

From: [Fiore, Davina](#)
To: [Jason Bartlett](#); [David Mills](#); [arthur/patricia hallett](#)
Cc: [Crane, Richard](#); [REDACTED] [Jones, Donna \(County Estates\)](#)
Subject: Fwd: Trust Accounts
Date: 17 November 2022 07:40:11
Attachments: [Maindy Park Accounts to IA.xlsx](#)

Please see email below and attached supplied to Save Maindy in response to a query they have raised.

Davina
Sent from [Outlook for iOS](#)

From: Fiore, Davina [REDACTED]
Sent: Thursday, November 17, 2022 7:37 am
To: savemaindy cycletrack <[REDACTED]>
Subject: Trust Accounts

Further to the queries you have raised on the trust accounts please find attached a copy of the 2022 accounts. Please note I understand the trust does not have a separate bank account, the "loan" referred to is the trust money which is held in the Councils accounts and on which interest is accruing for the trust. GLL operate the velodrome under a concession contract and operate at a loss, and so there is no income to apportion to the trust.

Davina



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From: [Fiore, Davina](#)
To: [Jason Bartlett](#); [arthur/patricia hallett](#); [David Mills](#)
Cc: [Crane, Richard](#); [REDACTED]; [Jones, Donna \(County Estates\)](#); [REDACTED]
Subject: Fwd: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall
Date: 17 November 2022 08:37:53
Attachments: [image001.jpg](#)
[image.png](#)

Please see below for your info.

Davina

Sent from [Outlook for iOS](#)

From: Fiore, Davina [REDACTED]
Sent: Thursday, November 17, 2022 8:26 am
To: savemaindy cycletrack [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

I strongly refute any suggestion that Geldards have been appointed to find a way to build the school. Geldards have been appointed to give independent charity law advice to the Independent Advisory Committee. They do not have a conflict of interest. Solicitors at Geldards and those at the Council are bound by our professional Code of Conduct. We are not lying to you.

Officers dealing with this in legal services and Estates did not know there was a trust. While dealing with this matter I have recently discovered that finance officers have been filing annual accounts, so yes, it transpires some officers were aware, but the officers dealing with and advising on the redevelopment proposals were not aware. As a result I have asked that a review take place of any charities the Council are trustees of and of our system for storing land deeds to seek to ensure this does not happen again.

I have informed the Committee of your request to amend the minutes.

I have advised the Committee that they may adjourn if they wish to ask for more information or if they need more time.

Cardiff Council have set up the Independent Advisory Committee to reach an independent recommendation on this matter. We have ensured they are provided with independent legal and valuation advice on behalf of the trust and have provided them and the objectors with information they have requested, and have not sought to influence the Advisory Committee one way or another. They will reach their own view. I believe this is a fair process, but of course if the recommendation were to be in favour of the land swap and the Cabinet et accepted that recommendation then the Charity Commission will also need to give consent.

I am sorry but our correspondence is now going round in circles. I do not intend to keep continually responding to the same points if you keep raising them. I understand you disagree with the process but we will have to agree to differ on this.

Best wishes

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Thursday, November 17, 2022 7:54:41 AM
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thanks for passing on our comments. Clearly it's disappointing that you have given so little time that prevents proper analysis. Again this shows prejudice towards the Trustee aspects.

When you say you disagree and with us and believe you are right, unfortunately the facts don't support your view.

With regards your further comments I've put responses in blue below::

Geldards have been instructed to give independent advice to the Advisory Committee on the charity law aspects and that is what they are doing. The Committee needs to take legal advice from practicing solicitors working for established firms who have professional indemnity insurance in place, not from volunteers.

After failing to run the Maindy Park Trust charity in a proper way, the Council appointed Geldards with the remit to find a way so the Council could build a school on charity land. They were not appointed to defend the Trustee's remit. Like yourselves, Geldards have a clear conflict of interest and if you didn't want the views of Jeremy Sparkes as a volunteer then the Council should have sort a legal advisor who specializes in Trust Charity law to give independent advice on the side of the Trustee. But you have failed to do this, again failing to manage your conflict of interest in an open and transparent way.

The Committee not the Council decided on the format of its site visit. I have seen no evidence that committee members are biased on behalf of the Council as "developer".

If this is true then why were no representative of the community groups or independent advocates of the Maindy Park Trust invited to attend? If the Advisory Group Committee failed to request for something this basic then surely you could have requested for this to happen in the name of openness and transparency?

I do not have access to GLL accounts, and so cannot provide them to you. Even if I did have access to them, they would be likely to be commercially sensitive information which would be exempt from disclosure. The costs of running the velodrome have to be set against any income before any profits are identified. I am informed that the velodrome runs at a loss and so there is no income to apportion to the trust. [This is disappointing, so you are making a claim which probably has no foundation.](#)

I agree that finance officers were aware of the trust and were filing annual accounts, and that it is disappointing that officers in other departments were not aware of this.
[So Cardiff Council knew Maindy Park is a Trust and you shouldn't claim otherwise.](#)

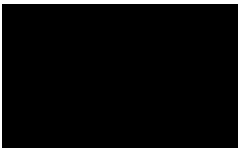
In relation to the beneficiary of the covenant, I am sorry but I cannot give you information we do not have, nor do I know where you can find this information.
[So the Council will not be informing the Covenant owner they will be removing the Covenant.](#)

You will see that the agenda for the meeting tomorrow has on it agreeing the minutes of the previous meeting. The minutes are in draft until they are agreed by the Committee. It is a decision for the committee whether or not they wish the minutes to be amended to reflect this point.
[As we are not allowed to speak, please can you inform the Committee of my request to amend the minutes?](#)

I have not prevented you having an extra week. I have passed your request for an adjournment to the Committee and it is a matter for them to decide whether or not they wish to adjourn the meeting or defer making a decision on their recommendation. The Committee is not the Council, the Committee takes its own decisions on meeting dates, times and procedures.
[Ypu advise the Committee so you could advise them to adjourn. By not doing this you are helping to prevent us from having an extra week](#)

I note your allegation that council officers have breached their Code of Conduct by not acting with integrity, honesty, impartiality and objectivity. This is a serious allegation to make against professional council officers. I have not seen any evidence that this is the case if you have any please provide it, if not please do not repeat these defamatory allegations.
[The facts are Cardiff Council have not managed the Developer/Trustee conflict of interest in an open and transparent way, Also Cardiff Council have not given a fair opportunity for Trustee supporting interests and issues to be defended in a fair way. Unfortunately these are facts.](#)

Yours sincerely,



On Wed, Nov 16, 2022 at 10:49 PM Fiore, Davina <[redacted]> wrote:

Dear [redacted]

I will pass your comments on to the Advisory Committee, but as they had requested any additional representations by 5pm on Monday I cannot guarantee they will have time to read these before the meeting tomorrow.

I do not believe I am wrong in what I say, though I accept that you disagree. Please note my response to your further comments below:

Geldards have been instructed to give independent advice to the Advisory Committee on the charity law aspects and that is what they are doing. The Committee needs to take legal advice from practicing solicitors working for established firms who have professional indemnity insurance in place, not from volunteers.

The Committee not the Council decided on the format of its site visit. I have seen no evidence that committee members are biased on behalf of the Council as "developer".

I do not have access to GLL accounts, and so cannot provide them to you. Even if I did have access to them, they would be likely to be commercially sensitive information which would be exempt from disclosure. The costs of running the velodrome have to be set against any income before any profits are identified. I am informed that the velodrome runs at a loss and so there is no income to apportion to the trust.

I agree that finance officers were aware of the trust and were filing annual accounts, and that it is disappointing that officers in other departments were not aware of this.

In relation to the beneficiary of the covenant, I am sorry but I cannot give you information we do not have, nor do I know where you can find this information.

You will see that the agenda for the meeting tomorrow has on it agreeing the minutes of the previous meeting. The minutes are in draft until they are agreed by the Committee. It is a decision for the committee whether or not they wish the minutes to be amended to reflect this point.

I have not prevented you having an extra week. I have passed your request for an adjournment to the Committee and it is a matter for them to decide whether or not they wish to adjourn the meeting or defer making a decision on their recommendation. The Committee is not the Council, the Committee takes its own decisions on meeting dates, times and procedures.

I note your allegation that council officers have breached their Code of Conduct by not acting with integrity, honesty, impartiality and objectivity. This is a serious allegation to make against professional council officers. I have not seen any evidence that this is the case if you have any please provide it, if not please do not repeat these defamatory allegations.

Davina

Sent from [Outlook for iOS](#)

From: [REDACTED]
Sent: Wednesday, November 16, 2022 9:31 pm
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for the responses. Unfortunately you are wrong in a number of claims you make:

DF Statement 1: You say "*Geldards is advising the Council in their role as 'Developer' and not advising in the best interests of the Charity.*" Quite simply this is incorrect. Geldards have been instructed to advise the Advisory Committee in relation to charity law relating to their role, which is to make a recommendation on whether a potential land swap is in the best interests of the charity. The representative from Geldards confirmed this at the first meeting of the Advisory Committee.

SMV Response: When you say '*the best interests of the charity*' the charity's remit is for Maindy Park to be "... *preserved kept and used only as a Park, Open Space or Recreation or Playground*". There's no mention there of '*unless the land can be swapped for another piece of established Cardiff Park land*'. The '*best interests*' clearly aren't met by building a school in the middle of the site and moving a section of the Trust to other existing parkland in Cardiff resulting in less overall park space in Cardiff. Also with regards the 'recreation' aspect, since 1951 Maindy Park has included a velodrome (the only Cardiff stadium left from the 1958 Commonwealth Games) and the Trust cannot pretend that doesn't matter, however much a developer wants the land. So the protection of 'recreation' in the form of the historic velodrome is very much an objective of the Trust.

Geldards comments on the best interests of the Charity are clearly from the viewpoint of law on the side of the 'developer'. Rather, they should also have provided a view on law from the side of the Trustee. Only taking the side of the developer is clearly wrong. It's unfortunate that you didn't take up our suggestion of inviting Jeremy Sparkes to give balance to your legal advice.

DF Statement 2: Secret site visit by the Advisory Committee – the Advisory Committee explained at its first meeting that they would be making a site visit. They did not set a date or commit to inviting others, and the Committee is entitled to decide on their own reasonable and proportionate procedure. It was a private but not a secret visit. The additional information they requested as a result of their visit in relation to green spaces in Cardiff and reported incidents has been published as part of the meeting agenda and therefore is open to public access to ensure there is openness and transparency in decision making.

SMV Response: Unfortunately this fails to answer the point I raised. That is, if the Council were serious about having openness and transparency in decision making then it would have been reasonable that a representative from the Community Groups wishing to protect a much loved Cardiff park should have been invited on the Advisory Group site visits. The fact not one advocate for the protection of the Trust was allowed to be involved in any way, that the visit was kept secret, shows an open bias in this process towards the 'developer'. The additional information you say they requested has had an initial review by Christine Wyatt who has raised many excellent points but a full review would require week(s) which you have prevented us having. Sadly, again this shows your clear bias towards the developer.

DF Statement 3: Income from the Velodrome – I have checked with finance and understand that is no income to be apportioned to the trust, as the Velodrome operates with a loss.

SMV Response: I understand that GLL manage the Velodrome on behalf of the Trust. So as the Velodrome generates money, then the loss is due either to high GLL management costs or Covid or a bit of both. Could you kindly supply the accounts so we may review?

DF Statement 4: Trust Management – unfortunately in recent years it was not clear to officers that Maindy Park is a trust. Once this was realised, the conflict of interest was identified and steps have been taken to manage it.

SMV Response: Maindy Park Trust, of which the Council is the only Trustee, have regularly supplied accounts to the Charity Commission, as shown at <https://register-of-charities.charitycommission.gov.uk/charity-search/-/charity-details/524137/financial-history> So council officers clearly knew Maindy Park is a Trust? Unfortunately the steps the council have taken have been focused on how to 'dress up' a Council 'land grab' of Trust land that belongs to a registered charity rather than protect the Charity which is rather shocking.

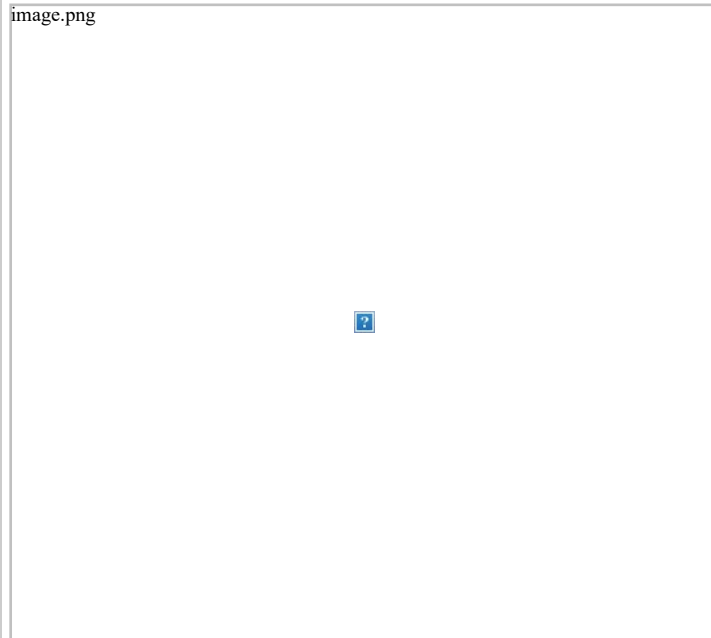
DF Statement 5: Beneficiary of the Covenant – I understand this is not information which we hold. It is not on our registered title to the land. The Council has not sought to identify any successors to the Bute Estate, since as Richard Crane explained at the last meeting of the Advisory Committee, if it is decided that the land swap is in the best interests of the Charity and the Charity Commission give their consent and the land swap takes place, the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation.

SMV Response: Even if you intend to effectively 'bin' their Covenant, as you seem to suggest, surely as part of that process you would have to inform the Covenant holder of what you plan to do with their Covenant? Otherwise isn't it another case of Cardiff Council being negligent? So I would be grateful if you could pass on the requested information or advise where it can be obtained from.

DF Statement 6: Minutes - please note the minutes of a meeting are a record of the meeting and anything which was agreed, not a verbatim word for word record.

SMV Response: I think you misunderstood. I was not asking for a verbatim word for word record. Rather, I was asking that important points are included in the minutes. The Council Officer clarified that Maindy Park Trust became a registered Charity in 1966, as noted in the extract from the Council enquiry form shown below and released under an FOI. This is an important point as I understand that registered Charities have more protection than unregistered so I would be grateful if you could amend the minutes. In most organisations, normally minutes initially get issued as 'draft' then once participants have seen and agreed them they get issued as 'Final'. So it's disappointing that Cardiff Council don't follow a well established process for well-run organisations.

I



DF Statement 7: Consultation - the Consultation was not reopened, however presumably as a result of the first meeting of the Advisory Committee being a public meeting, comments have been received. In the interests of openness and transparency these have been included in the meeting papers, although many of the comments are not relevant to the issue the Advisory Committee is considering, which as you know is whether a proposed land swap is in the best interests of the charity.

SMV Response: Christine Wyatt has had an initial review and raised many good points but again, a full review would require us a further week which you have prevented us having. Unfortunately this has been against the interests of openness and transparency and so again shows your clear bias towards the developer.

DF Statement 8: Request for an Adjournment – this request has been passed on to the members of the Advisory Committee. I think they are unlikely to agree to this unless you can show a good reason for your request. I note you say you are waiting for information – could you please explain what that information is and why you think it is relevant?

SMV Response: In the interests of openness and transparency it is important that the Council act with honour and allow sufficient time to those Cardiff citizens who just want to protect a much cherished Maindy Park and historic velodrome in order that they can properly review the Council's proposal to destroy this Cardiff 'green lung'. There are issues highlighted in this email also you sent an email on 11/11/2022 which I've not had time to properly review and send comments. So for a fair process an adjournment is the only option. Another factor for an adjournment is the issue that Council documents state Bute Park and Blackweir are held on Trust for the citizens of Cardiff in which case the Council can't move a Trust on to a Trust. If the Advisory Group have been asked to investigate a land swap on false information then they have to adjourn until this matter is resolved.

Other Information:

Please also note that it's really important that all Council officers from the top down follow the Code of Conduct for Employees of the County and Council which states "*The public is entitled to expect the highest standards of conduct from all qualifying employees of Cardiff Council. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.*" Unfortunately in the matter of the Maindy Park Trust the behaviour and actions of Council Officers have fallen well short of this basic requirement.

In regards the guidelines supplied by the Charity Commission no one seriously disputes that the Maindy Park Trust has been poorly run by the Council. So it's been left up to Cardiff citizens to request Cardiff Council honour their obligations to the Maindy Park Trust charity as it's only Trustee. It's clear that had an arms-length Trustee been in place they would never endorse the Council's proposal to 'land-swap' charity land which would also result in a reduction of Cardiff Park land. So it is to be hoped that the 'Advisory Group' will act in an honourable way and give the only conclusion the evidence points to - Maindy Park and Velodrome must stay.

I would be grateful if you can pass on the above comments to the Advisory Group Committee.

Yours sincerely,

[REDACTED]

On Wed, Nov 16, 2022 at 3:41 PM Fiore, Davina <[REDACTED]> wrote:

Apologies Chris, further to my email below I omitted one point I need to respond to. You say "Geldards is advising the Council in their role as 'Developer' and not advising in the best interests of the Charity." Quite simply this is incorrect. Geldards have been instructed to advise the Advisory Committee in relation to charity law relating to their role, which is to make a recommendation on whether a potential land swap is in the best interests of the charity. The representative from Geldards confirmed this at the first meeting of the Advisory Committee.

Davina

From: Fiore, Davina
Sent: 16 November 2022 15:33
To: savemaindy cycletrack [REDACTED]
Subject: RE: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

Dear Chris,

When reviewing the recent submissions made to the Advisory Committee in preparation for tomorrow's meeting, I realised that you have made some points we should respond to.

Secret site visit by the Advisory Committee – the Advisory Committee explained at its first meeting that they would be making a site visit. They did not set a date or commit to inviting others, and the Committee is entitled to decide on their own reasonable and proportionate procedure. It was a private but not a secret visit. The additional information they requested as a result of their visit in relation to green spaces in Cardiff and reported incidents has been published as part of the meeting agenda and therefore is open to public access to ensure there is openness and transparency in decision making.

Income from the Velodrome – I have checked with finance and understand that is no income to be apportioned to the trust, as the Velodrome operates with a loss.

Trust Management – unfortunately in recent years it was not clear to officers that Maindy Park is a trust. Once this was realised, the conflict of interest was identified and steps have been taken to manage it.

I have already replied to your other points below.

Best wishes,

Davina

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

From: Fiore, Davina [REDACTED]
Date: Wed, Nov 16, 2022 at 10:11 AM
Subject: RE: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall
To: savemaindy cycletrack [REDACTED]

Dear Chris,

Thank you for your email. In relation to your queries:

Beneficiary of the Covenant – I understand this is not information which we hold. It is not on our registered title to the land. The Council has not sought to identify any successors to the Bute Estate, since as Richard Crane explained at the last meeting of the Advisory Committee, if it is decided that the land swap is in the best interests of the Charity and the Charity Commission give their consent and the land swap takes place, the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation.

Minutes - please note the minutes of a meeting are a record of the meeting and anything which was agreed, not a verbatim word for word record.

Consultation - the Consultation was not reopened, however presumably as a result of the first meeting of the Advisory Committee being a public meeting, comments have been received. In the interests of openness and transparency these have been included in the meeting papers, although many of the comments are not relevant to the issue the Advisory Committee is considering, which as you know is whether a proposed land swap is in the best interests of the charity.

Request for an Adjournment – this request has been passed on to the members of the Advisory Committee. I think they are unlikely to agree to this unless you can show a good reason for your request. I note you say you are waiting for information – could you please explain what that information is and why you think it is relevant?

Best wishes,

Davina

From: savemaindy cycletrack <[REDACTED]>
Sent: 15 November 2022 19:43
To: Fiore, Davina <[REDACTED]>
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Just to clarify, I would be grateful if you could confirm if you will be responding to the queries in the email below?

Yours sincerely,

[REDACTED]

On Mon, Nov 14, 2022 at 6:59 PM savemaindy cycletrack <[REDACTED]> wrote:

Dear Davina,

Thank you for the information. Probably it's better if you respond to several of the queries:

The Covenant

It was advised at the meeting that "*the residue of the Bute estate has been sold to a private company and they would normally expect a person to pay to have a covenant lifted. As a charitable trust, the trustees do not have control over the restrictive covenant. There may be other options available to the Council with regard to covenants, but any other organisation would have to approach those that now hold the residue of the Bute estate and negotiate out of the covenant.*". Please advise the name of the private company the residue of the Bute estate has been sold to together with what other options the Council might use.

The Trust

The Minutes of the meeting state "*Mr Lewis asked for information in relation to the date upon which the Trust was setup up, believing it to be 1966.*" Whilst the Trust was established in 1922, it was also stated at the meeting that 1966 was the year the charity was registered so this information should be included in the Minutes.

Appendix E Emails

This Appendix includes very recent emails mostly submitted since 30/10/2002. Your report says "*Any further representations, from both objectors and supporters of the proposed land exchange, who were to be given a further opportunity to make any additional relevant points or provide any additional relevant information (which had not previously been submitted to the Committee). Further representations received are attached as Appendix E*". So when was Consultation on the SMV reopened? Why weren't the Community groups advised you were reopening the consultation?

Adjournment Request

The documents you've uploaded on the Council website are extensive and will require us at least a week from your 17th November meeting date to review. Therefore I would be grateful if you would have an adjournment of your meeting so we can supply sufficient information that your Advisory Group can make a more balanced decision. We are also awaiting responses from Fols and other documents which may be critical.

Yours sincerely,



On Mon, Nov 14, 2022 at 6:22 PM Fiore, Davina [REDACTED] wrote:

Dear Chris,

Thank you for your email. I confirm that I have passed this onto the Committee members, along with Christine Wyatt's response, and that these representations will also be added to the papers for the meeting which are published on the website.

Davina

From: savemaindy cycletrack [REDACTED]
Sent: 14 November 2022 16:39
To: Fiore, Davina [REDACTED]
Subject: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for your email. I would be grateful if you could pass on the comments below to your Advisory Group committee. Also I understand Christine Wyatt is sending information to you and I would be grateful if this too was passed on to the AG.

Secret Site Visits By the Advisory Group

It would be reasonable that a representative from the Community Groups wishing to protect a much loved Cardiff park would have been invited on the Advisory Group site visits. However the date of the site visit was certainly not sent to any of the community groups who spoke at the meeting so clearly the site visits were unfortunately kept secret. If the Advisory Group are to come to an independent, fair decision then your decision not to allow a Community representative to attend site visits was both wrong and disappointing showing a clear bias in your approach to this matter.

Reduction of Cardiff Parkland

The proposal to 'land swap' Maindy Park with parkland in Blackweir Park or Caedelyn Park will result in a net reduction of parkland in Cardiff. This is of no benefit to the citizens of Cardiff who were given Maindy Park. If the Trust had been set up properly with an independent management structure then this would have been a prime concern for them with regards your development proposal.

Maindy Park Trust Management

I note in the Minutes of the meeting you say "Mr Lewis (Save Maindy Velodrome) said that the problem here is that Cardiff Council have not set up an arm's length management structure, in accordance with the Guidance for Councils, and said all the revenues should all be going through the Trustee bank account. Harriet Morgan advised that there is Charity Commission guidance about how Local Authorities should act in circumstances where there is an inherent conflict of interest, which is not unusual where councils are the Trustees of Charities, and that is why this Advisory Committee has been set up. They are independent and this is how the Charity Commission have advised councils to manage such a conflict of interest, and that is the process that is currently being gone through. After the Advisory Committee process, if the land swap is pursued, consent would be required from the Charity Commission itself, because of the conflict of interest."

For your information, for these situations the Charity Commission has published a guide: **Guidance for councils in the Councillors' guide to a council's role as charity trustee** This includes 'Ten tips for councils in their roles as charity trustee' which can be found at:

(publishing.service.gov.uk) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/351608/council_as_charity_trustee_overview.pdf

The information clearly shows the Maindy Park Charity needed to have been set up with an independent structure in order to properly manage the conflict of interest but unfortunately this has not happened.

Indeed a staggering seven of the ten tips in the Charity Commission Guidance have not been followed properly by the Council. These are:

- 3 Make sure that any charitable assets, for which the council is the trustee, are managed independently in accordance with their charitable purpose and any restrictions in the governing document.
- 4 Recognise that the charity trustees have a duty to be prudent and to act solely in the best interests of the charity.
- 5 Ensure there is a clear line of responsibility for the management of all charities for which the local authority is trustee.
- 6 Ensure that there are clear guidelines for officers and councillors about roles, responsibilities and decision making in the administration of charities.
- 7 Ensure you have a clear process for identifying and managing any conflicts of interest that arise where the local authority is the trustee of a charity.
- 8 Actively manage any charity for which the council is the trustee – keeping records up to date, submitting the necessary returns to the Charity Commission and reviewing investments, risks and opportunities on a regular basis.
- 9 Periodically review whether it continues to be in the best interests of the charity for the local authority to remain as trustee.

This guidance is clear, the Trust must be managed independently. It's also clear this shows that Harriet Morgan of Geldards is advising the Council in their role as 'Developer' and not advising in the best interests of the Charity or she would have acknowledged the Trust has been mismanaged by the Council.

Unfortunately this Charity Commission/local government guidance above shows Cardiff Council have not followed 'best practice' and it can be argued have indeed been negligent in not following proper guidance in running the Maindy Park Trust.

The Covenant

It was advised at the meeting that "the residue of the Bute estate has been sold to a private company and they would normally expect a person to pay to have a covenant lifted. As a charitable trust, the trustees do not have control over the restrictive covenant. There may be other options available to the Council with regard to covenants, but any other organisation would have to approach those that now hold the residue of the Bute estate and negotiate out of the covenant.". Please advise the name of the private company the residue of the Bute estate has been sold to together with what other options the Council might use.

The Trust

The Minutes of the meeting state "Mr Lewis asked for information in relation to the date upon which the Trust was setup up, believing it to be 1966." Whilst the Trust was established in 1922, it was also stated at the meeting that 1966 was the year the charity was registered so this information should be included in the Minutes.

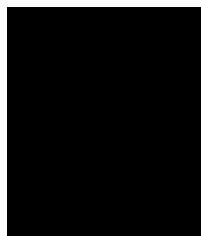
Appendix E Emails

This Appendix includes very recent emails mostly submitted since 30/10/2002. Your report says "Any further representations, from both objectors and supporters of the proposed land exchange, who were to be given a further opportunity to make any additional relevant points or provide any additional relevant information (which had not previously been submitted to the Committee). Further representations received are attached as Appendix E". So when was Consultation on the SMV reopened? Why weren't the Community groups advised you were reopening the consultation?

Adjournment Request

The documents you've uploaded on the Council website are extensive and will require us at least a week from your 17th November meeting date to review. Therefore I would be grateful if you would have an adjournment of your meeting so we can supply sufficient information that your Advisory Group can make a more balanced decision. We are also awaiting responses from Fols and other documents which may be critical.

Yours sincerely,



On Sun, Nov 13, 2022 at 9:28 PM Fiore, Davina [REDACTED] wrote:

Dear Chris,

Thank you for your email. The meeting will be a public meeting and you and others are welcome to attend (or if you prefer you may watch the webcast). You do not have to give us notice, although numbers attending are in practise restricted by the room size.

The site visit was not secret. The Committee said at the last meeting that they intended to visit the sites.

I confirm that I will pass your comments on to the committee.

Best wishes,

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Sunday, November 13, 2022 9:13:32 PM
To: Fiore, Davina [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for the information and there are several issues:

It's clearly disappointing that most of those of us who spoke at the first meeting are being prevented from addressing your Advisory Group committee on this next critical meeting (although it's welcome that Claire Richardson is being invited to speak on behalf of vulnerable users). With regards members of the public attending, do we have to give prior notice if we wish to attend?

It's also disappointing that your Advisory Group committee undertook a secret site visit of Maindy Park and the sites you want to 'land swap'. Clearly if this was a fair and balanced council process then community representatives of those who support the protection of Maindy Park would have been invited.

It's clearly disappointing that you have again given only days for us to carry out a review of your report and the information which you say the Committee will use to help reach their recommendation. However we'll attempt to review as much as possible in the extremely limited timeframe you have permitted us and would appreciate if you pass our comments on to the committee.

I can understand that the Committee would like the meeting to concentrate on considerations which are relevant to their recommendation. With regards your comment on the historic velodrome being irrelevant is wrong. The historic velodrome brings an income to the Trust and any responsible Trust would be negligent if it said the history and financial income from it's site was irrelevant. The Indenture says "... the piece of land hereinafter mentioned described for the purposes of its being preserved kept and used only as a Park, Open Space or Recreation or Playground" so the fact the 'recreation' aspect has since 1951 included a velodrome means the Trust cannot pretend that doesn't matter, however much a developer wants the land. So the protection of 'recreation' in the form of the velodrome is very much an objective of the Trust.

Yours sincerely,

[REDACTED]

On Tue, Nov 8, 2022 at 8:01 PM Fiore, Davina [REDACTED] wrote:

Dear Chris,

As you know, when the Advisory Committee met to consider whether a land swap was in the best interests of the charity, there were a number of outstanding points they wished to understand prior to reaching their recommendation. I am writing to let you know that the meeting to consider these outstanding issues will be held at County Hall at 4pm on Thursday 17th November. The meeting will initially be open to the public, and public parts of the meeting will be webcast. It is likely that the Committee will then go into private session to take confidential advice and agree on their recommendation to the Council's cabinet. If a recommendation is reached they will then reconvene the public meeting to give their recommendation.

Since the last meeting the Committee members have carried out a private site visit of Maindy Park and the sites identified for possible land swaps, that is Blackweir and Caedelyn.

The agenda for the meeting, covering report and relevant information which the Committee will take account in reaching their recommendation, will be published on Friday 11th November. This will include a revised Equality Impact Assessment, ward maps for Gablfa, Heath and Cathays showing Council owned green spaces that are used for recreational purposes, details of reported incidents which have taken place at Maindy, Blackweir and Caedelyn, any financial implications, letters which have been received and any other relevant information.

Please note that the Committee would like the meeting to concentrate on considerations which are relevant to their recommendation. Matters such as the closure and relocation of the velodrome and the degree of the slope at the velodrome are not relevant matters as to whether a land swap is in the best interests of the charity. This is because the charity is not obliged to provide a velodrome. The Advisory committee will be considering whether the replacement land can be used to meet the charitable objectives instead of the land at Maindy. The closure and relocation of the velodrome is a separate decision to the one being considered here. Track cycling is a recreational activity, but preserving a velodrome at Maindy is not one of the charity's objectives.

It was noted at the last meeting that a Vulnerable Users of Maindy Park Group wished to address the next meeting and the Committee are in agreement with this. The Vulnerable Users Group (represented by Clare Richardson) have been allocated ten minutes to speak. Please confirm if you will attend and make representations, or if the Group wishes to nominate someone else to do so.

Groups which have already had an opportunity to speak will not be allocated any further time at the meeting, however if you wish to raise any additional points or submit any additional relevant information which you did not raise/submit prior to or at the last meeting, you must do so by email to [REDACTED] by 5pm on Monday 14th November.

Davina Fiore

[REDACTED]

E-bost/Email:

[REDACTED]

Hapus i gyfathrebu'n Saesneg neu yn y Gymraeg

Happy to communicate in English or Welsh

email signature (3)



From: Fiore, Davina
To: Jason Bartlett; arthur/patricia hallett; David Mills
Cc: Crane, Richard; [REDACTED]; Jones, Donna (County Estates); Jones, Eirian
Subject: Fwd: Trust Accounts
Date: 17 November 2022 08:44:00

Please see below for your info.

Davina

Sent from [Outlook for iOS](#)

From: Fiore, Davina <[REDACTED]>
Sent: Thursday, November 17, 2022 8:42 am
To: savemaindy cycletrack <[REDACTED]>
Subject: Re: Trust Accounts

Dear Chris,

I and other officers have worked hard to deal with your queries and ensure the process is fair open and transparent, however you are now continually raising the same points. We will have to agree to differ on this. Please note unless any new points are raised I will not respond to any further emails.

Best wishes

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack <[REDACTED]>
Sent: Thursday, November 17, 2022 8:27 am
To: Fiore, Davina <[REDACTED]>
Subject: Re: Trust Accounts

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for the accounts. The Leisure Centre is on the Trust's land and it's disappointing that GLL account information isn't included, Again I'm sure you can also see this is a failure of proper management of the Trust in accordance with Charity Commission guidelines. For information the guidelines are shown in the Councillors' guide to a council's role as charity trustee ([publishing.service.gov.uk](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/351608/council_as_charity_trustee_overview.pdf))
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/351608/council_as_charity_trustee_overview.pdf

As we all know, in the case of the Maindy Park Charity (Charity number: 524137) the Council did not get the Trustee's permission to remove the covenant and use it's site to build and this was simply because the Council had failed to set up a proper independent management structure so there was no one to ask. Instead the Council appears to have assumed this permission is a given (presumably because the Council is both Trustee and Developer).

Clearly, if the process was open and transparent, the Maindy Park Charity needed to have been set up with an independent structure but unfortunately this has not happened. The conflict of interest is so large the Council must appoint an independent Trustee to act for it. It didn't.

So seven of the ten tips in the Government Guidance have not been followed properly by the Council. These are:

- 3 Make sure that any charitable assets, for which the council is the trustee, are managed independently in accordance with their charitable purpose and any restrictions in the governing document.
- 4 Recognise that the charity trustees have a duty to be prudent and to act solely in the best interests of the charity.
- 5 Ensure there is a clear line of responsibility for the management of all charities for which the local authority is trustee.
- 6 Ensure that there are clear guidelines for officers and councillors about roles, responsibilities and decision making in the administration of charities.
- 7 Ensure you have a clear process for identifying and managing any conflicts of interest that arise where the local authority is the trustee of a charity.
- 8 Actively manage any charity for which the council is the trustee – keeping records up to date, submitting the necessary returns to the Charity Commission and reviewing investments, risks and opportunities on a regular basis.
- 9 Periodically review whether it continues to be in the best interests of the charity for the local authority to remain as trustee.

Having a 3 man, Council appointed, Advisory Group who've only had a number of weeks to familiarise themselves with the huge number of complex issues does not make up for the Council's failure to manage and defend the Trust in a proper manner. Indeed it could be argued you are setting a precedent for other Councils to follow to mismanage Charity assets then set up a tiny Council paid 'Advisory Group' which the local authority see as a way to get them 'off the hook'. But I very much hope this is not the case and your Advisory Group follow the evidence and come to the only conclusion they can, which is that the Trust land cannot be swapped for other existing park land, a rather absurd proposal, or indeed swapped for any reason at all.

Yours sincerely,

[REDACTED]

On Thu, Nov 17, 2022 at 7:37 AM Fiore, Davina <[REDACTED]> wrote:

Further to the queries you have raised on the trust accounts please find attached a copy of the 2022 accounts. Please note I understand the trust does not have a separate bank account, the "loan" referred to is the trust money which is held in the Councils accounts and on which interest is accruing for the trust. GLL operate the velodrome under a concession contract and operate at a loss, and so there is no income to apportion to the trust.

Davina



From: [Fiore, Davina](#)
To: [Ant Warland](#)
Cc: [REDACTED] [Crane, Richard](#); [Jones, Donna \(County Estates\)](#); [Jones, Eirian](#)
Subject: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023
Date: 30 November 2022 15:34:35
Attachments: [image001.jpg](#)

Dear Mr Warland,

At its meeting on 17th November, having carefully considered all the information presented, including written and oral representations, the Committee decided to adjourn and seek further information in relation to certain specific matters before making its recommendation to Cabinet whether to progress a land swap in relation to Maindy Park and Cae Delyn. They indicated that they did not consider Blackweir is suitable for a land swap. The information the Committee asked council officers and the external advisors to the Trust to provide is:

- A definitive plan which accurately shows the trust land needed for the school which would be the basis of the land swap, and clarity about any proposed shared use of parking/access/ external pitches and the hours of such use, and up to date valuation advice on the basis of this.
- Information in relation to the trust accounts and whether any income from the velodrome and carparking should have been apportioned into the trust accounts to be used for trust purposes.
- If they were to recommend a land swap with Cae Delyn, what improvements could take place to ensure the amenity value of the land for recreation/public open space is maximised. They have also requested advice on whether there is any potential conflict between the trust objectives and current usage/ownership.
- Clarity on the velodrome design so that any equality impacts of the design may be taken into account.

Please note the next meeting of the Independent Advisory Committee is scheduled to be at 10am on Monday 23rd January 2023.

May I take this opportunity to wish you a Merry Christmas and a Happy New Year.

Davina

Davina Fiore

[REDACTED]

E-bost/Email: [REDACTED] | [REDACTED]

Ffôn/Tel: [REDACTED]

[REDACTED]

Hapus i gyfathrebu'n Saesneg neu yn y Gymraeg
Happy to communicate in English or Welsh

email signature (3)



From: [Fiore, Davina](#)
To: [christine wyatt](#)
Cc: [REDACTED] [Crane, Richard](#); [REDACTED] [Jones, Eirian](#); [Jones, Donna \(County Estates\)](#)
Subject: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023
Date: 30 November 2022 15:42:04
Attachments: [image001.jpg](#)

Dear Christine,

At its meeting on 17th November, having carefully considered all the information presented, including written and oral representations, the Committee decided to adjourn and seek further information in relation to certain specific matters before making its recommendation to Cabinet whether to progress a land swap in relation to Maindy Park and Cae Delyn. They indicated that they did not consider Blackweir is suitable for a land swap. The information the Committee asked council officers and the external advisors to the Trust to provide is:

- A definitive plan which accurately shows the trust land needed for the school which would be the basis of the land swap, and clarity about any proposed shared use of parking/access/ external pitches and the hours of such use, and up to date valuation advice on the basis of this.
- Information in relation to the trust accounts and whether any income from the velodrome and carparking should have been apportioned into the trust accounts to be used for trust purposes.
- If they were to recommend a land swap with Cae Delyn, what improvements could take place to ensure the amenity value of the land for recreation/public open space is maximised. They have also requested advice on whether there is any potential conflict between the trust objectives and current usage/ownership.
- Clarity on the velodrome design so that any equality impacts of the design may be taken into account.

Please note the next meeting of the Independent Advisory Committee is scheduled to be at 10am on Monday 23rd January 2023.

May I take this opportunity to wish you a Merry Christmas and a Happy New Year.

Davina

[REDACTED]

E-bost/Email: [REDACTED]

Ffôn/Tel: [REDACTED]

[REDACTED]

Hapus i gyfathrebu'n Saesneg neu yn y Gymraeg
Happy to communicate in English or Welsh

email signature (3)



From: [Fiore, Davina](#)
To: [REDACTED]
Cc: [REDACTED]; [Crane, Richard](#); [Jones, Eirian](#); [Jones, Donna \(County Estates\)](#)
Subject: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023
Date: 30 November 2022 15:44:41
Attachments: [image001.jpg](#)

Dear Chris,

At its meeting on 17th November, having carefully considered all the information presented, including written and oral representations, the Committee decided to adjourn and seek further information in relation to certain specific matters before making its recommendation to Cabinet whether to progress a land swap in relation to Maindy Park and Cae Delyn. They indicated that they did not consider Blackweir is suitable for a land swap. The information the Committee asked council officers and the external advisors to the Trust to provide is:

- A definitive plan which accurately shows the trust land needed for the school which would be the basis of the land swap, and clarity about any proposed shared use of parking/access/ external pitches and the hours of such use, and up to date valuation advice on the basis of this.
- Information in relation to the trust accounts and whether any income from the velodrome and carparking should have been apportioned into the trust accounts to be used for trust purposes.
- If they were to recommend a land swap with Cae Delyn, what improvements could take place to ensure the amenity value of the land for recreation/public open space is maximised. They have also requested advice on whether there is any potential conflict between the trust objectives and current usage/ownership.
- Clarity on the velodrome design so that any equality impacts of the design may be taken into account.

Please note the next meeting of the Independent Advisory Committee is scheduled to be at 10am on Monday 23rd January 2023.

May I take this opportunity to wish you a Merry Christmas and a Happy New Year.

Davina

[REDACTED]

E-bost/Email: [REDACTED]

Ffôn/Tel: [REDACTED]

[REDACTED]

Hapus i gyfathrebu'n Saesneg neu yn y Gymraeg
Happy to communicate in English or Welsh

email signature (3)



From: [Fiore, Davina](#)
To: [Clare Richardson](#)
Cc: [REDACTED]; [Crane, Richard](#); [Jones, Donna \(County Estates\)](#); [Jones, Eirian](#)
Subject: FW: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023
Date: 30 November 2022 15:51:27
Attachments: [image001.jpg](#)

Dear Clare,

At its meeting on 17th November, having carefully considered all the information presented, including written and oral representations, the Committee decided to adjourn and seek further information in relation to certain specific matters before making its recommendation to Cabinet whether to progress a land swap in relation to Maindy Park and Cae Delyn. They indicated that they did not consider Blackweir is suitable for a land swap. The information the Committee asked council officers and the external advisors to the Trust to provide is:

- A definitive plan which accurately shows the trust land needed for the school which would be the basis of the land swap, and clarity about any proposed shared use of parking/access/ external pitches and the hours of such use, and up to date valuation advice on the basis of this.
- Information in relation to the trust accounts and whether any income from the velodrome and carparking should have been apportioned into the trust accounts to be used for trust purposes.
- If they were to recommend a land swap with Cae Delyn, what improvements could take place to ensure the amenity value of the land for recreation/public open space is maximised. They have also requested advice on whether there is any potential conflict between the trust objectives and current usage/ownership.
- Clarity on the velodrome design so that any equality impacts of the design may be taken into account.

Please note the next meeting of the Independent Advisory Committee is scheduled to be at 10am on Monday 23rd January 2023.

May I take this opportunity to wish you a Merry Christmas and a Happy New Year.

Davina

[REDACTED]

E-bost/Email: [REDACTED]

Ffôn/Tel: [REDACTED]

[REDACTED]

Hapus i gyfathrebu'n Saesneg neu yn y Gymraeg
Happy to communicate in English or Welsh

email signature (3)



From: [REDACTED]
To: [Fiore, Davina](#); [REDACTED] [Jones, Donna \(County Estates\)](#); [Jones, Eirian](#); [Crane, Richard](#)
Subject: Maindy Park Land Exchange - Supplementary Evidence
Date: 05 December 2022 10:28:22

Please see below.

Cofion / Regards

[REDACTED]
[Gwasanaethau Pwyllgor ac Aelodau / Committee and Member Services](#)
Ffôn / Tel: [REDACTED]

From: Cardiff Pointe Residents [REDACTED]
Sent: 04 December 2022 09:37
To: [REDACTED]
Subject: Maindy Park Land Exchange - Supplementary Evidence

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Ms [REDACTED]

We would like to make the following points following the Advisory Committee Meeting on 17th November.

1. We remain concerned that there may be confusion as to the identify of the beneficiaries of the Trust. Our understanding is that the trust deed cites the inhabitants of the whole of the City of Cardiff. In making its decision the Advisory Committee will need to look beyond Maindy and consider what is in the overall best interests of the the City.
2. As far as we can see there has not been an objective evalaution of Maindy beyond the existing velodrome. A large part of the site is semi-derelict and another part used as an overflow car park. It is difficult to see any leisure or recreational benefit from this land. By contrast Caedelyn is open parkland which can be used by a wide range of sports and recreational users - both able bodied and disabled, young and old.
3. By law major deisions like this one must be supported by equality impact assessments. This must be done on a neutral and objective basis, supported by evidence provided by people appointed and qualified to do so.
4. It is undoubtedly true that unlit, open parks or woodland areas within an city are potentially unsafe. They may also present access difficulties. That does not mean that those area are less valuable. Like any park or woodland area care needs to be taken after dark. It would not be difficult to put lights, paths and fencing on Caedelyn to make it equivalent to Maindy. It is

questionable whether that would be popular or supported by the people of Cardiff.

5. Town planners and sports governing bodies across the UK are seeking to enhance and protect playing fields for future generations. Protecting Caedelyn via a trust on the same basis as Heath Park is a very positive development.

6. Whilst it may not be directly relevant to the land exchange, the completion of the Sports Village would be an enormous indirect benefit to the people of Cardiff and entirely in line with approved planning policy.

7. In seeking additional evidence we understand that the Committee is seeking to evaluate the sports and recreation facilities created by the school extension. There is clearly significant potential to create all weather pitches and sports facilities on the site. These would be complementary and significantly enhance the provision at the existing leisure centre.

Yours sincerely

[Redacted signature]

On Behalf of [Redacted name]

From: [Fiore, Davina](#)
To: [David Mills](#); [arthur/patricia hallett](#); [Bartlett, Jason](#)
Cc: [REDACTED]; [Crane, Richard](#); [REDACTED]; [Jones, Donna \(County Estates\)](#); [Jones, Eirian](#)
Subject: FW: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall
Date: 03 January 2023 11:42:35
Attachments: [image001.jpg](#)
[image.png](#)

Dera All,

Happy New Year to you all. Apologies, in my haste to deal with things before I finished work before Christmas, I forgot to copy you into the correspondence below.

Davina

From: Fiore, Davina [REDACTED]
Sent: 23 December 2022 14:32
To: savemaindy cycletrack [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

Thank you for your email.

I refer you to my email of Thursday 17th November when I said "I am sorry but our correspondence is now going round in circles. I do not intend to keep continually responding to the same points if you keep raising them. I understand you disagree with the process but we will have to agree to differ on this. "

Unfortunately a number of the points (points 1 and 2) you raise in your latest email are repetition of points I have previously answered and so I am not going to respond in detail. Using your numbering, I respond below:

1. As I have previously advised you it is for Geldards to decide whether or not they have a conflict of interest. I am not aware that they have. I raised the initial concern with them and they confirmed they did not. Harriet Morgan of Geldards has been appointed to advise the charity and that is what she she is doing. Instructions to lawyers are confidential and we are not obliged to provide them to you.
2. As I have previously advised you, the advisory Committee decided on the format of its site visit. As it had already heard representations from the community groups at the first meeting of the Advisory Committee, the Committee felt that it was aware of your concerns and did not need you to be present at the site visit. I advised the Committee that it was a decision for them whether or not they wished to invite community groups to the site visit. They did not. This is not evidence of bias.
3. I am neither an accountant nor a valuer. I do not deal with the finances or the valuation. I will raise your queries with the finance department and the professional valuer.
4. My understanding is that in law, the Council is not obliged to inform a beneficiary who we have no knowledge of the identity of. In addition if the land swap were to take place, as you yourself have quoted in your email, "*the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation.*"
5. In relation to the second meeting 9f the Advisory Committee, I advised the Committee it was up to them if they wished to hear from the community groups again. They felt they had given you adequate opportunity to raise your concerns at the first meeting, and they did consider further written representations which you submitted.

Please note I will shortly be on leave until 3rd January and emails sent will not be responded to.

Merry Christmas and Happy New Year to all of your members.

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Friday, December 23, 2022 12:38:17 PM
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.

ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina

Further to your email dated 17th November there are several issues that remain to be resolved or clarified, as described below in points 1 to 5.

1. Following the Council's failure to run the Maindy Park Trust charity in a proper way the Council have appointed Geldards to advise on how the Council can build a school on charity land. However you claim to strongly refute any suggestion that Geldards have been appointed to find a way to build the school. But the facts don't agree with the denial? Geldards gave advice to Cardiff Council on how they believe you could avoid setting up an independent management team to run the Trust, and so have suggested trying to get round this Charity Commission requirement by setting up this 'Advisory Group'?

Geldards are also aware that the Cardiff Council Cabinet are absolutely determined to take Maindy Park Charity land to build a school so if Geldards now give serious advice on how a Trust would prevent this happening then they would obviously not be popular with the Cardiff Council Cabinet so putting at risk future contracts with the Council. So it's clear Geldards are giving advice on 'best interests' in terms of allowing Cardiff Council to build on Maindy Park Charity land and not the 'best interests' of the Maindy Park Charity to prevent development of their site and which would be in keeping with their remit of maintaining Maindy Park as public open space. Therefore it is beyond dispute that Geldards are compromised.

If you disagree with the above statements then, if you are being open and transparent as you claim, please supply a full copy of the brief you gave to Geldards both in it's 'developer' supporting role and in it's Advisory Group supporting role.

I also don't doubt it when you say Solicitors at Geldards and those at the Council are bound by your professional Code of Conduct but that unfortunately doesn't stop the Council making mistakes as you've openly admitted to with your proposed review of other charities where the Council are Trustee and where the Council may have failed in a similar manner.

2. With regards the Advisory Group's site visits, their failure to invite a representative from the Community Groups wishing to protect a much loved Cardiff park was both surprising and disappointing. By not allowing even a single community advocate for the protection of the Trust to be involved in any way on the site visits shows a clear open bias in this process towards the 'developer'.

To this you said the Committee not the Council decided on the format of its site visit. You previously failed to answer the following point (so I'll ask again), in terms of fairness, if the Advisory Group Committee failed to request for something as basic as having local community representatives to give input at site meetings then surely, if you are independent as you claim, you could have requested for this to happen in the name of openness and transparency?

Also you claim you have seen no evidence that committee members are biased on behalf of the Council as “developer” but this is clearly one example?

3. You have agreed the velodrome brings in an income but you say you have been advised that the costs outweigh the income so the velodrome is not allowed to be considered an asset. The clubs alone pay 10s of 1000s of pounds to use the track. There is no maintenance carried out on the track. So, in the name of openness and transparency, please advise what are the ‘costs’ involved in running the track?

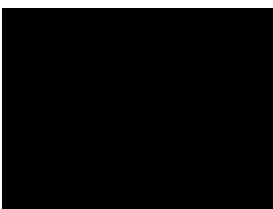
You also put a value of £0 on the fact the velodrome is an historic site being the only sports stadium remaining from the 1958 Commonwealth Game and a venue which has inspired 4 local cyclists to win Gold medals at the Olympics and 1 local cyclist to win the Tour de France (of the 3 British winners, Geraint Thomas is also the only British born cyclist to do so). To put £0 on the historical value of this amazing track is clearly wrong. There is also nothing remotely like this at Caedelyn. Do you acknowledge the velodrome is an historic asset which does have value?

4. With regards the Beneficiary of the Covenant, you said “...this is not information which we hold. It is not on our registered title to the land.” If I understood correctly, Richard Crane suggested at the Advisory Group meeting in October that a Beneficiary of the Covenant would be entitled to a payment if a covenant was being changed. But even if the Council can over-ride this entitlement as was outlined by Mr Crane, isn't the Council, as a public body, obliged out of courtesy to inform the Beneficiary?

You also said, “the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation.” As you know appropriation means 'taking land without permission'. So by 'swapping' the land with the Trust being in the full knowledge of your plan to then appropriate the Maindy Park Charity land, you are asking the Trustee to also support appropriating land, or taking land without permission. This appears an extraordinary demand to make of a charitable Trust? How could a properly run Trust endorse the eventual taking of it's land without permission?

5. Also with regards the Advisory Group's second meeting in November, did you advise the AG that they should not take a presentation from Save Maindy Velodrome/Cardiff Civic Society/ABC Maindy Park at their second meeting or did the AG specifically request this?

Yours sincerely,



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

From: **savemaindy cycletrack** [REDACTED]
Date: Thu, Nov 17, 2022 at 8:40 AM
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]

Dear Davina,

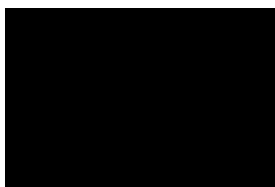
Thank you for the further information. The facts suggest Geldards have not given advice in defence of the Trust, rather they have advised the Council on how they can get round their Charity obligations so the Charity land can be developed. If this is not the case please supply information from Geldards where they give the alternative legal advice from the Charity Trustee's perspective.

You say Council officers didn't know what other Council officers were doing. Running a Council in a chaotic way is no excuse for protecting Council Charity assets in a proper way.

Thank you for passing on my request to amend the minutes and to adjourn.

Unfortunately the poor treatment given by Cardiff Council to those who want independent information given to the Advisory Group shows the process has been far from 'Independent'. It's also not a case of agreeing or disagreeing but about openness and transparency which has been shown to be utterly lacking in this process.

Yours sincerely,



On Thu, Nov 17, 2022 at 8:27 AM Fiore, Davina [REDACTED] wrote:

I strongly refute any suggestion that Geldards have been appointed to find a way to build the school. Geldards have been appointed to give independent charity law advice to the Independent Advisory Committee. They do not have a conflict of interest. Solicitors at Geldards and those at the Council are bound by our professional Code of Conduct. We are not lying to you.

Officers dealing with this in legal services and Estates did not know there was a trust. While dealing with this matter I have recently discovered that finance officers have been filing annual accounts, so yes, it transpires some officers were aware, but the officers dealing with and advising on the redevelopment proposals were not aware. As a result I have asked that a review take place of any charities the Council are trustees of and of our system for storing land deeds to seek to ensure this does not happen again.

I have informed the Committee of your request to amend the minutes.

I have advised the Committee that they may adjourn if they wish to ask for more information or if they need more time.

Cardiff Council have set up the Independent Advisory Committee to reach an independent recommendation on this matter. We have ensured they are provided with independent legal and valuation advice on behalf of the trust and have provided them and the objectors with information they have requested, and have not sought to influence the Advisory Committee one way or another. They will reach their own view. I believe this is a fair process, but of course if the recommendation were to be in favour of the land swap and the Cabinet et accepted that recommendation then the Charity Commission will also need to give consent.

I am sorry but our correspondence is now going round in circles. I do not intend to keep continually responding to the same points if you keep raising them. I understand you disagree with the process but we will have to agree to differ on this.

Best wishes

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Thursday, November 17, 2022 7:54:41 AM
To: Fiore, Davina [REDACTED]

Cc: Orders, Paul <[REDACTED]>

Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thanks for passing on our comments. Clearly it's disappointing that you have given so little time that prevents proper analysis. Again this shows prejudice towards the Trustee aspects.

When you say you disagree and with us and believe you are right, unfortunately the facts don't support your view.

With regards your further comments I've put responses in blue below::

Geldards have been instructed to give independent advice to the Advisory Committee on the charity law aspects and that is what they are doing. The Committee needs to take legal advice from practicing solicitors working for established firms who have professional indemnity insurance in place, not from volunteers.

After failing to run the Maindy Park Trust charity in a proper way, the Council appointed Geldards with the remit to find a way so the Council could build a school on charity land. They were not appointed to defend the Trustee's remit. Like yourselves, Geldards have a clear conflict of interest and if you didn't want the views of Jeremy Sparkes as a volunteer then the Council should have sort a legal advisor who specializes in Trust Charity law to give independent advice on the side of the Trustee. But you have failed to do this, again failing to manage your conflict of interest in an open and transparent way.

The Committee not the Council decided on the format of its site visit. I have seen no evidence that committee members are biased on behalf of the Council as "developer".

If this is true then why were no representative of the community groups or independent advocates of the Maindy Park Trust invited to attend? If the Advisory Group Committee failed to request for something this basic then surely you could have requested for this to happen in the name of openness and transparency?

I do not have access to GLL accounts, and so cannot provide them to you. Even if I did have access to them, they would be likely to be commercially sensitive information which would be exempt from disclosure. The costs of running the velodrome have to be set against any income before any profits are identified. I am informed that the velodrome runs at a loss and so there is no income to apportion to the trust.

This is disappointing, so you are making a claim which probably has no foundation.

I agree that finance officers were aware of the trust and were filing annual accounts, and that it is disappointing that officers in other departments were not aware of this.

So Cardiff Council knew Maindy Park is a Trust and you shouldn't claim otherwise.

In relation to the beneficiary of the covenant, I am sorry but I cannot give you information we do not have, nor do I know where you can find this information.

So the Council will not be informing the Covenant owner they will be removing the Covenant.

You will see that the agenda for the meeting tomorrow has on it agreeing the minutes of the previous meeting. The minutes are in draft until they are agreed by the Committee. It is a decision for the committee whether or not they wish the minutes to be amended to reflect this point.

As we are not allowed to speak, please can you inform the Committee of my request to amend the minutes?

I have not prevented you having an extra week. I have passed your request for an adjournment to the Committee and it is a matter for them to decide whether or not they wish to adjourn the meeting or defer making a decision on their recommendation. The Committee is not the Council, the Committee takes its own decisions on meeting dates, times and procedures.

[Ypu advise the Committee so you could advise them to adjourn. By not doing this you are helping to prevent us from having an extra week](#)

I note your allegation that council officers have breached their Code of Conduct by not acting with integrity, honesty, impartiality and objectivity. This is a serious allegation to make against professional council officers. I have not seen any evidence that this is the case if you have any please provide it, if not please do not repeat these defamatory allegations.

[The facts are Cardiff Council have not managed the Developer/Trustee conflict of interest in an open and transparent way, Also Cardiff Council have not given a fair opportunity for Trustee supporting interests and issues to be defended in a fair way. Unfortunately these are facts.](#)

Yours sincerely,



On Wed, Nov 16, 2022 at 10:49 PM Fiore, Davina  wrote:

Dear Chris,

I will pass your comments on to the Advisory Committee, but as they had requested any additional representations by 5pm on Monday I cannot guarantee they will have time to read these before the meeting tomorrow.

I do not believe I am wrong in what I say, though I accept that you disagree. Please note my response to your further comments below:

Geldards have been instructed to give independent advice to the Advisory Committee on the charity law aspects and that is what they are doing. The Committee needs to take legal advice from practicing solicitors working for established firms who have professional indemnity insurance in place, not from volunteers.

The Committee not the Council decided on the format of its site visit. I have seen no evidence that committee members are biased on behalf of the Council as "developer".

I do not have access to GLL accounts, and so cannot provide them to you. Even if I did have access to them, they would be likely to be commercially sensitive information which would be exempt from disclosure. The costs of running the velodrome have to be set against any income before any profits are identified. I am informed that the velodrome runs at a loss and so there is no income to apportion to the trust.

I agree that finance officers were aware of the trust and were filing annual accounts, and that it is disappointing that officers in other departments were not aware of this.

In relation to the beneficiary of the covenant, I am sorry but I cannot give you information we do not have, nor do I know where you can find this information.

You will see that the agenda for the meeting tomorrow has on it agreeing the minutes of the previous meeting. The minutes are in draft until they are agreed by the Committee. It is a decision for the committee whether or not they wish the minutes to be amended to reflect this point.

I have not prevented you having an extra week. I have passed your request for an adjournment to the Committee and it is a matter for them to decide whether or not they wish to adjourn the meeting or defer making a decision on their recommendation. The Committee is not the Council, the Committee takes its own decisions on meeting dates, times and procedures.

I note your allegation that council officers have breached their Code of Conduct by not acting with integrity, honesty, impartiality and objectivity. This is a serious allegation to make against professional council officers. I have not seen any evidence that this is the case if you have any please provide it, if not please do not repeat these defamatory allegations.

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Wednesday, November 16, 2022 9:31 pm
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for the responses. Unfortunately you are wrong in a number of claims you make:

DF Statement 1: You say "*Geldards is advising the Council in their role as 'Developer' and not advising in the best interests of the Charity.*" Quite simply this is incorrect. Geldards have been instructed to advise the Advisory Committee in relation to charity law relating to their role, which is to make a recommendation on whether a potential land swap is in the best interests of the charity. The representative from Geldards confirmed this at the first meeting of the Advisory Committee.

SMV Response: When you say '*the best interests of the charity*' the charity's remit is for Maindy Park to be

"... *preserved kept and used only as a Park, Open Space or Recreation or Playground*". There's no mention there of *'unless the land can be swapped for another piece of established Cardiff Park land'*. The *'best interests'* clearly aren't met by building a school in the middle of the site and moving a section of the Trust to other existing parkland in Cardiff resulting in less overall park space in Cardiff. Also with regards the *'recreation'* aspect, since 1951 Maindy Park has included a velodrome (the only Cardiff stadium left from the 1958 Commonwealth Games) and the Trust cannot pretend that doesn't matter, however much a developer wants the land. So the protection of *'recreation'* in the form of the historic velodrome is very much an objective of the Trust.

Geldards comments on the best interests of the Charity are clearly from the viewpoint of law on the side of the *'developer'*. Rather, they should also have provided a view on law from the side of the Trustee. Only taking the side of the developer is clearly wrong. It's unfortunate that you didn't take up our suggestion of inviting Jeremy Sparkes to give balance to your legal advice.

DF Statement 2: Secret site visit by the Advisory Committee – the Advisory Committee explained at its first meeting that they would be making a site visit. They did not set a date or commit to inviting others, and the Committee is entitled to decide on their own reasonable and proportionate procedure. It was a private but not a secret visit. The additional information they requested as a result of their visit in relation to green spaces in Cardiff and reported incidents has been published as part of the meeting agenda and therefore is open to public access to ensure there is openness and transparency in decision making.

SMV Response: Unfortunately this fails to answer the point I raised. That is, if the Council were serious about having openness and transparency in decision making then it would have been reasonable that a representative from the Community Groups wishing to protect a much loved Cardiff park should have been invited on the Advisory Group site visits. The fact not one advocate for the protection of the Trust was allowed to be involved in any way, that the visit was kept secret, shows an open bias in this process towards the *'developer'*. The additional information you say they requested has had an initial review by Christine Wyatt who has raised many excellent points but a full review would require week(s) which you have prevented us having. Sadly, again this shows your clear bias towards the developer.

DF Statement 3: Income from the Velodrome – I have checked with finance and understand that is no income to be apportioned to the trust, as the Velodrome operates with a loss.

SMV Response: I understand that GLL manage the Velodrome on behalf of the Trust. So as the Velodrome generates money, then the loss is due either to high GLL management costs or Covid or a bit of both. Could you kindly supply the accounts so we may review?

DF Statement 4: Trust Management – unfortunately in recent years it was not clear to officers that Maindy Park is a trust. Once this was realised, the conflict of interest was identified and steps have been taken to manage it.

SMV Response: Maindy Park Trust, of which the Council is the only Trustee, have regularly supplied accounts to the Charity Commission, as shown at <https://register-of-charities.charitycommission.gov.uk/charity-search/-/charity-details/524137/financial-history> So council officers clearly knew Maindy Park is a Trust? Unfortunately the steps the council have taken have been focused on how to *'dress up'* a Council *'land grab'* of Trust land that belongs to a registered charity rather than protect the Charity which is rather shocking.

DF Statement 5: Beneficiary of the Covenant – I understand this is not information which we hold. It is not on our registered title to the land. The Council has not sought to identify any successors to the

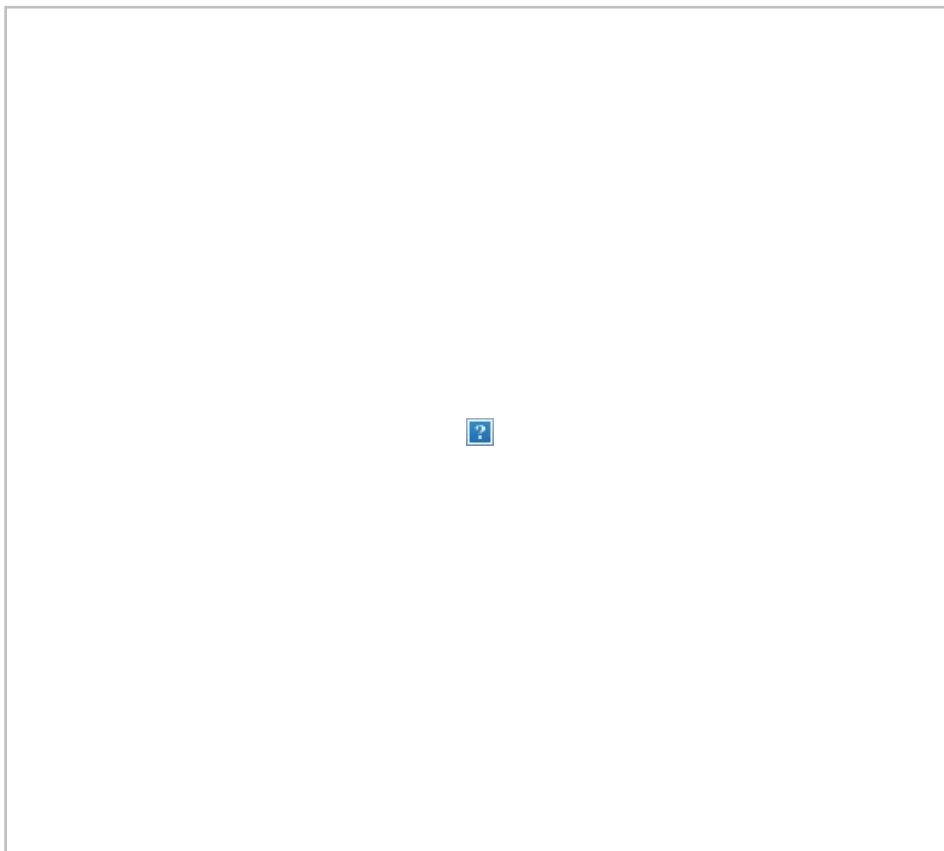
Bute Estate, since as Richard Crane explained at the last meeting of the Advisory Committee, if it is decided that the land swap is in the best interests of the Charity and the Charity Commission give their consent and the land swap takes place, the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation.

SMV Response: Even if you intend to effectively 'bin' their Covenant, as you seem to suggest, surely as part of that process you would have to inform the Covenant holder of what you plan to do with their Covenant? Otherwise isn't it another case of Cardiff Council being negligent? So I would be grateful if you could pass on the requested information or advise where it can be obtained from.

DF Statement 6: Minutes - please note the minutes of a meeting are a record of the meeting and anything which was agreed, not a verbatim word for word record.

SMV Response: I think you misunderstood. I was not asking for a verbatim word for word record. Rather, I was asking that important points are included in the minutes. The Council Officer clarified that Maindy Park Trust became a registered Charity in 1966, as noted in the extract from the Council enquiry form shown below and released under an FOI. This is an important point as I understand that registered Charities have more protection than unregistered so I would be grateful if you could amend the minutes. In most organisations, normally minutes initially get issued as 'draft' then once participants have seen and agreed them they get issued as 'Final'. So it's disappointing that Cardiff Council don't follow a well established process for well-run organisations.

I



DF Statement 7: Consultation - the Consultation was not reopened, however presumably as a result of the first meeting of the Advisory Committee being a public meeting, comments have been received. In the interests of openness and transparency these have been included in the meeting papers, although many of the comments are not relevant to the issue the Advisory Committee is considering, which as

you know is whether a proposed land swap is in the best interests of the charity.

SMV Response: Christine Wyatt has had an initial review and raised many good points but again, a full review would require us a further week which you have prevented us having. Unfortunately this has been against the interests of openness and transparency and so again shows your clear bias towards the developer.

DF Statement 8: Request for an Adjournment – this request has been passed on to the members of the Advisory Committee. I think they are unlikely to agree to this unless you can show a good reason for your request. I note you say you are waiting for information – could you please explain what that information is and why you think it is relevant?

SMV Response: In the interests of openness and transparency it is important that the Council act with honour and allow sufficient time to those Cardiff citizens who just want to protect a much cherished Maindy Park and historic velodrome in order that they can properly review the Council's proposal to destroy this Cardiff 'green lung'. There are issues highlighted in this email also you sent an email on 11/11/2022 which I've not had time to properly review and send comments. So for a fair process an adjournment is the only option. Another factor for an adjournment is the issue that Council documents state Bute Park and Blackweir are held on Trust for the citizens of Cardiff in which case the Council can't move a Trust on to a Trust. If the Advisory Group have been asked to investigate a land swap on false information then they have to adjourn until this matter is resolved.

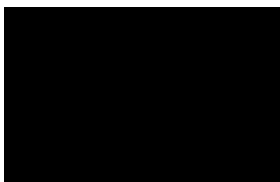
Other Information:

Please also note that it's really important that all Council officers from the top down follow the Code of Conduct for Employees of the County and Council which states "*The public is entitled to expect the highest standards of conduct from all qualifying employees of Cardiff Council. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.*" Unfortunately in the matter of the Maindy Park Trust the behaviour and actions of Council Officers have fallen well short of this basic requirement.

In regards the guidelines supplied by the Charity Commission no one seriously disputes that the Maindy Park Trust has been poorly run by the Council. So it's been left up to Cardiff citizens to request Cardiff Council honour their obligations to the Maindy Park Trust charity as it's only Trustee. It's clear that had an arms-length Trustee been in place they would never endorse the Council's proposal to 'land-swap' charity land which would also result in a reduction of Cardiff Park land. So it is to be hoped that the 'Advisory Group' will act in an honourable way and give the only conclusion the evidence points to - Maindy Park and Velodrome must stay.

I would be grateful if you can pass on the above comments to the Advisory Group Committee.

Yours sincerely,



On Wed, Nov 16, 2022 at 3:41 PM Fiore, Davina <[redacted]> wrote:

Apologies Chris, further to my email below I omitted one point I need to respond to. You say "Geldards is advising the Council in their role as 'Developer' and not advising in the best interests of the Charity." Quite simply this is incorrect. Geldards have been instructed to advise the Advisory Committee in relation to charity law relating to their role, which is to make a recommendation on whether a potential land swap is in the best interests of the charity. The representative from Geldards confirmed this at the first meeting of the Advisory Committee.

Davina

From: Fiore, Davina

Sent: 16 November 2022 15:33

To: savemaindy cycletrack [REDACTED]

Subject: RE: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

Dear Chris,

When reviewing the recent submissions made to the Advisory Committee in preparation for tomorrow's meeting, I realised that you have made some points we should respond to.

Secret site visit by the Advisory Committee – the Advisory Committee explained at its first meeting that they would be making a site visit. They did not set a date or commit to inviting others, and the Committee is entitled to decide on their own reasonable and proportionate procedure. It was a private but not a secret visit. The additional information they requested as a result of their visit in relation to green spaces in Cardiff and reported incidents has been published as part of the meeting agenda and therefore is open to public access to ensure there is openness and transparency in decision making.

Income from the Velodrome – I have checked with finance and understand that is no income to be apportioned to the trust, as the Velodrome operates with a loss.

Trust Management – unfortunately in recent years it was not clear to officers that Maindy Park is a trust. Once this was realised, the conflict of interest was identified and steps have been taken to manage it.

I have already replied to your other points below.

Best wishes,

Davina

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

From: Fiore, Davina [REDACTED]

Date: Wed, Nov 16, 2022 at 10:11 AM

Subject: RE: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

To: savemaindy cycletrack [REDACTED]

Dear Chris,

Thank you for your email. In relation to your queries:

Beneficiary of the Covenant – I understand this is not information which we hold. It is not on our registered title to the land. The Council has not sought to identify any successors to the Bute Estate, since as Richard Crane explained at the last meeting of the Advisory Committee, if it is decided that the land swap is in the best interests of the Charity and the Charity Commission give their consent and the land swap takes place, the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation.

Minutes - please note the minutes of a meeting are a record of the meeting and anything which was agreed, not a verbatim word for word record.

Consultation - the Consultation was not reopened, however presumably as a result of the first meeting of the Advisory Committee being a public meeting, comments have been received. In the interests of openness and transparency these have been included in the meeting papers, although many of the comments are not relevant to the issue the Advisory Committee is considering, which as you know is whether a proposed land swap is in the best interests of the charity.

Request for an Adjournment – this request has been passed on to the members of the Advisory Committee. I think they are unlikely to agree to this unless you can show a good reason for your request. I note you say you are waiting for information – could you please explain what that information is and why you think it is relevant?

Best wishes,

Davina

From: savemaindy cycletrack [REDACTED]
Sent: 15 November 2022 19:43
To: Fiore, Davina [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

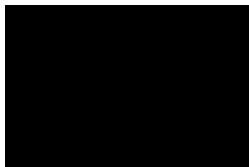
EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.


ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Just to clarify, I would be grateful if you could confirm if you will be responding to the queries in the email below?

Yours sincerely,



On Mon, Nov 14, 2022 at 6:59 PM savemaindy cycletrack  wrote:

Dear Davina,

Thank you for the information. Probably it's better if you respond to several of the queries:

The Covenant

It was advised at the meeting that "*the residue of the Bute estate has been sold to a private company and they would normally expect a person to pay to have a covenant lifted. As a charitable trust, the trustees do not have control over the restrictive covenant. There may be other options available to the Council with regard to covenants, but any other organisation would have to approach those that now hold the residue of the Bute estate and negotiate out of the covenant.*". Please advise the name of the private company the residue of the Bute estate has been sold to together with what other options the Council might use.

The Trust

The Minutes of the meeting state "*Mr Lewis asked for information in relation to the date upon which the Trust was setup up, believing it to be 1966.*" Whilst the Trust was established in 1922, it was also stated at the meeting that 1966 was the year the charity was registered so this information should be included in the Minutes.

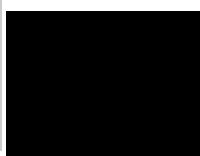
Appendix E Emails

This Appendix includes very recent emails mostly submitted since 30/10/2002. Your report says "*Any further representations, from both objectors and supporters of the proposed land exchange, who were to be given a further opportunity to make any additional relevant points or provide any additional relevant information (which had not previously been submitted to the Committee). Further representations received are attached as Appendix E*". So when was Consultation on the SMV reopened? Why weren't the Community groups advised you were reopening the consultation?

Adjournment Request

The documents you've uploaded on the Council website are extensive and will require us at least a week from your 17th November meeting date to review. Therefore I would be grateful if you would have an adjournment of your meeting so we can supply sufficient information that your Advisory Group can make a more balanced decision. We are also awaiting responses from FoIs and other documents which may be critical.

Yours sincerely,



[REDACTED]

On Mon, Nov 14, 2022 at 6:22 PM Fiore, Davina [REDACTED] wrote:

Dear Chris,

Thank you for your email. I confirm that I have passed this onto the Committee members, along with Christine Wyatt's response, and that these representations will also be added to the papers for the meeting which are published on the website.

Davina

From: savemaindy cycletrack [REDACTED]
Sent: 14 November 2022 16:39
To: Fiore, Davina [REDACTED]
Subject: Mainty Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for your email. I would be grateful if you could pass on the comments below to your Advisory Group committee. Also I understand Christine Wyatt is sending information to you and I would be grateful if this too was passed on to the AG.

Secret Site Visits By the Advisory Group

It would be reasonable that a representative from the Community Groups wishing to protect a much loved Cardiff park would have been invited on the Advisory Group site visits. However the date of the site visit was certainly not sent to any of the community groups who spoke at the meeting so clearly the site visits were unfortunately kept secret. If the Advisory Group are to come to an independent, fair decision then your decision not to allow a Community representative to attend site visits was both wrong and disappointing showing a clear bias in your approach to this matter.

Reduction of Cardiff Parkland

The proposal to 'land swap' Maindy Park with parkland in Blackweir Park or Caedelyn Park will result in a net reduction of parkland in Cardiff. This is of no benefit to the citizens of Cardiff who were given Maindy Park. If the Trust had been set up properly with an independent management structure then this would have been a prime concern for them with regards your development proposal.

Maindy Park Trust Management

I note in the Minutes of the meeting you say "*Mr Lewis (Save Maindy Velodrome) said that the problem here is that Cardiff Council have not set up an arm's length management structure, in accordance with the Guidance for Councils, and said all the revenues should all be going through the Trustee bank account. Harriet Morgan advised that there is Charity Commission guidance about how Local Authorities should act in circumstances where there is an inherent conflict of interest, which is not unusual where councils are the Trustees of Charities, and that is why this Advisory Committee has been set up. They are independent and this is how the Charity Commission have advised councils to manage such a conflict of interest, and that is the process that is currently being gone through. After the Advisory Committee process, if the land swap is pursued, consent would be required from the Charity Commission itself, because of the conflict of interest.*"

For your information, for these situations the Charity Commission has published a guide: **Guidance for councils in the Councillors' guide to a council's role as charity trustee** This includes '*Ten tips for councils in their roles as charity trustee*' which can be found at:

([publishing.service.gov.uk](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/351608/council_as_charity_trustee_overview.pdf)) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/351608/council_as_charity_trustee_overview.pdf

The information clearly shows the Maindy Park Charity needed to have been set up with an independent structure in order to properly manage the conflict of interest but unfortunately this has not happened.

Indeed a staggering seven of the ten tips in the Charity Commission Guidance have not been followed properly by the Council. These are:

- 3 Make sure that any charitable assets, for which the council is the trustee, are managed independently in accordance with their charitable purpose and any restrictions in the governing document.*
- 4 Recognise that the charity trustees have a duty to be prudent and to act solely in the best interests of the charity.*
- 5 Ensure there is a clear line of responsibility for the management of all charities for which the local authority is trustee.*
- 6 Ensure that there are clear guidelines for officers and councillors about roles, responsibilities and decision making in the administration of charities.*
- 7 Ensure you have a clear process for identifying and managing any conflicts of interest that arise where the local authority is the trustee of a charity.*
- 8 Actively manage any charity for which the council is the trustee – keeping records up to date, submitting the necessary returns to the Charity Commission and reviewing investments, risks and opportunities on a regular basis.*
- 9 Periodically review whether it continues to be in the best interests of the charity for the local authority to remain as trustee.*

This guidance is clear, the Trust must be managed independently. It's also clear this shows that Harriet Morgan of Geldards is advising the Council in their role as 'Developer' and not advising in the best interests of the Charity or she would have acknowledged the Trust has been mismanaged by the Council.

Unfortunately this Charity Commission/local government guidance above shows Cardiff Council have not followed 'best practice' and it can be argued have indeed been negligent in not following proper guidance in running the Maindy Park Trust.

The Covenant

It was advised at the meeting that "*the residue of the Bute estate has been sold to a private company and they would normally expect a person to pay to have a covenant lifted. As a charitable trust, the trustees do not have control over the restrictive covenant. There may be other options available to the Council with regard to covenants, but any other organisation would have to approach those that now hold the residue of the Bute estate and negotiate out of the covenant.*". Please advise the name of the private company the residue of the Bute estate has been sold to together with what other options the Council might use.

The Trust

The Minutes of the meeting state "*Mr Lewis asked for information in relation to the date upon which the Trust was setup up, believing it to be 1966.*" Whilst the Trust was established in 1922, it was also stated at the meeting that 1966 was the year the charity was registered so this information should be included in the Minutes.

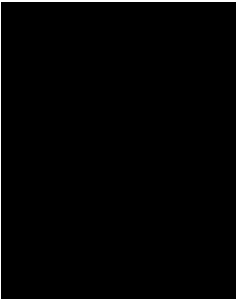
Appendix E Emails

This Appendix includes very recent emails mostly submitted since 30/10/2002. Your report says "*Any further representations, from both objectors and supporters of the proposed land exchange, who were to be given a further opportunity to make any additional relevant points or provide any additional relevant information (which had not previously been submitted to the Committee). Further representations received are attached as Appendix E*". So when was Consultation on the SMV reopened? Why weren't the Community groups advised you were reopening the consultation?

Adjournment Request

The documents you've uploaded on the Council website are extensive and will require us at least a week from your 17th November meeting date to review. Therefore I would be grateful if you would have an adjournment of your meeting so we can supply sufficient information that your Advisory Group can make a more balanced decision. We are also awaiting responses from FoIs and other documents which may be critical.

Yours sincerely,



On Sun, Nov 13, 2022 at 9:28 PM Fiore, Davina [REDACTED] wrote:

Dear Chris,

Thank you for your email. The meeting will be a public meeting and you and others are welcome to attend (or if you prefer you may watch the webcast). You do not have to give us notice, although numbers attending are in practise restricted by the room size.

The site visit was not secret. The Committee said at the last meeting that they intended to visit the sites.

I confirm that I will pass your comments on to the committee.

Best wishes,

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Sunday, November 13, 2022 9:13:32 PM
To: Fiore, Davina [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for the information and there are several issues:

It's clearly disappointing that most of those of us who spoke at the first meeting are being prevented from addressing your Advisory Group committee on this next critical meeting (although it's welcome that Claire Richardson is being invited to speak on behalf of vulnerable users). With regards members of the public attending, do we have to give prior notice if we wish to attend?


It's also disappointing that your Advisory Group committee undertook a secret site visit of Maindy Park and the sites you want to 'land swap'. Clearly if this was a fair and balanced council process then community representatives of those who support the protection of Maindy Park would have been invited.


It's clearly disappointing that you have again given only days for us to carry out a review of your report and the information which you say the Committee will use to help reach their recommendation. However we'll attempt to review as much as possible in the extremely limited timeframe you have permitted us and would appreciate if you pass our comments on to the committee.

I can understand that the Committee would like the meeting to concentrate on considerations which are relevant to their recommendation. With regards your comment on the historic velodrome being irrelevant is wrong. The historic velodrome brings an income to the Trust and any responsible Trust would be negligent if it said the history and financial income from it's site was irrelevant. The Indenture says "... *the piece of land hereinafter mentioned described for the purposes of its being preserved kept and used only as a Park, Open Space or Recreation or Playground*" so the fact the 'recreation' aspect has since 1951 included a velodrome means the Trust cannot pretend that doesn't matter, however much a developer wants the land. So the protection of 'recreation' in the form of the velodrome is very much an objective of the Trust.

Yours sincerely,

[REDACTED]



On Tue, Nov 8, 2022 at 8:01 PM Fiore, Davina  wrote:

Dear Chris,

As you know, when the Advisory Committee met to consider whether a land swap was in the best interests of the charity, there were a number of outstanding points they wished to understand prior to reaching their recommendation. I am writing to let you know that the meeting to consider these outstanding issues will be held at County Hall at 4pm on Thursday 17th November. The meeting will initially be open to the public, and public parts of the meeting will be webcast. It is likely that the Committee will then go into private session to take confidential advice and agree on their recommendation to the Council's cabinet. If a recommendation is reached they will then reconvene the public meeting to give their recommendation.

Since the last meeting the Committee members have carried out a private site visit of Maindy Park and the sites identified for possible land swaps, that is Blackweir and Caedelyn.

The agenda for the meeting, covering report and relevant information which the Committee will take account in reaching their recommendation, will be published on Friday 11th November. This will include a revised Equality Impact Assessment, ward maps for Gablfa, Heath and Cathays showing Council owned green spaces that are used for recreational purposes, details of reported incidents which have taken place at Maindy, Blackweir and Caedelyn, any financial implications, letters which have been received and any other relevant information.

Please note that the Committee would like the meeting to concentrate on considerations which are relevant to their recommendation. Matters such as the closure and relocation of the velodrome and the degree of the slope at the velodrome are not relevant matters as to whether a land swap is in the best interests of the charity. This is because the charity is not obliged to provide a velodrome. The Advisory committee will be considering whether the replacement land can be used to meet the charitable objectives instead of the land at Maindy. The closure and relocation of the velodrome is a separate decision to the one being considered here. Track cycling is a recreational activity, but preserving a velodrome at Maindy is not one of the charity's objectives.

It was noted at the last meeting that a Vulnerable Users of Maindy Park Group wished to address the next meeting and the Committee are in agreement with this. The Vulnerable Users Group (represented by Clare Richardson) have been allocated ten

minutes to speak. Please confirm if you will attend and make representations, or if the Group wishes to nominate someone else to do so.

Groups which have already had an opportunity to speak will not be allocated any further time at the meeting, however if you wish to raise any additional points or submit any additional relevant information which you did not raise/submit prior to or at the last meeting, you must do so by email to [REDACTED] by 5pm on Monday 14th November.

Davina Fiore

Cyfarwyddwr Llywodraethu a Gwasanaethau Cyfreithiol a Swyddog Monitro

Director Governance and Legal Services and Monitoring Officer

Cyngor Caerdydd / Cardiff Council

E-bost/Email: [REDACTED]

[REDACTED]

Hapus i gyfathrebu'n Saesneg neu yn y Gymraeg

Happy to communicate in English or Welsh

email signature (3)



From: [Fiore, Davina](#)
To: [Bartlett, Jason](#); [David Mills](#); [arthur/patricia hallett](#)
Cc: [Jones, Eirian](#); [Jones, Donna \(County Estates\)](#); [REDACTED] [Crane, Richard](#)
Subject: FW: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall
Date: 03 January 2023 14:45:53
Attachments: [image001.png](#)
[image002.jpg](#)

Dear all, please see below for info.

Davina

From: Fiore, Davina
Sent: 03 January 2023 14:43
To: savemaindy cycletrack [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: RE: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

Dear Chris,

I hope you had a good Christmas.

Further to point 3 in my email below, I have had responses back from my finance and valuation colleagues.

You said "You have agreed the velodrome brings in an income but you say you have been advised that the costs outweigh the income so the velodrome is not allowed to be considered an asset. The clubs alone pay 10s of 1000s of pounds to use the track. There is no maintenance carried out on the track. So, in the name of openness and transparency, please advise what are the 'costs' involved in running the track?". Finance have responded saying they are unable to provide costs and income for the Velodrome only because it is combined with Maindy Leisure Centre. I understand that they have no reason to separate out the costs and income between the leisure Centre and the velodrome as both the Centre and the Velodrome are on Trust Land.

You also said "You also put a value of £0 on the fact the velodrome is an historic site being the only sports stadium remaining from the 1958 Commonwealth Game and a venue which has inspired 4 local cyclists to win Gold medals at the Olympics and 1 local cyclist to win the Tour de France (of the 3 British winners, Geraint Thomas is also the only British born cyclist to do so). To put £0 on the historical value of this amazing track is clearly wrong. There is also nothing remotely like this at Caedelyn. Do you acknowledge the velodrome is an historic asset which does have value?". I understand that Liz Hill (independent valuer advising the charity) has come back to us saying that £0 has not been mentioned in any of her valuations, and so we would be grateful if you could explain where this £0 figure comes from? Did you include it because you think the valuer should have included a sum to reflect historical value?

Thank you and happy new year

Davina

From: Fiore, Davina [REDACTED]
Sent: 23 December 2022 14:32
To: savemaindy cycletrack [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

Thank you for your email.

I refer you to my email of Thursday 17th November when I said "I am sorry but our correspondence is now going round in circles. I do not intend to keep continually responding to the same points if you keep raising them. I understand you disagree with the process but we will have to agree to differ on this. "

Unfortunately a number of the points (points 1 and 2) you raise in your latest email are repetition of points I have previously answered and so I am not going to respond in detail. Using your numbering, I respond below:

1. As I have previously advised you it is for Geldards to decide whether or not they have a conflict of interest. I am not aware that they have. I raised the initial concern with them and they confirmed they did not. Harriet Morgan of Geldards has been appointed to advise the charity and that is what she is doing. Instructions to lawyers are confidential and we are not obliged to provide them to you.
2. As I have previously advised you, the advisory Committee decided on the format of its site visit. As it had already heard representations from the community groups at the first meeting of the Advisory Committee, the Committee felt that it was aware of your concerns and did not need you to be present at the site visit. I advised the Committee that it was a decision for them whether or not they wished to invite community groups to the site visit. They did not. This is not evidence of bias.
3. I am neither an accountant nor a valuer. I do not deal with the finances or the valuation. I will raise your queries with the finance department and the professional valuer.
4. My understanding is that in law, the Council is not obliged to inform a beneficiary who we have no knowledge of the identity of. In addition if the land swap were to take place, as you yourself have quoted in your email, *"the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation."*
5. In relation to the second meeting of the Advisory Committee, I advised the Committee it was up to them if they wished to hear from the community groups again. They felt they had given you adequate opportunity to raise your concerns at the first meeting, and they did consider further written representations which you submitted.

Please note I will shortly be on leave until 3rd January and emails sent will not be responded to.

Merry Christmas and Happy New Year to all of your members.

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Friday, December 23, 2022 12:38:17 PM
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina

Further to your email dated 17th November there are several issues that remain to be resolved or clarified, as described below in points 1 to 5.

1. Following the Council's failure to run the Maindy Park Trust charity in a proper way the Council have appointed Geldards to advise on how the Council can build a school on charity land. However you claim to strongly refute any suggestion that Geldards have been appointed to find a way to build the school. But the facts don't agree with the denial? Geldards gave advice to Cardiff Council on how they believe you could avoid setting up an independent management team to run the Trust, and so have suggested trying to get round this Charity Commission

requirement by setting up this 'Advisory Group'?

Geldards are also aware that the Cardiff Council Cabinet are absolutely determined to take Maindy Park Charity land to build a school so if Geldards now give serious advice on how a Trust would prevent this happening then they would obviously not be popular with the Cardiff Council Cabinet so putting at risk future contracts with the Council. So it's clear Geldards are giving advice on 'best interests' in terms of allowing Cardiff Council to build on Maindy Park Charity land and not the 'best interests' of the Maindy Park Charity to prevent development of their site and which would be in keeping with their remit of maintaining Maindy Park as public open space. Therefore it is beyond dispute that Geldards are compromised.

If you disagree with the above statements then, if you are being open and transparent as you claim, please supply a full copy of the brief you gave to Geldards both in it's 'developer' supporting role and in it's Advisory Group supporting role.

I also don't doubt it when you say Solicitors at Geldards and those at the Council are bound by your professional Code of Conduct but that unfortunately doesn't stop the Council making mistakes as you've openly admitted to with your proposed review of other charities where the Council are Trustee and where the Council may have failed in a similar manner.

2. With regards the Advisory Group's site visits, their failure to invite a representative from the Community Groups wishing to protect a much loved Cardiff park was both surprising and disappointing. By not allowing even a single community advocate for the protection of the Trust to be involved in any way on the site visits shows a clear open bias in this process towards the 'developer'.

To this you said the Committee not the Council decided on the format of its site visit. You previously failed to answer the following point (so I'll ask again), in terms of fairness, if the Advisory Group Committee failed to request for something as basic as having local community representatives to give input at site meetings then surely, if you are independent as you claim, you could have requested for this to happen in the name of openness and transparency?

Also you claim you have seen no evidence that committee members are biased on behalf of the Council as "developer" but this is clearly one example?

3. You have agreed the velodrome brings in an income but you say you have been advised that the costs outweigh the income so the velodrome is not allowed to be considered an asset. The clubs alone pay 10s of 1000s of pounds to use the track. There is no maintenance carried out on the track. So, in the name of openness and transparency, please advise what are the 'costs' involved in running the track?

You also put a value of £0 on the fact the velodrome is an historic site being the only sports stadium remaining from the 1958 Commonwealth Game and a venue which has inspired 4 local cyclists to win Gold medals at the Olympics and 1 local cyclist to win the Tour de France (of the 3 British winners, Geraint Thomas is also the only British born cyclist to do so). To put £0 on the historical value of this amazing track is clearly wrong. There is also nothing remotely like this at Caedelyn. Do you acknowledge the velodrome is an historic asset which does have value?

4. With regards the Beneficiary of the Covenant, you said *"...this is not information which we hold. It is not on our registered title to the land."* If I understood correctly, Richard Crane suggested at the Advisory Group meeting in October that a Beneficiary of the Covenant would be entitled to a payment if a covenant was being changed. But even if the Council can over-ride this entitlement as was outlined by Mr Crane, isn't the Council, as a public body, obliged out of courtesy to inform the Beneficiary?

You also said, *"the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation."* As you know appropriation means 'taking land without permission'. So by 'swapping' the land with the Trust being in the full knowledge of your plan to then appropriate the Maindy Park Charity land, you are asking the Trustee to also support appropriating land, or taking land without permission. This appears an extraordinary demand to make of a charitable Trust? How could a properly run Trust endorse the eventual taking of it's land without permission?

5. Also with regards the Advisory Group's second meeting in November, did you advise the AG that they should not take a presentation from Save Maindy Velodrome/Cardiff Civic Society/ABC Maindy Park at their second meeting or did the AG specifically request this?

Yours sincerely,



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

From: **savemaindy cycletrack** [REDACTED]
Date: Thu, Nov 17, 2022 at 8:40 AM
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]

Dear Davina,

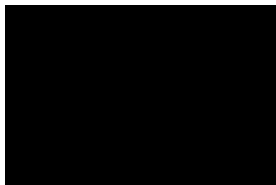
Thank you for the further information. The facts suggest Geldards have not given advice in defence of the Trust, rather they have advised the Council on how they can get round their Charity obligations so the Charity land can be developed. If this is not the case please supply information from Geldards where they give the alternative legal advice from the Charity Trustee's perspective.

You say Council officers didn't know what other Council officers were doing. Running a Council in a chaotic way is no excuse for protecting Council Charity assets in a proper way.

Thank you for passing on my request to amend the minutes and to adjourn.

Unfortunately the poor treatment given by Cardiff Council to those who want independent information given to the Advisory Group shows the process has been far from 'Independent'. It's also not a case of agreeing or disagreeing but about openness and transparency which has been shown to be utterly lacking in this process.

Yours sincerely,



On Thu, Nov 17, 2022 at 8:27 AM Fiore, Davina [REDACTED] wrote:

I strongly refute any suggestion that Geldards have been appointed to find a way to build the school. Geldards have been appointed to give independent charity law advice to the Independent Advisory Committee. They do not have a conflict of interest. Solicitors at Geldards and those at the Council are bound by our professional Code of Conduct. We are not lying to you.

Officers dealing with this in legal services and Estates did not know there was a trust. While dealing with this matter I have recently discovered that finance officers have been filing annual accounts, so yes, it transpires some officers were aware, but the officers dealing with and advising on the redevelopment proposals were not

aware. As a result I have asked that a review take place of any charities the Council are trustees of and of our system for storing land deeds to seek to ensure this does not happen again.

I have informed the Committee of your request to amend the minutes.

I have advised the Committee that they may adjourn if they wish to ask for more information or if they need more time.

Cardiff Council have set up the Independent Advisory Committee to reach an independent recommendation on this matter. We have ensured they are provided with independent legal and valuation advice on behalf of the trust and have provided them and the objectors with information they have requested, and have not sought to influence the Advisory Committee one way or another. They will reach their own view. I believe this is a fair process, but of course if the recommendation were to be in favour of the land swap and the Cabinet et accepted that recommendation then the Charity Commission will also need to give consent.

I am sorry but our correspondence is now going round in circles. I do not intend to keep continually responding to the same points if you keep raising them. I understand you disagree with the process but we will have to agree to differ on this.

Best wishes

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Thursday, November 17, 2022 7:54:41 AM
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thanks for passing on our comments. Clearly it's disappointing that you have given so little time that prevents proper analysis. Again this shows prejudice towards the Trustee aspects.

When you say you disagree and with us and believe you are right, unfortunately the facts don't support your view.

With regards your further comments I've put responses in blue below::

Geldards have been instructed to give independent advice to the Advisory Committee on the charity law aspects and that is what they are doing. The Committee needs to take legal advice from practicing solicitors working for established firms who have professional indemnity insurance in place, not from volunteers.

After failing to run the Maindy Park Trust charity in a proper way, the Council appointed Geldards with the remit to find a way so the Council could build a school on charity land. They were not appointed to defend the Trustee's remit. Like yourselves, Geldards have a clear conflict of interest and if you didn't want the views of Jeremy Sparkes as a volunteer then the Council should have sort a legal advisor who specializes in Trust Charity law to give independent advice on the side of the Trustee. But you have failed to do this, again failing to manage your conflict of interest in an open and transparent way.

The Committee not the Council decided on the format of its site visit. I have seen no evidence that committee members are biased on behalf of the Council as "developer".

If this is true then why were no representative of the community groups or independent advocates of the Maindy Park Trust invited to attend? If the Advisory Group Committee failed to request for something this basic then surely you could have requested for this to happen in the name of openness and transparency?

I do not have access to GLL accounts, and so cannot provide them to you. Even if I did have access to them, they would be likely to be commercially sensitive information which would be exempt from disclosure. The costs of running the velodrome have to be set against any income before any profits are identified. I am informed that the velodrome runs at a loss and so there is no income to apportion to the trust.

This is disappointing, so you are making a claim which probably has no foundation.

I agree that finance officers were aware of the trust and were filing annual accounts, and that it is disappointing that officers in other departments were not aware of this.

So Cardiff Council knew Maindy Park is a Trust and you shouldn't claim otherwise.

In relation to the beneficiary of the covenant, I am sorry but I cannot give you information we do not have, nor do I know where you can find this information.

So the Council will not be informing the Covenant owner they will be removing the Covenant.

You will see that the agenda for the meeting tomorrow has on it agreeing the minutes of the previous meeting. The minutes are in draft until they are agreed by the Committee. It is a decision for the committee whether or not they wish the minutes to be amended to reflect this point.

As we are not allowed to speak, please can you inform the Committee of my request to amend the minutes?

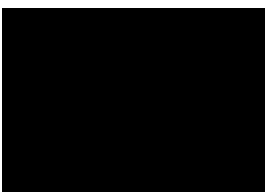
I have not prevented you having an extra week. I have passed your request for an adjournment to the Committee and it is a matter for them to decide whether or not they wish to adjourn the meeting or defer making a decision on their recommendation. The Committee is not the Council, the Committee takes its own decisions on meeting dates, times and procedures.

You advise the Committee so you could advise them to adjourn. By not doing this you are helping to prevent us from having an extra week

I note your allegation that council officers have breached their Code of Conduct by not acting with integrity, honesty, impartiality and objectivity. This is a serious allegation to make against professional council officers. I have not seen any evidence that this is the case if you have any please provide it, if not please do not repeat these defamatory allegations.

The facts are Cardiff Council have not managed the Developer/Trustee conflict of interest in an open and transparent way, Also Cardiff Council have not given a fair opportunity for Trustee supporting interests and issues to be defended in a fair way. Unfortunately these are facts.

Yours sincerely,



On Wed, Nov 16, 2022 at 10:49 PM Fiore, Davina [REDACTED] wrote:

Dear Chris,

I will pass your comments on to the Advisory Committee, but as they had requested any additional representations by 5pm on Monday I cannot guarantee they will have time to read these before the meeting tomorrow.

I do not believe I am wrong in what I say, though I accept that you disagree. Please note my response to your further comments below:

Geldards have been instructed to give independent advice to the Advisory Committee on the charity law aspects and that is what they are doing. The Committee needs to take legal advice from practicing solicitors working for established firms who have professional indemnity insurance in place, not from volunteers.

The Committee not the Council decided on the format of its site visit. I have seen no evidence that committee members are biased on behalf of the Council as "developer".

I do not have access to GLL accounts, and so cannot provide them to you. Even if I did have access to them, they would be likely to be commercially sensitive information which would be exempt from disclosure. The costs of running the velodrome have to be set against any income before any profits are identified. I am informed that the velodrome runs at a loss and so there is no income to apportion to the trust.

I agree that finance officers were aware of the trust and were filing annual accounts, and that it is disappointing that officers in other departments were not aware of this.

In relation to the beneficiary of the covenant, I am sorry but I cannot give you information we do not have, nor do I know where you can find this information.

You will see that the agenda for the meeting tomorrow has on it agreeing the minutes of the previous meeting. The minutes are in draft until they are agreed by the Committee. It is a decision for the committee whether or not they wish the minutes to be amended to reflect this point.

I have not prevented you having an extra week. I have passed your request for an adjournment to the Committee and it is a matter for them to decide whether or not they wish to adjourn the meeting or defer making a decision on their recommendation. The Committee is not the Council, the Committee takes its own decisions on meeting dates, times and procedures.

I note your allegation that council officers have breached their Code of Conduct by not acting with integrity, honesty, impartiality and objectivity. This is a serious allegation to make against professional council officers. I have not seen any evidence that this is the case if you have any please provide it, if not please do not repeat these defamatory allegations.

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack <[REDACTED]>
Sent: Wednesday, November 16, 2022 9:31 pm
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for the responses. Unfortunately you are wrong in a number of claims you make:

DF Statement 1: You say "*Geldards is advising the Council in their role as 'Developer' and not advising in the best interests of the Charity.*" Quite simply this is incorrect. Geldards have been instructed to advise the Advisory Committee in relation to charity law relating to their role, which is to make a recommendation on whether a potential land swap is in the best interests of the charity. The representative from Geldards confirmed this at the first meeting of the Advisory Committee.

SMV Response: When you say '*the best interests of the charity*' the charity's remit is for Maindy Park to be "*... preserved kept and used only as a Park, Open Space or Recreation or Playground*". There's no mention there of '*unless the land can be swapped for another piece of established Cardiff Park land*'. The '*best interests*' clearly aren't met by building a school in the middle of the site and moving a section of the Trust to other existing parkland in Cardiff resulting in less overall park space in Cardiff. Also with regards the '*recreation*' aspect, since 1951 Maindy Park has included a velodrome (the only Cardiff stadium left from the 1958 Commonwealth Games) and the Trust cannot pretend that doesn't matter, however much a developer wants the land. So the protection of '*recreation*' in the form of the historic velodrome is very much an objective of the Trust.

Geldards comments on the best interests of the Charity are clearly from the viewpoint of law on the side of the '*developer*'. Rather, they should also have provided a view on law from the side of the Trustee. Only taking the side of the developer is clearly wrong. It's unfortunate that you didn't take up our suggestion of inviting Jeremy Sparkes to give balance to your legal advice.

DF Statement 2: Secret site visit by the Advisory Committee – the Advisory Committee explained at its first meeting that they would be making a site visit. They did not set a date or commit to inviting others, and the Committee is entitled to decide on their own reasonable and proportionate procedure. It was a private but not a secret visit. The additional information they requested as a result of their visit in relation to green spaces in Cardiff and reported incidents has been published as part of the meeting agenda and therefore is open to public access to ensure there is openness and transparency in decision making.

SMV Response: Unfortunately this fails to answer the point I raised. That is, if the Council were serious about having openness and transparency in decision making then it would have been reasonable that a representative from the Community Groups wishing to protect a much loved Cardiff park should have been invited on the Advisory Group site visits. The fact not one advocate for the protection of the Trust was allowed to be involved in any way, that the visit was kept secret, shows an open bias in this process towards the '*developer*'. The additional information you say they requested has had an initial review by Christine Wyatt who has raised many excellent points but a full review would require week(s) which you have prevented us having. Sadly, again this shows your clear bias towards the developer.

DF Statement 3: Income from the Velodrome – I have checked with finance and understand that is no income to be apportioned to the trust, as the Velodrome operates with a loss.

SMV Response: I understand that GLL manage the Velodrome on behalf of the Trust. So as the Velodrome generates money, then the loss is due either to high GLL management costs or Covid or a bit of both. Could you kindly supply the accounts so we may review?

DF Statement 4: Trust Management – unfortunately in recent years it was not clear to officers that Maindy Park is a trust. Once this was realised, the conflict of interest was identified and steps have been taken to manage it.

SMV Response: Maindy Park Trust, of which the Council is the only Trustee, have regularly supplied accounts to the Charity Commission, as shown at <https://register-of-charities.charitycommission.gov.uk/charity-search/-/charity-details/524137/financial-history> So council officers clearly knew Maindy Park is a Trust? Unfortunately the steps the council have taken have been focused on how to 'dress up' a Council 'land grab' of Trust land that belongs to a registered charity rather than protect the Charity which is rather shocking.

DF Statement 5: Beneficiary of the Covenant – I understand this is not information which we hold. It is not on our registered title to the land. The Council has not sought to identify any successors to the Bute Estate, since as Richard Crane explained at the last meeting of the Advisory Committee, if it is decided that the land swap is in the best interests of the Charity and the Charity Commission give their consent and the land swap takes place, the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation.

SMV Response: Even if you intend to effectively 'bin' their Covenant, as you seem to suggest, surely as part of that process you would have to inform the Covenant holder of what you plan to do with their Covenant? Otherwise isn't it another case of Cardiff Council being negligent? So I would be grateful if you could pass on the requested information or advise where it can be obtained from.

DF Statement 6: Minutes - please note the minutes of a meeting are a record of the meeting and anything which was agreed, not a verbatim word for word record.

SMV Response: I think you misunderstood. I was not asking for a verbatim word for word record. Rather, I was asking that important points are included in the minutes. The Council Officer clarified that Maindy Park Trust became a registered Charity in 1966, as noted in the extract from the Council enquiry form shown below and released under an FOI. This is an important point as I understand that registered Charities have more protection than unregistered so I would be grateful if you could amend the minutes. In most organisations, normally minutes initially get issued as 'draft' then once participants have seen and agreed them they get issued as 'Final'. So it's disappointing that Cardiff Council don't follow a well established process for well-run organisations.

I



DF Statement 7: Consultation - the Consultation was not reopened, however presumably as a result of the first meeting of the Advisory Committee being a public meeting, comments have been received. In the interests of openness and transparency these have been included in the meeting papers, although many of the comments are not relevant to the issue the Advisory Committee is considering, which as you know is whether a proposed land swap is in the best interests of the charity.

SMV Response: Christine Wyatt has had an initial review and raised many good points but again, a full review would require us a further week which you have prevented us having. Unfortunately this has been against the interests of openness and transparency and so again shows your clear bias towards the developer.

DF Statement 8: Request for an Adjournment – this request has been passed on to the members of the Advisory Committee. I think they are unlikely to agree to this unless you can show a good reason for your request. I note you say you are waiting for information – could you please explain what that information is and why you think it is relevant?

SMV Response: In the interests of openness and transparency it is important that the Council act with honour and allow sufficient time to those Cardiff citizens who just want to protect a much cherished Maindy Park and historic velodrome in order that they can properly review the Council's proposal to destroy this Cardiff 'green lung'. There are issues highlighted in this email also you sent an email on 11/11/2022 which I've not had time to properly review and send comments. So for a fair process an adjournment is the only option. Another factor for an adjournment is the issue that Council documents state Bute Park and Blackweir are held on Trust for the citizens of Cardiff in which case the Council can't move a Trust on to a Trust. If the Advisory Group have been asked to investigate a land swap on false information then they have to adjourn until this matter is resolved.

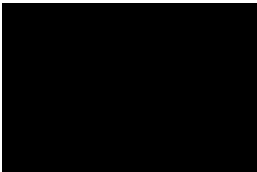
Other Information:

Please also note that it's really important that all Council officers from the top down follow the Code of Conduct for Employees of the County and Council which states "*The public is entitled to expect the highest standards of conduct from all qualifying employees of Cardiff Council. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.*" Unfortunately in the matter of the Maindy Park Trust the behaviour and actions of Council Officers have fallen well short of this basic requirement.

In regards the guidelines supplied by the Charity Commission no one seriously disputes that the Maindy Park Trust has been poorly run by the Council. So it's been left up to Cardiff citizens to request Cardiff Council honour their obligations to the Maindy Park Trust charity as it's only Trustee. It's clear that had an arms-length Trustee been in place they would never endorse the Council's proposal to 'land-swap' charity land which would also result in a reduction of Cardiff Park land. So it is to be hoped that the 'Advisory Group' will act in an honourable way and give the only conclusion the evidence points to - Maindy Park and Velodrome must stay.

I would be grateful if you can pass on the above comments to the Advisory Group Committee.

Yours sincerely,



On Wed, Nov 16, 2022 at 3:41 PM Fiore, Davina <[redacted]> wrote:

Apologies Chris, further to my email below I omitted one point I need to respond to. You say "Geldards is advising the Council in their role as 'Developer' and not advising in the best interests of the Charity." Quite simply this is incorrect. Geldards have been instructed to advise the Advisory Committee in relation to charity law relating to their role, which is to make a recommendation on whether a potential land swap is in the best interests of the charity. The representative from Geldards confirmed this at the first meeting of the Advisory Committee.

Davina

From: Fiore, Davina
Sent: 16 November 2022 15:33
To: savemaindy cycletrack [redacted]
Subject: RE: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

Dear Chris,

When reviewing the recent submissions made to the Advisory Committee in preparation for tomorrow's meeting, I realised that you have made some points we should respond to.

Secret site visit by the Advisory Committee – the Advisory Committee explained at its first meeting that they would be making a site visit. They did not set a date or commit to inviting others, and the Committee is entitled to decide on their own reasonable and proportionate procedure. It was a private but not a secret visit. The additional information they requested as a result of their visit in relation to green spaces in Cardiff and reported incidents has been published as part of the meeting

agenda and therefore is open to public access to ensure there is openness and transparency in decision making.

Income from the Velodrome – I have checked with finance and understand that is no income to be apportioned to the trust, as the Velodrome operates with a loss.

Trust Management – unfortunately in recent years it was not clear to officers that Maindy Park is a trust. Once this was realised, the conflict of interest was identified and steps have been taken to manage it.

I have already replied to your other points below.

Best wishes,

Davina

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

From: **Fiore, Davina** [REDACTED]
Date: Wed, Nov 16, 2022 at 10:11 AM
Subject: RE: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall
To: savemaindy cycletrack [REDACTED]

Dear Chris,

Thank you for your email. In relation to your queries:

Beneficiary of the Covenant – I understand this is not information which we hold. It is not on our registered title to the land. The Council has not sought to identify any successors to the Bute Estate, since as Richard Crane explained at the last meeting of the Advisory Committee, if it is decided that the land swap is in the best interests of the Charity and the Charity Commission give their consent and the land swap takes place, the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation.

Minutes - please note the minutes of a meeting are a record of the meeting and anything which was agreed, not a verbatim word for word record.

Consultation - the Consultation was not reopened, however presumably as a result of the first meeting of the Advisory Committee being a public meeting, comments have been received. In the interests of openness and transparency these have been included in the meeting papers, although many of the comments are not relevant to the issue the Advisory Committee is considering, which as you know is whether a proposed land swap is in the best interests of the charity.

Request for an Adjournment – this request has been passed on to the members of the Advisory Committee. I think they are unlikely to agree to this unless you can show a good reason for your request. I note you say you are waiting for information – could you please explain what that information is and why you think it is relevant?

Best wishes,

Davina

From: savemaindy cycletrack [REDACTED]
Sent: 15 November 2022 19:43
To: Fiore, Davina [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Just to clarify, I would be grateful if you could confirm if you will be responding to the queries in the email below?

Yours sincerely,

[REDACTED]

On Mon, Nov 14, 2022 at 6:59 PM savemaindy cycletrack [REDACTED] wrote:

Dear Davina,

Thank you for the information. Probably it's better if you respond to several of the queries:

The Covenant

It was advised at the meeting that "*the residue of the Bute estate has been sold to a private company and they would normally expect a person to pay to have a covenant lifted. As a charitable trust, the trustees do not have control over the restrictive covenant. There may be other options available to the Council with regard to covenants, but any other*

organisation would have to approach those that now hold the residue of the Bute estate and negotiate out of the covenant". Please advise the name of the private company the residue of the Bute estate has been sold to together with what other options the Council might use.

The Trust

The Minutes of the meeting state "*Mr Lewis asked for information in relation to the date upon which the Trust was setup up, believing it to be 1966.*" Whilst the Trust was established in 1922, it was also stated at the meeting that 1966 was the year the charity was registered so this information should be included in the Minutes.

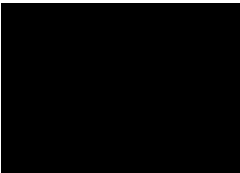
Appendix E Emails

This Appendix includes very recent emails mostly submitted since 30/10/2002. Your report says "*Any further representations, from both objectors and supporters of the proposed land exchange, who were to be given a further opportunity to make any additional relevant points or provide any additional relevant information (which had not previously been submitted to the Committee). Further representations received are attached as Appendix E*". So when was Consultation on the SMV reopened? Why weren't the Community groups advised you were reopening the consultation?

Adjournment Request

The documents you've uploaded on the Council website are extensive and will require us at least a week from your 17th November meeting date to review. Therefore I would be grateful if you would have an adjournment of your meeting so we can supply sufficient information that your Advisory Group can make a more balanced decision. We are also awaiting responses from FoIs and other documents which may be critical.

Yours sincerely,



On Mon, Nov 14, 2022 at 6:22 PM Fiore, Davina [REDACTED] wrote:

Dear Chris,

Thank you for your email. I confirm that I have passed this onto the Committee members, along with Christine Wyatt's response, and that these representations will also be added to the papers for the meeting which are published on the website.

Davina

From: savemaindy cycletrack [REDACTED]
Sent: 14 November 2022 16:39
To: Fiore, Davina [REDACTED]
Subject: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for your email. I would be grateful if you could pass on the comments below to your Advisory Group committee. Also I understand Christine Wyatt is sending information to you and I would be grateful if this too was passed on to the AG.

Secret Site Visits By the Advisory Group

It would be reasonable that a representative from the Community Groups wishing to protect a much loved Cardiff park would have been invited on the Advisory Group site visits. However the date of the site visit was certainly not sent to any of the community groups who spoke at the meeting so clearly the site visits were unfortunately kept secret. If the Advisory Group are to come to an independent, fair decision then your decision not to allow a Community representative to attend site visits was both wrong and disappointing showing a clear bias in your approach to this matter.

Reduction of Cardiff Parkland

The proposal to 'land swap' Maindy Park with parkland in Blackweir Park or Caedelyn Park will result in a net reduction of parkland in Cardiff. This is of no benefit to the citizens of Cardiff who were given Maindy Park. If the Trust had been set up properly with an independent management structure then this would have been a prime concern for them with regards your development proposal.

Maindy Park Trust Management

I note in the Minutes of the meeting you say "*Mr Lewis (Save Maindy Velodrome) said that the problem here is that Cardiff Council have not set up an arm's length management structure, in accordance with the Guidance for Councils, and said all the revenues should all be going through the Trustee bank account. Harriet Morgan advised that there is Charity Commission guidance about how Local Authorities should act in circumstances where there is an inherent conflict of interest, which is not unusual where councils are the Trustees of Charities, and that is why this Advisory Committee has been set up. They are independent and this is how the Charity Commission have advised councils to manage such a conflict of interest, and that is the process that is currently being gone through. After the Advisory Committee process, if the land swap is pursued, consent would be required from the Charity Commission itself, because of the conflict of interest.*"

For your information, for these situations the Charity Commission has published a guide: **Guidance for councils in the Councillors' guide to a council's role as charity trustee** This includes 'Ten tips for councils in their roles as charity trustee' which can be found at:

(publishing.service.gov.uk) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/351608/council_as_charity_trustee_overview.pdf

The information clearly shows the Maindy Park Charity needed to have been set up with an independent structure in order to properly manage the conflict of interest but unfortunately this has not happened.

Indeed a staggering seven of the ten tips in the Charity Commission Guidance have not been followed properly by the Council. These are:

- 3 *Make sure that any charitable assets, for which the council is the trustee, are managed independently in accordance with their charitable purpose and any restrictions in the governing document.*
- 4 *Recognise that the charity trustees have a duty to be prudent and to act solely in the best interests of the charity.*
- 5 *Ensure there is a clear line of responsibility for the management of all charities for which the local authority is trustee.*
- 6 *Ensure that there are clear guidelines for officers and councillors about roles, responsibilities and decision making in the administration of charities.*
- 7 *Ensure you have a clear process for identifying and managing any conflicts of interest that arise where the local authority is the trustee of a charity.*
- 8 *Actively manage any charity for which the council is the trustee – keeping records up to date, submitting the necessary returns to the Charity Commission and reviewing investments, risks and opportunities on a regular basis.*
- 9 *Periodically review whether it continues to be in the best interests of the charity for the local authority to remain as trustee.*

This guidance is clear, the Trust must be managed independently. It's also clear this shows that Harriet Morgan of Geldards is advising the Council in their role as 'Developer' and not advising in the best interests of the Charity or she would have acknowledged the Trust has been mismanaged by the Council.

Unfortunately this Charity Commission/local government guidance above shows Cardiff Council have not followed 'best practice' and it can be argued have indeed been negligent in not following proper guidance in running the Maindy Park Trust.

The Covenant

It was advised at the meeting that "*the residue of the Bute estate has been sold to a private company and they would normally expect a person to pay to have a covenant lifted. As a charitable trust, the trustees do not have control over the restrictive covenant. There may be other options available to the Council with regard to covenants, but any other organisation would have to approach those that now hold the residue of the Bute estate and negotiate out of the covenant.*". Please advise the name of the private company the residue of the Bute estate has been sold to together with what other options the Council might use.

The Trust

The Minutes of the meeting state "*Mr Lewis asked for information in relation to the date upon which the Trust was setup up, believing it to be 1966.*" Whilst the Trust was established in 1922, it was also stated at the meeting that 1966 was the year the charity was registered so this information should be included in the Minutes.

Appendix E Emails

This Appendix includes very recent emails mostly submitted since 30/10/2002. Your report says "*Any further representations, from both objectors and supporters of the proposed land exchange, who were to be given a further opportunity to make any additional relevant points or provide any additional relevant information (which had not previously been submitted to the Committee). Further representations received are attached as Appendix E*". So when was Consultation on the SMV reopened? Why weren't the Community groups advised you were reopening the consultation?

Adjournment Request

The documents you've uploaded on the Council website are extensive and will require us at least a week from your 17th November meeting date to review. Therefore I would be grateful if you would have an adjournment of your meeting so we can supply sufficient information that your Advisory Group can make a more balanced decision. We are also awaiting responses from FOLs and other documents which may be critical.

Yours sincerely,



On Sun, Nov 13, 2022 at 9:28 PM Fiore, Davina [REDACTED] wrote:

Dear Chris,

Thank you for your email. The meeting will be a public meeting and you and others are welcome to attend (or if you prefer you may watch the webcast). You do not have to give us notice, although numbers attending are in practise restricted by the room size.

The site visit was not secret. The Committee said at the last meeting that they intended to visit the sites.

I confirm that I will pass your comments on to the committee.

Best wishes,

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Sunday, November 13, 2022 9:13:32 PM
To: Fiore, Davina [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for the information and there are several issues:

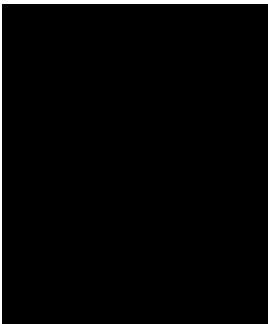
It's clearly disappointing that most of those of us who spoke at the first meeting are being prevented from addressing your Advisory Group committee on this next critical meeting (although it's welcome that Claire Richardson is being invited to speak on behalf of vulnerable users). With regards members of the public attending, do we have to give prior notice if we wish to attend?


It's also disappointing that your Advisory Group committee undertook a secret site visit of Maindy Park and the sites you want to 'land swap'. Clearly if this was a fair and balanced council process then community representatives of those who support the protection of Maindy Park would have been invited.

It's clearly disappointing that you have again given only days for us to carry out a review of your report and the information which you say the Committee will use to help reach their recommendation. However we'll attempt to review as much as possible in the extremely limited timeframe you have permitted us and would appreciate if you pass our comments on to the committee.

I can understand that the Committee would like the meeting to concentrate on considerations which are relevant to their recommendation. With regards your comment on the historic velodrome being irrelevant is wrong. The historic velodrome brings an income to the Trust and any responsible Trust would be negligent if it said the history and financial income from it's site was irrelevant. The Indenture says "*... the piece of land hereinafter mentioned described for the purposes of its being preserved kept and used only as a Park, Open Space or Recreation or Playground*" so the fact the 'recreation' aspect has since 1951 included a velodrome means the Trust cannot pretend that doesn't matter, however much a developer wants the land. So the protection of 'recreation' in the form of the velodrome is very much an objective of the Trust.

Yours sincerely,



On Tue, Nov 8, 2022 at 8:01 PM Fiore, Davina  wrote:

Dear Chris,

As you know, when the Advisory Committee met to consider whether a land swap was in the best interests of the charity, there were a number of outstanding points they wished to understand prior to reaching their recommendation. I am writing to let you know that the meeting to consider these outstanding issues will be held at County Hall at 4pm on Thursday 17th November. The meeting will initially be open to the public, and public parts of the meeting will be webcast. It is likely that the Committee will then go into private session to take confidential advice and agree on their recommendation to the Council's cabinet. If a recommendation is reached they will then reconvene the

public meeting to give their recommendation.

Since the last meeting the Committee members have carried out a private site visit of Maindy Park and the sites identified for possible land swaps, that is Blackweir and Caedelyn.

The agenda for the meeting, covering report and relevant information which the Committee will take account in reaching their recommendation, will be published on Friday 11th November. This will include a revised Equality Impact Assessment, ward maps for Gablfa, Heath and Cathays showing Council owned green spaces that are used for recreational purposes, details of reported incidents which have taken place at Maindy, Blackweir and Caedelyn, any financial implications, letters which have been received and any other relevant information.

Please note that the Committee would like the meeting to concentrate on considerations which are relevant to their recommendation. Matters such as the closure and relocation of the velodrome and the degree of the slope at the velodrome are not relevant matters as to whether a land swap is in the best interests of the charity. This is because the charity is not obliged to provide a velodrome. The Advisory committee will be considering whether the replacement land can be used to meet the charitable objectives instead of the land at Maindy. The closure and relocation of the velodrome is a separate decision to the one being considered here. Track cycling is a recreational activity, but preserving a velodrome at Maindy is not one of the charity's objectives.

It was noted at the last meeting that a Vulnerable Users of Maindy Park Group wished to address the next meeting and the Committee are in agreement with this. The Vulnerable Users Group (represented by Clare Richardson) have been allocated ten minutes to speak. Please confirm if you will attend and make representations, or if the Group wishes to nominate someone else to do so.

Groups which have already had an opportunity to speak will not be allocated any further time at the meeting, however if you wish to raise any additional points or submit any additional relevant information which you did not raise/submit prior to or at the last meeting, you must do so by email to [REDACTED] by 5pm on Monday 14th November.

Davina Fiore

Cyfarwyddwr Llywodraethu a Gwasanaethau Cyfreithiol a Swyddog Monitro

Director Governance and Legal Services and Monitoring Officer

Cyngor Caerdydd / Cardiff Council

E-bost/Email: [REDACTED]

Ystafell 477, Neuadd y Sir, Glanfa'r Iwerydd, CAERDYDD CF10 4UW

Room 477, County Hall, Atlantic Wharf, CARDIFF CF10 4UW

Hapus i gyfathrebu'n Saesneg neu yn y Gymraeg

Happy to communicate in English or Welsh

email signature (3)



From: Fiore, Davina
Sent: 03 January 2023 16:45
To: savemaindy cycletrack [REDACTED]
Cc: Orders, Paul [REDACTED]; FOI / Rhyddid Gwybodaeth [REDACTED]
Subject: RE: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

Dear Chris,

Thank you for your email below.

I have just emailed you with a response to the outstanding queries in relation to finance and valuation points from your email of 23rd December.

As I have explained before I am not going to respond to points you have raised previously and which I have already answered. I believe I have either answered all of your many questions, or referred them to others to supply answers where I do not have the information or am not qualified to answer.

I note you have copied your email to the Freedom of Information Act requests email inbox, and I am sure they will initiate a response to your queries under the Act.

Using your numbering:

1. For the record, I have not openly admitted to making mistakes on this matter, and I and other Council officers would appreciate it if you could please try to deal with this matter without making personal accusations. My role is as a professional advisor to seek to ensure that the Council's conflict of interest in this matter (as charity trustee and Local Education Authority) is resolved one way or another, in accordance with the law, and I am trying to do that in a courteous manner. I have acknowledged that when the extension to Cathays High was proposed the Council was not initially aware that it held Maindy Park in trust as a charitable trustee. I have not acknowledged a personal mistake.

For your information, please note I did not personally instruct Geldards to act on behalf of the charity. My understanding is that they were briefed by phone and in a meeting, and they were of course provided with the Advisory Committee agenda and reports. I will check whether there was a written brief, however your FOI request will be processed in accordance with the legislation and guidance. Please note the suggestion to set up the Advisory Committee did not come from Geldards. The Cabinet meeting on 28th September 2022 recommended that full Council set up an Independent Advisory Committee to make a recommendation to Cabinet on this matter. The report to cabinet is available at the following link: <https://cardiff.moderngov.co.uk/documents/s63548/Cabinet%2028%20Sept%202022%20Maindy%20land%20trust.pdf> Council agreed this recommendation at its meeting on 29th September.

2. I was not personally involved in the site visits. The site visit was recorded in paragraph 8(i) of the report to the Advisory Committee on 17th November and information the Advisory Committee requested following the site visit, was provided as publicly available documents for the meeting of the Advisory Committee on 17th November (Appendix F - Maps showing public recreation spaces in Gabalfa, Heath and Cathays, and Appendix G - Data on incidents of crime, anti-social behaviour and public safety for all 3 sites).
3. With respect, whether or not I think the velodrome is a historic asset is irrelevant. What is relevant is whether or not the valuation should reflect any historic value. As I am not qualified to give a valuation I am sorry I cannot comment on this.
4. To clarify what you say - the Council has no knowledge of the *current* beneficiaries. It does not need to try trace them as there is no requirement in law for us to notify them. Trying to trace them would probably be a lengthy, expensive and possibly unsuccessful process, as properties may have changed hands many times. It is the Council, not the trust, who have the legal power to appropriate land, the Advisory Committee has not been asked to express a view on this point.
5. I have already answered the point about the advice I gave. The members of the Advisory committee receive copies of our correspondence so they will be aware of your views and your wish to speak at the next meeting. I will discuss with them the process they wish to follow at that meeting and your request to have another opportunity to speak.

Davina Fiore

Director of Legal and Governance and Monitoring Officer, Cardiff Council

From: savemaindy cycletrack [REDACTED]
Sent: 02 January 2023 20:46
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED] FOI / Rhyddid Gwybodaeth [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for your email of 23/12/2022. With regards your claim about '*going round in circles*' I am only requesting reasonable details which you have failed to supply in your original responses. Please see my replies to your latest responses, shown below in blue.

1. **SMV ORIGINAL QUERY:** Following the Council's failure to run the Maindy Park Trust charity in a proper way the Council have appointed Geldards to advise on how the Council can build a school on charity land. However you claim to strongly refute any suggestion that Geldards have been appointed to find a way to build the school. But the facts don't agree with the denial? Geldards gave advice to Cardiff Council on how they believe you could avoid setting up an independent management team to run the Trust, and so have suggested trying to get round this Charity Commission requirement by setting up this 'Advisory Group'?

Geldards are also aware that the Cardiff Council Cabinet are absolutely determined to take Maindy Park Charity land to build a school so if Geldards now give serious advice on how a Trust would prevent this happening then they would obviously not be popular with the Cardiff Council Cabinet so putting at risk future contracts with the Council. So it's clear Geldards are giving advice on 'best interests' in terms of allowing Cardiff Council to build on Maindy Park Charity land and not the 'best interests' of the Maindy Park Charity to prevent development of their site and which would be in keeping with their remit of maintaining Maindy Park as public open space. Therefore it is beyond dispute that Geldards are compromised.

If you disagree with the above statements then, if you are being open and transparent as you claim, please supply a full copy of the brief you gave to Geldards both in it's 'developer' supporting role and in it's Advisory Group supporting role.

I also don't doubt it when you say Solicitors at Geldards and those at the Council are bound by your professional Code of Conduct but that unfortunately doesn't stop the Council making mistakes as you've openly admitted to with your proposed review of other charities where the Council are Trustee and where the Council may have failed in a similar manner.

1. DF RESPONSE: *As I have previously advised you it is for Geldards to decide whether or not they have a conflict of interest. I am not aware that they have. I raised the initial concern with them and they confirmed they did not. Harriet Morgan of Geldards has been appointed to advise the charity and that is what she is doing. Instructions to lawyers are confidential and we are not obliged to provide them to you.*

SMV REPLY: As mentioned previously, you have openly admitted to making mistakes so it's quite possible you've made an error in blindly accepting the response of Geldards when you asked them if in their view, they thought there was a conflict of interest. You say "Instructions to lawyers are confidential and we are not obliged to provide them to you". But you are also not obliged to keep them secret? If you are honestly intending to be open and transparent then, in the name of fairness, you would be more than willing to send a copy of the brief. Unfortunately the fact you refuse to send it, in effect you are hiding the brief, shows clear bias towards the Council as 'developer'. So under the Freedom of Information regulations I request you send a copy.

2. SMV ORIGINAL QUERY: With regards the Advisory Group's site visits, their failure to invite a representative from the Community Groups wishing to protect a much loved Cardiff park was both surprising and disappointing. By not allowing even a single community advocate for the protection of the Trust to be involved in any way on the site visits shows a clear open bias in this process towards the 'developer'.

To this you said the Committee not the Council decided on the format of its site visit. You previously failed to answer the following point (so I'll ask again), in terms of fairness, if the Advisory Group Committee failed to request for something as basic as having local community representatives to give input at site meetings then surely, if you are independent as you claim, you could have requested for this to happen in the name of openness and transparency?

Also you claim you have seen no evidence that committee members are biased on behalf of the Council as "developer" but this is clearly one example?

2. DF RESPONSE: *As I have previously advised you, the advisory Committee decided on the format of its site visit. As it had already heard representations from the community groups at the first meeting of the Advisory Committee, the Committee felt that it was aware of your concerns and did not need you to be present at the site visit. I advised the Committee that it was a decision for them whether or not they wished to invite community groups to the site visit. They did not. This is not evidence of bias.*

SMV REPLY: The Advisory Group were not having site visits for a nice day out, they were supposed to be visiting to gather information. As part of that learning and knowledge building it would have been expected they would want people there who knew Maindy Park, it's history, it's value to the local community, it's value as a park, it's value as a 'green open space'. Instead they chose to go there with, from what we understand, (i) a representative from the Parks department (the Operational Manager) who would know little about Maindy Park's value to the local community as a cherished park, historic site and nationally important velodrome and (ii) Head of Health & Safety, Paul James, who's title shows he was not there to advise directly on our concerns. You say you advised them "that it was a decision for them whether or not they wished to invite community groups to the site visit." But if you were honestly trying to take a balanced/independent view then surely you would have advised them they should invite a local community representative, otherwise their knowledge building would be incomplete? Also presumably minutes were made at these site meetings, or a report prepared? So, as the meetings were not 'secret', please supply a copy of any minutes, summary, emails, documents, or reports relating to these site meetings.

3. SMV ORIGINAL QUERY: You have agreed the velodrome brings in an income but you say you have been advised that the costs outweigh the income so the velodrome is not allowed to be considered an asset. The clubs alone pay 10s of 1000s of pounds to use the track. There is no maintenance carried out on the track. So, in the name of openness and transparency, please advise what are the 'costs' involved in running the track?

You also put a value of £0 on the fact the velodrome is an historic site being the only sports stadium remaining from the 1958 Commonwealth Game, a venue which has inspired 4 local cyclists to win Gold medals at the Olympics and 1 local cyclist to win the Tour de France (of the 3 British winners, Geraint Thomas is also the only British born cyclist to do so). To put £0 on the historical value of this amazing track is clearly wrong. There is also nothing remotely like this at Caedelyn. Do you acknowledge the velodrome is an historic asset which does have value?

3. DF RESPONSE: *I am neither an accountant nor a valuer. I do not deal with the finances or the valuation. I will raise your queries with the finance department and the professional valuer.*

SMV REPLY: Thank you for raising the issue with the finance department and the valuer, I look forward to hearing their responses. Please also advise the finance department we request the information under the Freedom of Information regulations.

One thing you don't have to be an accountant or a valuer to take a view on is whether you think the velodrome is an historic asset (which, of course would also have a value). In this respect you should also know that Maindy Velodrome appears on CADW's register of Historic Sites - <https://coflein.gov.uk/en/site/410389/>; Also apart from it's legendary role in developing Olympic and Tour de France winning cycle talent it's also hosted a range of other events during it's colourful history from speedway to the first British Heavyweight Boxing title fight in Wales took place in front of 30,000 spectators You didn't answer my query as to whether you think the velodrome is an historic asset so I would be grateful if you could advise. Clearly a properly run 'Maindy Park Trust' would agree so I would also be grateful if you could put this question to the Advisory Group.

4. SMV ORIGINAL QUERY: With regards the Beneficiary of the Covenant, you said "...this is not information which we hold. It is not on our registered title to the land." If I understood correctly, Richard Crane suggested at the Advisory Group meeting in October that a Beneficiary of the Covenant would be entitled to a payment if a covenant was being changed. But even if the Council can over-ride this entitlement as was outlined by Mr Crane, isn't the Council, as a public body, obliged out of courtesy to inform the Beneficiary?

You also said, "the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation." As you know appropriation means 'taking land without permission'. So by 'swapping' the land, also with the Trust being in the full knowledge of your plan to then appropriate the Maindy Park Charity land, you are asking the Trustee to also support appropriating land, or taking land without permission. This appears an extraordinary demand to make of a charitable Trust? How could a properly run Trust endorse the eventual taking of it's land without permission?

4. DF RESPONSE: *My understanding is that in law, the Council is not obliged to inform a beneficiary who we have no knowledge of the identity of. In addition if the land swap were to take place, as you yourself have quoted in your email, "the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation."*

SMV REPLY: When you say you have no knowledge of the identity of the beneficiary this is not strictly correct? From the Covenant you know the Beneficiary was the Bute family. As far as we are aware the Bute family are still the Beneficiaries but you seem to have knowledge they sold their rights? (Have you already contacted the Bute Family to establish who the Beneficiary is?) So seeing as you have that information it would be a simple matter to ask the Bute family who they sold the rights to? If this is too difficult for Cardiff Council we could investigate ourselves and supply the contact details of the current Beneficiaries?

You also didn't answer my query that a properly run Trust would never endorse the appropriation, or taking of their land without consent. So I would be grateful if you could pass on my query to the Advisory Group to similarly advise us, do they endorse the taking of Charity land without consent?

5. SMV ORIGINAL QUERY: Also with regards the Advisory Group's second meeting in November, did you advise the AG that they should not take a presentation from Save Maindy Velodrome/Cardiff Civic Society/ABC Maindy Park at their second meeting or did the AG specifically request this?

5. DF RESPONSE: *In relation to the second meeting Of the Advisory Committee, I advised the Committee it was up to them if they wished to hear from the community groups again. They felt they had given you adequate opportunity to raise your concerns at the first meeting, and they did consider further written representations which you submitted.*

SMV REPLY: This is really disappointing in that it shows a clear bias in the Advisory Group's taking of evidence. It was very useful for us and, I believe, for them to hear the presentations in the first meeting. It's important not just for the Advisory Group to learn but for ourselves. Preventing us from sharing information shows a clear bias by the Advisory Group which ultimately undermines their legitimacy. I hope they will permit presentations by groups in the planned January meeting.

Also the Advisory Group have said they take advice from you. So similar to Query 2, if you were honestly trying to take a balanced/independent view then surely you should have advised them they should allow local community groups to present?

Conclusion

You have not disputed that Cardiff will end up with a net loss of parkland as a result of the proposed swap. That a Trust, tasked with preserving a Cardiff parkland for the people of Cardiff in perpetuity, would consider 'swapping' it's land so that Cardiff ended up with less parkland is ridiculous. Clearly such an absurd, unreasonable proposition should never be accepted by anyone tasked with taking an objective view.

As regards your wish for a Merry Christmas, unfortunately the Council's actions have meant the huge number of Cardiff residents who value and cherish Maindy Park and Velodrome now face 2023 with the grim prospect of losing this much loved community asset. So no, it has not been much of a Merry Christmas for any of us.

Yours sincerely,

[REDACTED]

On Fri, Dec 23, 2022 at 2:31 PM Fiore, Davina <[REDACTED]> wrote:

Thank you for your email.

I refer you to my email of Thursday 17th November when I said "I am sorry but our correspondence is now going round in circles. I do not intend to keep continually responding to the same points if you keep raising them. I understand you disagree with the process but we will have to agree to differ on this. "

Unfortunately a number of the points (points 1 and 2) you raise in your latest email are repetition of points I have previously answered and so I am not going to respond in detail. Using your numbering, I respond below:

1. As I have previously advised you it is for Geldards to decide whether or not they have a conflict of interest. I am not aware that they have. I raised the initial concern with them and they confirmed they did not. Harriet Morgan of Geldards has been appointed to advise the charity and that is what she is doing. Instructions to lawyers are confidential and we are not obliged to provide them to you.
2. As I have previously advised you, the advisory Committee decided on the format of its site visit. As it had already heard representations from the community groups at the first meeting of the Advisory Committee, the Committee felt that it was aware of your concerns and did not need you to be present at the site visit. I advised the Committee that it was a decision for them whether or not they wished to invite community groups to the site visit. They did not. This is not evidence of bias.
3. I am neither an accountant nor a valuer. I do not deal with the finances or the valuation. I will raise your queries with the finance department and the professional valuer.
4. My understanding is that in law, the Council is not obliged to inform a beneficiary who we have no knowledge of the identity of. In addition if the land swap were to take place, as you yourself have quoted in your email, "*the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation.*"
5. In relation to the second meeting of the Advisory Committee, I advised the Committee it was up to them if they wished to hear from the community groups again. They felt they had given you adequate opportunity to raise your concerns at the first meeting, and they did consider further written representations which you submitted.

Please note I will shortly be on leave until 3rd January and emails sent will not be responded to.

Merry Christmas and Happy New Year to all of your members.

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Friday, December 23, 2022 12:38:17 PM
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.

ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina

Further to your email dated 17th November there are several issues that remain to be resolved or clarified, as described below in points 1 to 5.

1. Following the Council's failure to run the Maindy Park Trust charity in a proper way the Council have appointed Geldards to advise on how the Council can build a school on charity land. However you claim to strongly refute any suggestion that Geldards have been appointed to find a way to build the school. But the facts don't agree with the denial? Geldards gave advice to Cardiff Council on how they believe you could avoid setting up an independent management team to run the Trust, and so have suggested trying to get round this Charity Commission requirement by setting up this 'Advisory Group'?

Geldards are also aware that the Cardiff Council Cabinet are absolutely determined to take Maindy Park Charity land to build a school so if Geldards now give serious advice on how a Trust would prevent this happening then they would obviously not be popular with the Cardiff Council Cabinet so putting at risk future contracts with the Council. So it's clear Geldards are giving advice on 'best interests' in terms of allowing Cardiff Council to build on Maindy Park Charity land and not the 'best interests' of the Maindy Park Charity to prevent development of their site and which would be in keeping with their remit of maintaining Maindy Park as public open space. Therefore it is beyond dispute that Geldards are compromised.

If you disagree with the above statements then, if you are being open and transparent as you claim, please supply a full copy of the brief you gave to Geldards both in it's 'developer' supporting role and in it's Advisory Group supporting role.

I also don't doubt it when you say Solicitors at Geldards and those at the Council are bound by your professional Code of Conduct but that unfortunately doesn't stop the Council making mistakes as you've openly admitted to with your proposed review of other charities where the Council are Trustee and where the Council may have failed in a similar manner.

2. With regards the Advisory Group's site visits, their failure to invite a representative from the Community Groups wishing to protect a much loved Cardiff park was both surprising and disappointing. By not allowing even a single community advocate for the protection of the Trust to be involved in any way on the site visits shows a clear open bias in this process towards the 'developer'.

To this you said the Committee not the Council decided on the format of its site visit. You previously failed to answer the following point (so I'll ask again), in terms of fairness, if the Advisory Group Committee failed to request for something as basic as having local community representatives to give input at site meetings then surely, if you are independent as you claim, you could have requested for this to happen in the name of openness and transparency?

Also you claim you have seen no evidence that committee members are biased on behalf of the Council as "developer" but this is clearly one example?

3. You have agreed the velodrome brings in an income but you say you have been advised that the costs outweigh the income so the velodrome is not allowed to be considered an asset. The clubs alone pay 10s of 1000s of pounds to use the track. There is no maintenance carried out on the track. So, in the name of openness and transparency, please advise what are the 'costs' involved in running the track?

You also put a value of £0 on the fact the velodrome is an historic site being the only sports stadium remaining from the 1958 Commonwealth Game and a venue which has inspired 4 local cyclists to win Gold medals at the Olympics and 1 local cyclist to win the Tour de France (of the 3 British winners, Geraint Thomas is also the only British born cyclist to do so). To put £0 on the historical value of this amazing track is clearly wrong. There is also nothing remotely like this at Caedelyn. Do you acknowledge the velodrome is an historic asset which does have value?

4. With regards the Beneficiary of the Covenant, you said "...this is not information which we hold. It is not on our registered title to the land." If I understood correctly, Richard Crane suggested at the Advisory Group meeting in October that a Beneficiary of the Covenant would be entitled to a payment if a covenant was being changed. But even if the Council can over-ride this entitlement as was outlined by Mr Crane, isn't the Council, as a public body, obliged out of courtesy to inform the Beneficiary?

You also said, "the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation." As you know appropriation means 'taking land without permission'. So by 'swapping' the land with the Trust being in the full knowledge of your plan to then appropriate the Maindy Park Charity land, you are asking the Trustee to also support appropriating land, or taking land without permission. This appears an extraordinary demand to make of a charitable Trust? How could a properly run Trust endorse the eventual taking of it's land without permission?

5. Also with regards the Advisory Group's second meeting in November, did you advise the AG that they should not take a presentation from Save Maindy Velodrome/Cardiff Civic Society/ABC Maindy Park at their second meeting or did the AG specifically request this?

Yours sincerely,



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

From: **savemaindy cycletrack** [REDACTED]
Date: Thu, Nov 17, 2022 at 8:40 AM
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]

Dear Davina,

Thank you for the further information. The facts suggest Geldards have not given advice in defence of the Trust, rather they have advised the Council on how they can get round their Charity obligations so the Charity land can be developed. If this is not the case please supply information from Geldards where they give the alternative legal advice from the Charity Trustee's perspective.

You say Council officers didn't know what other Council officers were doing. Running a Council in a chaotic way is no excuse for protecting Council Charity assets in a proper way.

Thank you for passing on my request to amend the minutes and to adjourn.

Unfortunately the poor treatment given by Cardiff Council to those who want independent information given to the Advisory Group shows the process has been far from 'Independent'. It's also not a case of agreeing or disagreeing but about openness and transparency which has been shown to be utterly lacking in this process.

Yours sincerely,



On Thu, Nov 17, 2022 at 8:27 AM Fiore, Davina [REDACTED] wrote:

I strongly refute any suggestion that Geldards have been appointed to find a way to build the school. Geldards have been appointed to give independent charity law advice to the Independent Advisory Committee. They do not have a conflict of interest. Solicitors at Geldards and those at the Council are bound by our professional Code of Conduct. We are not lying to you.

Officers dealing with this in legal services and Estates did not know there was a trust. While dealing with this matter I have recently discovered that finance officers have been filing annual accounts, so yes, it transpires some officers were aware, but the officers dealing with and advising on the redevelopment proposals were not aware. As a result I have asked that a review take place of any charities the Council are trustees of and of our system for storing land deeds to seek to ensure this does not happen again.

I have informed the Committee of your request to amend the minutes.

I have advised the Committee that they may adjourn if they wish to ask for more information or if they need more time.

Cardiff Council have set up the Independent Advisory Committee to reach an independent recommendation on this matter. We have ensured they are provided with independent legal and valuation advice on behalf of the trust and have provided them and the objectors with information they have requested, and have not sought to influence the Advisory Committee one way or another. They will reach their own view. I believe this is a fair process, but of course if the recommendation were to be in favour of the land swap and the Cabinet accepted that recommendation then the Charity Commission will also need to give consent.

I am sorry but our correspondence is now going round in circles. I do not intend to keep continually responding to the same points if you keep raising them. I understand you disagree with the process but we will have to agree to differ on this.

Best wishes

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Thursday, November 17, 2022 7:54:41 AM
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thanks for passing on our comments. Clearly it's disappointing that you have given so little time that prevents proper analysis. Again this shows prejudice towards the Trustee aspects.

When you say you disagree and with us and believe you are right, unfortunately the facts don't support your view.

With regards your further comments I've put responses in blue below::

Geldards have been instructed to give independent advice to the Advisory Committee on the charity law aspects and that is what they are doing. The Committee needs to take legal advice from practicing solicitors working for established firms who have professional indemnity insurance in place, not from volunteers.

After failing to run the Maindy Park Trust charity in a proper way, the Council appointed Geldards with the remit to find a way so the Council could build a school on charity land. They were not appointed to defend the Trustee's remit. Like yourselves, Geldards have a clear conflict of interest and if you didn't want the views of Jeremy Sparkes as a volunteer then the Council should have sort a legal advisor who specializes in Trust Charity law to give independent advice on the side of the Trustee. But you have failed to do this, again failing to manage your conflict of interest in an open and transparent way.

The Committee not the Council decided on the format of its site visit. I have seen no evidence that committee members are biased on behalf of the Council as "developer".

If this is true then why were no representative of the community groups or independent advocates of the Maindy Park Trust invited to attend? If the Advisory Group Committee failed to request for something this basic then surely you could have requested for this to happen in the name of openness and transparency?

I do not have access to GLL accounts, and so cannot provide them to you. Even if I did have access to them, they would be likely to be commercially sensitive information which would be exempt from disclosure. The costs of running the velodrome have to be set against any income before any profits are identified. I am informed that the velodrome runs at a loss and so there is no income to apportion to the trust.

This is disappointing, so you are making a claim which probably has no foundation.

I agree that finance officers were aware of the trust and were filing annual accounts, and that it is disappointing that officers in other departments were not aware of this.

So Cardiff Council knew Maindy Park is a Trust and you shouldn't claim otherwise.

In relation to the beneficiary of the covenant, I am sorry but I cannot give you information we do not have, nor do I know where you can find this information.

So the Council will not be informing the Covenant owner they will be removing the Covenant.

You will see that the agenda for the meeting tomorrow has on it agreeing the minutes of the previous meeting. The minutes are in draft until they are agreed by the Committee. It is a decision for the committee whether or not they wish the minutes to be amended to reflect this point.

As we are not allowed to speak, please can you inform the Committee of my request to amend the minutes?

I have not prevented you having an extra week. I have passed your request for an adjournment to the Committee and it is a

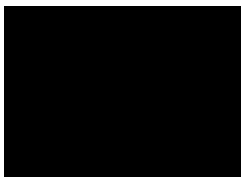
matter for them to decide whether or not they wish to adjourn the meeting or defer making a decision on their recommendation. The Committee is not the Council, the Committee takes its own decisions on meeting dates, times and procedures.

[Ypu advise the Committee so you could advise them to adjourn. By not doing this you are helping to prevent us from having an extra week](#)

I note your allegation that council officers have breached their Code of Conduct by not acting with integrity, honesty, impartiality and objectivity. This is a serious allegation to make against professional council officers. I have not seen any evidence that this is the case if you have any please provide it, if not please do not repeat these defamatory allegations.

[The facts are Cardiff Council have not managed the Developer/Trustee conflict of interest in an open and transparent way, Also Cardiff Council have not given a fair opportunity for Trustee supporting interests and issues to be defended in a fair way. Unfortunately these are facts.](#)

Yours sincerely,



On Wed, Nov 16, 2022 at 10:49 PM Fiore, Davina  wrote:

Dear Chris,

I will pass your comments on to the Advisory Committee, but as they had requested any additional representations by 5pm on Monday I cannot guarantee they will have time to read these before the meeting tomorrow.

I do not believe I am wrong in what I say, though I accept that you disagree. Please note my response to your further comments below:

Geldards have been instructed to give independent advice to the Advisory Committee on the charity law aspects and that is what they are doing. The Committee needs to take legal advice from practicing solicitors working for established firms who have professional indemnity insurance in place, not from volunteers.

The Committee not the Council decided on the format of its site visit. I have seen no evidence that committee members are biased on behalf of the Council as "developer".

I do not have access to GLL accounts, and so cannot provide them to you. Even if I did have access to them, they would be likely to be commercially sensitive information which would be exempt from disclosure. The costs of running the velodrome have to be set against any income before any profits are identified. I am informed that the velodrome runs at a loss and so there is no income to apportion to the trust.

I agree that finance officers were aware of the trust and were filing annual accounts, and that it is disappointing that officers in other departments were not aware of this.

In relation to the beneficiary of the covenant, I am sorry but I cannot give you information we do not have, nor do I know where you can find this information.

You will see that the agenda for the meeting tomorrow has on it agreeing the minutes of the previous meeting. The minutes are in draft until they are agreed by the Committee. It is a decision for the committee whether or not they wish the minutes to be amended to reflect this point.

I have not prevented you having an extra week. I have passed your request for an adjournment to the Committee and it is a matter for them to decide whether or not they wish to adjourn the meeting or defer making a decision on their recommendation. The Committee is not the Council, the Committee takes its own decisions on meeting dates, times and procedures.

I note your allegation that council officers have breached their Code of Conduct by not acting with integrity, honesty, impartiality and objectivity. This is a serious allegation to make against professional council officers. I have not seen any

evidence that this is the case if you have any please provide it, if not please do not repeat these defamatory allegations.

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Wednesday, November 16, 2022 9:31 pm
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for the responses. Unfortunately you are wrong in a number of claims you make:

DF Statement 1: You say "*Geldards is advising the Council in their role as 'Developer' and not advising in the best interests of the Charity.*" Quite simply this is incorrect. Geldards have been instructed to advise the Advisory Committee in relation to charity law relating to their role, which is to make a recommendation on whether a potential land swap is in the best interests of the charity. The representative from Geldards confirmed this at the first meeting of the Advisory Committee.

SMV Response: When you say '*the best interests of the charity*' the charity's remit is for Maindy Park to be "... *preserved kept and used only as a Park, Open Space or Recreation or Playground*". There's no mention there of '*unless the land can be swapped for another piece of established Cardiff Park land*'. The '*best interests*' clearly aren't met by building a school in the middle of the site and moving a section of the Trust to other existing parkland in Cardiff resulting in less overall park space in Cardiff. Also with regards the '*recreation*' aspect, since 1951 Maindy Park has included a velodrome (the only Cardiff stadium left from the 1958 Commonwealth Games) and the Trust cannot pretend that doesn't matter, however much a developer wants the land. So the protection of '*recreation*' in the form of the historic velodrome is very much an objective of the Trust.

Geldards comments on the best interests of the Charity are clearly from the viewpoint of law on the side of the 'developer'. Rather, they should also have provided a view on law from the side of the Trustee. Only taking the side of the developer is clearly wrong. It's unfortunate that you didn't take up our suggestion of inviting Jeremy Sparkes to give balance to your legal advice.

DF Statement 2: Secret site visit by the Advisory Committee – the Advisory Committee explained at its first meeting that they would be making a site visit. They did not set a date or commit to inviting others, and the Committee is entitled to decide on their own reasonable and proportionate procedure. It was a private but not a secret visit. The additional information they requested as a result of their visit in relation to green spaces in Cardiff and reported incidents has been published as part of the meeting agenda and therefore is open to public access to ensure there is openness and transparency in decision making.

SMV Response: Unfortunately this fails to answer the point I raised. That is, if the Council were serious about having openness and transparency in decision making then it would have been reasonable that a representative from the Community Groups wishing to protect a much loved Cardiff park should have been invited on the Advisory Group site visits. The fact not one advocate for the protection of the Trust was allowed to be involved in any way, that the visit was kept secret, shows an open bias in this process towards the 'developer'. The additional information you say they requested has had an initial review by Christine Wyatt who has raised many excellent points but a full review would require week(s) which you have prevented us having. Sadly, again this shows your clear bias towards the developer.

DF Statement 3: Income from the Velodrome – I have checked with finance and understand that is no income to be apportioned to the trust, as the Velodrome operates with a loss.

SMV Response: I understand that GLL manage the Velodrome on behalf of the Trust. So as the Velodrome generates money, then the loss is due either to high GLL management costs or Covid or a bit of both. Could you kindly supply the accounts so we may review?

DF Statement 4: Trust Management – unfortunately in recent years it was not clear to officers that Maindy Park is a trust. Once this was realised, the conflict of interest was identified and steps have been taken to manage it.

SMV Response: Maindy Park Trust, of which the Council is the only Trustee, have regularly supplied accounts to the Charity Commission, as shown at <https://register-of-charities.charitycommission.gov.uk/charity-search/-/charity-details/524137/financial-history> So council officers clearly knew Maindy Park is a Trust? Unfortunately the steps the council have taken have been focused on how to 'dress up' a Council 'land grab' of Trust land that belongs to a registered charity rather than protect the Charity which is rather shocking.

DF Statement 5: Beneficiary of the Covenant – I understand this is not information which we hold. It is not on our registered title to the land. The Council has not sought to identify any successors to the Bute Estate, since as Richard Crane explained at the last meeting of the Advisory Committee, if it is decided that the land swap is in the best interests of the Charity and the Charity Commission give their consent and the land swap takes place, the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation.

SMV Response: Even if you intend to effectively 'bin' their Covenant, as you seem to suggest, surely as part of that process you would have to inform the Covenant holder of what you plan to do with their Covenant? Otherwise isn't it another case of Cardiff Council being negligent? So I would be grateful if you could pass on the requested information or advise where it can be obtained from.

DF Statement 6: Minutes - please note the minutes of a meeting are a record of the meeting and anything which was agreed, not a verbatim word for word record.

SMV Response: I think you misunderstood. I was not asking for a verbatim word for word record. Rather, I was asking that important points are included in the minutes. The Council Officer clarified that Maindy Park Trust became a registered Charity in 1966, as noted in the extract from the Council enquiry form shown below and released under an FOI. This is an important point as I understand that registered Charities have more protection than unregistered so I would be grateful if you could amend the minutes. In most organisations, normally minutes initially get issued as 'draft' then once participants have seen and agreed them they get issued as 'Final'. So it's disappointing that Cardiff Council don't follow a well established process for well-run organisations.

I



DF Statement 7: Consultation - the Consultation was not reopened, however presumably as a result of the first meeting of the Advisory Committee being a public meeting, comments have been received. In the interests of openness and transparency these have been included in the meeting papers, although many of the comments are not relevant to the issue the Advisory Committee is considering, which as you know is whether a proposed land swap is in the best interests of the charity.

SMV Response: Christine Wyatt has had an initial review and raised many good points but again, a full review would require us a further week which you have prevented us having. Unfortunately this has been against the interests of openness and transparency and so again shows your clear bias towards the developer.

DF Statement 8: Request for an Adjournment – this request has been passed on to the members of the Advisory Committee. I think they are unlikely to agree to this unless you can show a good reason for your request. I note you say you are waiting for information – could you please explain what that information is and why you think it is relevant?

SMV Response: In the interests of openness and transparency it is important that the Council act with honour and allow sufficient time to those Cardiff citizens who just want to protect a much cherished Maindy Park and historic velodrome in order that they can properly review the Council's proposal to destroy this Cardiff 'green lung'. There are issues highlighted in this email also you sent an email on 11/11/2022 which I've not had time to properly review and send comments. So for a fair process an adjournment is the only option. Another factor for an adjournment is the issue that Council documents state Bute Park and Blackweir are held on Trust for the citizens of Cardiff in which case the Council can't move a Trust on to a Trust. If the Advisory Group have been asked to investigate a land swap on false information then they have to adjourn until this matter is resolved.

Other Information:

Please also note that it's really important that all Council officers from the top down follow the Code of Conduct for

Employees of the County and Council which states "*The public is entitled to expect the highest standards of conduct from all qualifying employees of Cardiff Council. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.*" Unfortunately in the matter of the Maindy Park Trust the behaviour and actions of Council Officers have fallen well short of this basic requirement.

In regards the guidelines supplied by the Charity Commission no one seriously disputes that the Maindy Park Trust has been poorly run by the Council. So it's been left up to Cardiff citizens to request Cardiff Council honour their obligations to the Maindy Park Trust charity as it's only Trustee. It's clear that had an arms-length Trustee been in place they would never endorse the Council's proposal to 'land-swap' charity land which would also result in a reduction of Cardiff Park land. So it is to be hoped that the 'Advisory Group' will act in an honourable way and give the only conclusion the evidence points to - Maindy Park and Velodrome must stay.

I would be grateful if you can pass on the above comments to the Advisory Group Committee.

Yours sincerely,



On Wed, Nov 16, 2022 at 3:41 PM Fiore, Davina [REDACTED] wrote:

Apologies Chris, further to my email below I omitted one point I need to respond to. You say "Geldards is advising the Council in their role as 'Developer' and not advising in the best interests of the Charity." Quite simply this is incorrect. Geldards have been instructed to advise the Advisory Committee in relation to charity law relating to their role, which is to make a recommendation on whether a potential land swap is in the best interests of the charity. The representative from Geldards confirmed this at the first meeting of the Advisory Committee.

Davina

From: Fiore, Davina
Sent: 16 November 2022 15:33
To: savemaindy cycletrack [REDACTED]
Subject: RE: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

Dear Chris,

When reviewing the recent submissions made to the Advisory Committee in preparation for tomorrow's meeting, I realised that you have made some points we should respond to.

Secret site visit by the Advisory Committee – the Advisory Committee explained at its first meeting that they would be making a site visit. They did not set a date or commit to inviting others, and the Committee is entitled to decide on their own reasonable and proportionate procedure. It was a private but not a secret visit. The additional information they requested as a result of their visit in relation to green spaces in Cardiff and reported incidents has been published as part of the meeting agenda and therefore is open to public access to ensure there is openness and transparency in decision making.

Income from the Velodrome – I have checked with finance and understand that is no income to be apportioned to the trust, as the Velodrome operates with a loss.

Trust Management – unfortunately in recent years it was not clear to officers that Maindy Park is a trust. Once this was realised, the conflict of interest was identified and steps have been taken to manage it.

I have already replied to your other points below.

Best wishes,

Davina

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

From: **Fiore, Davina** [REDACTED]
Date: Wed, Nov 16, 2022 at 10:11 AM
Subject: RE: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall
To: savemaindy cycletrack [REDACTED]

Dear Chris,

Thank you for your email. In relation to your queries:

Beneficiary of the Covenant – I understand this is not information which we hold. It is not on our registered title to the land. The Council has not sought to identify any successors to the Bute Estate, since as Richard Crane explained at the last meeting of the Advisory Committee, if it is decided that the land swap is in the best interests of the Charity and the Charity Commission give their consent and the land swap takes place, the Council (acting as the Council, not the trustee) then have the power to override the covenants if planning permission is obtained, through appropriation.

Minutes - please note the minutes of a meeting are a record of the meeting and anything which was agreed, not a verbatim word for word record.

Consultation - the Consultation was not reopened, however presumably as a result of the first meeting of the Advisory Committee being a public meeting, comments have been received. In the interests of openness and transparency these have been included in the meeting papers, although many of the comments are not relevant to the issue the Advisory Committee is considering, which as you know is whether a proposed land swap is in the best interests of the charity.

Request for an Adjournment – this request has been passed on to the members of the Advisory Committee. I think they are unlikely to agree to this unless you can show a good reason for your request. I note you say you are waiting for information – could you please explain what that information is and why you think it is relevant?

Best wishes,

Davina

From: savemaindy cycletrack [REDACTED]
Sent: 15 November 2022 19:4
To: Fiore, Davina [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Just to clarify, I would be grateful if you could confirm if you will be responding to the queries in the email below?

Yours sincerely,

[REDACTED]

On Mon, Nov 14, 2022 at 6:59 PM savemaindy cycletrack <[REDACTED]> wrote:

Dear Davina,

Thank you for the information. Probably it's better if you respond to several of the queries:

The Covenant

It was advised at the meeting that "*the residue of the Bute estate has been sold to a private company and they would normally expect a person to pay to have a covenant lifted. As a charitable trust, the trustees do not have control over the restrictive covenant. There may be other options available to the Council with regard to covenants, but any other organisation would have to approach those that now hold the residue of the Bute estate and negotiate out of the covenant.*". Please advise the name of the private company the residue of the Bute estate has been sold to together with what other options the Council might use.

The Trust

The Minutes of the meeting state "*Mr Lewis asked for information in relation to the date upon which the Trust was setup up, believing it to be 1966.*" Whilst the Trust was established in 1922, it was also stated at the meeting that 1966 was the year the charity was registered so this information should be included in the Minutes.

Appendix E Emails

This Appendix includes very recent emails mostly submitted since 30/10/2022. Your report says "*Any further representations, from both objectors and supporters of the proposed land exchange, who were to be given a further opportunity to make any additional relevant points or provide any additional relevant information (which had not previously been submitted to the Committee). Further representations received are attached as Appendix E*". So when was Consultation on the SMV reopened? Why weren't the Community groups advised you were reopening the consultation?

Adjournment Request

The documents you've uploaded on the Council website are extensive and will require us at least a week from your 17th November meeting date to review. Therefore I would be grateful if you would have an adjournment of your meeting so we can supply sufficient information that your Advisory Group can make a more balanced decision. We are also awaiting responses from FoIs and other documents which may be critical.

Yours sincerely,



On Mon, Nov 14, 2022 at 6:22 PM Fiore, Davina <[REDACTED]> wrote:

Dear Chris,

Thank you for your email. I confirm that I have passed this onto the Committee members, along with Christine Wyatt's response, and that these representations will also be added to the papers for the meeting which are published on the website.

Davina

From: savemaindy cycletrack <[REDACTED]>
Sent: 14 November 2022 16:39
To: Fiore, Davina <[REDACTED]>
Subject: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for your email. I would be grateful if you could pass on the comments below to your Advisory Group committee. Also I understand Christine Wyatt is sending information to you and I would be grateful if this too was passed on to the AG.

Secret Site Visits By the Advisory Group

It would be reasonable that a representative from the Community Groups wishing to protect a much loved Cardiff park would have been invited on the Advisory Group site visits. However the date of the site visit was certainly not sent to any of the community groups who spoke at the meeting so clearly the site visits were unfortunately kept secret. If the Advisory Group are to come to an independent, fair decision then your decision not to allow a Community representative to attend site visits was both wrong and disappointing showing a clear bias in your approach to this matter.

Reduction of Cardiff Parkland

The proposal to 'land swap' Maindy Park with parkland in Blackweir Park or Caedelyn Park will result in a net reduction of parkland in Cardiff. This is of no benefit to the citizens of Cardiff who were given Maindy Park. If the Trust had been set up properly with an independent management structure then this would have been a prime concern for them with regards your development proposal.

Maindy Park Trust Management

I note in the Minutes of the meeting you say "Mr Lewis (Save Maindy Velodrome) said that the problem here is that Cardiff Council have not set up an arm's length management structure, in accordance with the Guidance for Councils, and said all the revenues should all be going through the Trustee bank account. Harriet Morgan advised that there is Charity Commission guidance about how Local Authorities should act in circumstances where there is an inherent conflict of interest, which is not unusual where councils are the Trustees of Charities, and that is why this Advisory Committee has been set up. They are independent and this is how the Charity Commission have advised councils to manage such a conflict of interest, and that is the process that is currently being gone through. After the Advisory Committee process, if the land swap is pursued, consent would be required from the Charity Commission itself, because of the conflict of interest."

For your information, for these situations the Charity Commission has published a guide: **Guidance for councils in the Councillors' guide to a council's role as charity trustee** This includes 'Ten tips for councils in their roles as charity trustee' which can be found at:

[publishing.service.gov.uk https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/351608/council_as_charity_trustee_overview.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/351608/council_as_charity_trustee_overview.pdf)

The information clearly shows the Maindy Park Charity needed to have been set up with an independent structure in order to properly manage the conflict of interest but unfortunately this has not happened.

Indeed a staggering seven of the ten tips in the Charity Commission Guidance have not been followed properly by the Council. These are:

- 3 Make sure that any charitable assets, for which the council is the trustee, are managed independently in accordance with their charitable purpose and any restrictions in the governing document.*
- 4 Recognise that the charity trustees have a duty to be prudent and to act solely in the best interests of the charity.*
- 5 Ensure there is a clear line of responsibility for the management of all charities for which the local authority is trustee.*
- 6 Ensure that there are clear guidelines for officers and councillors about roles, responsibilities and decision making in the administration of charities.*
- 7 Ensure you have a clear process for identifying and managing any conflicts of interest that arise where the local authority is the trustee of a charity.*
- 8 Actively manage any charity for which the council is the trustee – keeping records up to date, submitting the necessary returns to the Charity Commission and reviewing investments, risks and opportunities on a regular basis.*
- 9 Periodically review whether it continues to be in the best interests of the charity for the local authority to remain as trustee.*

This guidance is clear, the Trust must be managed independently. It's also clear this shows that Harriet Morgan of Geldards is advising the Council in their role as 'Developer' and not advising in the best interests of the Charity or she would have acknowledged the Trust has been mismanaged by the Council.

Unfortunately this Charity Commission/local government guidance above shows Cardiff Council have not followed 'best practice' and it can be argued have indeed been negligent in not following proper guidance in running the Maindy Park Trust.

The Covenant

It was advised at the meeting that "*the residue of the Bute estate has been sold to a private company and they would normally expect a person to pay to have a covenant lifted. As a charitable trust, the trustees do not have control over the restrictive covenant. There may be other options available to the Council with regard to covenants, but any other organisation would have to approach those that now hold the residue of the Bute estate and negotiate out of the covenant.*". Please advise the name of the private company the residue of the Bute estate has been sold to together with what other options the Council might use.

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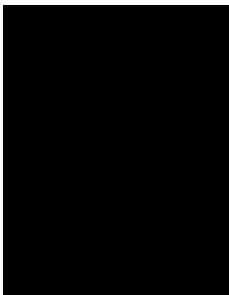
Appendix E Emails

This Appendix includes very recent emails mostly submitted since 30/10/2002. Your report says "*Any further representations, from both objectors and supporters of the proposed land exchange, who were to be given a further opportunity to make any additional relevant points or provide any additional relevant information (which had not previously been submitted to the Committee). Further representations received are attached as Appendix E*". So when was Consultation on the SMV reopened? Why weren't the Community groups advised you were reopening the consultation?

Adjournment Request

The documents you've uploaded on the Council website are extensive and will require us at least a week from your 17th November meeting date to review. Therefore I would be grateful if you would have an adjournment of your meeting so we can supply sufficient information that your Advisory Group can make a more balanced decision. We are also awaiting responses from Fols and other documents which may be critical.

Yours sincerely,



On Sun, Nov 13, 2022 at 9:28 PM Fiore, Davina [REDACTED] wrote:

| Dear Chris,

Thank you for your email. The meeting will be a public meeting and you and others are welcome to attend (or if you prefer you may watch the webcast). You do not have to give us notice, although numbers attending are in practise restricted by the room size.

The site visit was not secret. The Committee said at the last meeting that they intended to visit the sites.

I confirm that I will pass your comments on to the committee.

Best wishes,

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Sunday, November 13, 2022 9:13:32 PM
To: Fiore, Davina [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for the information and there are several issues:

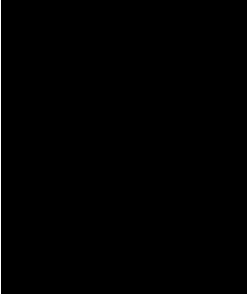
It's clearly disappointing that most of those of us who spoke at the first meeting are being prevented from addressing your Advisory Group committee on this next critical meeting (although it's welcome that Claire Richardson is being invited to speak on behalf of vulnerable users). With regards members of the public attending, do we have to give prior notice if we wish to attend?

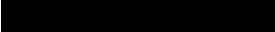
It's also disappointing that your Advisory Group committee undertook a secret site visit of Maindy Park and the sites you want to 'land swap'. Clearly if this was a fair and balanced council process then community representatives of those who support the protection of Maindy Park would have been invited.

It's clearly disappointing that you have again given only days for us to carry out a review of your report and the information which you say the Committee will use to help reach their recommendation. However we'll attempt to review as much as possible in the extremely limited timeframe you have permitted us and would appreciate if you pass our comments on to the committee.

I can understand that the Committee would like the meeting to concentrate on considerations which are relevant to their recommendation. With regards your comment on the historic velodrome being irrelevant is wrong. The historic velodrome brings an income to the Trust and any responsible Trust would be negligent if it said the history and financial income from it's site was irrelevant. The Indenture says "... *the piece of land hereinafter mentioned described for the purposes of its being preserved kept and used only as a Park, Open Space or Recreation or Playground*" so the fact the 'recreation' aspect has since 1951 included a velodrome means the Trust cannot pretend that doesn't matter, however much a developer wants the land. So the protection of 'recreation' in the form of the velodrome is very much an objective of the Trust.

Yours sincerely,



On Tue, Nov 8, 2022 at 8:01 PM Fiore, Davina  wrote:

Dear Chris,

As you know, when the Advisory Committee met to consider whether a land swap was in the best interests of the charity, there were a number of outstanding points they wished to understand prior to reaching their recommendation. I am writing to let you know that the meeting to consider these outstanding issues will be held at County Hall at 4pm on Thursday 17th November. The meeting will initially be open to the public, and public parts of the meeting will be webcast. It is likely that the Committee will then go into private session to take confidential advice and agree on their recommendation to the Council's cabinet. If a recommendation is reached they will then reconvene the public meeting to give their recommendation.

Since the last meeting the Committee members have carried out a private site visit of Maindy Park and the sites identified for possible land swaps, that is Blackweir and Caedelyn.

The agenda for the meeting, covering report and relevant information which the Committee will take account in reaching their recommendation, will be published on Friday 11th November. This will include a revised Equality Impact Assessment, ward maps for Gablfa, Heath and Cathays showing Council owned green spaces that are used for recreational purposes, details of reported incidents which have taken place at Maindy, Blackweir and Caedelyn, any financial implications, letters which have been received and any other relevant information.

Please note that the Committee would like the meeting to concentrate on considerations which are relevant to their recommendation. Matters such as the closure and relocation of the velodrome and the degree of the slope at the velodrome are not relevant matters as to whether a land swap is in the best interests of the charity. This is because the charity is not obliged to provide a velodrome. The Advisory committee will be considering whether the replacement land can be used to meet the charitable objectives instead of the land at Maindy. The closure and relocation of the velodrome is a separate decision to the one being considered here. Track cycling is a recreational activity, but preserving a velodrome at Maindy is not one of the charity's objectives.

It was noted at the last meeting that a Vulnerable Users of Maindy Park Group wished to address the next meeting and the Committee are in agreement with this. The Vulnerable Users Group (represented by Clare Richardson) have been allocated ten minutes to speak. Please confirm if you will attend and make representations, or if the Group wishes to nominate someone else to do so.

Groups which have already had an opportunity to speak will not be allocated any further time at the meeting, however if you wish to raise any additional points or submit any additional relevant information which you did not raise/submit prior to or at the last meeting, you must do so by email to [REDACTED] by 5pm on Monday 14th November.

Davina Fiore

Cyfarwyddwr Llywodraethu a Gwasanaethau Cyfreithiol a Swyddog Monitro

Director Governance and Legal Services and Monitoring Officer

Cyngor Caerdydd / Cardiff Council

E-bost/Email: [REDACTED]

Ystafell 477, Neuadd y Sir, Glanfa'r Iwerydd, CAERDYDD CF10 4UW

Room 477, County Hall, Atlantic Wharf, CARDIFF CF10 4UW

Hapus i gyfathrebu'n Saesneg neu yn y Gymraeg

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email signature (3)



From: [Fiore, Davina](#)
To: [Clare Richardson](#)
Cc: [REDACTED]; [Crane, Richard](#); [Jones, Donna \(County Estates\)](#); [Jones, Eirian](#)
Subject: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023
Date: 04 January 2023 17:47:36
Attachments: [image001.jpg](#)

Dear Clare,

Further to my email below, I am writing to inform you that the Advisory Committee have decided to allow a representative from your group (and the other groups who have made representations) to address the Committee at their next meeting for up to 5 minutes for each group on any new points you have not previously raised for the Committee's consideration. If you or another group member wish to address the Committee you must inform us by email to Davina.fiore@cardiff.gov.uk of both your intention to attend and speak and of the new points you wish to raise by midday on Thursday 19th January. The agenda and report for the meeting on 23rd January will be published on Tuesday 17th January. Please note the Committee are expecting to be in a position to reach their recommendation at or soon after the next meeting, unless they consider there is a substantial new point which has not been answered, explained or otherwise dealt with to their satisfaction.

Best wishes,
Davina Fiore

Director of Legal and Governance and Monitoring Officer, Cardiff Council

From: Fiore, Davina
Sent: 30 November 2022 15:51
To: Clare Richardson [REDACTED]
Cc: [REDACTED]; [REDACTED] Crane, Richard [REDACTED]; Jones, Donna (County Estates) [REDACTED] Jones, Eirian [REDACTED]
Subject: FW: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023

Dear Clare,

At its meeting on 17th November, having carefully considered all the information presented, including written and oral representations, the Committee decided to adjourn and seek further information in relation to certain specific matters before making its recommendation to Cabinet whether to progress a land swap in relation to Maindy Park and Cae Delyn. They indicated that they did not consider Blackweir is suitable for a land swap. The information the Committee asked council officers and the external advisors to the Trust to provide is:

- A definitive plan which accurately shows the trust land needed for the school which would be the basis of the land swap, and clarity about any proposed shared use of parking/access/ external pitches and the hours of such use, and up to date valuation advice on the basis of this.
- Information in relation to the trust accounts and whether any income from the velodrome and carparking should have been apportioned into the trust accounts to be

used for trust purposes.

- If they were to recommend a land swap with Cae Delyn, what improvements could take place to ensure the amenity value of the land for recreation/public open space is maximised. They have also requested advice on whether there is any potential conflict between the trust objectives and current usage/ownership.
- Clarity on the velodrome design so that any equality impacts of the design may be taken into account.

Please note the next meeting of the Independent Advisory Committee is scheduled to be at 10am on Monday 23rd January 2023.

May I take this opportunity to wish you a Merry Christmas and a Happy New Year.

Davina

Davina Fiore
Cyfarwyddwr Llywodraethu a Gwasanaethau Cyfreithiol a Swyddog Monitro
Director Governance and Legal Services and Monitoring Officer
Cyngor Caerdydd / Cardiff Council

E-bost/Email:



Ffôn/Tel:



Ystafell 477, Neuadd y Sir, Glanfa'r Iwerydd, CAERDYDD CF10 4UW
Room 477, County Hall, Atlantic Wharf, CARDIFF CF10 4UW

Hapus i gyfathrebu'n Saesneg neu yn y Gymraeg
Happy to communicate in English or Welsh

email signature (3)



From: [Fiore, Davina](#)
To: [REDACTED]
Cc: [REDACTED]; [Crane, Richard](#); [Jones, Eirian](#); [Jones, Donna \(County Estates\)](#)
Subject: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023
Date: 04 January 2023 17:59:10
Attachments: [image001.jpg](#)

Dear Chris,

Further to my email below, I am writing to inform you that the Advisory Committee have decided to allow a representative from your group (and the other groups who have made representations) to address the Committee at their next meeting for up to 5 minutes for each group on any new points you have not previously raised for the Committee's consideration. If you or another group member wish to address the Committee you must inform us by email to Davina.fiore@cardiff.gov.uk of both your intention to attend and speak and of the new points you wish to raise by midday on Thursday 19th January. The agenda and report for the meeting on 23rd January will be published on Tuesday 17th January. Please note the Committee are expecting to be in a position to reach their recommendation at or soon after the next meeting, unless they consider there is a substantial new point which has not been answered, explained or otherwise dealt with to their satisfaction.

Best wishes,
Davina Fiore

Director of Legal and Governance and Monitoring Officer, Cardiff Council

From: Fiore, Davina
Sent: 30 November 2022 15:45
To: [REDACTED]
Cc: [REDACTED]; [Crane, Richard](#) [REDACTED]; [Jones, Eirian](#) [REDACTED]; [Jones, Donna \(County Estates\)](#) [REDACTED]
Subject: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023

Dear Chris,

At its meeting on 17th November, having carefully considered all the information presented, including written and oral representations, the Committee decided to adjourn and seek further information in relation to certain specific matters before making its recommendation to Cabinet whether to progress a land swap in relation to Maindy Park and Cae Delyn. They indicated that they did not consider Blackweir is suitable for a land swap. The information the Committee asked council officers and the external advisors to the Trust to provide is:

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- If they were to recommend a land swap with Cae Delyn, what improvements could take place to ensure the amenity value of the land for recreation/public open space is maximised. They have also requested advice on whether there is any potential conflict between the trust objectives and current usage/ownership.
- Clarity on the velodrome design so that any equality impacts of the design may be taken into account.

Please note the next meeting of the Independent Advisory Committee is scheduled to be at 10am on Monday 23rd January 2023.

May I take this opportunity to wish you a Merry Christmas and a Happy New Year.

Davina

Davina Fiore
Cyfarwyddwr Llywodraethu a Gwasanaethau Cyfreithiol a Swyddog Monitro
Director Governance and Legal Services and Monitoring Officer
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E-bost/Email:



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Hapus i gyfathrebu'n Saesneg neu yn y Gymraeg
Happy to communicate in English or Welsh

email signature (3)



From: [Fiore, Davina](#)
To: [Ant Warland](#)
Cc: [REDACTED]; [Crane, Richard](#); [Jones, Donna \(County Estates\)](#); [Jones, Eirian](#)
Subject: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023
Date: 04 January 2023 18:03:00
Attachments: [image001.jpg](#)

Dear Mr Warland,

Further to my email below, I am writing to inform you that the Advisory Committee have decided to allow a representative from your group (and the other groups who have made representations) to address the Committee at their next meeting for up to 5 minutes for each group on any new points you have not previously raised for the Committee's consideration. If you or another group member wish to address the Committee you must inform us by email to Davina.fiore@cardiff.gov.uk of both your intention to attend and speak and of the new points you wish to raise by midday on Thursday 19th January. The agenda and report for the meeting on 23rd January will be published on Tuesday 17th January. Please note the Committee are expecting to be in a position to reach their recommendation at or soon after the next meeting, unless they consider there is a substantial new point which has not been answered, explained or otherwise dealt with to their satisfaction.

Best wishes,
Davina Fiore

Director of Legal and Governance and Monitoring Officer, Cardiff Council

From: Fiore, Davina
Sent: 30 November 2022 15:35
To: Ant Warland [REDACTED]
Cc: [REDACTED]; [REDACTED] Crane, Richard [REDACTED]; Jones, Donna (County Estates) [REDACTED] Jones, Eirian <[REDACTED]>
Subject: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023

Dear Mr Warland,

At its meeting on 17th November, having carefully considered all the information presented, including written and oral representations, the Committee decided to adjourn and seek further information in relation to certain specific matters before making its recommendation to Cabinet whether to progress a land swap in relation to Maindy Park and Cae Delyn. They indicated that they did not consider Blackweir is suitable for a land swap. The information the Committee asked council officers and the external advisors to the Trust to provide is:

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May I take this opportunity to wish you a Merry Christmas and a Happy New Year.

Davina

Davina Fiore
Cyfarwyddwr Llywodraethu a Gwasanaethau Cyfreithiol a Swyddog Monitro
Director Governance and Legal Services and Monitoring Officer
Cyngor Caerdydd / Cardiff Council

E-bost/Email:



Ffôn/Tel:



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Room 477, County Hall, Atlantic Wharf, CARDIFF CF10 4UW

Hapus i gyfathrebu'n Saesneg neu yn y Gymraeg
Happy to communicate in English or Welsh

email signature (3)



From: [Fiore, Davina](#)
To: [christine wyatt](#)
Cc: [REDACTED]; [Crane, Richard](#); [REDACTED]; [Jones, Eirian](#); [Jones, Donna \(County Estates\)](#)
Subject: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023
Date: 04 January 2023 18:05:05
Attachments: [image001.jpg](#)

Dear Christine,

Further to my email below, I am writing to inform you that the Advisory Committee have decided to allow a representative from your group (and the other groups who have made representations) to address the Committee at their next meeting for up to 5 minutes for each group on any new points you have not previously raised for the Committee's consideration. If you or another group member wish to address the Committee you must inform us by email to Davina.fiore@cardiff.gov.uk of both your intention to attend and speak and of the new points you wish to raise by midday on Thursday 19th January. The agenda and report for the meeting on 23rd January will be published on Tuesday 17th January. Please note the Committee are expecting to be in a position to reach their recommendation at or soon after the next meeting, unless they consider there is a substantial new point which has not been answered, explained or otherwise dealt with to their satisfaction.

Best wishes,
Davina Fiore

Director of Legal and Governance and Monitoring Officer, Cardiff Council

From: Fiore, Davina
Sent: 30 November 2022 15:42
To: christine wyatt [REDACTED]
Cc: [REDACTED]; Crane, Richard
[REDACTED]; Ariyadasa, Kumi [REDACTED] Jones, Eirian
[REDACTED] Jones, Donna (County Estates) [REDACTED]
Subject: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023

Dear Christine,

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- Information in relation to the trust accounts and whether any income from the velodrome and carparking should have been apportioned into the trust accounts to be used for trust purposes.

- If they were to recommend a land swap with Cae Delyn, what improvements could take place to ensure the amenity value of the land for recreation/public open space is maximised. They have also requested advice on whether there is any potential conflict between the trust objectives and current usage/ownership.
- Clarity on the velodrome design so that any equality impacts of the design may be taken into account.

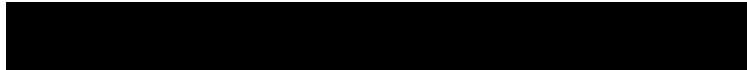
Please note the next meeting of the Independent Advisory Committee is scheduled to be at 10am on Monday 23rd January 2023.

May I take this opportunity to wish you a Merry Christmas and a Happy New Year.

Davina

Davina Fiore
Cyfarwyddwr Llywodraethu a Gwasanaethau Cyfreithiol a Swyddog Monitro
Director Governance and Legal Services and Monitoring Officer
Cyngor Caerdydd / Cardiff Council

E-bost/Email:



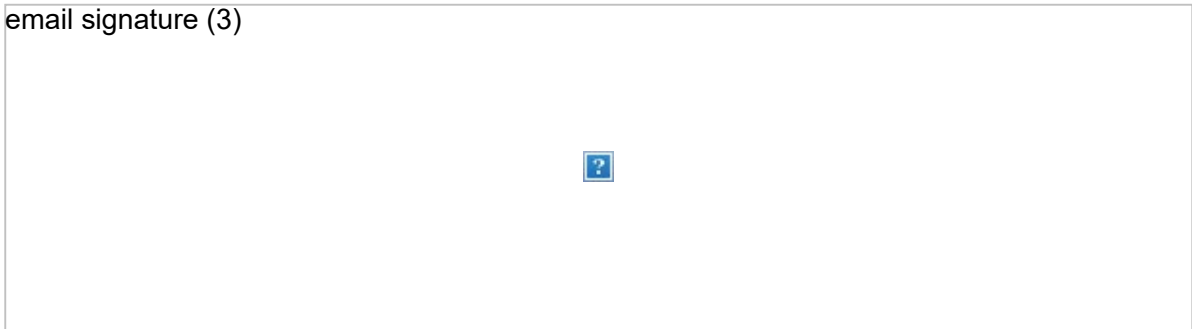
Ffôn/Tel:



Ystafell 477, Neuadd y Sir, Glanfa'r Iwerydd, CAERDYDD CF10 4UW
Room 477, County Hall, Atlantic Wharf, CARDIFF CF10 4UW

Hapus i gyfathrebu'n Saesneg neu yn y Gymraeg
Happy to communicate in English or Welsh

email signature (3)



-----Original Message-----

From: Jane Johnson [REDACTED]

Sent: 05 January 2023 12:13

To: Legal Administration \ Gweinyddiaeth Gyfreithiol [REDACTED]

Cc: Polly Zaffino [REDACTED]

Subject: Maindy Trust Issues

For the attention of legal team managing the Maindy Trust ongoing matter

I wanted to share some information that may have become lost in the mists of time and may possibly be helpful to the Council.

I was born in 1963, I attended Gladstone School and Cathays High School until 1979 and my mother (86) is still a Cathays resident.

The school site was previously expanded in late sixties or early seventies and prior to the construction of Crown Way. The land adjacent to Crown Way where the sports hall was built and now houses portakabins was previously an open green space - along north road edge, a tarmac play park and finally two tennis courts on the edge joining the lane that crosses between Gelligaer Street and New Zealand Road. I do not know if this was Trust land but if so it establishes a precedent of land release.

The other aspect is that the Maindy Stadium site was not always open access for public use. It was open for events including school sports days and was unlocked for the occasion. There were some athletics facilities like long jump as well as a running track. Illicit access through the railings could be achieved only by small people! I believe the stadium site became generally accessible to the public only after the creation of the pool etc.

I hope these points may add weight to any discussion about the interpretation and application of the Trust. I and my Mother are willing to provide official statements if this is needed at any stage.

It would be nice to know that this message has reached the desk of the appropriate person considering the legal issues. I appreciate of course that you are very busy and I don't expect you to get involved in extensive correspondence but it would be good to know it is in the right hands.

Thank you for your attention

Jane Thomas

Sent from my iPhone

From: [Fiore, Davina](#)
To: [christine wyatt](#)
Cc: [Jones, Eirian](#); [Jones, Donna \(County Estates\)](#); [Crane, Richard](#); [REDACTED]
Subject: Re: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023
Date: 09 January 2023 08:58:12
Attachments: [image001.jpg](#)

Dear Christine,

Thank you for your email.

The Committee will have access to all of the consultation responses. It is for the Committee to decide what is relevant to their decision on their recommendation, they may wish to take advice on this. They will also have access to and may take into account previous responses.

The deadline of noon on Thursday 19th applies to all responses. I appreciate the timing may appear to be tight, but we are likely to need some working time before the meeting on the morning of Monday 23rd to try to obtain responses to any new points you raise as the Committee have indicated they hope to be able to make a decision on their recommendation at that meeting. These matters have been under discussion for a long time now and we need to seek to bring this matter to a reasonable conclusion one way or another. It is in no-one's interests for this to go on indefinitely.

Best wishes,

Davina

Sent from [Outlook for iOS](#)

From: christine wyatt [REDACTED]
Sent: Sunday, January 8, 2023 7:26 pm
To: Fiore, Davina [REDACTED]
Subject: RE: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.

ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Hi Davina

Just need clarification on a few points for this second land swap consultation.

- Will the trust committee be informed of the total number of responses received for this second land swap consultation?
- Will the committee be told how many of these responses were objections?
- Will the committee have sight of all the responses in full ?
- You previously advised me that the outcome and the objections from the first land swap consultation would still be used by the committee to inform their decision – does this still stand?
- You previously advised me that only relevant responses would be considered – this seems a little ambiguous so could you explain how this would work ;

- Who would be deciding what is relevant & at what point?
- Does this mean responses will be weeded out on receipt, not included in figures and committee none the wiser?
- Or is it the case that trust committee will have sight of all responses in full and the relevance of each one will be a joint decision by the trust committee and yourself?

With regard to the deadline of 19th for `new` points, realistically we are not going to know if we have anything `new` to raise until we have sight of the report which isn't published until the 17th. So does that mean we only have 2 days to analyse the documentation and submit representations? Or is the 19th deadline specific to oral representations only?

Thanks
Christine

Sent from [Mail](#) for Windows

From: [Fiore, Davina](#)
Sent: Wednesday, January 4, 2023 6:05 PM
To: [christine wyatt](#)
Cc: [REDACTED] [Crane, Richard](#); [REDACTED] [Jones, Eirian](#); [Jones, Donna \(County Estates\)](#)
Subject: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January 2023

Dear Christine,

Further to my email below, I am writing to inform you that the Advisory Committee have decided to allow a representative from your group (and the other groups who have made representations) to address the Committee at their next meeting for up to 5 minutes for each group on any new points you have not previously raised for the Committee's consideration. If you or another group member wish to address the Committee you must inform us by email to Davina.fiore@cardiff.gov.uk of both your intention to attend and speak and of the new points you wish to raise by midday on Thursday 19th January. The agenda and report for the meeting on 23rd January will be published on Tuesday 17th January. Please note the Committee are expecting to be in a position to reach their recommendation at or soon after the next meeting, unless they consider there is a substantial new point which has not been answered, explained or otherwise dealt with to their satisfaction.

Best wishes,
Davina Fiore

Director of Legal and Governance and Monitoring Officer, Cardiff Council

From: Fiore, Davina
Sent: 30 November 2022 15:42
To: christine wyatt [REDACTED]
Cc: [REDACTED] Crane, Richard
[REDACTED] Jones, Eirian
[REDACTED] Jones, Donna (County Estates) [REDACTED]
Subject: Maindy Park Independent Advisory Committee - next meeting 10am Monday 23rd January

2023

Dear Christine,

At its meeting on 17th November, having carefully considered all the information presented, including written and oral representations, the Committee decided to adjourn and seek further information in relation to certain specific matters before making its recommendation to Cabinet whether to progress a land swap in relation to Maindy Park and Cae Delyn. They indicated that they did not consider Blackweir is suitable for a land swap. The information the Committee asked council officers and the external advisors to the Trust to provide is:

- A definitive plan which accurately shows the trust land needed for the school which would be the basis of the land swap, and clarity about any proposed shared use of parking/access/ external pitches and the hours of such use, and up to date valuation advice on the basis of this.
- Information in relation to the trust accounts and whether any income from the velodrome and carparking should have been apportioned into the trust accounts to be used for trust purposes.
- If they were to recommend a land swap with Cae Delyn, what improvements could take place to ensure the amenity value of the land for recreation/public open space is maximised. They have also requested advice on whether there is any potential conflict between the trust objectives and current usage/ownership.
- Clarity on the velodrome design so that any equality impacts of the design may be taken into account.

Please note the next meeting of the Independent Advisory Committee is scheduled to be at 10am on Monday 23rd January 2023.

May I take this opportunity to wish you a Merry Christmas and a Happy New Year.

Davina

Davina Fiore
Cyfarwyddwr Llywodraethu a Gwasanaethau Cyfreithiol a Swyddog Monitro
Director Governance and Legal Services and Monitoring Officer
Cyngor Caerdydd / Cardiff Council

E-bost/Email:

Ffôn/Tel:

Ystafell 477, Neuadd y Sir, Glanfa'r Iwerydd, CAERDYDD CF10 4UW
Room 477, County Hall, Atlantic Wharf, CARDIFF CF10 4UW

Hapus i gyfathrebu'n Saesneg neu yn y Gymraeg
Happy to communicate in English or Welsh

email signature (3)



From: Fiore, Davina

Sent: 13 January 2023 18:05

To: savemaindy cycletrack [REDACTED]

Subject: RE: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

Dear Chris,

I refer to your email below. Please note I have been responding to your many questions in good faith, trying to ensure you have all the relevant information you have asked for. I have then been sharing that information with the members of the Advisory Committee, so they have all the information to take into account. Using your numbering:

1. You put in a Freedom of Information Act request in relation to the instruction of Geldards, and I have provided the relevant information to the Information Governance team, so they will respond to you.

Geldards are a firm of solicitors. They were not instructed until 4th October 2022 by email from Richard Crane. As you have requested, I confirm that Geldards did not instruct counsel, that is the barrister who advised the Council on setting up the Advisory Committee, and Geldards had no input into setting up the Advisory Committee. The Counsels advice referred to was requested by the Council and received before Geldards were instructed to advice on the charity aspects.

Richard Crane, The Council's Principal Property Solicitor instructed Geldards. There is a national procurement framework contract for local government legal work, which many local authorities including Cardiff, use for instructing external legal firms to carry out legal work. He made initial enquiries by email via the contact on the NPS framework. He was contacted by Geldards. There wasn't a lot of time before the first meeting of the Advisory Committee, so they were instructed by 2 emails dated 4th October 2022 (the subject of your freedom of information Act request). Richard Crane subsequently had a short call to clarify the instruction and confirm Harriet Morgan from Geldards was to attend the first meeting.

2. I have already answered this point, but to be clear it is for the Committee to decide on the process they wish to follow and they have done so. I have seen no evidence that the Advisory committee are biased. In fact they have worked very hard and have taken time to ensure that they have all the relevant information to consider in making their recommendation, including giving the opportunity to local community groups to be heard by the Committee on two occasions, and on two occasions asking for further information to be provided at subsequent meetings.
3. I have already answered this point, but to be clear I am not advising the Advisory Committee on the valuation of the land. An independent valuer Elizabeth Hill from Cooke and Arkwright is doing that. I am not advising the Advisory Committee on the charity law aspects, Harriet Morgan an independent legal advisor from Geldards is doing that. I am advising the Advisory Committee on local authority governance, and decision making issues, and I do so on the basis of the law. I have no opinion on whether or not the velodrome is a historic asset or not and even if I did have, I would not share it with the Committee, as I am not qualified to do so and my view would not be relevant.
4. I am not a property lawyer, but this point was explained at a meeting of the Advisory Committee. I understand from replies given by the Independent Valuer and the Council's

Principal Property Solicitor to questions raised at the Advisory Committee, that the Bute family estate was the beneficiary but that estate has been broken up and as most property in Cardiff changes hands reasonably frequently, they expect that it would be difficult, expensive and time consuming, to trace the current beneficiaries. More importantly it is unnecessary as the Council (not the trust) has the necessary legal powers to progress with this project if the land swap goes ahead.

As I said at the start of this email, I have done my best to answer your questions in good faith. However please note I will not keep responding to repetitious questions.

Davina Fiore
Director of Legal and Governance and Monitoring Officer, Cardiff Council

From: savemaindy cycletrack [REDACTED]
Sent: 12 January 2023 08:33
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED] FOI / Rhyddid Gwybodaeth [REDACTED]
Subject: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.

ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for your further email.

Again, I only raise further queries where you have not supplied a full answer to a reasonable query. With regards your responses I've put replies in blue below:

1. For the record, I have not openly admitted to making mistakes on this matter, and I and other Council officers would appreciate it if you could please try to deal with this matter without making personal accusations. My role is as a professional advisor to seek to ensure that the Council's conflict of interest in this matter (as charity trustee and Local Education Authority) is resolved one way or another, in accordance with the law, and I am trying to do that in a courteous manner. I have acknowledged that when the extension to Cathays High was proposed the Council was not initially aware that it held Maindy Park in trust as a charitable trustee. I have not acknowledged a personal mistake.

For your information, please note I did not personally instruct Geldards to act on behalf of the charity. My understanding is that they were briefed by phone and in a meeting, and they were of course provided with the Advisory Committee agenda and reports. I will check whether there was a written brief, however your FOI request will be processed in accordance with the legislation and guidance. Please note the suggestion to set up the Advisory Committee did not come from Geldards. The Cabinet meeting on 28th September 2022 recommended that full Council set up an Independent Advisory Committee to make a recommendation to Cabinet on this matter. The report to cabinet is available at the following link: <https://cardiff.moderngov.co.uk/documents/s63548/Cabinet%2028%20Sept%202022%20Maindy%20land%20trust.pdf> Council agreed this recommendation at its meeting on 29th September

Please note this isn't personal, I'm just highlighting mistakes Cardiff Council have made in this matter (there are many) and one of which you confirm. There are, of course, many others that have occurred during this process and I can supply a list if requested.

I would also be grateful if you could clarify how Geldards were briefed on how they were to act on behalf of the Charity. You say they were briefed by phone and in a meeting together with the Advisory Group/Committee agenda and reports. But it would be surprising if they didn't have a written brief outlining how they would be expected to give a robust defence of the Charity's interests? Also can you please supply a list of the people who were at the phone briefing and the meeting briefing.

Also to clarify who set up the Advisory Group/Committee, when you say "*Please note the suggestion to set up the Advisory Committee did not come from Geldards.*". In the link you kindly gave it says in Section 13 "*In line with Counsel's advice, Cabinet is recommended to agree the following decision making arrangements to manage the Council's conflicts of interests in this matter and ensure the Trust Decision is taken properly in the best interests of the Trust*" then adds in para 13 (ii) "*To set up an Advisory Committee.... with the following terms of reference.....*" So I would be grateful if you could confirm that the barrister who gave the advice to the Council wasn't from Geldards or Geldards didn't give any input to the Council as to who to appoint as barrister/Counsel? Also if Geldards wasn't involved in the setting up of the Advisory Group/Committee then how was the process run to appoint a law firm to provide advice to the Council's AG and, at the same time during the process, also ensure there was an effective barrier between the Council as Developer and the Council as Trustee?

2. I was not personally involved in the site visits. The site visit was recorded in paragraph 8(i) of the report to the Advisory Committee on 17th November and information the Advisory Committee requested following the site visit, was provided as publicly available documents for the meeting of the Advisory Committee on 17th November (Appendix F - Maps showing public recreation spaces in Gabalfa, Heath and Cathays, and Appendix G - Data on incidents of crime, anti-social behaviour and public safety for all 3 sites).

Para 8 (i) says "*Advisory Committee members wished to make a private site visit of the land at Maindy Park, and the land to be considered for a land swap at Blackweir and Cae Delyn Park, accompanied by the Operational Manager for Parks and the Head of Health and Safety, for the Committee members to inspect the land topography, its current and potential use in relation to the Charity's objectives and any health and safety concerns. Members considered the objectors' offer to attend the site visit, but decided that the presence of members of the public would not be helpful. A site visit was duly carried out on Wednesday 26th October*" They visited the site so they should have seen how it's a single site with a wonderful historic velodrome, with an art work celebrating the astonishing achievement of Geraint Thomas' Tour de France win, seen the surrounding parkland with many trees and a rich natural habitat for wildlife (our own bat survey has shown the site is used by protected species), the 'Lifetrail' exercise course, etc. This is a unique open space and none of this has been mentioned by the AG in the available site visit information, and I'm also not sure how highlighting other open spaces in Gabalfa, Heath & Cathays helps? In addition, the proposal to split the Maindy Park Trust means Cardiff will end up with a net loss of parkland as a result of the proposed swap and with a Trust having to cover two sites. That a Trust, tasked with preserving a Cardiff parkland for the people of Cardiff in perpetuity, would consider 'swapping' its land so that Cardiff ended up with less parkland is clearly ridiculous. Also the one paragraph given in the para 8(i) of the report to the Advisory Group of what they learnt from their site visit shows unfortunately that they weren't taking it seriously or don't realize what their role is when they fail to address the concerns of the Beneficiaries (in this case the park users and the local community). Unfortunately they could have had a far greater understanding by inviting and engaging with campaigners to give input during their site visits and I guess the fact that they prevented this from happening shows an unfortunate bias on their part. However they could remedy this with a return site visit?

3. With respect, whether or not I think the velodrome is a historic asset is irrelevant. What is relevant is whether or not the valuation should reflect any historic value. As I am not qualified to give a valuation I am sorry I cannot comment on this.

I appreciate it might be an uncomfortable truth, but what you think about the historic value of the velodrome is relevant. You advise the AG on aspects they need to consider, so if you think it's not relevant then you will put little emphasis on what is clear to most, which is that the Maindy Trust are custodians of a truly historic park and velodrome asset that has a huge value. So again, please advise, do you think the velodrome is a historic asset?

4. To clarify what you say - the Council has no knowledge of the current beneficiaries. It does not need to try trace them as there is no requirement in law for us to notify them. Trying to trace them would probably be a lengthy, expensive and possibly unsuccessful process, as properties may have changed hands many times. It is the Council, not the trust, who have the legal power to appropriate land, the Advisory Committee has not been asked to express a view on this point.

You didn't answer my question, so I've included it below also your reply has raised some other questions which I've listed below:

- The Bute family are still the Beneficiaries but you seem to have knowledge they sold their rights? How did you get this knowledge?
- If you know who the current Beneficiary is would you inform them?
- If this is too difficult for Cardiff Council we could investigate ourselves and supply the contact details of the current Beneficiaries?
- The Council will only be able to exercise their right to appropriate (or take without permission) land on the condition that the Trust agree to the 'swap'. The Trust know this will happen so are party to the proposed appropriation because they have the power to stop it. A properly run Trust would clearly never endorse the taking of their land without consent. So I would be grateful if you could pass on my query to the Advisory Group to similarly advise us, do they endorse the taking of Charity land without consent?

5. I have already answered the point about the advice I gave. The members of the Advisory committee receive copies of our correspondence so they will be aware of your views and your wish to speak at the next meeting. I will discuss with them the process they wish to follow at that meeting and your request to have another opportunity to speak.

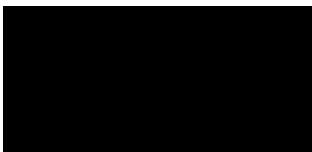
I have since received your email that groups will be allowed 5 minutes so thank you for arranging that.

Conclusion

It does seem bizarre that a lawyer is appointed by the Council to advise them on Trust law but the aim is not to protect the Trust's existing asset but to find a legal way for the Council to eventually appropriate the Trust's land. And via these shenanigans, Cardiff will also end up with less parkland. Truly astonishing.

Yours sincerely,

Chris



From: Fiore, Davina

Sent: 17 January 2023 13:38

To: savemaindy cycletrack [REDACTED]

Cc: Orders, Paul [REDACTED]

Subject: RE: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

Dear [REDACTED]

Further to my email below, I have now had a detailed response from my Finance colleagues in relation to your query about costs and income. The Council's Head of Finance (Ian Allwood) has considered this point, and the report to the Advisory Committee, which will be published on the Council's website later today, includes financial implications and a confidential appendix showing the accounts in relation to Maindy. GLL run the facilities at Maindy and as a commercial operator they take the view that their accounts are commercially sensitive and confidential. We can confirm that expenditure on the site exceeds income, but the detailed accounts information is commercially sensitive and must not be shared without their agreement, which is why the detailed accounts are in a confidential appendix which only the committee members will have access to. I thought it may be helpful if I explained this to you in advance of you receiving the report and appendices. Please note Ian Allwood, the Council's Head of Finance will attend the meeting on Monday to deal with this point.

Best wishes,

Davina

Davina Fiore, Director of Legal and Governance and Monitoring Officer, Cardiff Council

From: Fiore, Davina [REDACTED]
Sent: 03 January 2023 22:30
To: savemaindy cycletrack [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Re: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

Dear [REDACTED]

Thank you for your email.

I will check with finance and come back to you about your proposed approach to GLL.

Thank you for your explanation of the £0 value. I will ask for valuation advice on whether any value should be attributed on this basis, and if not an explanation why not.

Davina

Sent from [Outlook for iOS](#)

From: savemaindy cycletrack [REDACTED]
Sent: Tuesday, January 3, 2023 9:04:41 PM
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Maindy Advisory Committee - 4pm Thursday 17th November, County Hall

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

Thank you for your email. I note that you say your finance team are unable to provide costs and income for the Velodrome because these sums are combined with Maindy Leisure Centre. So GLL, who operate the Maindy Leisure Centre on behalf of the Maindy Park Trust, would have this information. Can you confirm that if we approach GLL for these costs and income, we can say that Cardiff Council do not object to them supplying us with this information?

With regards the historical value of the velodrome, it is correct that because this important value has not been mentioned by the valuer and others, I have extrapolated this omission to £0. Clearly historic sites have a value and it's worth noting the comment from the **Institute of Historic Building Conservation** who say:

"Historic buildings and places have played an increasingly central role in the delivery of a range of

public benefits, including economic development, sustainable growth, urban and rural regeneration, repopulation of inner-city areas, improved competitiveness, cultural development, and providing facilities for local communities. The historic environment underpins many successful projects aimed at improving quality of life, transforming failing areas, empowering local people and creating a better and more sustainable environment. Historic Buildings have their own intrinsic value and any nation that claims to cherish cultural achievement in any field has a duty to care for them. The value of historic buildings and places is recognised in UK legislation and in our being a signatory to various international charters and conventions (UNESCO, Council of Europe, etc). Value is also conferred by every authority and amenity body in the UK and by the growing popularity of historic buildings and places in the public mind."

Also, as I've previously mentioned, Maindy Velodrome appears on CADW's register of Historic Sites - <https://coflein.gov.uk/en/site/410389/>; Unfortunately the fact Cardiff Council have ignored the value of the Maindy Park Trust's historic velodrome again highlights the Council's rather thoughtless approach that has been such a feature throughout this council process intended to destroy a hugely valuable Cardiff asset.

Yours sincerely,

██████

██████████

Press Officer

Save Maindy Velodrome

From: Fiore, Davina

Sent: 17 January 2023 15:28

To: savemaindy cycletrack [REDACTED]

Cc: Orders, Paul [REDACTED]

Subject: RE: Queries on the Council's Second 'Land Swap' Notice

Dear [REDACTED]

I refer to your email below.

For the record, the Council is proposing a land swap, not a “land grab” and if the recommendation of the Advisory Committee is that it is in the best interests of the charity to proceed with it, it will still be subject to a cabinet decision and the consent of the Charity Commission.

The proposal has been dealt with in an open and accountable manner, with the Cabinet referring the proposal to be considered by an Independent Advisory Committee consisting of three independent members of the Council’s Standards and Ethics Committee. As you know, the Advisory Committee will make a recommendation to Cabinet who will make a decision subject to the Charity Commission’s consent.

The Advisory Committee at its last meeting asked for a definitive plan, so they could be sure of the exact and maximum area the proposal covers. There was concern that the previous plan did not cover the necessary access. As this differs slightly to the previous indicative plan, to ensure full and proper consultation had taken place, a decision was taken to reconsult. However all responses to the previous consultation are still relevant and will still be taken into consideration.

I am sorry you were not informed of the follow up consultation, but to be fair your views have already been provided to the Advisory Committee, they have given you another opportunity to address them at their next meeting, and all relevant considerations will be taken into account in reaching their decision. This was a follow up consultation and a longer period was allowed to reflect the holiday period.

The process does not need to begin again, as any new representations made will be taken into account as part of the existing process.

Best wishes,

Davina

Davina Fiore, Director of Governance and Legal and Monitoring Officer, Cardiff Council

From: savemaindy cycletrack [REDACTED]
Sent: 11 January 2023 22:59
To: Fiore, Davina [REDACTED]
Cc: Orders, Paul [REDACTED]
Subject: Fwd: Queries on the Council's Second 'Land Swap' Notice

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.
ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Dear Davina,

It was quite shocking to discover the Council have again acted in a poor and deceitful manner in putting a notice in the Western Mail on 16th December 2022 of an intention to now expand the area you intend to 'land grab'.

When the Council published a very small notice on 20th May 2022 with a 'land swap' proposal, concerns were raised with the Council that they chose to publicise their 'consultation' notice for the 'land swap' in the Western Mail. Out of the Western Mail (which covers the whole of Wales) and the Echo (covers the Cardiff area only) the Council chose the newspaper with the lowest circulation in Cardiff. Newspaper circulation figures are at: <https://www.abc.org.uk/product/1241-wales-the-western-mail> and <https://www.abc.org.uk/product/7282>

So this is another example of how the Council have pulled out all the stops to get the least amount of people aware of what they are planning, which is another example of how the Trustee is working in the best interests of the developer and not the charity.

This notification process also raises a number of questions:

1. The Council also did not inform campaigners about the notice. Why?
2. Why did the Council again publish a notice about planning to take even more Trust land in the paper with the smaller circulation?
3. Why did the Council put the advert in the paper just before the Christmas holidays knowing that the time people would be given to object would effectively be reduced with people's time being taken up with the Christmas and New Year festivities?
4. Why have the Council decided now to take even more Trust land?
5. Were the Advisory Group aware of the Council plan to expand the 'land grab' before the notice was put in the Western Mail?
6. The terms of reference for the Advisory Group were given in 13(ii)9a) as:

To consider whether the land exchange proposed by Cardiff Council in its statutory capacity as local authority should be agreed by the Maindy Park Trust ('the Charity'), having regard to the best interests of the Charity and its beneficiaries, and all relevant evidence in this respect, including (but without limitation to) independent

valuation advice on the relevant land and views submitted in response to the public consultation on this matter;

So as the land exchange originally proposed by the Council and put to the Advisory Group has changed, then the process must begin again?

Yours sincerely,



Press Officer
Save Maindy Velodrome