

**Decision Session - Executive Member for  
Environment and Climate Change**

9<sup>th</sup> February 2022

Report of the Director of Transport, Environment and Planning

**Birkdale Grove Play area fence**

**Summary**

1. This report seeks approval for the removal of the metal fence around Birkdale Grove “play area” (which inside the land shown edged red on the plan attached at Annex 1). A local consultation on this proposal generated comments from the immediate and wider local community which are provided to inform the Executive Member’s decision.

**Recommendation**

2. The Executive Member is asked to:  
Approve the removal of the fence around Birkdale Grove “play area”.

*Reason: To reflect the view of the immediate local residents.*

**Background**

3. Birkdale Grove “play area” is located off Beckfield Lane in Acomb Ward. The area is located at the end of two cul-de-sacs, bounded one side by farm land to the West, the old Backfield Lane school site to the North and overlooked by several houses to the East and South. See annex 1 for site location. The “play area” is part of a larger area of green space land owned by the Council which was transferred to the Council in 1992 (by the developer of adjoining housing estate) for use as public open space.
4. The whole of green space is recorded as amenity open space in the Local Plan evidence base. Within the green space is an enclosed area known locally as a play area. For reasons not recorded, no play equipment was installed in the play area when the estate was being built. See annex 2 for site photographs.

5. The “play area” is surrounded by a 1m high green metal bow top fence. The whole site measures 4,500m<sup>2</sup> (95m x 50m) with an inner fenced area 2,300m<sup>2</sup> (75m x 35m). The inner fenced area is not listed as a play area on the council web site <https://www.york.gov.uk/playgrounds>; as there is no equipment it is not visited by the council’s play area inspector.
6. For several years the space has used been by dog walkers who value the enclosed facility. This has caused tension between some local residents who believe the area should not be used for such purposes and others who felt it should. Other people are content to have both children and dogs in the area. It is an issue that has been raised with Acomb Ward Committee and the council’s Enforcement Officers had also been asked several times over the years to intervene.
7. During 2020 Public Realm were requested by a local resident to install ‘no dog’ signs at the site. Being unaware of the history of the site, three ‘no dogs’ signs were installed in January 2021. This promoted a reaction from those both for and against – some people were pleased to see them put up, others less so, and one was pulled off and a second damaged. As a result the remaining sign was removed and background information obtained from the local ward councillor.
8. The Council’s Legal Services department have confirmed that any signs prohibiting dogs from the fenced play area are advisory only and cannot be enforced without a separate legal process putting dog control orders in place. There are no legal implications from a planning law perspective.
9. Following the removal of the signs a number of local residents continued to request that a solution to the current impasse be found. Arising from this contact the idea of removing the fence emerged and following discussions with the local ward Councillor it was agreed that a local ballot of the immediate effected streets would be held on whether the fence should be removed or retained.

### **Ballot**

10. In late October ballot paper and explanatory letters were issued to all households in Birkdale Grove, Prestwick Court and Greensborough Avenue. These being the streets adjoining or

leading to the green space and are the streets most affected by the incoming dog walkers; this approach was confirmed with the ward councillor. Responses could be sent to the Council via e-mail or on paper form (with pre-paid envelopes provided). The expectation being that a simple majority from the households who replied would determine the result.

11. By the closing date of 11th November 2021 19 responses were received from three streets in the ballot area; a response rate of 33%. The votes cast were as follows:

For removal of the fence	11 (58%)
Against removal of the fence	8 (42%)

12. During the ballot a number of residents in the ballot area and from outside the ballot area sent in range of comments explaining why they thought the fence should stay. These are detailed below:-

- It serves a wider area than the three streets and so a wider consultation should take place
- The fenced area creates a safe place for children to play so they can't wander off
- It a good place for uniform groups to meet
- It is a safe place to train and socialise dogs
- It's a great place for dog owners to get together which breaks down social isolation
- Its keeps dogs out of peoples gardens
- It is only one person in the area who is against dogs walkers
- If the fence is removed it will render the area useless for anything (the ground is uneven, no good for sports).
- It will encourage dog owners to use the nearby sports field instead.
- It means people don't have to drive elsewhere to exercise their dogs.

### **Options and analysis**

13. The options open to the Executive Member are :
- a) Agree to the removal of the fence
  - b) To retain the fence
14. If the fence is removed, the general area will still be available for children to play and for dog walking. Removing the fence does not

change the ground conditions. Neither does it stop people socialising or meeting friends. For some users removing the fence will lessen the attractiveness of the area as the fence defines the exercise area for the dog.

15. As the green space is at the end of two cu de sacs there is little risk from passing road traffic. The wider area is surrounded in the main by fences so there is limited opportunity for children or dogs to go far if supervised. No gardens directly access the green space.
16. Removal of the fence will make grass cutting more straightforward and take away the need to spray or strim under the fence bottom.

### **Consultation**

17. Local consultation was undertaken in November 2021 and detailed above in the options and analysis.
18. In seeking to resolve this issue there has been a regular dialogue with the local ward council who states *“There is an ongoing concern for local residents around dog fouling and noise as many people view this as a ‘dog park’ some travelling by car and parking in the adjacent cul-de-sacs to use the park to allow their dogs to run off the lead. As a local Councillor I have had representations from residents who wish for this use of the space to stop and from those who wish to continue to allow their dogs to exercise safely off the lead. It is my belief that the real issue is fouling, inconsiderate parking and noise which is opposed, rather than the dogs in the park themselves.*
19. *This is a very difficult issue to resolve, the park clearly has a widely known reputation as a ‘dog park’ and despite its very small size and hidden location it is attractive to dog owners and commercial dog walkers for off-lead exercise. The one thing that local residents are agreed on is that the park needs to be available for use by all, children, adults, and dogs. Continuing issues with fouling, noise and inconsiderate parking have however caused some to seek the exclusion of dogs to prevent the nuisances, while others view the nuisances as separate and the exclusion of dogs to be a step too far*
20. *The ballot of residents was relatively close, representing the many conversations I have had with local residents. Removing the fence would definitely reduce the use of the area for off-lead exercise for dogs and that might reduce some of the nuisance but there will still*

*be dog walking in the area and given the seclusion it is likely that many will continue to allow dogs off the lead.*

21. *One of the issues that compounds the problem is the lack of green space in Acomb Ward. The ward has the lowest area of green space per resident of any ward and the green spaces we do have are small and in poor condition. The large open green space that was formerly the playing fields of Manor School (owned by CYC) would make an ideal space for dog walking, along with many other outdoor activities for all. Sadly this space is currently closed to local residents leaving them having to compete for the small spaces that do exist nearby. If we genuinely want to solve the problem outlined here we must open up more green spaces to residents for their use and ensure that everyone has equal access to space to exercise and play. Until then we will continue to have situations where residents with different needs from green space are pitted against one another resulting in a 'solution' that excludes some."*

### **Council Plan**

22. This proposal supports and contributes to the following Council Plan priority – a cleaner and greener city.

### **Implications**

23. **Financial** - The funding for removal of the fence can be met from the existing service budget provision. It is possible that some of the fencing can be reused for other projects.
24. There are no Public Health, Legal, Property, Human Resources, Crime and Disorder, or Information Technology implications arising from this report.

### **Risk Management**

25. In compliance with the Council's risk management strategy the main risks that have been identified in this report are reputational. Measured in terms of impact and likelihood, the risk score has been assessed at "Low". This means that the risk level is acceptable.

**Annex 1** – site location plan.

**Annex 2** – site photographs.

## Contact Details

<b>Author:</b>	<b>Chief officer responsible for the report:</b>
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<b>Report Approved</b>	X	<b>Date:</b> 01/02/2022
<b>Specialist Implications Officer(s):</b> N/A		
<b>Wards Affected: Acomb</b>	All	
<b>For further information please contact the author of the report</b>		

## Background Papers:

None