

Agenda Item No. 7

Dudley Borough Local Access Forum

Founded by Statute in 2003

The Importance of Footpaths

A Case Study Review of the Planning Decision for the Coombeswood Green Wedge

Introduction

1. 1. When considering the future of the Coombeswood Green Wedge, public access, landscape and local distinctiveness (character) are key issues of concern and these considerations are embraced in planning policies and plans such as the Coombeswood Green Wedge Plan, which was approved in 1993.
2. 2. Furthermore the importance of such matters are encapsulated in National Planning Policy Statements (PPS), which are gradually replacing Planning Policy Guidance Notes (PPG). Various Circulars are also of significance.
3. 3. This report will embrace some of these and relate them to evaluations of the Coombeswood Green Wedge.
4. 4. In general terms it would be anticipated that a report of this nature would be long because of the necessity to establish the credentials of the site in terms of public access, landscape and character. However, in this case that is unnecessary because those qualities have been formally recognised by Dudley Council for many years.
5. 5. This report can therefore concentrate upon what might be seen in some quarters as a vexatious question -Were the particular distinctive qualities of the Coombeswood Green Wedge, which are undeniably issues of public concern, appropriately considered in relation to the St Modwen development?
6. 6. This report has been compiled in full compliance with the statutory functions of Local Access Forums as defined in the CROW Act 2000 and is in accordance with Guidance on Local Access Forums in England issued by the Secretary of State. It also accords with the wishes of the three Halesowen North Ward Councillors.
7. 7. As such the advice herein contained can be issued to the Local Authority, the Secretary of State, The Planning Inspectorate, The Government Office for the West Midlands and other parties. It is a public document available to anyone.
8. 8. For the sake of brevity this report is based upon the presumption that those reading it will be familiar with or will make themselves familiar with the site and its geographical location.

Site Description and Evaluation taken from Dudley Council s

Coombeswood Green Wedge Plan , approved and adopted in 1993.

9. Attention in this case study will focus upon the site of the recently approved Cricket/ Bowling/Social Club facility¹. This site will be developed within a visually prominent location within the Coombeswood Green Wedge and will involve a major material change in the character of a 2.61 hectare area of unimproved grassland that currently follows the natural slope of the escarpment and was previously, until 50 or so years ago, in agricultural use. Skylarks and Meadow Pipits nest here. The site will be levelled in a cut and fill operation that will result in an extensive 5 metre deep hollow created at the top of the slope and a corresponding 2.5 metre high embankment at the lower level. Surmounting the terrace thus created will be a 2 metre high peripheral

boundary fence for security, thereby preventing current public access and interrupting views. Besides a facility for machinery storage, there will be a clubhouse with licensed bar and associated car parking. These will be adjacent to the public right of way from Stewarts Road. This is the most popular tract of *urban countryside*² within the Wedge and hitherto the public have had unfettered access to the area that will be levelled and fenced off. Undoubtedly the changes brought about by the development must have a huge effect not only in respect of currently enjoyed public access but also upon the character and historic integrity of the landscape. The transformed site will be prominent in views within, from and to the Wedge. Does such a radical and arguably adverse impact in respect of public access and landscape matter?

2. 10. Fortunately in the quest for an answer, Dudley Council's approved *Coombeswood Green Wedge Plan* of 1993 is available to assist deliberations. This is an eminently suitable reference document that can be used to objectively establish the qualities of the chosen site. It represents the assessment of professional planners and the Council when free of the burden and influence of the recent development pressures. As such it provides a benchmark from which it may be determined whether or not the current planners of Dudley Council have appropriately assessed the impact of the St Modwen development. The following sections of the 1993 plan are faithfully reproduced in their original context and are considered to be significant to the issues in hand:

"The Coombeswood Green Wedge is an important area of Green Belt and makes a significant contribution to the network of open space within the Borough. It is a valuable asset in terms of landscape value, nature conservation and informal recreation. The Wedge already enhances the quality of life for large numbers of local residents and there is considerable potential to extend these benefits by carrying out further improvements. Valuable work has been carried out in Coombeswood during recent years by the Halesowen Abbey Trust."

"The overall aim of the Plan is to improve the environment of the of Coombeswood

Wedge and encourage its use by the local community. Within this context the principal

management objectives of the Plan are as follows:

TO CONSERVE AND ENHANCE THE AREA'S NATURAL BEAUTY

AND LANDSCAPE VALUE. The Wedge benefits from designation as a Landscape Heritage Area with substantial parts also allocated as a Site of Importance for Nature Conservation (S.I.N.C.) and Wildlife Consultation Area (W.C.A.). It is therefore of considerable importance in terms of ecological, historic and landscape value.

TO ENHANCE PUBLIC ACCESS BOTH FROM THE SURROUNDING URBAN AREA AND ALSO AS A CORRIDOR THROUGH WHICH PEOPLE CAN GAIN ACCESS TO THE WIDER COUNTRYSIDE. The Wedge is currently criss-crossed by a network of public footpaths and other rough tracks, although these are generally poorly maintained and signposted. There is potential to enhance public accessibility by building upon the work already carried out by voluntary conservation groups in the ancient Green Lanes near Pottery Farm.”

“TO PROMOTE COMMUNITY INVOLVEMENT, AND APPRECIATION OF, THE COOMBESWOOD WEDGE THROUGH A PROGRAMME OF ENVIRONMENTAL EDUCATION, INVOLVING LOCAL SCHOOLS AND OTHER COMMUNITY GROUPS.”

²The Wedge forms a link through the historic Leasowes Park to the rural countryside of Dudley Borough and North Worcestershire. Within the Wedge itself the site described is comparatively unusual because the land, unlike other parts of the Wedge, has not been altered by the upheaval of the Industrial revolution. It is therefore described as urban countryside

“AREA 1 -A defined public right of way follows the boundary with the steelworks, although a number of other well-used paths cross the area. The area provides good views of the Clee and Clent Hills.”

“The majority of the area is designated as part of a Site of Importance for Nature Conservation (S.I.N.C.) and is included within the Wildlife Consultation Area (W.C.A.). It is particularly important for its large breeding population of skylarks and meadow pipit which nest on the ground.”

“POTENTIAL -At present the site provides a valuable resource both for nature conservation and informal recreation purposes. It is the most easily accessible part of the Coombeswood Wedge, including an important pedestrian link between Gorsty Hill Road and residential areas in Shell Corner.”

“It is considered that this area should remain predominantly in its present use as grassland. Potential does, however, exist to improve public access to this part of the Wedge through defining additional public rights of way (following existing desire lines) and better signposting, waymarking and interpretation.”

Public Expectations aroused by the Wedge Plan of 1993

1. 11. Did the Coombeswood Green Wedge Plan provide the public with any reasonable and legitimate expectations for the area?
2. 12. The unequivocal answer has to be yes!
3. 13. The adopted document went into the public domain and the

informed public had every reason to be encouraged and reassured by it. The Plan:

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- *Described the area in glowing terms as a valuable asset in respect of landscape,*

wildlife and informal recreational importance.

Recognised that the area enhanced the lives of large numbers of local residents with

the potential to expand upon that benefit.

Advised that the overall aim of the plan was to improve the environment of the Wedge

and encourage its use by the local community.

Defined objectives that involved conserving and enhancing the area's natural beauty

and landscape value by improvements sympathetic to the acknowledged importance of

the site in ecological, historic and landscape terms.

Included the objective of enhancing public access from the surrounding urban areas

and within the Wedge itself, including formal recognition of the network of unrecorded

footpaths that had been established by public use. (Note: As a consequence of this Council encouragement, local people, now formed into a well organised

Friends group, made a formal application, in September 2008, to add eight well used footpaths to the

definitive map. These are the paths that the Council itself recognised in the Wedge Plan. The public should thus be seen to be responding positively to that Council initiative.)

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- *Promised to promote community involvement and appreciation of the Wedge through*

local schools and community groups.

Recognised the strategic significance of the land from Stewarts Road as the most easily accessible part of the Wedge and as a nesting site for skylarks and meadow pipit.

Acknowledged not only the immediate landscape significance within the Wedge but

also in respect of views across a landscape stretching to the Clent and Clee Hills. Appreciated the Coombeswood Green Wedge as an area of distinctive local character that should be protected by Landscape Heritage Area policies

UDP & National Policy Context

1. 14. Let the applicable policies speak for themselves.
2. 15. The Coombeswood Green Wedge is a protected landscape, or at least it is claimed to be in the adopted Unitary Development Plan (UDP). It is designated as a **Landscape Heritage Area** and this policy³ states that,

“Within Landscape Heritage Areas, the Council will resist any development, or other works taking place, which would be detrimental to the character, quality and historic integrity of the landscape. The Council will seek to protect and enhance views into, from or within Landscape Heritage Areas. Approval will not be given where such views would be unduly interrupted or harmed, or where the opportunity to enhance such a view would be lost.”

16. In terms of *protecting **character and distinctiveness***⁴ the UDP states, *“Proposals that would result in the loss of physical features whether man-made or natural that strongly contribute to the local character and distinctiveness of the Borough’s landscape and townscape will be resisted.”*
17. **Open Space**⁵ policy in the UDP reaffirms protection of local distinctiveness, landscape, historical features, visual amenity, nature and informal recreational access. It states, *“Proposals for development will be resisted if they would result in the loss of open space, which is defined as land with or without public access, in private or public ownership, taking into account its value for*

the following reasons:-

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- ***It is an important component of local distinctiveness.***

It enhances visual amenity.

*It provides a facility for **informal recreation**, formal sporting recreation or*

children s play.

It provides a necessary buffer zone between incompatible uses.

It provides an area of proven interest for nature conservation, landscape. archaeology or historical features.

It is an uninterrupted link between separate open areas.

It is within an area deficient in open space.

Development affecting open space may only be allowed in the following exceptional circumstances if:-

It is for a recreational or community use in keeping with the use of the open space.

It results in the improvement of open space provision.

Alternative provision of the same or better quality and quantity is provided in the proximity.”

18. In respect of **Access and Enhancement of Green Belt, and Linear Open Space**⁶ the UDP states,

“The Council will seek to ensure that public access to, through and within the Borough s Green Belt, and Linear Open Space is protected and where possible enhanced.”

19. National Planning Policy Guidance Note, **Green Belts**⁷, stresses that,
“the visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt which, although they

³ Policy HE2, Landscape Heritage Areas ⁴ Policy HE1, Local Character and Distinctiveness ⁵ Policy LR1, Open Space ⁶ Policy SO3, Access and Enhancement of Green Belt, and Linear open Space ⁷ PPG2, Green Belts (January 1995), para 3.15

would not prejudice the purposes of including land in Green Belts, might be visually detrimental by reason of their siting, materials or design.”

20. In respect of public access, **Rights of Way Circular (1/08) -Guidance for Local Authorities**, issued by Defra in 2008, states⁸,

“The effect of development on a public right of way is a material consideration in determination of applications for planning permission.” “... Rights of Way includes footpaths, bridleways and restricted byways recorded on the definitive map and statement, ways that are subject to applications for definitive map modification orders, or modifications that the authority itself may be proposing and footpaths, bridleway or restricted byway not recorded on the definitive map.”

1. 21. Clearly in policy terms, at all levels from national guidance to local plans, it is established that landscape and public access, in respect of the Coombeswood Green Wedge, are **the** major issues to address in determination of any planning application. This, of course, includes any planning application for a formal recreation facility. It must be recognised that landscape encompasses views of the Wedge from within it - a point that appears to be often overlooked. In respect of landscape policy, it is a requirement for Dudley Council to protect the local distinctiveness, character and historic integrity of the Wedge for the benefit of the general public who enjoy access to it.

2. 22. Let us now consider whether or not the Council did appropriately address that responsibility?

The Officer's Report to the Development Control Committee - P08/1373⁹

1. 23. In summary, it is established beyond any reasonable doubt that Dudley Council, at times when it was not under development pressure for the Coombeswood Green Wedge, has recognised the importance of the landscape and the significance of the land in terms of public enjoyment. As a consequence, the Council, of its own volition, bestowed protective designations upon the Wedge to fend off developers and reassure the public of the permanence of the benefits that they enjoy. The Council went much further in that respect and reaffirmed and strengthened their commitment by publishing the Coombeswood Green Wedge Plan of 1993, which was adopted after a major consultation exercise.

2. 24. Within that plan the Council acknowledged the importance of the Wedge to a huge number of people. They even expressed its importance as a resource for schools.

3. 25. Paths were identified that the Council intended to make definitive but unfortunately the Council did not pursue their formal recognition. Those paths are an important consideration in relation to the St Modwen application, even though the paths are not yet incorporated onto the definitive map. The Council is

fully aware of the paths and the expectation that they aroused in the public in not only recognising the significance of them, but also observing that some of them should be made definitive. As a consequence of these matters, the Council is aware that the public currently enjoy unfettered access to and within the 2.61 hectare site which the St Modwen plan will change beyond all landscape recognition, with the public being denied their former access benefits.

4. 26. With the knowledge that the St Modwen development would bar the public access that is currently enjoyed, the Friends of Coombeswood, for understandable reasons, decided to lodge an application with Dudley Council to add eight footpaths, within

⁸ Paragraphs 7.2 and 7.6⁹ Application No P08/1373 was granted planning permission on the 16th March 2009

and beyond the proposed development site, to the definitive map. At the time that they decided to do so, St Modwen had not yet registered their planning application. After consulting various sources for advice and assistance, the Friends footpaths application was actually registered by Dudley Council a few days after the date recorded for the St Modwen planning application.

1. 27. Given the understandable concerns of the Friends and the fact that they were fulfilling a footpath commitment that the Council itself had undertaken but not fulfilled, there is an expectation that this footpath application would be welcomed by the Council and pursued with vigour.

2. 28. Even without this appropriately and timely lodged footpaths application, the paths embraced, which the Council have been clearly aware of since 1993, should have been *an important consideration in the determination of the St Modwen application*¹⁰!

3. 29. Unfortunately, the application paths do not appear to have been welcomed or given importance by the Council. The report in respect of the St Modwen application states of these paths,

“..... In this case the paths are only alleged with no conclusive evidence on their status.” (Para. 72)

“As far as the development is concerned, should there be subsequent proven

public rights of way, it is thought that these could be reasonably closed

or
diverted around the perimeter of the site.” (Para. 74)

1. 30. Such dismissive remarks are inappropriate. Is it acceptable to now describe these claimed paths, which the Council in 1993 recognised as important to the public and wished for some of them to be recorded on the definitive map, as *only alleged with no conclusive evidence of their status* ? Not only do the Friends cite the Council's own 1993 observations and unfulfilled commitment as evidence but they also have provided thirty two signed statements from individuals as user evidence. The insensitivity of the Council remarks cannot be over emphasised.

2. 31. To produce such remarks at this stage in processing the Friends footpaths application indicates an inappropriate bias, particularly as no such

comments have been made directly by the Council to the Friends as a challenge to the quality of the footpath evidence thus far provided.

3. 32. Furthermore, in dismissing the importance of the claimed paths and prematurely indicating that the Council will close or divert the paths if confirmed, the Council has unreasonably prejudiced the fair consideration of the footpaths application and the outcome of any subsequent Public Inquiry that might arise from it.

4. 33. The Council is fully aware that the development will destroy these paths physically and in perpetuity. They are aware that natural ground levels will be changed by up to 5 metres on the land which the paths cross and that the site will be fenced off to prevent public access.

5. 34. The Council must also be aware that the claimed paths provide the finest possible views within and from the Wedge. The Council must also have been aware of the importance of these views within a *Landscape Heritage Area*¹¹ and yet they did not acknowledge them and therefore could not discuss them.

6. 35. This then begs the question of how a major cut and fill levelling operation over a 2.61 hectare site can be conducted without adversely affecting the views, landscape, local distinctiveness and historic character of the area? That question is of strategic policy

¹⁰ see paragraph 1.9 of this report. Defra Circular 1/08, was updated and replaced on the 1st March 2009

with Circular 1/09. The importance of paths is retained and strengthened in the new Circular.

¹¹ Views and landscape are essential elements of LHA policy.

significance in consideration of this Landscape Heritage Area, which was designated for the very qualities that the St Modwen development will remove. Mitigation measures cannot ameliorate the damage that will be caused by the movement of millions of tons of earth, thereby changing natural land levels by up to five metres and imposing an artificial landscape surmounted with two metre high boundary fences, no entry signs and urbanising features such as car parks and buildings.

1. 36. The officer's report claims to have ticked **all** the boxes in respect of St Modwen's application satisfying planning policy and guidance requirements. However, close scrutiny now shows that those ticks should be struck through to form bold crosses in respect of public access and landscape issues. If that had been done, as indicated in this report, then the Development Control Committee would have been provided with the means of refusing planning permission, which was clearly their instinct on the 16th March 2009. They granted permission but with strong public expressions of regret and upon the basis of being led to believe that the Council would face a successful appeal if they decided to obey their instincts and refuse permission. The officer's report did not recognise any grounds for refusal but it need not and should not have been that way.

2. 37. Let us now consider the rest of the officer's report in respect of landscape and public access.

3. 38. On page 20, paragraph 36, it is stated that,

“The proposal site for the new replacement sports ground, new carparkinghardstandings, and pavillion building remains very sensitive given the Green Belt, Landscape Heritage Area (LHA) and SLINC UDP designations covering the land. The proposal sites sensitivity is reinforced further as it forms an importantrecreational resource (with unrestricted public access currently available at all times) serving the outdoor recreational needs of the nearby local community. The site is located on a hillside, elevated and prominent within the LHA and Green Belt designations. Long distance views are currently available into the proposal site from the south-west direction. Long distance views are also available across the currently open application site (looking south-west) from immediately adjacent established residential properties located along Hillwood Road.”

1. 39. The above paragraph makes the very points in respect of landscape and access that are made by the Forum and were made by 1000 objectors. After acknowledging the points of importance, the officer simply does not appropriately address them in relation to the adverse impact of the St Modwen application. It should therefore not surprise anyone to find that the local community feels cheated and deprived by the recommendation of approval for the development. Your attention is drawn to the acknowledgement, in the officer s report, of unrestricted public access to this hillside in an elevated and prominent position. This ties in well with the Friends footpathsapplication. That access, which has been enjoyed for many decades, will be lost with the development. That is a major blow to the community.

2. 40. On page 21 in paragraphs 38 & 39, the officer states,

PPG2 attaches considerable weight and importance to protecting the openness, landscape quality and visual amenities of the Green Belt. These aspects are reinforced in paragraph 3.15 which states that: “the visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt which, although they would not prejudice the purposes of including land in Green Belts, might be visually detrimental by reason of their siting, materials or design.”

Paragraph 1.4 of PPG2 (1995) emphasises the importance of protecting Green Belt openness and preventing urban sprawl. It states that: “...The fundamental

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aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness...” The value of green belts for providing areas for the urban population to have access to open countryside, their value for outdoor sport, landscape and nature conservation is recognised in paragraph 1.6. of the guidance which asserts that “Once Green Belts have been defined, the use of land in them has a positive role to play in fulfilling the following objectives:

- to provide opportunities for access to the open countryside for the urban*

population;

- . • to provide opportunities for outdoor sport and outdoor recreation near urban areas;
- . • to retain attractive landscapes, and enhance landscapes, near to where people live..."

1. 41. Again the above statements, on balance, surely indicated that the landscape and public access currently enjoyed by a large local population, should have been protected by the planning officer with a recommendation that the St Modwen application be refused permission? It's hard to understand and accept that he did not do so.

2. 42. On page 3, the officer writes,,

"In order to create the plateau area necessary to accommodate the above facilities, ground works entailing cut and fill operations will be required. Site sections indicate that cut operations will take place from the rear gardens of houses on Hillwood Road to form a gradient of 1:3 down to the plateau at an approximate level 180m above O.S. Datum (sea level). The 110m diameter cricket field and practice nets will be set at this level, with the bowling green and pavilion set slightly higher at approximately 180.450. The 48 space car park and cycle shelter will be set at a higher level again from some 182.100 sloping down to 181.015 at a gradient of 1 in 21. From the car park to the pavilion, access would be from steps and a path or a ramped disability standard access, again at a gradient of 1 in 21 from disabled persons car parking spaces." (para. 4)

"The pavilion is of a single storey design with a dual pitched roof to a maximum height of 4.8 metres. Sections have been provided to show that the structure will not intrude into views through the valley, being only marginally above original ground level at ridge height. The pavilion will accommodate the requirements of the bowling and cricket sports and social club functions within a floor space of 315 square metres. The building will accommodate an equipment store, changing rooms, toilets, kitchen, committee room and a club room/bar facilities, of which 108 square metres is given over to the club room area." (para. 5)

"From the edge of the proposed plateau where a proposed 2m high boundary fence is to be sited to enclose the site, land will be graded back down to original levels via slopes of between 1 in 3 and 1 in 4. From detailed sections indicated on plans, the maximum cut proposed will be almost 5 metres in depth, with the maximum fill being some 2.5 metres." (para. 7)

43. With the amount of upheaval involved in the above operations, which would obviously decimate the landscape local to this 2.61 hectare site, how could the officer ever believe that Landscape Heritage Area (LHA) policies could be satisfied by granting permission? Those policies require that the distinctive landscape character of this area should be retained and protected! Obviously it cannot in spite of any claimed amelioration measures. Yet the officer does claim that the application does satisfy LHA policies. A definitive right of way,

from Stewarts Road, provides views directly into this site. Clearly those views will be spoilt by the devastating earthworks and urbanising features such as car parking, the building, boundary fencing, et al.

Currently this area forms the important foreground interest within the landscape envelope. It should surely be retained?

2. 44. On page 4, it is stated that,

“The boundary fencing proposed is shown to be a type that will not obstruct views with a ratio of void to solid that will enable the background to be seen. The whole site will be secured by such fencing and gates at the access, at which point will also be an extended surfaced footway.” (para. 8)

1. 45. To imply that looking through a mesh, pallisade, or some other form of open fence does not in some respects obstruct, impede or damage views is, at best, naive. The fence will be 2 metres high with posts at regular intervals. Boundary security, with prevention of unauthorised public access, will be its prime purpose. The fence, surmounted on a 2.5 metre high embankment will create a visual obstruction with a combined height of 4.5 metres. This will have a major and damaging impact from many vantage points including of course from the neighbouring public right of way. It will spoil views within, from and to the Green Wedge.

2. 46. On page 22, it is claimed that,

“In order to address initial concerns in terms of the impact of the new-build pavilion/club house building on preserving the openness of the Green Belt and Landscape Heritage Area (LHA), the applicants responded by providing additional sectional drawings which provide greater clarity in terms of the new-build clubhouse and details of how it sits within the surrounding landscape. Such drawings indicate that the cut and fill operations proposed to form the playing pitch area leave the roof of the pavilion building only slightly above the ground level of the existing hillside with graded slopes falling down to meld with those at the lower level. Revisions to plans also provided for movement of the car park further into the site away from the edge of the plateau to reduce gradients to the adjacent footpath and therefore maintain views. Furthermore the views from dwellings on Hillwood Road and from footpaths will not be impacted upon by the pitch and pavilion when completed and landscaped.” (para. 40)

1. 47. To review the above claims we yet again have to recall that the cut and fill operation involves digging out to a depth of 5 metres at the upper level and building up the land at the lower slope to a height of 2.5 metres above present ground level. These major changes will include urbanising features as previously discussed and will exclude the public from a 2.61 hectare area that they have enjoyed unfettered access to for many decades. The author of the planning report acknowledges the existing access and is aware that the development will destroy paths that are the subject of an application to add them to the definitive map. Additionally, besides destroying valuable public access, the terrace and the fencing will damage views from the adjacent footpath and many

other vantage points. It might be tiresome to have to repeat these points but the author of the Council report does not appear to appreciate the nature of LHA policy (see paras 15 & 16 of this report) in that it protects local distinctiveness, landscape and views within the wedge from every vantage point available and not just the longer distance views, although he does accept that some of these will be through the new boundary fencing. The development is grossly intrusive and will also damage views into the Wedge from vantage points on Furnace Hill on the other side of the valley. Again this is in contradiction of LHA policy.

2. 48. On page 23 it is stated that,

“It is also acknowledged that the two proposed developments could not practically or reasonably maintain unrestricted access for the public in terms of operation and management by the club or the school.”

“To alleviate for the loss of this informal public open space, the applicant has agreed, as part of the scheme to enhance and re-surface the existing public footpaths in the vicinity to improve access around the site”

“The applicant has also proposed a lease transfer of 6.6 hectares of currently fenced and private land to the Council, to provide for alternative public access.”

1. 49. In the above statements we see an implicit acceptance that unfettered public access and the associated footpaths will be lost. Such losses are incompatible with the open space policies of the approved UDP (see paras 17 & 18 of this report). The officer fails to acknowledge that point. Surfacing of the public footpath has no significance in respect of alleviating the loss of open space and the path in question does not currently require surfacing in any event. The offer of other land for public access is not an appropriate compensation for loss of claimed access rights immediately off Stewarts Road. The compensation land does not have the same characteristics and public appeal as the visually prominent land that the public have created footpaths across over a period of many decades. It is not a like for like exchange and some of the offered land has been illegally tipped upon to spoil the characteristics that it did have. The public will not walk over it to any great extent. That is true of large tracts of the Wedge. Where the public have wanted access to they have voted with their feet and the offered land does not have a public access attraction to lure them. The Council should have refused this misleading offer and should have protected the land that they are agreeing to lose in landscape, local distinctiveness and public access terms.

2. 50. The following statements made in the *Reason for Grant of Planning Permission* section of the report have been rebutted elsewhere in this report. The reader is left to reflect that they are incorrect and discredited:

“The proposed replacement sports club facilities will not compromise its openness, nor will it be detrimental to the character, quality or historic integrity of the Landscape Heritage Area.”

“..... .. publicly accessible open space is to be made available in compensatory provision on land in close proximity to the sites that will no longer have restricted access. The development will have no

adverse impact upon the surrounding footpath network “

Conclusions

1. 51. We can now see that the St Modwen application does not satisfy the Open Space and Landscape Heritage Area policies of the approved UDP and that the appropriately lodged footpaths application, to add footpaths to the definitive map, has not been appropriately considered in accordance with Circular 1/08. The Council have shown bias against the footpaths application made by the Friends group. The Friends application was inspired and in accordance with the Council's own proposals contained within the adopted Coombeswood Green Wedge Plan of 1993. The Council have not only shown bias but have prejudiced the outcome of the Friends footpath application, with no chance of it being successful if the development proceeds.
2. 52. Sadly the injustices shown in this report only stand any chance of being remedied by the application being called in by the Secretary of State.
3. 53. Local people have every reason to be aggrieved.

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