

# Decision Sheet

<b>Reference:</b>	LP/11/2007
<b>Key Decision:</b>	No
<b>Decision Sheet Re:</b>	RESTRICTIVE COVENANT ON LAND AT BROMSGROVE STREET, HALESOWEN
<b>Decision Maker:</b>	Cllr. Mrs Pat Martin, Cabinet Member for Personnel, Law and Property

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<b>Wards affected:</b>	Halesowen South
<b>Contains exempt information:</b>	No

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## 1. Decision

That the application for a restrictive covenant on the land at Bromsgrove Street, Halesowen be approved on terms and conditions to be negotiated and agreed by the Directorate of Law and Property.

## 2. Background

A request has been received from a developer to have a visibility splay over the Council owned land as shown marked on the plan attached.

A small triangle of land is required for a visibility splay to a new day nursery at the front of Hillside bungalow off Bromsgrove Street. The Planning Application for the Day Nursery was approved with conditions (planning application P06/0550 and P00/51839 refer). One of these conditions was to provide a visibility splay at the exit onto Bromsgrove Street.

The applicant was willing to purchase or acquire a long lease of the land required for the visibility splay. However, the Directorate of Law & Property considered that granting the developer a Restrictive Covenant over the Council owned land was more appropriate.

The land is under the control of the Director of Law & Property.

The relevant Council Directorates have been consulted regarding the application.

The Directorate of Law & Property considered the application and the requirements the developer had to meet for the Planning Application. The sale or long lease of the area required for the visibility splay would place an unnecessary restriction on any possible future use or development of the Councils land. Therefore the land should be retained in Council ownership. A Restrictive Covenant on the area required, restricting its use in favour of the owner of the Day Nursery, was considered more appropriate. This way, the Council would retain the ownership of the small triangle of land required for the visibility splay whilst allowing the developer of the Day Nursery to meet the Planning Conditions.

At its meeting on the 14th March 2007 the Halesowen Area Committee was concerned with the loss of trees on the site and resolved to recommend that the application be refused. Whilst the site including the land needed for the visibility splay is covered by a blanket Tree Preservation Order, the grant for planning permission for the Day Nursery is suitably conditioned to include a landscape scheme, which would allow the development to proceed. On inspection, provision of the visibility splay would not impact on any existing trees.

The Director of the Urban Environment considers that any approval should be subject to the applicant complying with the planning conditions included in the planning application, including a suitable visibility splay.

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### 3. Financial Implications

The granting of the restrictive covenant will gain a small capital receipt for the Council.

### 4. Legal Implications

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 23 states where a person is affected by the Highway, they may be entitled to compensation under Section 23 of the Highways Act 1980.

Section 24 states The Council may construct Highways under Section 24 of the Highways Act 1980.

### 5. Authorisation

Cllr. Mrs Pat Martin, Cabinet Member for Personnel, Law and Property      Signed: .....

**In consultation with:**

John Polychronakis, Director of Law and Property      Signed: .....

**Decision date:** Tuesday, 17 April, 2007

**Prepared by:** ALAN NUGENT, PROPERTY MANAGER, EXT. 5351

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### Associated documents and images

No documents have been associated with this decision

No images have been associated with this decision