

# WIRRAL MATTERS

NEWS FROM THE WIRRAL SOCIETY • FOUNDED 1928  
THE WIRRAL COMMITTEE OF THE COUNCIL FOR THE PROTECTION OF RURAL ENGLAND (CPRE)

President: Professor John Tarn OBE DL

## Once a highway, always a highway

The absence of news about the Twelve Quays Campaign in the local press recently may well have given the impression that there have been no developments. In fact, by the time you read this, the whole question should have been considered by the Licensing and General Purposes of the Wirral Council. We expect a decision from them within the next few weeks.

It may seem odd that the committee which issues licences to taxicabs and public houses also has the power to designate or deny rights of way but it matters little provided it is done.

No response has yet been made to the giant letter signed by 40 Wirral organisations (including The Wirral Society) protesting at the loss of the public walkway at Twelve Quays but considerable correspondence has been going on and froing between the Council and The Ramblers' Association. The Ramblers have added their very considerable weight and long experience in these matters to the protest instigated by Mr Graham Handley of Upton. Mr Handley initiated the campaign after he and many others found their way to the waterfront barred during the visit of the QE2 last July.

A very detailed three-page letter was sent by The Ramblers' Association to the acting Borough Solicitor and Secretary of Wirral Council on 17 May. A copy was also sent to all 66 Councillors and Wirral's four Members of Parliament. The letter makes a very convincing, clear-cut case for reopening this right of way.

The writers (Adrian Morris, for the Rambler's Rights of Way Campaign, and his colleague Dorina O'Brien, the Rights of Way Policy Officer) gave detailed accounts of the legislation and statutes relating to Rights of Way generally and to Twelve Quays in particular.

A right of way can come into existence in a number of ways - by Express Dedication, by Presumed Dedication and Dedication under Statute. The Ramblers explain that the public right of way at Twelve Quays has been established in all three ways.

In the 1990s the Merseyside Development Corporation (MDC) created an enhanced waterfront walkway at Twelve Quays. MDC's clear intention, stated at the time, was for the walkway to become a prime amenity for visitors and the local community. It is there for all to see, more than 1000 yards of it, complete with railings, benches, lifebuoys and all the trappings of a promenade. MDC was the landowner of Twelve Quays in the 1990s and the Ramblers explained that provision for such a walkway by the landowner is Express Dedication.

Presumed Dedication is the usual process through which a path becomes a public right of way. This implies that if a path is used by many

members of the public, even over a relatively short period of time, it becomes a right of way. Parliament has also legislated that even if there has only been occasional use a path will become a right of way if it has been used without hindrance for more than 20 years.

In the case of Twelve Quays, of course, crowds have gathered there at various times to witness the spectacle of the Tall Ships, the arrival of the QE2, the Royal Yacht *Britannia*, various warships of the Royal Navy, special cruise ships and for the annual Mersey River Festival events. In addition, 50 witnesses have come forward to provide statements testifying to unhindered usage for more than half a century.

Finally, Dedication by statute. Has a public footpath ever been legally established along this particular stretch of Mersey waterfront? There is no doubt about it. When the Birkenhead Dock Act 1844 was enacted it laid out a walkway for the recreation of the public. Say The Ramblers' Association: *'this is a matter of fact and beyond doubt.'*

We believe that the Mersey Docks and Harbour Company has tried to refute this evidence, relying on a selective text from a later act of 1858 to say that the Act of 1844 was repealed and thus the right of way was repealed. This seems to be the crux of the matter and Wirral Council has adopted the attitude of the Dock Company. The Ramblers' have asked the Council why they did not bring this 'fact' to the attention of the campaigners. It only came to light after the campaigners unearthed the evidence in Council files after planning permission had been given.

However, it seems that had the Council read on a little further they would have seen that the 1858 Act allows that *'everything done or authorised to be done or engaged to be done (under the Acts) repealed shall be valid as if this Act had not been passed.'*

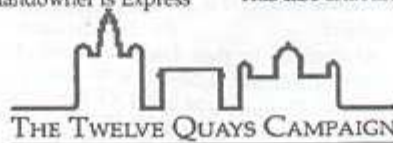
In other words, the creation of a waterfront footpath and the public's right of recreation was not repealed and the Twelve Quays footpath remains in existence, as created by statute.

To add to what is surely an unarguable, incontestable, cast-iron case The Rambler's Association draw attention to a court case in 1903 when the judge stated that *'where there has once been a highway no length of time during which it may not have been used would preclude the public from resuming the exercise of the right to use it if and when they think proper.'*

This case established the principle of **'Once a highway, always a highway.'**

The Wirral Society and the many other organisations that support this protest to retain the historic right of way at Twelve Quays are not

*continued overleaf*



opposed to the Ro-Ro terminal, provided it allows unrestricted access to the cherished Wirral waterfront. This can be achieved without endangering public safety or hindering traffic operations, by erecting a simple footbridge. That's how similar problems have been solved at both Hull and Goole where almost identical Ro-Ro terminals have been built. The cost of the bridge could easily be met out of the £20 million government grant and £120 million of European and private sector funding recently awarded to Wirral Council for the express purpose of improving the Mersey waterfront.

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A peaceful and very dignified demonstration which took place at the entrance of the site on Saturday 31 March which was attended by a number of Society members, received considerable press coverage both locally and in at least one national paper.

The total membership of the 40-plus Wirral societies and organisations represented is over 100,000. Prior to the event, however, a local radio station gave the impression that this vast number would all be present and demonstrating. Unfortunately, this misunderstanding was picked up by the police so that the 50 or so demonstrators silently picketing the scene were confronted by a police van, two or three police cars, police motorcyclists and a couple of foot bobbies! Their services were not required.

The gathering at the gate was, in fact, merely a photo-opportunity for the press photographers and Granada TV. When the cameras had ceased their clicking the 'demonstrators' made their way to Pacific Road theatre for refreshments and the signing of the four-foot by three-foot letter by representatives of all 40 organisations. Later in the week the letter was presented to Wirral Council officers at Wallasey Town Hall. The subsequent reported comment of one officer that 'the letter will be treated like any other' did not go down well. A letter from the Society to the Wirral News complaining about this offhand attitude was not published.

A recent and very prominent half-page report in the Independent on Sunday on battles being fought in various parts of the country against the unauthorised closure of public rights of way highlighted the Twelve Quays campaign.

### FRIENDS OF HILBRE

It is always good to make new friends and we warmly welcome into the Wirral conservation movement the newly-formed Friends of Hilbre.

The leading light behind this new venture is Susan Craggs of Neston who is the daughter of the renowned Professor John Craggs who spent a quarter of a century trapping, ringing and recording the astonishingly varied bird population of Hilbre Island. The book, *HILBRE - The Cheshire Island - its history and natural history*, which he edited was published by Liverpool University Press in 1982 and is undoubtedly the definitive book of the subject.

The launch meeting in West Kirby was attended by the Society Chairman, Rod Tann, and our Secretary, Eric Sanné, who offered the Society's support. The Executive Committee has since authorised a donation of £100 towards the start-up expenses.

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## DOWN ON THE FARM

FENDER FARM in Moreton has been much in the local news this past year and it has not been an everyday story of country folk. Redrow, the well known builders and developers, have long wanted to erect a housing estate on some of its green fields but this has not been of much concern to those who feel most strongly that these fields should remain inviolate as an open space between the extensive Beechwood housing estate and Moreton. When Wirral Council brought out their Draft Unitary Development Plan, the farm fields were included in the so-called 'M53 Corridor' extension to the Wirral Green Belt. At the subsequent Public Inquiry on the plan this was challenged by Redrow and, to our - and most people's - amazement the Inspector agreed with them. In his wisdom, the Inspector decided that, if Wirral Council were to meet the target for new houses set by the Government, this land would be needed for development.

The matter was fully discussed at several meetings of the Society executive committee and although it was acknowledged that the Council has a major task in satisfying their target figures we could not agree that it was necessary to allow this land to be removed from the M53 Corridor scheme and in our response to the UPD we said so. Redrow subsequently lodged two planning applications during the following three years for the erection of houses on the field adjacent to Fender Lane but they were withdrawn before reaching the committee. However, yet another, application was recently considered by the Council's Planning Sub-Committee. This was fully debated and despite the advice of the planning officers that it would be approved, the Committee bravely turned it down - by a majority of just one vote!

The applicants immediately lodged an appeal against the decision and this will be the subject of a Public Inquiry on 14 June.

### Objections

There are several reasons why the Society considers this planning application to be so objectionable.

Those who know the site will have noticed that after the heavy rains we experienced in the latter months of last year the land at Fender Farm was badly flooded and remained so for many weeks. The Government has subsequently warned the building trade and planners that houses should not be built on flood plains where it can be avoided. Redrow are obviously alive to this possibility. Their plans call for land level to be raised some 3-6 feet above ground level. This may do the trick but it also means that the whole estate will be that much more prominent visually, particularly when approaching Moreton from the east, travelling over the M53 bridge where one looks down on the land from a raised position.

Be that as it may, we continue to have serious misgivings about the wisdom of developing this land. Has anyone in authority given serious consideration to the potential impact of the construction of so large an estate on surrounding properties? These, we understand, are already affected by the high water table and last year's rains have added to the problems.

We suggest that a full impact study on the hydrology of the area should be carried out before development of any kind are contemplated on this side of Moreton. It would, of course, be more economic simply to designate the land as being of low priority, in accordance with government planning guidance, and refuse to consider any development applications for the area unless a desperate need arises.

## WIRRAL SOCIETY SCHOOLS AWARD

Members will recall that this award was instituted last year with the aim of encouraging good environmental practices among young children schools. Our late chairman, Keith Davidson, whose idea it was, firmly believe that children cannot be made aware too early in life of the need for looking after their own environment.

The competition is open to all primary schools within the Metropolitan Borough of Wirral and the County Borough of Ellesmere Port and the award is made to the school which, in the opinion of the Society, has made an outstanding contribution to that end. Any project must have involved pupils to a considerable degree and have been undertaken in the current year.

There was an increased number of inquiries made about the award this year though not all submitted an entry. Of those that did the field was narrowed down after careful scrutiny to five schools, three within the Borough of Wirral and two at Ellesmere Port and Neston, and all five were visited. In Wirral, the schools were Prenton Infants School, Our Lady of Pity School in Greasby and Heswall Primary School. Parkgate Primary School and Stanney Grange Community Primary School carried the flag for Ellesmere Port and Neston.

Out two judges - Diana Lane and Lillian Potter - returned most encouraged by what the schools were doing and the obvious fascination shown and the fun experienced by the children.

Some of the schools had been busy on schemes for some time while others were still in the initial stages but their diversity and the imaginative range of activities were impressive.

Projects included the creation of log play areas, the installation of tree seats, pergolas, bird boxes and tables. Some of these tasks were, of course, beyond the capability of small children and even their teachers and in several instances Groundwork Wirral had lent a professional hand. Even so, the children were able to see practical demonstrations of what is meant by the term 'recycling'. They saw how recycled railway sleepers, chipped bark and gravel were used to make pathways and sitting areas within the school grounds.

Children were able to play a full 'hands-on' part in such activities as seed and bulb planting, the planting of borders, the creation of hedges and herb gardens.

Other relevant activities noted by the judges included a library with an eco-theme, energy saving devices like 'switch-off lights' campaigns, litter collections, disposal of waste materials which, in some cases, raised money which went to charity. It was noted, too, that school notice boards contained news and activity reports relating to the progress of projects.

It was evident, commented the judges, that pupils had been much involved with the design, construction and maintenance through parents and school governors, as well as Groundwork Wirral, had all lent a helping hand where needed to produce eco-friendly environments which were also linked to the curriculum.

Faced with such diversity Diana and Lillian found it difficult to single out one school for the award. In the end, after much cogitation, the Society's 2001 award went to Heswall Primary School. They will receive a framed certificate and a cheque for £250.

Heswall Primary, they reported, had involved the children throughout. They made suggestions, written fund-raising letter and had taken part in an after-school ground maintenance club. They had also been given the responsibility for guiding visitors round the various features, pointing out those projected, as well as those in place.

The overall aims were comprehensive but targeted each year to particular features which were modestly and realistically budgeted. The plans are ongoing and as they are realised they are making good use of the school environment. They will receive a cheque for £250 and a framed Certificate.

• All primary schools in both boroughs in Wirral are encouraged to apply for the 2002 awards, including those not successful this year. Further details will be available during the Autumn term, 2001.

### A FLAG FOR GROVE STREET

We are delighted to learn that last year's winner of our Schools Award, Grove Street Primary School, New Ferry, has again been honoured. They are the first school in Wirral to be awarded a coveted Green Flag by the Tidy Britain Group.

Once a school has implemented the seven elements of the Eco Schools process it can apply for a Bronze Award, then a Silver Award and, eventually, a prized Green Flag. Grove Street's eco programme is so comprehensive the school was considered to have already achieved the Bronze and Silver Awards and were immediately awarded the flag.

Thursday 19 July will be the school's Green Day devoted to environmental projects and displays. If weather permits the pupils, teachers, parents and friends will picnic on the lawn at lunch-time. Members of the Society are cordially invited to see the school's Eco Programme in process at any time of that day. But if you want to join the picnic you must bring your own sandwiches.

### BIDSTON LIGHTHOUSE

In continuation of the lottery project which formed part of the UK-wide Millennium, Wirral Borough Council has arranged a programme of Open Days at Bidston Lighthouse. They began in June and will continue until the beginning of September.

Access to the lighthouse, however, is restricted. Applications to visit can be made by telephone to 0151 639 3929 - and, it is emphasised, booking is essential.

Only 5 places can be reserved per phone call (the caller and four others) and the venue is unsuitable for children under 5.

Unaccompanied children under 12 will not be admitted. Visitors may use the Proudman Laboratory (i.e. Bidston Observatory) car park.

Remaining dates are:

Thursday 19th July 2001

Wednesday 1st August 2001

Sunday 19th August 2001

Thursday 6th September 2001

Further information will be given at the time of booking.

## YELLOW FEVER

Members may recall that during 1988 North Wirral suffered a sudden rush of garish, ill-designed and, sometimes, inappropriately-sited new bus shelters. Their sudden appearance came as a complete surprise to most people, not least the staff of the Local Planning Authority putting them up.

The Society's displeasure was recorded at the time in the Wirral Matters which was illustrated with a photograph of a particularly offensively-sited shelter adjacent to Birkenhead Park's Grand Entrance which is, of course, Grade 1 Listed. The Society's concerns were taken up with great zeal by our late Chairman, Keith Davidson, who corresponded at length with Merseytravel and others.

Sadly, his efforts on the Society's behalf were in vain but little did we know at the time that this was not the end of the matter for, earlier this year, another rash of bilious-yellow shelters appeared. A notable example of Merseytravel's continuing insensitivity is demonstrated by the totally disgraceful siting of a shelter right outside the Grade 2 Listed Brighton Hotel opposite the Town Hall in Wallasey.

Letters have also appeared in the local press complaining about a shelter being erected right in front of someone's lounge window (so, at a stroke, considerably reducing the value of the house) and another complaining about a shelter erected on a narrow pavement causing mothers with push-chairs and people in wheelchairs to go into the road to get round it.

Recently the Executive Committee decided that a further letter should be written to Merseytravel to record our displeasure at what has happened. Whilst we recognised the laudable move in providing adequate shelters for bus-users we made the point that they seem to be using their powers without responsibility. It noted that whilst the Company claim to have consulted bus-users it seemed to have totally disregarded having consultations with interested organisations, including local authorities and societies such as ours.

The point was made that the Society recognised that little could be done to undo actions already taken but asked for a reassurance that the shelter erection programme is now completed and sought information on the planned life of the structures. Reference was also made to the new shelters now in place in Manchester city centre which, despite carrying advertising were still a pleasurable addition to the street scene by virtue of their stylish design and muted colour.

How the erection of bus shelters has escaped the need for planning consent is a mystery. But the very fact that prior approval is not required demands a much more responsible and sensitive approach by the bus companies concerned.

R.G.T.

## Consent by Default ?

Not a Wirral matter but of interest. An unusual planning issue arose recently in Liverpool following an application by One2One telephone company for erection of two telecommunication masts in the south end of the City. The masts would be each 15 metres high and some 700 metres apart.

After a planning application is submitted to a local authority the authority has to say yea or nay within 42 days in the case of masts on buildings and 28 days for free standing masts from the date of the application. In this case, after discussions between the applicant and the planning department, Liverpool Council asked for an extension of time until a planning committee meeting could take place.

One2One claim that this extension of time expired on 3 April and, in the absence of a decision, they now intend to erect the masts, come what may.

Said a spokeswoman of One2One: 'We have planning consent by default and it's now our intention to proceed.'

## Cheque or Credit Card ? (Part II)

Our note in the last issue of *Wirral Matters* about the proposal to inflict on-the-spot fines on litter louts in Wallasey Village brought a quick response from Councillor Mrs Lesley Rennie. She points out that 'the fine scheme was made in response to complaints from myself and my Council colleagues that the volume of litter in the Wallasey Village area was reaching levels that were unprecedented due to the increasing numbers of secondary school pupils in the area.'

In reply to our query about how the penalties would be collected she explains that 'It was agreed that the officers of the Environment Protection Department would patrol the streets of Wallasey Village accompanied by a teacher or other member of staff who could identify the pupil concerned. We felt this would act as a deterrent.'

Whilst admiring this initiative we felt it did pose a question about the practicality of the scheme. Is the threat of an on-the-spot fine no more than a threat? Would a fine really be demanded of a ten year-old who threw a sweet wrapper on the pavement? Would it not be risking the ire of the parents? Will it be a fixed penalty or one adjusted according to the age of the culprit? Will litter-dropping adults similarly be challenged and fined? Are there enough Environmental Protection Officers available to police Wallasey Village and other areas in the Borough which might be similarly littered?

And so on.

Councillor Rennie also pointed out that the police also have the power to issue on-the-spot fines to cyclists riding on the pavements.

Not a lot of people know that. Especially the cyclists. A subsequent letter from Mrs Rennie said that she had passed our queries on to Alan Stannard, the Director of Housing and Environmental Protection for Wirral Borough Council, for reply.

That was on 30 April. No response has been received.

*Developers are the carrion crows of social change. When offices become tired they turn them into flats. When factories fall vacant they sell them as left shells. Now they are turning petrol stations and car showrooms into neat little housing estates and apartments. The country is awash with garage forecourts for sale and developers are seizing the opportunity.*

Caroline McGhie  
Sunday Telegraph