

AGENDA ITEM

DUDLEY METROPOLITAN BOROUGH

CENTRAL DUDLEY AREA COMMITTEE

14th JUNE 2005

REPORT OF THE DIRECTOR OF LAW AND PROPERTY

APPLICATIONS IN RESPECT OF LAND AND PROPERTY OWNED BY THE COUNCIL

1. PURPOSE

- 1.1 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.

2. BACKGROUND

- 2.1 The Council has interests in a substantial amount of land and property across the Borough, those interests being controlled by the Council's various departments.
- 2.2 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 departments before preparing a report for Committee to consider.
- 2.3 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.

3. PROPOSAL

- 3.1 The proposal is set out at the end of each report in the appendices.

4. FINANCE

- 4.1 In general terms, easement and access agreements each generate a capital receipt for the Council. The sale of the land generates a capital receipt for 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.

5. LAW

- 5.1 Section 123 of the Local Government Act, 1972 enables the Council to dispose of its interests in land at the best price reasonably obtainable.
- 5.2 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.

- 5.3 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.
- 5.4 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.
- 5.5 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.
- 5.6 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.
6. EQUAL OPPORTUNITIES
 - 6.1 The proposals take into account the Council's equal opportunities policies.
7. RECOMMENDATION
 - 7.1 That the proposals contained in each of the attached appendices be approved.
8. BACKGROUND PAPERS
 - 8.1 See individual appendices.

John Prynne

DIRECTOR OF LAW AND PROPERTY

Contact Officers:

Gill Hudson, Property Manager, Ext. 5311
Sonia McLean, Property Manager, Ext. 5321
Alan Nugent, Property Manager, Ext.5351

APPENDICES

CENTRAL DUDLEY AREA COMMITTEE

DATE: 14th JUNE 2005

PROPOSED LEASEHOLD SALE

LOCATION: 11A NEW STREET, DUDLEY

(As shown on the plan attached)

BACKGROUND

A report regarding this matter was considered by the Central Dudley Area Committee on the 31st March 2005 and was deferred for a Members site visit, the results of which will be reported verbally to this meeting.

To reiterate, 11A was let through the Housing waiting list until early 2004, but is now currently empty and requires in excess of £14,800 worth of repairs being undertaken before it could be bought up to an acceptable standard for re-letting. There are also severe problems with woodworm affecting the flat that will increase the cost of repairs substantially from this initial estimate.

The flat is in a block, the freehold of which is owned by the Council and contains units let on commercial leases on the ground floor and commercial and residential leases on the first and second floors. Some of these leases have already been sold on long leasehold basis.

This Committee previously resolved to recommend that the property be retained in Council ownership to be let through the Housing waiting list as it was considered there was a demand for this type of property within the town centre.

The District Housing Manager was therefore asked to take steps to find a suitable tenant for the property.

Multiple viewings of the property have been undertaken to try and find an applicant who wishes to move into the flat, before the repairs budget is committed, however, it has proved impossible to find a suitable tenant willing to take on the property.

The property is considered mature housing stock and is unsuitable for many applicants due to the number of steps leading up to the property, access problems and complete lack of suitable parking.

The District Housing Officer states that there are over 300 superior flats within the Dudley town centre including Housing Association provision and this property has therefore proved impossible to let.

The Directorate of Housing therefore wish the property to be taken out of Housing stock and offered for leasehold sale on the open market.

By way of background information some of the units on the first and second floors of the building have been let through the Housing waiting list and some have been sold to tenants under the right to buy scheme. Some have also been sold independently to

tenants who were not involved with Directorate of Housing. Only three of the units in the block are now let through the Housing waiting list, the rest of the units are either commercial leases or sold on long leasehold. It is considered by the Directorate of Housing that these properties are not desirable social housing properties.

COMMENTS

The relevant Council Directorates have been consulted and no objections to the proposal have been received.

The Directorate of Housing considers that even if the repair work is undertaken, they would not be able re-let this property due to the problems of access, lack of car parking and availability of higher standard accommodation in the area.

The Directorate of Law and Property consider the property should be sold on a long leasehold on the open market to gain a capital receipt for the Council as the property is no longer required by the Directorate of Housing.

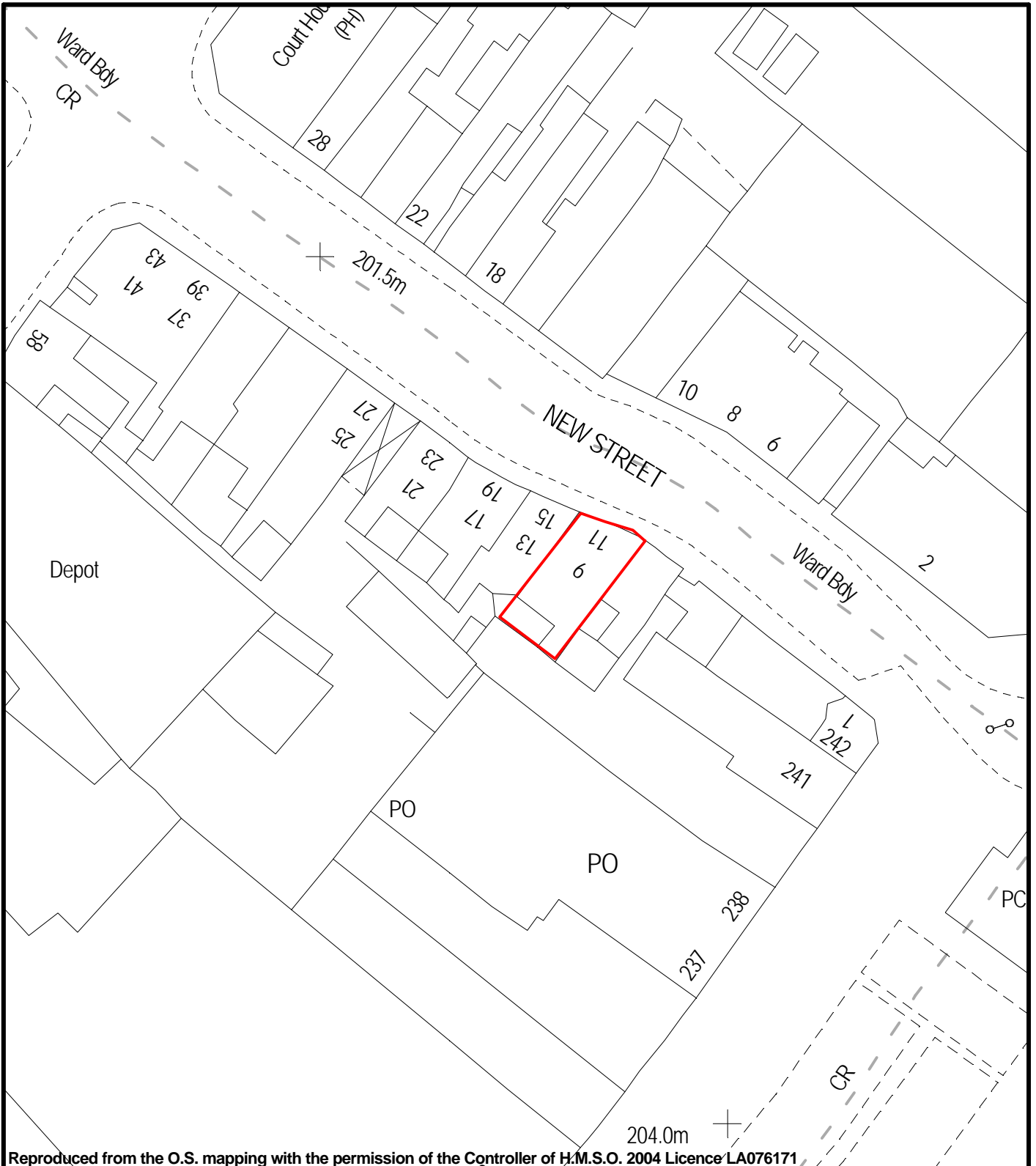
PROPOSAL

That the Area Committee advise the Committee Member for Law and Property to approve the sale of the leasehold interest of 11A New Street, Dudley, 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.

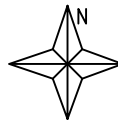
Contact Officer: Gill Hudson, Property Manager, Ext. 5311



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TITLE:

Leasehold sale of:
 flat 11a New Street,
 Dudley



SCALE:
 1 : 500

DATE:
 11-MAY-2004

Corporate Estate Services
 Directorate of Law and Property
 3 St James's Road
 DUDLEY
 West Midlands
 DY1 1HZ



CREATED BY:

Gill Hudson

CENTRAL DUDLEY AREA COMMITTEE

DATE: 14TH JUNE 2005

DISPOSAL OF LAND

LOCATION: PEDMORE ROAD, DUDLEY

(As shown on the plan attached)

BACKGROUND

An area of land at the corner of Pedmore Road and Hurst Lane was purchased by the Council under the Housing Act 1936 in 1950 and forms the site of two derelict cottages that were let on agricultural tenancies. The Site is marked hatched on the attached plan 1.

The Site is in the control of the Directorate of Housing.

One of the properties formally known as 141 has been boarded up since the tenant left in 1967 when both cottages were condemned as unfit for human habitation. Cottage 142 has therefore been uninhabitable since that date and both are now in a very dilapidated condition.

Following a series of road improvements at the junction of Pedmore road and Hurst Lane, access is now gained to the site via a driveway off Pedmore road.

The site of Cottage 142 was let together with a grazing field further along Pedmore Road, by way of an agricultural tenancy. This field is within the Saltwells Nature Reserve and is marked hatched on attached plan 2.

In 2002 the tenant of the existing agricultural tenancy passed away and the Council have served notice to quit under the terms of the agreement, on the Public Trustee, giving notice to terminate the agreement on the 28th September 2005.

It is therefore the intention, once the Notice has come to an end, to declare the site of 141 & 142 Pedmore Road surplus to requirements and dispose of it on the open market and to incorporate the field within the surrounding nature reserve.

COMMENTS

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

The Director of Urban Environment consider that the site is not suitable for residential development due to the access and proximity to industrial/commercial premises, however they would consider a use of industrial/warehousing on the site suitable and consistent with other users in the area.

Regarding the field along Pedmore Road, this is within the Saltwells Nature Reserve and was appropriated from the purposes of the Housing Act to that of the nature reserve at

the time the Nature Reserve was created. It is therefore already under the control of the Directorate of the Urban Environment.

The Directorate of the Urban Environment are therefore keen to bring the field back into nature reserve management in order to rest the field, clear some encroaching shrubs and seek advice from a grassland expert regarding long-term management. The field supports the locally uncommon Bee Orchid, which has not flowered for two or three years but hopefully would do so, once the aforementioned management work has been undertaken.

It is therefore proposed that the field is returned to Nature Reserve Management to allow an important nature conservation area to be looked after in a more sympathetic way and help restore its biodiversity in line with policy and community plan objectives.

PROPOSAL

That the Area Committee advises the Cabinet Member for Housing to Declare the site of 141 & 142 Surplus to requirements to be sold on the open market for the best price reasonable obtainable.

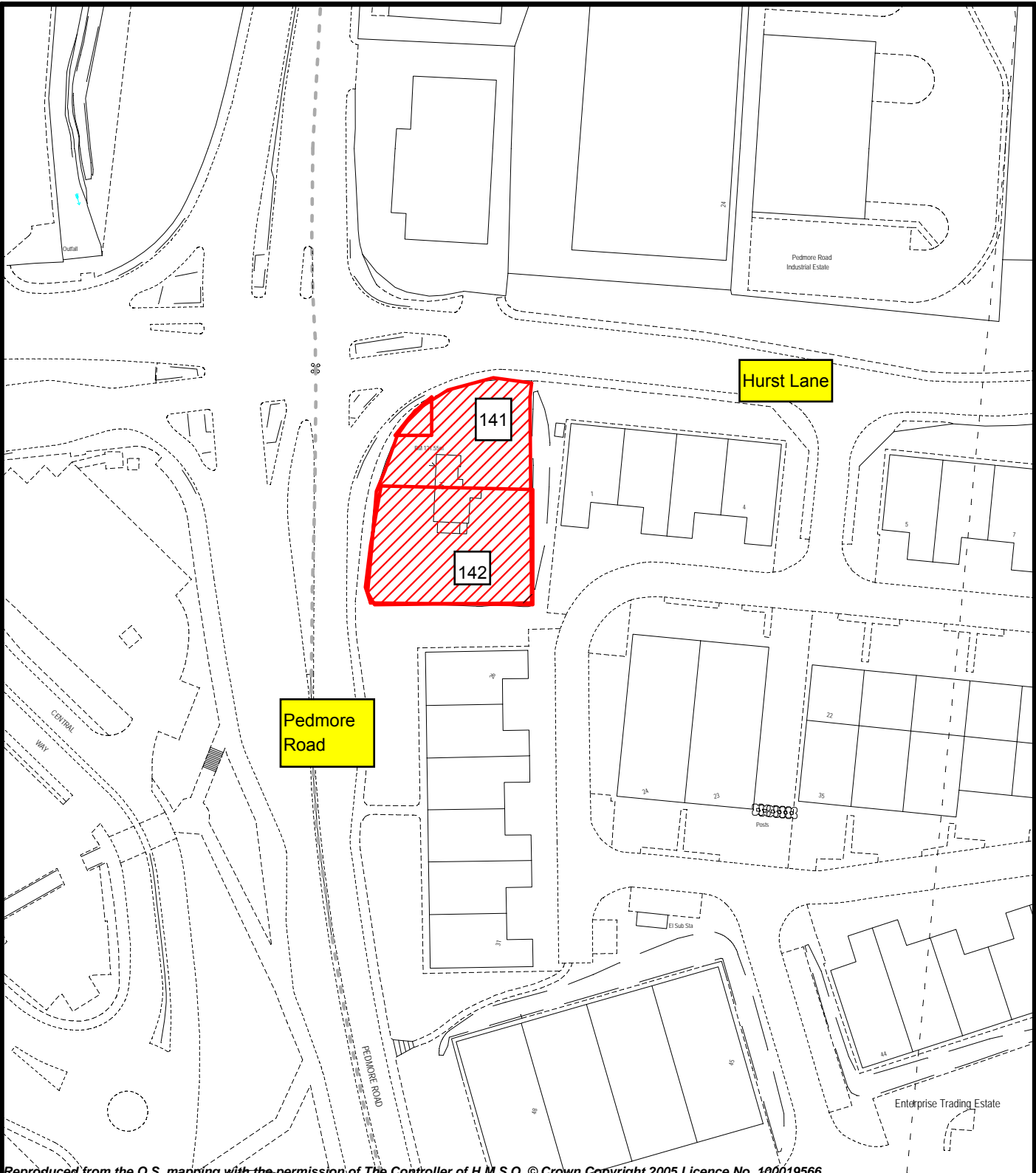
That the Area Committee recommend that the field at Pedmore Road be incorporated within the Saltewells Nature Reserve management.

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:

site of 141/142 Pedmore Road
Briery Hill

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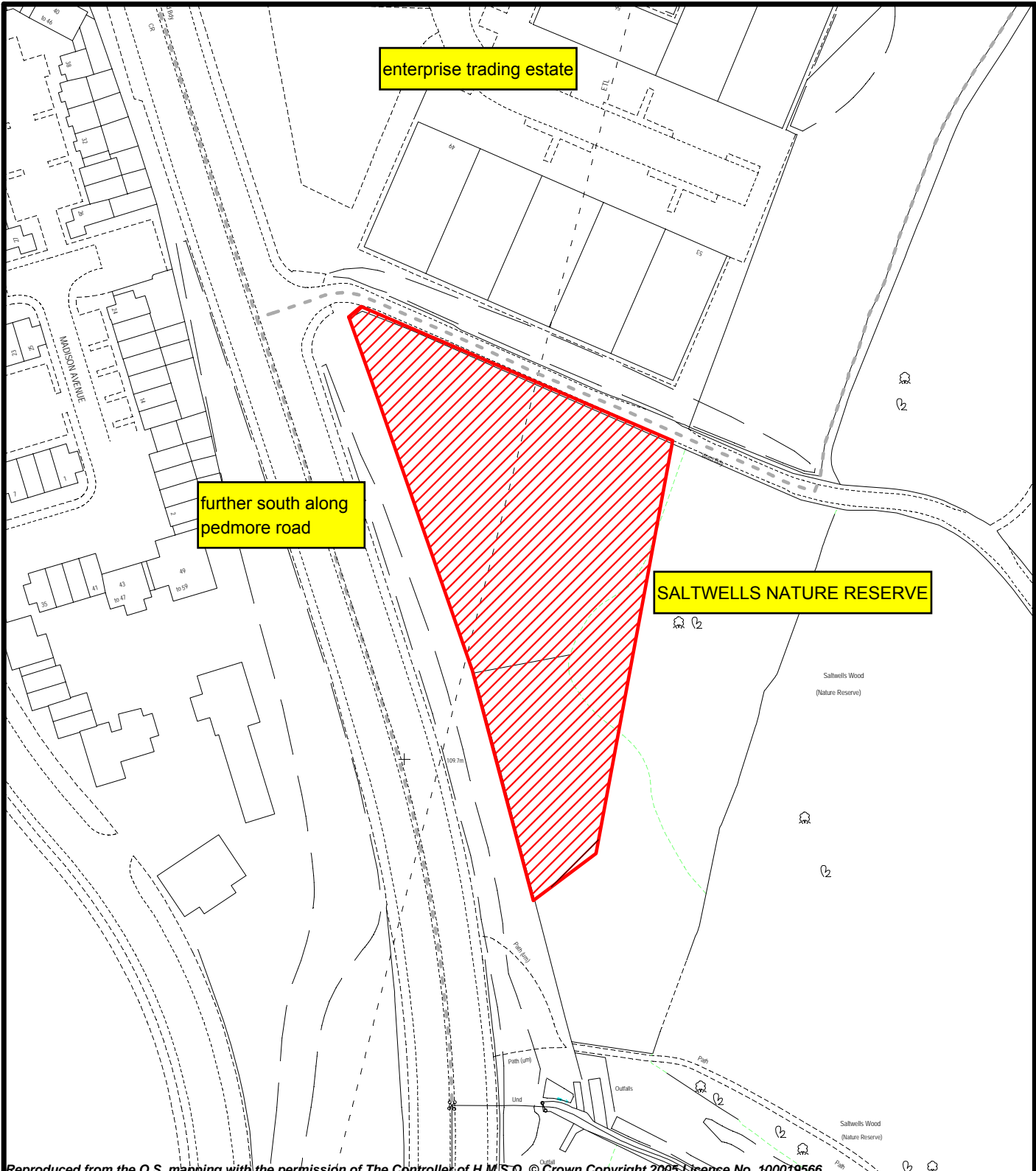
SCALE:
1 : 1250

DATE:
12-JAN-2005

Corporate Estate Services
Directorate of Law and Property
3 St James's Road
DUDLEY
West Midlands
DY1 1HZ

CREATED BY:





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<p>TITLE:</p> <p>field at Pedmore Road part of agricultural tenancy</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 2004 Licence No 100019566</p> <p>CREATED BY:</p>	<p>SCALE: 1 : 1250</p> <p>DATE: 12-JAN-2005</p>	

CENTRAL DUDLEY AREA COMMITTEE

DATE: 14TH JUNE 2005

APPLICATION TO PURCHASE COUNCIL OWNED LAND FRONTING:

LOCATION: 46 KING STREET, DUDLEY

(As shown on the plan attached)

BACKGROUND

A request has been received from the owners of Kings House, 46 King Street to purchase part of the highway land fronting their property. The owners also own Trafalgar House and over the past few years have improved the condition and profile of the building through refurbishment. They wish to improve the frontage of Kings House with ornamental features and new paving.

The land is under the control of the Directorate of the Urban Environment and forms part of the Highway.

COMMENTS

All the relevant Council Directorates have been consulted.

The Directorate of the Urban Environment stated that they have no objection in principle to the sale. If approved, the highway will have to be stopped up by a legal order under the Planning or Highways Act.

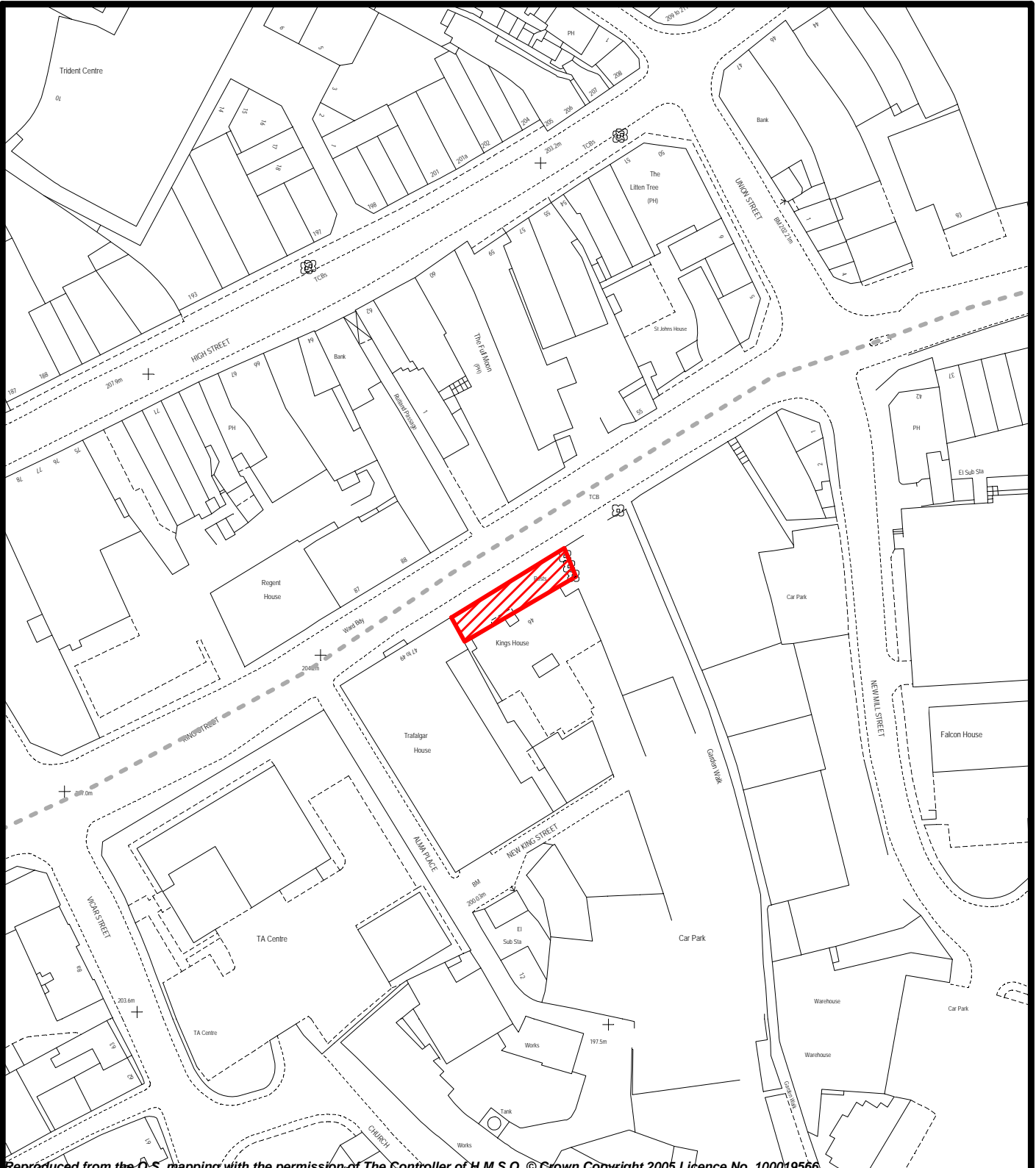
PROPOSAL

That the Central Dudley Area Committee advises the Cabinet Member for Transportation to approve the application to purchase the land fronting 46 Kings Street, Dudley. The sale will be subject to the granting of a legal order under the Planning or Highways Act and 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



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TITLE:

**LAND FRONTING
KINGS HOUSE
KING STREET
DUDLEY**



SCALE:

1 : 1250

DATE:

31-JAN-2005

Corporate Estate Services
Directorate of Law and Property
3 St James's Road
DUDLEY
West Midlands
DY1 1HZ

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CREATED BY:

ALAN NUGENT, PROPERTY MANAGER, EXT 5351



CENTRAL DUDLEY AREA COMMITTEE

DATE: 14TH JUNE 2005

APPLICATION FOR A LICENCE OVER COUNCIL OWNED LAND REAR OF:

LOCATION: 28 DUDLEY WOOD ROAD, DUDLEY

(As shown on the plan attached)

BACKGROUND

A request has been received from the owner of Number 28 Dudley Wood Road, Netherton for an access licence to the rear of their property to garage their vehicle. The access would be via the entrance by 16 Dudley Wood Road and along a access road to the rear of their properties. There are already a number of similar licences for neighbouring properties.

The land forms part of Dudley Wood Sports Ground and is under the control of the Directorate of Law & Property and maintained by Leisure Services.

COMMENTS

All the relevant Council Directorates have been consulted.

The Directorate of the Urban Environment approve of the granting of licences and have requested that a commuted sum should be included in the fee for the maintenance of the access track.

PROPOSAL

That the Central Dudley Area Committee advises the Lead for Member for Law & Property to approve the application for a licence 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



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TITLE:

**ACCESS TO REAR OF
28 DUDLEY WOOD ROAD
NETHERTON**



SCALE:
1 : 1250

DATE:
20-JAN-2005

Corporate Estate Services
Directorate of Law and Property
3 St James's Road
DUDLEY
West Midlands
DY1 1HZ

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CREATED BY:



CENTRAL DUDLEY AREA COMMITTEE

DATE: 14TH JUNE 2005

APPLICATION TO PURCHASE COUNCIL OWNED LAND REAR OF:

LOCATION: 96 LYNBROOK CLOSE, NETHERTON

(As shown on the plan attached)

BACKGROUND

A request has been received from the owners of 96 Lynbrook Close, Netherton to purchase the land at the rear of their property. They land is required by them in order to better maintain their property.

The land is under the control of the Culture & Community Division of the Directorate of the Urban Environment and was once a railway embankment of the Windmill End Branch of the GWR. It was purchased from British Railways Board in 1977 under Section 120 of the Local Government Act 1972 for the purpose of a Public Walkway. Parts though have been used as highway, industrial and housing.

COMMENTS

All the relevant Council Directorates have been consulted.

According to the Directorate of the Urban Environment, the area requested is a well-established tree lined steep slope up to Dalston Avenue. The trees are essential for the stability of the slope and the recommendation is that the Council should not release control of the land. The application to purchase the land should therefore be refused, though an access licence via a gate onto the land for maintenance purposes should be granted.

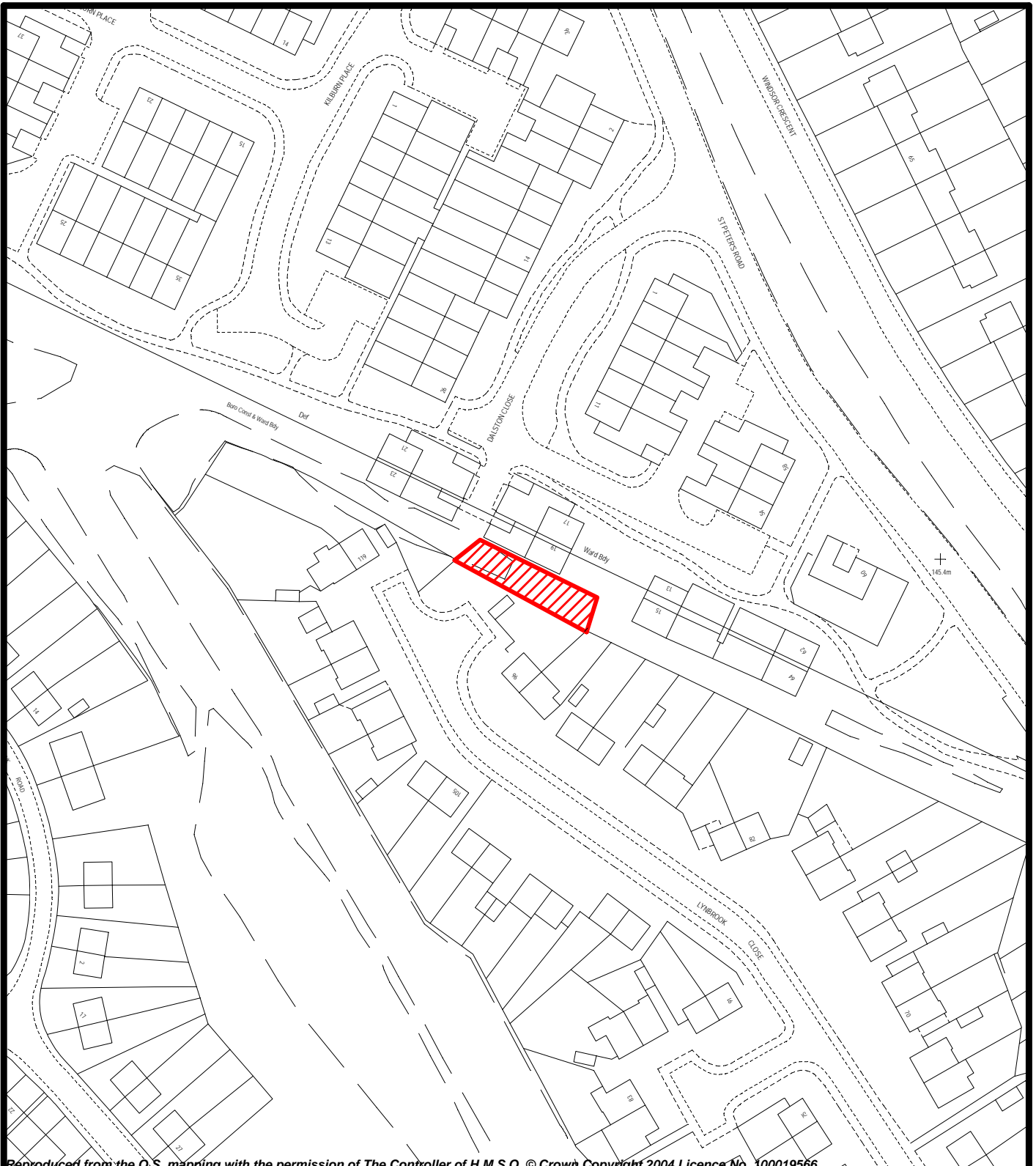
PROPOSAL

That the Central Dudley Area Committee advises the Cabinet Member for Leisure to refuse the application to purchase the land for the reasons stated above. The applicant may apply to the Director of the Urban Environment for an Access Agreement.

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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TITLE:

LAND REAR OF
96 LYNBROOK CLOSE
NETHERTON



SCALE:

1 : 1250

DATE:

09-DEC-2004

Corporate Estate Services
Directorate of Law and Property
3 St James's Road
DUDLEY
West Midlands
DY1 1HZ

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CREATED BY:



CENTRAL DUDLEY AREA COMMITTEE

DATE: 14TH JUNE 2005

REQUEST FOR: APPLICATION TO LEASE COUNCIL OWNED GARAGE SITE

LOCATION: NEW ROAD, DUDLEY

(As shown on the plan attached)

BACKGROUND

A report regarding this matter was considered by the Central Dudley Area Committee on the 31st March 2005 and was deferred for a Members site visit, the results of which will be reported verbally to this meeting.

To reiterate, a request has been received from the owner of 20 New Road, Netherton to lease a lock-up garage as shown edged red on the plan attached. The applicant also wishes to lease an additional concrete pad at the rear of the garage where a burnt shed now stands.

This additional plot would be used to put a solid concrete sectional garage to store tools, gardening equipment, etc., this is because the applicant's garden is too small to place a shed. The applicant states that he has spent a lot of money moving rubbish caused from illegal fly tipping and has tried to prevent any further reoccurrences.

The land is under the control of the Directorate of Law and Property.

COMMENTS

All of the relevant Directorates have been consulted. No objections have been received from the Directorate of the Urban Environment (Planning Policy) but note that there are a number of mature trees on/adjacent to the site which will need to be taken into consideration. Additionally, the Highways Section of the Directorate of the Urban Environment does object to the lease of the land as it is affected by the Metro and ancillary works.

The Directorate of Law and Property have no objections to the application except that when the Council acquired the site in 1971 from British Railways Board, a restriction was imposed on the Council not to erect any building or structure or add to any existing building or structure nor execute any works without first submitting detailed plans and sections to the board, therefore, obtaining the board's approval and complying with any conditions the board imposes.

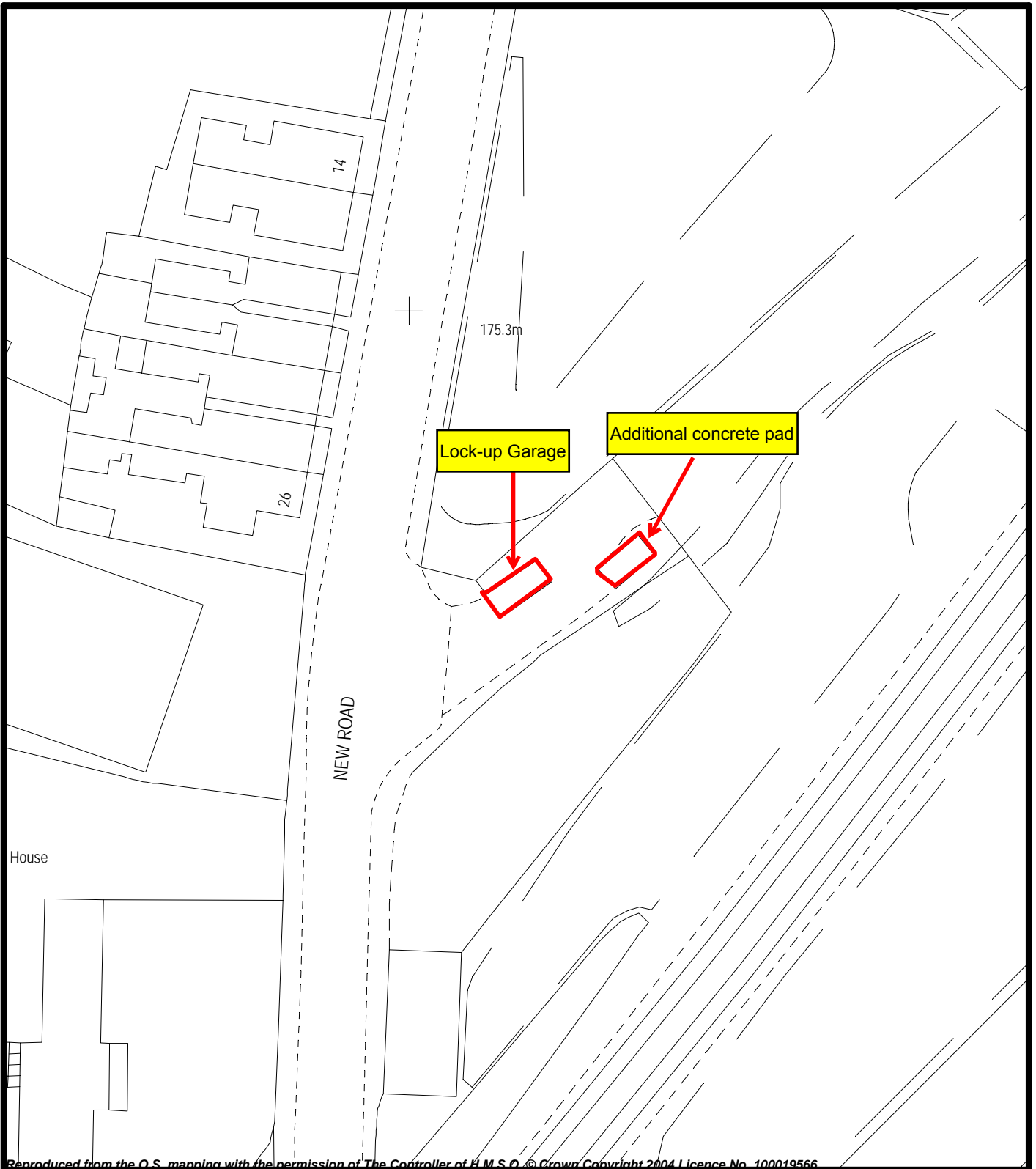
PROPOSAL

That the Area Committee advise the Cabinet Member for Personnel, Law and Property to refuse the application.

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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TITLE:

Lock-up Garage at New Road

Netherton



SCALE:

1 : 500

DATE:

08-DEC-2004

Corporate Estate Services
Directorate of Law and Property

3 St James's Road

DUDLEY

West Midlands

DY1 1HZ

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CREATED BY:

Sonia McLean

Dudley
Metropolitan Borough Council

CENTRAL DUDLEY AREA COMMITTEE

DATE: 14TH JUNE 2005

APPLICATION TO PURCHASE COUNCIL OWNED LAND REAR OF:

LOCATION: LAND ADJOINING 20 RICHBOROUGH DRIVE, DUDLEY
(As shown on the plan attached)

BACKGROUND

A request has been received from the developers of a residential development adjoining 20 Richborough Drive to purchase Council owned land adjoining their development. The developers have built within the fenced off area which they believe separated their land from the adjoining Public Open Space. On further investigation it was found that the fence line did not follow the exact boundary line of the site they had purchased. The boundary fence followed a straight line whereas the correct boundary is slightly curved. There is still some dispute regarding the correct boundary line. The confusion is now holding up the sale of the properties built on the site and the developers wish to purchase the extra land so as to regulate the boundaries.

The Council originally owned the land and was part of the Burton Road/Dibdale Road site sold for development.

The land is under the control of the Culture & Community Division of the Directorate of the Urban Environment.

COMMENTS

All the relevant Council Directorates have been consulted and no objections have been received. No objections have been received as the land was thought to be part of the development.

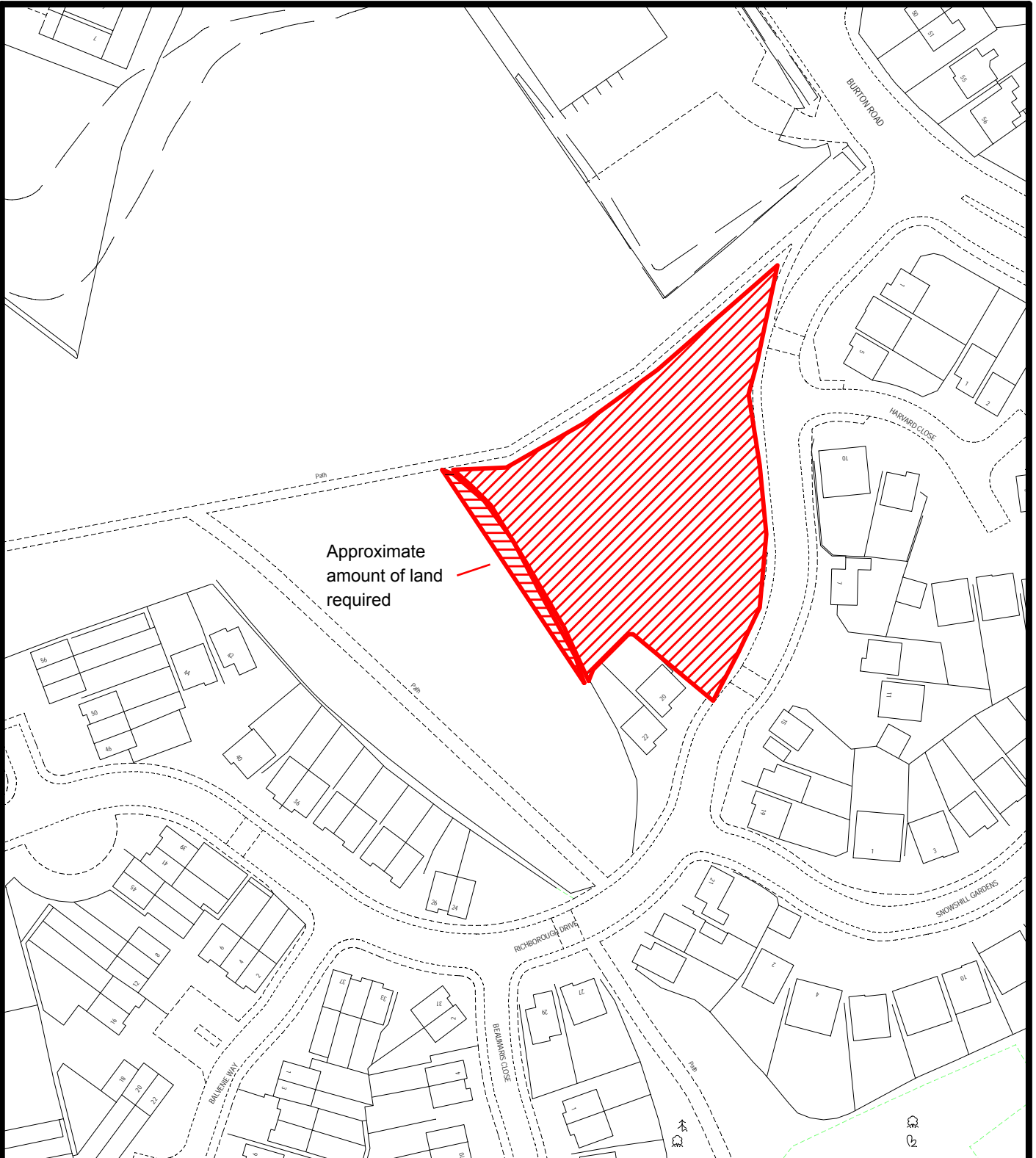
PROPOSAL

That the Central Dudley Area Committee advises the Cabinet Member for Leisure to approve the sale of the land to the developers 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>TITLE:</p> <p>LAND ADJOINING 20 RICHBOROUGH DRIVE DUDLEY</p> <p>APPROXIMATE AMOUNT OF LAND REQUIRED ON SOUTHWEST BOUNDARY OF DEVELOPMENT SITE</p> <p><small>OS data reproduced with the permission of the Controller of HMSO 2004 Licence No. 100019566</small></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, EXT 5351</p>		<p>SCALE: 1 : 1250</p> <p>DATE: 12-MAY-2005</p>

CENTRAL DUDLEY AREA COMMITTEE

DATE: 14TH JUNE 2005

APPLICATION LEASE OR PURCHASE COUNCIL OWNED LAND ADJACENT TO:

LOCATION: 117 HIMLEY ROAD, DUDLEY

(As shown on the plan attached)

BACKGROUND

A report regarding this application was submitted to the Central Dudley Area Committee at its meeting on the 31st March 2005 and was deferred pending a site visit. The results of the site visit will be reported verbally to this meeting.

To reiterate, an application was received to lease or purchase the land adjacent 117 Himley Road, Dudley. The applicant wishes to park cars there for business purposes (car hire for weddings etc).

The land was under the control of the Directorate of the Urban Environment (Leisure Services) and is used by Housing for renting garage plots. They allow individuals to construct and maintain their own garages on the land. To the northeast of the site the Council lease land to the MEB for a substation. To the west is 129 Himley Road, which is leased as a Scout Hut.

COMMENTS

The Directorate of the Urban Environment has made the following comments:

1. In the Revised Deposit UDP, the site falls fully within designated as Open Space. On the sites southern side it borders Russell's Hall Park.
2. The site contains lock up garages, gravel hard standing areas and there is vehicle trackways linking the garages to the entrance of the site off Himley Road. It is considered that part of the site would fall under the category of previously developed land. There would be no planning policy objections to new-build residential redevelopment for the part of the site considered to be previously developed. The wooded urban green space area immediately to the rear of the garages remains sensitive green space and would be considered "Greenfield". In this area, it is unlikely that planning permission would be granted for a residential redevelopment given its "Greenfield" status and its contribution to the setting of the adjacent Russells Hall Park.
3. The "Greenfield" land to be retained should be included into Russells Hall Park. A suitable fence would have to be erected around the site and the purchaser would have to pay for the land to be restored to a suitable condition. These would be conditions of any sale. At present much of the "Greenfield" area of the site is unmaintained and inaccessible.
4. The use of the land as a site for the parking of commercial vehicles could be visually intrusive for local residents if they could not be screened from view. This proposal is likely to involve the inclusion of macadam surfaced hard-standings on existing grassed areas for vehicle parking purposes. If parked cars could not be

screened from view then planning permission may be refused. If parking were allowed, then it would have to be subject to conditions restricting the hours of use in order to preserve neighbours amenity.

5. Quite a few developers have expressed interest in the site in the past. The lease of the land for car parking would not only be detrimental to the amenity of the area; it would provide reduced funds to the Authority.
6. In the event of a sale it would be the purchaser's responsibility to undertake the necessary investigation into contamination on the site. The purchase would be required to carry out any remediation that is required to enable the land to be used safely for the purpose proposed. The purchaser may also have to pay for the MEB lease to be terminated and the substation moved.
7. The site has to be cleaned up quite regularly.

The impact of any future redevelopment proposals on the adjacent facilities at 129 Himley Road (the Scout Hut) would be important. The Directorate of Law and Property considered the possibility of jointly disposing of the land and the adjoining land adjacent to 117 Himley Road. The Directorate of Education and Lifelong Learning are against any such disposal. The adjacent Scout Hut is well used and that the Scouts are increasing the number of nights that they are open.

To sum up; there are four possible uses for the site, these are:

Option 1

Leave the site as it is.

Option 2

Have the entire site incorporated into Russells Hall Park. There is at present no funding for this option.

Option 3

Sell or lease the land for business purposes (the parking of limousines).

Option 4

Sell the land for a new-build residential development purposes.

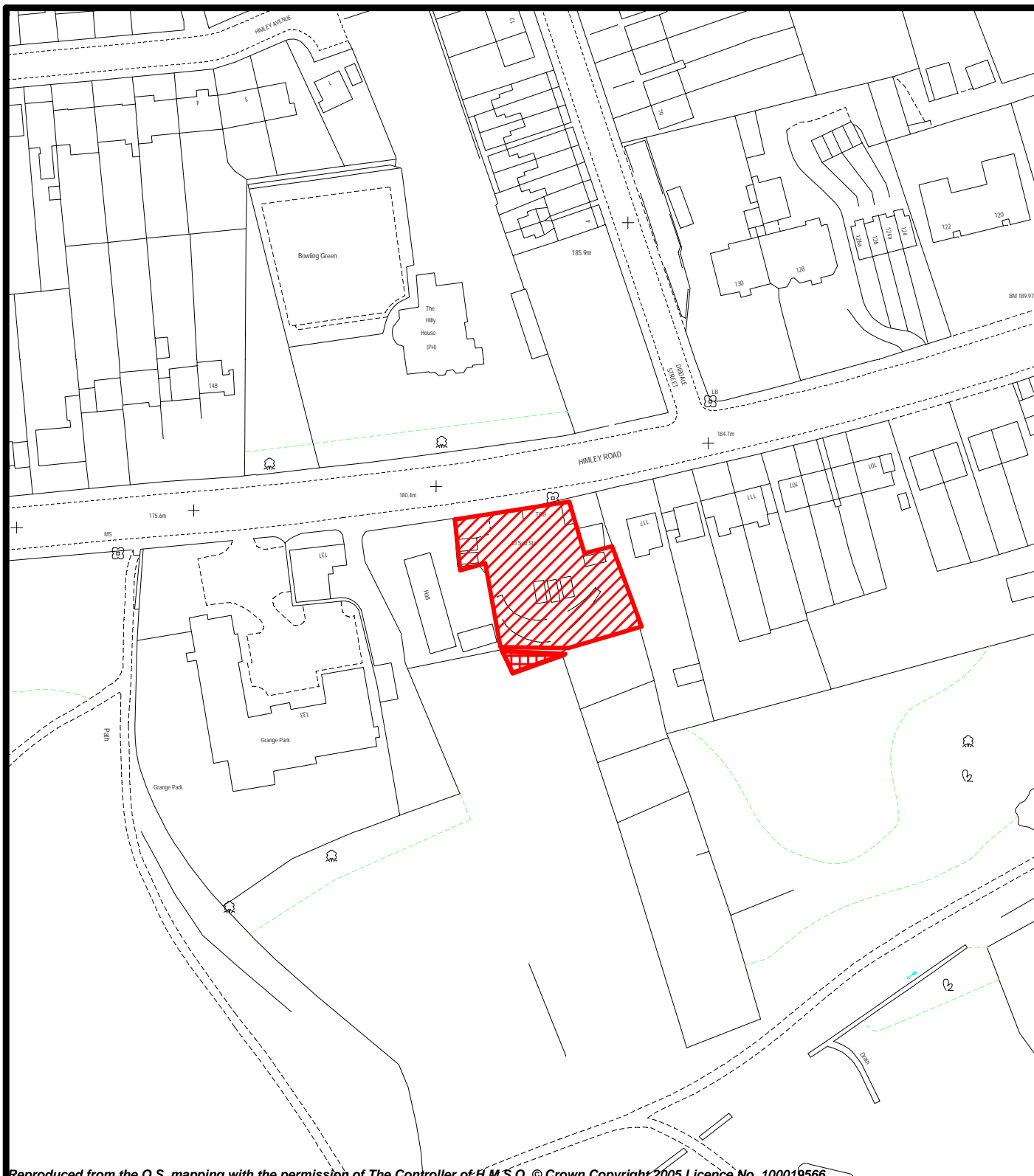
PROPOSAL

That the Area Committee advises the Cabinet Member for Leisure to declare the land adjacent to 117 Himley Road, Dudley surplus to requirements and add it to the Land Disposals programme to be sold on the open market for the best price reasonably obtainable, and 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



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TITLE:

**LAND ADJACENT TO
117 HIMLEY ROAD
DUDLEY**



SCALE:
1 : 1250

DATE:
02-FEB-2005

Corporate Estate Services
Directorate of Law and Property
3 St James's Road
DUDLEY
West Midlands
DY1 1HZ

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