

IN THE HIGH COURT  
QUEENS BENCH DIVISION  
ADMINISTRATIVE COURT

Claim No. CO/5990/2008

R (ON THE APPLICATION OF THE BARD CAMPAIGN)

First Claimant

And

DAVID BLISS

Second Claimant

And

WESTON FRONT

Interested Party

And

THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT

Defendant

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**SECOND WITNESS STATEMENT OF  
ANTHONY JOHN SHIRLEY HENMAN  
ON BEHALF OF THE INTERESTED PARTY**

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I Anthony John Shirley Henman of Monks Walk, Weston on the Green, Oxfordshire, Solicitor of the Supreme Court am duly authorised to make this witness' statement on behalf of the unincorporated association known as the Weston Front. This statement is in addition to my first statement of 15 October 2008 and is made in support of the Weston Front's claim for Judicial Review against the defendant.

1. I was admitted as a solicitor of the Supreme Court in 1963/64. I was articulated in the City of London and after qualification I stayed in London and spent approximately 5 years with a large insurance legal practice acting mainly in a defendant capacity for insurers. I then left London to build up a small country practice in Woodstock into a large leading regional firm in Oxford where I was Senior Partner for about 30 years. During that time my own work became more specialised and for the last 10 years I have specialised in mainly professional indemnity work representing solicitors and their insurers. I have been a Consultant with my firm for the last 3 years. During the time I was Senior Partner I also sat as a Deputy District Judge for about 7/8 years on the Oxford and Midland Circuit.
2. WF is fully aware that the court is not interested in the merits of the proposal but rather the extent to which the defendant has complied with the legal obligations under the general headings of consultation and legitimate expectation. It is towards these matters that this statement is directed.
3. WF seeks to articulate the views of local people concerning this proposed eco town. The overwhelming sense which local people have is that they have been treated by the defendant with an indifference bordering on contempt. The defendant has forced WF to chase after information concerning site selection criteria which she could and should have volunteered from the beginning. She has failed to respond to requests for information whether timeously or adequately.
4. All this reflects a cast of mind or an attitude on the part of the defendant which is to effect that the local community is a contemptible nuisance and they are to be engaged with only on the most minimal basis so as to effectively neutralise their contribution to the debate. This is the very opposite of the defendant's published policy concerning the need to engage local communities at the earliest stage fully and effectively in order to enable them to make meaningful comments on development proposals which effect them.
5. Parkridge is a private developer who has purported to carryout some consultation exercise in local village halls. These are deeply defective and unsatisfactory. However, Parkridge is not a decision maker and is not a party to these proceedings.

Furthermore, WF does not understand the defendant's case to be that she has sub-contracted her obligations concerning consultation to Parkridge. Therefore, at this stage, nothing more is said about the involvement of Parkridge.

#### The BARD Campaign

6. WF has watched with interest (and admiration) the steps taken by the BARD campaign to oppose a proposed eco town at Long Marston, Warwickshire. In its composition the BARD campaign is identical to WF; a group of ordinary members of the public who were suddenly and horrifically presented with a fait accompli by the defendant. It follows that the basis of their complaint in these proceedings is identical to that advanced by WF. Therefore WF agrees with and adopts their case in support of the following grounds of relief; namely; (ii), (iv), (v) and (vi) and relies on their case in this regard in order to avoid unnecessary repetition. The points made by WF under these heads are complementary to the BARD campaign and it is thought they may be helpful to the court for two reasons:

- i) They confirm and corroborate the identical concerns expressed by the BARD campaign at a different location and, related to that;
- ii) They reflect a pattern of conduct by the defendant which denies her the possibility of suggesting that the failures with regard to the BARD campaign were particular to that proposal.

7 I am not aware of the consultation procedure between DCLG and Parkridge although I anticipate there must have been a considerable consultation before myself and WF became involved in this proposed "Eco Town" development in November 2007. I am now aware that DCLG wrote to the Chief Executive of all local planning authorities in the "English regions outside London" on 2 August 2007 and I refer to a copy of this letter marked exhibit AJSH 4. I have not seen the various enclosures referred to in that letter.

8. As far as I am aware the first communication that Weston on the Green Parish Council received was a letter dated 9 November 2007 from Cherwell District Council and I refer to a copy of this letter marked exhibit AJSH 5 and subsequently a letter from Parkridge dated 19 November 2007 marked exhibit AJSH 6. This was the first contact with the developers Parkridge.
  
9. It was in or about November/December 2007 that I was informed in the Oxford Mail & Times that WO had been selected as a proposed "eco town" site. It was one of 57 sites selected by DCLG. The site had never been in any regional county or district plan. There was no consultation between DCLG, Parkridge and WF during the "bidding and selection process between October and early 2008" as referred to in exhibit marked AJSH 4 referred to above. Indeed I wrote to our MP, Tony Baldry on 21 November 2007 marked exhibit AJSH 7 and I refer to his replies dated 21 November and 12 December 2007 marked exhibit AJSH 8. As can be seen from this correspondence WF and our MP were not aware of the criteria or consultation for selection or any site assessment for suitability. In other words WF were left completely in the dark as regards any criteria and consultation process and this still remains the situation.
  
10. WF had three meetings with Henry Cleary a senior Civil Servant. The first meeting was at Bodicote House, Banbury the offices of Cherwell District Council; the second meeting at Westminster was when Caroline Flint, the then Housing Minister was present and a third meeting was at the Littlebury Hotel, Bicester. On the first and third meetings representatives of Parkridge were present. There was no agenda for any of the meetings despite this being requested. We were addressed by Henry Cleary on general lack of housing in the South East; lack of affordable and social housing and how DCLG and the developers would build up to 10 eco towns. One of these would be at Weston on the Green. I and others asked questions; however there was no consultation or discussion. I gained the distinct impression that it was "a done deal" so far as DCLG were concerned. Each meeting was no more than a cosmetic exercise. I gleaned no further information. The dates of the first and third meetings were the 19 day of June 2008 and the 28 day of July 2008 respectively.

11. The second meeting referred to in paragraph 10) above was at Westminster on the 30 day of June 2008 when a number of protest groups demonstrated against the DCLG proposals. Many hundreds of protestors took part. After the demonstration about 20 leaders of the various protest groups then had a meeting with Caroline Flint and Henry Cleary. This meeting lasted about an hour. Caroline Flint addressed us on the same issues addressed by Henry Cleary set out in paragraph 10) above. Again there was no consultation. We were being told what was going to happen and the reasons why. Again there was no agenda and no shape or form to the meeting. Again the meeting was another box ticking exercise. We were no further forward. Various questions were asked. I asked one particular question of Caroline Flint and asked her to confirm that there would be no building on green field land. It had been part of the Government's stated proposals that there would be no building on green field/green belt land and Caroline Flint had confirmed this. However it is clear from what WF had been able to ascertain that there would be building on green field/green belt land and I asked Caroline Flint specifically why she was being so disingenuous by saying firstly there would be no building on green field/green belt land and then she was stating that there would in fact be building on green belt land. She then replied that she had meant building in the sense of building houses and nothing else. I pointed out to her that the building of railway stations, infrastructure, park and ride car parks etc were certainly "buildings" and possibly worse than building houses. Caroline Flint was clearly concerned about this line of argument and questioning and conferred with Henry Cleary as she did with any difficult questions. I then suggested to the Minister that we required answers to these questions from her and not from a Civil Servant. She was unimpressed. Caroline Flint seemed to take the view that she was reasonably new to the job and could not really answer all the questions and therefore needed guidance from Henry Cleary. Other protest groups had the same experience. Certainly after the meeting myself and Norman Machin and other protest groups felt we were still completely in the dark as regards consultation and criteria. We felt that Caroline Flint was endeavouring to steam roll the proposition through.
  
- 12 As I have already stated WF was not aware of the consultation procedure between DCLG and Parkridge and these were not made public. Norman Machin (NM) co-chairman of WF with myself wrote by e-mail on 7 February 2008 to Parkridge who replied on the same date, a copy of which is marked exhibit AJSH 9. As can be seen

the request for information was refused. NM responded further by stating that Parkridge's response was in "little more than a press release" and asked when Cherwell and WF could see something in the public domain. No reply was ever received.

13. NM wrote by e-mail to Cherwell on 8 February 2008 concerning Parkridge and DCLG. It was clear that Cherwell by their reply of 8 February 2008 were also being kept completely in the dark by DCLG. See exhibit marked AJSH 10.
14. NM also wrote by e-mail to DCLG on 8 February 2008 and a reply was received on 12 February 2008 which again was of no assistance to WF in understanding the selection process. See exhibit marked AJSH 11.
15. On or about the 3 April 2008 Weston Otmoor was nominated by DCLG and short listed as one of 15 of the 57 sites to be taken forward for further consideration. I and WF still did not know or understand why WO had been so selected and the criteria used in the selection process. There had been no informative consultation whatsoever. Tony Baldry MP was in the same position and I attach his letter of 7 April 2008 to Caroline Flint marked exhibit AJSH 12 which fully sets out his concerns which were fully shared by myself and WF.

"Eco Towns. Living a greener future dated 13 April 2008"

16. This document took WF no further forward in understanding how WO had been selected and short listed as one of 15 sites. A press release by the developers Parkridge see exhibit marked AJSH 13 commented that "We are delighted that our plans were met with DCLG approval at this point. It is ambitious and meets the green challenge of delivering a sustainable zero carbon housing". Again it is to be noted that DCLG by that stage knew the proposals but there had been no consultation whatsoever with WF, the villagers of Weston on the Green and other villages surrounding Weston Otmoor and Bicester and Kidlington.
17. It is clear that the proposal for WO had been concocted in complete secrecy without the involvement of the local planning authorities and local communities.

18. The DCLG compared the eco town initiative with the first generation of English new towns. Those towns were carefully sited following agreed planning principles. Neither community nor local government has been consulted on the most appropriate locations before these proposals had been drawn up.
  
19. I refer to the Freedom Of Information Act (FOI) letter of 14 May 2008 which was sent by myself first class post to the then Housing Minister, Caroline Flint. The letter was posted by myself. No prompt replies were received and I personally took the matter up with Henry Cleary, a senior Civil Servant with the DCLG at the meeting at the House of Commons with him and Caroline Flint on the 30 day of June 2008; again on the 28 day of July 2008 at the Littlebury Hotel, Bicester. On each occasion I requested a reply as a matter of urgency and I was assured by Henry Cleary that he would look into the matter and respond. Finally I was told by Henry Cleary that he could find no trace of a letter and therefore I sent a further copy on 18 August 2008. The reply on 20 September 2008 in practical terms stated that DCLG was not prepared to answer any of the very relevant questions. As can be seen from the FOI letter these questions were very relevant and significant and it has been greatly frustrating for myself and WF that these questions still remain unanswered. This has been typical of the whole consultation and criteria process. The reply on 20 September 2008 marked exhibit AJSH 14 simply referred to matters that were by then in the public domain after the initial consultation procedure had expired and indeed took the matter no further forward whatsoever.
  
20. I verbally requested from Henry Cleary on three separate occasions namely the 19 June, 30 June and 28 July 2008 copies of the letters of instruction to various experts together with enclosures who were instructed by DCLG. I considered it was important for WF and myself to be able to consider the instructions given to the various experts. I was suspicious as on some occasions experts are so instructed that the answers can be found in the questions themselves! Any expert so instructed should be impartial and I was concerned that the instructions to the experts might lack in impartiality for the simple reason that they were instructed on behalf of DCLG which might well affect their objectivity. It was for this reason as I have already said that I wished to see the letters of instruction with enclosures so that I and WF could be in a position to add some constructive comments to both DCLG and the experts if appropriate.

21. In March 2008, Communities and Local Government carried out an initial scrutiny of the proposals in relation to the eco-towns criteria, and where proposals met these, looked across Government and its agencies at the transport and environment issues and opportunities in the locations that had been proposed. A summary of each assessment, including that of Weston Otmoor, was published in June/July 2008 and placed on the DCLG website:

[http://www.communities.gov.uk/publications/housing/Eco-](http://www.communities.gov.uk/publications/housing/Eco-townsassessmentsummaries)

[townsassessmentsummaries](http://www.communities.gov.uk/publications/housing/Eco-townsassessmentsummaries) . The document was only available on-line and Weston Front received no notification that it had been published. It was produced for information only – DCLG did not indicate that they were inviting comments on the document.

The Assessment Summary is not very detailed and only gives a brief overview of some of the issues regarding Weston Otmoor. However, it did raise some issues and highlighted that there were concerns regarding lack of sewerage infrastructure and the lack of capacity of local water courses to received treated effluent. It expressed concern regarding transport and the ability of local roads (A34) and motorway junctions (M40, Junction 9) to cope with increase in traffic and that there would be high costs involved in developing rail and park & ride services.

22. It is my understanding that Oxfordshire County Council and Cherwell District Council and the regional assembly were consulted. As to how and when they were consulted is not within my knowledge. However both Oxfordshire County Council and Cherwell District Council support this application for a Judicial Review where WF are an interested party and will be supplying letters in support confirming they support the proceedings brought against the defendant and setting out their reasons.
23. The site contains two sites of special scientific interest (SSSI) and patches of ancient woodland are included within the site. Natural England when making their initial assessment of the full list of eco town sites pointed out to DEFRA that WO should get an A rating meaning it was "a show stopper - significant impact cannot be satisfactorily mitigated". The report concluded that the site was "high risk". Would need to be convinced that development could mitigate against the potential impacts.

The current bid does not recognise these issues" (see exhibit AJSH 15). We have been advised orally by Natural England officers that in every other case where they registered an A rating in their assessments, the site in question was dropped from the final list that appeared on 3 April 2008. It would seem that in the case of Weston Otmoor DEFRA appear to have failed to communicate Natural England's views to DCLG, or these views were ignored. This is borne out by the cursory comment on biodiversity in the Cross Government Review Assessment Summary of March 2008 (see exhibit AJSH 16), which in no way reflects the views of the original assessment. Subsequent discussions between Parkridge, Natural England, the Environmental Agency, and the local Wildlife Trust (BBOWT) who owns one of the SSSI sites, but were not party to any of Parkridge's planning prior to the announcement of 3 April 2008 showed that Parkridge had no idea how to cater for the SSSIs in their midst. A key issue in this respect is the affect that building such a town would have in the hydrology of the area. Parkridge fielded an hydrologist but not one of any ecological knowledge and who merely proceeded to ask the wrong questions. BBOWT pointed out to the meeting that in similar cases a developer would come forward with a minimum of three years of data on detailed local hydrology before any sensible discussions on ecological mitigation could take place. No such data had been forthcoming and DCLG have failed in their duty to make these enquiries.

24. Caroline Flint the then Housing Minister prior to the appointment of Margaret Beckett stated that part of the WO site was brown field and persisted in putting this view forward. Margaret Becket since her appointment has subsequently apologised for this error and it is conceded that the entire site is green field with 20-30% being greenbelt. Margaret Beckett's ministerial statement of the 4 November 2008 on Eco Towns under "Corrections" apologises for Caroline Flint's ministerial statement of the 3 April 2008. Also as regards green belt the DCLG announcement of 3 April 2008 also states "Based on an evaluation of the bids the government can today announce no new homes would be built on green belt land". This was confirmed in a telephone conference call on the 4 April 2008 issued by Caroline Flint and repeated by her on the Simon Mayo show on Radio 5 on the 21 May 2008. However in my view it must be highly likely that one of the reasons that DCLG adopted Weston Otmoor as one of the 15 preferred sites was that DCLG were under the mistaken impression that part of the WO site was brown field. Indeed when DCLG announced the 15 proposed eco town sites on 3

