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## Report of the Chief Recreation Officer

### Executive Board

Date: 13<sup>th</sup> June 2007

**Subject: River Safety Management at Wharfemeadows Park, Manor Park and Tittybottle Park, Otley**

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**Electoral Wards Affected:**

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In  
(Details contained in the report)

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## EXECUTIVE SUMMARY

1. This report contains additional information to the report deferred at the Executive Board meeting on the 16<sup>th</sup> May 2007, and should be read in conjunction with that report which is also on this agenda. This report outlines the results of an exercise to obtain residents' views, consideration of a proposal to lease the parks (or part of them) to Otley Town Council and discusses some of the issues raised at the public meeting on the 10<sup>th</sup> May 2007 and a public display of proposals on 8<sup>th</sup> June 2007.

## 1.0 PURPOSE OF THIS REPORT

- 1.1 A report on River Safety Management at Wharfemeadows, Manor Park and Tittybottle Park was on the Executive Board agenda for 16<sup>th</sup> May 2007. At the meeting it was resolved:

‘That consideration of proposals to improve water safety at Wharfemeadows Park, Manor Park and Tittybottle Park, Otley be deferred to the June meeting of the Board excepting that the Chief Recreation Officer be requested to progress fencing proposals by the river in the vicinities of the weir and the children’s play area’.

- 1.2 This report informs the Executive Board of the response to the revised proposals to improve water safety at Wharfemeadows, Manor Park and Tittybottle Park in Otley, contained in the 16<sup>th</sup> May 2007 report.
- 1.3 On the 10<sup>th</sup> May, RoSPA advised Council officers of a tragic accident in a park in Slough, Berkshire on 7<sup>th</sup> May. The following is an extract of the BBC Online News Report:

**Two year old found in stream dies – a toddler has died after being found in a stream after he wandered off while playing with other children in a park.**

The two year old was playing near Upton Court Park in Slough, Berkshire, on Monday, when he vanished. Family members and local officers began a desperate search of the area and at about 1915 BST the child was found in a stream within the park. He was taken to Wexham Park Hospital where he was pronounced dead shortly before midnight. Police said the death was not being treated as suspicious. A post mortem examination is due to take place on Wednesday

## 2.0 BACKGROUND INFORMATION

- 2.1 In respect of the 16<sup>th</sup> May decision regarding progression of fencing proposals in the vicinity of the weir and play area, it has not been possible to progress this as the issue of style and height of fencing was an issue raised at the public meeting on the 10<sup>th</sup> May. The Executive Member for Leisure indicated that the height and style issues would be considered further at this meeting, therefore partial fencing could not be ordered.

- 2.2 A public meeting was held at Otley Civic Centre on 10<sup>th</sup> May 2007. The meeting was chaired by the Executive Member for Leisure and was attended by the Chief Recreation Officer, the HR Manager (Safety, Well-being and Attendance), the Head of Community Services and Litigation and the Principal Parks Area Manager. The revised proposals as outlined in the May report were described, and large information boards and maps were available showing the proposals.

Questionnaires were also made available for people to take away from the meeting, and a pdf file of the questionnaire was sent to the Wharfemeadows Action Group, at their request, so that it could be distributed by them to people who could not attend the meeting.

- 2.3 At the time of writing this report 142 questionnaires have been returned. Attached at Appendix 1 is a copy of the questionnaire and map of the proposals.

The analysis of the responses shows that:

- There is support for signage in all three parks (125 Yes; 13 No)
- There is very little support for fencing between points A and B on the map (6 Yes; 130 No)
- There is support for the proposal to repair, sign, and keep the steps area open (128 Yes; 7 No)
- There is a mixed response to the fencing proposal from C to D approaching the Weir area (39 Yes; 91 No)
- There is a mixed response to the fencing from D to E in the Weir area and past the playground (58 Yes; 77 No)
- There is a mixed response to the bankside vegetation density from E to F (53 Yes; 81 No)
- There is very little support for the short stretch of fencing between F and G in the area of the River Wharfe footbridge (13 Yes; 117 No)
- There is a mixed response to the density of bankside vegetation from the Lodge to the west end of Manor Park G to H on the map (46 Yes; 85 No)
- There is little support for the fence from the Otley Bridge to the east end of Tittybottle Park at H to I on the map (15 Yes; 121 No)

2.4 The comments on the proposals are varied, as are the responses to Questions 1 to 9, however the comments are mainly concerned with:

- Spoiling the view of the river
- Affecting business in Otley as the River is a tourist attraction
- Parents and guardians should take responsibility for their children rather than erecting fencing to deal with the safety issues
- The style and height of the fencing is too intrusive

2.5 The responses to the questionnaire show little or no support for fencing, signage and dense vegetation in certain areas. However, Council officers are firmly of the view that to do nothing is not an option that can be considered. Officers have undertaken a site Risk Assessment and the recommendations to introduce fencing, signing and vegetation as shown on the map are the measures which must be put in place to ameliorate the risk to safety. During the Risk Assessment process officers did consider the public views on fencing the steps area, fencing at Points E to F, and the height and style of fence.

2.6 These concerns have been addressed by the revised proposals as follows:

- the steps to be repaired and appropriately signed rather than fenced
- dense vegetation margin to replace fencing at Points E to F
- the fence, including the wall, will be a maximum height of 1 metre, and alternative designs for the style of fencing were displayed at the Otley Civic Centre from 8<sup>th</sup> June to 10<sup>th</sup> June, with forms available for the public to state their views

2.7 In respect of the objections to the remainder of the fencing and signing measures, officers have considered these, but are of the firm view that anything less than the proposals arising from the Risk Assessment carried out on site would not reduce the risks and hazards and should therefore be implemented to address the health and safety risks evident in the Parks.

2.8 In respect of the views outlined at 2.4, the fourth bullet point regarding height and style of fencing has been addressed as outlined in paragraph 2.6. In respect of the

first two points on spoiling the views of the river and affecting businesses in Otley as the Park is a tourist attraction, these are not issues which could be addressed by the Risk Assessment process which has to consider measures to reduce the risk to health and safety.

- 2.9 One of the issues raised at the public meeting, and by the Action Group concerned a suggestion that had been put forward by RoSPA **before** Council officers undertook the site Risk Assessment on 30<sup>th</sup> March 2007. The suggestion made was that if the whole of the perimeter of the Parks were to be fenced and signed it may not then be necessary to erect fencing on the low walls.

This suggestion was discussed in detail at the Site Risk Assessment meeting on 30<sup>th</sup> March, and was discounted as it would not address the tripping hazards along the length of the River. In terms of the Risk Assessment if the action proposed does not reduce the risk then there is little point in undertaking that action as it does not reduce the risk or ameliorate the hazard.

- 2.10 The local M.P. Greg Mulholland has raised in his letter of 4<sup>th</sup> June to Councillor Harris, a prior proposal of RoSPA which was put to Council Officers during March 2007 as follows:

- To erect a fence along the path by the houses (on the side nearest the river) with lockable gates at access points/paths leading into the park
- To ensure all entrances to the park have lockable gates
- To have appropriate signage at each entry point bringing people's attention to the safety concerns/need to keep children under control
- To look at the possibility of fencing the entire children's play area
- To erect appropriate fencing by the drop by the weir (where and type of fence to be consulted on)
- All gates to the park would be locked at times of flood warning or spate (the police station is just across the road so this would not be difficult) This is when the park presents a real safety hazard, not at times of normal flow

The letter goes on to state that the Council has not considered this alternative proposal. In fact, as outlined in paragraph 2.9 Council officers did consider and assess this proposal when carrying out the on site Risk Assessment on 30<sup>th</sup> March, at which RoSPA were present and this proposal was discussed.

All present at the meeting agreed that fencing of the whole park could not possibly reduce the trip hazard along the wall's edge or the hazard adjacent to the Weir area and that these areas would continue therefore to be a hazard to young children and those unaware of the dangers.

- 2.11 From 8<sup>th</sup> to 10<sup>th</sup> June the proposals to address Water Safety issues have been on display in Otley Civic Centre. Further questionnaires were available for completion with an additional question and option list on fencing style.

The results of any completed forms and fencing options preferred will be made available to Members of the Executive Board at the meeting.

### **3.0 LEASING OF THE PARKS TO OTLEY TOWN COUNCIL**

- 3.1 Officers were asked to consider the issue of possible lease to Otley Town Council of either the land adjacent to the River on both sides, or the entirety of the Parks.

Leading Counsel's opinion has been sought on this matter and is outlined in the Legal part of this report at paragraph 4 below.

- 3.2 The Parks and Countryside service has to deal with many difficult issues across its management of 4000 hectares of parks and greenspace across the City. Sometimes the actions that need to be taken for professional or conservation reasons do not find favour with local residents or users of the facilities. From a Recreation perspective it would be a retrograde step to lease a park to a local Town Council for these reasons. The Leeds Parks service is nationally renowned for its development of services in recent years which is achieved through a whole workforce working together to achieve the Council's vision and aspirations for Leeds parks as a whole.

#### **4.0 LEGAL IMPLICATIONS**

- 4.1 There are significant legal implications for the Council arising from the suggestion that the Parks be leased to (or the management of it shared in some other way) with Otley Town Council. It is not possible to fully comment on the legal implications, however, as it is not entirely clear on what basis the park is suggested to be leased to or managed by Otley Town Council. However, in general terms the suggestion nevertheless poses real problems:

- The first question is "why is it being proposed?". What is the proposed action intended to achieve that cannot be achieved by current/proposed arrangements? This may well give rise to a legal challenge on the basis that it is not genuinely intended to give greater autonomy to local people who can then better control and safely enjoy their own leisure environment but is a device to avoid the Council having to take the required safety measures.
- The second question is: Would the proposed transfer be legal and effective, in the sense that it would not be the subject of a legal challenge on the grounds that such a disposal was ultra vires (ie outside the powers of the Council) or that it is otherwise liable to "administrative review" by the Courts.
- The third question is whether the proposed action would actually achieve the desired result.

Leading Counsel advises overall that the proposal would be likely to lead to real problems in the future and will not solve any problems now. There are specific legal difficulties from both a property law point of view and a health and safety law perspective as set out in Appendix 2.

#### **5.0 CONCLUSIONS**

- 5.1 Since the original report to Executive Board on 9<sup>th</sup> February 2007 a full Site Risk Assessment has been undertaken, and the weight of public opinion in respect of the fencing has been considered and taken into account. This resulted in the revised proposals in the 16<sup>th</sup> May report to leave the area of steps unfenced, but appropriately signed. The area of fencing proposed from points E to F has also been amended to a vegetation margin.

It is Council officers' professional view, after having carried out a risk assessment that the remainder of the proposals outlined in paragraph 5.1 of the 16<sup>th</sup> May report and set out below should be implemented as soon as it reasonably practicable.

- The installation and maintenance of an ornamental bow top fence along the low wall top from A to B and C to D
- The installation and maintenance of an ornamental bow top fence along the bank from the playground to the top of the access path from D to E
- The installation and maintenance of an ornamental bow top fence at the base of the white bridge from F to G
- The installation and maintenance of drop gates to prevent unauthorized access into “Holbeck”
- Install and maintain warning signs on steps. Highlight the step edge and undertake repairs to steps at points B and C
- Along remaining unprotected waters edge create a 2m strip of unstrimmed vegetation to define river bank edge from E to F and G to H
- Install and maintain multi safety and information signage at main park entrances and installation of nag signs at regular intervals.
- Erect an ornamental bow top fence on top of the bank wall that runs from the Otley Bridge to the east end of Tittybottle Park at H to I

## **6.0 RECOMMENDATIONS**

- 6.1 It is recommended that the scheme to erect signage and to fence parts of the Parks adjacent to the River Wharfe as set out in paragraph 5.1 above and detailed graphically in Appendix Four of the 16<sup>th</sup> May report, be implemented as soon as is practically possible.