

DUDLEY METROPOLITAN BOROUGH COUNCIL

BRIERLEY HILL AREA COMMITTEE – 7 JULY 2005

REPORT OF THE DIRECTOR OF THE URBAN ENVIRONMENT

COUNCIL POLICIES WITH REGARD TO DEVELOPMENT ON GREEN BELT AND OPEN SPACE LAND AND RELEVANT MATTERS RELATING TO THE PROPOSED DEVELOPMENT ON SITES DESIGNATED AS SUCH AT KINVER STREET, WORDSLEY AND ST MARY'S CHURCH, KINGSWINFORD.

1.0 PURPOSE

- 1.1 To confirm the Council's policies with regard to Green Belt and open space land and to consider the implications for the proposed provision of car parks on land south of Kinver Street, Wordsley and land adjacent to St Mary's Church Kingswinford.

2.0 BACKGROUND

Kinver Street, Wordsley

- 2.1 A report was submitted to Brierley Hill Area Committee on 3rd February 2005 to establish the feasibility of introducing a car park facility on the open space area south of Kinver Street, Wordsley following the regular occurrence of congestion in the vicinity of Ashwood Primary School. The congestion is caused by parked vehicles during periods when parents drop off or pick up their children from school or when visitors are using the public open space off Kinver Street.
- 2.2 The Brierley Hill Area committee resolved at the meeting '*that officers look into ways of providing adequate and environmentally friendly car parking on land included in the Unitary Development Plan as "green belt", taking into account all legal and financial restraints and report back to Members on their findings*'. (Brierley Hill Area Committee Minute 62).
- 2.3 The Unitary Development Plan (UDP) sets out the Council's policies on land use and planning. The current UDP was adopted in 1993 and is about to be superseded by a revised version due to be adopted later in 2005. The revised UDP has been the subject of widespread consultation across the Borough and has been through a Public Inquiry by a Government Inspector. Final modifications were then made in line with the Inspector's recommendations in preparation for its

adoption following a final round of public consultation which was completed in December 2004.

- 2.4 The UDP is put together in line with National Planning law and policies and has legal status. The Authority must have regard to the UDP and its policies in making decisions on land use and planning applications.
- 2.5 The open space at Kinver Street, Wordsley falls within designated Green Belt and a designated Local Park in both the adopted and revised Unitary Development Plans. Council policy on Green Belts, as contained within the UDP, is in line with National Planning Policy in protecting designated Green Belt areas from any kind of development except where it can be demonstrated that very special circumstances exist. For example, agricultural / forestry use, essential facilities for sport and recreation or limited extensions / alterations to existing buildings. However, in this instance, the construction of a car park within a designated Green Belt does not constitute exceptional circumstances as set out in the Plan.
- 2.6 If the Council were to go against such a policy within the UDP as well as national policy, then this would set a precedent which would seriously weaken the effect of all green belt policies within the Borough. This would enable builders and developers to challenge and appeal against future planning decisions with regard to green belt land in the Borough.
- 2.7 The Council's Planning Policy on green belts can be periodically reviewed under the new planning regime recently introduced. Under the new planning system, the UDP will be replaced by a series of documents updated on a rolling basis which will be known as the Local Development Framework. A timetable for producing these documents has been produced within Dudley and incorporated into a Local Development Scheme. Dudley MBC produced its first draft timetable in March 2005 which was subsequently approved by the Cabinet of the Council on 16th March 2005. The Local Development Scheme will be updated on a regular basis enabling Members to have an opportunity to highlight any areas or planning issues which require reviewing as part of the Local Development Framework. The Local Development Scheme timetable proposes that the current policies on Green Belts will remain for a minimum of 5 years before they are revised under the new system. During any review of policy, full consultation and public participation must be carried out at the appropriate time.
- 2.8 The park itself is subject to a regular regime of maintenance including regular grass cutting and a weekly litter collection as well as being inspected three times a week for signs of fly tipping or anti-social behaviour.
- 2.9 In the meantime the Council will need to continue to pursue alternative solutions to the parking and congestion problems which exist at Kinver Street and will still maintain contact with the Ashwood Park Primary School to further investigate the Safer Routes to Schools initiative.

St Mary's Church, Kingswinford

- 2.10 A request has been received by the District Church Council of St. Mary's, Kingswinford for the purchase of Council owned land for proposed use as a

permanent car park to the rear of the Church. The land is also required in the short term for a site compound for two years while repairs to the Church are being made.

- 2.11 Within the Revised Unitary Development Plan, the proposal site falls within the King George VI Town Park and within a designated Site of Local Importance for Nature Conservation (SLINC). It forms part of a sensitive area of wooded public open space and is very important in enhancing the visual quality of the wider heavily urbanised surroundings. This woodland provides a breeding habitat for kingfishers which are highly protected under the Wildlife and Countryside Act 1981.
- 2.12 Given the high level of sensitivity of this site in open space and nature conservation terms, the proposal would contravene and conflict with a range of Unitary Development Plan Policies as well as key areas of national policy in a similar way to the site at Kinver Street, Wordsley.
- 2.13 This area of the Park is not subject to an active maintenance regime although it is regularly monitored for fly tipping. The Friends of King George VI Park have been actively involved in devising a management plan for the Park including this area. The Friends Group is keen to preserve the site as a relatively undisturbed nature conservation area and is currently working on a public access management plan which will ensure that it maintains its natural appearance and nature conservation value.
- 2.14 The District Church Council of St Mary's has also made a request to use some of the land temporarily as a storage yard whilst repairs are made to the Church and to construct a temporary vehicle access to deliver soil for graveyard burial plots. The temporary use of the land as a storage yard can be supported in principle given that the proposal is made in order to assist the restoration of the Church Building. However, before consent is given to this request and the temporary vehicle access, far more information is required in order to properly assess its impact on this sensitive area and provide the appropriate mitigation.

3.0 PROPOSAL

- 3.1 That this Area Committee notes the statutory and legal status of the Unitary Development Plan and the Council's Policy within the Plan on Green Belts and other sites designated as sensitive areas of nature conservation value and its implications for sites at Kinver Street Wordsley and St. Mary's Church, Kingswinford.
- 3.2 That this Area Committee notes the process by which such policies and the areas to which they apply can be periodically reviewed.
- 3.3 That alternative solutions to the car parking problems at Kinver Street, Dudley continue to be pursued with representatives of the Police and also with representatives of Ashwood Park Primary School through the Safer Routes to School Initiative.

4.0 FINANCE

4.1 There are no financial implications arising directly from this report.

5.0 LAW

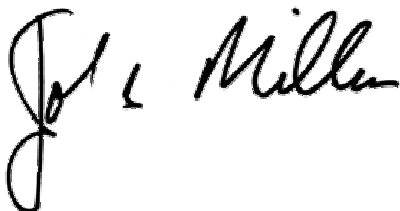
5.1 Unitary Development Plans set out the Council's planning policies and guidance and are also material to decisions on individual planning applications and appeals. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Local planning authorities must take national Planning Policy and Planning Policy Statements (set out in the Government's policies on different aspects of the planning process) into account in preparing their Unitary Development Plans and supplementary guidance.

6.0 EQUAL OPPORTUNITIES

6.1 The proposals contained within this report comply with the Council's Equal Opportunities Policy.

7.0 RECOMMENDATION

7.1 That the proposals set out in section 3.0 of this report be agreed.



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J. B. MILLAR – DIRECTOR OF THE URBAN ENVIRONMENT

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Background documents used in the preparation of this report:-

Dudley MBC Unitary Development Plan - Adopted Plan (1993)

Dudley MBC Unitary Development Plan – Revised Deposit Plan (2002)

Brierley Hill Area Committee 3rd February, 2005. *Report of the Director of the Urban Environment on the Proposed Provision of Car Park Area on Land South of Kinver Street, Wordsley*

Dudley MBC Draft Local Development Scheme (March 2005)