
Halesowen Area Committee – 24 January 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.

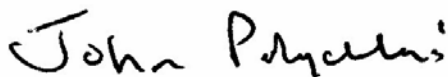
Section 111 of the Local Government Act, 1972 empowers the Council to do anything calculated to facilitate or which is conducive to or incidental to the discharge of any of its functions.

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.



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John Polychronakis
Director of Law and Property

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List of Background Papers
See individual appendices

Appendices

Halesowen Area Committee

Date: 24th January 2007

Request for: Visibility Splay

Location: Bromsgrove Street, Halesowen
(As shown on the plan attached)

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.

Comments

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.

As the Planning Application has been approved with conditions including a suitable visibility splay, it might be considered unreasonable if the Council did not now allow the granting of a Restrictive Covenant.

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.

Proposal

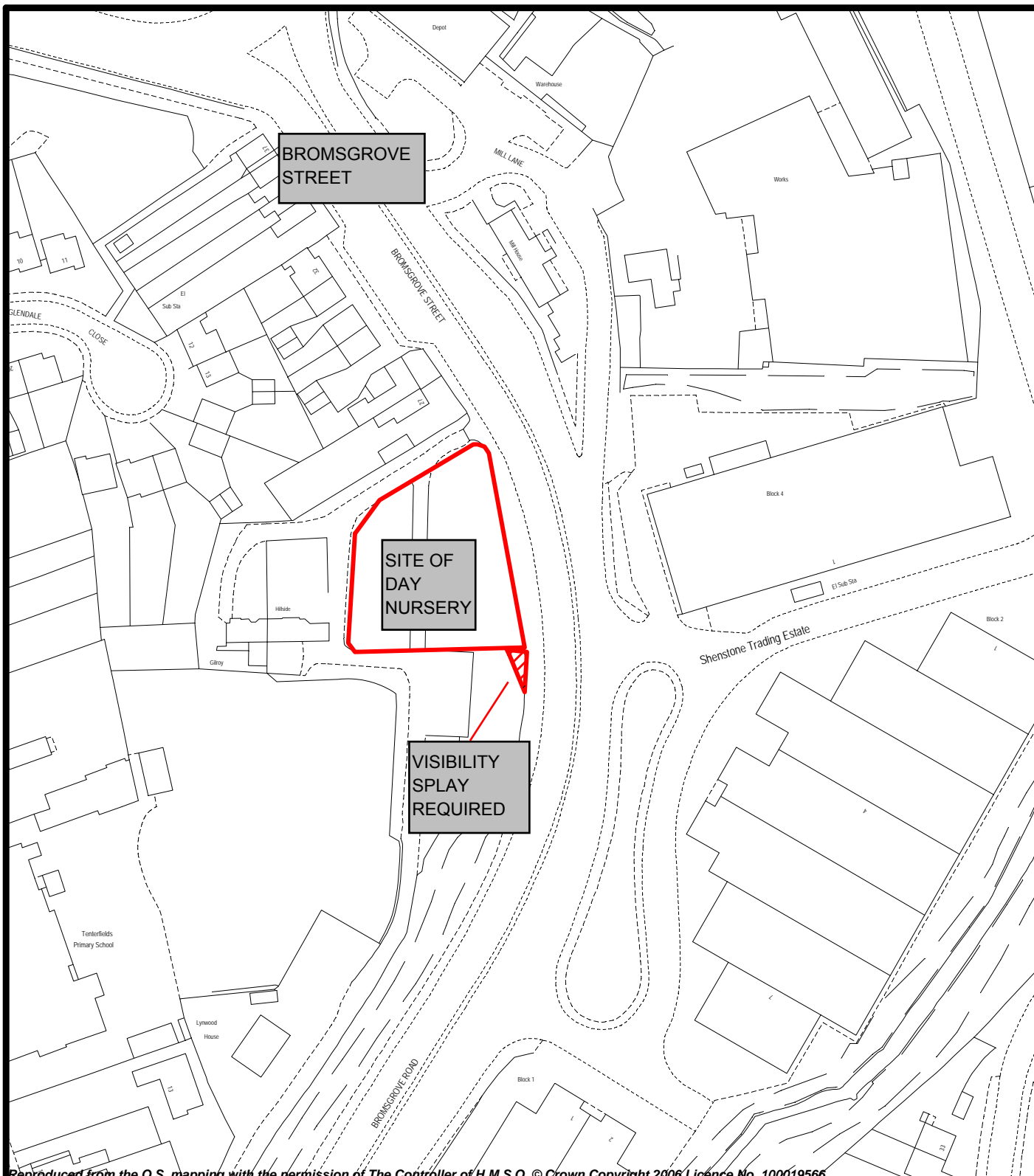
On two previous occasions the Area Committee has deferred this application. After further officer consideration of this application following the last meeting of the Area Committee on the 22nd November 2006, it is proposed that the Area Committee advises the Cabinet Member for Personnel, Law & Property to approve the application for the Restrictive Covenant on the Council owned land at Bromsgrove Street, Halesowen subject to compliance with Planning Conditions, and on terms and conditions to be negotiated and agreed by the Director of Law and Property.

Background papers

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

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TITLE:
**VISIBILITY SPLAY
 PROPOSED DAY NURSERY
 BROMSGROVE STREET
 HALESOWEN**

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CREATED BY:
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SCALE:
1 : 1250
 DATE:
16-MAY-2006

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