

Toddlers play area: review and management policy

1. Introduction

The Carlton Diamond Jubilee Orchard (CDJO) is being developed as a small, wildlife-friendly public open space at the north-eastern end of the village of Carlton. Groundworks have largely been completed by the Carlton Gardening Group (CGG), and the area includes a path, park bench seat, picnic table, wildflower meadow with fruit trees, and shrubby woodland plantings with hedgehog boxes, reptile and amphibian refuges and log piles. Further developments are planned.

In 2014, s106 Developer Contributions of £11,867.90 for equipped play and open space were being held by Hinckley & Bosworth Borough Council (H&BBC), and would be returned to the developer if not claimed by 15th June 2015. Other s106 funds were being held for similar purposes, but without a time limit (Ref). In all cases, the s106 funds could only be spent on projects within 400m of the relevant development site. Potential sites within this distance were reviewed, and approaches made to selected landowners to purchase or lease a suitable site.

The only available site considered suitable for a play area was in part of the Diamond Jubilee Orchard, which is owned by the Parish Council (PC). Following a public consultation in November 2014, it was decided that the available money would be spent on the creation of a small play area for children under 6 years old (Ref).

The intention is to create a place where people who care for young children can take them for recreation and respite, and meet others in the same situation.

2. Site, equipment, design and construction

The location in the north eastern corner of the CDJO was chosen because it was level, relatively dry, well separated from residential properties, easily accessible for construction and maintenance, and next to the picnic table. The occupiers of numbers 9-11 Northfields, whose back gardens are nearest to the site, all supported the proposal.

The selected play equipment will comprise one Marco Polo Unit without roofs, and with decks 900mm high and a stainless steel slide, and one 1800mm log swing with one flat seat and one cradle seat, both in natural wood finish and for bark fixing and manufactured by Wicksteed Playscapes as part of their 'Young Explorers' range (p.1555/4a). This equipment was chosen because it offered a wide range of play activities in a small installation using materials which would be in keeping with the surroundings at an acceptable price. Wicksteed has been established for over 130 years, has an excellent reputation, and is based at Kettering which is easily accessible.

The equipment will be installed in a lined bark pit 400mm deep with 75 x 300mm tanned timber edgings. The bark pit has kindly been excavated free of charge by local contractors. Bark was chosen as a safety surface because of its relatively low cost and ease of maintenance for a small site with a low level of usage.

A quotation of £12,821.00 from LCC Corporate Facilities Management has been accepted for the provision and erection of this equipment (p.1558/4). This will include a post-installation inspection by a suitably qualified independent inspector, who will issue a certificate of compliance with European standards EN1176 and 1177. It is anticipated that the equipment will be installed in July 2015.

Wicksteed guarantee their metalwork against structural failure for 25 years, timber against rotting for 15 years, and paintwork against corrosion for 5 years. These guarantees exclude normal wear and tear, accidental damage and vandalism.

The path and hedging areas next to the bark pit will be made up by the CGG after installation of the play equipment. The bark pit will not be fenced because of the cost, and a wish to integrate the play equipment into the orchard with unimpeded access to the meadow areas and picnic table. The CDJO is fenced from the road, with pedestrian access points well separated from the play area. It is envisaged that the play equipment will not attract a high level of use and will be used responsibly and respected by local residents. The PC considers that fouling of the bark pit by dogs is unlikely to be a problem, but fouling by badgers, foxes, hedgehogs and birds may occur because of the location of the site.

The CDJO and toddlers play area are well overlooked, and vandalism and anti-social behaviour are unlikely to be a problem. There is a pressing need in Carlton for a recreational facility suitable for older children, but the PC thinks it is unlikely that the toddlers play area will attract older children or become a place where they congregate and cause disturbance.

3. Signage

A sign has been ordered with the wording:

Toddlers Play Area

Welcome

This equipment is to be used by children under 6 only

Children should be supervised by a responsible adult

Please keep dogs out of the bark pit

Please take your litter home

The nearest A&E is at George Eliot Hospital, Nuneaton

This site is located off Nailstone Road, Carlton, CV13 0DH

This play area is inspected every week by Carlton Parish Council, but if you spot a fault or any damage please email Clerk@carltonpc.co.uk or contact any Parish Councillor.

This wording complies with advice from RoSPA, Leicestershire Playing Fields Association and the PC's insurers. It makes it clear who is responsible for the play area, the age of children catered for, the expectation that children will be supervised, dogs kept away and litter removed, the nearest accident and emergency service, and the postcode of the site for satellite navigation purposes.

4. Risk assessment

The Health and Safety at Work Act (1974) puts a duty of care on Playground Managers and requires them to ensure that playgrounds are safe. Section Three of the 1992 Regulations made under this Act require that a formal Risk Assessment be carried out on the play area.

The independent post-installation inspection will include a risk assessment which will serve as the basis for development of the PC's own assessment.

Risks should be evaluated using the RoSPA formula of *Probability* multiplied by *Severity*, using the following arithmetical scale:

The Probability or likelihood of an accident can be rated:

5 points	very likely, almost certain
4 points	likely to occur, easily precipitated with slight carelessness
3 points	quite possible, the accident is only likely with some help
2 points	low possibility and minimal probability
1 point	not likely at all, probably only under freak conditions

The Severity of any potential injury can be rated:

5 points	very high, potentially fatal or major disability
4 points	serious injury, possible long term absence from school or work
3 points	moderate injury causing absence from school or work
2 points	minor injury requiring some first aid /medical attention
1 point	little or no injury

The ratings for Probability and Severity are multiplied to calculate numerical values for levels of risk which are categorised as follows:

1 – 3	VERY LOW RISK	<i>Monitor</i>
4 – 7	LOW RISK	<i>Monitor and take reasonable practical action if required</i>
8 - 12	MEDIUM RISK	<i>Take action to reduce if possible</i>
13 -20	HIGH RISK	<i>Take action as soon as possible to implement control measures or modifications.</i>
21+	UNACCEPTABLE RISK	<i>Remove or immobilise immediately before taking immediate action, control measures or modifications and re-assess the measures on completion</i>

Risks identified as High or Medium require the identification and undertaking of measures to eliminate, reduce or minimise the risk. The level of risk on site should be reduced to Low or, at worst, Medium.

A formal risk assessment must be prepared before the Toddlers Play Area is brought into use.

5. Insurance

The PC's public liability insurance protects the PC in the event of legal liability for acts or omissions causing bodily injury or disease to third parties or loss or damage to their property. The liability is defined by legal considerations, and to succeed in a claim of negligence a claimant must prove (i) that the PC was negligent; (ii) that the PC owed a duty of care; (iii) that a breach of that duty has occurred; and (iv) that as a result the claimant has sustained injury or damage.

The PC's public liability insurance also confers protection against legal liabilities that arise out of statute – in other words, the cover extends beyond liability for negligence. For example, duties under the Occupiers' Liability Act, which require organisations to take such care as is reasonable to see that the visitor will be reasonably safe in using the premises for the purpose for which he or she is invited, or permitted by the occupier to be there.

These considerations apply to all facilities provided by the PC, from the Cemetery to public seats. The PC's existing insurance policy provides public liability insurance of £10m. The PC has a moral and legal responsibility to ensure that the toddlers play area is in as safe a condition as is reasonably practicable, whilst ensuring that an appropriate level of risk is available to children playing there.

The operation of a children's play area is considered a normal activity of the PC, and no additional premium will be payable in respect of public liability insurance for the toddlers play area. However, the PC's current insurance policy requires that any play area is inspected at least weekly. Although not a policy requirement, the PC's insurer strongly recommends that all inspections, faults and repairs are documented, and that an annual inspection is carried out by a qualified inspector.

An additional insurance premium will be payable to insure the play equipment against loss, fire, damage and vandalism. A quotation of £58.44 has been provided for this additional cover, based on a replacement cost of £12,821 and with an excess of £250. I consider that the risk of such damage is very low because there has been no significant vandalism in Carlton in the past, and neighbouring PCs have not experienced vandalism of play equipment. Mechanical damage – for example by grounds maintenance equipment or vehicles – is very unlikely on this site.

I therefore recommend that no additional insurance is taken out.

6. Financial matters

The installation cost of £12,821.00 will be met by s106 Developer Contributions totalling £13,767.90 being held by H&BBC in respect of planning applications 06/00826/FUL and 08/00815/FUL. This money is split between provision (£8,860.40) and maintenance (£4,907.50). £8,860.40 has been received by the PC; the balance will be paid after installation.

In practice, the s106 money received will be used to pay for the installation, with the surplus of £946.90 being added to the PC's general funds or set aside (see below).

Ongoing maintenance will be paid for from precept income. By accepting s106 funds, the PC has undertaken to maintain the play equipment for 20 years.

Robust calculations of maintenance costs underpin the sums required from developers through s106 agreements (H&BBC LDF Play & Open Space Guide 2008 SPD). On the basis of these figures, the total cost of maintenance of the toddlers play equipment over 20 years is estimated to be £7,100 or £355 pa. Major structural repairs or component replacement should not be required for the first 15 years, given the manufacturer's guarantees.

The play bark is likely to need replacement every ten years, at an estimated cost of £2,000 each time, or £200 pa.

I therefore recommend that in the budget each year, the sum of £500 be allocated to an earmarked repair fund, and that £948 (see 5 above) be allocated to this fund in the current financial year.

7. Legislation and guidance

a) Legislation

Occupiers' Liability Act (1957) revised 1984 and Unfair contract Terms Act 1977
Disability Discrimination Act 1995
The Health and Safety at Work Act (1974)
The Management of Health and Safety at Work Regulations 1992
The Reporting of Injuries, Diseases, Dangerous Occurrences Regs (RIDDOR) 1995
The Construction (Design and Management) Regulations 1994
Environmental Protection Act 1990, The Litter (Animal Droppings) Order 1991 and Dogs (Fouling of Land) Act 1996
Dangerous Dogs Act 1991
The Consumer Protection Act (1987)
Trade Descriptions Act 1968
British and European Standards (EN1176, EN1177)

b) Guidance

Design for Play: a guide to creating successful play spaces (Play England)
Managing Risk in Play Provision: implementation guide (Play England)
Leicestershire & Rutland Playing Fields Association Topic Sheets
RoSPA guidance and advice sheets

C J Peat (Parish Clerk)
10th June 2015

Appendix 1. Proposed Management Policy

Carlton Parish Council
Toddlers Play Area
Draft Management Policy

1. A Risk Assessment will be prepared for the Toddlers Play Area before it is brought into use and taking into account information from the manufacturer, installer and inspector. The Risk Assessment will be revised and updated as necessary.
2. The Toddlers Play Area will be inspected every week, with the date of the inspection, the name and signature of the person carrying it out, and comments recorded in a bound book kept for the purpose.
3. The inspection will be carried out with reference to a check-list prepared for the purpose, but will not be limited to items on the check list. The check-list will be reviewed and updated as necessary.
4. Any identified faults will be categorised using the RoSPA scale, and appropriate action taken. If a risk higher than medium is identified, prompt action must be taken to reduce the level of risk to Medium or less and a report (including photographs if necessary) made to the next meeting of the Parish Council.
5. The Toddlers Play Area and equipment in it will be inspected annually by an Inspector qualified to carry out annual inspections, and Members will be informed of the findings.
6. Any accident will be investigated, and a written report (including photographs and witness statements as appropriate) will be made to the Parish Council.
7. Any incident which might result in a claim being made will immediately be notified to the PC's insurers.
8. The Parish Clerk is responsible for receiving letters of claim, acknowledging such letters and passing them on to the insurers. If the Parish Clerk is on holiday or ill, the Chairman or Vice-Chairman shall deputise.
9. Procedure to be followed in the event of a claim.

There have been significant changes in the way the Civil Justice System handles legal liability claims. New Pre-action Protocols will operate before a claim goes to court, and in practice most claims are settled without going to court.

The initial letter of claim (usually from the claimant's solicitors) should be sent to the PC in duplicate, and the copy forwarded to the PC's insurer. This letter must include a clear summary of the facts and indicate the nature of the injuries sustained and any financial loss incurred. The PC must acknowledge this letter with confirmation of our insurer within 21 days. The PC's insurer then has a maximum of three months (inclusive of the first 21 days) to complete their investigations and to respond confirming either acceptance or denial of liability on behalf of the PC. If liability is being denied, copies of all relevant documents must then be provided to the claimant's solicitors.

The above Policy was adopted by Carlton Parish Council on 17th June 2015 and will be reviewed as necessary.

Appendix 2. Draft inspection check list

Carlton Parish Council

Toddlers Play Area

Draft Inspection Check list

- a) On entering the Carlton Diamond Jubilee Orchard look for litter and animal fouling and clean up.
- b) Look for litter and animal fouling in the bark pit and clean up.
- c) Check that sign is in position and has not been defaced.
- d) Check that hedges are not growing out to protrude over the timber edgings.
- e) Check condition of timber pit edgings and membrane.
- f) Check the swings
 - make sure that the uprights and top bar are solid and fixing bolts are tight
 - check for damage and splinters on all timber components
 - check the seats for damage and loose or projecting fixings
 - check the ropes for wear and damage
 - check the rope fixings top and bottom for damage or wear.
- g) Check the climbing units
 - make sure that the timber supports and ground fixings are all secure
 - check for damage and splinters on all timber components
 - check that slide is smooth and undamaged
 - check all fixings connecting ramps and ladders to main frame
 - check all cables and suspension bridge for wear or damage
 - check all floors for wear, damage and rot
 - check all side panels for wear, damage and rot
- h) Level the bark, ensuring that there is sufficient depth under the swings and climbing units, at the base of the supporting timbers, and at all ground connection points.

**IF ANY FAULTS ARE FOUND, RATE THEM IN ACCORDANCE
WITH THE RoSPA SCALE**

**IF A RISK GREATER THAN MEDIUM IS IDENTIFIED, TAKE APPROPRIATE
ACTION PROMPTLY TO REDUCE THE RISK TO MEDIUM**

**IF AN UNACCEPTABLE RISK IS IDENTIFIED THE EQUIPMENT MUST
IMMEDIATELY BE MADE INACCESSIBLE**

WRITE ALL OBSERVATIONS IN THE INSPECTION BOOK, DATE AND SIGN

**This draft check list was approved by Carlton Parish Council on 17th June 2015 and
will be reviewed before the Toddlers Play Area is first brought into use**