
North Dudley Area Committee – 7th February, 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.

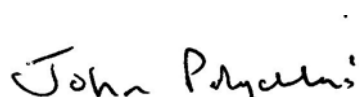
Section 111 of the Local Government Act, 1972 empowers the Council to do anything calculated to facilitate or which is conducive to or incidental to the discharge of any of its functions.

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

Contact Officers: Gill Hudson, Property Manager
Telephone: 01384 815311
Email: gill.hudson@dudley.gov.uk

Sonia McLean, Property Manager
Telephone 01384 815321
Email: sonia.mclean@dudley.gov.uk

Alan Nugent, Property Manager
Telephone 01384 815351
Email: alan.nugent@dudley.gov.uk

List of Background Papers

See individual appendices

North Dudley Area Committee

Date: 7th February 2007

Request for: Purchase Council owned Land

Location: Turners Hill Wood, (rear of Stickley Lane), Lower Gornal
(As shown on the plan attached)

Background

Requests have been received from the owners of properties on Stickley Lane to purchase, for use as garden land, the Council owned land at the rear of their properties as shown edged red on the attached plan.

These requests have been submitted as a result of Council action to recover the area in question which has been encroached on by the owners of the properties in Stickley Lane and return it to its proper use as Public Open Space. Consideration was given to demanding that the land be reinstated to its original condition, then threaten legal action if this was not complied with. It was considered that the best course of action was to invite the residents of Stickley Lane to purchase the land in question. This would allow the residents to put their case forward and be considered in a fair and transparent manner without initially incurring any unnecessary Legal fees.

The land is under the control of the Director of Adult, Community and Housing and is designated as being part of the Cotwall End Valley Local Nature Reserve.

There are three possible options to resolve the matter:

- Sell the land to the owners of the properties on Stickley Lane.
- Lease the land to the current owners with the land returning to the Council when they leave.
- Reinstatement of the land to Public Open Space.

Comments

All the relevant Council Directorates have been consulted regarding the application.

The Directorate of the Urban Environment have objected most strongly to any disposal of the land. The land in question remains highly sensitive as it is designated as Green Belt land and a Local Nature Reserve. National planning guidance on Green Belts is set out in Planning Policy Guidance Note PPG2. This establishes the significance of Green Belts, with the fundamental aim of policy being to prevent urban sprawl by keeping land permanently open. The Green Belt in the Borough is identified in the Dudley UDP. As well as being Green Belt land the site functions as open space. Policy LR1 Open Space, protects against the loss of areas of open space, where the open space meets one or more of the individual criteria set out in the Policy.

The site provides a necessary buffer zone between the established residential area and the local nature reserve and should be protected. The land which has been encroached upon will have once acted as a buffer, limiting the effects of disturbance to the more central areas of the wildlife site. The encroachment has moved this buffer zone further in, causing an effective loss of the core wildlife site. The proposal to lease or sell the land to the residents would in reality cause a loss of this habitat and buffer area.

NC4 Local Nature Reserves and Sites of Importance for Nature Conservation covers the whole of the encroached area. The Local Nature Reserve designation means that the site is of conservation importance to the Birmingham and Black Country region. The policy states "*development likely to have an adverse effect on a Local Nature Reserve.... Will not be permitted unless it can be clearly demonstrated that there are reasons for the proposal which outweigh the need to safeguard the substantive nature conservation value of the site or feature*". The proposal to sell or lease this land would not pass this policy test.

Local Nature Reserves (LNRs) are a national initiative which the governmental body, Natural England, use to press for their target of 1 ha per thousand population, especially in urban areas. Dudley MBC is currently falling below this target. The areas are designated by councils, in partnership with local communities and Natural England, with a commitment by councils to manage the areas for the benefit of the community to enable conservation. By selling or leasing this land the Council would need to withdraw its commitment to the local community and Natural England and the designation would need to be removed.

It is noted that several legally protected species are present within Cotwell End Valley. Bats and great crested newts are present which have European legal protection. Badgers, bullfinch, song thrush and linnet all receive protection under UK law and have been recorded. It is anticipated that these species may have been present before the encroachment and it is very possible wildlife legislation will have been broken during the acts of encroachment.

Proposal

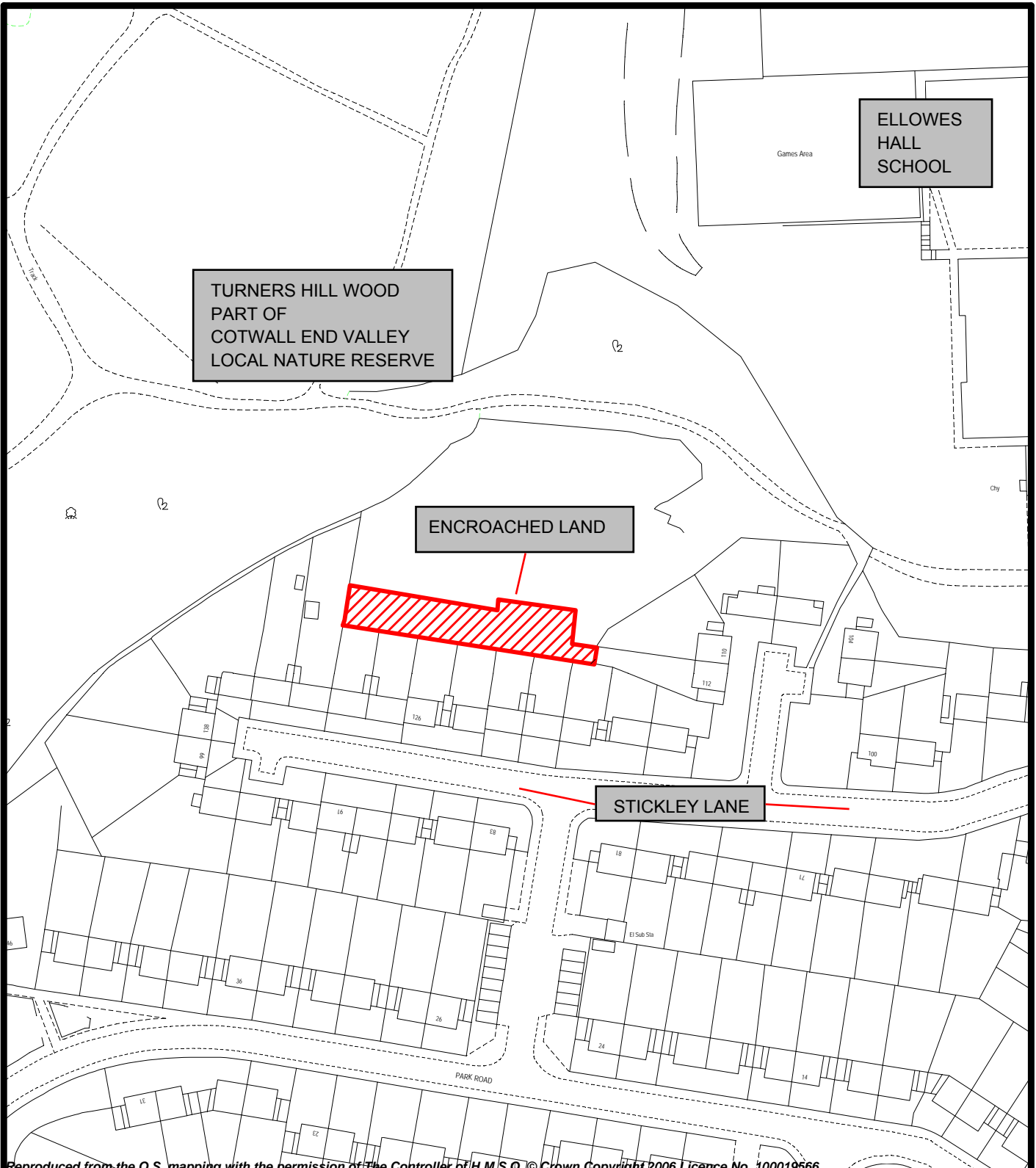
That the Area Committee advises the Cabinet Member for Housing to refuse the application to purchase or lease the land at the rear of Stickleley Lane and the land should be returned to public open space. The land is to be reinstated as a Local Nature Reserve, by those who have encroached, to the satisfaction of the Director of the Urban Environment.

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 AT THE REAR OF
118 - 130 STICKLEY LANE
LOWER GORNAL



SCALE:

1 : 1250

DATE:

16-NOV-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:

ALAN NUGENT, PROPERTY MANAGER, EXT 5351

