

DUDLEY METROPOLITAN BOROUGH

NORTH DUDLEY AREA COMMITTEE

29th 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 of 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.

3. PROPOSAL

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

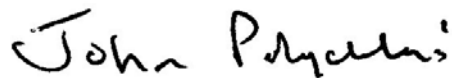
4. FINANCE

- 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 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.

- 5.3 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.



DIRECTOR OF LAW AND PROPERTY

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NORTH DUDLEY AREA COMMITTEE

DATE: 29th JUNE 2005

LAND AT BROOKDALE, LOWER GORNAL

BACKGROUND

By way of Decision sheet DOH/035/2004, it was resolved that land fronting 45-75 Brookdale, Lower Gornal be either sold to the respective owners of the sold properties or incorporated within the tenancies of tenanted properties and that the land fronting 63 Brookdale be retained and maintained by the Directorate of Housing until such time as the owner of 63 Brookdale should wish to purchase the land.

The land that is controlled by the Directorate of Housing forms a grassed area between the front boundary of the properties and the highway. Occupiers currently gain pedestrian access to their properties across a series of footpaths that cross the land.

The residents were suffering extreme anti-social behaviour on the land and the former District Housing Manager, in consultation with residents, put forward a scheme whereby the land fronting the owner occupied properties would be offered for sale to them and that the land fronting the tenanted properties be incorporated within the gardens of those properties.

Valuations of the land were calculated by standard valuation practices, taking into account the cost to the new owners of fencing to the left hand side of the plot, installing paving to provide an access pathway to compensate for the loss of the communal footpath network, landscaping and legal costs. The matter was then considered by the North Dudley Area Committee on 10th February 2003 and the Lead Member for Housing agreed by way of a decision sheet DHO/77/2003, to declare the land surplus to requirements, to sell to the owner/occupiers and for the Directorate of Housing to incorporate within the tenancies the land fronting the properties.

6 of the properties are occupied by Council tenants, whilst 10 are occupied by owner/occupiers.

At the time of consideration of the matter, it was thought that the capital receipt gained by the sales of land would probably balance the cost of providing fencing to incorporate the land into the tenants gardens and it was considered that the scheme would have resulted in the proposal being cost neutral. No in depth financial analysis was carried out.

The matter was referred back to Area Committee on 4th February 2004, as the Councils Surveyor was unable to agree a sale with the owner of 63 Brookdale. Several options were explored as a way forward and Committee's recommendation resulted in the Lead Member for Housing making the decision by way of Decision Sheet DOH/035/2004.

Negotiations with the owner/occupiers have now been completed. There have been problems with access to the properties and a condition was imposed in the Planning Consent for change of use of the land to that of garden land that compels the Directorate

to widen the driveway between 63 & 65 Brookdale along its length to a width of 4m and to provide a 2m visibility splay each side of the driveway.

An in-depth analysis of the financial implications on the Housing Revenue Account, has therefore been undertaken, taking into account the cost of fencing, paving, realigning of access paths for the tenanted properties, the implementation of the conditions of the planning consent and the retention of the land fronting 63 Brookdale and associated costs and a recent estimate has calculated that there will be a shortfall of £11,600 if the scheme is to proceed.

COMMENTS

The Directorate of Housing currently has no budgetary provision for the costs involved in the scheme and will be unable to meet the costs of the work involved, in order for the sales to go ahead.

The Driving force behind the decision to sell the land was the extensive anti-social behaviour within the street. However, the Directorate of Housing state that the perpetrating family have since left the area and incidences of the offending behaviour have ceased in the immediate vicinity. 1 complaint of noise nuisance has been received in the last 2 years that was resolved by the Directorate of Housing. The Police have received 10 reported incidents in the Brookdale area since October 2003. It is therefore considered that the threat of anti-social behaviour from the land has receded.

Planning Consent for change of use of the land from open space to private gardens was granted in January 2003 with a condition that the work should commence within one year from the date of the permission. This is now out of time.

The Directorate of Law and Property state that no contracts have yet been exchanged in relation to any of the sales.

It is therefore proposed that the sales be aborted and that the land is retained in Council ownership.

PROPOSAL

That the Area Committee recommend that the Cabinet Member for Housing rescind the previous decision made in decision sheet DOH/035/2004 and authorises the retention of all of the land fronting 45 – 75 Brookdale Lower Gornal, in Council ownership.

BACKGROUND PAPERS

1. Decision sheet DOH/035/2004
2. Minutes of North Dudley Area Committee meetings .

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