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**Decision Session**  
**- Executive Member for City Strategy**

**5<sup>th</sup> October 2010**

Report of the Director of City Strategy

**Children's Play Area at Beckett Drive, Osbaldwick**

**Summary**

1. This report is in response to a petition received at full Council on 15 July 2010 from Councillor Alexander, on behalf of local residents, regarding a play area behind Kirkdale Road.
2. The report explains the background to the petition and the options available to the Council to seek to address the concerns expressed by residents.

**Recommendation**

3. It is recommended that the Executive Member approves option A below i.e. to continue the existing measures being implemented to alleviate the concerns of residents.

Reason: To ensure that in addition to the new, higher fence recently installed appropriate screen planting is introduced to reduce the impact of the use of the play area and equipment upon residents of Kirkdale Road.

**Background**

4. A complaint was first made to the Council regarding the play area in February 2008. It was queried whether the play area had received permission as part of the residential development at Murton Way. The subsequent enforcement investigation found that the area conformed to the approved layout of the play area. Annex 1 shows the location of the area within the new development.
5. The play area at Beckett Drive was required to comply with the Council's policies in relation to open space and play provision, as part of application 03/01305/FUL for the erection of 62 dwellings with associated access, parking and landscaping on land off Murton Way in Osbaldwick. The history of the application with particular reference to the play area is as follows: -
  - The application for residential development ref 03/01305/FUL was submitted in April 2003
  - A revised layout plan (MWO/SK1/A) was received 28<sup>th</sup> July 2003

- A reconsultation process on this plan was carried out on 28<sup>th</sup> July 2003
- A revised layout plan showing the open space in the current location was received on 27<sup>th</sup> October 2003 (MWO/SK1/C).
- Residents and the Parish Council were reconsulted on the 12<sup>th</sup> November 2003
- The Council's landscape architect then sought an enlargement of the open space area in the same location to meet the size standards for a LEAP (Local Equipped Areas for Play). An area of some 782 sq m was sought given the size of development.
- A plan showing the enlarged area in its current position (MWO/SK1 rev E) was submitted in 16<sup>th</sup> December 2003
- Reconsultation of the Parish Council and residents took place on 19<sup>th</sup> December 2003. The reconsultation letter stated revised details had been received summarised as:- " 1 Revised layout / access position 2. Details of changes in ground levels, with consequential land drainage measures and elevational changes to house types." The letter gave 21 days for comment.
- A landscaping plan, 1489/B, was received on 4<sup>th</sup> February 2004. This plan was annotated 'LAP to future detail and POS'. However this plan did not show the play equipment and did not form part of the approved plans, and was not subject to reconsultation on receipt. The small corner not shown as grass would not have been sufficient to have constituted the play area, as the whole of the space was to be used as an equipped play area to approach the required space standards. Also condition 6 of the eventual approval required the submission of landscaping details.
- Notification of interested parties took place on 18<sup>th</sup> February 2004 regarding the consideration of the application at Planning Committee on 27<sup>th</sup> February 2004.
- Consideration of the application was deferred at this meeting for the following: -
  - i. To allow satisfactory resolution of the drainage issues relating to the proposed development;
  - ii. To explore ways of reducing the number of mature trees lost on the site during the development;
  - iii. To allow the sustainable design features of the proposed development to be demonstrated;
  - iv. To allow negotiations with the applicant with a view to reducing the proximity of the proposed buildings to existing dwellings;
  - v. To allow negotiations with the applicant with a view to re-examining the design of the lofts in the proposed buildings to maximise storage space.

- The above issues were discussed with the relevant consultees and resolved to the officers' satisfaction through submission of details on 15<sup>th</sup> March 2004, including planning layout plan 114/L showing the open space.
- Reconsultation took place in respect of details and information on 18<sup>th</sup> March 2004 (including sections showing ground levels raised by 1 metre).
- The application was deferred from consideration on the 25<sup>th</sup> March 2004 to allow interested parties to be notified.
- Layout Plan 114/M was received 1<sup>st</sup> April 2004 with no specific positions for play equipment on the area of open space, which remained in the same place as on the plan received 16<sup>th</sup> December 2003 (MWO/SK1/E). Reconsultation was not considered necessary as it did not involve any additional impact or details that would have had an additional impact on residents (plot 44 had been moved further away from boundary).
- The application was considered at the Planning Committee on 2<sup>nd</sup> April 2004. The report refers to the need to raise ground levels by 1 metre. It also refers to a play area being located centrally within the site. Members were updated at the meeting and plans of the site with ground levels and sections were made available at the meeting. The open space area clearly marked on the plan is the only open space area central to the site - the other area being adjacent to Murton Way. It would have been self evident to Committee Members that this would be the location of the children's play space as it is the only open space central to the site, as would its location in relation to the existing properties. The play area is bounded on 3 sides by properties within the new development, and to the rear by properties along Kirkdale Road
- Delegated authority was given to approve the application following adjustments to the site layout to increase the sustainability aspects of the design and increase the number of trees retained, the pepper-potting of affordable housing at the site, and subject to appropriate conditions and a section 106 agreement. The Section 106 Agreement included an obligation that a management company be appointed by the developer to either take over the freehold of or to maintain the open space on behalf of the developer.
- Once the Section 106 Agreement was signed the planning permission was issued 8<sup>th</sup> August 2004.
- Details of the layout and landscaping of the play area as shown on drawing 1489/2 were approved on 28<sup>th</sup> February 2005.

6 Further complaints were made to the Council in July 2009 on behalf of residents of Kirkdale Road. The Parish Council wrote to complain about and query the decisions and what was considered to be a lack of consultation in respect of the play area. Following investigation, it was again found that the equipment appears to have been installed in accordance with the approved

details and so there are no planning enforcement powers available to seek alteration of the scheme. In addition, from the above, the Committee determined the application in the knowledge of the raising of the land levels and knowing the location of open space where the children's play area would be sited. As mentioned, consultation took place in respect of the plans showing the raising of the land and of the location of the open space area, and representations were made at the relevant Committees.

- 7 Notwithstanding the above findings, a meeting was held on site with representatives of the Parish Council to discuss the impact of the play equipment as installed on adjacent residents and to consider measures for alleviating this impact. It was confirmed that the play area was not Council owned or maintained and as such any remedial measures would first require the consent of the owner and Management Company of the site. Colleagues in Leisure Services agreed to investigate the possibility of moving the equipment with the original installer, and to look at the scope for additional screen planting and /or raising the height of the fence along the rear boundary. Officers were able to appreciate the impact of the use of the play equipment upon adjacent residents in terms of privacy and disturbance. Viewing the play area from one of the adjacent properties confirmed that the raising of the development site and the play area about 1 metre above that of adjacent housing resulted in overlooking from the main piece of play equipment. It was agreed that measures would be investigated, but it was also stated that no promises could be made given the lack of control over the play area, funding issues and the practicality issues. Residents visited at that time acknowledged this and stated that any measures that could be achieved would be welcomed.
- 8 Following the meeting in November 2009, Leisure Services colleagues arranged for two play equipment installation companies to assess the scope for moving the equipment with a view to providing quotations for the works. Following these meetings and consideration by the companies involved, in January of this year the Parish Council was informed that the cost and practicalities of moving the equipment were prohibitive, and the measures to replace or increase the height of the fence and to install screen planting were being pursued. In subsequent correspondence the Parish Council did not raise concerns that this course of action would be inadequate or unacceptable to the affected residents. The residents to the rear at 16 Kirkdale Road were also advised that a fence and planting was being pursued and acknowledged this.
- 9 The management company for the play area was approached to give consent for the raising of the fence and installation of additional planting. A number of queries were raised by the legal and operational representatives in relation to liability and future maintenance of the planting. Details of the proposed planting were issued to the company for consideration. Concerns were raised in respect of the proposed increasing in the height of the existing fence, in terms of responsibility for each element of it and liabilities arising from any failure of the fence, such that the company would only agree to a new complete fence installed inside the existing one. Permission was eventually given for the works to be implemented in July 2010. Residents adjacent to the boundary were advised of the proposals and asked for any comments by 6th August. No comments were received from residents. Beckett Drive residents

had however expressed concern via Councillor Morley that that any movement of play equipment or other measures may affect their amenity.

- 10 The higher fence was installed in late August. No further contact has been received from residents since its installation. The use or misuse of the play area, and securing of the area at night, are not a matters that the Council could take forward; rather the management company would need to take responsibility.

## **Consultation**

- 11 Parks and Open Spaces have been involved in the formulation of proposals for remedial works since the complaint was received from the Parish Council. The proposed planting and the design, materials and height of the fence are considered to be appropriate.
- 12 Consultation had taken place with residents in respect of the proposed new fence and planting in July 2010, with no responses being received.

## **Options**

### Option A

- 13 Continue the existing measures to alleviate the concerns, i.e. to install the planting as approved by the management company, at that start of the planting season.

### Option B

- 14 To carry out no further action i.e. not to install the additional planting.

### Option C

- 15 To seek the approval of the landowners/ managing agents to carry out more extensive works involving the reconfiguration of equipment within the play area to alleviate the residents' concerns.

## **Analysis**

### Option A

- 16 The installation of the planting as an additional measure to the fence already installed would have some initial benefit in screening the site from the rear of properties on Kirkdale Road and would over time increase the level of screening. The planting is approved and the costs of the planting are known and can be borne by the Authority.

### Option B

- 17 This option would involve no additional expenditure but would not improve the screening available to residents of Kirkdale Road over the longer term.

## Option C

- 18 The repositioning of the play equipment and associated surfacing materials may result in some of the equipment having to be replaced. The original contractor was reluctant to be involved in such a proposal and would not offer a quotation – instead advising on the higher fence and planting. The second contractor quoted over £10,000 to move the equipment; not taking into account any replacement of damaged parts or the redesigning of the circulation path and landscaping. The costs would therefore be considerable. In addition, the benefit of carry out these works may be limited, as the ground level would remain higher than the adjacent gardens.
- 19 The consent of the owners/ managing company would be required for any alterations to the layout. The alterations to the landscaping and the new fence were agreed but there was no assurance given that further more significant alterations would be permitted. Concerns may also well be raised as to the impact of any resited equipment on residents of Beckett Drive.
- 20 Officer's view is that the replanning of the play area as requested would not necessarily resolve the concerns expressed by the residents, would prove prohibitively expensive and would be less effective on its own than the addition of screen planting to the already installed higher fence.

## **Implications**

- 21 **Financial** – The total costs of the fence and the planting to be procured and installed is £2165.80. The costs of redesigning and changing the whole layout of the play area could be in the region of £15,000.
- 22 **Human Resources** – There are no Human Resources implications directly involved within this report and the recommendations within it other than the officer time spent arranging the remedial works.
- 23 **Legal** – There are no known legal implications associated with this report or the recommendations within it.
- 24 **Equalities, Property, Crime & Disorder** There are no known or other implications associated with the recommendations within this report.

## **Risk Management**

- 25 In compliance with the Council's risk management strategy, there are no known risks associated with the recommendations of this report.

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**Final Draft Report  
Approved**



15<sup>th</sup> September 2010

**Specialist Implications Officers:-**

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**Wards Affected: Osbaldwick**

**For further information please contact the author of the report**

**Background Papers:**

Application 03/01305/FUL

**Annexes:**

**Annex A** Petition presented by Cllr Alexander  
**Annex B** Location Plan