
Central Dudley Area Committee – 24th January 2006

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.

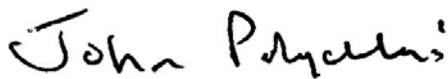
Section 111 of the Local Government Act, 1972 empowers the Council to do anything calculated to facilitate or which is conducive to or incidental to the discharge of any of its functions

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

Contact Officers: Gill Hudson, Property Manager
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Email: gill.hudson@dudley.gov.uk

List of Background Papers

See individual appendices

APPENDICES

CENTRAL DUDLEY AREA COMMITTEE

DATE: 24th JANUARY 2006

APPLICATION TO PURCHASE LAND

LOCATION: ADJACENT TO 134 BAPTIST END ROAD, NETHERTON

(As shown on the plan attached)

BACKGROUND

There is an area of land between 132 & 134 Baptist End Road which is controlled by the Directorate of Adult, Community and Housing Services and forms a pocket of grassed land with frontage to Kilburn Place. It is separated from the adjoining open space on Baptist End Road by fencing.

An application has been received from the owner of 134 Baptist End Road, Netherton, which is a former Council house purchase under the right to buy, asking to purchase an area of Council owned land adjacent to the property.

The applicant states that he has been having difficulties with children/teenagers playing games on the land and causing considerable nuisance and noise. The owner of 134 Baptist End Road originally purchased the property as he enjoyed the open aspect but the problems are becoming unbearable and he therefore feels that if he could purchase part of this land to incorporate within the garden, it would help to alleviate the considerable nuisance that is being suffered. He therefore has asked to purchase approximately half of the area of land between his property and 132 Baptist End Road.

The owner of 132 Baptist End Road also experiences problems with anti-social behaviour on this land. One example of this is when a firework was ignited in the flu of the gas fire that is located on the end gable wall of the property. Luckily this did not cause any damage but was very distressing. The owner of 132 has expressed an interest in purchasing an area of land adjacent to the property as garden land so that the gable end wall can be protected.

COMMENTS

The relevant Council Directorates have been consulted regarding the future of this area of land and the Directorate of Adult, Community and Housing Services state that they have no objections to the disposal of the whole area of land as it will stop the anti-social behaviour on the land. However they would wish the whole of the land to be disposed of and would prefer it to be sold as garden extensions to the adjoining properties.

The Directorate of the Urban Environment have no objections to the disposal of the site for garden extensions to the adjacent properties. They state that the site may be suitable for a residential building plot but this would have to be tested by the submission of an application for outline consent.

The Directorate of Law and Property have no objections to the disposal of the land but consider that it could be sold as a residential building plot and this option should

be explored before the site is offered to adjoining properties for garden extension. They therefore consider that the site should be declared surplus to requirements and the Director of Law and Property can then dispose of the site for the best price reasonably obtainable.

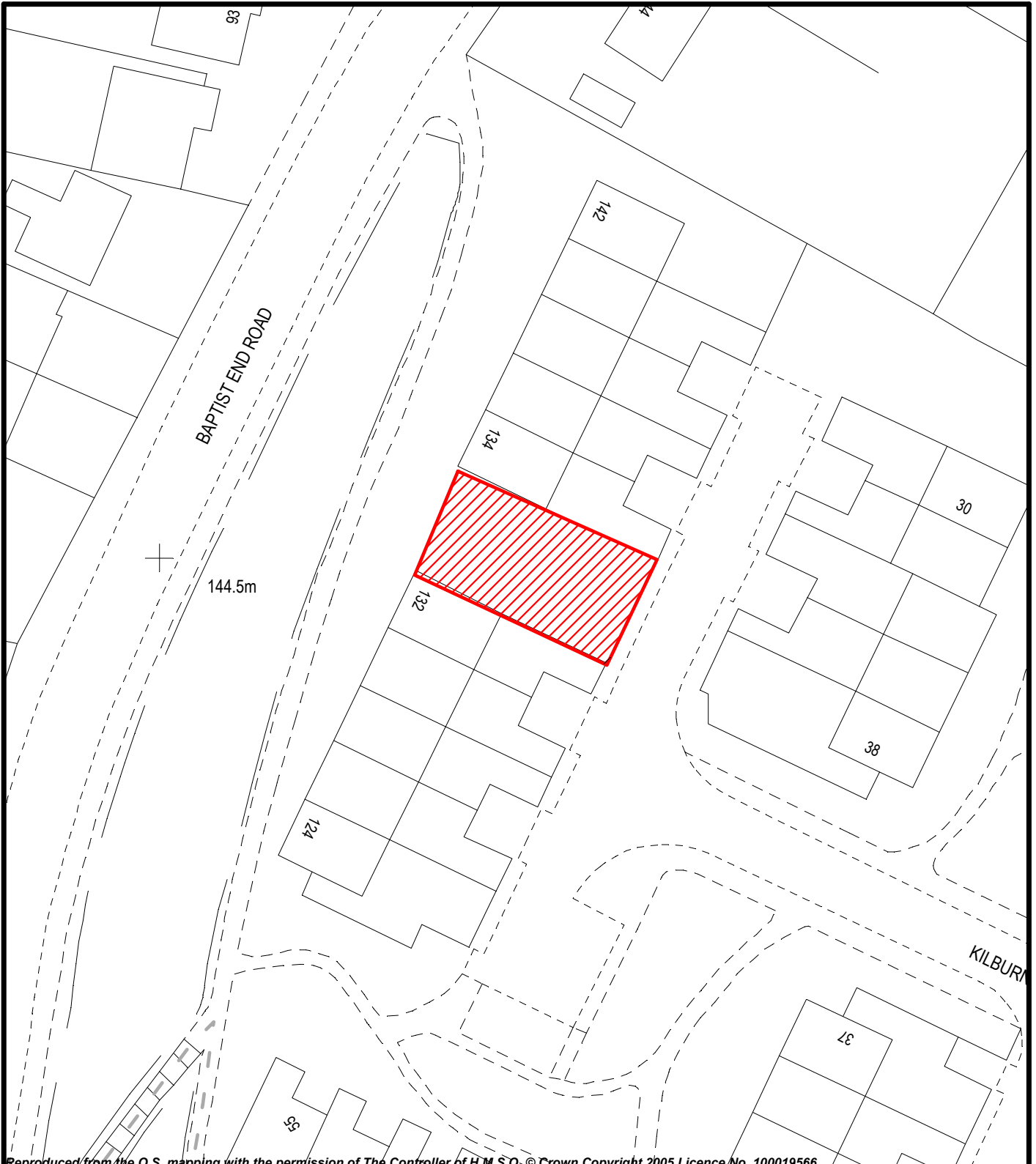
PROPOSAL

That the land between 132 and 134 Baptist End Road, Netherton be declared surplus to requirements and sold on terms and conditions to be negotiated and agreed by the Director of Law and Property.

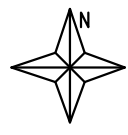

BACKGROUND PAPERS

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

Contact Officer:
Gill Hudson, Property Manager, Ext. 5311



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<p>TITLE:</p> <p>LAND BETWEEN 132 & 134 BAPTIST END ROAD NETHERTON</p>		<p>Corporate Estate Services Directorate of Law and Property</p> <p>3 St James's Road DUDLEY West Midlands DY1 1HZ</p> 
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CENTRAL DUDLEY AREA COMMITTEE

DATE: 24th JANUARY 2006

DISPOSAL OF LAND

LOCATION: PEDMORE ROAD, DUDLEY

(As shown on the plan attached)

BACKGROUND

A meeting of the Central Dudley Area Committee on 8TH November 2005 recommended that this site should be retained in Council ownership as it was considered that part of the site should be retained for Highway purposes and it was also recommended that should the matter be referred to Committee in future further information should be provided.

The Directorate of the Urban Environment have now given the matter further consideration and have decided that an area of land measuring approximately 300 sq m., as marked on the attached plan should be retained as public Highway, so that a second feeder lane can be introduced leading from Hurst Lane into Pedmore Road. The remainder of the site measuring approximately 1380 sq m (0.33 acre) is not required in the future and will be surplus to requirements.

To reiterate, this is an area of land at the corner of Pedmore Road and Hurst Lane that was purchased by the Council under the Housing Act 1936 in 1950 and forms the site of two derelict cottages that were let as part of agricultural tenancies. The site is marked on the attached plan and is controlled by The Directorate of Adult, Community and Housing Services.

The Council have recently successfully defended a claim for adverse possession on the part of the site known as 141 Pedmore Road. The remainder of the site known as 142 Pedmore Road was subject to a tenancy that came to an end on 28th September 2005.

The site was mainly used for storage in connection with the former tenants daughters horse.

The Buildings on the site are in a very bad state of repair having been condemned unfit for human habitation many years ago. The vegetation on the site is very overgrown and causing a problem both to the neighbouring industrial units and to pedestrians passing along the adjoining pavement.

The site is unsuitable for residential development due to its access however it would be a valuable warehouse/commercial site in a prime location.

Several road improvements have been undertaken at the adjacent road junction and land has been taken from the site to accommodate the new road layouts in the past. The last road improvement at the junction was undertaken last year.

The site is ripe for anti-social behaviour and there has already been one fire at the premises. The buildings on the site are secluded, shielded by vegetation and in a dangerous condition. If the site is retained in Council ownership it will become a liability for the Council.

The Directorate of Adult, Community and Housing Services have no funds available for the security or maintenance of this site and are depending on the capital receipt from the sale to offset the costs incurred in defending the recent possessory title claim. It is therefore considered essential that the site is disposed of as soon as possible.

COMMENTS

The relevant Council Directorates were consulted regarding the future of the sites and no objections were received from the Directorates to the disposal of the site of 141 & 142 Pedmore Road on the open market.

The Cabinet Member for Housing has been consulted regarding the future of the site and he recommends that an area of land is retained in Council ownership as Highway verge, so that the junction of Pedmore Road and Hurst Lane can be improved at such time in the future as it is deemed necessary and that the remainder of the site is declared surplus to requirements and sold on the open market as soon as possible, to minimise the burden on the Housing Revenue Account.

The Relevant Directorates agree with this proposal.

PROPOSAL

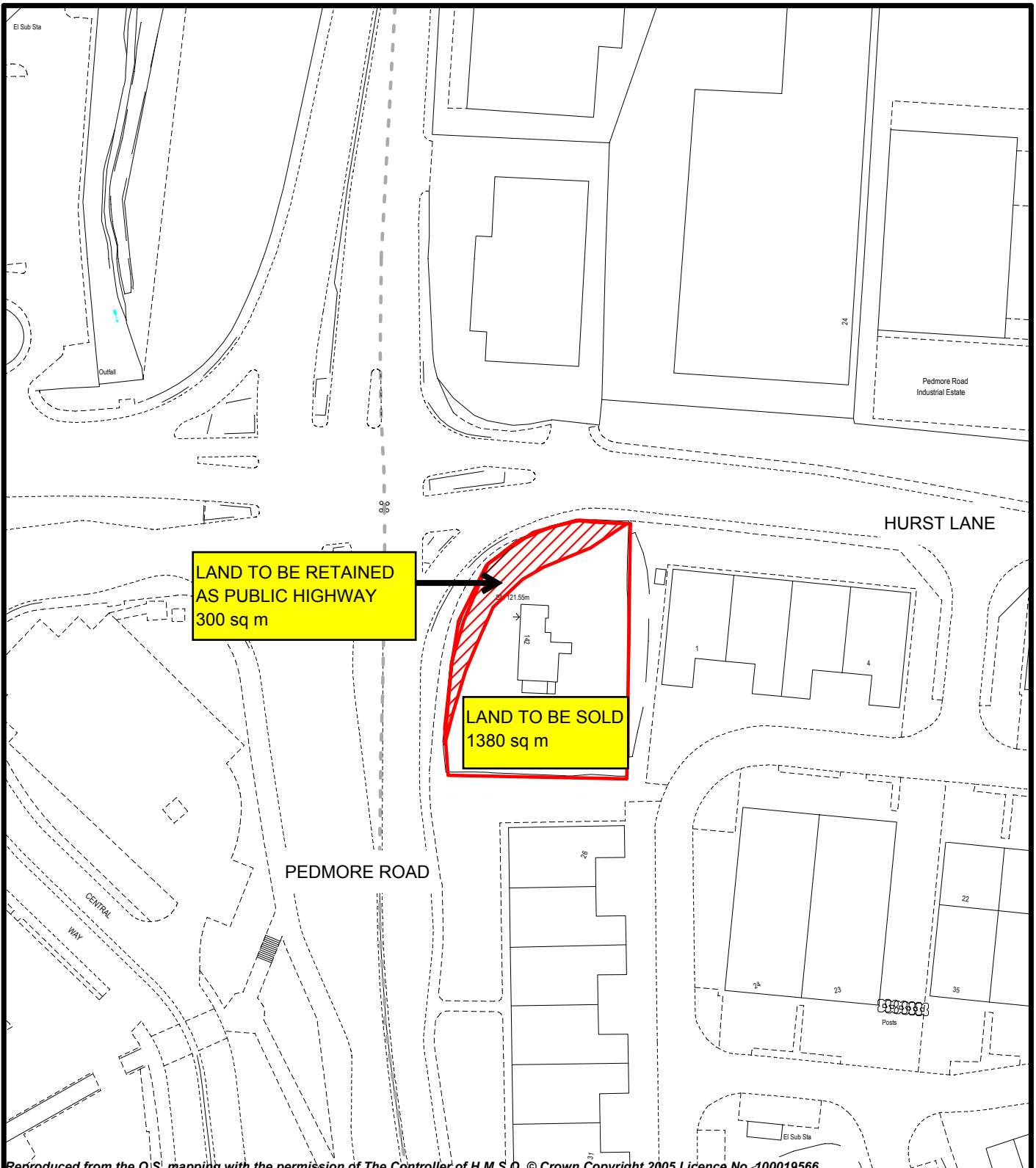
That the Area Committee advise the Cabinet Member for Housing to approve the retention of an area of land measuring approximately 300 sq m. by the Director of Urban Environment, for future road improvement as highway verge and that the remainder of the site be declared surplus to requirements to be added to the land disposals programme and sold on the open market for the best price reasonably obtainable.

BACKGROUND PAPERS

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

Contact Officer:

Gill Hudson, Property Manager, Ext. 5311



LAND TO BE RETAINED
AS PUBLIC HIGHWAY
300 sq m

LAND TO BE SOLD
1380 sq m

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TITLE:
LAND AT PEDMORE ROAD/HURST LANE
MERRY HILL.

Hatched area to be retained as Public
Highway

CREATED BY: GILL HUDSON, PROPERTY MANAGER. EST: 5311

SCALE:
1 : 1100

DATE:
28-NOV-2005

Corporate Estate Services
Directorate of Law and Property

3 St James's Road
DUDLEY
West Midlands
DY1 1HZ

APPENDICES

CENTRAL DUDLEY AREA COMMITTEE

DATE: 24th JANUARY 2006

APPLICATION TO PURCHASE LAND

LOCATION: LAND AT THE REAR OF THE BLACK COUNTRY MUSEUM, TIPTON ROAD, DUDLEY

(As shown on the plan attached)

BACKGROUND

The Black Country Museum Trust Ltd have requested that the land at the rear of the museum be added to their current lease. The majority of the land at Tipton Road was leased to the Museum in 1983. The land in question was excluded from the lease. Part of this additional land is owned by the Council and part is owned by the Severn Trent Water Authority. It is currently being used by the Black Country Museum and is considered an integral part of the site already. This discrepancy was discovered when the plans to expand the Museum village were investigated. It was found that this area had not been included in the 1983 Lease. The addition of the land to the lease will rectify the current situation.

The land was formerly used by the Severn Trent Water Authority as the Tipton Road Sewage Disposal Works. When the land was purchased in 1983 by the Council, part of this area was retained by Severn Trent as the possible site for a balancing tank which would be required for a Trunk Sewer. The Council has been informed that the Severn Trent Water Authority is no longer using these facilities.

The Black Country Museum now have major plans to develop the land in question. These plans include the re-erection of the 1912 Cradley Heath Workers Institute on or near the land requested. This project also includes a small park. The 1912 Cradley Heath Workers Institute project has received first stage approval for a grant from the Heritage Lottery Fund. This building will be the first phase of a plan to expand the Museum Village and create a "High Street" development stretching from the school to the institute on the land already leased. This will help to ensure the long term viability of the Museum and attract more visitors to the Borough.

COMMENTS

The relevant Council Directorates have been consulted.

The Directorate of the Urban Environment have no objections to the addition of the land to the Museum's lease. The development of the 1912 Cradley Heath Workers Institute building on the land and associated works is subject to planning controls. Any contamination that is likely to affect the development should be dealt with by way of the specific conditions attached to the planning approval. Generally, the Directorate of the Urban Environment is satisfied that the issue of contamination and the proposed future development of the Black Country Living Museum has been recognised and will be addressed by the Museum.

The Directorate of Law and Property have no objections to the leasing of the land. The existing lease agreement includes clauses with respect to responsibility and liability that could be applied with respect to contaminated land. Some revision and updating of the original document is planned.

PROPOSAL

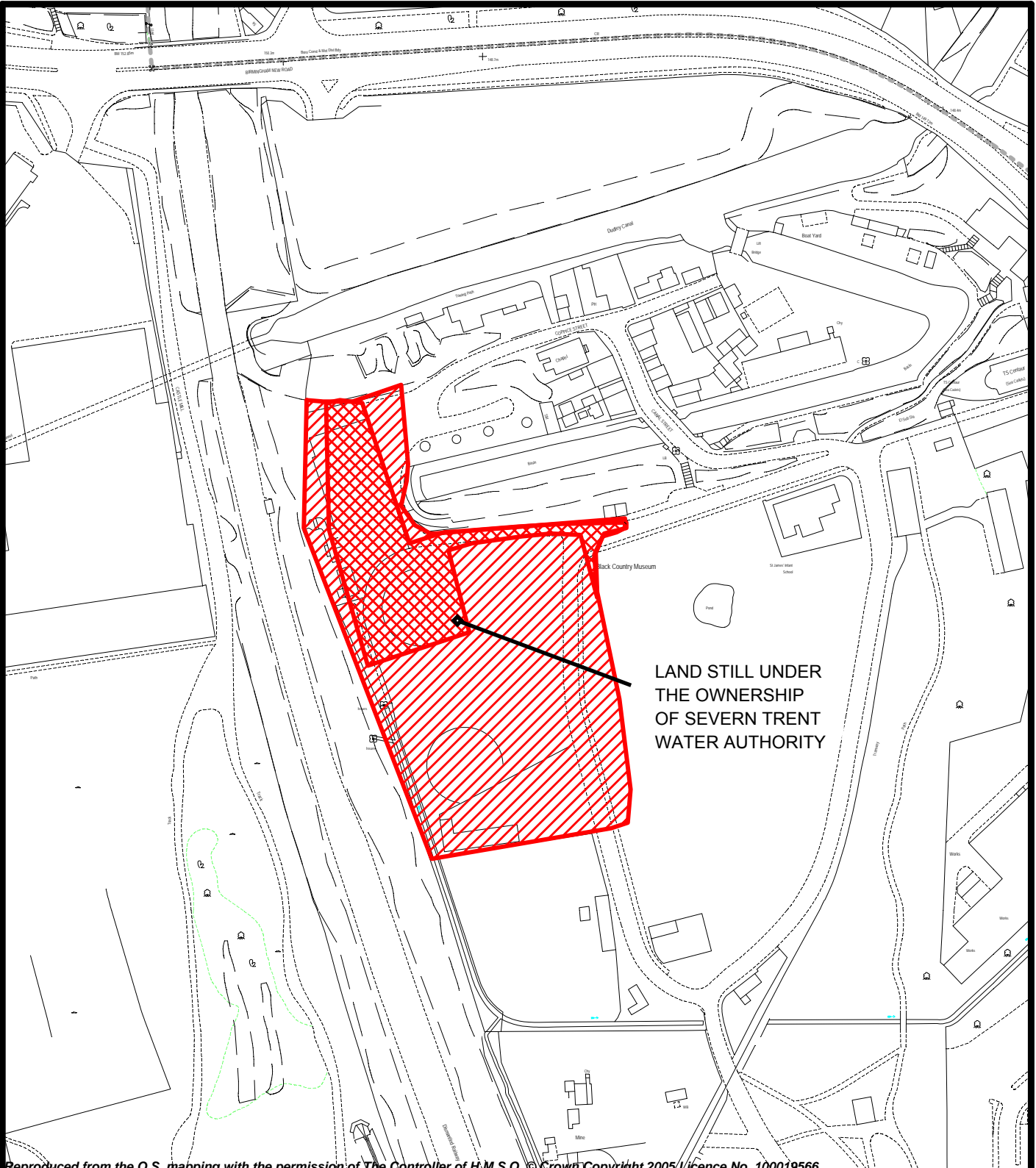
That the additional land be added to the lease of the Black Country Museum Trust on terms and conditions to be negotiated and agreed by the Director of Law and Property.

BACKGROUND PAPERS

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

Contact Officer:

Alan Nugent, Property Manager, Ext. 5351



LAND STILL UNDER
THE OWNERSHIP
OF SEVERN TRENT
WATER AUTHORITY

<p>TITLE:</p> <p>ADDITIONAL LAND REQUESTED BY THE BLACK COUNTRY MUSEUM TIPTON ROAD DUDLEY</p> <p>OS data reproduced with the permission of the Controller of HMSO 2004 Licence No 100019566</p>		<p>Corporate Estate Services Directorate of Law and Property 3 St James's Road DUDLEY West Midlands DY1 1HZ</p>
<p>CREATED BY:</p> <p>ALAN NUGENT, PROPERTY MANAGER, EXT 5351</p>	<p>SCALE: 1 : 2000</p> <p>DATE: 22-NOV-2005</p>	

Appendices

Central Dudley Area Committee

Date: 24th January 2006

Request to purchase Council owned land:

Location: Rear of 34 Harcourt Drive, Lower Gornal
(As shown on the plan attached)

Background

An application has been received from the owner of 34 Harcourt Drive, Lower Gornal to purchase Council owned land at the rear of his property. The applicant has complained that the land, "... is a piece of wasteland that is currently very neglected and has become a haven for the local youngsters as a place they gather to drink, take drugs etc". The applicant states that the Police have been called on several occasions to disperse gangs of youths.

The land was under the control of the Director of the Urban Environment and forms part of the Public Open Space abutting Milking Banks.

The applicant has applied to purchase land at the rear of his property on three separate occasions. In 1990, authority for the sale of land to the owners of 32 and 34 Harcourt drive was approved and the land purchased is shown cross hatched on the plan. In 1994 an application for further land was refused. Another application was submitted and the recommendation by the North Dudley Area Committee, at its meeting on the 21st November 2000, was for refusal. The reason given was that they did not wish to see the sale used as a precedent for other sales of Public Open Space.

The application was circulated to the various Council departments for their comments and a report was prepared which recommended the refusal of the sale of the public open space at the rear of 34 Harcourt Drive. At the Council Meeting on 19th July 2004 it was resolved to approve changes to the constitution in relation to how some land matters are handled. It was therefore agreed that certain matters could be circulated to Ward Members instead of referral to Area Committee before a decision sheet is produced. A report to the Area Committee was not required at that time as it fell within one of the categories i.e. to refuse the disposal of public open space. Therefore a report was prepared for the Ward Members.

This report was prepared at the request of the Ward Members as they wished to have this matter referred to the Central Dudley Area Committee for judgement. The reason given was that the Ward Members are aware that there have been numerous reports directed to the police and others regarding anti-social behaviour.

Comments

All the relevant Directorates have been consulted.

The Director of the Urban Environment has objected to the proposed sale. The area of land in question would have set an unwelcome precedent for future garden extensions. This would result in the erosion of incremental loss of the remaining public open space area within the locality. The open space itself is protected by planning policy in the adopted UDP and following national planning guidance to protect such land. In this instance the loss of the area of land would be considered significant and therefore the change in use to a private garden would be contrary to national and local planning policies. The Directorate of the Urban Environment therefore objects to this proposal.

Should the sale of the land be approved, a planning application for a change of use from public open space to residential use would be required. It is unlikely that such an application would be considered favourably under current UDP policies.

There is a French drain, a gravelled filled trench, at the rear of the majority of the properties in Harcourt Drive. Ground vegetation has covered this system in part. The trees that exist in this location would remove large quantities of water especially the willow hence assisting the ground drainage. Over the years modifications have been made to this land drainage system to alleviate rear garden flooding of some properties. Any disposal of part of this land may affect the drainage liability of the whole area and is therefore not recommended.

The Director of Law and Property has advised that as the land is laid out and maintained as public open space any disposal of either part or all by the way of a sale or lease is subject to Section 123(A) of the Local Government Act 1972 which requires that the Council, prior to any disposal, 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 situated. The Council then has to consider any objections which may be made. The applicant is required to bear the cost of advertising.

Proposal

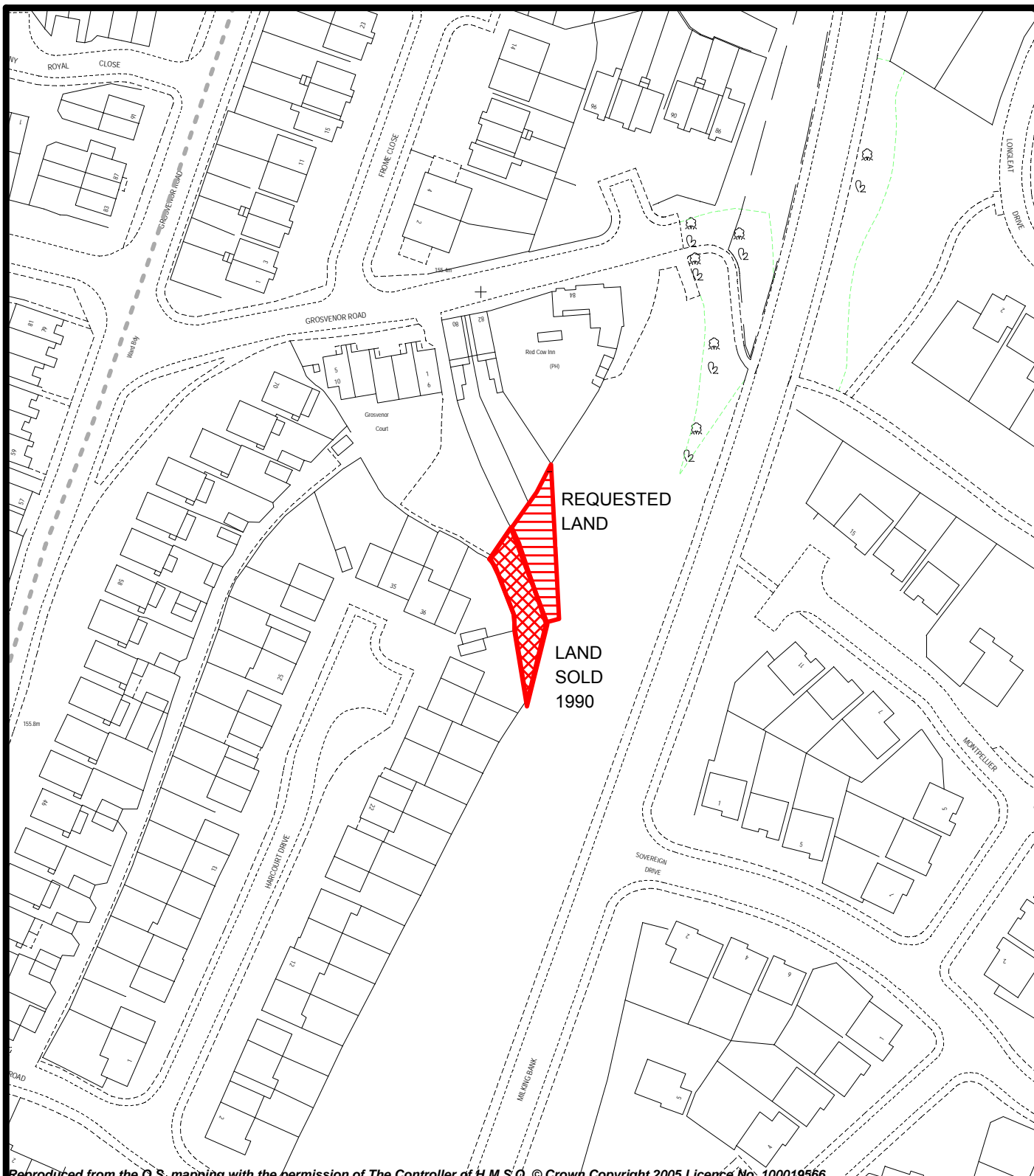
That the Area Committee advises the Cabinet Member for Leisure to refuse the application for the reasons set out above.

Background papers

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

Contact Officer:

Alan Nugent, Property Manager, Ext.5351



REQUESTED
LAND

LAND
SOLD
1990

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<p>TITLE:</p> <p>LAND TO THE REAR OF 34 HARCOURT DRIVE LOWER GORNAL</p>		<p>Corporate Estate Services Directorate of Law and Property 3 St James's Road DUDLEY West Midlands DY1 1HZ</p>
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Appendices

Central Dudley Area Committee

Date: 24th January 2006

Request to purchase Council owned land:

Location: 2 & 6 The Sling and 110, 130 & 134 New Road, Netherton
(As shown on the plan attached)

Background

An application has been received from Jephson Housing Association to purchase the freehold of the above properties.

The properties were let by the former West Midlands County Council to Jephson Housing Association on the 24th September 1985 for a term of 20 years. Recently, one of Jephson's tenants applied to exercise the Right To Buy and it was found that the Lease was shortly due to expire. This meant that Jephson could not sell the property.

Jephson Housing Association now wish to resolve the situation by purchasing the Freehold Title or at very least to have a new long Lease granted. The original lease was only for a relatively short period of 20 years. This was believed to be due to some highway proposals affecting the area.

The land in question was under the control of the Director of the Urban Environment and was acquired for the Public Works Committee in the early 70s.

Comments

All the relevant Directorates have been consulted.

The Director of the Urban Environment have no objections in principle to the sale of the freehold of all the properties except 110 New Road. This property should be retained on a long lease. The reason for this is that it should remain in Council ownership so as to protect any future improvement of The Sling should appropriate funding become available.

Proposal

That the Area Committee advises the Cabinet Member for Transport to approve the disposal of 2 & 6 The Sling and 130 & 134 New Road, Netherton on terms and conditions to be negotiated and agreed by the Director of Law and Property.

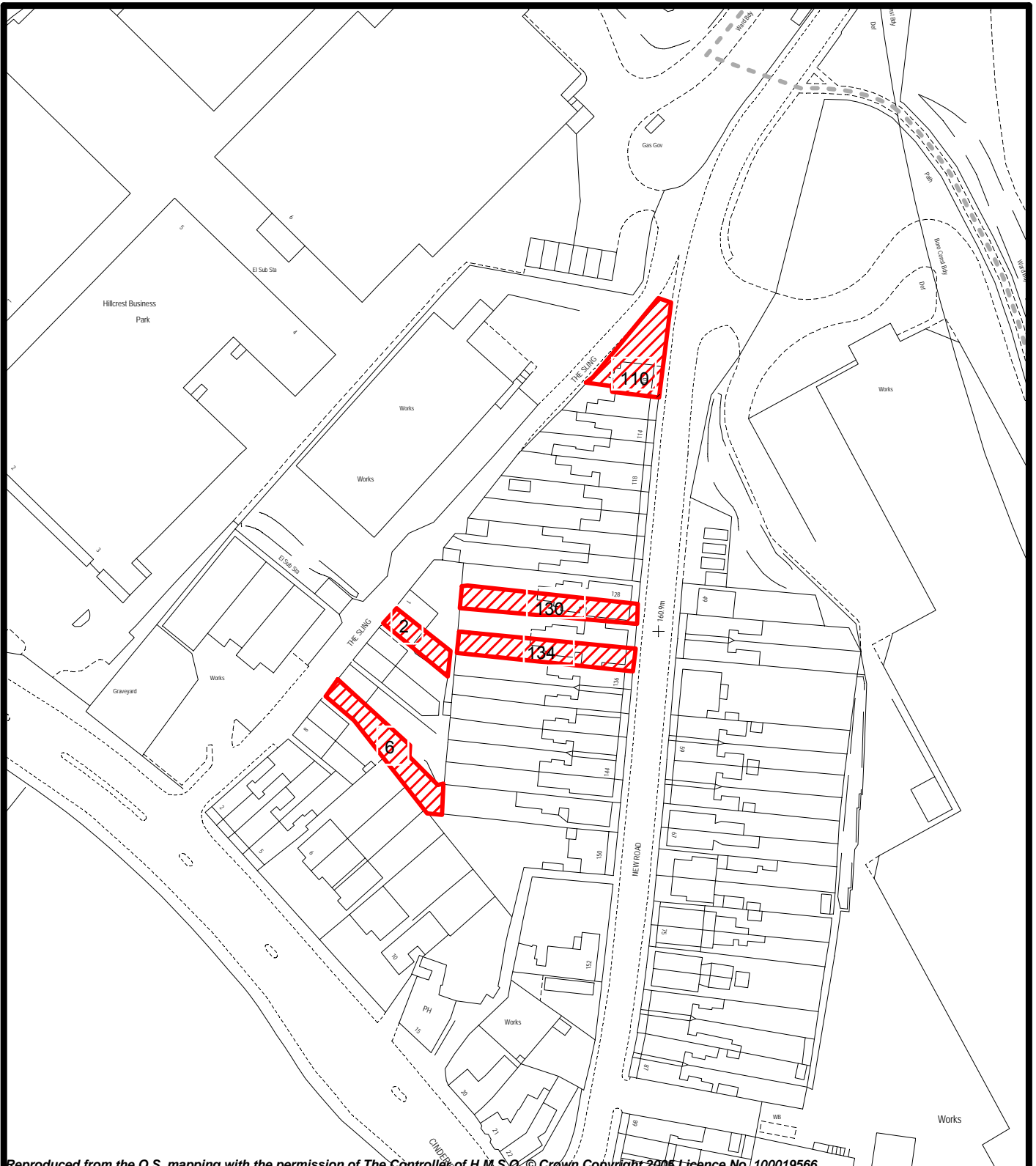
The Area Committee also advise the Cabinet Member for Transport to approve the renewal of the lease of 110 New Road, Netherton on terms and conditions to be negotiated and agreed by the Director of Law & Property.

Background papers

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

Contact Officer:

Alan Nugent, Property Manager, Ext.5351



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<p style="text-align: center;">TITLE:</p> <p>APPLICATION TO PURCHASE THE FREEHOLD OF 2 & 6 THE SLING AND 110, 130 & 134 NEW ROAD NETHERTON</p>		<p>Corporate Estate Services Directorate of Law and Property 3 St James's Road DUDLEY West Midlands DY1 1HZ</p>
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