

WIRRAL SOCIETY

The Wirral Committee of the Campaign to Protect Rural England

Founded 1928 – Registered Charity No. 252954 – www.wirralsociety.net

President : Professor John N Tarn OBE DL

October 2009

Ms Liz Meek
Regional Director,
Government Office North West
City Tower, Piccadilly Plaza
Manchester M1 4BE

Dear Ms Meek,

Application APP/2009/5706 for development of a One Stop Primary Care Centre on land at 'The Warrens, Thingwall, Wirral, Merseyside

The Wirral Society has been established since 1928 and, as you will see, also acts as the District Committee for CPRE. The Society is also a Member of the Wirral Green Belt Council and, as such, has been party to, and supports, the comments submitted by its Chairman, Neil Parry and indeed other Wirral Amenity Societies that have written.

We are conscious that you will be in danger of 'information overload' on this Application generally and we apologise for adding further to your burden! Our feeling was that it was better that you maybe received too much, rather than too little information.

As we are not party to what Wirral Council may have sent you to consider, we are therefore sending you our original letter of objection (which you may already have) together with our latest comment, following the publication of the Committee Report and its passage through Wirral Council's Planning Committee, which we consider provides further reasons that the Application be called in.

The Society's new comments centre around the continued absence of the demonstration of 'Very Special Circumstances' (VSC). to justify inappropriate development in the Green Belt

The key point is this– we submit that the process of weighing the arguments for and against the Proposal in order to determine whether VSC apply, was not adequately carried out by the author of the Report to the Planning Committee. That Report is far from clear that the benefits that would be delivered by the proposal outweigh the harm caused to the Green Belt by way of inappropriate development, and other harm.

We'd attempted to redress this omission, by circulating a 'Critique' of the Report to Members of the Planning Committee prior to their meeting, pointing out this, and other deficiencies in the Report - but it was apparent that Members chose not to heed this advice. The decision to approve the proposal is therefore in breach of national Green Belt policy, and as such should be determined by the Secretary of State or a Planning Inspector appointed by him.

The information contained in this 'Critique' is enclosed for your consideration. . It demonstrates that the Report, in justifying recommending approval of inappropriate development in the Green Belt, takes into account factors that are not material planning considerations, and fails to take into account factors which are material planning considerations.

Since the publication of that Report, we also now consider it significant that -

- a) of 9 Committee Members who voted, only 3 attended the Site Visit to inspect the proposed location (NB We accept it however, it is not a formal requirement they attend before voting). At the Site Visit, the officer had the plans out but was rather vague when asked about the size of the site and buildings etc. She was also unsure what mature trees were going to be felled to accommodate the enlarged entrance.
- b) that Planning Officer, when presenting the Report to Committee, added nothing on the critical aspect of weighing the arguments, which suggests to us that the Officers have effectively misled the members, either deliberately or inadvertently, as a reason to get the application approved.
- c) the Planning Committee were not shown the elevations of the building at either stage - merely a picture of the proposed building on the overhead projector at the Committee Meeting.
- d) the Committee Members themselves said very little on this matters – or any other aspect of the Report - during the meeting – so there was no affirmation of their confidence that the sum of the weight of points in favour of the scheme *clearly outweighed* the sum of the weight of the harm by reason of inappropriateness and loss of openness [and any other harm identified]!
- e) it is known that Planning Committee Members were put under a great deal of pressure to agree to what the Applicant wanted
- f) with it being to the Council's unquestioned advantage to lease this piece of despoiled Green belt land in its ownership and to get another organisation to clear redundant buildings on it, no special effort was made to achieve transparency at this critical stage i.e. as the Council had previously voted to lease the Application Site at the Warrens to the Applicant, (subject to obtaining Planning Permission), no question was raised at the Meeting with the Applicant about the alternative sites the Applicant had rejected – notably the more centrally located Pensby Park Primary School, (4.25 acres) also in the Council's ownership, which had been closed since the PCT's previous Application. . The availability of a suitable site that would meet the clinical needs of the area and deliver improved benefits to the proposal, clearly undermines any argument that there are very special circumstances for permitting inappropriate development in the Green Belt.

The process then that we understand the Secretary of State would expect of Council officers and Members, when considering such an important matter as an incursion into the Statutory Green Belt therefore seems to us to have been inadequately dealt with.

We hope then you consider our comments helpful and will agree that the process was deficient and thus the decision is contrary to PPG2. We would therefore be grateful if you will be prepared to use powers available to you to call in the Application, in order that evaluation process can be considered impartially and openly at a Public Inquiry.

As you will note, we are also contacting a local MP, seeking his support for referring the matter to the Local Government Ombudsman.

Thank you for your consideration.

Yours sincerely

David Casement
Hon Secretary

CC Mr Ben Chapman MP
Secretary of State Communities and Local Government

Critique on Report to Wirral Council's Planning Committee - 10 September 2009
Application APP/2009/5706 for development of a One Stop Primary Care Centre on land at 'The
Warrens, Thingwall, Wirral, Merseyside

The Wirral Society's contention is that -

- ***Some of the Report's reasoning is illogical***
- ***It is unclear how the Recommendation to approve has been justified in planning terms, and***
- ***The Report appears to give weight to factors that ought not to have considered.***

1. 'Openness'

We note that Para 1.4 of Planning Policy Guidance: Green Belts (PPG2), states that: *"the most important attribute of Green Belts is their openness"* (i.e. "freedom from development").

The Report says, at page 44 line 19 that: *"despite the structures on site, the land is not defined as previously developed land due to the nature of its previous horticultural use"*.

We agree this is consistent with Green Belt policy, which accepts that agricultural uses are not inappropriate in the Green Belt and do not cause a loss of openness.

We consider then, that the existing buildings and areas of hard-standing cannot, therefore, be taken into account when considering the substantial loss of openness that the proposal would cause.

However, at page 47, line 9, the Report says: *"In this case, the design and location of the development is proposed in such a way that minimises its impact on the openness of the Green Belt and makes use of the existing hard surfaced area and site of the existing structures"*.

We feel it is perverse to conclude that loss of openness caused by a new building can be minimised by elements of a former agricultural use that, by definition, maintained the openness of the Green Belt.

There appears to have been some confusion here with what paragraph 3.8 a) of PPG2 has to say about the re-use of buildings in the Green Belt. However, this application has been treated as a new building according to the test laid down in paragraph 3.4 of PPG2.

We suggest then there is thus room for doubt about the consistency and relevance of the Report's reasoning of this recommendation in relation to national Green Belt Policy.

2 'Weighting'

We find it strange that there is no indication in the Report about how the weighting of different factors has been approached, given that Paragraph 3.2 of PPG2 states clearly that: *"inappropriate development is, by definition, harmful"* and continues: *"the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application"*.

Our understanding is that the Green Belt test comprises several steps, all of which have been established by case law.

1) whether the proposal would be inappropriate development in the Green Belt. In this case it is agreed that the proposed new building would be inappropriate development in the Green Belt.

- This, we think, should attract substantial weight against the proposal.

2) Then we'd have expected the Council to have considered how much harm accrues to the proposal by reason of the loss of openness and any other harm.

We'd then suggest that the construction of a new building, the laying out 98 car parking spaces and the engineering operations associated with landscaping would all cause a substantial loss of openness - given that openness means "freedom from development" and the Report accepts that the site is not previously developed. Therefore we'd conclude that any development of the site would affect openness.

- The Report does not make this clear.

i. New vehicular entrance

The creation of a new vehicular entrance increases the risk of vehicle and vehicle / pedestrian conflict, but how much weight does this harm attract?

- It may only be limited harm, but this has not been acknowledged.

ii. Tree Loss.

The loss of a number of trees will clearly affect the visual amenities of the Green Belt in relation to paragraph 3.15 of PPG2. Again, we wonder how much weight does this attract?

- The Report does not make this clear.

iii. 'Other Considerations'

On the other side of the balance, neither is it clear to us from the Report how much weight has been attached to the "other considerations" put forward by the Applicant.

Crucially, it is not clear to us whether the Council consider that the two primary considerations, namely, clinical need and lack of suitable alternative sites are considered, in themselves, to be "very special" and thus attract significant weight, as permitted by case law.

Certainly, we can see no indication as to the amount of weight attributed to the considerations of design, sustainability features, siting, landscaping, tree planting and highway improvements in the context of the concerns expressed by Merseytravel and the Amenity Societies.

Rather than being attributed weight in favour of the proposal, these features of the Applications appear to us to have been considered in relation to whether there would be any relative benefits to openness or "would not warrant refusal", "no counter information", etc.

- This approach does not appear then, to conform to the correct format of the Green Belt test.

Without a clear view of the amount of weight attached to each factor against the proposal and each factor in favour, we consider it is impossible to move on the next part of the test, which is the

balancing exercise, namely: does the sum of the weight of other considerations clearly outweigh the sum of the weight of the harm?

- We cannot follow the reasoning in the Report, in this respect and, as it also shows, the officers also appear to have taken into account matters they ought not.

We are very concerned that the Planning Committee has, in the past, set a very high hurdle for applicants to jump in this regard.

- In this case, it is by no means clear that the sum of the weight of other considerations clearly outweighs the sum of the harm.

We note the Report to the Council seems to have taken into consideration the condition of the land in relation to arguments about openness -see page 51, lines 12-15, *“the fact that the building will occupy less of the site than the existing derelict structures will ensure that any harm to the openness and character of the Green Belt is minimal”*.

In our view, the Council should not have given any weight to the fact that the site is derelict in terms of comparative effects upon openness. Whereas dereliction may detract from the visual amenities of the Green Belt, it should not be linked with arguments about openness in the manner set out in the Report - Para. 1.7 of PPG2 *“although Green Belts often contain areas of attractive landscape, the quality of the landscape is not relevant to the inclusion of land within a Green Belt or to its continued protection”*.

We consider neither is their assessment of comparative footprints relevant to the inappropriateness of new buildings, as referred to earlier in this statement.

At page 47, line 18, the Report says: *“there is no planning reason to refute the reasons put forward by the applicant to amalgamate the surgeries”*. As we highlight above, it is unclear how much weight has been attached to clinical need. However, there appears to have been no attempt to examine land-use planning issues at all.

For example, the Application site is not central to the catchment area – supposedly a prime consideration for the applicant. *This is material*. This is not an isolated rural area and there is a major hospital nearby where similar services can be obtained. *This is material in terms of sustainability and need*. The effect upon the vitality and viability of Irby Village in particular is *also material* in this respect.

It is important then to make decisions in accordance with principles of openness (as per the guidance paragraph quoted).

For the reasons given above, it is considered that the recommendation to approve is severely flawed and could be successfully challenged by judicial review or by the decision of the Local Authority Ombudsman.
