
Central Dudley Area Committee – 14th March 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.

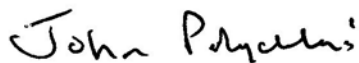
Section 111 of the Local Government Act, 1972 empowers the Council to do anything calculated to facilitate or which is conducive to or incidental to the discharge of any of its functions

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

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List of Background Papers
See individual appendices

Central Dudley Area Committee

Date: 14th March 2006

Request for: Application to purchase Council owned land adjacent to 114 Baptist End Road, Netherton

Location:

(As shown on the plan attached)

Background

A request has been received from the tenant 114 Baptist End Road to purchase the Council owned land as shown edged red on the plan attached. The land is required for the construction of a passage to the rear of their house. The applicant has also complained of the overgrown state of the land and dampness caused by the embankment. After heavy rain, it is claimed that rubbish is washed onto their land.

The land is under the control of The Director of the Urban Environment and is maintained as Public Open Space. It is an embankment of the former British Railways Windmill Hill and Netherton branch line and was purchased in 1977.

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 Netherton, Woodside & St Andrew's Ward Members recommending the refusal of the application.

This report was prepared at the request of a Ward Member as they wished to have this matter referred to the Central Dudley Area Committee.

Comments

All of the relevant Directorates have been consulted.

The Director of the Urban Environment has objected to the proposed sale as it would set a dangerous precedent for the sale of Public Open Space. The proposed site forms a sensitive area of Public Open Space which has important urban green space amenity value. It forms part of a wider area of Public Open Space important for informal recreational purposes. The site also has linkage value into the wider open space network/corridor. The sale of the land would also contravene a range of policy criteria. If the land was sold, it is unlikely that permission for a change of use from Public Open Space to Residential Purposes would be 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 way of a sale or a 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 and to consider any objections which may be made. The applicant is required to bear the cost of advertising.

Proposal

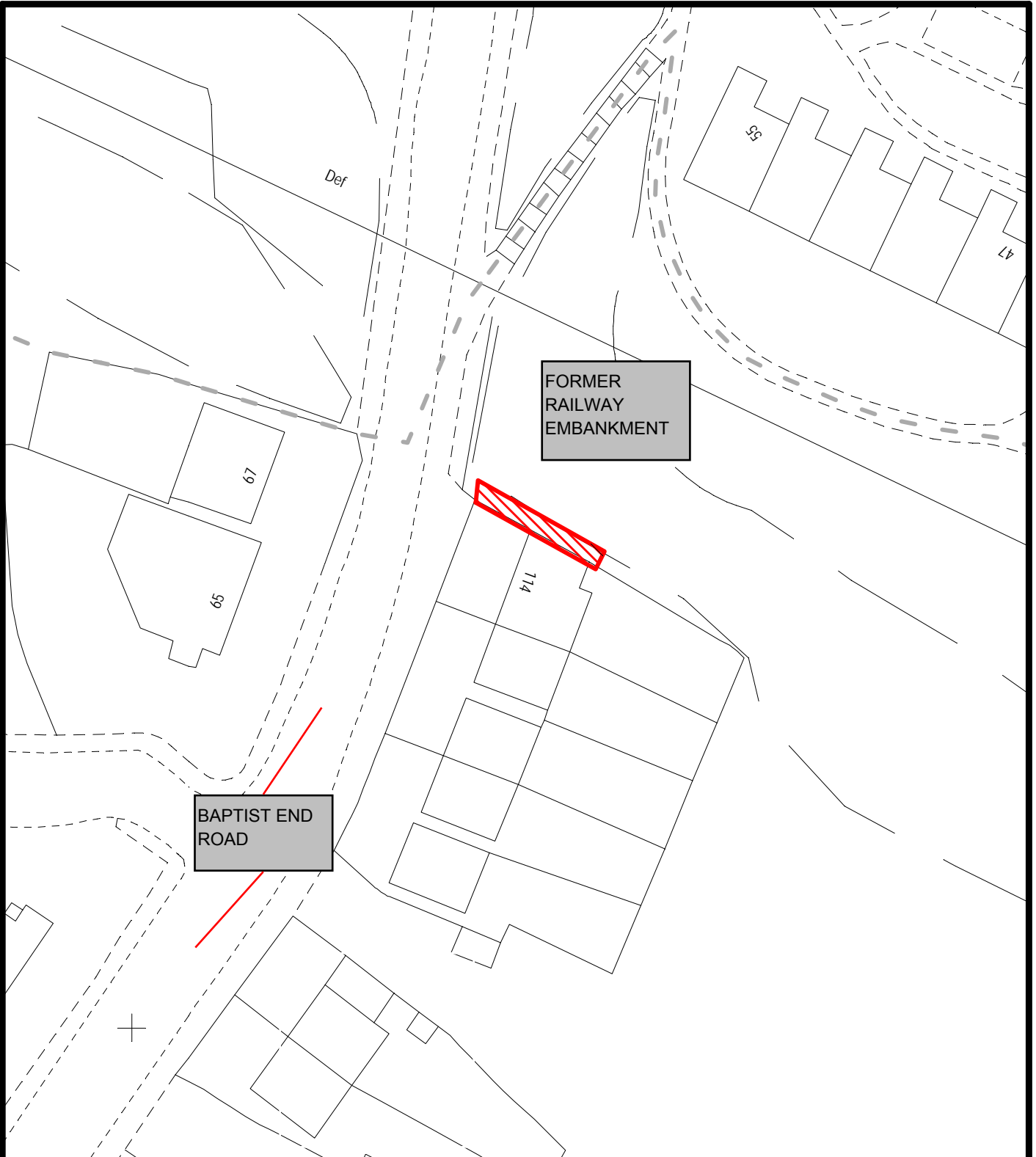
That the Area Committee advise the Cabinet Member for Leisure to refuse the application for the reasons set out above.

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



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<p>TITLE:</p> <p>LAND ADJACENT TO 114 BAPTIST END 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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Central Dudley Area Committee

Date: 14th March 2006

Request to purchase land

Location: adjacent to 134 Baptist End Road, Netherton
(As shown on the plan attached)

Background

A report regarding this matter was deferred for a members site visit. The results of this site visit will be reported verbally to this meeting.

To reiterate, 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

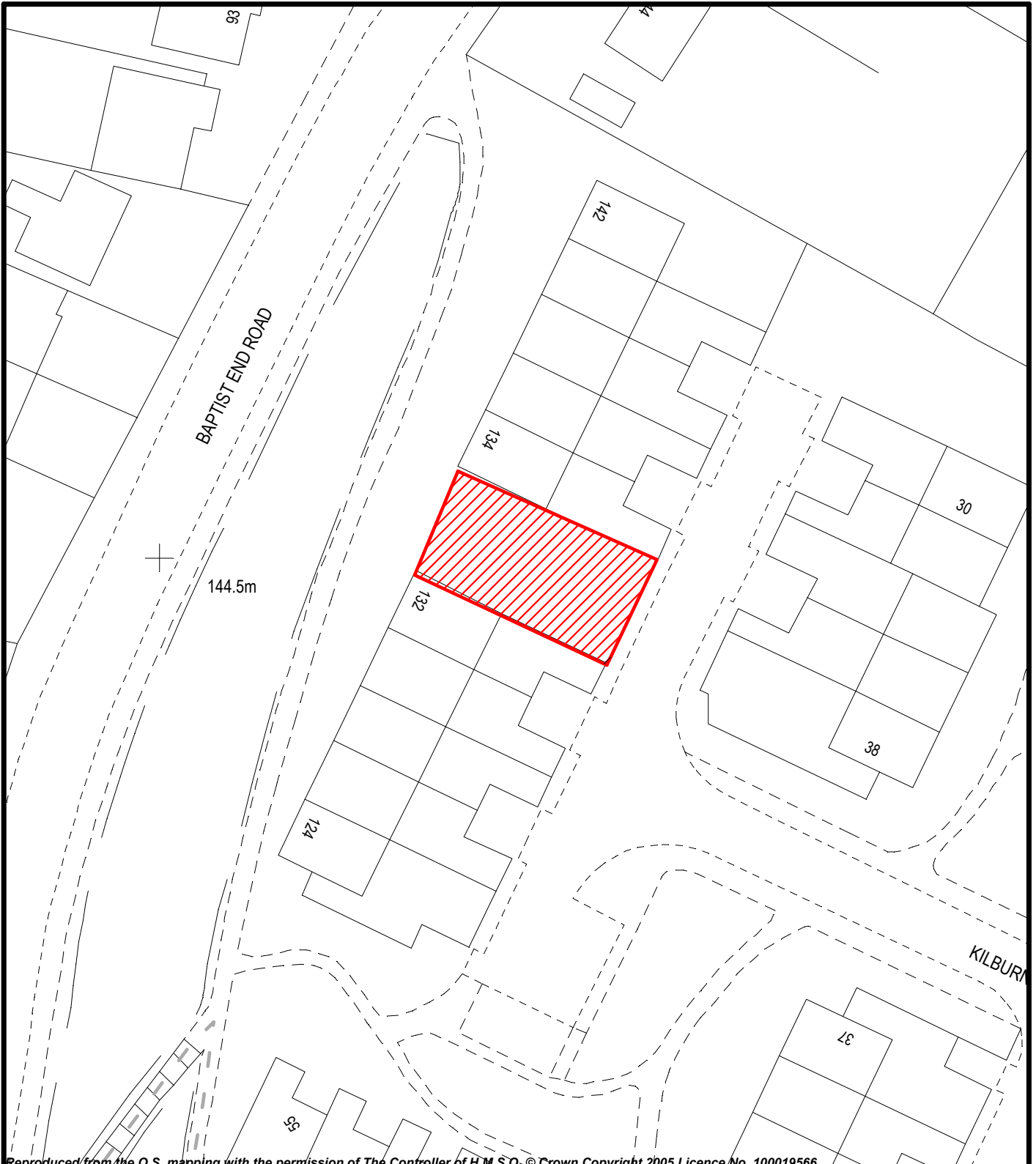
That the land between 132 and 134 Baptist End Road, Netherton be declared surplus to requirements and sold on terms and conditions to be negotiated and agreed by the Director of Law and Property.

Background papers

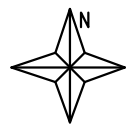

1. Letter(s) from the applicant.
2. E-mails and memos from the Council Directorates.

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: 14th March 2006

Request to purchase Council owned land:

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

Background

This report was considered at the Central Dudley Area Committee on the 24th January 2006 and was deferred pending clarification.

To reiterate, 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 Boundary Commission undertook a review of the Ward boundaries in Dudley MBC. As a result of the review, on the 14th June 2004 there were boundary changes which resulted in the area around Harcourt Drive becoming part of the St James's Ward in the Central Dudley Area Committee area.

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 St James's 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 viability 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

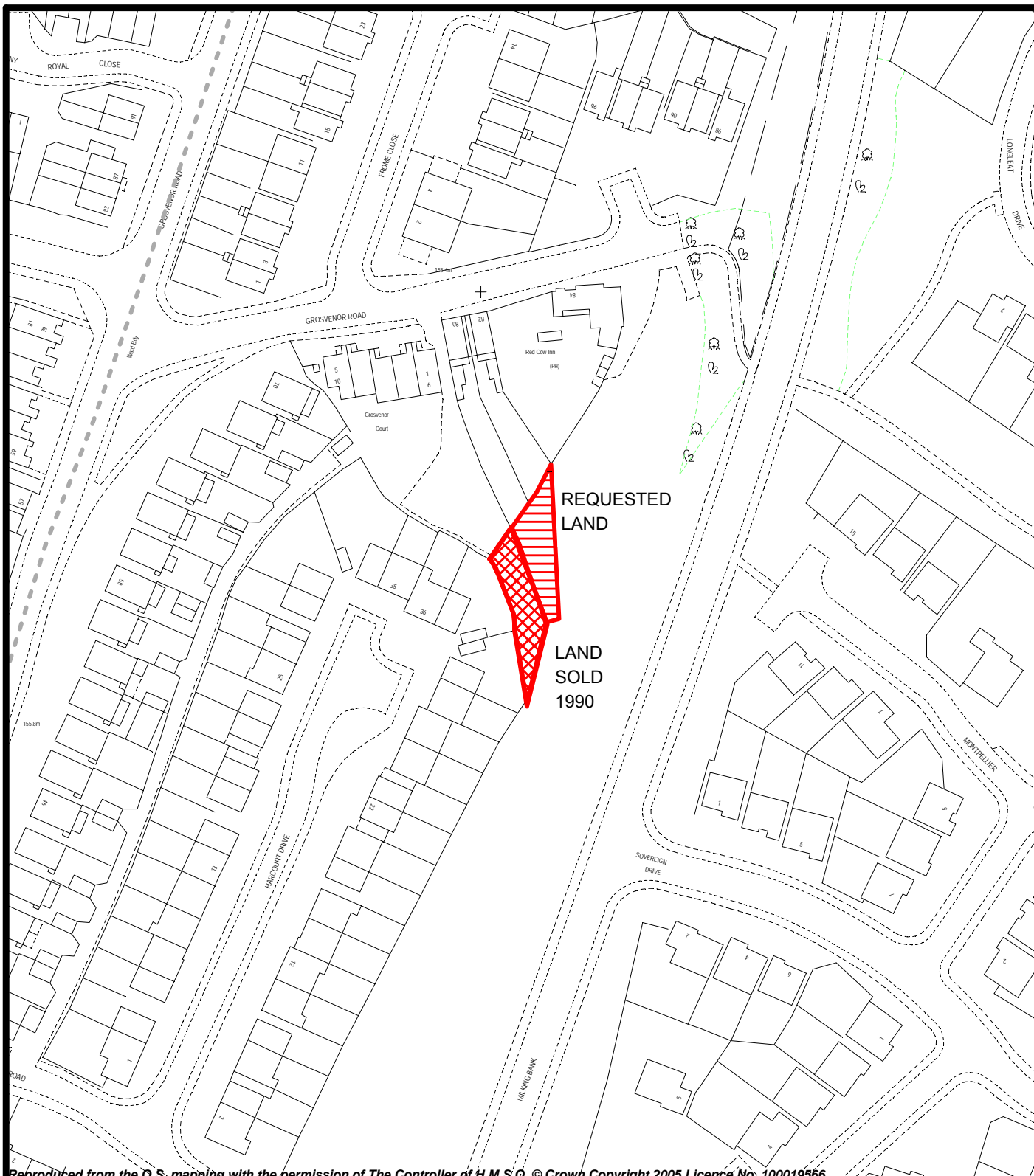
That the Area Committee advises the Cabinet Member for Leisure to refuse the application for the reasons set out above.

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



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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: 14^h March 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

A report on this application was presented to the Central Dudley Area Committee on the 24th January 2006. The report was deferred pending a site visit.

To reiterate, 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.

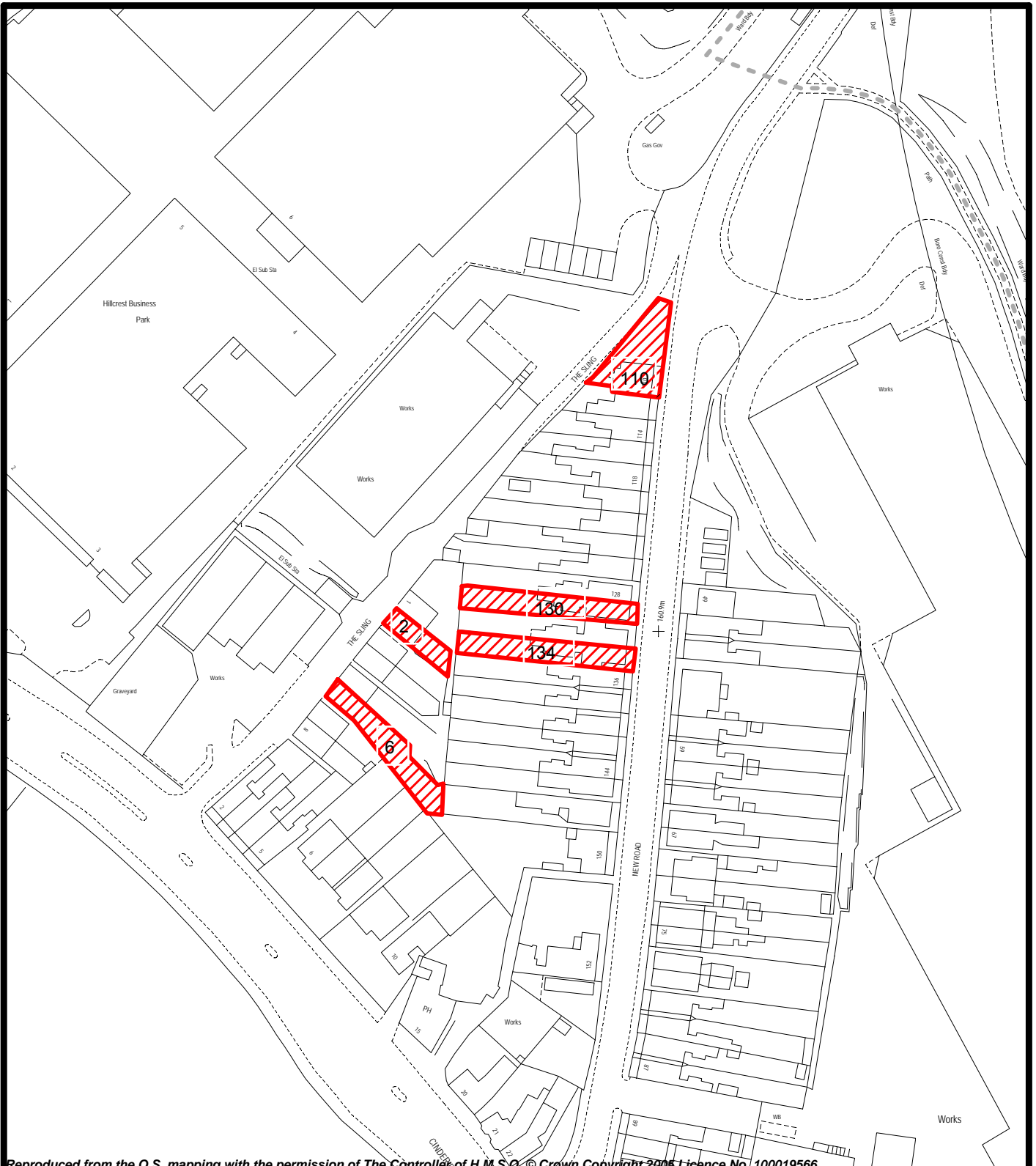
The Area Committee also advise the Cabinet Member for Transport to approve the renewal of the lease of 110 New Road, Netherton on terms and conditions to be negotiated and agreed by the Director of Law & Property.

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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