

Report of the Director of Public Health and the Chief Planning Officer

Report to Executive Board

Date: 9th May 2013

Subject: Health and Wellbeing of people living in Hyde Park and the need for local schools and community to access sports and leisure facilities.

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Hyde Park & Woodhouse and Headingley		
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Summary of main issues

1. Impact of the proposed retail and housing development at Victoria Road on the Health and Wellbeing of the residents of Hyde Park
2. Planning and access to sports facilities.

Recommendations

Executive Board is asked to note that this is an area acknowledged as having a deficiency in sports facilities and pitches. Whilst recognising the role of the Local Planning Authority the Executive Board is recommended to support the principle of enhancing opportunities for the local community to engage in physical activity to improve health and wellbeing in the area.

Purpose of this report

- 1.1. This report is a response to the Deputation to Full Council 12 September 2012 (appended to this report) and seeks to respond to the issues raised in respect of the Council's role as the lead organisation to improve health and reduce health inequalities locally and the role of the Council as Local Planning Authority.
- 1.2. The Deputation speech concerns community access to sports facilities and was prompted by a planning application (12/02491/OT) for a retail and housing development on a site at Victoria Road, Hyde Park. This site has a sports hall and swimming pool and a grass pitch.

This application would have been referred to the South and West Plans Panel for a decision and considered by that Panel on its merits in the light of prevailing planning policy and any other material planning considerations. The application was however withdrawn on the 5 November 2012. A revised application was submitted on 20th February 2013 and will be considered by Members at a future meeting of the South & West Plans Panel.

- 1.3. A report was presented to Executive Board on 12th December 2012 responding to the Deputation. However, following receipt of legal concerns which related to the submitted report, the consideration of this matter was deferred to a future Executive Board meeting, in order to enable further work to be undertaken to address such concerns.

2. Background information

- 2.1. The Leeds City Priority Partnership Plan includes priority indicators leading to improved health and wellbeing. These include increased healthy life expectancy for all, and reduction in the differences in life expectancy and healthy life expectancy between communities. Achieving these outcomes will be a measure of the success of actions taken across the whole business of Leeds City Council and partners.
- 2.2. The Health and Social Care Act 2012 (HSCA) Section 12 states that each local authority must take such steps as it considers appropriate for improving the health of the people in its area.
- 2.3. The Chestnut Avenue/Victoria Rd playing fields are situated in the centre of a residential area that houses people living with greater socio-economic disadvantage than the average for Leeds. The consequent impact of this disadvantage is to contribute to the physical and mental health problems that affect the local population, and ultimately lead to higher levels of premature mortality. The health of people living in this area has been assessed in the Leeds Joint Strategic Needs Assessment. The rate of premature mortality (before age 75 years) is higher than the average for Leeds with the principle causes identified as cancers in both men and women and Cardio-Vascular Disease in women.
- 2.4. There is now a planning approval which establishes the principle of housing on the land which was formerly part of the Leeds Girls High School (LGHS) which provided open space and tennis courts for that school. In 2008 the school became part of the Grammar School at Leeds (GSAL) which has a site at Alwoodley and at that time this site (and the main school site on the opposite side of Victoria Road) closed and the sports and other school functions transferred to the Alwoodley site, including a new swimming pool and enhanced sports pitch provision. This site, in addition to the school buildings, contains a number of former tennis courts and open grassed areas.
- 2.5. A Public Inquiry into the development on the main school site was held in July 2011. Although the Inspector dismissed the appeal this was essentially on matters of detail, the Inspector did not consider that refusal of the application was justified on grounds of loss of the playing pitches or implications for public health. .
- 2.6. The deputation raised concerns about the inadequate provision of playing space at a number of state schools. There are five primary schools in the area; Brudenell Primary, Blenheim Primary, Quarry Mount Primary, Little London Primary and Rosebank Primary. Two of these have grass sports pitches; only one of which is meets national external space guidance for a school of its size. Four of the five schools are classified as being on a confined site, which requires pitch provision to be provided off-site. Indoor sporting provision is limited at three of the five schools by the size of the school hall and the need for this space to be used for dining.

- 2.7. School Premises Regulations were revised in 2012; and this revision removed the minimum statutory external space requirement for schools. In its place, schools other than pupil referral units are now required to provide 'suitable outdoor space' in order to enable physical education to be provided to pupils in accordance with the school curriculum; and to enable pupils to play outside

3. Main Issues

Summary of the Deputation speech

- 3.1. The Deputation Speech sets out as a background the need for the local schools and community to access decent sports facilities. It is pointed out that those in inner city areas tend to die on average 10-12 years earlier than those in the outer suburbs. Exercise can help to redress that balance, but 5 of the primary schools in the area are described as seriously deprived in terms of space for participation in active sport. Reference is made to the Health and Social Care Act and the obligation of the Council to narrow the health gap.
- 3.2. The Deputation goes on to reference the Victoria Road site subject to the (then) current planning application and suggests that the site could accommodate valuable community sports facilities.
- 3.3. The Deputation then sets out a concern regarding the publicity for the recently withdrawn planning application being done at the commencement of school holidays. Sport England is criticised as supporting the transfer of facilities to the outskirts of the city and there follow criticisms of Education Leeds and the content of Planning Reports.

Sport and Active Lifestyles in The City

- 3.4. Before considering the specific details relating to the deputation some wider context is provided in terms of the Council's commitment to sport and being active.
- 3.5. The Council has a long tradition in providing and encouraging the development of sport in the city from grass roots right through to the elite performers, including our Olympic and Paralympic medallists from last year's London Olympic Games. This commitment has helped Leeds reach 13th of all local authority areas in terms of Sport England's latest "Active People" survey and by far the most active of all the core cities. This achievement is not solely down to what the Council directly provides, rather its is a reflection of the wider sports community including voluntary sector, colleges, professional clubs, coaches, public and private sectors.
- 3.6. In the context of large scale budget reductions the Council remains committed to providing sustainable sports opportunities. In September 2012 the Council's Executive Board approved a report titled 'Inspire a Generation' which made a number of recommendations to maximise the legacy of the 2012 Olympic and Paralympic Games by increasing participation in sport and physical activity to contribute to improving health in the City. The report references a number of city wide initiatives that could seek to extend opportunities for people to take part in sport and physical activity and includes extending rate relief for voluntary clubs and providing a legacy fund. The report also included reference to exploring ways of offering more opportunities to local people where levels of participation are lowest and where there may not be traditional sports facilities. To support this Leeds has made a successful bid to Sport England's national 'Get Healthy, Get into Sport' fund. The Leeds scheme will be known as "Leeds Let's Get Active".
- 3.7. By way of illustrating current development work in the area the Council is seeking to maximise the use of community recreational facilities located near to the former LGHS site including Woodhouse Moor, which has sports facilities including tennis courts. In conjunction

with the Lawn Tennis Association, plans are being developed to increase participation in tennis playing among the local community. A number of community sports clubs are also located in the area including Hyde Park Harriers, Hyde Park Rovers Junior Football Club and Hyde Park United. The council's Sport and Active Lifestyles Service has officers who can support these clubs to increase participants.

Improving Health and Wellbeing, and Reducing Health Inequalities

- 3.8. The relationship between the availability of sports facilities, exercise and public health is important. Moreover participation in physical activity such as sports and walking is strongly related to household income. There is an association between reducing levels of physical activity and decreasing household income with the potential to increase health inequalities.
- 3.9. The Victoria Road site is situated in a residential area that houses people living with greater socio-economic disadvantage than the average for Leeds. The consequent impact of this disadvantage is to contribute to the physical and mental health problems that affect the local population, and ultimately lead to higher levels of premature mortality.
- 3.10. The presence of the urban green space provided by the playing fields can impact positively on the health of the local population in many ways. Proximity and accessibility of green spaces to residential areas can lead to:
- increased overall levels of physical activity across age groups which contribute to the prevention of many health problems such as cardiovascular disease, diabetes, stroke, some cancers and osteoporosis;
 - improved mental health and well-being providing effective relief from everyday stress, improved self esteem, and alleviation from anxiety and depression;
 - increased opportunities for education, social inclusion and cohesion by supplying space for social mixing, creating networks and relationships. Playing in local green spaces helps children to develop intellectually and learn about social interaction;
 - a contribution in reducing flood risk, reducing atmospheric pollution and traffic/residential noise.
- 3.11. The presence of a visible and useable urban green space can contribute to the health and wellbeing of the community. Therefore the availability of the green space provided by Chestnut Avenue/Victoria Rd playing fields is an important consideration in addressing the needs of this community.
- 3.12. Section 12 of the Health and Social Care Act 2012 provides that each local authority must take steps as it considers appropriate for improving the health of the people in its area. Whilst this will be relevant to planning decisions, it does not alter the fact that planning decisions are still required under the Planning Acts to be made in accordance with the development plan unless material considerations indicate otherwise (including the policies contained in the National Planning Policy Framework).

Permission for development on the main former GSAL site

- 3.13. Prior to advising the Plans Panel on the weight to be afforded to the loss of the former tennis courts on the main former GSAL site, the Chief Planning Officer sought the opinion of Vincent Fraser, QC, on the loss of playing pitch issue. The advice was very clear – the facilities had been replaced elsewhere and the aim of Policy N6 of the UDPR (which addresses the loss of protected playing pitches) had been met.

- 3.14. Provision for sport and recreation and open space is a key consideration of the planning system and this was a key consideration debated at the Public Inquiry into the development of the main school site on the opposite side of Victoria Road. The application involved the loss of the previous sports provision (former tennis courts) on land which is moreover a Protected Playing Pitch in the adopted Unitary Development Plan. On this issue the Planning Inspector was clear; there had been no community access to the tennis courts which served the private school only. Alternative superior provision had been provided at the Alwoodley site and moreover there is community access to those facilities. The Planning Inspector in his report said that he had had careful regard to the evidence on health issues presented at the Inquiry, but concluded that as there had been no public access to the facilities the development of the site could not itself be harmful to the health and well-being of the community.

Planning changes since the GSAL Public Inquiry

- 3.15. Since publication of the Inspector's report into the previous appeal in July 2011, the Health and Social Care Act has come into force, and the implications of this are addressed elsewhere in this report
- 3.16. In addition, the Government has subsequently greatly simplified previous planning guidance through publication of the National Planning Policy Framework in March 2012. The guidance maintains the Government's position that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and goes on to state that 'At the heart of the NPPF is a presumption in favour of sustainable development'. For decision takers this means 'approving development proposals that accord with the development plan without delay'. The NPPF states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on although a number of exceptions are set out including that 'the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location'. This is essentially the same test that was examined at the Public Inquiry referred to above.
- 3.17. It should also be noted that important mature trees on the Victoria Road site have been protected through a Tree Preservation Area since submission of the withdrawn planning application, and these trees will be an important consideration relative to any development proposals for the site.

The Victoria Road Proposals

- 3.18. The Victoria Road case differs somewhat from the application to develop the land including the former tennis courts on the main school site. Although both sites include land designated as Playing Pitches in the Unitary Development Plan Review 2006, the statutory plan for Leeds, in the case of those former tennis courts, there had been no public access. The courts were used by the private school only. In the Victoria Road case, there has been limited community use.
- 3.19. Sport England is the Government agency responsible for sport and is a Statutory Consultee on planning applications that affect playing fields. This means that any planning application that affects a playing field has to be referred to Sport England for comment by the local authority.
- 3.20. It is Sport England's policy to object to any planning application, which will result in the loss of a playing field, unless it meets one of five exceptions. In addition, where a local authority is minded to grant planning permission against Sport England's advice the matter may be

referred to the Secretary of State for Communities and Local Government for possible 'call in', taking the decision making power away from the local authority. They chose not to object to the earlier application on the Victoria Road site.

- 3.21. Section 12 of the Health and Social Care Act states that each local authority must take steps as it considers appropriate for improving the health of the people in its area. We will be assessing the relevance of the NPPF and the Public Health Act to the new planning application at Victoria Road.

4. Corporate Considerations

- 4.1. **Consultation and Engagement** The Victoria Road planning application has been publicised by means of advertisements in the press and notices placed around the site and officers have briefed Ward Members directly. The Council is carrying out statutory consultation with relevant consultees on the planning application including the Highway Authority and Sport England. The applicant has carried out some community consultation events but did not undertake a pre-application consultation process with the Planning Authority or local community representatives as recommended in such situations. Any future planning applications will be subject to separate consultation as required by the Development Management Procedure Order 2010 and LCC requirements.

4.2. Equality and Diversity / Cohesion and Integration

- 4.2.1 Equality is central to the deputation speech in terms of sports provision in the inner areas and it is acknowledged that less advantaged communities in the city have poorer access to facilities.

4.3. Council policies and City Priorities

- 4.3.1 Relevant Council policies are referred to above.

4.4. Resources and value for money

- 4.4.1 The decision on the new Victoria Road planning application rests with the Plans Panel South & West. If the refusal of the application on grounds of loss of sports facilities cannot be adequately substantiated, such a refusal could result in an award of costs against the Council following an appeal.

4.5. Legal Implications, Access to Information and Call In

In respect to future planning applications of a similar nature to that which was withdrawn, a refusal on grounds which could not be adequately substantiated at appeal would carry a high risk of costs being awarded against the Council on grounds of unreasonable behaviour. This is particularly likely given that a Government Planning Inspector has fairly recently set out clear views on this issue in the context of the appeal on the main former school site.

4.6. Risk Management

- 4.6.1 The risks to the Council in terms of potential award of costs are set out above.

5. Conclusion

- 5.1. Officers concur that the desire for the community to gain Victoria Road playing fields for wider public use would be supported in principle. However, in a planning context officers are

mindful that refusal of the Victoria Road application would not serve to enhance local sports provision or community health as desired. In addition, such an approach could be+ an unsound basis upon which to refuse an application and could therefore lead to a cost award against the Council.

6. Recommendations

- 6.1. Executive Board is asked to note that this is an area acknowledged as having a deficiency in sports facilities and pitches. Whilst recognising the role of the Local Planning Authority the Executive Board is recommended to support the principle of enhancing opportunities for the local community to engage in physical activity to improve health and wellbeing in the area.

7. Background documents¹

- 7.1. None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.