
Halesowen Area Committee – 22nd November 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.
5. On 5th July 2004, a report was agreed by the Executive to make changes to the way some land matters are dealt with. These changes to the constitution were verified by the Council meeting on 19th July 2004.

The report of the Executive lays out the circumstances for Ward Member consultation as follows:

Ward Members will be consulted instead of Area Committee consultation in the following matters:

To **approve** applications for:-

Disposal of Housing Revenue Account land of less than 200 sq.m.

Permission to create a domestic vehicular access.

Temporary licence to occupy for periods of less than 6 months.

Drainage easements.

Gas/electricity easements.

Licences for the former utilities companies, which have powers to serve a statutory notice.

To **refuse** applications to:-

Dispose of corner plots within housing estates.

Dispose of public open space.

Dispose of other park land/playing fields/allotments.

Dispose of land adjacent to the highway or footway where the result would be contrary to Planning and Urban Design guidelines.

If all Ward Members agree with the officer recommendation, a decision sheet is prepared for Cabinet Member approval. If Ward Members do not agree, the issues are put to the Area Committee for consideration.

All other land issues are put to the Area Committee, but there is no requirement to consult Ward Members prior to Area Committee consideration.

Finance

6. 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

7. 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

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

Recommendation

9. 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

Appendices

Halesowen Area Committee

Date: 22ND November 2006

Request to purchase land

Location: Rear of 60 Whittingham Road, Halesowen.

(As shown on the plan attached)

Background

An application has been received from the owner of 60 Whittingham Road, Halesowen, which is a privately owned property, to purchase an area of Council owned land to the rear of his garden.

The land forms part of a Council owned garage site off Cranmoor Crescent and is controlled by the Directorate of Adult, Community and Housing Services. There is an access across this garage site to an adjacent Council owned allotment site.

The applicant wishes to purchase the land to enclose within his garden for additional garden land. The applicant states that the garages are in a bad state of repair, the land is used for anti social behaviour and is infested with vermin. He therefore considers that the land would look a lot better and be more secure as part of his garden. The area measures approximately 88square metres.

The applicant would also consider purchasing a larger area of land if the Council were in agreement.

Comments

The relevant Council Directorates have been consulted regarding the application and objections have been received from the Directorate of Law and Property, the Directorate of Adult, Community and Housing Services and the Directorate of the Urban Environment as the disposal of this land would leave an irregular shaped site and may prejudice any future development of the land. It should therefore be retained in Council ownership.

The Director of Law and Property has no delegated authority to refuse the sale of this land and the matter must therefore be considered by this Area Committee before the decision is made by the relevant Cabinet Member.

Proposal

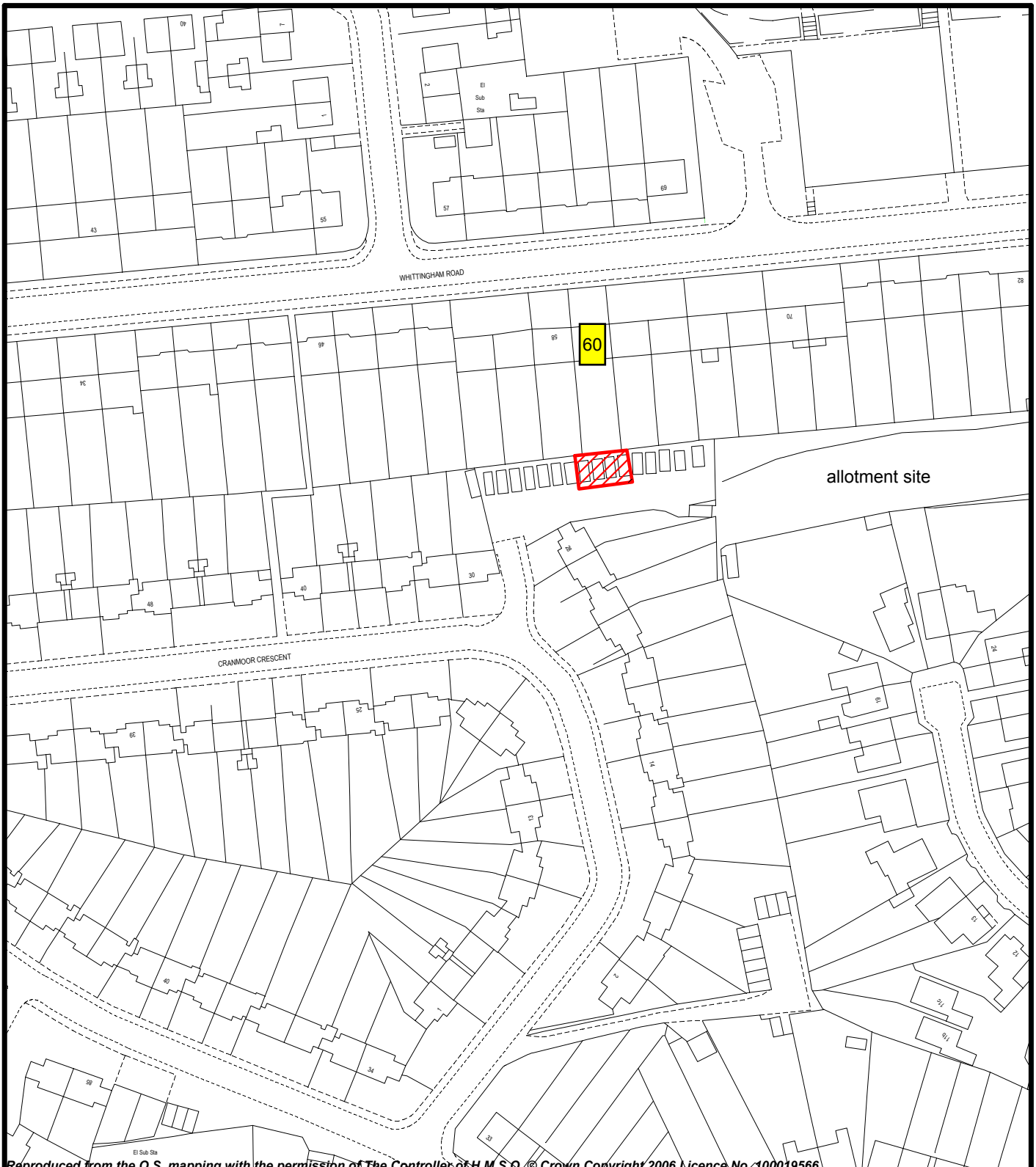
That the Area Committee advise the Cabinet Member for Housing to refuse the application.

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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TITLE:

application to purchase land rear of:
60 Whittingham Road
Halesowen



SCALE:

1 : 1250

DATE:

18-JUL-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:

Gill Hudson. Property Manager. Ext: 5311. Ref: 31699fmsf



Appendices

Halesowen Area Committee

Date: 22nd November 2006

Request to Purchase Land

Location: Land to the rear of Belfont Trading Estate, Halesowen
(As shown on the plan attached)

Background

An application has been received from Sterling Power Group to purchase the above mentioned Council owned land, as shown marked on the plan attached.

The land is under the control of the Directorate of the Urban Environment.

The applicant requires the land in order to expand their current utility skills training facilities and capabilities therefore need to acquire some of the waste scrubland at the rear of their site. This will allow them to both increase the number of training courses and individuals they can train on the site at any one time.

Sterling Power Group is a new group of companies specialising in the provision of services to the utility sector and specifically electricity companies. They provide specialist training services at the training facility in Halesowen.

The applicant have already fully explored all the other options of trying to rent or lease car parking space from adjacent site without any success. They even looked at the possibility of trying to purchase adjacent units in an attempt to find a solution to allow them to expand at the Halesowen site. The applicants state that the only practical option open to them is to either move site or to expand the car park facility at the rear of the site onto the overgrown wasteland between the site and the canal bank.

Comments

The relevant Council Directorates have been consulted regarding this application. The Directorate of Law and Property object to the request to purchase the land for additional car parking as the land lies within a Conservation area. Additionally, objections have been raised by the Directorate of the Urban Environment who state that the land forms part of the embankment on top of which sits the Lapal Section of Dudley No. 2 Canal. This embankment is monitored on a regular basis to ensure its safety. Disposing a section is likely to result in activities which we then cannot control and may then lead to de-stabilisation of the embankment. The only way presumably that this section of land would be useful would be to create a level area similar to the ground level of the adjacent estate. This would involve very significant retaining structures at huge expense, therefore request that this land is kept within the control of the Council.

Proposal

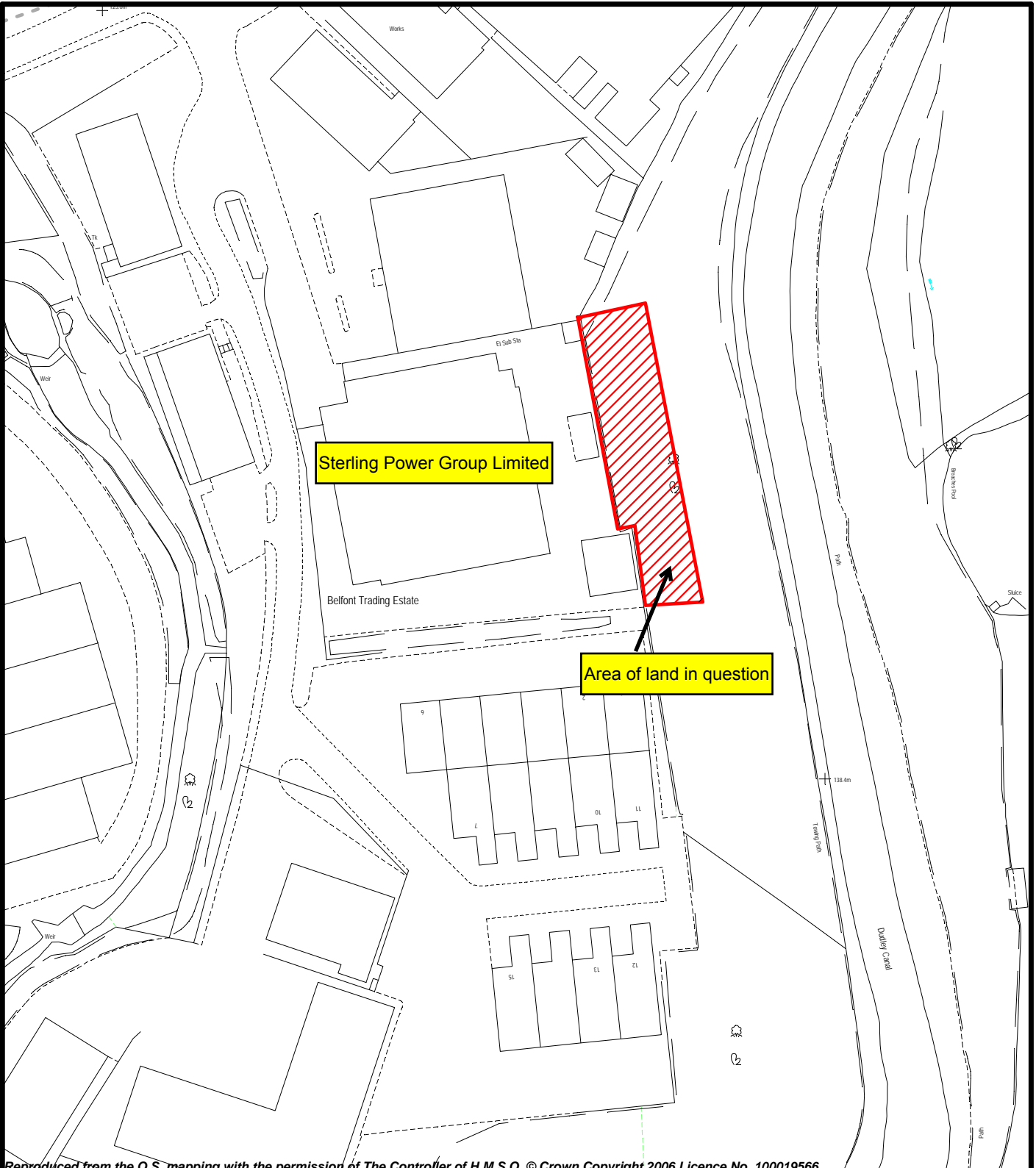
That the Area Committee advise the Cabinet Member for Leisure and Culture to refuse the application to purchase land to the rear of Belfont Trading Estate, Halesowen.

Background papers

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

Contact Officer:

Sonia McLean, Property Manager, Ext. 5321



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<p>TITLE:</p> <p>Land to the rear of Belfont Trading Estate</p> <p>Halesowen</p>		<p>Corporate Estate Services Directorate of Law and Property 3 St James's Road DUDLEY West Midlands DY1 1HZ</p>
<p>OS data reproduced with the permission of the Controller of HMSO 2006 Licence No 100019566</p> <p>CREATED BY: Sonia McLean - Property Manager, Ext. 5321</p>	<p>SCALE: 1 : 1250</p> <p>DATE: 31-JUL-2006</p>	

Appendices

Halesowen Area Committee

Date: 22nd November 2006

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 on to 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

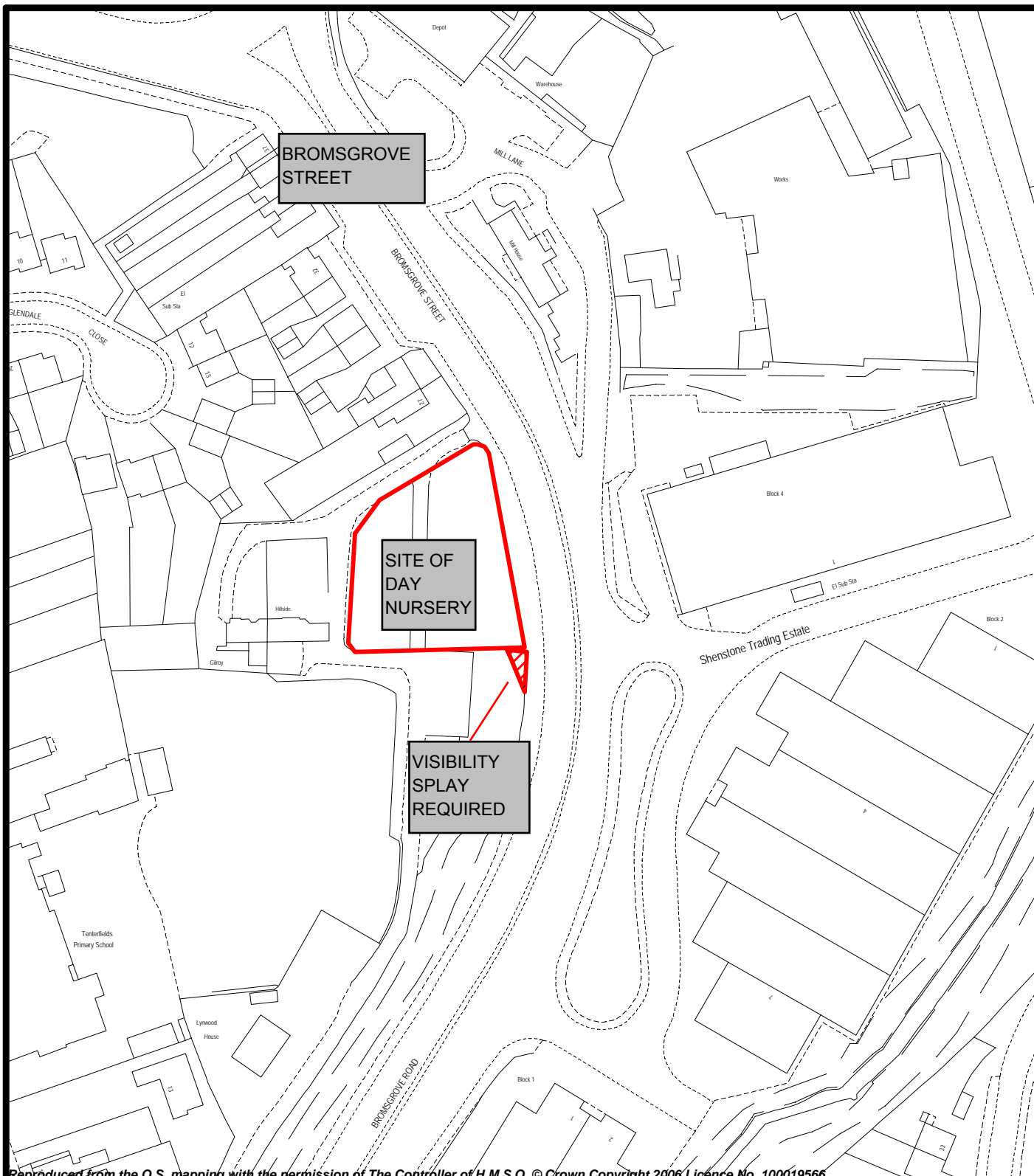
That the Area Committee advises the Cabinet Member for Personnel, Law & Property to approve the application for the Restrictive Covenant on the Council owned land at Bromsgrove Street, Halesowen subject to compliance with Planning Conditions, and on terms and conditions to be negotiated and agreed by the Director of Law and Property.

Background papers

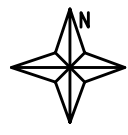

1. Letters from the applicant.
2. E-mails and memos from the Council Directorates.

Contact Officer:

Alan Nugent, Property Manager, Ext.5351



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<p>TITLE:</p> <p>VISIBILITY SPLAY PROPOSED DAY NURSERY BROMSGROVE STREET HALESOWEN</p> <p>OS data reproduced with the permission of the Controller of HMSO 2004 Licence No 100019566</p>	 <p>SCALE: 1 : 1250</p> <p>DATE: 16-MAY-2006</p>	<p>Corporate Estate Services Directorate of Law and Property 3 St James's Road DUDLEY West Midlands DY1 1HZ</p> 
<p>CREATED BY: ALAN NUGENT, PROPERTY MANAGER, EXT 5351</p>		