

Sandwell Metropolitan Borough Council

ACTION TAKEN UNDER DELEGATED POWERS

The Hawthorns Football Ground and Surrounding Land, Halfords Lane, Birmingham Road, West Bromwich

1. Summary Statement

- 1.1 The purpose of this report is to seek a decision as to whether The Hawthorns Football Ground and Surrounding Land, Halfords Lane Birmingham Road, West Bromwich should be listed as an Asset of Community Value as defined by Section 88 of the Localism Act 2011.
- 1.2 In accordance with the provisions of the Localism Act 2011 and The Assets of Community Value (England) Regulations 2012, the council is required to maintain a list of properties considered to be an Asset of Community Value and to administer processes to enable community groups the opportunity to nominate an asset for inclusion on that list. It is further required to manage and administer a process to enable the Group to bid to buy and subsequently take over the running of private or publicly owned assets should the nominated asset be offered for disposal.
- 1.3 On 10 November 2022 a nomination was received from Leigh Kent, Vice Chair, acting on behalf of the Shareholders for Albion, to list The Hawthorns Football Ground and Surrounding Land, Halfords Lane, Birmingham Road, West Bromwich as a combined Asset of Community Value. A copy of the nomination form and clarifying correspondence is attached at Appendix 1.
- 1.4 The Hawthorns Football Ground and Surrounding Land is not in Sandwell Council Ownership. The nomination form made the request to list the following six sites which are deed packets: SF56365, SF34661, WM643517, WM598956, WK137753, WM573980.
- 1.5 The power to determine a nomination and whether the asset should be added to the list of Assets of Community Value is delegated to the Director – Regeneration and Growth in consultation with the Director – Monitoring Officer in accordance with the Scheme of Delegation resolved at Council on 16 May 2017, minute 62/17.
- 1.6 The nomination has been considered and consultation has been undertaken within Sandwell Metropolitan Borough Council with officers from Governance, Regeneration and Planning. As per the legal requirement, the owner (WBA) has also been made aware of the proposal.
- 1.7 The six sites included in the nomination form comprise of the following:
- WM573980 – The Hawthorns Stadium including car park.
- WK137753 – The former Woodman public house that is now a surfaced car Park.
- WM598956 – Access way that extends between the Hawthorns Stadium and Middlemore Road.
- SF56365 - Currently a Greggs outlet with associated parking.

WM643517 –the site contains a sports hall building that has established community access and currently used for community-based programmes delivered by the Albion Foundation. The remainder of the site is for use by the Academy (see below)

SF34661 – land and buildings used for the West Bromwich Albion Academy consisting of an indoor pitch and an outdoor 5G pitch, car park and Academy offices.

- 1.8 Following review of these sites against the legal framework (see 1.11), it is considered that the majority of the assets meet the criteria set out in the Localism Act 2011 and should be listed as Assets of Community Value – there are two sites that do not meet the criteria and therefore should not be included as an ACV.
- 1.9 The assets with the following title numbers are considered to meet the criteria necessary to be listed as an Asset of Community Value:
- i. WM573980 – The Hawthorns Stadium and Car Park
 - ii. WK137753 - The former Woodman public house that is now a surfaced car Park within the curtilage of the Stadium
 - iii. WM598956 - Access way that extends between the Hawthorns Stadium and Middlemore Road (for supporter access to stadium)
 - iv. WM643517 - (Part only) the sports hall building currently used to deliver existing community-based programmes by Albion Foundation plus suitable access arrangements. The remainder of the site relates to the Club Academy.

Justification:

The Hawthorns stadium site currently and historically over many decades has acted as an important asset of community value which delivers significant community benefits in the form of sporting, cultural and recreational activities. The stadium has a long history with the local and community delivers a wide range of social, economic and sporting benefits. The facility promotes social wellbeing and is part of the identity of the local area. It meets the legal criteria for designation as an Asset of Community Value.

The nominated additional car park and the access way from Middlemore Road are integral to the stadium site and should be included for the reasons above as an Asset of Community Value. They are not ancillary to the operation of the Stadium in the interests of the local community and supporters.

The community sports hall on part of Title WM643517 currently delivers a range of community-based programmes for the local community which are managed by the Albion Foundation – the club’s charitable arm. These programmes are accessible to all parts of the community and are highly valued activities that deliver important social and economic benefits.

For these reasons, the community sports hall building and appropriate access to and from the facility should be included as an Asset of Community Value.

- 1.10 The assets with the following title numbers are not considered to meet the criteria and therefore not recommended to be listed as an Asset of Community Value:

SF 56365; Greggs Outlet with car parking
SF 34661; WBA Academy

Justification:

These two assets are not considered to further the social wellbeing or social interests of the local community in any significant way and therefore the justification for inclusion as an ACV is insufficient. Whilst the Academy is obviously important to the future of the Club's operation, the site is not being utilised in a significant way for the direct benefit of the wider community. For example, the Academy facilities are not generally open to the public, cannot be booked or hired and are largely for the sole use of players ranging in age from 8 years to 18 years who have been accepted into the WBA Academy.

The Greggs outlet is a normal commercial business which is accessible to WBA supporters on match and other days in a similar way to other catering businesses in the locality. Whilst this is an important facility adjacent to the Hawthorns stadium, it does not meet the relevant criteria to have this designated as an Asset of Community Value.


- 1.11 The relevant legislation is the Localism Act 2011 and the relevant Regulations are The Assets of Community Value (England) 2012 – link to Regulations is here. (<https://www.legislation.gov.uk/uksi/2012/2421/contents/made>)

2. Recommendation

- 2.1 That the Director – Regeneration and Growth approves the listing of assets containing title numbers WM573980 (Hawthorns Stadium site), WK137753 (car park), WM598956 (Access way from Middlemore Rd) and WM643517 (part only – community sports hall and access) in response to the Community Right to Bid Nomination Form submitted by Shareholders for Albion and for these to be entered as a combined asset on to the Council’s List of Assets of Community Value.
- 2.2 That the Director – Monitoring Officer implements all necessary processes set out in the relevant statutory framework to secure the inclusion of this asset onto the List of Assets of Community Value.

In accordance with the authority delegated to Directors to act on matters within the authority delegated to them under Part 3 of the Council’s Constitution, I intend to take the actions recommended above.

I do not have an interest to declare in this matter.


Signed ...
Tony McGovern
Director – Regeneration and Growth
Date 19 January 2023

If the Constitution requires the decision to be taken in consultation with another chief officer, the following signature box should also be included.

I confirm that I have been consulted on the above proposals and have no objection to their proceeding.

I do not have an interest to declare in this matter

Signed


Surjit Tour
Director of Law and Governance & Monitoring Officer
Date 19th January 2023

NB: The date from which this decision is taken is the date that the assets and title numbers listed in Rec 2.1 are added to the Council’s List of Assets of Community Value. For the avoidance of doubt, this date is 19th January 2023.

3. Background Details

3.1 The key excerpt from the ACV Application is below:

WBA Football Club is at the heart of the community and has been the venue which many generations of Albion supporters and Albion-supporting families have attended to support their team.

Albion are a leading professional football club in the country. It is an institution which the Borough of Sandwell can be proud of and needs to help protect, for current and future generations. The club can be considered to be a cultural asset within the borough and is a famous venue known to football supporters throughout the world.

The Hawthorns stadium is also important in providing clear economic benefits to the Council's area.

It is in the interests of all supporters, the community at large and the Council that The Hawthorns is protected to ensure its longevity as a football club and a community asset.

- 3.2 The Community Right to Bid is part of the Localism Act (2011) and came into force in September 2012. The Community Right to Bid aims to ensure important assets remain in public use and stay part of community life and the council is required to maintain and manage lists of such assets in line with the statutory framework.
- 3.2 If the owner of a listed asset wants to sell the asset or grant a lease for 25 years or more, a six-month moratorium period will be triggered during which the asset cannot be sold or so let (there are some exceptions in the Localism Act).
- 3.3 This period gives community groups some time to develop a proposal and raise the required capital to bid for the property when it comes onto the open market at the end of the moratorium period.
- 3.4 The council will determine the format of the list, any modifications made to any of the entries on the list and any removal of an entry from the list.
- 3.5 If the council deems that the asset does have community value and is in their local area, then it will add that asset to the 'assets of community value' list. The council must make this decision as to whether to list an asset within 8 weeks of receiving the application.
- 3.6 If so listed, the council must make entries in the local land charges register maintained by the council, and at the Land Registry. If the nomination is unsuccessful the council must notify the nominee in writing and provide an explanation as to why the nomination was unsuccessful. The council must also notify the landowner, the occupier, any tenant, and the community nominee of any inclusion or removal of an asset to the list.

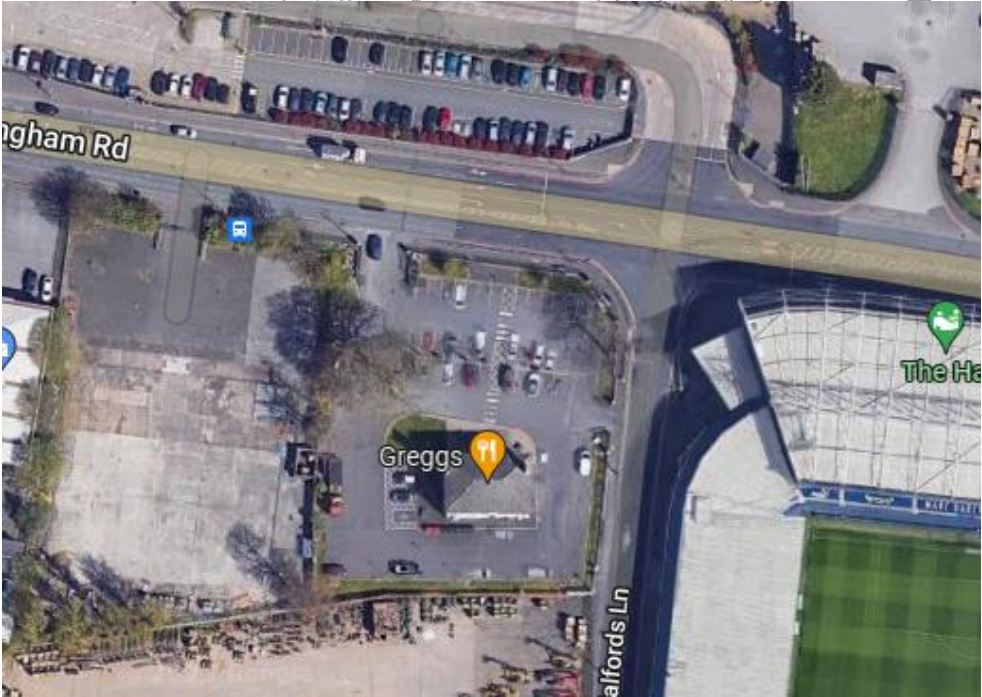
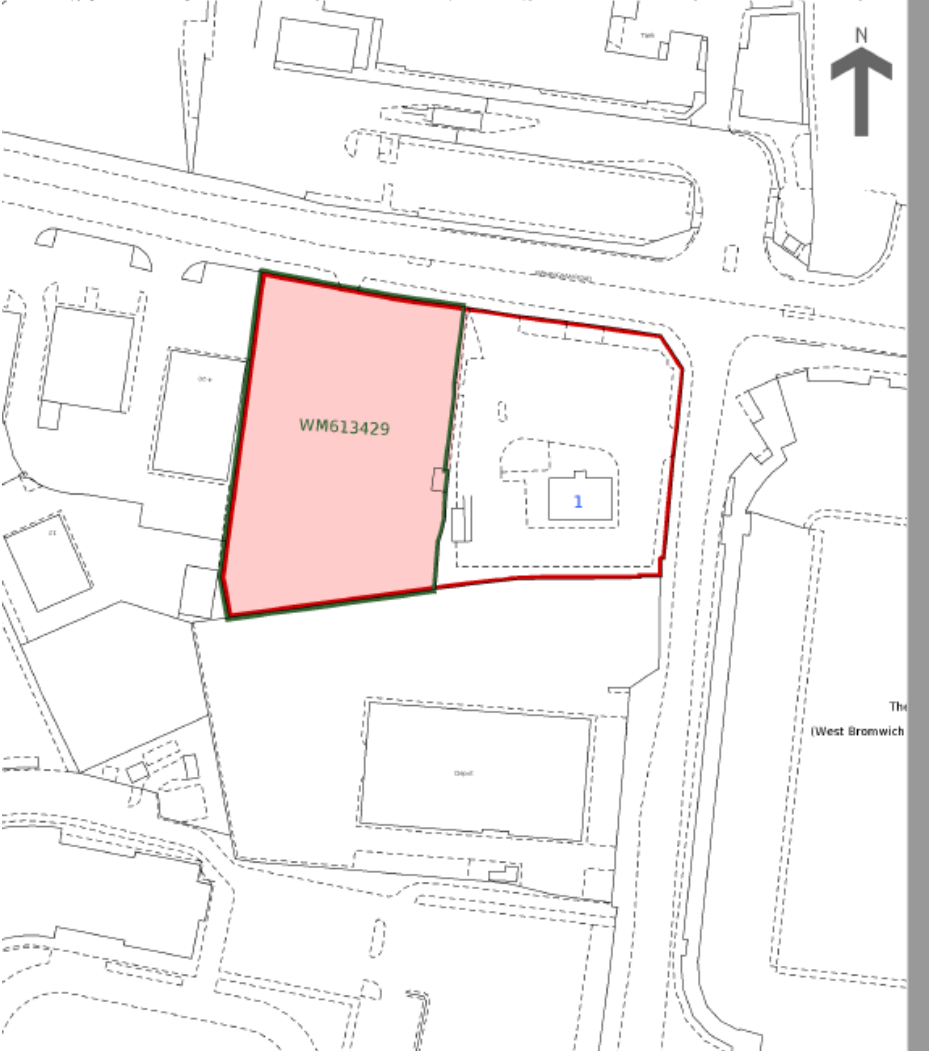
- 3.7 If the council decides not to list it, it should say why. Notice of the decision (either way) needs to be given to the owner and the applicant and others and must be published. The owner must be advised of its right to a review under Section 92 of the Localism Act, of a decision to list an asset.
- 3.8 A landowner can request the council to review the inclusion of the assets from the list and there will be a process for an appeal to an independent body. The council must also maintain and publish a list of 'land nominated by an unsuccessful community nomination'. If land is included in the List of Assets of Community Value, it will remain on that List for five years.
- 3.9 A nomination was received from Leigh Kent on 10 November 2022 and a copy of that nomination is set out at Appendix 1.
- 3.10 The council has adopted an approach to managing the Community Right to Bid process as set out in the report to the Leader dated 26 September 2012.
- 3.11 If the nomination is approved, the council will add the nominated land/property to the assets of community value list and respond to Leigh Kent, Vice-Chair of Shareholders for Albion and to the owner to confirm the listing.
- 3.12 Once listed, the council will make entries in the local land charges register maintained by the council and also at the Land Registry.
- 3.13 The decision maker is asked to review the application in full and, the reasons for the nomination as set out in Section 4 of the nomination form, and the important function that the nominating group consider The Albion Football Ground and Surrounding Land offers the community. (See separate sheet for Section 4. Supporting Information for Nomination)
- 3.14 Consultation with Council officers from relevant services was conducted.
- 3.15 In determining the nomination as to whether The Albion Football Ground and the Surrounding Land should be listed as an asset of community value, the following factors should be taken into account:
 - i. whether there is an actual current use which is not an ancillary use; which furthers the social wellbeing or social interests of the community and which it is realistic to think that this can continue;
 - or
 - ii. there has been such use in the recent past and it is realistic to think that this could resume within the next 5 years.
- 3.16 If the property is listed as an Asset of Community Value and the owner of the asset wishes to sell the asset or grant a lease for 25 years or more, a six week (or if a community group expresses an interest within six weeks (a six month Moratorium) period will be triggered during which the listed part of the asset cannot be sold or let other than to a community interest group.

- 3.17 This period will give the Shareholders for Albion (or other interested group) time to develop a proposal and raise the required capital to bid for the property during the moratorium period.
- 3.18 A landowner can ask the council to review the inclusion of their land/property on the List and there is a process for an internal appeal regarding the listing. Thereafter there is a further right of appeal to the General Regulatory Chamber of the First-Tier Tribunal.
- 3.19 The owner of the listed asset can claim compensation for the effects of it being listed and the council may be liable to meet the costs of compensation up to £20,000. The listing of the property will not require the owner to sell at less than market value, only withdraw the property from sale for the required moratorium period.
- 3.20 The Community Right to Bid legislation has been implemented within existing resources.
- 3.21 The fact that the site / property has been listed under the Localism Act 2011 as an asset of community value can be treated as a material factor by the planning authority.
- 3.22 Adoption of the council's procedure should facilitate compliance with the relevant legislation. The Director – Regeneration and Growth is required to decide whether the application to nominate The Albion Football Club and Surrounding Land as an Asset of Community Value, within the prescribed 8-week time limit, should be approved.

END

APPENDIX 1 - Title numbers of the assets, extract from the registry plan and google maps to identify land/premises.

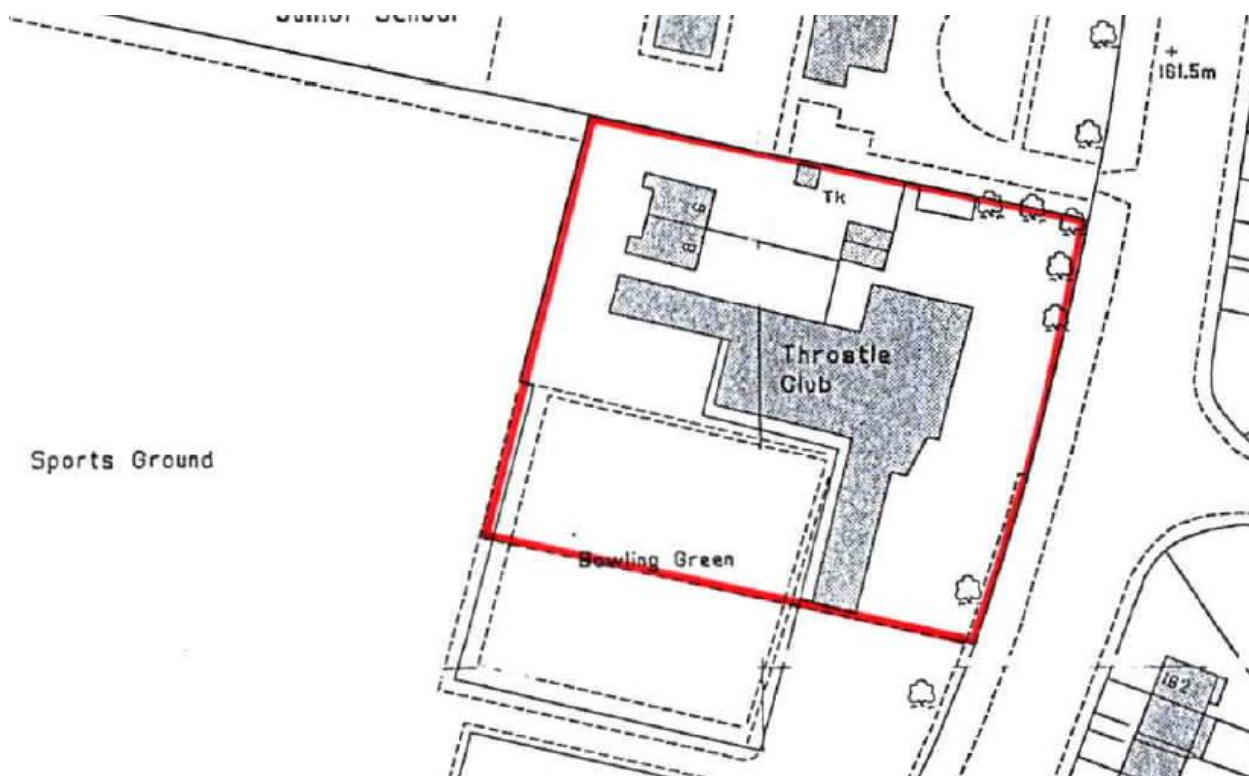
Title number: SF56365
The Hawthorns, Birmingham
Road, West Bromwich (B71 4JZ)



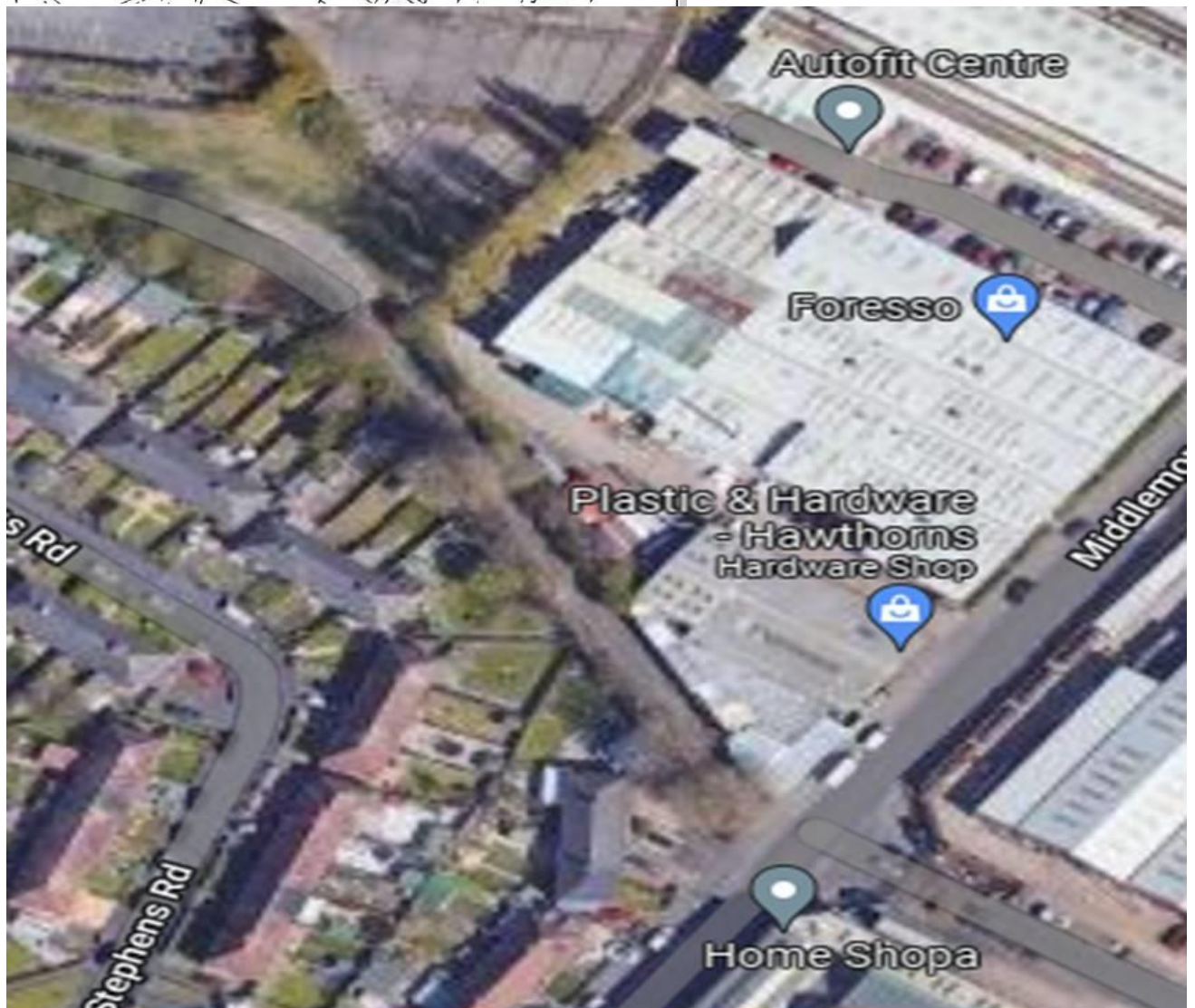
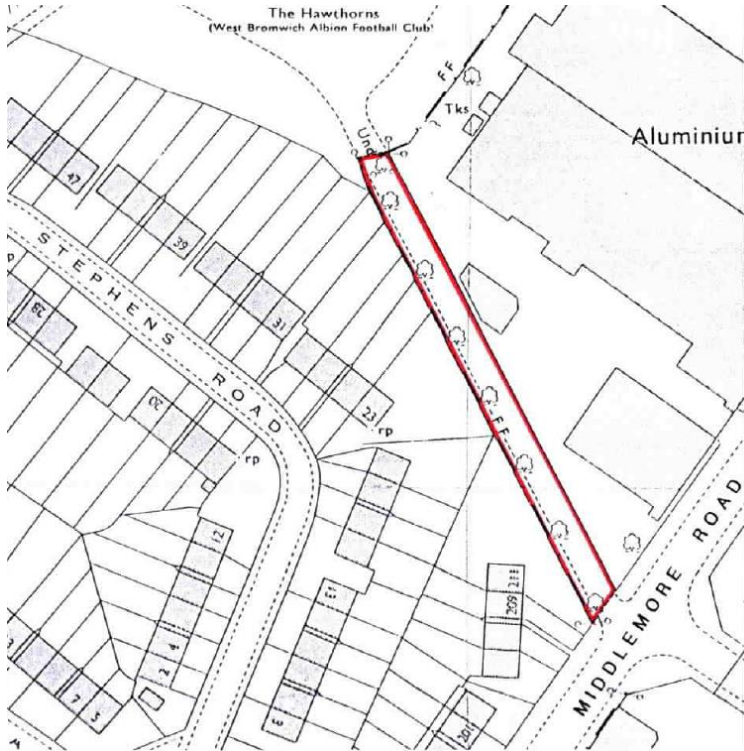
Title number: SF34661
The Throstles Social Club
and adjoining land Halfords Lane, West Bromwich



Title number WM643517
The Tom Silk Building,
Halfords Lane, West Bromwich (B71 4LG)



Title number WM598956
land on the north west side
of Middlemore Road.



Title number WK137753
Woodman, Holyhead Road,
Handsworth.



Title number WM573980
The Hawthorns, Halfords
Lane, West Bromwich (B71 4LF)

