

Question Number	Category	Raised By	Question	Answer
1			<p>I have some questions relating to the sale and the plans, and am particularly concerned with whether or not the sale and future plans represent value for money for both the Victoria Park Charitable Trust and the council tax payer, and whether the future plans for the Park meet strategic Corporate Plan and Local Development Plan policies:</p> <p>The Lodge was sold for £623,000 - could P&R be provided with whatever valuations the council has for the Lodge?</p>	<p>The Trustees marketed the property in line with the advice contained in the appointed surveyor's report by way of informal tender. The price achieved was the best offer received and the surveyor confirmed that in accepting that offer the Council as Corporate Trustee would be acting in the best interests of the Trust.</p> <p>Attached report from Maunder Taylor dated the 16th March 2015 and sales memorandum accepting purchase offer dated 15th December 2015.</p>
2	Greenspaces		<p>Of the £623,000 purchase price, how much is to be deducted for legal fees, the cost of a Project Manager for the park, and the creation of a car park?</p> <p>Why was the Lodge sold by 'informal tender' and to a cash buyer only?</p>	<p>Green spaces will pay £9345 plus VAT for the agents fees due from the proceeds of sale. The remainder will potentially fund a Project Manager to develop and implement a master plan for the park, which is anticipated to include a children's play area, tennis court refurbishment and a multi-use games area. Further details will be available once the master plan is completed.</p> <p>Legal fees were paid by the Council historically before it was realised that this was a Trust asset. As part of Master Planning exercise we would like to explore the possibility of bringing the existing car park to the side of the bowls green into wider public use. Sale by informal tender was in line with the marketing advice received from the Council's appointed surveyors, Maunder Taylor (MT), pursuant to section 119 (b) of the Charities Act 2011. This was the process that was considered best by Maunder Taylor (MT). In line with</p>

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				normal practice, cash buyers are always preferable as this is less complicated than purchases via funding.
3			Please explain why it was decided to sell the freehold rather than granting a long lease, and why that represented better value for money for the Trust and the Park?-	The Trustees were open to the idea of a disposal by way of long leasehold as well as a disposal of the freehold and instructed MT on the basis of both options. The surveyor in sending the memorandum of sale to the Council's solicitors in December 2015 confirmed that in accepting the offer for the sale by way of freehold disposal at £623,000 the Trustees were acting in the best interests of the Trust.
4			There are covenants and restrictions on the land – please detail what they are and whether they permit it to be developed for housing? If not why was the site sold for that purpose?	<p>There are restrictive covenants subject to which the Lodge was sold. It is not a matter for the Council to establish how far such covenants are subsisting and /or are capable of being enforced. These become matters for any buyer to consider and evaluate. The terms of the restrictive covenant have been provided on a number of previous occasions and are as follows:</p> <p>“No building of any kind shall be erected [on the land conveyed] other than a cottage for the residence of a Park Keeper or gardener, a tool or potting shed, a band stand and a cricket pavilion or other building to be used in connection with the use [of the land] as a recreation ground.”</p> <p>It should be noted that on disposal the land sold was freed from the Trust but not the restrictive covenants which are separate and distinct from the Trust.</p>

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5			In particular please explain why it was decided to sell the freehold to a developer for housing when the 4 November Full Council report states that:-	The Trustees did not sell it for housing or any other specific purpose- the land was simply sold. How the buyer deals with any title issues as far as may be relevant to it is a matter for the buyer. The Property was sold on an unconditional basis and without any on-going obligations as far as any requirement for the buyer to erect or construct anything was concerned. The land was not appropriated to planning prior to sale to facilitate any future possible development uses
6			<p>The building needs an estimated £100,000 expenditure to bring it to decent homes standard which would be required to be able to use it as housing. However, housing accommodation, other than that of a park keeper, is not permitted within the requirements of the Trust and the lodge should not have been used as temporary accommodation in the past.”</p> <p>The Lodge was being used as emergency accommodation for about 20 years - did the Park Charitable Trust benefit from income from the Council for this purpose?</p>	<p>The Trustees accepted that the Lodge had been used in breach of the restrictive covenant. The £100,000 to bring the lodge up to decent homes standard applies even if the Lodge were to be used as a Park Keeper’s or gardener’s residence because these are residential uses.</p> <p>Victoria Park Lodge was indeed used for temporary accommodation for a number of years (certainly since 2002) Prior to the 17th May 2010 any income appears to have been paid to the appropriate Council account and whether this can now be adjusted can be explored. It would follow equally that any expenditure incurred by the Council would need to be treated on a reciprocal basis.</p>
7			The 4 November Full Council report states that consideration was given by Barnet Homes to acquire the land to use for affordable or temporary accommodation,	Bearing in mind the restrictive title covenants for the Council in its capacity as corporate charitable trustee to itself breach them would not have been something that the Council as Trustee could have embraced so the

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			<p>but it was found that paying market value for the land plus refurbishment costs would make this not viable. Did Barnet Homes or the Council give any consideration to acquiring the land and developing it for market sale or private rent? If that is a viable proposition for a small developer, why wouldn't it be for Barnet Homes or a Council Wholly Owned Company?-</p>	<p>options in terms of housing development for the Council as Corporate Trustee were extremely limited. The terms of the 2014 decision recite that the Trustees could not have used it for housing other than as a residence for a park keeper or gardener.</p>
8			<p>At the 4th Nov 2014 Council meeting £100,000 was stated to be necessary to bring The Lodge to 'decent homes standard'. Please provide the evidence on which this claim was based, and a copy of the report in which it was made</p>	<p>The original report is not available but based on a recent estimate the refurbishment costs have been calculated at circa £96.5k.</p>
9	Planning		<p>The planning application for the flats seems to be incomplete - pre-application advice for example has not been provided - was there any and what was it</p>	<p>Pre-application advice was sought from the Council (in its capacity as planning authority) in respect of the redevelopment of the site for the purposes of residential. The case officer met with the architects at the Lodge in late February. The plans were basic with floor plans only showing a building of five storeys with ground floor parking. The case officer provided negative advice against this scheme but did suggest that development of some type may be acceptable. However this should be subject to further detail and discussion. The application form indicated that pre-app advice had been provided but the applicant chose not to indicate the advice that was given within the application form. This is not a mandatory requirement and an application is not invalid without it. The Council can ask for it, but cannot demand that it be</p>

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				provided and it cannot be used as a means to refuse the application.
10			Please confirm why the decision to sell was made by councillors at a Full Council meeting, rather than by a separate body of trustees? The 4 November Full Council report mentions that this could not be delegated to a council committee – please elaborate further.	The decision to sell was made correctly. On the 4 th November the full Council sat – all its members are trustees- in its capacity as corporate trustee not as the Council. A Committee not being comprised of all its members could not have made the initial decision.
11			Why were the many objections raised by residents to the sale not appended to nor mentioned in the Full Council report recommending that the site was sold? Were the Trustees required to consider that information before agreeing to sell the site?	<p>The Trustees in full Council did not advertise its intention to dispose of the Lodge until February 2015 so no objections would have been submitted at November 2014. The Council as corporate trustee was aware of the requirement to advertise and to consider any representations arising from that. The Council as it is lawfully entitled to do as a Corporate Trustee in accordance with the decision taken at full Council delegated certain aspects to the Chief Operating Officer as set out at recommendations 4 and 5 of the 4th November 2014 Report. That included to take all steps necessary to secure the sale of either the freehold or by way of long leasehold of the Lodge in accordance with the Charity Commission's requirements.</p> <p>The Trustees sought advice on an on-going basis from the Charity Commission to ensure that all correct procedures were adhered to.</p> <p>The Charities Act sections 117-121 applied to this sale.</p>

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				<p>This required given the charitable trusts under which this land was held that the Council as Trustee had to have regard to the requirements of not only s 119, but over and above this, the requirements of s 121 which given that the land was designated land , i.e. to be held for stipulated purposes, in this case to be held by the Trustees as recreation ground for the inhabitants and residents of Finchley, specifically that the proposed disposal be advertised by way of public notice, and that this notice should specify that representations had to be made within the time specified in the notice, being not less than 1 month. Section 121 (2) was fully complied with.</p> <p>The express consent by way of Order from the Charity Commission was not required as the area of the Lodge intended to be disposed of relative to the remainder of Victoria Park was considered by the Charity Commission to be too small to have any adverse effect on the continuation of the Trust vis a vis the remainder of the Property so the Commission dispensed with any requirement for the Council as Trustee to obtain an Order. The Lodge in accordance with the Charity Commission advice was therefore sold in reliance of the powers which were available to the Council as Trustee pursuant to section 6 of the Trustees of Land Act 1996.</p> <p>The Summary DPR of the 14th August 2015 provided the final authorisation for the sale. It referred to the various objections that had been received, and recited the authority pursuant to which the Chief Operating Officer was tasked to consider them being the Council decision of 4th November 2014.</p>

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				<p>Corporate Trustees are fully able to delegate aspects of transactions in accordance with the delegated authority given by the Trustees. The Council acting as Council or via the relevant committee often does this as part of the way it transacts and conducts its activities and business and its normal commercial operation.</p> <p>As there are no Memorandum or Articles of Association for the Council save for its Constitution the Trustees reverted to normal business practice under the Constitution in delegating to the Chief Operating Officer (“COO”).</p> <p>However, as mentioned above, the requirements of the Charities Act s 121 (2) required that the representations made following from any advertisement process were considered. This in line with the 2014 Trustee decision (recommendation 4), fell to the COO to evaluate.</p>
12	Planning		How many residents were formally consulted on these plans and involved in discussions on the plans before the application was submitted?	As the pre-application services are a confidential exchange of information between the Council and the developer, we do not consult with neighbours. However, developers are encouraged to share information with neighbours and interested parties prior to submitting a planning application. The Council as planning authority advised that they should consult widely given that development around, near or in a park can suffer from a lack of support. It transpires that consultation was carried out with the Etchingham Friends.

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13			What is the precise role of the Etchingam Friends in the sale of the Lodge and planning application, when were they first involved and why?	This is unknown. Although there has been some supporters to the application, none of this has come specifically from this group. Their involvement in the sale of the Lodge is unknown to the Trustees or the Council. They have not been in contact with the planning department with respect to the application. However, this group exists somehow and it is this group that the applicants have sought to consult, choosing them as being representative of the community as a whole.
14	Planning		Please confirm whether the same officers who have given the pre-application advice, overseen the consultation and worked with the applicant on the application will also be making the recommendations on the application to the Planning Committee? Please advise if this is the normal process for planning applications and whether there is any oversight in the normal planning process by a supervisor/manager to ensure transparency and probity?	The same officer has been involved in pre-application and the application stage (including the consultation phase and the consideration of comments received during this consultation phase). A manager/team leader authorised the release of the pre-application advice and will do the same for the recommendation in accordance with the constitution and the scheme of delegation. This is normal for the purposes of business continuity and development process certainty.
15			What due diligence has been undertaken in relation to the application/applicants to ascertain if they are appropriate people to carry out this development?	This is not a matter for the Council as seller. As stated before there is no requirement in the Contract to obligate the buyer to erect or construct any development and it would if planning permission for the requisite development were granted, also be a matter for the landowner if it wished to implement any planning permission granted or choose to let it lapse.

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				None is required in respect of planning. Planning relates to the use of land and the development of it or on it in accordance with the national, regional and local policy framework and the material considerations that may exist for a site or a scheme.
16	Planning		Why were all "supporting' comments in regard to the planning application anonymised, while all objections were published with full details of names and addresses, until complaints were made to the Chief Executive?	This was a fault in the system settings following an upgrade to the database. This has now been fixed.
17	Planning		Please confirm that the names and addresses of those leaving comments about the application online – whether in support or against– will be published ?	These have been published.
18	Planning		Please advise why local councillors for the ward have not been fully consulted on discussions relating to future plans for the park?	<p>The Master Plan has not yet been developed. However it will be developed with local residents and stakeholders and will be put out for a full public consultation and developed using the response received.</p> <p>There has been an informal meeting held with members of the Etchingam Friends, as they raised a concern about how the funding would be spent, and the meeting was to delay their fears. No decisions were taken and all that was discussed was what could be done in the park with the monies received. We agreed that a Master Plan was the route forward and it should follow the following</p>

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				<p>process;</p> <ul style="list-style-type: none"> • To design a high level master plan concept with key stakeholders • Consult on the high level master plan with residents and the wider public • To utilise the consultation responses to design a more detailed master plan identifying key work streams • Consult on the revised master plan and how we plan to prioritise what we will deliver with the available funding and what will need further funding (if any). • Some of the work streams may need specific consultations to inform their final design (playground for example). • Finally deliver the work streams in a priority order.
19	Planning		For future consultation with local residents and users of the park can the council confirm what arrangements will be put in place and how will a more representative range of local residents, and ward councillors, be involved?	The comments received about the range of consultation have been taken on board and we will engage with local ward Councillors and local residents about the future park proposals. Where development might materially affect the way that this park is enjoyed, it is recommended that the scale of neighbour consultation is widened. Additional site notices can be erected. This decision should be taken pragmatically in connection with development that might have an impact. Development not requiring planning permission (including permitted development carried out by a local authority) or minor developments such as maintenance, landscaping or the erection of minor structures ancillary to the use of the park may not be suitable for this extensive consultation exercises.
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21	Planning		Public concerns have been expressed about plans for car parking at the park. Can P&R be provided with details of any plans for car parking within or on the boundary of the park?	Much of the footprint is occupied by the building. The rest of the site is either access space, access to the car lift, car parking or amenity space. The main parking area is at basement. I have attached a layout plan.
22	Planning		Please advise what corporate or planning policies are either met or contravened by cementing over part of the Park and erecting a car park?	Given the cessation of the use of the building to accommodate a park keeper and the subsequent use of the site to accommodate homeless people, the site is no longer attached to the park. As such, no loss of open space or parkland would occur. If development occurred outside of the boundary, there would be a loss of park land which would be a departure from the Local Plan and would require consultation with the National Planning Casework Centre. It would have to be advertised as a departure from the Local Plan too.