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**Central Dudley Area Committee – 12<sup>th</sup> June 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.

*John Polychronakis*

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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: 12<sup>th</sup> June 2007**

**Request for Land Exchange**

**Location: Saltwells Nature Reserve, Netherton and Hurst Lane, Brierley Hill**  
**(As shown on the plan attached)**

**Background**

An application has been received from Mr A Bate of INC Design Associates Ltd. on behalf of their client, Westfield, the owner of a parcel of land within the Saltwells Nature Reserve to exchange their land for the Council owned land at Hurst Lane, as shown marked on the plans attached.

Westfield's land was purchased by Chelsfield some time ago and then transferred to Westfield as part of the buy out.

Westfield feel that there is no practical reason why they should retain ownership of the Saltwells site and it would seem logical, as it is part of the nature reserve that it reverts to the Council. The Hurst Lane site however could offer future opportunities with regard to highway enhancement and Westfield are happy to maintain this site as the land owner and do not intend it to be used for any constructed development.

The land at Hurst Lane was appropriated from the purposes of Part V of the Housing Act, 1936 to the purposes of the Highways Act, 1980 in 2003 to enable highway improvements to be carried out.

The land at Hurst Lane, Netherton is under the control of the Directorate of the Urban Environment.

**Comments**

All of the relevant Council Directorates have been consulted regarding this matter and the Directorate of the Urban Environment have no objections to the exchange of land. However, there are still issues with land at the Saltwells Nature Reserve. There is large amount of fly tipping on the site, the pedestrian footbridge is being undermined and the stream course is blocked in several places by litter/logs, etc. These issues would need to be rectified for the Saltwells site to be handed over in good order.

Natural England in Shropshire fully supports the Council in gaining the ownership of the Saltwells Nature Reserve site within the declared Local Nature Reserve boundary and envisage that this will allow the Council greater freedom to manage the site in keeping with the Nature Reserve's aims and objectives.

The Directorate of Community, Adult and Housing Services state that the land at Hurst Lane is in the middle of a main road leading onto the Merry Hill complex with units either side and is of no practical use to children or young people, there is a large amount of

traffic using this road. The Saltwells site would be a continuous stretch of nature reserve land and would be more practical for the use of children and adults.

The Directorate of Law and Property have no objection to the disposal of land at Hurst Lane but state that the transaction would need to be based on an equality of exchange, recognising that it would increase the Council's liability in looking after a larger area of land at Saltwells, which will require maintenance and produce no real income.

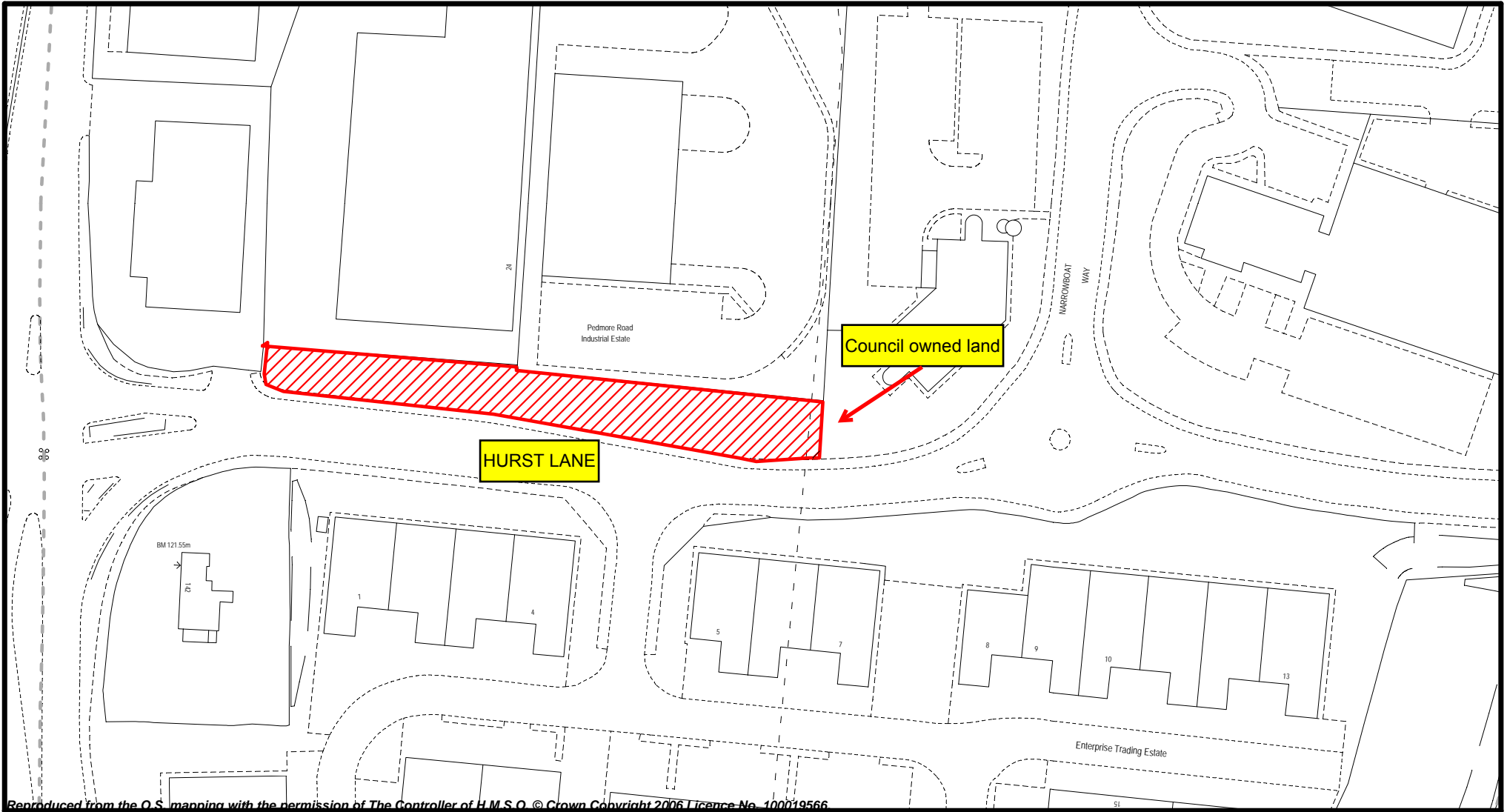
### **Proposal**

That the Area Committee recommend that the Cabinet Member for Transportation approve the application to exchange land at Saltwells Nature Reserve, Netherton and Hurst Lane, Brierley Hill on terms and conditions to be negotiated and agreed by the Director of Law and Property.


### **Background papers**

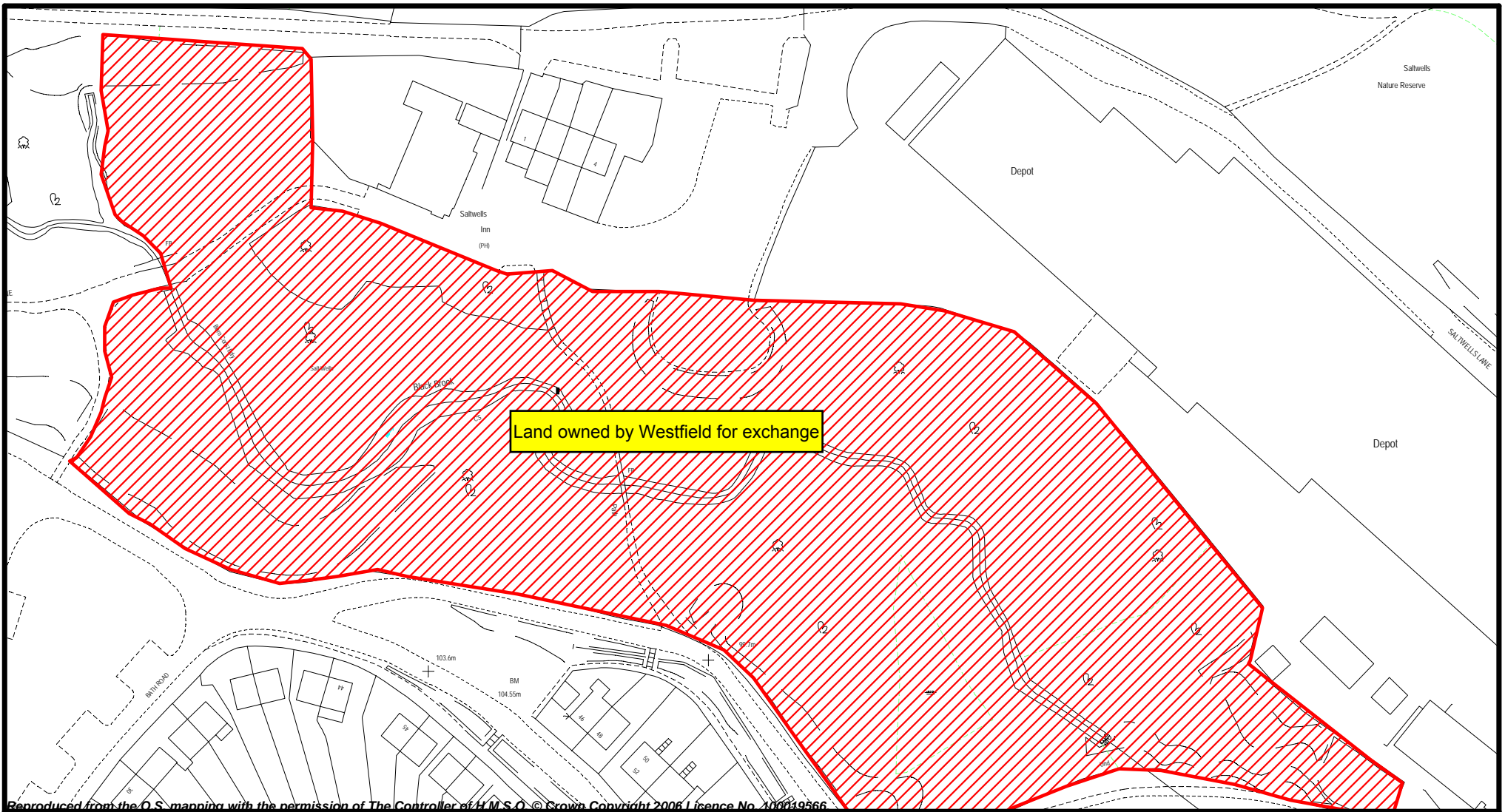
1. Letter(s) from the applicant.
2. E-mails and memos from the Council Directorates.

Contact Officer: Sonia McLean, Property Manager, Ext. 5321



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<p>PLAN 1</p> <p>TITLE:</p> <p>Land at Hurst Lane Brierley Hill</p> <p>OS data reproduced with the permission of the Controller of HMSO 2006 Licence No 100019566</p>		<p>SCALE:</p> <p>1 : 1100</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>Sonia McLean - Property Manager, Ext. 5321</p>	<p>DATE:</p> <p>24-AUG-2006</p>		



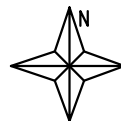
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PLAN 2

Land at Saltwells Nature Reserve, Netherton

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Sonia McLean - Property Manager, Ext. 5321



SCALE:  
1 : 1250

DATE:  
24-AUG-2006

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



**Central Dudley Area Committee**

**Date: 12<sup>th</sup> June 2007**

**Land adjacent to Dudley Wood Primary School**

**Background**

Dudley Wood Primary School is an up and coming Primary in a close-knit community and has recently benefited from a series of structural improvements and additions to the site. It is however, still very short of space for recreation and play facilities and the children currently share their small playground with the staff parking area.

The school have therefore requested that land to the rear of Dudley Wood Primary School, which is under the control of the Directorate of the Urban Environment (Cultural & Community Services) could be transferred to the purposes of the Education Act 1996.

The land as shown on the attached plan was given to the Council in 1966 by way of Deed of Gift, known as the Thomas Leslie Tibbetts Trust, to hold in its capacity as trustees for use in perpetuity for public exercise and recreation under the provisions of the Open Space Act 1906. The land has been registered, as a trust with the Charities Commission and this Area Committee are the Trustees of that trust.

The land is currently used as a football pitch leased out to teams by Culture and Community Services and there is also an area of open space and a network of public footpaths.

The new proposals would see the front entrance of the school on Dudley Wood Road become a staff entrance and the existing small play ground become the staff car park. School entrances for parents and pupils would be created at the rear of the building from Dudley Wood Avenue and from the car park off Dudley Wood Road, adjacent to the northern playing fields. The new accesses would link in with the current public footpath network. This would elevate current traffic congestion in the very narrow Dudley Wood Road and complement local and national travel to schools policies.

The football pitch would be fenced with several access points created. The football pitch would continue to be used at weekends by local teams and managed by DUE. The land would also be open for general public use out of school hours.

There is also a public footpath that runs along the current boundary of the School site that would have to be redirected to ensure public access to the footpath network.

A new playground is proposed in the southern part of the site. There is currently an urban forestry agreement on part of this area of land. This would have to be relocated to an area further south.

These proposals would also increase security at the school.

The Charities Commission have been approached regarding the use of the land for Education Purposes and they have advised that the Council will have to apply to them to remove the land from the trust and have recommended that we put forward another site of similar size and value within the area to replace the trust land that will be lost. Before an application is made to the Charities Commission for consent to the exchange of land, this Committees Approval as trustees of the trust is sought.

There is an area of land to the north of the trust site that is already used as playing fields and football pitches but is currently held by the Directorate of Law and Property under the Town and Country Planning Act 1962. It is proposed that this area of land is put forward in exchange for the current trust land and if approved by the Charities Commission, its use will remain the same but it will mean that the land will be protected as public open space forevermore.

### **Comments**

The relevant Council Directorates have been consulted regarding the proposals and Children's Service fully support the Scheme.

The Directorate of Law and Property have appointed a Surveyor to value the land and recommend that the exchange will be in the best interests of the trust as it will protect the exchanged land forever more as public open space. If this Committee approve the exchange of the land, the Director of Law and Property will make the appropriate approach to the Charities Commission. Should the Charities Commission give its consent to the exchange, the vesting of the land at the rear of Dudley Wood Primary School for Education Purposes and the vesting of the land to the north for the purposes of the Open Spaces Act 1906 will be undertaken.

The disposal of the Open Space will also have to be advertised in accordance with section 122 2a of the Local Government Act 1972, in a local newspaper for 2 consecutive weeks and any objections received will have to be considered before the transfer is completed.

The Directorate of the Urban Environments Culture and Community Division full support the proposals.

There are however, planning policy concerns regarding the net loss of Public Open Space as the land falls within a Local Park Designation in the Unitary Development Plan (UDP) and approval to the scheme would be contrary to Planning Policy SO6, and LR1 which states that development will be resisted if it should result in the loss of open space. The School Governors have therefore been advised to submit a planning application for the scheme so that the implications and reservations can be fully explored.

The scheme will also involve the diversion of the public footpaths that cross the site and any diversions must comply with the "secure by design" criteria that require a 4-metre width to be retained around public footpaths. A safer route to school appraisal will have to be undertaken to assess the impact on local street parking and car parks due to the new access points.

The scheme would also be subject to a public footpath diversion and closure order under section 257 of the Town and Country Planning Act 1990, which will be open to representation and objections from outside bodies and the public. The costs involved will be charged to the applicant as well as the construction costs of the new lengths of



paths. All of the above issues will be considered as part of the planning application process.

There is an area of land that is subject to an Urban Forrester agreement. This planted area will have to be relocated to an area further south, below the proposed play ground and consent to do so will be required from the Millennium Commission via Groundwork Black Country. The agreement will have to be varied and all costs involved will have to be paid by the applicant.

### **Proposal**

That the Area Committee support the proposals and authorise the Director of Law and Property to seek consent to the exchange of land with the Charities Commission.

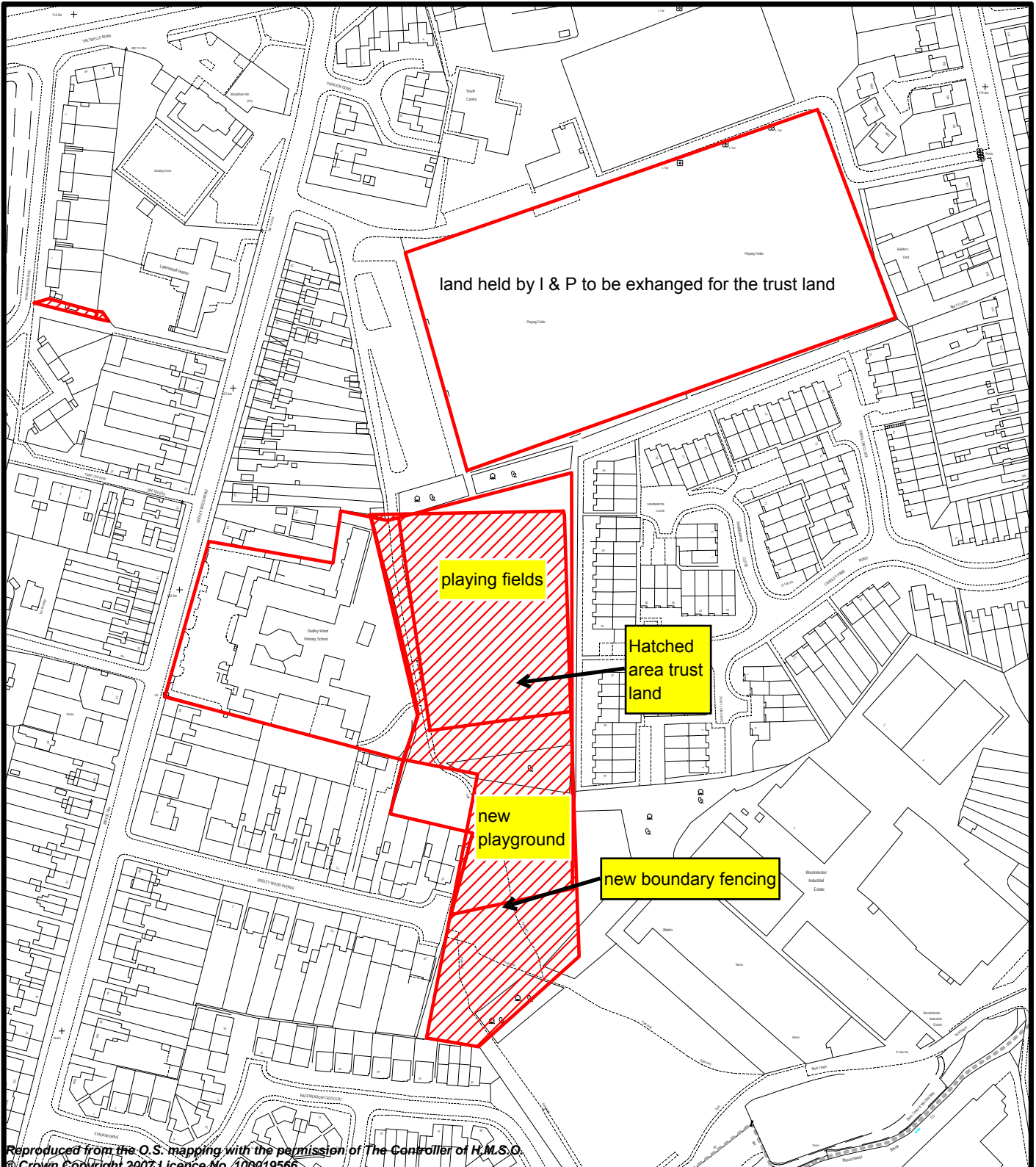
That the Area Committee advise the Cabinet member for Education and the Cabinet Member for Leisure and Culture to approve the exchange of the land to facilitate the scheme, subject to planning consent being granted, and subject to the statutory advertising procedure.

That the Director of the Urban Environment be asked to seek the consent of the Millennium Commission, via Groundwork Black Country, to the relocation of the Urban Forest planting and the variation of the agreement.

### **Background papers**

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

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TITLE:

Dudley Wood Primary School  
 use of land for education  
 purposes and exchange of land  
 to be held in trust for open  
 space purposes.



SCALE:  
 1 : 2500

DATE:  
 27-APR-2007

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