

January 28, 2010

Leomansley Area Residents Association's supplementary comments on application 06/00592/FUL

ERECTION OF 3 NO. DWELLINGHOUSES AND ASSOCIATED PARKING  
BLAIR HOUSE, WALSALL ROAD, LICHFIELD, STAFFORDSHIRE  
FOR DELTABRIDGE INVESTMENTS LTD

The brief summary of objections in the Committee report fails to properly convey the substance and detail of our objections. In our view non-inclusion of the supporting detail of certain of our representations does not conform to the principles of fairness or the obligations for reporting of such matters.

EXCLUSION OF BLAIR HOUSE FROM PUBLIC OPEN SPACE

One of the key concerns relates to the decision to exclude Blair House from its clear inclusion as part of the public open space indicated within the section 106 agreement plans dated 15 October 1999 (specifically plans annexed to the 106 agreement which clearly state that the area is designated as public open space). All parties to the agreement signed the agreement including Delta Bridge Investments. The 106 agreement was signed as a Deed. This exclusion of Blair house from its designation as public open space has been done, as far as we can ascertain, with no communication or consultation about this fundamental 'change' with successors in title, Planning Committee, local ward councillors, Darwin Park residents or the public.

Also, the Committee report makes no reference to the written assurance referred to in our earlier representations given by the Planning Officer Jonathan Stackhouse in an e-mail dated 25 May 2004 to a local resident, Tim Shrigley, which said *".. I am a bit concerned that Bryants are advising residents to 'put pressure' on the planning authority to ensure Blair House remains as public open space. This is simply unnecessary, as Blair House is proposed as part of the overall public open space for this development within the masterplan, and I can advise you that as planning authority we have no plans to change that."*

Your report reproduces paragraph 2.11 of the report submitted on 27 November 2007 which states:  
- *"The formal landscaping scheme for the area to the north west of Blair House was submitted in December 2001 as part of the conditional requirements of the Alesmore meadow development (01/00845/REM) and approved in January 2002. The formal landscaping scheme for the area to the south east, south west and north east of Blair House was submitted in September 2004 as part of the conditional requirements of the outline permission and was approved by the Local Planning Authority on the 3<sup>rd</sup> November 2004. Neither of these landscaping schemes incorporated the Blair House site as being within the proposed public open space."*

It is reasonable to assume from the Planning Officer's written statement of 25<sup>th</sup> May 2004 that the decision of January 2002 on application 01/00845/REM had not altered the section 106 agreement indication that the Blair House site was part of the public open space. If this is correct this implies that the exclusion of Blair House from public open space was effectively made in the 3<sup>rd</sup> November 2004 decision on the formal landscaping submission. As such that decision was expressly contrary

to the written assurance of the LDC planning officer (25<sup>th</sup> May 2004 email) that there were no plans to change Blair House's inclusion in the public open space. In these circumstances where it was known by the council that the public had requested assurance regarding the Blair house issue, it would be expected that two things would happen. Firstly, the resident concerned, residents generally, our Residents Association and local councillors would have been made aware of the intention to make a significant change to the public open space allocation. Secondly, that the decision would be submitted to the Planning Committee drawing attention to the background and the implications of excluding Blair House from the open space. Instead it appears that a decision, which had the effect of a fundamental modification to the section 106 agreement, was made without any public or councillor knowledge.

When Mr Shrigley raised the matter with Michael Fabricant, Member of Parliament, the reply of Mr. Stephen Hill of 16<sup>th</sup> August 2005 stated, "*The open space provision for the Walsall Road development as a whole has only recently been decided, subject to some minor alterations, and the Blair House area has not been allocated for open space. Extensive open space (24.66 acres) exists as part of the Walsall Road development, which offsets any that, may have been previously indicated on the Blair House site.*"

Prior to the decision to exclude Blair House from the public open space, residents, planning officers and the lead developer all understood that the Blair House site was intended to be part of the public open space. Looked at objectively the concept of creating a corridor of open space along the line of the Trunkfield Brook was a fundamental component of the Masterplan for the area. For this reason the concept was incorporated into the **legally binding section 106 agreement**. It also had the sensible planning benefit of ensuring that vehicle penetration from Walsall Road would not occur and that the former farm track could become a safe pedestrian route for residents, school and playgroup children going to and from the Christchurch Primary School and the Jack 'n Jill preschool.

If it was never intended that Blair House was to be included in the public open space provision then surely the lead developer would have voluntarily constructed Alesmore Meadow in such a way as to incorporate the Blair House site or facilitate a safe access to it. This would have enabled more houses to be built and all access issues resolved. Even though the lead developer didn't own the site he would have negotiated its purchase or the existing landowner would have negotiated access etc at the time of the main development.

Whilst all these issues indicate a lack of overall planning and co-ordination between the parties concerned they should not provide a basis for approving a development which will put at risk the safety of local children and residents.

#### Safety of users of the access track.

Putting the Section 106 agreement aside for a moment, it is recognized that the national guidelines could allow such a development if the lane in question was a typical residential street. But the local situation is such that this is not a typical residential street. Therefore a shared surface scheme where pedestrians are supposed to walk in the street because there is no room for a pavement is not appropriate and in fact dangerous. The lane from the Darwin Park estate to Walsall road has historically been and still is the route that children ages 3 - 11 take to and fro to Christ church school and Jack n Jill pre-school every day. It was this way by design from the beginning of the estate as can be seen by the incorporation of a pedestrian crossing from the end of the lane to the

other side of Walsall road. The lane in question was primarily designed to be a pedestrian walkway. This is crucial as it is the safety of these 3 - 11 year olds that is at stake.

The national government of this country rightly gives local planners and local councillors the right to make the final decision on planning matters because they recognize that national guidelines are just that - guidelines - guidelines that will not always apply to every local and specific situation. If we were to blindly follow national guidelines then there would be no need for local planners or a local planning committee. The lane in question needs to be recognized for what it is - a lane where 60, 70 , 80 children, their parents and siblings walk this path each day twice. They are pushing prams, pushchairs and buggies. Some of them are escorted by parents and some aren't. They are walking, running and carrying on as children do - sometimes not paying attention. To put three homes at the end of this lane would potentially put 12 cars at the end of this lane and would also incur normal residential traffic on the road not only from these residential vehicles but also from such vehicles as rubbish collection vehicles, delivery vehicles, etc.. To incur this type of traffic flow at the end this narrow, narrow pedestrian school lane which will have no pavements would be irresponsible. Also, a shared surface scheme would present problems for those who are blind, or have visibility problems and those who are in wheel chairs not to mention fly in the face of the disability discrimination act. Not only this but the visibility is poor on this lane due to the bend in the middle of the lane - cars approaching around the bend cannot be seen. In addition, turning into the lane off Walsall road has no splay as of this past Saturday which will cause large vans, delivery vehicles, lorries and construction vehicles to have to swing out into the on-coming lane in order to make the turn into this lane. Further more, the footpath which leads up from Alesmore Meadow to the lane has six foot high brick walls on either side blocking visibility such that one cannot see oncoming vehicles on either side (see the LARA web site for pictures). All this adds up to a very dangerous planning application which puts the lives of children at risk.

#### Amended plans

The consultation period on the amended plans recently submitted is still running and for that reason we feel the application should be deferred if not turned down completely (see below).

#### Proposed Planning Conditions

Without prejudice to our opposition to the proposal we are concerned in relation to the certain of the proposed conditions.

Condition 5 provides: *“No development shall be commenced until details of the construction method for the access track and two passing areas have been submitted to and approved in writing by the Local Planning Authority. The access track and passing areas bays shall be reconstructed in accordance with these approved details and submitted plan 452/01 rev B prior to the first occupation of the dwellings and shall thereafter be retained for the life of the development.”*

There is no express obligation that imposes maintenance obligations in relation to surfacing or structure of the access track. There is a fundamental difference between being retained and being maintained. Surely a section 106 agreement is necessary to impose ongoing obligations to maintain the access track particularly since it is accepted that part of the access track is not within the Blair House site ownership. Encouragingly condition 14 does seek to apply a requirement to maintain the lighting but again the need for a section 106 agreement is the prudent way of ensuring ongoing

maintenance. It is not clear that there will be any express obligation for the lighting to be turned on during hours of darkness only an obligation to maintain the lighting provision.

#### CONCLUSION

Finally, we are greatly disappointed that we find ourselves in such a situation that we are even considering a planning application for land that is designated in a 106 agreement to be public open space. It must be pointed out that we, the residents, purchased our properties with the full knowledge of the Section 106 agreement. If the Lichfield District Council renege or has already reneged (as indications may have it) on this original 106 agreement it would be in our right to bring to the public's attention the details of this whole matter and if necessary involve the media. As successors in title to the Section 106 agreement, we claim the benefit of the designated open space as indicated on the plans of the initial 106 agreement. If residents were to lose that benefit then they very well could decide to proceed as stated above or even more severely.

Of course, we hope that it would not come to this and that the planning committee will see the severity of the situation - the potential breach of 106 agreement and the dangerous risk this application poses to our children. We believe that this planning application should be turned down and that Blair house be turned into the public open space that it was initially intended to be.

Sincerely,

Revd Jeffrey S. Fry  
Chairman, LARA