

RESPONSE TO CONSULTATION: RELATING TO JESMOND DENE AND THE BANQUETING HALL

Please use the contents pages if you would like to go directly to the responses that are of interest to you.

PART A: Responses relating to the Consultation	
1	Does this consultation relate to the Newcastle Parks and Allotments Trust?
2	Who runs this charity?
3	Why can't I find the charity on the Charity Commission's register of charities?
4	Can I see a copy of the charity's governing document?
5	What do I need to understand about the charity's trust deed that is relevant to this consultation?
6	What do you want to change about the requirements of the trust deed?
7	Why do you want to make these changes?
8	If Newcastle Parks and Allotments Trusts is taking over does this mean you are stepping away from your responsibilities?
9	Please provide reassurance that the rest of Jesmond Dene is not going to suffer from a lack of investment particularly in light of budget cuts
10	Who have you consulted with?
11	What else do you need to do before you can make these changes?
12	Why do you need to make these changes if events are already happening in Jesmond Dene?
13	Why do you need to make these changes when the occupier of the Banqueting Hall already provides artistic events?
14	If the trust deed changes, will the Banqueting Hall still be a charitable asset?
15	If the trust deed changes, is this just an excuse to sell the Banqueting Hall?
16	If the trust deed changes, is this just an excuse for the Banqueting Hall to be demolished?
17	What is the plan for the future of the Banqueting Hall?
18	Even if the Banqueting Hall is restored, is the motive actually to develop the Banqueting Hall commercially?
19	How much will it cost to repair the Banqueting Hall?
20	I heard a decision had actually already been made and the Banqueting Hall is going to be turned into holiday lets.
21	The notice mentioned Jesmond Dene and the Banqueting Hall but there are other properties in Jesmond Dene - why haven't they been mentioned in the consultation?
22	Does Jesmond Dene parks include Paddy Freemans park, Armstrong Park and Heaton Park?
23	I am concerned about increased use of Jesmond Dene
24	I am concerned about increased workloads for volunteers with increased use of Jesmond Dene
25	Why did no-one from Newcastle Parks and Allotments Trust attend the public meeting?
26	Can the consultation period be extended?
27	Will any submission the Council makes to the Charity Commission be open to public view before it is submitted?
28	Will the charity form some kind of sub-trust of Newcastle Parks and Allotments Trust?

Part B: Other Questions and concerns raised	
1	Will Jesmond Dene be treated differently to other city parks under the management of the Newcastle Parks and Allotments Trust?
2	I have concerns regarding nuisance, noise, anti-social behaviour or parking issues.
3	I've heard you are changing the name of the charity and merging it with a charity that holds land in Hodgkin Park, is this true?
4	Will the council be introducing a residents only parking scheme in my street prior to these changes?
5	Can we have more outdoor events for the local community and a broader range of events in Jesmond Dene?
6	Can events in the parks promote access for people with disabilities?
7	The Council has felled more than enough trees
8	The Council sold Jesmond Nurseries and kept the money when it should have gone back into the park
9	How does the tone of letter fit in with the equality and diversity policies of the council, should the notice not have been in plain English?
10	Why was the email address for correspondence addressed to Newcastle Parks Trust?
11	Why did my letter come in a plain white envelope?

PART A: RESPONSES TO QUESTIONS RAISED ON THE CONSULTATION

1. Does this consultation relate to the Newcastle Parks and Allotments Trust?

It does not.

The consultation relates to a charity created in 1883. The assets of the charity are part of Jesmond Dene Park and the Banqueting Hall. See more detailed information about Newcastle Parks and Allotments Trust's role below.

2. Who runs this charity?

All charities are run by one or more charity trustees. Trustees are responsible for achieving the charitable purpose(s) of the charity and protecting the charity's assets.

The trustee of the charity in question is Newcastle City Council, and it owes all of the legal duties and responsibilities that any other charity trustee would owe.

The Council is the only trustee the charity has ever had. It was appointed in 1883 by Lord Armstrong (who previously owned the land) to perform this role. The Council holds the assets of the charity on charitable trusts. These assets are held separately to the Council's other assets. For this reason the Council does not own Jesmond Dene and the Banqueting Hall as a local authority but holds them as charity trustee and so must meet the requirements of charity law in relation to these assets.

3. Why can't I find the charity on the Charity Commission's register of charities?

The charity is not currently registered at the Charity Commission so it does not appear on the register of charities and does not have a registered charity number. However, the Council intends to register the charity as it is anticipated that its annual income will go above the minimum threshold for registration of £5,000.

4. Can I see a copy of the charity's governing document?

The governing document of the charity is a trust deed dated 3rd October 1883. Due to its age it is difficult to read. We attach a copy of the trust deed in its original form and a typed copy which you may find easier to read.

5. What do I need to understand about the charity's trust deed that is relevant to this consultation?

The trust deed confirms that:

- Lord Armstrong gave part of Jesmond Dene and the Banqueting Hall to the Council.
- Lord Armstrong said that the Council was to hold these assets on trust forever to be used for the specific charitable purposes set out in the following two paragraphs, rather than the Council owning them as a local authority.

- Lord Armstrong wanted the Banqueting Hall to be used only "*for lectures, recitals, concerts, banquets and meetings (such lectures, recitals, concerts, banquets and meetings being connected with arts, literature, science of education)*" OR "*for pursuits or other gatherings appropriate to a public park*".
- Lord Armstrong wanted the remainder of Jesmond Dene to be used only "*for a public park and recreation and pleasure ground*".
- Nothing should be erected or built in Jesmond Dene unless it is appropriate and necessary for using Jesmond Dene as a public park and recreation and pleasure ground.
- Nothing should be done in Jesmond Dene or the Banqueting Hall which will cause a nuisance or annoyance to the neighbourhood or which has a political purpose.
- Admission cannot be charged to enter or use Jesmond Dene. Admission can be charged for lectures, recitals or concerts held at the Banqueting Hall if money that is received is given to a medical or other charitable institution in Newcastle.
- The Council (as charity trustee) decides how to control and regulate Jesmond Dene and the Banqueting Hall.

6. What do you want to change about the requirements of the trust deed?

The Council, as charity trustee of the charity, is considering changes which would:

- Allow the Banqueting Hall to be used for any purpose
- Require Jesmond Dene to be used not just as a public park, but also to further the charitable purposes which are currently attached to the Banqueting Hall. This might be, for example, holding open performances within the grounds of Jesmond Dene, or holding meetings and lectures in another building within the grounds, or something similar, all of which happen at the moment.

Please note that even if the Banqueting Hall is used for a purpose which generates money, all money would be required by law to be used to further the charitable purposes of the charity.

7. Why do you want to make these changes?

There are a number of reasons the Council as trustee is considering making these changes. In summary this is because the Banqueting Hall is in a state of disrepair and the Council as trustee does not have enough money to repair it. It wants to do what it can to ensure that Lord Armstrong's wishes can be achieved. It also wants Newcastle Parks and Allotments Trust (see further below) to have as much flexibility as possible to restore the Banqueting Hall and bring it back into complete use in a way that is financially viable.

In further detail:

- The Banqueting Hall is not currently in a state of repair that allows it to be used for the purposes which Lord Armstrong wanted. There is a very long history attached to the Hall and its condition and numerous attempts over the years to decide how best to approach it. What the Council does know is that the Hall has been referred to as a controlled ruin since as far back as 1965 with unconfirmed reports of a fire in the same decade. The roof was then removed during the course of 1977.

- The charity does not have enough funds to repair and restore the Banqueting Hall. Lord Armstrong gave some rental properties to use to generate an income to maintain Jesmond Dene and the Banqueting Hall. Whilst these rental properties may have produced enough money in the early 20th century to achieve Lord Armstrong's wishes, over a number of decades they have fallen into disrepair themselves and some have had to be demolished, and others sold (with the permission of the Charity Commission) to pay for improvements to Jesmond Dene. Whilst the limited income received from remaining rental properties is ring-fenced for Jesmond Dene and the Banqueting Hall, it is not enough to keep them in good condition without additional funding. The Council has, for many years, prioritised the upkeep of Jesmond Dene because it is able to provide a greater benefit to a wider section of the public than the Banqueting Hall. The Council as trustee recognises that this is far from satisfactory, but as a local authority it does not have spare resources it can donate to the charity to meet this funding gap.
- The proposed changes would allow the Council as trustee to ensure the wishes of Lord Armstrong are preserved across the Jesmond Dene estate, even if they were not necessarily delivered from the Banqueting Hall itself.
- The Council as trustee is consulting on the proposal now because in 2019, Newcastle Parks and Allotments Trust will take responsibility for maintaining Jesmond Dene and the Banqueting Hall, as well as many of the city's other parks, allotments and open spaces. The Trust is supportive of the proposal. The proposal would ensure the Trust does not breach the current requirements of the Trust Deed. The proposal will also give the Trust complete flexibility to decide how it will preserve, restore and use the Banqueting Hall, in its discretion. The Council acting as trustee thinks that the Trust is in the best position to make this decision with its board of independent trustees.
- If these changes are made, the Trust will have the flexibility to deliver Lord Armstrong's wishes in a way that is suitable for the 21st century and deliver greater benefit to the public than is currently possible.

8. If Newcastle Parks and Allotments Trusts is taking over does this mean you are stepping away from your responsibilities?

No.

The Council will continue to be the charity trustee of this charity. The creation of Newcastle Parks and Allotments Trust will not change this. The Council as trustee will continue to be responsible for Jesmond Dene and the Banqueting Hall but it will achieve Lord Armstrong's purposes through the work of Newcastle Parks and Allotments Trust. This ongoing legal responsibility means that the Council as trustee would always have the ability to step in if the Trust did something which was not in keeping with the purposes of the charity, but it is of course hoped that Jesmond Dene and the Banqueting Hall will thrive under the management of the Trust which will be dedicated and focussed to preserving all of the city's parks.

9. Please provide reassurance that the rest of Jesmond Dene is not going to suffer from a lack of investment particularly in light of budget cuts

A key reason for the creation of Newcastle Parks and Allotments Trust is to ensure a focussed investment in all parks in the city, including Jesmond Dene. The Trust will be able to access sources of funding which will support continued investment in Jesmond Dene and all other parks.

10. Who have you consulted with?

In summary, the Council as trustee has notified residents whose property adjoins Jesmond Dene along with other parties who have a direct involvement in or connection to Jesmond Dene and/or the Banqueting Hall of the proposal.

The full list of individuals and organisations the Council as trustee has sought views from is as follows:

- Lord Armstrong's successors in title
- Newcastle Parks and Allotments Trust
- All current Jesmond Dene and Banqueting Hall tenants
- 120 volunteers who volunteer in the City's parks
- 10 stakeholder groups with a particular interest in Jesmond Dene and/or the Banqueting Hall
- 1468 local residents who live up to 100 metres away from the Jesmond Dene park boundary
- 2549 people through the Council's consultation website (Let's Talk Newcastle)
- All Ward Councillors in Newcastle
- All residents who use Jesmond Dene through six notices placed around Jesmond Dene and the Banqueting Hall on public notice boards
- All residents who read The Journal through two notices placed in that newspaper.
- All residents through information about the consultation placed on the Council's website
- All residents through letters, notices, and website notices to attend a public meeting on 6 December 2018

After careful consideration the Council as trustee decided against sending a letter to all residents in the city on the basis that the approach taken to the consultation was proportionate, and focussed primarily on those with an interest in the specific area.

11. What else do you need to do before you can make these changes?

The Council as trustee will need to decide whether or not to proceed with the proposal, or whether to vary the proposal based upon feedback it has received from the consultation.

Historically, the Council as trustee would have required approval from a division of the High Court of Justice before the proposed changes could be made. This is no longer required. Instead, the Council as trustee must make an application to the Charity Commission for a legal document (known as a scheme) to make these changes. If granted, this scheme will amend the charity's trust deed to reflect the proposed changes.

12. Why do you need to make these changes if events are already happening in Jesmond Dene?

The changes are required so that the restrictions currently placed on the use of the Banqueting Hall can be removed so that the Banqueting Hall can be restored and used in a way which is financially viable.

The Council as trustee does not want to remove the restrictions entirely from the estate as it does not believe this will meet the spirit of Lord Armstrong's gift. It believes that, if the charity is legally required to ensure the purposes that are currently restricted to the Banqueting Hall are achieved across Jesmond Dene as a whole, this will ensure that Lord Armstrong's original intentions cannot be forgotten. Any events will of course need to meet the requirements of the trust deed (as amended by the scheme).

13. Why do you need to make these changes when the occupier of the Banqueting Hall already provides artistic events?

To meet the requirements of charity law, events must further the charitable purpose set out in question 5 above. It must also deliver benefit to a sufficiently broad section of the public. This is known as the public benefit test and is a requirement that all charities must meet. The Council does not believe that the current use of the Banqueting Hall is sufficient to meet the public benefit test, largely because of the condition of the building itself.

14. If the trust deed changes, will the Banqueting Hall still be a charitable asset?

Yes.

The Banqueting Hall will continue to be an asset of the charity and must be used by the charity (and managed by Newcastle Parks and Allotments Trust on the Council as trustee's behalf) in accordance with charity law and the trust deed (as amended by the scheme).

15. If the trust deed changes, is this just an excuse to sell the Banqueting Hall?

No.

The Banqueting Hall will continue to be an asset held for the charity.

16. If the trust deed changes, is this just an excuse for the Banqueting Hall to be demolished?

No.

The Banqueting Hall will continue to be an asset held for the charity. The only exception to this would be if it was found, after a professional assessment, to be a danger to the public because of risk of its collapse, or similar.

17. What is the plan for the future of the Banqueting Hall?

The Banqueting Hall will continue to be an asset held for the charity. The future of the Banqueting Hall will be decided by Newcastle Parks and Allotments Trust as part of its overall strategy for the parks, allotments and open spaces of the city, once it takes responsibility for the city's parks in 2019. There are no proposals at the moment, for future uses.

Due to concerns about the Banqueting Hall, the Council as trustee put out a general request in 2017 for any parties that might be interested in working up proposals for the Banqueting Hall, with the intention that these would eventually be put to Newcastle Parks and Allotments Trust for decision. The Council as trustee received two expressions of interest, one from the Tyne and Wear Building Preservation Trust (TWBPT), a registered charity, which was successful with its application. TWBPT has been working up its proposals and is still in the process of doing that. TWBPT has no legal interest in the Banqueting Hall,

but is working up proposals to be considered by the Newcastle Parks and Allotments Trust in due course.

18. Even if the Banqueting Hall is restored, is the motive actually to develop the Banqueting Hall commercially?

If the proposal proceeds, then there will be no restriction upon the use of the Banqueting Hall. The Banqueting Hall will however continue to be an asset held for the charity.

Newcastle Parks and Allotments Trust, as the charity tasked with overseeing and managing Jesmond Dene and the Banqueting Hall on the Council as trustee's behalf, will have day to day responsibility for deciding how the Banqueting Hall can be best used in the future. The Trust might decide to use the Banqueting Hall for some or all of the original purposes (once restored), as described in question 5 above. If so, it might decide to charge a reasonable fee for admissions, in keeping with Lord Armstrong's original wishes. It could also decide to use the building in a way that generates income, for example by putting a café in the building for visitors to Jesmond Dene or by renting the building. By law, any money the Trust receives from the Banqueting Hall (or any other source) must be reinvested in the work that the Trust does. It could not, for example, use the money to issue a dividend or bonus. These protections come from charity law and the Trust will operate within the constraints of charity law at all times.

19. How much will it cost to repair the Banqueting Hall?

The Council as trustee does not have an estimate, but it is likely to be a figure in the "millions of pounds". For information, TWBPT's (see question 16) estimate is £3m - £4m.

20. I heard a decision had actually already been made and the Banqueting Hall is going to be turned into holiday lets.

No decision has been made about the future of the Banqueting Hall for the reasons outlined above. Planning permission has been obtained to turn the caretaker's lodge into holiday lets. No holiday lets (or any other use) will be permitted in the Banqueting Hall if the proposal does not proceed.

21. The notice mentioned Jesmond Dene and the Banqueting Hall but there are other properties in Jesmond Dene - why haven't they been mentioned in the consultation?

The focus of the consultation is very narrow and purely relates to the proposals affecting Jesmond Dene and the Banqueting Hall as described in question 6 above. Whilst there are other properties within Jesmond Dene as mentioned in question 7 above, these are not the subject matter of this consultation and were donated by Lord Armstrong under separate arrangements and for separate reasons.

22. Does Jesmond Dene parks include Paddy Freemans park, Armstrong Park and Heaton Park?

The trust deed is restricted to those areas described in the trust deed itself, please refer to the documents provided for further detail.

23. I am concerned about increased use of Jesmond Dene

Newcastle Parks and Allotments Trust will be responsible for effectively managing any events or activities being held in Jesmond Dene. As one of the charitable purposes of the Trust is to protect and maintain the parks it would not be in its interests to allow such an increase in activities to be to the detriment of the maintenance and upkeep of any park.

24. I am concerned about increased workloads for volunteers with increased use of Jesmond Dene

Newcastle Parks and Allotments Trust will be responsible for working closely with local groups who dedicate volunteer time to maintaining parks in the city and will be developing a volunteer strategy to engage local residents in giving their time to the parks to meet any increased usage over time.

25. Why did no-one from Newcastle Parks and Allotments Trust attend the public meeting?

The Chief Executive of the Trust (which is not yet formally constituted) has responded to the consultation in writing and is supportive of the proposal. The consultation itself is being carried out by the Council in its capacity as trustee of this charity.

26. Can the consultation period be extended?

Following concerns raised at the public meeting held on the 6 December, it was recognised that there may be people who would wish to comment but who had not had the opportunity to do so prior to the public meeting. The Council as trustee has since accepted all representations made to it between 7 December and 21 December 2018 inclusive and has now closed the consultation.

In that period further representations were made to the Council as trustee and these will be taken into consideration with all other comments received. The Council cannot undertake an open-ended consultation and the consultation is not open to proposals to be put forward for the use of the Banqueting Hall. This is for the Newcastle Parks and Allotments Trust to determine.

27. Will any submission the Council makes to the Charity Commission be open to public view before it is submitted?

Now that the consultation period has closed, the Council as trustee will carefully consider the responses it has received and take a decision, acting in the best interests of the charity, as to how it will proceed. The Council will make any submission to the Charity Commission available upon request however it does not intend to consult with the public about the content of any submission.

28. Will the charity form some kind of sub-trust of Newcastle Parks and Allotments Trust?

No.

It will continue as an independent charity and its charity trustee will be the Council.

PART B: OTHER QUESTIONS AND CONCERNS RAISED

1. Will Jesmond Dene be treated differently to other city parks under the management of the Newcastle Parks and Allotments Trust?

In general no. All parks will be managed by the Trust in a way that ensures proper facilities for all residents across the city. At the same time, there will be additional restrictions upon what the Trust can do within Jesmond Dene due to the terms of the trust deed.

2. I have concerns regarding nuisance, noise, anti-social behaviour or parking issues.

For activities within the parks, Newcastle Park and Allotments Trust's trustees will make any decision about their use acting in the Trust's best interest whilst ensuring that the activities are compatible with the charity's charitable purposes. If you experience any of these issues please draw these to the attention of the relevant Council department in the usual way or speak to your local councillor. Once the Newcastle Parks and Allotments Trust is up and running, any issues should be referred directly to them as the organisation managing the parks.

3. I've heard you are changing the name of the charity and merging it with a charity that holds land in Hodgkin Park, is this true?

There are several parks in Newcastle which contain charitable land where the Council acts as the only trustee. These charities were each created by historic trust deeds. All charities have similar charitable purposes which means that, with the assistance of the Charity Commission, they can be combined into one charity. This is a practical change and one which is encouraged by the Charity Commission, making arrangements more transparent and easier to administer. The merger will consolidate all charitable land into one charity, and the Council will continue to be the trustee of that charity. The charity will be called "Armstrong and Hodgkin Charitable Trust" to respect and honour the original donors.

4. Will the council be introducing a residents only parking scheme in my street prior to these changes?

No, there are no plans to do so.

5. Can we have more outdoor events for the local community and a broader range of events in Jesmond Dene?

It will be for Newcastle Parks and Allotments Trust to determine how Jesmond Dene can and should be used in the future. Any events must be in keeping with the requirements of the trust deed, and any variations to the trust deed.

6. Can events in the parks promote access for people with disabilities?

Newcastle Parks and Allotments Trust will be responsible for planning activities in the parks. Feedback from previous consultations highlights the need for parks to be inclusive and so we anticipate this will form part of the Trust's strategy.

7. The Council has felled more than enough trees

It was reported in the media earlier this year that more trees had been felled in Newcastle than anywhere else in the last three years. The city's tree population is estimated to be circa 800,000 across Newcastle. Of the 8,000 trees felled, 2,647 were stumps, 2,742 were self-seeded saplings and 403 were dead. The trees felled represent around 0.35% of the city's stock. When trees are removed, the Council plants at least one more, typically following a 2:1 replanting programme, though this itself is often exceeded.

8. The Council sold Jesmond Nurseries and kept the money when it should have gone back into the park

The site known as “Jesmond Dene” nurseries is not part of Jesmond Dene park. It is a former Council depot used for growing plants. Although it adjoins the park, it is not part of the park and it was not part of the original gift from Lord Armstrong and so is not a charitable asset.

9. How does the tone of letter fit in with the equality and diversity policies of the council, should the notice not have been in plain English?

The proposed changes relate to quite complex and technical areas of charity law that can be hard to explain in plain English. We hope that these more detailed responses have assisted your understanding of the proposal.

10. Why was the email address for correspondence addressed to Newcastle Parks Trust?

The Council has been using this email address for some time (newcastleparkstrust@newcastle.gov.uk), for matters relating to the parks and allotments more generally and it was felt that this was an appropriate mailbox to receive responses. All Council email addresses end with @newcastle.gov.uk which flags where the email is going to. On reflection however we can see that this may have caused confusion. In any event, all correspondence has been received and reviewed by the Council as trustee, and Womble Bond Dickinson.

11. Why did my letter come in a plain white envelope?

The Council felt that it was important for residents to distinguish between usual communications from the Council as the local authority and this communication that was sent in the Council's capacity as a charity trustee. It was felt that one way to make this distinction would be for the letter to be drafted from Womble Bond Dickinson on behalf of the Council as trustee as its legal advisers. We hope that this did not cause too much confusion.