



Report of : The Director of City Development

To : Executive Board:

Date: 12 March 2008

Subject: TINSHILL RECREATION GROUND

Electoral Wards Affected:

WEETWOOD & ADEL & WHARFEDALE

Ward Members consulted
(referred to in report)

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)

Executive Summary

The meeting of Council on 16 January 2008, received a deputation from the Tinshill Recreation De-Fence Group which objects to the proposals to upgrade the 6 existing sports pitches at Tinshill Recreation Ground and for 2 of the pitches to be fenced for use by Ralph Thoresby High School during school hours.

The report outlines the previous decisions of Executive Board to support the fencing proposals, the issues with regard to health and safety when the school previously used unenclosed pitches, and the relationship between the provision of fenced pitches and the release of the former school site to facilitate a comprehensive regeneration scheme of the adjacent Holt Park District Centre.

The report considers the matters raised by the deputation and provides a response to each of the issues. Executive Board is requested to note the contents of the report.

1.0 Purpose of This Report

1.1 The purpose of this report is to respond to a range of issues raised by a deputation to Council on 16 January 2008 with regard to the proposed fencing of two pitches at Tinshill Recreation Ground and to request Executive Board to note the report.

2.0 Background Information

- 2.1 In October 2007, Executive Board considered a report on progress with the proposed regeneration of Holt Park District Centre and issues regarding the fencing of two sports pitches at Tinshill Recreation Ground to meet the curriculum needs of the new Ralph Thoresby High School.
- 2.2 Executive Board resolved:
- (a) That the development of regeneration options at Holt Park District Centre be progressed on the basis of the inclusion of the former Ralph Thoresby High School site within the overall redevelopment area
 - (b) That the outcome of public consultation on the proposed regeneration of Holt Park District Centre and the fencing of the two pitches at Tinshill Recreation Ground be noted
 - (c) That a 1.8 metre high, steel mesh fence with four gates to the two pitches at Tinshill Recreation Ground adjacent to Farrar Lane, be procured and erected.
 - (d) That a report be brought back to this Board detailing the terms for access to the two fenced pitches both for organised sports and general public access.
- 2.3 In November 2007, Executive Board considered an additional report on the management and access arrangements for the two fenced sports pitches and upgrading of other pitches at Tinshill Recreation Ground. Executive Board agreed the proposals including the development of a pilot project for sports users of Tinshill Recreation Ground to access the new changing and parking facilities at Ralph Thoresby High School.
- 2.4 At the meeting of Council on 16 January 2008, Members received a deputation from the Tinshill Recreation De-Fence Group who stated they are "concerned about a plan to turn our recreation ground into pitches built to Sport England standards, and fence off at least two of them against the wishes of our community". The statement, a copy of which is attached at Appendix 1, identified a number of issues which are considered in section 4 of this report

3.0 Tinshill Recreation Ground - the Context

- 3.1 Tinshill Recreation Ground occupies an open area of approximately 20 acres (8.2 ha) and is used for both passive and active recreation. There is a fall in levels across the site of approximately 17 metres and the pitches suffer from very poor drainage. Two of the 6 sports pitches have recently been upgraded with the creation of new, level playing surfaces which incorporate a comprehensive drainage system. The contract has been let for the remaining 4 pitches to be improved this summer. The top 2 pitches, as shown on the attached plan, are scheduled to be fenced to enable the curriculum requirements and the health and safety responsibilities of Ralph Thoresby High School and the Council, to be satisfied. The two fenced sports pitches occupy approximately 4 acres (20%) of the overall Tinshill Recreation Ground site with the remaining area of approximately 16 acres (80%) unfenced and with unrestricted access as now.
- 3.2 In November 2007, Executive Board agreed a report setting out the arrangements for public access to the two fenced pitches and instructed that reports be brought back to the Board on an annual basis with regard to operation of the arrangements including frequency and passage of usage.

4.0 Objections by the Tinshill Recreation De-Fence Group

- 4.1 In the submission to Council on 16 January 2008, the group raised the following issues:-

- 1) **Community Engagement – “the Council have not listened to the views of local people, only six people are known to have supported this project. The Plans Panel was against it, so were many elected representatives”.**

Response

The community were consulted on proposals relating to the future of Tinshill Recreation Ground and the possibility of fencing some of the pitches as part of the planning application for the erection of the new Ralph Thoresby High School, both at outline stage when the possibility of enclosure was first raised and when the reserved matters for approval were submitted. The outline application, which was approved in November 2004, resulted in a petition of 93 signatures and two individual letters of objection which related to concerns that the whole of the area was to be enclosed. Proposals to fence two pitches under the reserved matters submission were withdrawn at the request of the Plans Panel, although no objections were received at this time. The application was approved on 16 March 2005.

The consultations undertaken on the wider proposals for the regeneration of the Holt Park District Centre in January/February 2007, and which included the fencing of two sports pitches at Tinshill Recreation Ground, generated much public interest, although the proposed pitch fencing was not raised as an issue by the majority of people attending the consultation exhibition.

This response was reflected in the 125 comment forms returned to the Council following the public consultation process. Whilst 64 respondents referred to the proposed fencing of the two pitches, the main concern related to the need to ensure there will be community access to pitches outside of school use rather than the fencing itself. Of those expressing a specific view on the issue, the response was 6 in support of the erection of fencing and 6 against.

The planning application, which was submitted in April 2007 for the erection of a fence around the two pitches closest to Farrar Lane, resulted in 24 individual representations against, together with a 135 signature petition objecting to the proposals. As Members will be aware the Plans Panel West, on a majority decision, was minded to refuse the application. The Panel, however, was given legal advice that as a result of the changes made to the proposal, it no longer required planning permission. These changes related to a reduction in the height of the fence to 1.8 metres and the proposal to make the 2 pitches available for public access at all times other than when the school would have priority access. Members were also advised that measures were being put in place, pursuant to a condition attached to the reserved matters approval for the new school, for the changing and parking facilities at the school to be made available to teams booking the playing fields through a single point of contact.

With regard to elected representatives, views from ward members, Plans Panel members and members of North West Inner Area Committee and North West Outer Area Committee have been expressed both for and against the fencing proposals.

- 2) **Equality Monitoring – “The Council are building pitches that will be mainly used by men, to the exclusion of women, pre-school children, elderly and disabled”.**

Response

The pitches at present are open to all individuals, groups and teams for them to use on an informal or formal basis. With the exception of the allocated hours of use by the school for the two top pitches (male and female pupils), there will be no change and no exclusions to women, pre-school, the elderly and disabled.

There is, however, every prospect that the significantly improved quality of the pitches, together with access to changing, shower, toilet and parking facilities at Ralph Thoresby

High School, will actually improve the situation for the groups referred to in the petition.

Currently Tinshill Recreation Ground is used by 3 adult and 2 junior male teams prepared to play on the poor quality pitches and with an absence of any changing or parking facilities (this itself has generated complaints from local residents regarding players changing on site and parking related issues).

When the upgrade of Tinshill Recreation Ground has been completed, an estimated 15/18 teams will be accommodated on the 6 pitches. Expressions of interest have already been received by both girls and women's football teams wishing to use the upgraded pitches and, through the community access agreement being finalised with Ralph Thoresby High School, to have access to the new facilities available at the school. In addition, the availability of 2 fenced pitches for community use is seen as providing a more secure playing environment for girls and women's teams.

3) **Safety - "We have seen no evidence of a Playing Field Risk Assessment as could be provided by ROSPA".**

Response

Reports to Executive Board in July 2005 and October 2007, identified the range of health & safety risks and issues experienced by the school when using unfenced pitches for sports and other curriculum activities. Issues related to interruption of lessons by people walking across the pitches during sports/PE lessons, abuse and intimidation of pupils and staff, joy riding and the presence of dog faeces, broken glass and other litter and debris.

It was for these reasons the school, a number of years ago, fenced in its own grass and redgra pitches (now the site of the recently opened new school) to focus sports and other curriculum activities within this protected space.

The report to Executive Board in October 2007, set out the key considerations and legislative background regarding the health and safety of school pupils and staff (paras 2.4 (11) and paras 5.6 to 5.13).

In summary, the responsibilities of the employers, including the school, can be described as follows:-

- i) An employer must have a health & safety policy and arrangements to implement it.
- ii) Employers must assess the risks of all activities, introduce measures to manage those risks, and tell their employees about the measures.

To satisfy the obligations referred to in the paragraphs above, the school has assessed the risks, considered past health and safety incidents and confirmed a requirement for fenced pitches to protect pupils, staff and other uses. A dog fence is not adequate.

Subsequently, the Education Leeds Child Protection Coordinator has been consulted and has advised that the Children Act 2004 and Education Act 2002 also apply and require all local authorities to have arrangements in place to safeguard and promote the welfare of children. To allow public access during school games/PE lessons, especially given the past health and safety issues experienced by the school when using unfenced pitches, may be considered a failure of the Council's strategic responsibilities should an incident occur.

In addition, the Safeguarding Children and Safer Recruitment 2007 guidance issued by the Department for Children, Schools and Families and which local authorities are obliged to comply with, states that governing bodies are accountable for ensuring there are effective safeguarding policies and procedures in place to protect users of school

facilities.

Guidance from the Association for Physical Education – “Safe Practice in Physical Education and School Sport” is also relevant. The guidance states that “safety on playing fields can be adversely affected by the aftermath of trespass – broken glass, cans and other rubbish generally deposited on these areas create serious risk to pupils.

Deposits of dog or cat faeces can cause toxicariasis in humans with symptoms which include blindness, asthma, epilepsy and general aches and pains. All practical measures should be taken to keep animals off playing surfaces and encourage owners to remove any offending deposits immediately”.

Apart from the health and safety and welfare issues, there is a financial cost. The vehicle driven onto one of the upgraded pitches at Tinshill Recreation Ground in October 2007 and set alight caused damage estimated at £20k (the underground, plastic drainage system was destroyed by the heat generated).

- 4) **Sports & Pitch Strategy - “There seems to be no proper plan for fields in Weetwood, there are other proposals to destroy pitches at Boddington, Lawnswood, and Otley Old Road”.**

Response

A sport pitch strategy has been prepared and approved by Executive Board which divides the city into sectors each with a supporting area committee.

The North West Inner Area Committee has designated the upgraded Tinshill Recreation Ground as the Community Club site for the area. The establishment of Community Club sites is a Sport England initiative and the proposals at Tinshill Recreation Ground support this.

The remaining sites referred to by the deputation are owned by third parties and the Council can only respond to proposals put forward by the owners. Any such proposals will have to be considered in the context of Council and government policies (PPG17) which include re-provision of any facilities proposed to be removed.

5. **Permitted Development - “We would like to know if a planning rule called an Article 4 Direction could be used to stop the fence, if the Council so wished?”**

Response

Article 4(1) of the Town and Country Planning (General Permitted Development) Order, 1995, does enable a local planning authority to remove specified permitted development rights which could otherwise to be exercised under Part 2 of Schedule 2. The effect of this would be to require a planning application to be submitted for the proposals. The Council’s Chief Legal Officer and Chief Planning Officer have both previously advised that the Council should only do this if it concludes, in its capacity as local planning authority, that the development would be prejudicial to the proper planning of its area or constitute a threat to the amenities of its area (see art 5 (4)). It would require a very compelling case to be made before overruling a statutory right granted by Parliament and would be time limited to 6 months duration unless either disallowed or approved by the Secretary of State who must be served with the notice. Given the changes made by the applicants and the planning officer’s previous recommendation for approval of the proposals, the officer view is that the case for an Article 4 Direction in these circumstances would be difficult to sustain.

Although authority to make an Article 4 Direction in appropriate circumstances lies with the Council as planning authority, in this particular case it remains a matter for the Council as landowner to reach a decision on whether in all the circumstances it wishes to fence this land. It should be noted that Executive Board has already supported the

erection of the fence.

6. **Sport England - “We would like to know if Sport England were consulted before the new School was built on sport pitches, or during the planning process for the fence.**

Response

Sport England were first consulted in September 2002 on the initial regeneration proposals at Holt Park District Centre and which included an upgrade of pitches at Tinshill Recreation Ground including provision of 2 fenced pitches for use by Ralph Thoresby High School.

Consultation continued with Sport England as the regeneration proposals at Holt Park District Centre evolved and subsequently included proposals for the new school.

Sport England were statutory consultees on both the outline and reserved matters planning applications for the new Ralph Thoresby High School. In neither case did they make any reference to whether it would be desirable or not for any form of fencing (dog proof or higher) to be provided for all of the pitches on Tinshill Recreation Ground. They raised no objection to either application subject to :

- (a) The new pitches being constructed to a sufficiently high standard to be used by both community and school users and;
- (b) Establishing a suitable form of agreement to ensure community access to indoor and outdoor sports facilities within the school site.

In response to Sport England’s comments and reflecting the views of the Plans Panel, the condition referred to in response to the Delegation’s first point above was attached to the reserved matters approval, requiring submission and approval of a scheme for the maintenance and management of community access to facilities both within the school and on Tinshill Recreation Ground. To date, no formal submission has been made to discharge the condition and any submission would be subject to consultation with Sport England.

The two elements forming the basis of the scheme will, however, be the Service Level Agreement between the school and the council in respect of school access to Tinshill Recreation Ground and the pilot project, which was endorsed by Executive Board at the November 2007 meeting, to provide for changing and parking facilities to be made available to teams booking the playing fields through a single point of contact.

The Pilot Project was launched at Ralph Thoresby High School on 18 February 2008 and members of the local community were given the opportunity to register their interest and tour the school. The event generated a significant number of enquiries through the Education Lettings Unit’s booking line before the launch. In addition, approximately 25 visitors representing in excess of 50 individual booking opportunities, attended the launch. A wide variety of parties registered their interest in using the new facilities including junior football and cricket teams, church groups, women’s hockey teams and conference organisers.

7. **Scrutiny - “We were told that Councillors were to refer the matter to a Scrutiny Board. We would like to know if this matter has been referred to Scrutiny, and, if not, how can we apply?”**

Response

Reference to a Scrutiny Board has been considered by the Scrutiny Support Unit but this has not been progressed on the basis that consideration of planning applications is

a regulatory function of the Council and is outside the scope of Scrutiny Boards to consider and, in any event, relevant grounds to sustain a request for investigation have not been provided to date.

Members of the public are able to request that the decisions, policies and overall performance of the Council be examined by a Scrutiny Board which can make recommendations. Reasons for the request have to be set out to enable a determination to be made on whether the matter should be referred to a Scrutiny Board.

5.0 Implications for Council Policy and Governance

- 5.1 The upgrade of pitches at Tinshill Recreation Ground supports the Council's strategy for sport, the playing pitch strategy and the development of Community Club sites across the City.
- 5.2 The fencing of the two sports pitches will also assist the Council in discharging its health and safety responsibilities and other statutory requirements including arrangements to safeguard and promote the welfare of children.
- 5.3 The provision of the two upgraded and fenced pitches will also facilitate the release of the former school site which is pivotal to the opportunity to deliver the proposed regeneration of Holt Park District Centre. This will enable a range of key aims and objectives set out in the Vision for Leeds and the Council's Corporate Plan 2005/08 to be delivered. In particular, the proposals will support Council priorities regarding improving local neighbourhoods; promoting thriving and harmonious places for people to live; making sure children and young people are happy, healthy, safe, successful and free from the effects of poverty and ensuring people are able to live healthy and fulfilling lives.

The Council is now developing an expression of interest to the Department for Health for £30m of PFI credits for a Well Being Centre at Holt Park. The proposals will incorporate a new Leisure Centre, including swimming pools and fitness suite, together with health facilities in cooperation with the Department of Adult Social Care and the Leeds Primary Care Trust . Given the constraints on site availability at Holt Park District Centre, the proposed new facility will have to be located on the site of the old Ralph Thoresby High School given this is the only undeveloped area capable of accommodating the wide range of new facilities envisaged in the proposals.

Consultation

- 5.4 Reference has been made (para 4.1) to the consultation and representations received both with regard to the fencing issue and the potential regeneration of Hold Park District Centre.

6.0 Legal and Resources Implications

- 6.1 The upgrade of the pitches at Tinshill Recreation Ground and the fencing of the top two pitches is a fully funded scheme.

7.0 Conclusion

- 7.1 The Tinshill Recreation De-Fence Group is opposed to the fencing of 2 pitches at Tinshill Recreation Ground and has requested the Council to reconsider the decision for the fencing to proceed.
- 7.2 The group has raised a number of issues and the report provides a response to each of the concerns identified.

In terms of **Community Engagement**, the Council has undertaken public consultation through the Holt Park Regeneration proposals, the planning process and with elected members. A range of views have been expressed both for and against the proposals and these have been considered as part of the Council's decision making process. Executive Board has previously

endorsed the provision of fencing in July 2005, October 2007 and November 2007.

- 7.3 With regard to **Equality Monitoring**, the assertion that the upgraded pitches will mainly be used by men to the exclusion of women and other groups is not sustainable. The upgraded pitches, linked to the availability of car parking and changing facilities at the new school in accordance with the requirements of planning conditions and the provisions of the Pilot Project, will enable more people to participate in active sport including girl's and women's teams who have already expressed a wish to utilise the new facilities available.
- 7.4 In respect of **Safety**, this is perhaps the key issue. The school, its governors and the Council in its role as owner of Tinshill Recreation Ground and as Local Education Authority, all have important responsibilities in terms of statutory legislation and guidance with regard to the health, safety and well being of schoolchildren.
- 7.5 Having regard to the history of issues associated with past use of open sports pitches by Ralph Thoresby High School, and similar issues at a number of other schools, a failure to provide fenced pitches to satisfy the curriculum requirements of the new school would raise significant health and safety concerns.
- 7.6 The alternative of providing fenced pitches on the former school site has been considered in the previous reports to Executive Board and would mean a comprehensive regeneration of Holt Park District centre could not proceed given the pivotal role of the site in bringing forward development proposals.
- 7.7 With regard to the potential for an **Article 4 Direction**, the report outlines the reasons why this is not an appropriate course of action for the Council.
- 7.8 The report also identifies how **Sport England** has been fully engaged in the process and has not raised objections to the proposals.
- 7.9 With regard to a referral to **Scrutiny Board**, the required procedures have been outlined in the report.
- 7.10 Executive Board is requested to note the representations made by the Tinshill Recreation Defence Group and to note the response as set out in this report.
- 8.0 **Recommendation**
- 8.1 Executive Board is requested to note the contents of the report.