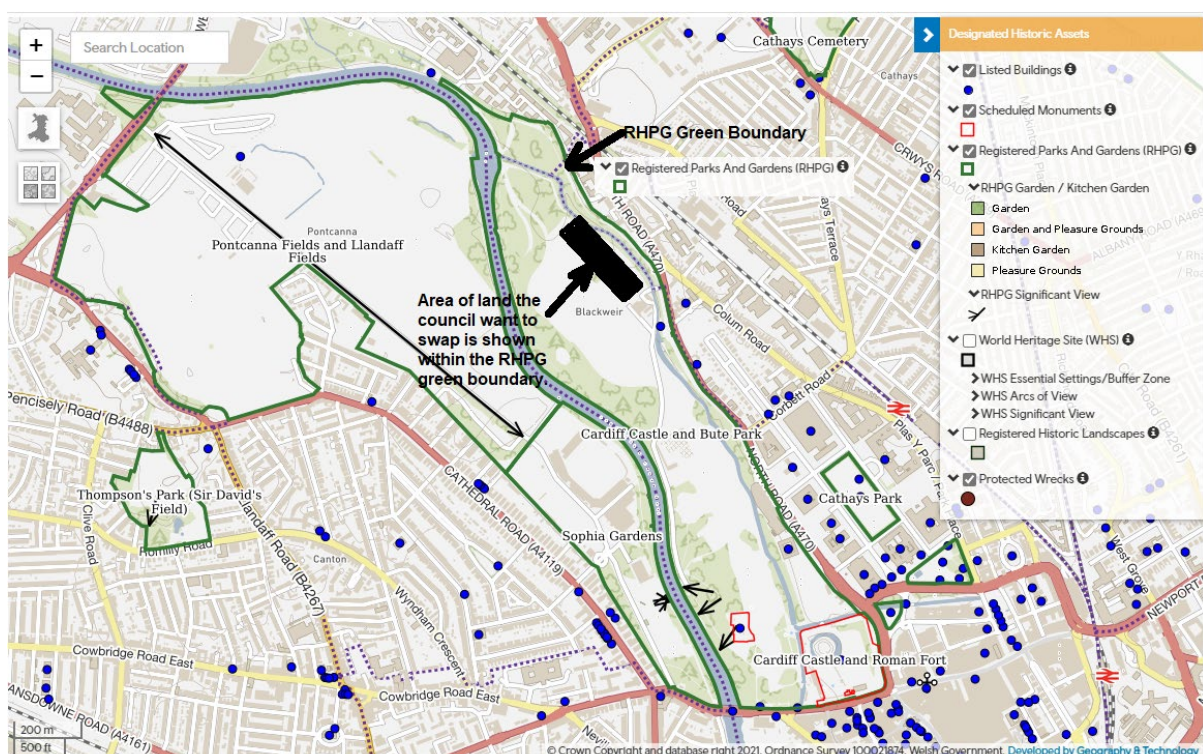
INFORMATION FROM CADW SHOWS BLACKWEIR IS PROTECTED AS A DESIGNATED REGISTERED HISTORIC PARK. THIS DESIGNATION WAS TURNED DOWN FOR MAINDY

The Council appear to suggest they plan to 'swap' the Maindy Park covenant to Blackweir because Blackweir currently doesn't have any protection from development.

However on <https://cadw.gov.wales/advice-support/cof-cymru/search-cadw-records> it shows the area of Bute Park/Blackweir which the Council want to 'swap' already has an important level of protection from CADW as a 'Registered Parks & Gardens' (screenshots below). Although this designation doesn't strictly stop any development it requires that consultation must take place with CADW (outlined in '[Managing Change to Registered Historic Parks and Gardens in Wales](#)' with a screenshot of the relevant page below.

Also of interest, when Save Maindy Velodrome applied to CADW for listing status, in CADW's response email turning down the listing request (email below) they said "**CADW's inspector of historic gardens has also considered whether it might be appropriate to designate as a historic park, but her recommendation is that it falls short of the published criteria for registration.**" So the Council are proposing to move the Covenant to land which already has a higher type of status (so inconceivable it could be developed) than Maindy Park.

So the Council are wrong to claim there is any benefit in moving the covenant to Blackweir (strictly speaking the council want to move part of the covenant to Blackweir). Blackweir has very strong protection already and which is not available at the Maindy Park site, so adding the protection of the covenant is rather pointless.





## 1.5

# Does Inclusion on the Register Restrict What I Can Do?

---

Unlike listing or scheduling, registration does not impose any additional consent regime and we are not usually involved in the day-to-day management and maintenance of registered historic parks and gardens. Instead, they are protected chiefly through the planning system.

Registration is not intended to prevent change but, instead, to highlight the significance of a registered historic park or garden so that it can be taken into account during plan making and development decisions.

### 1.5.1 Local Planning Authorities

Planning authorities should value, protect, conserve and enhance the special interest of parks and gardens and their settings included on the register of historic parks and gardens in Wales. The register should be taken into account in planning authority decision making.<sup>10</sup> When local planning authorities are determining planning applications, the effect of a proposed development on a registered historic park or garden, or its setting, should be a material consideration.<sup>11</sup> Occasionally, the local planning authority may ask for more information to be able to determine a planning application.<sup>12</sup> This may include a heritage impact statement if the proposed development is likely to have an impact on a registered historic park or garden, or its setting.

The local planning authority must consult Cadw on planning applications affecting registered historic parks and gardens, or their settings.<sup>13</sup> The local planning authority may also consult with the Welsh Historic Gardens Trust on planning applications affecting historic parks and gardens and their settings, including registered sites.<sup>14</sup>

### 1.5.2 Applying for Planning Permission

Before preparing a planning application, you should consider the impact of the proposed development on the registered historic park or garden, and its setting, including significant views. You will need to provide the local planning authority with sufficient, but proportionate, information to allow the assessment of the likely impact of your proposals. It is important to think about your long-term plans for the site so that you avoid piecemeal or ad hoc development, which over time can damage historic character. You might also want to consider enhancing the site, for example, through the removal of inappropriate structures.

We recommend that you hold pre-application discussions with the local authority planning officer, conservation officer and archaeological advisor. The local planning authority can invite us to these pre-application discussions.<sup>15</sup>

When you submit an application for development which is likely to have an impact on a registered historic park or garden, or its setting, we strongly recommend that you include a heritage impact statement with your supporting documents (see section 2.2).

The Welsh Historic Gardens Trust is a good source of information about historic gardens in Wales and may be able to offer advice about your proposed changes before you submit an application for planning permission.

<https://cadw.gov.wales/sites/default/files/2022-04/Managing%20Change%20to%20Registered%20Historic%20Parks%20and%20Gardens%20in%20Wales-2022.pdf>

## EMAIL FROM CADW REFUSING LISTING STATUS FOR MAINDY PARK:

----- Forwarded message -----

From: <Michael.Weatherhead@gov.wales>  
Date: Tue, Dec 21, 2021 at 3:33 PM  
Subject: RE: Maindy Velodrome Application for Listing  
To: <[chrislewis693@gmail.com](mailto:chrislewis693@gmail.com)>

Dear Chris,

Thank you for your email of 9 September to Cadw asking us to consider listing Maindy Veldodrome.

We have assessed the velodrome for listing against the published criteria, and have concluded that it does not meet the high standard necessary to be included on the statutory list.

To qualify for listing, candidate buildings must be of nationally significant architectural or historic interest and must satisfy published listing criteria, which are intended to ensure that only the very best of our nation's historic buildings are protected. Where these are met, the Welsh Ministers (in practice Cadw) are under a duty to list but cannot do so otherwise. Buildings are included for the interest of their architectural design, decoration and craftsmanship, including particular building types and techniques. Similarly, buildings that illustrate important aspects of the nation's social, economic, cultural or military history are included for their historic interest. Age and rarity are relevant, particularly where buildings are proposed for listing on the strength of their historic interest.

In that sense, the velodrome has clear historic interest as a venue for 1958 Commonwealth Games. However the loss of all buildings associated with it along with later changes have critically undermined that historic character. In architectural terms, the track itself is not considered to be of importance to the nation for the interest of its design and craftsmanship; or in displaying technological innovation or virtuosity. The link with people of events of importance is acknowledged, but the difficulty here is the lack of tangible physical relationship with the sportspeople involved. The track and field facilities have gone, severing the connection to the great athletes, and while Geraint Thomas and Nicole Cooke did train here as youngsters, they did not train here for their later sporting successes. **Cadw's inspector of historic gardens has also considered whether it might be appropriate to designate as a historic park, but her recommendation is that it falls short of the published criteria for registration.**

I understand that you will be disappointed with our decision, but as it does not meet the criteria there is no basis for us to list.

Thank you,

Mike Weatherhead

Arweinydd Tîm Gwaith Achosion / Casework Team Leader  
Polisi a Gwarchod / Policy and Protection  
Cangen Amgylchedd Hanesyddol / Historic Environment Branch  
Cadw  
ffôn / tel: 0300 025 6203  
[michael.weatherhead@llyw.cymru](mailto:michael.weatherhead@llyw.cymru) | [michael.weatherhead@gov.wales](mailto:michael.weatherhead@gov.wales)

**SMV Representation 09:  
Cardiff Council's False Claim They Are Providing 13,500m2 New Open Access at  
Maindy Park**

Cardiff Council have relentlessly claimed they are creating “**a new open access green area on part of the Maindy site.**” They also claim, time and again, this area is to be '13,500m2'. But how can you create new open access on a site that is already open access and which is going to be built on? The Council's false claim has cropped up in leaflets, Facebook, letters, cabinet reports, etc. A few examples are shown below:

**1. Cardiff Council's Site Plan**

From people's comments in the Consultation the Council did the map below [see [Cathays High School and Maindy Site - Indicative Site Layout \(cardiff.gov.uk\)](#) also [Cathays High School Proposals \(cardiff.gov.uk\)](#)] and they show the remains of the Open Access area in yellow.

**Appendix 10: Indicative site layout**  
Site Boundaries - Cathays High School and Maindy Site



- Key:
- Cathays High School - 46,000m<sup>2</sup>
  - Open Access - 13,775m<sup>2</sup>
  - Maindy Centre - 7,225m<sup>2</sup>

Note: all areas are approximate and boundary lines indicative. Boundary lines are to be confirmed at design stage.

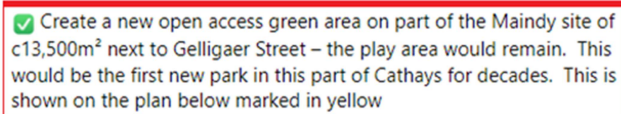
## SMV Representation 09:

### Cardiff Council's False Claim They Are Providing 13,500m<sup>2</sup> New Open Access at Maindy Park

In publicity about the 13,500m<sup>2</sup> 'open access area', the phrasing the Council use varies:

#### 2. Facebook Posts

In a Facebook post on 19<sup>th</sup> July 2021 they say they will "*create a new open access green area on part of the Maindy site of c13,500m<sup>2</sup>*" as shown in the screenshot below:



✔ Create a new open access green area on part of the Maindy site of c13,500m<sup>2</sup> next to Gelligaer Street – the play area would remain. This would be the first new park in this part of Cathays for decades. This is shown on the plan below marked in yellow

#### 3. Official Council Letters

On 14<sup>th</sup> October 2021 Cllr Huw Thomas wrote to residents and claimed:

*“The proposals would also create a brand new public park, of approximately 13,500m<sup>2</sup> (3.3 acres) at the Southern end of the current cycle track.”*

But clearly there is a much larger park already on this site?

#### 4. Council Cabinet Reports

In their October 2021 Cabinet report they say they will provide "*a large area of community space....of c13,500m<sup>2</sup> to be retained. This represents an increase in unrestricted access open space available for use by the local community*".

118. The feasibility study undertaken to produce an indicative red line boundary map for the proposed school site confirms that the existing school site would need to be retained in order that the proposed expanded school may meet the site area requirements set out in Building Bulletin guidance for schools on confined sites. The indicative boundary for the site also identifies a large area of community space, outside of the school and leisure centre boundary, of c13,500m<sup>2</sup> to be retained. This represents an increase in unrestricted access open space available for use by the local community. Further consideration of the layout of the site would be necessary at the design stage.

#### 5. Council Election Leaflets

In the run up to the May 2022 elections the Council sent a letter to people they saw as potential supporters which included the comment "*Labour will deliver for Cathays 13,500m<sup>2</sup> of green public open space by Gelligaer Street.*"



**SMV Representation 09:  
Cardiff Council's False Claim They Are Providing 13,500m2 New Open Access at  
Maindy Park**

**Labour will deliver for Cathays:**

- ✓ A state of the art, carbon-neutral, new Cathays High School
- ✓ Tougher planning rules, building on those we've already introduced
- ✓ A new Metro station at Crwys Road
- ✓ 13,500 square metres of green public open space by Gelligaer Street
- ✓ Continued investment in street cleansing
- ✓ Make landlords improve housing standards through licensing
- ✓ More residents/controlled parking, with some increases coming into place this summer
- ✓ A strong local team to represent you, working hard for everyone

**SMV Site Measurement**

SMV have done a measure of the various areas at the site and the unrestricted open access land around the track (park+sports courts+car park area shown on the next sheet) and it comes to well over 37,761m<sup>2</sup>. The Council have been asked about which areas they say are 'restricted' and which are 'unrestricted' and show how they came up with a figure of 13,500m<sup>2</sup>. **Unfortunately, the Council have refused to reply.**

**The Park Area Inside the Velodrome Track**

With regards the large area of open space within the track, this is only restricted when cyclists use the track otherwise the gates are open and the area is unrestricted. Clearly this means it has more than zero value as open space. Cllr Chris Weaver once claimed that he found GLL (who manage the site for the Trustee) had locked the gates to the cycle track when not in use. However the GLL title deed lease document clearly shows the GLL managed land is subject to the rights reserved by the covenant which they are required to honour, as shown below in the extract from the GLL title document. So GLL would be wrong to prevent access and as a Councillor he should have complained. Also no member of the Save Maindy Velodrome have found the gates to the field to be locked.

2 (22.12.2016) The land is subject to the rights reserved by the Conveyance dated 15 August 1922 referred to above.

So with regards the land inside the track, the argument perhaps is how much is its value as unrestricted open access reduced by the velodrome track sometimes being used (it's certainly not zero!).

**Conclusion**

The Council's claim that they are providing '**13,500m<sup>2</sup> of new open access**' at Maindy Park is proven false. So a false claim has been repeatedly used to try to hide the fact the area of open access is being hugely reduced also by giving out false information presumably they hope to reduce public objections.

This is yet another factor that confirms the failure of Cardiff Council to follow a fair and proper process in order that they can demolish an historic velodrome and remove a covenant protecting a wonderful and much loved public park and which was given to the people of Cardiff as open space on the understanding and promise it would never be built on.



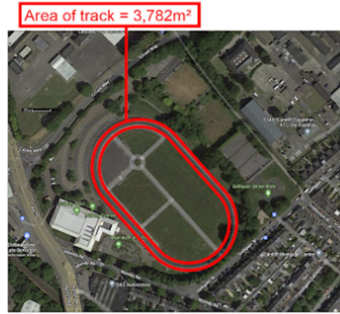
**SMV Representation 09:  
Cardiff Council's False Claim They Are Providing 13,500m2 New Open Access at  
Maindy Park**

**SMV Representation 09:  
Cardiff Council's False Claim They Are Providing 13,500m<sup>2</sup> New Open Access at  
Maindy Park**

**Maindy Park Land Area Measurements:**



Grassed park area within track = 13,385m<sup>2</sup>



Area of track = 3,782m<sup>2</sup>



Area of bowling greens & basketball court = 5,511m<sup>2</sup>



Area of park around outside of track = 6,654m<sup>2</sup>



Area of car park = 8,429m<sup>2</sup>

- Grassed park area within track = 13,385m<sup>2</sup>
- Area of track = 3,782m<sup>2</sup>
- Area of bowling greens & sports courts = 5,511m<sup>2</sup>
- Area of park around outside of track = 6,654m<sup>2</sup>
- Area of car park = 8,429m<sup>2</sup>
- Total = 37,761m<sup>2</sup>

## **Index**

- 01 - Evidence of accessibility issues at Blackweir Park
- 02 - Evidence of accessibility issues at Cae Delyn Park
- 03 - The ABC Maindy Park response to the council's land swap consultation report
- 04 - Links to videos of Maindy Park, Cae Delyn Park, and Blackweir Fields after sunset
- 05 - Evidence of accessibility at Maindy Park
- 06 - Evidence of exclusion of vulnerable users from committee engagement



# Blackweir

Blackweir



Proposed parcel of land already openly accessible to the public

1a



Nearest access point from Maindy Park. Comprises tarmaced path with large tree canopy. Leads from A470 North Road to shared cycle/pedestrian path running on the east side of the dock feeder canal



1b



Same path but viewed from the cycle/pedestrian paths which are on the east side of the dock feeder canal

2a



Nearest vehicle access point from A470 North Road. No parking available or permitted from this access road because of ambulance station located at Blackweir



2b



Nearest vehicle access point from A470 North Road. Viewed from A470. No access for any vehicle (other than ambulances or other emergency vehicles (or approved cars of staff working at the ambulance station))

2c



Nearest vehicle access point from A470 North Road. Viewed from southern side of the A470.



3



A470 North Road (taken mid morning, after peak time traffic had eased)

4a



Nearest available car parking spaces suspended for considerable period of time while substantial works are undertaken



4b



Parking for the Blackweir access point is some considerable distance away

5a



No entry for private vehicles (other than properly accredited ambulance staff). Access path for use by pedestrians, cyclists, wheelchair users and those with prams/buggies only. Top end of path



5b



Middle of same path only available for pedestrians, cyclists, wheelchair users and those with prams/buggies

5c



Bottom of same access path only available for pedestrians, cyclists, wheelchair users and those with prams/buggies



6



View of proposed land stated to be “of equivalence”. Looking northwards from access path. Note: it is not the entirety of this land to be exchanged; the boundary commences some distance further northward (approximately where the football posts are situated)

7



Cycle hoops for bike parking



8a



Same access path - steps at bottom. Note: there is no provision of ramp or alternative access to the land for wheelchair users and anyone with mobility problems. Those with prams/buggies may also struggle if they are alone

8b



Same steps but viewed from the bottom of them



9a



Land stated to be “of equivalence is located at the far right of the grassed area (to the right of the trees in the foreground). Slope from non-owned land will adversely impact accessibility of land for wheelchairs, prams, buggies and such like

9b



The land stated to be “of equivalence” after the obstacles to accessing it have been surmounted



## Cae Delyn

Caedelyn Park



Footprint of land proposed as being “of equivalence” to charity land at Maindy Park

Distance: taking most direct route (A470 along North Rd/Manor Way) 2.2 miles from the main gate of Maindy Park at Crown Way to the main gate at Cae Delyn Park

1



Northwestern pedestrian access point only by crossing railway line. Gated access restricts use by wheelchair, and awkward for those with prams/buggies



2



Pedestrian access point from main road. No lighting apparent

3



Northeastern pedestrian access point. Again, no lighting and path in very poor condition



4



Western pedestrian access point. Unsuitable for wheelchairs

5



Western access point viewed from park side

6



Western pedestrian access point (alternative to barred way shown above). Unclear whether wheelchairs can use it

7a



Vehicle access point is from North Road/Manor Way on A470



7b



8



Car park does not appear to have dedicated spaces for blue badge holders



9



Path from car park is not suited for wheelchairs

10a



Path from car park has been allowed to deteriorate considerably and likely to be an obstacle for wheelchair users to access the land "of equivalence"

10b



More evidence of path deterioration and unsuitability for wheelchairs

10c





10d



11



Path from western and northwestern access points has heavy tree cover and no apparent lighting



12



Path from northeastern access point along top of the land "of equivalence"

13a



Northeastern most part of land "of equivalence" is densely packed shrubbery and trees, with no apparent lighting



13b



No apparent lighting on the path on the other side of the dense shrubbery and trees

14



View back towards car park from northeastern-most point of land “of equivalence”



15



View from south-eastern aspect

16



View of northwestern-most aspect



16a



Stream runs alongside access path on eastern side

16b



Clearly considered to be a hazard and so unsafe that a lifebuoy is situated nearby



## **FAO Maindy Park Trust Advisory Committee.**

The following a response by The Association of the Beneficiaries of the Covenanted Land at Maindy Park (herein after referred to as "ABC Maindy Park") to Appendix 6 prepared by Cardiff County Council (herein after referred to as "the Council") for the meeting of the Maindy Park Trust Committee (herein after referred to as "the Committee").

Text from Appendix 6 is in **Blue** with ABC Maindy Park's changes to the Appendix 6 text in **RED**

**The ABC Maindy Park recommends that the Committee read every representation which was submitted in response to the land swap consultation in full, as in doing so the Committee will find powerful testimonies which have been lovingly and painstakingly crafted by the beneficiaries of the Maindy Park Trust detailing exactly what Maindy Park means to them and the impact which the loss of Maindy Park will have on them.**

The Notice was published in print in the Western Mail on 20<sup>th</sup> May 2022, a copy of which is annexed to this Appendix 6. Representations were received via the Council's [propinfo@cardiff.gov.uk](mailto:propinfo@cardiff.gov.uk) email address managed centrally by Strategic Estates.

**SAVE MAINDY Comment:**

- The Committee are asked to note that this Newspaper's total Circulation per issue is merely 7,177<sup>1</sup>, while Cardiff County Council has in the region of 100,000 and 50,000 followers on Twitter<sup>2</sup> and Facebook<sup>3</sup> respectively.
- Additionally, the Committee are asked to note that no reference is given to Maindy Park in the title of the Notice.
- The Committee are asked to note that while the notice was published in print, internet access was required to access the details of the proposal.
- The committee are also asked to note that the Notice of the proposal was not published online until day 6 of the consultation period, with the further details – which were stated as being available in the print notice on 20<sup>th</sup> May 2022 – not being made available until the 8<sup>th</sup> day of the consultation period, and that the consultation period was not extended to account for the delayed publication of materials pertaining to the consultation.
- Furthermore, the Committee are again asked to note that while the print Notice invited respondents to make representations online via email, the Notice was not published using digital media until 6<sup>th</sup> day of the consultation period..
- Finally, the Committee are asked to note that other public consultations taken by Cardiff county Council during provide respondents with a direct link to a page where they could find a links to a survey to express their views, rather than being required to write an email from scratch

The Committee may wish to consider why the efforts put in to this purported attempt at consultation were not at least on a par with every other consultation taken.

[A summary outlining the range of objections and issues raised from the consultation process is noted below:-](#)

**SAVE MAINDY Comment:**

- The Save Maindy Campaign (herein after referred to as “the Campaign” invited respondees to send a copy of their email to the Council to the Campaign team and also direct to the Charity Commission
- The Council in reply to FOI18352 advised that 253 individual responses were received, and a substantial number of these were openly copied to Campaign.
- Also in reply to FOI18352 the Council advised that c. 98% of responses (248) objected to the proposed land swap.
- From analysis of these responses the Campaign is able to provide a more complete picture than that which appears to have been provided to the Committee by the Council's analysis. This is not a criticism of the employee(s) responsible – the limited time given to them by the Council adopting only the statutory minimum time scale from setting up the review to today's hearing has clearly impacted on the ability of staff to complete the job to the standard that they would normally wish to provide.

From Appendix 6	ABC Maindy Park Clarifications	ABC Maindy Park Comment
<ul style="list-style-type: none"> <li>Loss of the Velodrome and open space</li> </ul>	<ul style="list-style-type: none"> <li>Loss of velodrome facilities</li> <li>Net loss in public open space</li> </ul>	<p>Inappropriate combination of themes by CCC. Key issue is that the land exchange proposal is not only that it is in breach of the Maindy Park covenant, it is that the proposals will result in a net loss in public open space as the land at Blackweir and Caedelyn Park is already publicly accessible land</p>
<ul style="list-style-type: none"> <li>Unsuitability of the swap sites</li> </ul>	<p><b>Geographical and amenity unsuitability of each of the three proposed swap sites which do not offer a like-for-like facilities</b></p>	<p>Velodrome: proposed gradient of new velodrome makes it inaccessible to those without specialist track bikes and particularly excludes children under age 11. Currently centrally located and easy to access, SIV is only accessible via car and will take longer to reach especially during rush hour etc.  Caedelyn: 2 miles away, limited street lighting, limited paved paths, poor accessibility for those with disabilities, unlit and unsafe in evenings etc.  Blackweir: physical barriers e.g. North Road, unlit, unpaved, no benches etc</p>
<ul style="list-style-type: none"> <li>Loss of Maindy Pool</li> </ul>	<ul style="list-style-type: none"> <li>Potential either total or during school hours loss of Maindy Pool</li> </ul>	<p>These concerns arose following conflicting information which has been published by CCC</p>
<ul style="list-style-type: none"> <li>Objections to the school expansion</li> </ul>	<ul style="list-style-type: none"> <li>Queries regarding the necessity of Cathays High School capacity expansion</li> <li>Queries regarding the necessity of acquiring trust land for the schools expansion and suggestions that the use of other nearby land would be more appropriate.</li> </ul>	<p>Respondents were understanding of need to provide education facilities, while questioning if considerable expansion to Cathays High School Capacity is appropriate for population needs given expansions to other Cardiff Secondary School facilities and capacity.  Also the impact on air quality generated by 10,000 journeys a week from outside the catchment area when Cardiff is already listed as having one of the worst traffic pollution rates</p>
<ul style="list-style-type: none"> <li>Conflict of interest in the roles of the Council as trustee and school developer</li> </ul>	<ul style="list-style-type: none"> <li>Unacknowledged Conflict of interest in the roles of the Council as trustee and school developer</li> </ul>	<p>There is no declaration in the Notice or in the information provided from the Council that it is a related party, and how this conflict has been managed in order to commission a valuation report</p>
<ul style="list-style-type: none"> <li>Inadequate and misleading information on the website and conflict of interest in the use of the surveyors</li> </ul>	<ul style="list-style-type: none"> <li>Inadequate and misleading information published by Cardiff County Council on the Council Website, and given by Cabinet Members/Council officers in response to queries from the public</li> <li>Conflict of Interest in use of Surveyors and commissioning of surveyor by the Council in its capacity as a body corporate not trustee.</li> </ul>	<p>Inappropriate combination of themes by CCC.</p>

<ul style="list-style-type: none"> <li>• Issues regarding an inadequate consultation process and misinformation</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Considerable</b> Issues regarding an inadequate consultation process (including but not limited to: publication of notice, delays in publishing consultation documents, consultation question, timing of consultation in relation to other decisions, inaccessibility of engaging in consultation for those with disabilities/limited digital literacy, Councillor’s refusal to hold a public meeting/attend public meeting arranged by the campaign)</li> <li>• Misinformation within the reports and given to beneficiaries in response to communications with cabinet members and council officers.</li> </ul>	<p>The Council in its capacity as LEA approved plans to expand the school onto Trust Land prior to any consultation taking place with the trust’s beneficiaries. Full engagement with the community would have included (but not been limited to) posting leaflets through communities letterboxes, the trustee’s engaging with local community groups e.g. churches in the vicinity of the velodrome, representatives of the trustees calling a public meeting to meet with residents. Not excluding persons with learning disabilities etc from completing consultation response as a respondents were required to craft emails. Council officers not instructing GLL to remove posters advertising a public meeting called by the community.</p>
<ul style="list-style-type: none"> <li>• Council has acted unlawfully</li> </ul>	<ul style="list-style-type: none"> <li>• Council has not set out the lawful basis on which it has acted to date</li> </ul>	<p>The setting up of this Committee and process is acknowledgement that the conflict of interest had not been managed and that, therefore, campaigners concerns at the lack of a lawful basis have been corroborated</p>
<ul style="list-style-type: none"> <li>• Non-compliance with other strategies</li> </ul>	<ul style="list-style-type: none"> <li>• Non-compliance with local, devolved and national strategies</li> </ul>	<p>A list of some of these policies can be found in appendix 1</p>

**ABC Maindy Park Comment:**

Further to the above, the following additional themes have been identified by trained qualitative researchers working with the campaign:

- **Loss of a community asset through a “land-grab”**
- **Ecological and climate change impact from the proposals**
- **Growing disillusionment and a Loss of trust/faith in Cardiff County Council as a public body**
- **The proposal is in breach of the Maindy Park covenant**
- **The legal precedent set by the land swap proposals should they go ahead**

1. **Objections to the loss of the velodrome at Maindy Park. Not like-for-like facility proposed at the ISV, will result in many active clubs not being able to continue training as the new Velodrome will not be accessible to those without track bikes, and result in younger riders, those with disabilities, and those without the financial resources to purchase track bikes. Relocation of velodrome to ISV removing facilities from an accessible geographically centrally located facility in Cardiff to the outskirts of the city which would only be accessible by car as the proposed plans for the new velodrome make the proposed facility unsuitable for road bikes. Further to this concerns raised regarding the likelihood that the**

city will be left without a velodrome in the period between the proposed demolition of Maindy Stadium and the proposed new velodrome in ISV becoming operational.

2. Objections to the loss of the velodrome which is a unique historical, cultural, and heritage asset in Cardiff and for Wales with references made to the Future Generations Act, Success of Maindy Flyer's alumni, Empire Games legacy, used as a training ground by some of Wales's most successful athletes.
3. Loss of velodrome and wider park and facilities at Maindy, will be detrimental to the local community in terms of health and wellbeing – a large evidence base exists for the impact of local greenspaces on health and prosperity outcomes in the surrounding area, and the site has demonstrated its importance and value to the local community during the COVID-19 lockdowns – and the loss of a safe arena for young children to learn to cycle within their community.

Objections to the land swap options which respondents considered inappropriate Both options are located too far from Maindy and are not as accessible to the local community particularly those with disabilities, old age, or young children. The Blackwier site is separated by the busy North Road and a steep hill which are physical barriers. Blackwier is not well lit and is near an area which is known to be unsafe given the horrific acts of sexual violence and murder took place, and as such is not an all year-round recreational resource for the community and therefore an inappropriate alternative. Further to this Blackwier does not have the same facilities such as paved paths and benches as those which are available at Maindy. Indeed, the Blackwier site has also been proposed as the site of a community orchard. Cadelyn Park is considered inappropriate as it is located approximately 2 miles and a 50 minute walk (per google maps)<sup>4</sup> away from Maindy Park. This is not considered accessible for those without a car and is therefore an inappropriate alternative.

4. Objections to the trust land swap options on the basis that both sites are already accessible to the public so there is no benefit to the people of Cardiff (the beneficiaries of the Maindy Park Charitable Trust) who will only stand to loose access to unrestricted public open space for leisure and recreational purposes should the proposal go ahead, given that a net loss in public open space will result should the proposal go ahead. Cardiff Civic Society included the following in their objection:  
*"Firstly, the proposed replacement land is parkland the citizens of Cardiff already have access to. The land exchange will effectively mean a net loss of public open space. Cardiff already has less green space per capita than other UK cities of a similar size, therefore we cannot afford to lose more."*
5. Objection base on the view that alternative options for the school expansion have not been fully explored including but not limited to the acquisition of land from HM Government following the change to Civil Service Working practices and needs arising from the practices adopted during the COVID19 lockdowns.

6. Objections based on the view that school proposal is not appropriate – expansion is not needed given that schools elsewhere in Cardiff have been expanded, the static level of need for school places within the catchment area, and the existing very high out-of-catchment school population, and the additional number of pupils coming from further afield (and out of catchment) generating an increase in traffic and more travelling creating pollution and causing environmental harms. Further to this the proposed expansion plan is not in alignment with criteria established by the Welsh Government’s requirements to obtain funding for 21<sup>st</sup> Century Schools.
7. Objections on the basis that there is an undisclosed conflict of interest from the Council, arising between the council acting as sole trustee of Maindy Park Charitable Trust and the council acting as school developer. Council is not acting in the best interests of the trust which it is required to do, and that the council’s conduct surrounding the consultation favours its role as the developer rather than that of the trust and the trust’s beneficiaries.
8. Gross failure, misconduct, and negligence in the role of the Council as sole trustee
9. The Covenanted Land at Maindy Park was gifted to the people of Cardiff (its beneficiaries) in Trust for leisure and recreation in perpetuity and should remain so in perpetuity - as intended by the benefactors and as per the terms of the Maindy Park Covenant.
10. Objections to the loss of greenspace and environmental concerns within a densely populated part of Cardiff (one of the most densely populated parts of Wales), the environmental impact of the added journeys by additional students traveling from out of catchment area, additional travel required to reach the SIV, and travel required to reach the land at Cae Delyn park, as well as the ecological impact of the loss of green space on nature and the environment.
11. Conflict of interest in the use of surveyors – who have previously been engaged on related projects particularly with regards to the valuation of the covenanted land at Maindy Park at £215,000– given that a vacant plot of land (approx. 90 m<sup>2</sup>) on neighbouring Gaelliger Street was recently sold in the region of £125,000<sup>5</sup>.
12. Objections to the potential loss of access to, or total loss of the Pool facilities either permanently or during school hours – arising from inconsistent information given to the public by the council, its officers, and its elected representatives.
13. Issues on how the consultation has been conducted by the Council with wide ranging non-compliance issues. Including but not limited to: inadequate publicity with only a small advert which only ran for a single day in the Western Mail a newspaper with a per issue circulation of only approximately 7,000<sup>1</sup> (a figure lower than the combined turnout in the local Cathays and Gabalfa electoral Wards for local elections in 2022)<sup>6</sup>. Delays publishing the consultation Notice Online; Consultation material on the Council’s website not made available for up to 8 days after the start of the consultation period. Consultation period not

long enough for the community to properly respond **particularly given the delays in publishing the consultation documents and consultation period not being extended to account for this; The timing of the consultation which should have been conducted before Cabinet any consultation into expansion plans took place.**

14. Issues raised regarding misinformation in and clarity in the consultation process. Material on the council's website is conflicting – with discrepancies in plans leading to confusion and no clear information on which parts of the Maindy Park trust land would be lost.
15. **Failure to properly engage with the beneficiaries, and that the limited engagement which has taken place has been non-inclusive. Including, but not limited to: Consultation Document's were not published in print alongside the Notice for those with limited digital literacy to peruse; Respondents required to write an email/letter to register their views, which possess additional barriers for persons with disabilities or low literacy levels from expressing their views; refusal of Cardiff Councillors to hold a public meeting to discuss the proposals with the community, and refusal of Council Representatives to attend a public meeting called by the community; Limited publicity of the consultation online; community reports of the removal of public posters placed around the park by those employed directly/indirectly by the CCC.**
16. Objections based on the view that the process is not legal and the Council is acting unlawfully **in its capacity as Trustee of Maindy Park Trust**
17. Failure of the Trustee to **adequately** inform the beneficiaries of the process arising from **failures to adequately engage with the beneficiaries and publicise the proposals sufficiently, and the reported removal of Save Maindy posters from the Maindy Park site.**
18. Views expressed that the advice from the surveyors is fundamentally flawed. The value of Maindy Trust land is artificially low given that it was based on the covenant being in place and not based on its true value as an active velodrome and/or its proposed use for education purposes
19. Views that the consultation process is a tick-box exercise as the Council's **Cabinet acting in its capacity as the developer** has already made the decision to expand the school. There is no confidence **on the part of the beneficiaries** that the Council as sole trustee will make a recommendation to the Charity Commission that can benefit the trust. The proposed land swap and loss of trust land at Maindy Park can only be detrimental to the beneficiaries of the trust **given that there will be a net loss in open public space for the people of Cardiff owing to these proposals, and that the Council in its Capacity as the developer is the primary beneficiary of the proposals.**
20. Loss of trust land at Maindy Park does not comply with the adopted Cardiff LDP and **numerous** Welsh Government Strategies

### **ABC Maindy Park Comment:**

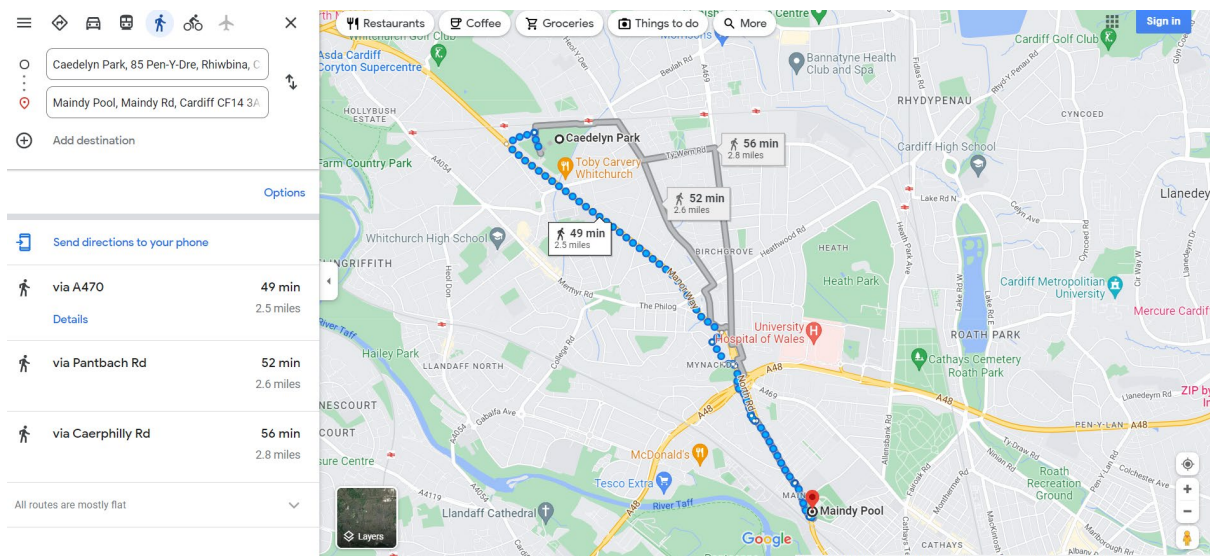
The following themes were also identified in the consultation responses

- **The impact of the loss of the facilities on people with protected characteristics including but not limited to age, disability, and gender. The facilities at Maindy Park enable those with limited mobility arising from disability/age in the locality of Maindy Park to access public open land for recreation and leisure purposes (as established by the covenant). The safe accessibility of Maindy Park to young children living in the vicinity. Gender based violence implications arising from the net loss of loss public open space which is accessible and well-lit on dark evenings.**
- **The legal precedent that these land-swap proposals set for other land in the city. Particularly, should the council, in future, seek to sell land or develop land covered by the covenant (should the proposed land swap go ahead) the Council will again seek to swap this land.**
- **The vital role Maindy Park plays as a community asset at the heart of and which anchors the community together. A place for all members of the community to gather, for families to forge memories which will last a lifetime, where there is space for community events take place, for individuals to access open space for leisure and recreation and gain mental and physical health benefits from.**
- **The impact of and damage to respondents faith in democracy and CCC arising from the actions of CCC, its officers and elected members in relation to proposals surrounding the proposals to relocate the velodrome, Cathays high school expansion, and dispose of the land at Maindy Park.**



References:

1. <https://www.abc.org.uk/product/1241>
2. [\(1\) Cardiff Council \(@cardiffcouncil\) / Twitter](#)
3. <https://www.facebook.com/cardiff.council1>
4. See image below:



5. See image below:



6. [https://en.wikipedia.org/wiki/2022\\_Cardiff\\_Council\\_election](https://en.wikipedia.org/wiki/2022_Cardiff_Council_election)

## Appendix 1:

The legislations / strategies which these proposals fail to comply with include (but are not limited to):

- Policy C2 – Protection of Existing Community Facilities. The policy states *‘Proposals involving the loss or change of use of buildings currently or last used for community facilities will only be permitted if:*
- *An alternative facility of equal quality and scale to meet community needs is available or will be provided within the vicinity or ; It can be demonstrated that the existing provision is surplus to the needs of the community.’*
- *“The proposals are not compliant with a number of adopted Council policies including LDP Key Policy (KP) 13 (Responding to Evidenced Social Need), KP14 (Healthy Living), KP15 (Climate Change), KP16: (Green Infrastructure), KP17 (Built Heritage) KP18 (Natural Resources). Page 22 of 36*
- *“This development proposal does not take into account any of the points in policy EN9 (Conservation of the historic environment).”*
- *“The proposal does not comply with Transport Policies T1 (Walking and Cycling) and T5 (Managing Transport Impacts.”*
- *“The proposal does not comply with Community Policies C1 (Community Facilities), C2 (Protection of Existing Community Facilities) and C4 (Protection of Open Space).”*
- The Councils response was staggering and clearly evidences total disregard for LDP policy when drawing up these proposals
- *‘Compliance with key planning policies, as published in the Council’s adopted LDP, are a matter for consideration at the formal planning stage.’*
- At odds with Wellbeing of Future Generations Act: Certainly not local schools for local children as over 1000 children attending would be out of catchment
- Council and WAG have declared climate emergency – strategic response to this was development of One Planet Strategy with the aim of reducing carbon footprint. The demolition of a fully functioning velodrome has huge un-necessary environmental costs as has the un-necessary, smaller, inadequate linked replacement.

## FAO Maindy Park Advisory Committee

Nocturnal videos of the Maindy Park, Blackweir Fields and Cae Delyn Park sites

### Blackweir Fields

1. <https://drive.google.com/file/d/1VUzemnVzwuxkUW0yYj38OS4pMgeT6Yzo/view?usp=sharing>  
[g](#)

### Cae Delyn Park

1. [https://drive.google.com/file/d/12iCH\\_dFl1qtK0X8UKdiXRdQcF3-YPUf4/view?usp=sharing](https://drive.google.com/file/d/12iCH_dFl1qtK0X8UKdiXRdQcF3-YPUf4/view?usp=sharing)
2. <https://drive.google.com/file/d/1TDPBnHwTOWn7JqoZt0J2bgeIJouwijS/view?usp=sharing>
3. <https://drive.google.com/file/d/1wI0pFiYTzdH7ru9Y1BEX70GDkCwK7C9J/view?usp=sharing>
4. [https://drive.google.com/file/d/17\\_RDJzq0Sb4mOdZRNlbdDqczwolBJHdU/view?usp=sharing](https://drive.google.com/file/d/17_RDJzq0Sb4mOdZRNlbdDqczwolBJHdU/view?usp=sharing)

### Maindy Park

1. [https://drive.google.com/file/d/1r5N-eBJk6OG0V\\_nN3K2yrUUvmv3sB2XL/view?usp=sharing](https://drive.google.com/file/d/1r5N-eBJk6OG0V_nN3K2yrUUvmv3sB2XL/view?usp=sharing)
2. <https://drive.google.com/file/d/1s5dZ2S1OX6C8reWjueez-k7L7iWvEcMe/view?usp=sharing>
3. [https://drive.google.com/file/d/143CJ6ppwgOwUica65S6DkrMghAoX\\_Uel/view?usp=sharing](https://drive.google.com/file/d/143CJ6ppwgOwUica65S6DkrMghAoX_Uel/view?usp=sharing)
4. <https://drive.google.com/file/d/1T3oFY8gnTgwIV0q-mHzUAnB2d8H2xHg9/view?usp=sharing>
5. [https://drive.google.com/file/d/1bJHwbSxbWZF3f\\_X\\_IX2AXtDKS7tK99rN/view?usp=sharing](https://drive.google.com/file/d/1bJHwbSxbWZF3f_X_IX2AXtDKS7tK99rN/view?usp=sharing)
6. <https://drive.google.com/file/d/1hGQIDqVfuChuhGdKZhXv9ITX360phy8G/view?usp=sharing>
7. [https://drive.google.com/file/d/13jAryUEOFQDG9CAOsWw-0ym1XCru\\_d0k/view?usp=sharing](https://drive.google.com/file/d/13jAryUEOFQDG9CAOsWw-0ym1XCru_d0k/view?usp=sharing)

## FAO Maindy Park Advisory Committee

Links to videos of Maindy Park, Cae Delyn Park, and Blackweir Fields after sunset – Provided to the committee as links owing to the size of the files

Cae Delyn Park:

1. [https://drive.google.com/file/d/1SToKoiDvK6LY\\_eiSqJmIMnQMDplckE77/view?usp=sharing](https://drive.google.com/file/d/1SToKoiDvK6LY_eiSqJmIMnQMDplckE77/view?usp=sharing)
2. [https://drive.google.com/file/d/1AcLafNifwFTM6jv6sDEL6UF\\_2U1leeEE/view?usp=sharing](https://drive.google.com/file/d/1AcLafNifwFTM6jv6sDEL6UF_2U1leeEE/view?usp=sharing)
3. [https://drive.google.com/file/d/1ge5KsSA2DH3\\_YtwB55yrb8N2qy58-XpL/view?usp=sharing](https://drive.google.com/file/d/1ge5KsSA2DH3_YtwB55yrb8N2qy58-XpL/view?usp=sharing)
4. <https://drive.google.com/file/d/1fCPKWH5aS8yHFnaQzE9tQOIGvEsV9ZuE/view?usp=sharing>

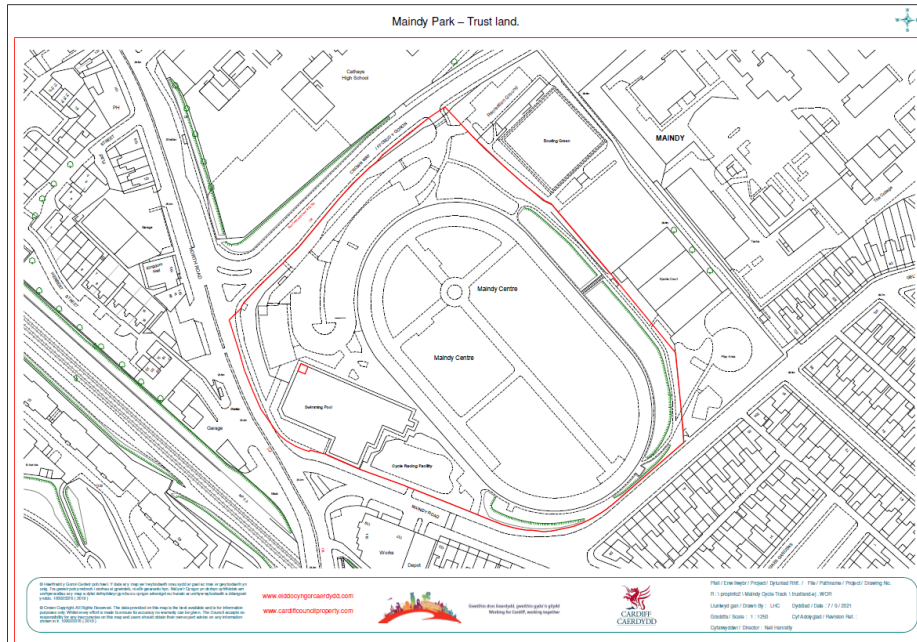
Blackweir

1. <https://drive.google.com/file/d/10WltXTPmoyLQxEJgXk3vDgTh9p-a5y5p/view?usp=sharing>

Maindy park

1. [https://drive.google.com/file/d/1oRGiDnrk-6zujlyO5LhU44HUo\\_f9vnCt/view?usp=sharing](https://drive.google.com/file/d/1oRGiDnrk-6zujlyO5LhU44HUo_f9vnCt/view?usp=sharing)
2. [https://drive.google.com/file/d/1FCnsK1sHrhoRf\\_9lXi56ZeZhZO\\_dKD5z/view?usp=sharing](https://drive.google.com/file/d/1FCnsK1sHrhoRf_9lXi56ZeZhZO_dKD5z/view?usp=sharing)
3. <https://drive.google.com/file/d/1xj6bMwbkxUEW2T8IL3A-5Pa-OEa65SZz/view?usp=sharing>
4. [https://drive.google.com/file/d/1AL8155aNsNCxLwk7fj\\_uiYRcW1ebBq1A/view?usp=sharing](https://drive.google.com/file/d/1AL8155aNsNCxLwk7fj_uiYRcW1ebBq1A/view?usp=sharing)
5. <https://drive.google.com/file/d/1xSS1uqxeSKi0giFnD3nXEHqLECoUHEAA/view?usp=sharing>
6. [https://drive.google.com/file/d/1rJtBSxxc3ZjkYtBJGyFI\\_TX4CXbP-L0d/view?usp=sharing](https://drive.google.com/file/d/1rJtBSxxc3ZjkYtBJGyFI_TX4CXbP-L0d/view?usp=sharing)
7. <https://drive.google.com/file/d/1Sn6TPvxUgotDEp2FyyiLNsiU7fU8iHyJ/view?usp=sharing>
8. [https://drive.google.com/file/d/1AL8155aNsNCxLwk7fj\\_uiYRcW1ebBq1A/view?usp=sharing](https://drive.google.com/file/d/1AL8155aNsNCxLwk7fj_uiYRcW1ebBq1A/view?usp=sharing)

## Maindy Park pix



Maindy Park: trust land protected by covenant for recreation and leisure time use in perpetuity by all people in Cardiff

1a



Vehicle & pedestrian access point from Crown Way



1b



2a



Land sold by Council to itself to form part of the education estate ...possibly also an earlier breach of charity regulations



2b



3a



Pedestrian access point from corner of Crown Way with North Road



3b



4a



Pedestrian access from North Road



4b



4c





5a



Gelligaer Street: playground access gate

5b



Pedestrian access from Gelligaer Street (the only access point that is not wheelchair accessible)



5c



6a



Path around the velodrome is continuous and has lighting all the way round

6b



6c





7a



Lighting around the continuous path is welcomed by all those seeking a safe area for exercise on dark evenings and during autumn & winter months

7b





7c



8a



Used in all weathers...and for informal leisure & family picnics too



8b



8c





8d



8e



8f



8g





8h



8i



9a



Geraint Thomas Foundation grant funding helps Whitchurch Cycling Club provide fun and important road safety training to all ages of children and young people [reproduced with permission]

9b





9c



9d



9e



Note: many of these children – those aged under 11 years old would not be able to use the proposed new ISV velodrome at Cardiff Bay because the steepness of the banking would not enable them to do so safely



The following email has been sent to us by a vulnerable user who has been informed, owing to the myriad of issues surrounding the land swap proposals we are unlikely to have sufficient time to make comprehensive representation on how vulnerable users will be impacted by the proposals and are concerned that the committee did not wish to hear directly from vulnerable users.

**From:** [REDACTED]  
**Sent:** Tuesday, 11 October 2022, 09:58  
**To:** Fiore, Davina <[Davina.Fiore@cardiff.gov.uk](mailto:Davina.Fiore@cardiff.gov.uk)>  
**Cc:** MCMORRIN, Anna <[anna.mcmorrin.mp@parliament.uk](mailto:anna.mcmorrin.mp@parliament.uk)>; Taylor, Rhys (Cllr) <[Rhys.Taylor@cardiff.gov.uk](mailto:Rhys.Taylor@cardiff.gov.uk)>; Wood, Ashley (Cllr) <[Ashley.Wood@cardiff.gov.uk](mailto:Ashley.Wood@cardiff.gov.uk)>; [parliamentaryenquiries@charitycomission.gov.uk](mailto:parliamentaryenquiries@charitycomission.gov.uk) <[parliamentaryenquiries@charitycomission.gov.uk](mailto:parliamentaryenquiries@charitycomission.gov.uk)>  
**Subject:** Re: Maindy Park Advisory Committee - Representation Request from Vulnerable users

Dear Ms Fiore,

I am surprised and saddened not to have heard from you following my email of yesterday morning (10/10/22) - especially given the concerns methodological and accessibility limitations of the consultation process, and the trustee's failure to engage with the beneficiaries throughout the consultation process, in the consultation responses, which are alluded to in Appendix 6 (and is also the case for the consultation submissions from vulnerable users of Maindy Park which I have had sight of).

Are the Committee aware if the individuals making representations to the Committee on behalf of the Save Maindy Campaign and the Association of the Beneficiaries of the Covenanted Land at Maindy Park and Maindy Trust are themselves vulnerable users of Maindy Park?

Please confirm that the Committee wishes to hear directly from a vulnerable user of Maindy Park - at their meeting tomorrow (12/10/22) - no later than midday today so that I can make arrangements with my employer despite the short notice.

Many thanks

[REDACTED]