

**COOMBESWOOD DEVELOPMENT
RESPONSE TO REPORT BY ROY BURGESS (submitted 23/01/12)**

<i>PARA</i>	<i>QUERY</i>	<i>RESPONSE</i>	
1.0	<i>Introduction</i>		
1.1	In all probability there has never been a more important issue for DBLAF to pursue, than the fulfilment of obligations to make the St Modwen Coombeswood developments acceptable. Bearing in mind the independent role of DBLAF, defined by statute, regulations and guidance from the Secretary of State, it is clear that the Forum needs to show more than a passive interest in the commitments that have been made.	DBLAF's role is that of an advisory body. It is the job of the designated Planning Obligations Officer to monitor the delivery of all planning obligations and report on a six monthly basis to the Regeneration Scrutiny Committee on the results/delivery of all financial and non-financial requirements. In the matter of the Coombeswood area, it will be apparent when the delivery of the obligation is complete. (In this case the specific obligations were the transfer of land as ecological mitigation and a grant to enable the appointment of a part time temporary Warden by Dudley MBC to maintain the area concerned.) With regard to Planning conditions, the Planning authority undertakes targeted monitoring of large or high profile developments such as this one. Members of the public are invited to inform Planning if they feel that any specific planning conditions are not being met by the developer. For the information of members, Appendix 1 provides a detailed list of the conditions with regard to this development. This will be updated with progress as necessary and circulated to members at future meetings.	
1.2	In convincing the Development Control Committee to raise their hands to approve the planning	The land transfer was indeed intended as ecological mitigation for the development.	

	<p>application, the planners report emphatically, stated:</p> <p><i>“Without the requirements of such a planning obligation, the development would not be acceptable, due to the developments being damaging to the ecology of the area. Such an obligation would also need to be supported by robust conditions to ensure that appropriate mitigation of impacts and, compensation for losses were delivered.”</i> (Paragraph 75)</p>	<p>To ensure that the area was appropriately managed, a Warden would be required for a period of 5 years. On this basis the applicants entered into a Planning Obligation to provide an area of land twice as large as that lost as ecological mitigation. This land is in the final phase of transfer to the Council on a fifty year lease with funding provided to engage a warden for a five year period. Recruitment for this warden is progressing.</p> <p>In addition to this, a second transfer of land is taking place to provide additional sports pitches at Olive Hill Primary School (Site A).</p> <p>A number of conditions were attached to the planning permission, released on 16th September 2009 on completion of the planning obligation. Such conditions required the submission of additional information before the development could commence and are referenced in Appendix 1, with the discharge of condition application reference number and date of discharge of condition.</p>	
1.3	<p>The decision to approve was made on that powerful basis, as well as being influenced by other equally important compensations drawn to the attention of the Development Control Committee, for the acknowledged, adverse impacts of the development. Any deviation from pursuing those matters and fulfilling the obligations would be a serious betrayal and inevitably lead to the conclusion that the Development Control Committee was misled and should otherwise have been directed to refusal. It</p>	<p>This application was certainly significant in terms of its potential impact on Coombeswood. In particular the potential for impacts on nature conservation and public access. This necessitated the stringent planning obligations that were placed on the development along with the associated conditions (see Appendix 1). Appropriately, Coombeswood has received a significant amount of agenda and discussion time at DBLAF meetings, a site visit has also been undertaken on 16/03/12,</p>	

	<p>is as serious as that and reflects the importance of DBLAF fulfilling their independent function, in advising the Council, and making it their business to be involved in monitoring and commenting, as necessary, through to full delivery. It would be difficult for the Council to explain their grounds for not keeping the Forum informed and that is why this matter must remain at the forefront on the Forums agenda.</p>	<p>and a standing agenda item called 'Planning Applications' exists under which it is possible to discuss this subject. Agendas are agreed in advance of meetings in consultation with the Chair of DBLAF. Also, See answer to point 1.1 above</p>	
1.4	<p>The Cricket Club anticipates that it will be moved to its new location in March 2012 and this will form an appropriate timeline for delivering the compensations. The Council, in their wisdom, have prematurely allowed Barratt Homes, to start developing the existing cricket facility, for a range of 2 bedroom apartments and 2, 3 and 4 bed roomed houses. The development, perhaps perversely and ironically, has been named The Pavilions. Does this imply that the names of the estate roads will have a cricket theme? Soon we shall know the answer. Whilst it was thought that trees would be protected, some have already been removed by the developers.</p>	<p>The cricket club will only be able to move when their replacement facilities are available for occupation, therefore ensuring continuity of use.</p> <p>The local planning authority permitted a variation of condition 3 (See Appendix 1 point 3) to enable development at the corner of Lodgefield Road and Coombs Road to commence where it did not affect a sports pitch or the use of a sports pitch. Such development was permitted with the agreement of the cricket club. The name of the development is a matter for the developer. The detailed approval for the Coombs Road site made clear that some trees would be removed, whilst important specimens would be retained and would be supplemented with additional new or replacement trees indicated on landscape proposals.</p>	
1.5	<p>The soothing rhetoric deployed by officers of the Council to</p>	<p>As indicated above, the requirements of the planning</p>	

	<p>justify the loss of the 100 year old cricket facility has now passed into the realms of historical fact and the stark reality of modern, mundane, dense development replacing a green haven in a sea of industry, and other uninspiring built developments, is becoming a reality. The die is irreversibly cast and we must look to the promises given as compensations for any glimmer of salvation, from the monotony of the deteriorating character, of yet another area of Halesowen. Realisation of those undertakings is now the task before all of us, who care, as we look to the Coombeswood Green Wedge, to see whether or not, the powerful commitments will be delivered in full in the decisive manner that was placed before the Development Control Committee at their meeting in Dudley Council House.</p>	<p>obligation are being delivered by the developer to provide the required mitigation. Please see Appendix 1 for a list of the relevant conditions associated with the development</p>	
1.6	<p>Trust will materialise from openness - reporting claimed benefits to interested parties as they are achieved. It is hoped that reporting progress through a single channel to DBLAF will be welcomed as a positive tool in assisting the various departments, within the Council, in coordinating efforts to deliver the final result so vividly envisaged in granting approval to St Modwen.</p>	<p>See Appendix 1 and the responses previously given with regard the monitoring of Planning conditions and obligations. It is proposed that this schedule will be updated with progress as appropriate and circulated to members during future DBLAF meetings.</p>	

1.7	<p>In the observations that follow, pertaining to the development and undertakings of compensations for losses accepted by the Council, it has been reasonably assumed that the officers involved gave full and detailed consideration to the developers offers prior, to accepting them as benefits described at the planning application stage. In so doing, it is also reasonable to assume that the cost of defraying those benefits were negotiated and agreed to come from the developers coffers rather than from the budget of the Council.</p>	<p>In respect of the land that is to be transferred to the Council on a 50 year lease, Environmental Stewardship money will be applied for and work will be carried out by volunteer work parties and Wardens to reduce the costs of maintenance (as is the case at other nature reserves within the Borough). Staffing costs for 5 years are being met by the Developer. It is inevitable that Council budgets will need to be used to deal with specific issues as they arise. Publicly accessible open spaces suffer from a wide variety of problems which require intervention from the managing Authority. It is impossible to anticipate all of the issues that may arise over the 50 year period.</p>	
2.0	<i>Preventing Unauthorised Vehicular Access to the Wedge from Stewarts Road</i>		
2.1	<p>In the past, unauthorised access of vehicles to the Coombeswood Green Wedge has posed a serious problem - this is widely known within the Council. In order to allow development, the stout steel fence at the end of Stewarts Road was removed for access and egress of construction plant and to realign the footpath entrance from this point. In his consultations with Dudleys planners and the developer, the Project Engineer, charged with the responsibility of dealing with the footpath and access issues, must have considered the obvious need to re-secure the site to prevent nuisance and damage that will predictably be caused if this issue is not attended to.</p>	<p>The land at Coombeswood is in private ownership, over which there are public rights of way. Although the Council may do works on the paths the general responsibility rests with the landowner. The owners have been asked to secure the Stewarts road entrance and it is believed that substantial vertical posts will be erected to prevent motor vehicle access. This form of barrier is believed to be sensible balance between the need to prevent anti-social behaviour and illegal vehicular access whilst at the same time allowing access to the site for buggies and wheelchairs.</p>	

2.2	<p>Presently a gap, approximately 50 ft wide has been left at the end of Stewarts Road, providing ample opportunity for unauthorised access in a wide range of vehicles. This is a strong possibility. I trust that members of DBLAF will join in advising Dudley Council that work to secure the site from such abuse is brought forward as a matter of urgency. Given the nature of the gates to secure the new cricket facility, it would be advisable that the fence provided by the developer or landowner, is constructed to a similar high standard, with a pinch point arrangement sufficient to allow pedestrian access but deter motorcyclists. It is assumed that the Project Engineer will be responsible for pursuing this matter.</p>	See response to 2.1	
3.0	<i>Upgrading of Paths</i>		
3.1	<p>At the Forum meeting of the 11th May 2011, the Project Engineer stated that upgrading of paths would run concurrently with the development and would include stone surfacing of perimeter path A-D-B-C, as shown on the closure/diversion plan number 1. On my recent site visit, it was noted that surfacing has thus far only taken place between points A-D. As one of the reasons given by the Council for closing and diverting two footpaths, was that access could then be made to a new viewing point via this circular path, which is at a more favourable gradient than the lower path B-E, it is important to expedite</p>	<p>The construction of the paths has run concurrently with the development of the sports pitch. The progress of the development lies with the Developer but it is anticipated that D-B-C will be completed around Easter time.</p> <p>There is no legal obligation on any Council to signpost except from a metalled highway. However, if funds are available suitable waymarking will be considered at appropriate places.</p>	

	<p>satisfactory completion of this matter.</p> <p>This is particularly so, as the closures have been completed but this alternative route is not clear, on the ground, from points D-B-C to connect to the new footpath (C-E). C-E has been stone surfaced. Clearly the path will need to be waymarked. Will the Project Engineer please pursue this matter, indicating a timescale for delivery? It must be emphasised, that the loss of the two paths involved in the closure or diversion order, has been completed and therefore to ensure uniformity between loss and compensation, this needs to be pursued with vigour.</p>		
4.0	<i>Maintenance of Other Paths</i>		
4.1	<p>Whilst not directly associated with the development, this matter can be related to the appointment of a warden in accordance with the £60,000 grant, gained from St Modwen in relation to granting them planning permission. The majority of these paths were restored and waymarked, to a high standard, by volunteers of the Halesowen Abbey Trust between 1987 and 1993.</p>	<p>The Warden's post is associated with the land that is being transferred to the Council, not the remainder of the Coombeswood site, which remains in private ownership.</p>	
4.2	<p>All the definitive paths now need careful surveying by the Council; some are impassable; with a view to creating a schedule of works to restore them to their former glory. This work will involve clearance; surfacing; waymarking; step and stile repairs or replacement, and statutory signposting.</p>	<p>This matter will be raised with Street Care and at the ROWIP Meetings (at which there is DBLAF representation).</p> <p>A section of the Monarchs Way in particular need of clearance work was identified during the site visit and a joint Friends of Coombeswood, DBLAF and Countryside Services work party will be convened to carry out the</p>	

		necessary work in the autumn / winter of 2012.	
4.3	It is suggested that the Forum is consulted in respect of such a schedule, including a timetable for action. (The Project Engineer, Technician Engineer - Street Maintenance and Countryside Manager.	It is suggested that existing paths can be dealt with under the ROWIP action plan. As above, DBLAF is represented at this group.	
5.0	<i>Compensation Land</i>		
5.1	It is understood that, as a condition deemed essential to granting planning approval for the replacement cricket facility, that St Modwen, are required to convey two parcels, of currently publicly inaccessible land, to the Council on a 50 year lease.	Correct	
5.2	The parcels of land are believed to be Sites of Importance for Conservation (SINCs), although one is currently seriously damaged by prolonged unauthorised, (illegal) tipping via lorry convoy through St Modwens business park. The procedure should have been captured on their extensive network of security cameras but that is a matter for, them, and as owners they should be accountable for the removal of the tipped material.	Historic tipping is now naturalising very well, it provides a habitat for a wide variety of wildlife including two nationally scarce moth species and a UK BAP butterfly species. There is also evidence of badger activity in this area. New tipping and any that occurs during the period of Council tenancy at the site will be dealt with within normal Council procedures for removing and disposing of such waste, however the land concerned is still in private ownership. Historically tipped material, where it is becoming naturalised within the site will not be removed and indeed is a feature of other nature reserves around the Borough. During the site visit a small amount of new tipping was noted and it was agreed that the Council would write to the Developer to ask for this to be removed.	
5.3	As previously stated, in accepting this land as compensation (an important issue in the planning officers	Public access is possible and desirable within the boundary of the land to be transferred (although the primary function of	

	<p>report), the Council must surely have surveyed the land beforehand and, upon doing so, been satisfied that public access is desirable and achievable, with St Modwen, as the developer and holder of the recently contaminated land, paying for the cost of moving the steel fences and appropriately removing the tipped material.</p>	<p>this land as detailed in the planning obligation is as ecological mitigation. However, the designation of this site as an LNR will require a level of managed public access. Existing steel fence lines will be removed in places and in other areas new fencing will be erected in order to ensure the safety of the visiting public this has been discussed with the relevant Health & Safety Officer and will be carried out in a way consistent with the approach taken at other nature reserves around the Borough. In particular around steep drops or other hazard. Areas that are particularly sensitive from a geological / wildlife point of view may also need to be fenced (often these areas are in the same location). A former WWII Air-raid shelter (or similar) is also present on the site, which will be fenced off and filled in at a later date. Re tipping, see answer above.</p>	
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5.4	<p>The loss of public access to the area that is to be the replacement cricket facility, is complete and it is important to establish when this compensation land will be available for access. This may involve new paths etc. It is understood that the Legal Department are concluding the formal conveyance agreement and that the Project Engineer, Principal Development Control Officer and the Countryside Manager, will jointly be involved in the full implementation, within an appropriate short timescale, to satisfy the stringent compensation clause required in granting the planning permission.</p>	<p>The timescale for the provision of any new paths (if deemed appropriate) will be dependant upon the management needs of the site, which as outlined above was primarily designed as ecological mitigation for the development, rather than to replace the loss of public access to the cricket pitch. A significant amount of scrub clearance will be required which cannot now happen until the autumn / winter. From the point of view of managing the site, it would be preferable to provide paths in line with the conservation management priorities and public demand rather than arbitrarily marking lines on a plan to satisfy a perceived demand from one party without</p>	
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		further consultation with others.	
5.5	Will the officers please arrange for the Forum to be supplied with a plan, showing details of the compensation land with the positioning of new boundary fencing indicated. Additionally, it would be helpful to show on the plan, the means of public access into these parcels of land (i.e. by way of stiles, gates or total removal of existing fence and any prescribed new footpath routes etc.)	As per answer above, New footpath routes (if deemed appropriate) will be looked at following scrub removal and other management activity and will be considered within the wider ecological management requirements of the site. New routes would also need to be proportionate in the context of the total area of land being transferred (ie it would be inappropriate to criss-cross such a small area with paths). Path lines need to be established in a sympathetic and progressive manner that does not compromise the nature conservation value of the site. Further consultation with groups such as the Friends of Coombeswood will be needed before the exact routes of new paths are identified.	
6.0	<i>Councils Acceptance of Additional Definitive Rights of Way</i>		
6.1	Following, agreement between the Project Engineer and Friends of Coombeswood, it would appear that all matters have been settled with regard to their proposed footpath modification orders of 2008. However, the matter is far from clear.	This has now been resolved to the satisfaction of the Friends of Coombeswood.	
6.2	In consequence, will the Project Engineer, please provide the Forum with an official copy of the plan of the Modified Definitive Map of the Coombeswood Green Wedge, including the revised footpaths connecting to Coombes Road. Reference H23 to H22?	A plan of the public rights of way in the area are incorporated within this report as Appendix 2.	
6.3	Furthermore, for clarification purposes will the Project Engineer	Path from the site to Band Q parallel to the canal	

	<p>also advise the Forum of the state of progress of the legal process, which it is believed has involved Defra, and the Public Inquiry, with a timescale to make the new or revised footpaths lawfully and formally identified by the Council on the Definitive Map, recalling, of course, that the two footpaths to be closed to enable development, have been promptly dealt with in accordance with St Modwens wishes? Will he also keep the Forum abreast of progress with this situation until such time as the process is formally complete?</p>	<p>Made on 10th January 2012 Advertised in the press 1st Feb 2012</p> <p>Path from new viewpoint to public footpath H13</p> <p>Made on 10th January 2012 Advertised in the press 1st Feb 2012</p> <p>There still remains a very short section within land owned by Band Q, below the car park, which the representatives of the landowners can see no problem with recognising public rights. However, a final signature is still awaited from an authorised senior executive. The Council is pursuing this on a regular basis and trust that the all important signature is penned soon.</p> <p>The Friends of Coombeswood, who made the representations have been informed of the progress in this matter. They appear to be satisfied, subject to the Public Inquiry, with the outcome of their representations for public footpath status.</p>	
6.4	Also, when will the paths be appropriately maintained and waymarked?	See above	
7.0	<i>Links to Leasowes Park & Abbey Lands</i>		
7.1	<p>The former tow path along the line of the Dudley No: 2 Canal, in the Leasowes Park, connects the Coombeswood Green Wedge, with the Abbey lands and open countryside to the South. However, the former tow path is not recognised on the Definitive Map, and whilst it may not seem to be under immediate threat, it</p>	<p>We would be open to this suggestion, subject to the appropriate process of designation as a definitive route being followed.</p>	

	<p>does not currently have the protection, or requirements of maintenance, afforded by the legal status, bestowed by the formal recognition of definitive status. Recently, on Coombeswood Green Wedge, we have seen evidence of just how important this issue is.</p>		
<p>7.2</p>	<p>In view of this, I trust that my colleagues on the Forum, will strongly advise the Council to protect the former towpath, with that legal status and record a request that David Jacobs appropriately pursues the modification process, to successfully enter the path onto the Definitive Map.</p> <p>In the circumstances of prolonged Council ownership of the towpath, prior to 1955, and knowledge of uninterrupted, or impeded public use, this should not be a major problem for the Council. This, I would suggest is vital in ensuring the future of this important link.</p> <p>Definitive status affords much greater protection!</p>	<p>This matter will be discussed with officers responsible for Leasowes path. It is pointed out that just because a path is recognised as obtaining public footpath status, it does not necessarily become maintainable at public expense nor does it mean that the public purse takes liability for any measures to secure its physical existence.</p>	