
North Dudley Area Committee – 28th 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.

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.

Note and Delete -

It is a requirement for all report authors to make reference to:-

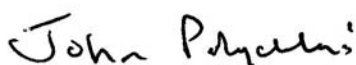
The effect of the decision on children and young people.

Whether there was consultation with children and young people; and

The involvement of children and young people in developing the proposals.

Recommendation

8. It is recommended that proposals contained in each of the attached appendices be approved.



.....
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: 28th November 2006

Request to purchase

Location: land fronting 2a & 2b Sandstone Close, Lower Gornal

(As shown on the plan attached)

Background

An application has been received to purchase an area of land and to gain access rights across Council owned land fronting 2a & 2b Sandstone Close, Lower Gornal. The land is held for Housing purposes and is controlled by the Directorate of Adult, Community and Housing Services.

The area of land has been incorporated within a walled area fronting both properties and measures approximately 11 square metres in total, as marked on the attached plan.

The land was originally purchased in 1964 under the Housing Act 1957, by way of the Ruiton CPO 1961, before Sandstone Close was created. The Council demolished the adjoining house on the land and reinforced and supported the gable end of 2a with buttresses on the Council's own land. Later, Sandstone Close was made and adopted leaving a grassed verge on the corner of Sandstone Close.

In 2005, an application for rights of access across or to purchase the whole of the grass verge was considered and it was agreed to refuse the sale of the land but to approve the granting of access rights to 2a and to a new property that was to be built adjacent, to be known as 2b Sandstone Close.

The applicants Solicitor made representations to claim prescriptive rights of access across the Council land and the Council's Solicitors have agreed that although there is a right of access in existence at the point of the now vehicular access to the rear of the properties, no evidence of access rights can be found to be in existence to provide access to 2a Sandstone Close. The new property known as 2b has now been built and 2a sold, without formal access rights across the council land for either property to gain access to the highway.

Furthermore, due to ground conditions, 2b Sandstone Close has not been built in accordance with their submitted planning application and the property has been built further forward than planned. This has resulted in the area of Council owned land, shown on the attached plan, being incorporated within the boundary of both properties by the front wall with iron fencing.

The applicant who now lives in 2b, is keen to resolve the problems for both himself and the new owners of 2a Sandstone Close and has therefore requested to purchase the area of land, together with rights of access to both properties.

The alternative to regularising the matter by way of the sale would be to demand that the wall and railings are demolished and the land reinstated, which may result in legal action.

Comments

The relevant Council Directorates have been consulted regarding this matter and no objections to the sale of the land have been received.

It is considered that the fence and wall, although on Council owned land, do serve to enhance the visual impact of the properties, and serve to protect their frontages, as the footpath and highway are very close to the front door of 2b. There still remains a grassed verge with trees on the corner of Sandstone Close and the development fits in well with the street scene.

The applicant has suggested that it would cost approximately £4,000 to remove the wall and fences and reinstate the land.

The Council's Surveyor considers that the Land should be sold for the best price reasonably obtainable for development land, to regularise the situation.

The Directorate of the Urban Environment considers that the building of the property in the wrong position constitutes a breach of the Town and Country Planning Act. In considering what action should be taken regard must be had to the guidance contained in *Enforcing Planning Control (PPG18)*. This guidance explains that when considering enforcement action 'the decisive issue for the Local Planning Authority should be whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest..'. PPG18 goes on to say:

'enforcement action should always be commensurate with the breach of planning control to which it relates (for example, it is usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to amenity in the locality of the site)..'

It is therefore considered that it would not be expedient to require the demolition of the wall purely on planning grounds.

Proposal

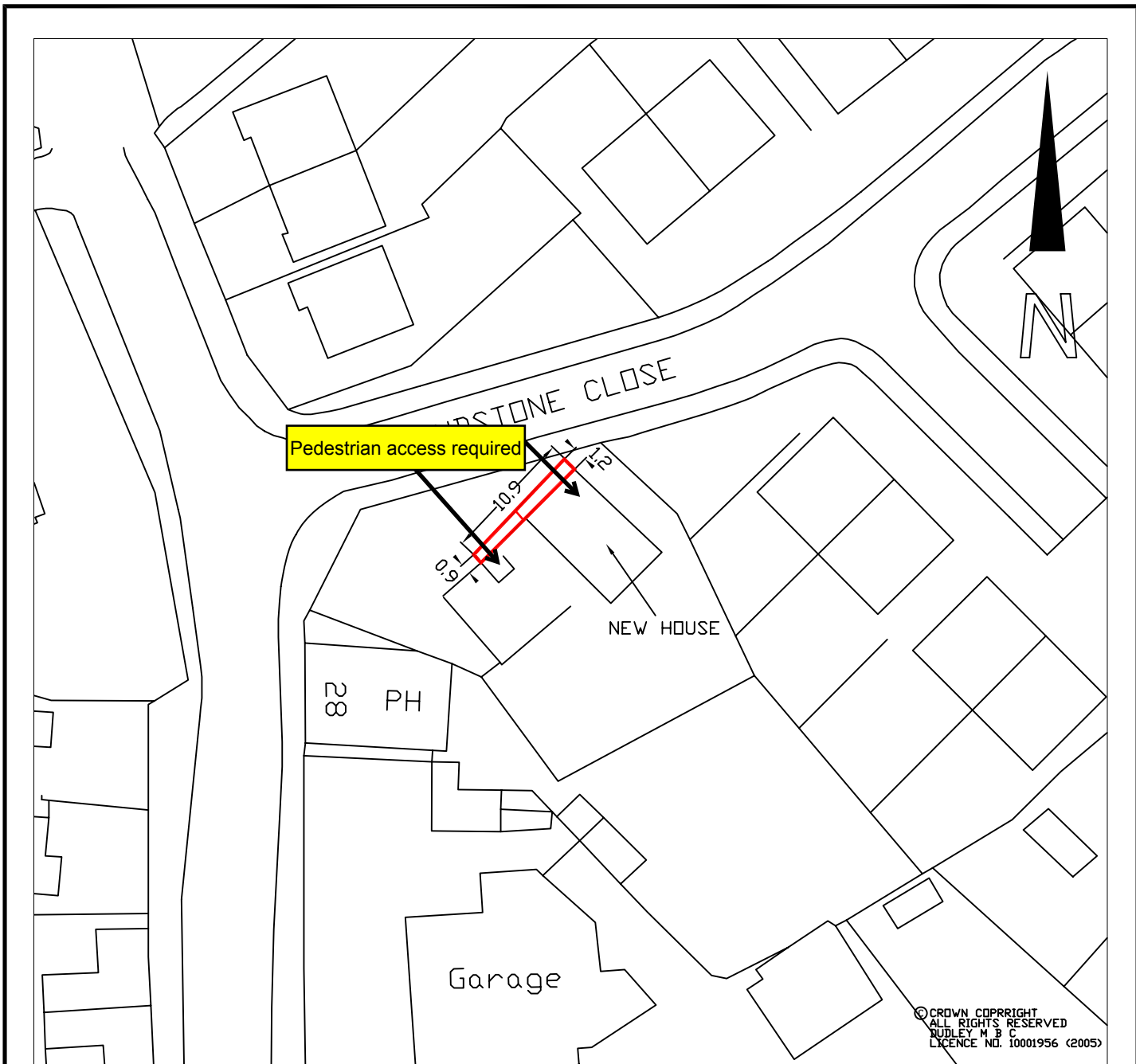
That the Cabinet Member for Housing be advised to approve the sale of the 11 square meters of land and to approve access rights for 2a and 2b Sandstone Close, Lower Gornal, on terms and conditions to be negotiated and agreed by the Director of Law and Property.

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



AREA EDGED RED 11 SQ.M. APPROX.

Council House Mary Stevens Park Stourbridge West Midlands DY8 2AA.		MR J. ANDERSON HEAD OF ENGINEERING		DIRECTORATE OF THE URBAN ENVIRONMENT	
Project Title: 2A SANDSTONE CLOSE GORNAL				Drawing No. XVDC420	
Drawn By IH	Checked By GMA	Revision No.	Date 04/07/06	Scale 1:500	

Appendices

North Dudley Area Committee

Date: 28th November 2006

Request to purchase land at:

Location: Central Drive, Lower Gornal

(As shown on the plan attached)

Background

An application has been received from the owner of a site known as 23 Grosvenor Road, Lower Gornal, which is a derelict bungalow, to purchase an area of Council owned land, as shown marked on the plan attached, which is adjacent to the rear of his site.

The land is under the control of the Directorate of Adult, Community and Housing Services and is an overgrown and unused piece of land at the head of a cul -de-sac, on the edge of the Council estate.

The applicant is a builder who has purchased the site of 23 Grosvenor Road for a new residential development. He would like to purchase this area of adjoining land to add to the development site.

The applicant states that the land is overgrown and his proposals would bring the land back into use and would tidy up the whole area.

Comments

The relevant Council Directorates have been consulted regarding the application and no objections to the sale of the land to the applicant for development purposes have been received.

Proposal

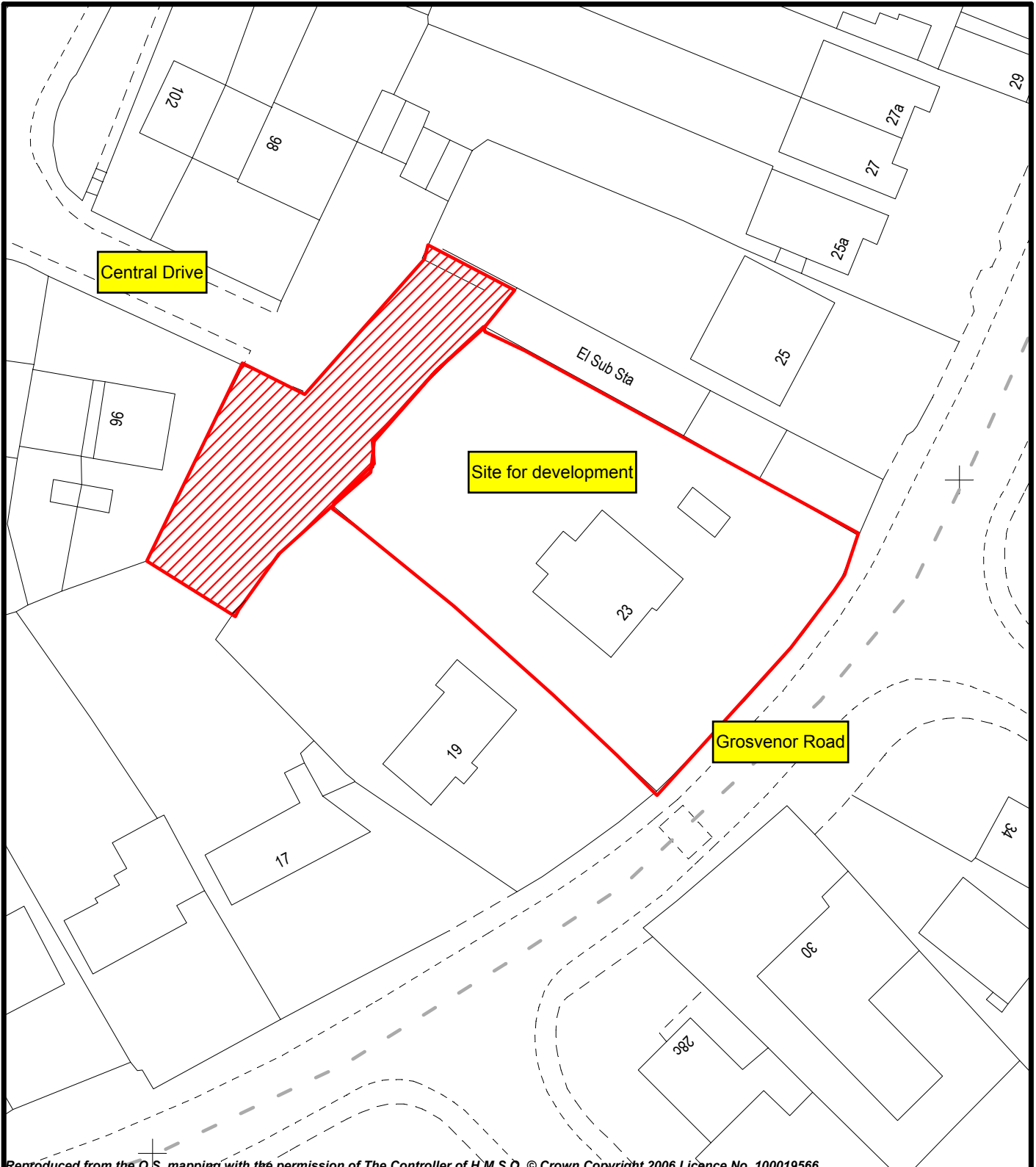
That the Area Committee advice the Cabinet Member for Housing to approve the sale of the land to the applicant on terms and conditions to be negotiated and agreed by the Director of Law and Property.

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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<p>TITLE:</p> <p>Land adjacent to 96 Central Drive Lower Gornal.</p>		<p>Corporate Estate Services Directorate of Law and Property</p> <p>3 St James's Road DUDLEY West Midlands DY1 1HZ</p>
<p>CREATED BY: Gill Hudson. Property Manager. Est:5311. Ref: 29939fmsf3</p>		

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North Dudley Area Committee

Date: 28th November 2006

Request to purchase land

Location: Moden Close/Vale Street, Upper Gornal

(As shown on the plan attached)

Background

An application to purchase three areas of land for development purposes at the above location was considered by this Committee at its meeting on 20th September 2006, when it was recommended that the Cabinet Member for Housing and the Cabinet Member for Leisure and Culture be advised to refuse the sale of the three areas of land.

Outline planning consent has now been granted for residential development on the land, with access off Moden Close, Upper Gornal, which includes the land in the ownership of the applicant, an area of Council owned land which is zoned for housing purposes in the adopted Unitary Development Plan that is controlled by the Directorate of the Urban Environment and an area of Council owned land off Moden Close which is controlled by the Directorate of Adult, Community and Housing Services.

The first area of land marked 1 on the attached plan is required to provide the vehicular access point for the development. Vehicular access would not be allowed from Vale Street as the street is extremely narrow and the developer therefore requires this strip of land in order to proceed.

The Second area of land marked 2 on the attached plan is designated for Housing purposes in the Councils adopted Unitary Development Plan. This area of land is incapable of independent development and must therefore be added to the applicants land in order for it to be developed for its designated purpose.

The applicant has withdrawn his application to purchase the third area of land marked 3 on the attached plan as it forms part of the adjacent Local Park.

In order to give Members an indication of the kind of development that is proposed for the site, a letter from the developers Architect together with an indicative layout plan of the site is also attached to this report.

The developer intends to incorporate within the housing scheme a new purpose built access and car park for use by the Ruiton Windmill Trust, which will improve facilities for the Windmill. The Adjacent Ruiton Windmill was conveyed to the Staffordshire County Council in 1959 by way of gift, together with a right of access for evermore across the applicants land from Vale Street to the Ruiton Windmill. Dudley Borough Council inherited the freehold title of the Windmill together with this right of access. The Windmill is now managed by the Ruiton Windmill Preservation and Development Trust, which was established by way of a Trust Deed in 1982.

A letter from the Windmill Trust in support of the sale of this land and the proposed development is attached to this report.

Comments

The relevant Council Directorates have been consulted regarding the application and no objections have been received.

The Director of Law and Property considers that the sale of the two areas of land will gain a significant capital receipt for the Council

The Director of Urban Environment considers that the principal of residential development for this site has long been established and is confirmed in the adopted Unitary Development Plan and supported by the Directorate. Outline planning consent for residential development of the site has now been granted.

The developer will be required to negotiate and agree with the Council and the Windmill Trust the variation of the Councils existing rights of access to the Ruiton Windmill.

Proposal

That the Area Committee advises:

1. The Cabinet Member for Housing to approve the sale of the area marked 1 on the attached plan
2. The Cabinet Member for Leisure and Culture to approve the sale of the area marked 2 on the attached plan and the variation of access rights to the Windmill, upon 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

Ref: GDAL/CB/VS/1278-08

06 November 2006

Dudley Metropolitan Borough Council
Directorate of Law and Property
Corporate Estates Services
3 St. James's Road
Dudley
West Midlands
DY1 1HZ

Fao. Mrs G Hudson

Dear Sirs

Proposed Housing Development on Land at Vale Street, Upper Gornal, Dudley

We write to formally confirm that we wish to apply again to the North Dudley Area Committee, on 28 November 2006 to purchase the required land, at the above, which will allow the development to be undertaken.

Further to our recent conversation, we enclose for inclusion a copy of our drwg. no. 1278-SK120 which details an indicative layout of the site with the dwellings to the south of the Windmill omitted, thus retaining the open aspect from the playing fields.

We have requested comments from the Planning Officer Caroline Reeve to this amended layout, which we should have prior to this meeting.

We trust all is in order, however should there be any further queries, please do not hesitate to contact the writer.

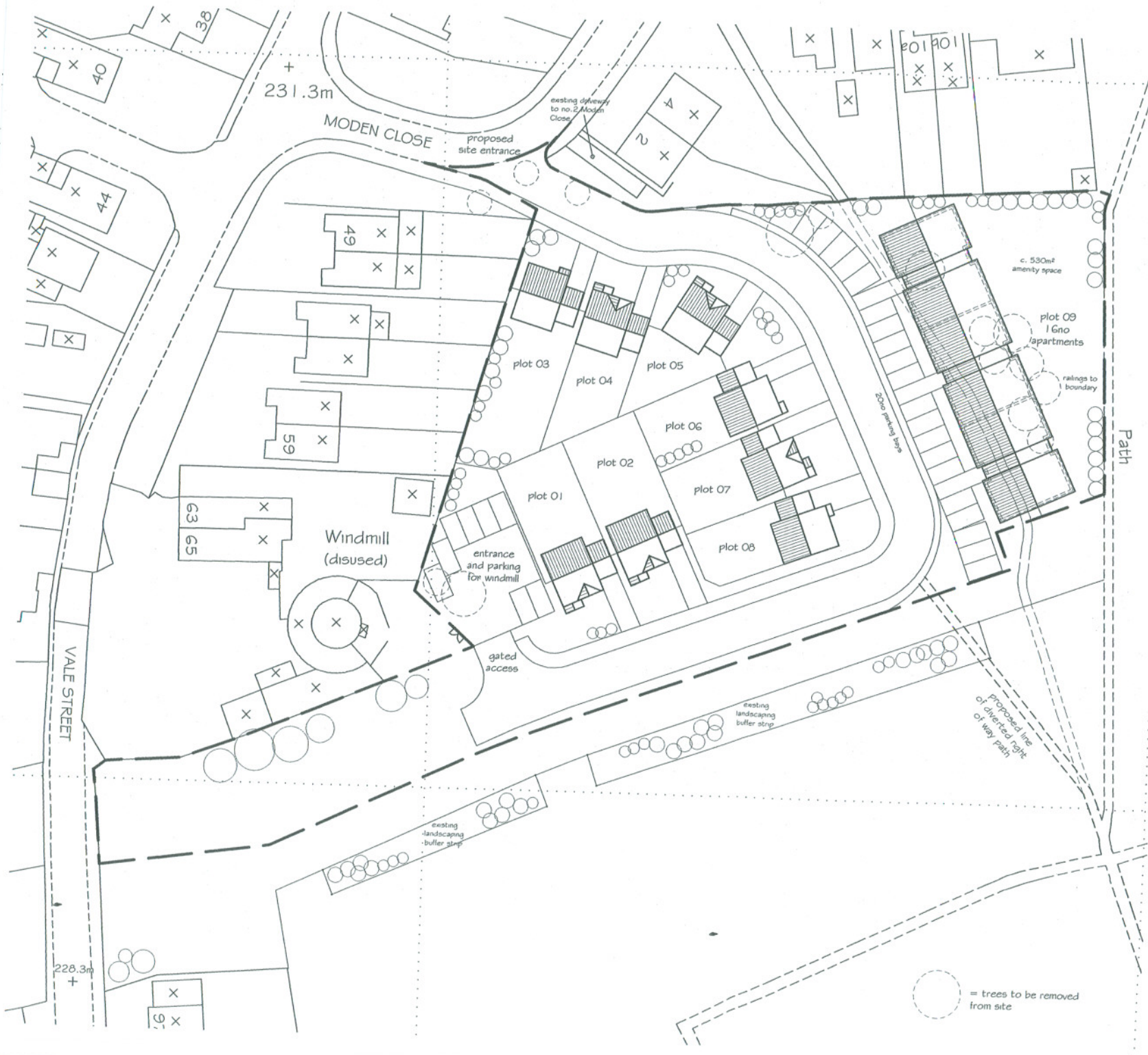
Yours sincerely

Mr G W Davis MCIAT
Garfield Davis Architectural Limited

Copy to:

Coalway Builders Ltd.

Encl.



This drawing is copyright and should not be reproduced without permission. Scaled dimensions should not be taken from this drawing. All dimensions to be checked on site before work is commenced. All dimensions are in millimetres unless otherwise stated.

note - all proposals are subject to confirmation following a detailed topographic survey and ground investigation work.

It has been assumed that other than where shown the site is essentially flat with no easements to above or below ground services.

All our proposals are subject to confirmation following liaison with the relevant local authorities.

This is a preliminary indicative drawing only and may be based upon details from various sources, the accuracy of which cannot be guaranteed.

The details contained on this drawing have been reproduced from archive information and arrangements are to be verified.

Schedule of Accommodation

- plot 01 3/4 bed house
- plot 02 3/4 bed house
- plot 03 3/4 bed house
- plot 04 3/4 bed house
- plot 05 3/4 bed house
- plot 06 3/4 bed house
- plot 07 3/4 bed house
- plot 08 3/4 bed house
- plot 09 16no. 2 bed apartments

Total Units = 24no.

Total site area = c. 6125m² (1.51 acres)

FOR DISCUSSION ONLY

revision			
client	Coalway Builders Ltd.		
project	proposed housing development Vale Street Upper Gornal		
drawing title	proposed block plan		
scale	1:500	date	05-06
drawn	STB	checked	GWD
drawing no.	1278-SK120	revision	

Garfield Davis
Architectural Limited

193 Wolfhampton Street
Dudley
West Midlands
DY1 1QU

tel. 01384 234236
fax. 01384 234237
www.garfielddavis.co.uk



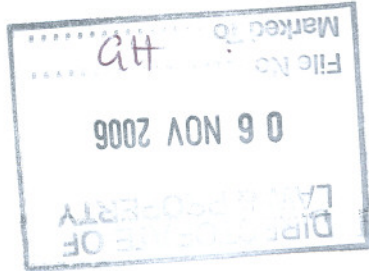
THE RUITON WINDMILL

PRESERVATION & DEVELOPMENT TRUST

Registered Charity Number: 513435

Chair: Ken Finch
45, Brookdale
Lower Gornal
Dudley
West Midlands
DY3 2HF
TEL: 01902 673 451

Secretary: John Smith
250, Wolverhampton Road
Sedgley
Dudley
West Midlands
DY3 1RD
TEL: 01902 671 892



Vice Chairman
Maurice Westmancoat
58 Thornhill Road.
Priory Estate.
Dudley.
DY1 4DJ.
01384 347039
5th November 2006.

RE: Proposed sale of land off Moden Close/Vale Street.

Dear Mrs Hudson,

I am replying to your letter dated 31/11/06, your ref 31635/FMSF1/GH.

Ruiton Windmill Trust strongly support the sale of land around the windmill site for housing development by Coalway Builders Ltd. The reasons for our support are as follows,

(1)

This development would mean safe and secure access to the Windmill, a 200 year old grade two listed building, which although run by the Trust is owned by Dudley MBC.

(2)

If the development takes place it will greatly reduce vandalism at the Windmill, and for our neighbours, in the last year we have had to repair the Windmills gates a number of times as well as replace locks and keys, there has also been at least three arson attacks in the same period.

(3)

At the moment the area immediately around the Windmill is a magnet for young people, causing litter problems including drug related items.
(4)

Finally we feel that the development will only enhance a badly overgrown area which is now an eyesore.

If you would like a Trustee to attend the area committee meeting to put forward our views, I will be pleased to attend. If you would confirm the time and place of the meeting.

Yours
Faithfully



Maurice Westmancoat
Vice Chairman.

Mrs G Hudson.
Property Manager.
Dudley MBC.
Directorate of Law and Property.
3 St James Road.
Dudley

