

North Dudley Area Committee – 5th December 2007

Report of the Director of Law and Property

Applications in respect of land and property owned by the Council

Purpose of Report

1. To bring to the Committee's attention requests relating to land and property controlled by the Council and to seek the Committee's recommendations on those requests.

Background

2. The Council has interests in a substantial amount of land and property across the Borough, those interests being controlled by the Council's various Directorates.
3. Requests are received from the public on a regular basis for property related matters such as purchases, leases, licences, easements and access agreements. Those requests are dealt with by the Directorate Law and Property who carry out a consultation process with the Council's relevant Directorates before preparing a report for Committee to consider.
4. Reports for this Committee are attached as appendices and the proposal resulting from the consultation on each particular request is set out at the end of each appendix. A plan is provided where required.

Finance

5. In general terms leases, easement and access agreements each generate an income for the Council. The sale of the land generates a capital receipt of the Council, the size of which would depend on a valuation placed on the site by the Director of Law and Property and the price finally agreed between the parties.

Law

6. Section 123 of the Local Government Act, 1972 enables the Council to dispose of its interests in land at the best price reasonably obtainable.

Section 123(2A) of the Local Government Act, 1972 requires the Council prior to any disposal of open space to advertise notice of its intention to do so for two consecutive weeks in a newspaper circulating in the area in which the land is situate and to consider any objections which may be made.

The various statutory undertakers will have statutory powers to install equipment in Council owned land, but they do apply to the Council for a formal agreement, such as an easement, on a regular basis.

Section 32 and 34 of the Housing Act, 1985 and the General Consents for the disposal of Houses and Land, 1999, enable the Council to let and dispose of land and buildings held for housing purposes at the best price reasonably obtainable.

Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 enables the Council to apply provision to any land it sells restricting its future use, provided the relevant section of the Act are specifically referred to in the transfer document and are registered as a local land charge.

Section 111 of the Local Government Act, 1972 empowers the Council to do anything calculated to facilitate or which is conducive to or incidental to the discharge of any of its functions.

Equality Impact

7. The proposals take into account the Council's equal opportunities policies.

Recommendation

8. It is recommended that proposals contained in each of the attached appendices be approved.

John Polychronakis

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John Polychronakis
Director of Law and Property

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List of Background Papers

See individual appendices

North Dudley Area Committee

Date: 5th December 2007

Request to purchase land rear of:

Location: 20-26 Duke Street, Upper Gornal

(As shown on the plan attached)

Background

An application has been received from the leaseholder of 26 Duke Street, Upper Gornal, a former Council flat sold leasehold to a previous owner under the right to buy, to purchase an area of Council owned land, adjoining the block of flats at 20-26 Duke Street, Upper Gornal, as shown marked on the plan attached.

The land is under the control of the Directorate of Adult, Community and Housing Services and is held for housing purposes. The land is unused and very overgrown.

20-26 Duke Street is a block of 4 flats which have all now been sold on 125 year long leases, under the right to buy provision.

The applicant wishes to purchase this land in order to provide garden and parking spaces for the four residents of the flats. The applicant states that he has met with the other residents of the flats and they are all in agreement that parking for residents is a huge problem. Residents of nearby flats take up parking spaces on the other side of Duke Street and the only remaining parking is roadside parking on the outside corner in front of 20/26 Duke Street. Car parking causes visibility problems for cars exiting onto Duke Street, and the flats are situated on a corner and a hill which means that residents and visitors cars are often half parked on the pavement causing additional problems to pedestrians.

The applicant therefore wishes to purchase this area of land to alleviate the parking problems. The applicant states that apart from himself, there is no desire among the other residents for extra garden land. However, one of the residents would like an area of land set aside for growing vegetables. The applicant is prepared to put aside an area of land for this purpose and is prepared to provide two parking spaces for himself, and 3 other parking spaces and shared access for the use of the other residents and guests.

In 1996 this land was declared surplus to requirements by the Legal and Property Committee and added to the land disposals programme. However when enquiries were made regarding planning consent for residential development, the site did not meet the then planning policies for developing on brownfield land.

A request to purchase this area of land in 2005 was considered and it was agreed by Decision sheet DO8/015/2005 to declare the land to the rear of 26 Duke Street surplus to requirements to be sold to adjoining residents for garden use only, and for a strip of land adjacent to 20/26 Duke Street to be retained in Council ownership to be incorporated within the amenity space for the flats.

Since that time the 4 flats in the block have all been sold on long leases and The Directorate of Adult Community and Housing Services have decided that they can not

incorporate the adjoining land for amenity space for the residents of these flats as they are now all sold.

As the previous Decision sheet states that the land to the rear of the flats is to be sold for garden use only and the land at the side retained for amenity space and this application is for the whole of the area of land to be sold for parking and garden use, the matter must be reconsidered.

Comments

The relevant Council Directorates have been consulted regarding the application and no objections to the proposal have been received.

The Directorate of Urban Environment would point out that planning policy has now changed since 1996 in the context of PPS3 (National Guidelines), which now makes an exception where a site fails to provide any sport, recreation or amenity value. This site would appear to be an exception but would need to be tested by a planning application.

The Directorate of Adult, Community and Housing Services, consider the site is surplus to their requirements. The Directorate has no objections to the proposed use of the land but considers that the site should be declared surplus and sold on the open market to give the residents of the flats and other adjoining properties an opportunity to purchase parts of the land themselves.

The Directorate of Law and Property consider that the site should be declared surplus to requirements and sold for garden and parking purposes on a long lease which would terminate at the same time as the leases of the flats so that the future of the whole site can then be considered.

Proposal

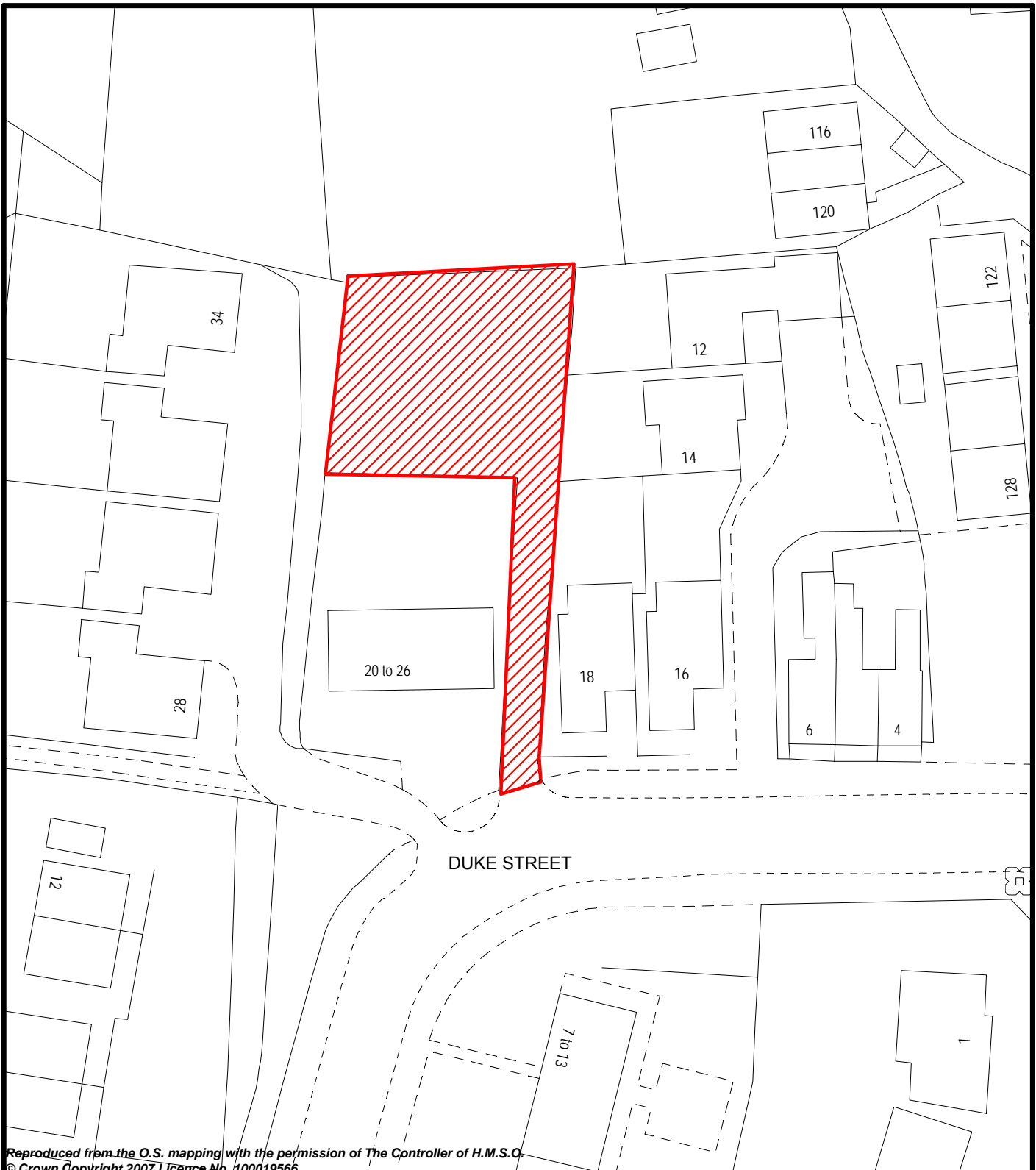
That the Area Committee advise the Cabinet Member for Law and Property to declare the land adjacent to 20 - 26 Duke Street, Upper Gornal, surplus to requirements to be sold leasehold for garden and parking purposes, upon terms and conditions to be negotiated and agreed by the Director of Law and Property.

Background papers

1. Letter(s) from the applicant.
2. E-mails and memos from the Council Directorates.

Contact Officer:

Gill Hudson, Principal Property Manager, Ext. 7068



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TITLE:

APPLICATION TO PURCHASE LAND ADJACENT
TO:
20-26 DUKE STREET
UPPER GORNAL



SCALE:

1 : 500

DATE:

14-MAY-2007

Corporate Estate Services
Directorate of Law and Property
3 St James's Road
DUDLEY
West Midlands
DY1 1HZ

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CREATED BY:

GILL HUDSON. PRINCIPAL PROPERTY
MANAGER. EXT 7068



North Dudley Area Committee

Date: 5th December 2007

Request to purchase land

Location: adjacent to 2 Grange Road, Coseley

(As shown on the plan attached)

Background

An application has been received from the owner of 2 Grange Road, Coseley, a former Council house purchased under the right to buy, to purchase a small area of land as marked on the attached plan.

The land is under the control of the Directorate of Adult Community and Housing Services and measures approximately two sq.metres. The land forms part of the tenancy of a Council owned property, 7 Portland Place.

The applicant intends to build an extension at the side of his property which will prevent him gaining access to the rear of his garden without going through the property. He therefore requires this extra area of land to provide pedestrian access around the new extension. The applicant states that he has spoken to the tenant who has no objections.

Comments

The relevant Council Directorates have been consulted regarding the application and the Directorate of Adult, Community and Housing Services and the Directorate of Law and Property consider that the application should be refused.

The land forms part of the tenancy of 7 Portland Place and the tenant has a shed and dog run erected upon it. The land is fenced by concrete 6ft panel fencing. The Housing Manager has visited the site and discussed the matter with the tenant and it is considered that the land should be retained for the benefit of the tenancy.

The garden of 2 Grange Road is ample and it is considered that a sizeable extension could be built and access incorporated within the current boundary, without the need to acquire additional land. The proposal would make the boundary of the tenancy an irregular shape and would set an unwelcome precedent.

Proposal

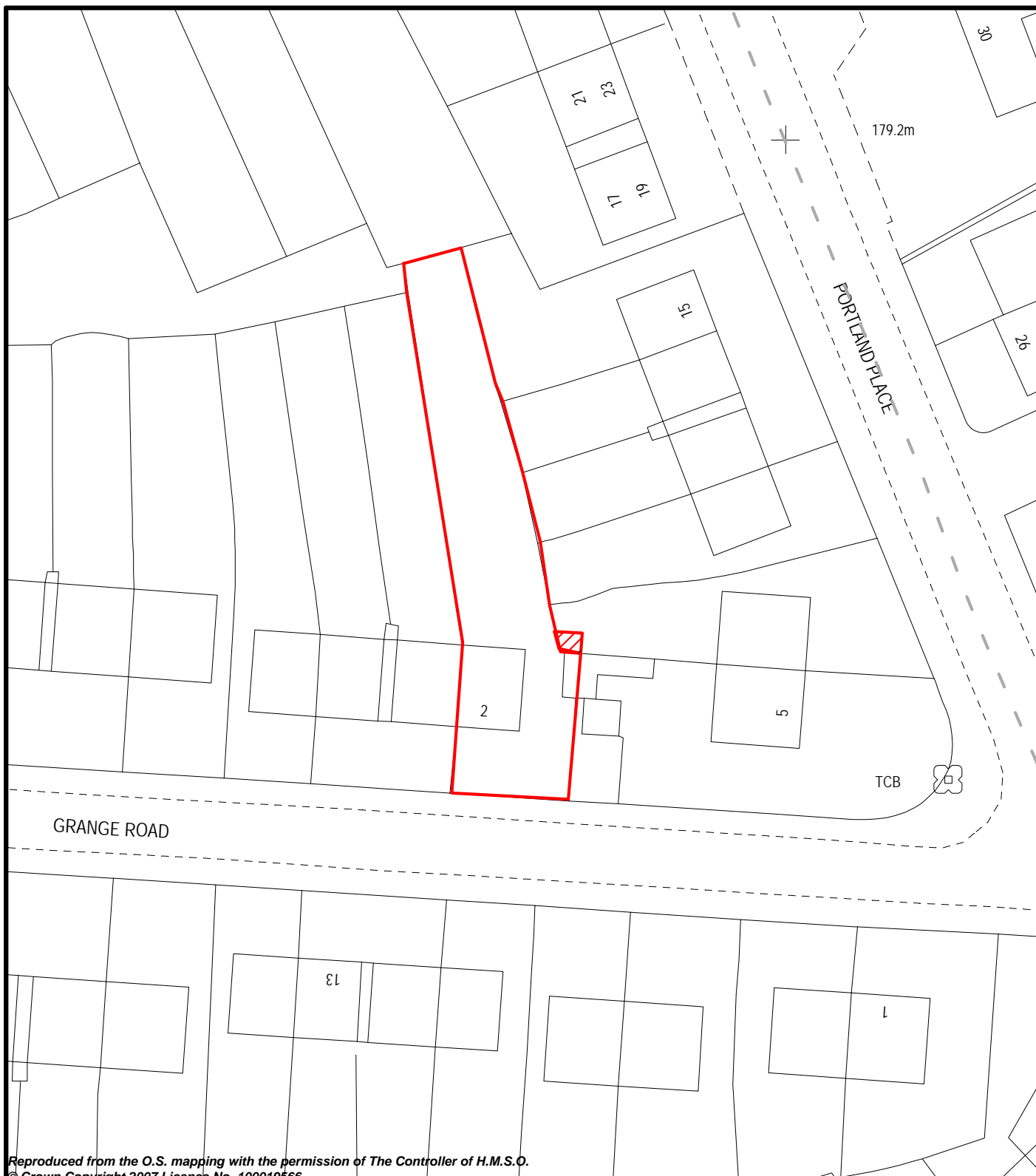
That the Area Committee advise the Cabinet Member for Housing to refuse the application for the reasons stated above.

Background papers

1. Letter(s) from the applicant.
2. E-mails and memos from the Council Directorates.

Contact Officer:

Gill Hudson, Principal Property Manager, Ext. 7068



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TITLE:

Application to purchase land adjacent
to 2 Grange Road
Coseley



SCALE:

1 : 500

DATE:

23-JUL-2007

Corporate Estate Services
Directorate of Law and Property
3 St James's Road
DUDLEY
West Midlands
DY1 1HZ

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CREATED BY

Gill Hudson, Principal Property Manager. Ext:7068



North Dudley Area Committee

Date: 5th December 2007

Request to purchase Council owned land:

Location: Dudley Rifle Club, Cinder Road, Lower Gornal

(As shown on the plan attached)

Background

Severn Trent Water Authority have requested to purchase a small area of land that is currently leased to Dudley Rifle Club, Cinder Road, Lower Gornal. They also wish to have an easement and access rights over the remaining land.

Severn Trent Water require the land, and rights in order to alleviate a number of sewage flooding problems that occur to residential properties in the Cinder Road area of Lower Gornal. The proposed solution to the flooding would involve the construction of an underground pumping station and a small, above ground, control kiosk, within the car parking area of Dudley Rifle Club. An easement for pipes to the new pumping station would also be required.

As shown on the plan attached, a new access entrance would be constructed to allow vehicles entry on to the Club site for future maintenance of the pumping station. Severn Trent have also proposed mitigation works for the rifle club including a new car park to be built off the proposed access.

The land is under the control of the Directorate of Urban Environment and is held for leisure purposes. The land was leased to the Dudley Rifle Club on the 1st January 1971 for a term of 28 years and they are holding over on the lease. The Hon Secretary agreed to the site investigation and has indicated that the Club have no objections to the proposed pumping station and associated works.

Carl Bro, the agents for Severn Trent Water, have already undertaken a site investigation which included a geotechnical survey. Severn Trent Water now consider the site suitable for the pumping station and wishes to acquire rights over the land.

Comments

The relevant Council Directorates have been consulted regarding the application and the following comments have been received.

The Directorate of the Urban Environment have confirmed that planning permission has been granted for the scheme.

The Director of Law & Property has advised that as the site is leased to the Dudley Rifle Club, the consent of the Rifle Club will be required and they should be party to any agreement for access with Severn Trent.

Severn Trent will also require easements for the underground pipes and access agreements for vehicles and the personnel servicing the pumping station. It will be necessary to arrange for the Rifle Club a deed of surrender relating to the relevant part of the site.

There were concerns at the effect of the pumping station on any future redevelopment of the site. Severn Trent considered these objections and suggested that a sewage pumping station would be required for any future redevelopment (such as for residential purposes) of the site. It was therefore agreed that the sewage pumping station should be sized to a capacity which could accept connections from this land if a residential development occurred in future.

Severn Trent has powers of compulsory purchase by virtue of the Water Industry Act 1991 and could acquire the freehold and rights over the land should it decides to do so. It is better in these circumstances to settle terms for acquisition by agreement.

Proposal

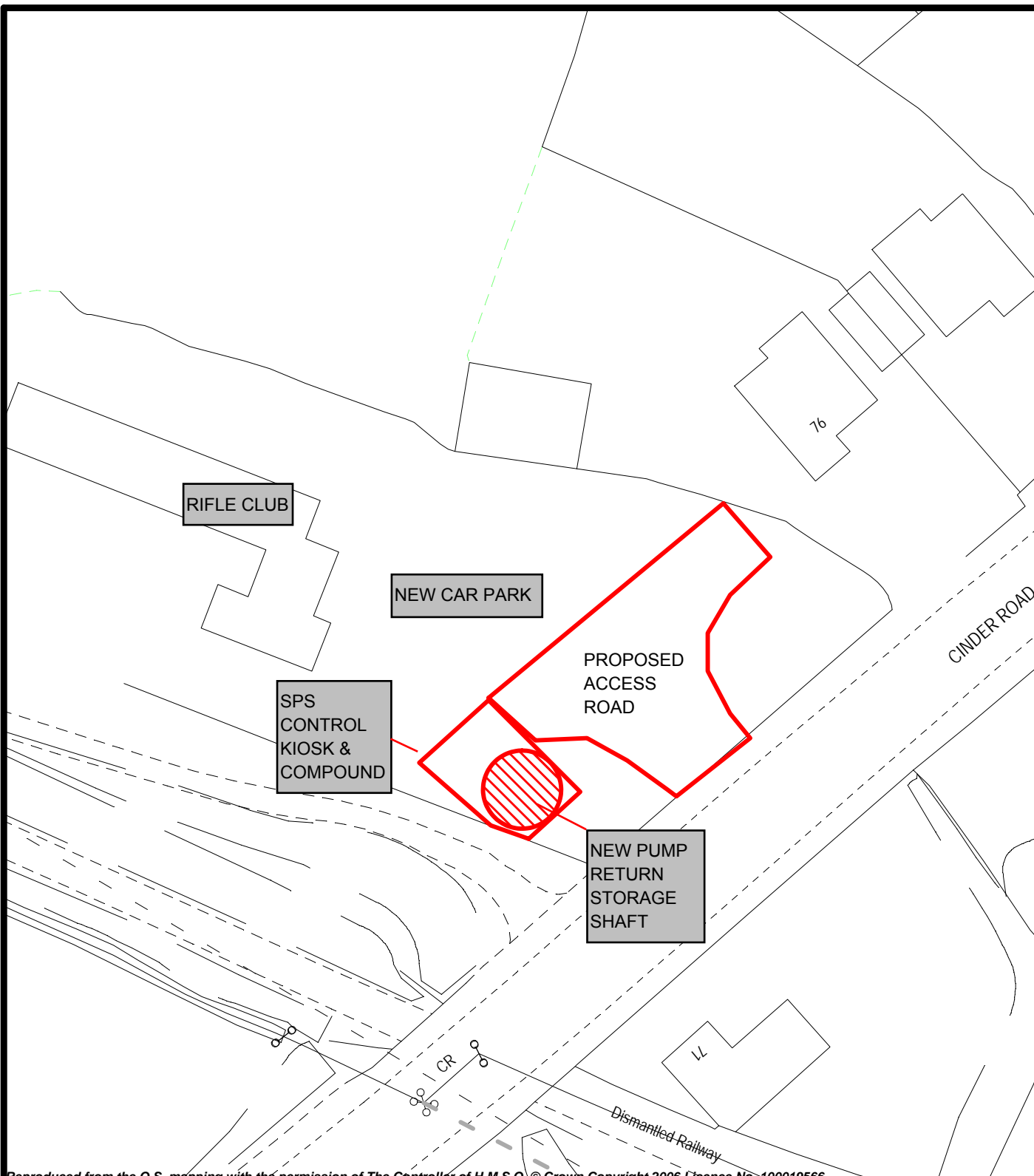
That the Area Committee advises the Cabinet Member for Leisure to approve the sale of the land and the granting of an easement on terms and conditions to be negotiated and approved by the Director of Law & Property.

Background papers

1. Letters from the applicant.
2. E-mails and memos from the Council Directorates.

Contact Officer:

Alan Nugent, Property Manager, Ext. 5351



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TITLE:

REQUEST BY SEVERN TRENT WATER
FOR AN EASEMENT
AT THE RIFLE CLUB
CINDER ROAD
LOWER GORNAL



SCALE:

1 : 500

DATE:

27-JUN-2006

Corporate Estate Services
Directorate of Law and Property
3 St James's Road
DUDLEY
West Midlands
DY1 1HZ

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CREATED BY:

ALAN NUGENT, PROPERTY MANAGER, EXT 5351



North Dudley Area Committee

Date: 5th December 2007

Request to purchase land:

Location: Feredays Croft, Sedgley
(As shown on the plan attached)

Background

An application has been received from a developer to purchase Council owned land off Feredays Croft, Sedgley, as shown hatched on the plan attached.

The land is part of the Priory Lane Recreation Ground under the control of the Directorate of Urban Environment and is held for Public Open Space purposes. It was purchased in 1914 under the S154 of the Public Health Act 1875. The land is a currently let under a grazing agreement for 1 horse and 2 ponies.

The applicant requires the land for a residential re-development of two bedroom detached bungalows. The applicant has stated that the site is in an area of predominantly four/five bedroom properties. The construction of two bedroom properties would allow local residents to downsize and still remain in the local area. In turn, it would release the larger properties for younger families.

Comments

The relevant Council Directorates have been consulted regarding the application and the following objections have been received.

The Directorate of Urban Environment objects to the proposal as the Council encourages development on Brownfield land rather than open space such as this site. This open space contributes to the local distinctiveness and visual amenity of the area. The development would mean a loss of valuable open space of a considerable area, which would be resisted.

The football pitch on the adjacent recreation ground is used regularly throughout the football season, particularly at weekends. This would be a possible source of conflict with the residents of any development.

The field is currently let on a standard 364 day grazing agreement which is terminable giving 1 months notice. However, the demand for legal grazing sites outstrips availability and there is a large waiting list. Furthermore, Council owned grazing fields help address the issue of illegal grazing within the Borough.

Proposal

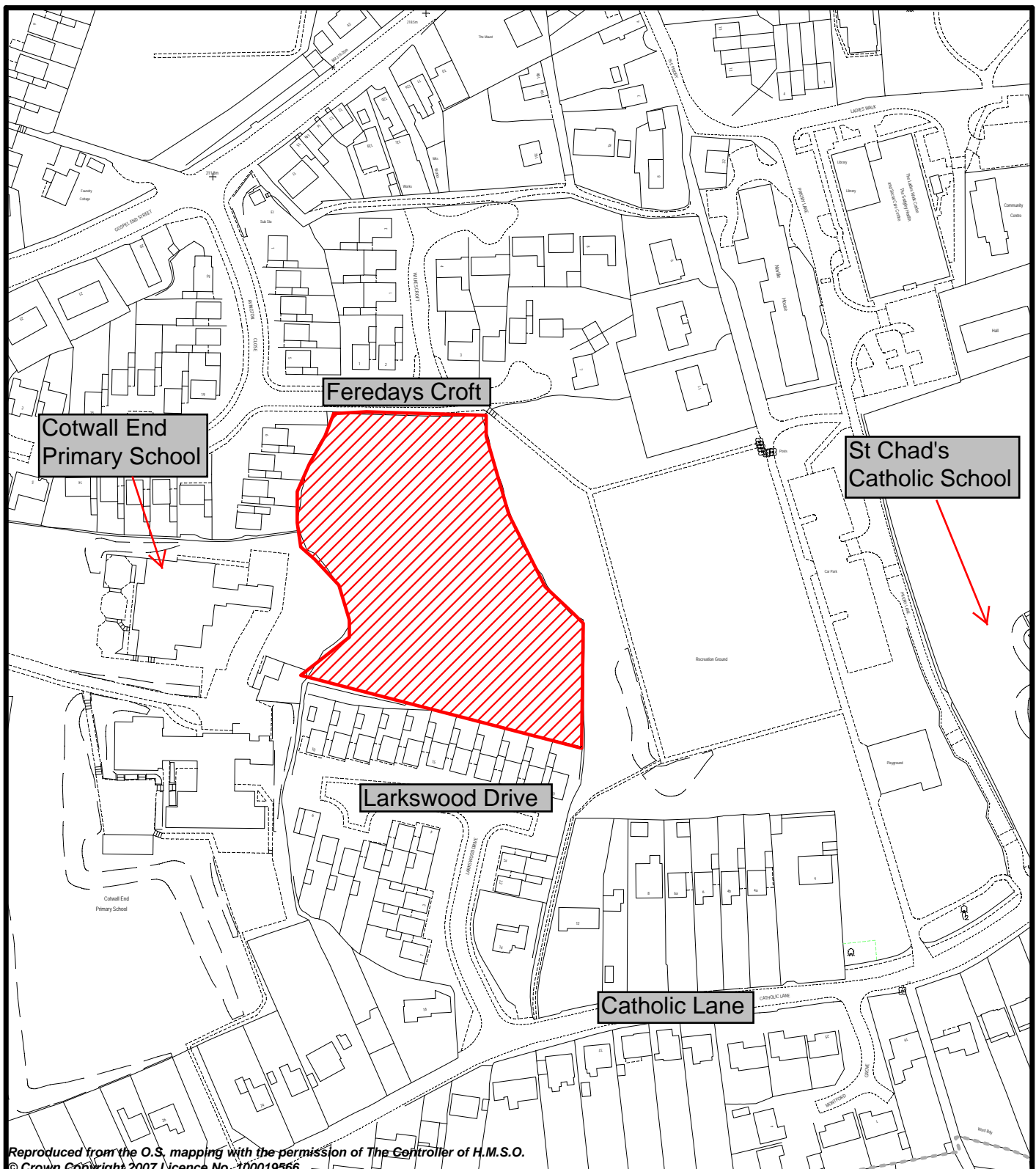
That the Area Committee advises the Cabinet Member for Leisure to refuse the application for the reasons stated above.

Background papers

1. Letters from the applicant.
2. E-mails and memos from the Council Directorates.

Contact Officer:

Alan Nugent, Property Manager, Ext. 5351



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TITLE:

Land Adjacent to
 Feredays Croft
 Sedgley



SCALE:

1 : 2000

DATE:

05-JUL-2007

Corporate Estate Services
 Directorate of Law and Property
 3 St James's Road
 DUDLEY
 West Midlands
 DY1 1HZ

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CREATED BY: Alan Nugent, Property Manager, Ext 5351



North Dudley Area Committee

Date: 5th December 2007

Request to purchase land

Location: Adjacent to 52 Brook Street, Lower Gornal
(As shown on the plan attached)

Background

An application has been received from Solicitors acting for Ravenscroft Developments Limited, a developer who purchased from the Council the site of the former Lower Gornal Estates Office in Brook St and have built 8 new houses on the site.

An area of land adjacent to 52 Brook Street, as marked on the attached plan, was retained in Council ownership as it gives access for maintenance of a pump that was provided by the Council to pump water from the cellar of 52 Brook Street and the row of houses adjoining it. The pump is attached to the side of 52 Brook Street. This pumping equipment was installed when the Council demolished the old properties on the site of the former estates office.

Ravenscroft Developments stated that the cellar at 52 Brook Street had been filled in and the pumping equipment made redundant. They have therefore asked to purchase the land to incorporate it within the boundary of the first adjacent new property that they have built on their site.

The applicant asked that if the Council do not wish to sell the freehold of this land, that we grant a licence for the owner of the new property to occupy the land for garden/driveway purposes.

Comments

The relevant Council Directorates have been consulted regarding the application.

The Directorate of Urban Environment state that the pumping equipment attached to the wall of 52 Brook Street not only pumps water from that property's cellar but the row of houses. The equipment therefore is still operational and the application to purchase the land should be refused and the applicant offered a licence to occupy the land. The Drainage section of DUE is to investigate and ensure that the pumping equipment is still fully operational.

The Directorate of Adult, Community and Housing Services agree with the above comments and recommend offering a licence to the owner of the property to use the land for garden and driveway purposes, subject to the Council having access to its equipment at all times for maintenance.

Proposal

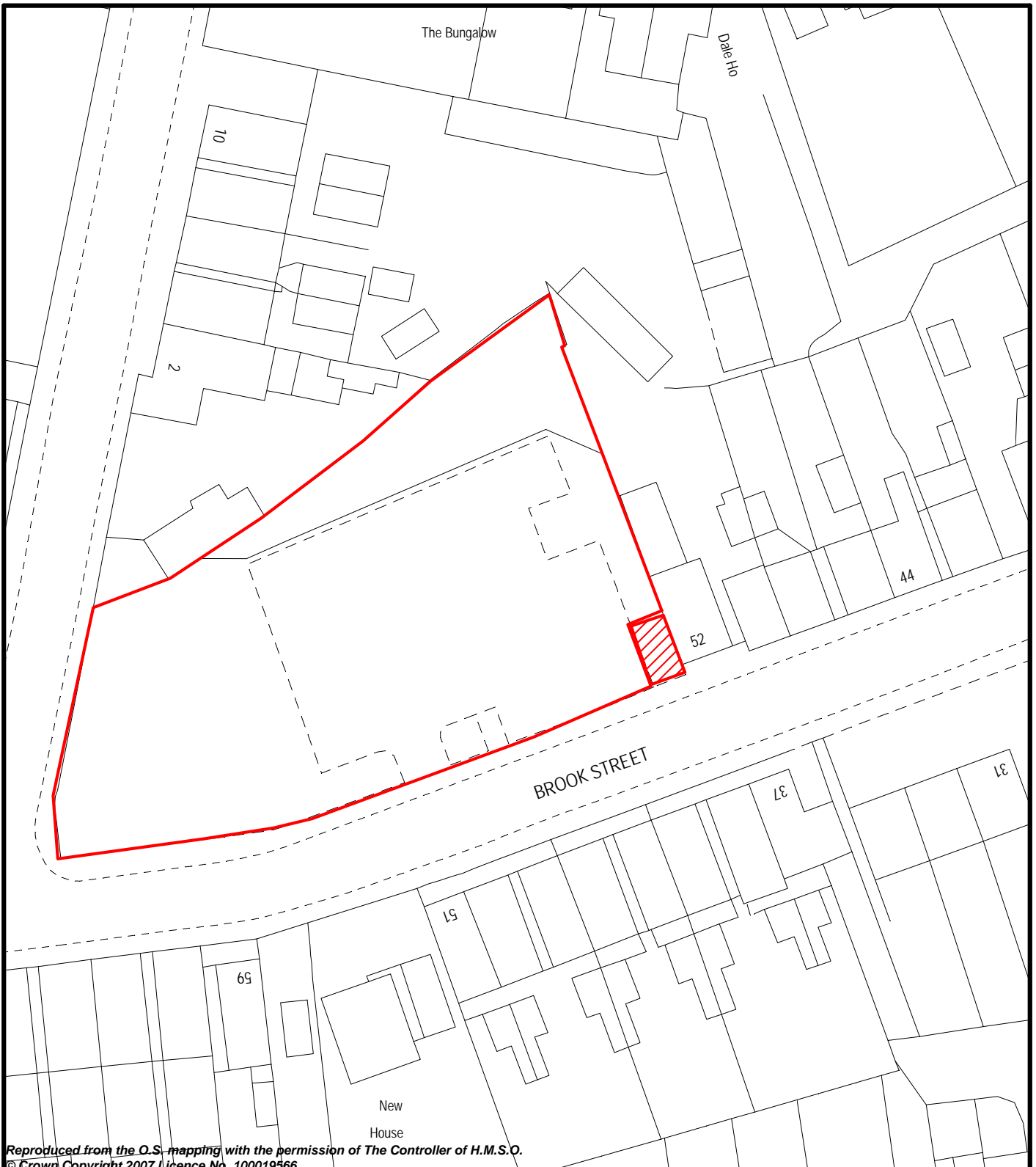
That the application to purchase the land adjacent to 52 Brook Street, Lower Gornal be refused and that a licence to occupy the land be granted to the owner of the adjacent new property

Background papers

1. Letter(s) from the applicant.
2. E-mails and memos from the Council Directorates.

Contact Officer:

Gill Hudson, Principal Property Manager, Ext. 5311



TITLE:

land adjacent to 52 Brook Street
Lower Gornal



SCALE:

1 : 500

DATE:

20-JUN-2007

Corporate Estate Services
Directorate of Law and Property
3 St James's Road
DUDLEY
West Midlands
DY1 1HZ

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Dudley
Metropolitan Borough Council