
Committee Date:	27/04/2023	Application Number:	2022/03860/PA
Accepted:	25/05/2022	Application Type:	Full Planning
Target Date:	28/04/2023		
Ward:	Frankley Great Park		

Recreation ground at Boleyn Road, Rubery, Birmingham, B45

Erection of 70no. dwellings (with a mix of 58no. houses and 12no. apartments of which 43no. affordable) with associated public open space and children's play area, landscaping, parking and access

Applicant: Birmingham City Council
Birmingham Municipal Housing Trust, Economy Directorate
Agent: BM3 Architects
28 Pickford Street, Birmingham, B5 5QH

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1. The application seeks planning permission for the erection of 70no. dwellings (with a mix of 58no. houses and 12no. apartments) of which 43no. would be affordable with associated public open space and children's play area, landscaping, access, parking and associated works at land off Boleyn Road in Rubery. The application has been submitted by Birmingham Municipal Housing Trust (BMHT).
- 1.2. The proposed layout seeks to provide access off Boleyn Road from the west with a new main access road through the site, new internal road and turning circle at the north-eastern end of the site. The new dwellings would be situated along the new road with the proposed bungalows being situated within the south-west and adjacent to the access, and the proposed apartment building situated within the north-eastern corner of the site and adjacent to the new public open space and children's play area with a new pedestrian access from the open space to Boleyn Road.



Figure 1: Proposed Site Plan

ACCOMMODATION SCHEDULE					
	UNIT TYPE	AREA m ²	STOREY	TOTAL	Tenure mix%
	MOSELEY (2B4P)	80.4	2	4	35
	WALMLEY (2B4P)	80.8	2	20	
	WALMLEY G (2B4P)	84.6	2	1	
	HARBORNE (3B5P)	93.8	2	10	30
	HARBORNE+ (3B5P)	96.7-101.8	2	6	
	HIGHGATE(3B5P)	94	2	2	
	COTTORIDGE+ (3B5P)	104	2	2	
	NORTHFIELD (4B7P)	123	2	5	11
	LIFFORD+ (4B7P)	130	2	3	
	BRANDWOOD (2B4P)	82.7	1.5	4	7
	BORDESLEY (2B4P)	91.4	1.5	1	
	2 BED APARTMENT	70.0	1	5	17
	2 BED APARTMENT	79.0	1	1	
	2 BED APARTMENT	70.0	1	6	
GRAND TOTAL				70	100
TOTAL CAR PARKING					98

Figure 2: Accommodation Schedule

- 1.3. The scheme proposes the provision of 70no. dwellings with a mix of 25no. two-bed 2-storey dwellings, 5no. two-bed 1 ½-storey bungalows, 20no. three-bed 2-storey dwellings, 8no. four-bed 2-storey dwellings, and 12no. two-bed 3-storey apartments. Of the 70no. dwellings, a total of 43no. dwellings (61.4%) would be provided as affordable units (social rent) with a mix of 12no. two-bed apartments, 11no. two-bed houses, 5no. two-bed bungalows, 10no. three-bed houses and 5no. four-bed houses. The remaining 27no. dwellings, with a mix of 14no. two-bed houses, 10no. three-bed houses and 3no. four-bed houses would be provided at market value assisting with

the finance of the scheme.

- 1.4. There would be a mix of different house types with the two-bed apartments ranging in size from 70 to 79 sqm, the two-bed houses and bungalows ranging in size from 80.4sqm to 91.4sqm, three-bed units ranging in size from 93.8 to 104 sqm and the four-bed units ranging in size from 123 to 130sqm. The proposed houses and bungalows would all have a private rear garden space, whilst the proposed apartment building would have a shared external amenity space to the rear and side. In addition, the apartments would also each have their own balcony, ranging in size from 9-11 sqm.
- 1.5. The proposed scheme would provide a total of 98no. vehicular parking spaces, with the two-bedroom units each provided with 1no. allocated parking space, whilst the three-and four bedroom units would each have 2no. allocated parking spaces. In addition, each dwelling would have a shed within their garden to allow for cycle storage, whilst the apartments would have a communal shed and bin area along the eastern boundary of the site and within their rear amenity space. A new sub-station would be situated within the south-western corner of the site.
- 1.6. There would be a new public open space provided within the northern corner of the site, with the retained oak tree as the central focus point. The open space would also provide for a new children's play area and seating. In addition, new soft landscaping, would be provided along the boundaries of and within the site. The landscaping towards the existing dwellings along Dorset Close to the south, as well as towards the open countryside to the north, would be retained and further enhanced with new landscaping provision.

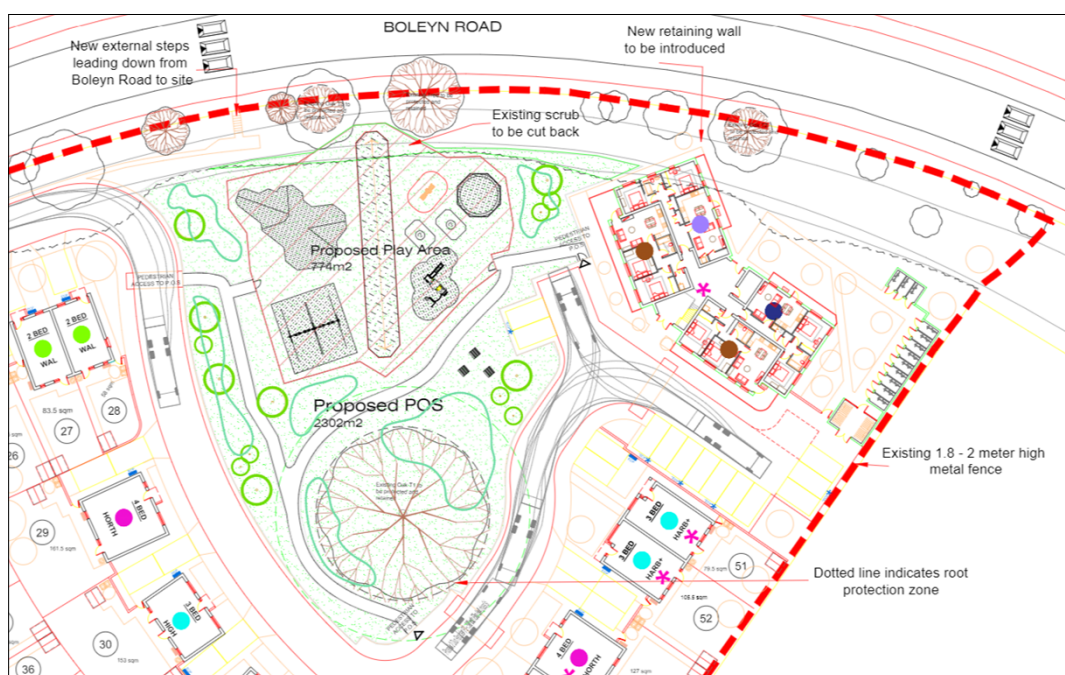


Figure 3: Proposed Public Open Space and Children's Play Area

- 1.7. There would be a new footpath connection from the public open space towards the open countryside to the north, as well as a new connection from the new access road to the existing footpath adjacent to Dorset Close in the south.
- 1.8. The application is supported by the following documents:
 - Flood Risk Assessment and Drainage Strategy
 - Biodiversity Impact Assessment
 - Phase II Site Investigation Report

- Affordable Housing Statement
- Open Space Assessment
- Landscape and Visual Impact Assessment
- Transport Statement
- Planning Statement
- Preliminary Ecological Appraisal
- Noise Assessment
- Arboricultural Assessment
- Design and Access Statement including Sustainable Construction and Energy Statement

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site comprises an approximately 2.3ha large parcel of land, located on the northern edge of Rubery, beyond the build-up area boundary and on the fringe of the open countryside. The site is currently an informal green space and adjoined to the east/ south-east by playing fields of Holly Mill Methodist School and King Edward VI Balaam Wood Academy which it previously formed part of.
- 2.2. To the north and west the site is adjoined by Boleyn Road beyond which are further areas of publicly accessible open countryside. To the south-west lies a disused railway line, now used as a pedestrian and cycle route, which is identified as a wildlife corridor. Beyond this, to the south-west, lies the existing settlement with residential development constructed around the 1970/80's. The existing dwellings have a consistent architectural and material vernacular, employing brick as the primary material, tiled roofs, timber clad first floors, front porches and a horizontal emphasis to the block facades.
- 2.3. The site is largely flat, with an embankment edge to the north as well as to the south, adjacent to the former railway line and houses beyond. At its eastern corner, levels largely align with Boleyn Road. Beyond its tree and shrub lined north, west and south boundaries, the site is largely grassland, except for large mature oak tree. At its eastern boundary is a steel railing.
- 2.4. The site is situated within Flood Zone 1 and the nearest Local Centre and Primary Shopping Area (Frankley) is situated approximately 400m walking distance from the site. The land to the north, north-west and north-east, on the opposite side of Boleyn Road is Green Belt land, situated within Bromsgrove District Council. There are no public rights of ways along the boundary or crossing the application site.

[Site Location](#)

3. Planning History

- 3.1. 04.08.2008: 2008/02920/PA – Installation of two, 25 metre high wind turbines. Approved, subject to conditions.
- 3.2. 22.07.1999: 1999/01463/PA – Erection of 2.4 metre high security (green powder coated) fencing around school playing grounds. Approved, subject to conditions.

4. Consultation Responses

- 4.1. Transportation – No objections subject to conditions for pedestrian visibility splays, construction management plan and informative involving works within the adjoining highway (S278 Highway Works).
- 4.2. LLFA – No objections subject to conditions for a surface water drainage scheme and sustainable drainage operation and maintenance plan as well as relevant informatives.
- 4.3. City Design – No objections subject to conditions for hard and/or soft landscape details, hard surfacing materials, earthwork/level details, boundary treatment details, and sample materials/ architectural details.
- 4.4. Ecology – No objections subject to conditions for the landscape enhancements to be implemented as submitted and the provision of a landscape management plan. In addition, request for financial agreement to fund off-site habitat creation / enhancements in line with proposed works and fund for the administration and monitoring of biodiversity net gain delivery (£76,200.00).
- 4.5. Leisure Services – No objections subject to compensation payment for loss of playing field for £580,000.00 and off-site POS contribution for £68,770.00. In addition, request for commuted sum to cover maintenance of on-site POS and play area. If these are to be handed to BCC parks for future management and maintenance, the revenue costs would be £10,000 per annum and a down payment of £222,000 would be required in order to release a revenue stream of this amount per annum for future grounds maintenance operations by the Parks Service.
- 4.6. Public Rights of Way – No objections as development would not directly impact on nearby PROW. Site is adjoined by highways on two side and any closure or diversion of areas of HMPE would need to be subject to stopping up order under Section 247 or 257 of Town and Country Planning Act 1990.
- 4.7. Regulatory Services – No objections subject to conditions for contamination remediation scheme, contaminated land verification report, noise mitigation scheme, construction method statement/ management plan, lighting scheme, provision of EV charging points.
- 4.8. Severn Trent – No objections subject to conditions for drainage plans for disposal of foul and surface water flows.
- 4.9. Employment Access Team – No objections.
- 4.10. Trees – No objections subject to conditions for tree protection plan and arboricultural method statement including pre-commencement site meeting to discuss working procedures and tree protection.
- 4.11. West Midlands Fire Services – No objections. Comments in relation to building control matters.
- 4.12. West Midlands Police – No objections. Comments in relation to building control matters, including secured by design.
- 4.13. Environment Agency – No comments.
- 4.14. Gas Cadent – No objections.

- 4.15. Highways Agency – No comments.
- 4.16. Sport England – No objections.

5. Third Party Responses:

- 5.1. MP, Ward Councillors, Residents Associations and local residents were consulted on the original scheme. The application was also publicised for 21 days by way of a Site Notice and Press Notice.
- 5.2. Bromsgrove District Council raised the following matters:
- Little evidence on the plans to show on site children's play area which is disappointing given the proposal would result in loss of open space.
 - Ecological Appraisal indicates loss of some biodiversity and further information should be provided in relation to biodiversity net gain.
 - Proposed level of affordable housing is welcome.
 - The Transport Statement outlines accessibility from a walking and cycling perspective but the potential to provide a cycleway leading to National Cycle Route 5 to improve cycle accessibility and perhaps the improvement of highway infrastructure to provide a connection to Route 5 has not been considered
 - Provision of planting of trees to front of dwellings, in rear gardens and within open space is welcome. Proposed native species mix for proposed hedge is also considered acceptable. A landscape management plan condition would be important.
 - In terms of the layout, the proposed dwellings could form a stronger frontage for Boleyn Road which is currently disjointed.
 - Positioning of proposed apartments is unfortunate, leaving the position highly prominent.
- 5.3. Gary Sambrook MP raised an objection on the following grounds:
- The current site provides local residents with somewhere to spend leisure time
 - Green fields provide biodiversity and act as green lungs helping to clear air we breathe in our local community. While the pandemic showed the benefits having green space nearby has on both our physical and mental health
 - Loss of green space/ public open space in an area with insufficient open space
 - The development is over intensive for the site
 - The site would lead to an increase in traffic and parking on existing residential roads
 - Increase of pressure on local schools and doctors surgeries
 - Will increase threat to nearby green belt sites
 - The application breaches policy TP9 of the BDP which is in place to protect green spaces from inappropriate development
- 5.4. New Frankley Parish Council raised an objection on the following grounds:
- There is a protection / preservation order of the Secretary of State on the proposed land
 - There is a public right of way that would cross the proposed development land which under the last head was illegally stopping in contravention of the Highways Act 1980. A Gating Order allows for temporary stopping of the highway or the Highways Act 1989 which allows a special division for certain highways which cross the land occupied for the purposes of as school. Neither can be applied unilaterally or without public consultation. Therefore, this illegal action has meant that people have had to follow the green fence to walk near

as possible to the line of the Right of Way thus creating an alternative Right of Way.

- The education owned land that is outside of the green fence that is the rest of the playing fields, which has not been maintained to a level that makes it usual for community use as of condition 8 of the above planning consent (S/01463/99/BCC) which is the proposed land for development

5.5. In addition, two petitions, with 104 signatures (New Frankley Development Petition) and 169 signatures (submitted by Gary Sambrook MP and Councillor Adrian Delaney) respectively as well as 38 individual letters of objections have been received, raising the following concerns:

- Proposal would remove valuable green space and will provide poor outlook for existing residents including onto a three-storey block of flats
- Do not agree to loss of public open space in an area with already insufficient provision.
- Understood that site is Green Belt and scheme would be an increased threat to nearby Green Belt sites.
- Development breaches policy TP9 of the Birmingham Development Plan.
- Secretary of State letter from 1971 acknowledges the land as open space and playing fields
- No appropriate consultation and residents were only notified by a letter on a lamppost.
- Manner in which the site notice was displayed is rather duplicitous as the sign was posting away from the road and was left blank.
- The notification of the application is sloppy, with the list of consultees on the website not providing contact details.
- Consultation with local residents should have taken place who know the area well. Council has failed to consult with local residents.
- There will be issues with noise and light pollution from street lights which currently do not exist.
- Flats would overshadow adjacent parkland and public space would be blotted by tower block
- Proposal has given no consideration to local environment, as houses would not be fitted with solar panels
- Green space is important in the context of global warming and climate change.
- This is one of the greenest areas in Birmingham and the Council wants to turn it into a concrete jungle.
- Area is currently open and provides space for people to walk dogs separate from the park which is used by children.
- Currently no telephone network exists and ducts and cables would need to be laid from the middle of the estate to the site. Last time this was done for another site, the footpath wasn't reinstated correctly and has been left as a mess for residents.
- Raised multiple complaints with the overgrown trees, landscaping and road issues but none have been addressed. Building in the proposed location will bring problems closer to home, continuing to de-value properties. Interested to understand compensation agreements based on the pre-reported issues.
- Traffic concerns an issue within the area and proposed development would likely bring around 140 additional cars to the area which is unacceptable.
- Accesses from Boleyn Road area dangerous.
- High possibility of severe accidents as it is a blind bend and no amount of road calming will slow traffic down.
- Transport links to the city are constantly being depleted.
- Proposed speed bumps probably cause damage to car suspensions.
- There would only be one access and exit to the site which causes problems with existing roads.

- There will be a lot of noise and pollution during construction. How will this be dealt with? Where do construction workers park their cars? I would like reassurance that parking restrictions are put in place so that people do not park in surrounding roads. There should also be cleaning taking place everyday to remove mud from surfaces.
- Application does not mention flooding issues with the site, which residents are aware of.
- Ground is a known flood plain and would be unsuitable for buildings. There will be flooding along the river Rea and down the lower part of Northfield. The adjoining path regularly floods. Residents have to find another way and this is not ideal for the elderly and with mobility issues.
- Proposal will increase the risk of flooding to surrounding properties. Surrounding dwellings would then be classed as flood area and would not get appropriate insurance and houses would be down valued.
- Rainwater from field will go onto adjoining footpath and people who use the path will have to make alternative arrangements or walk on main road.
- Application is made by Council, but none of the dwellings is earmarked for Council housing tenants.
- The proposal will result in an increase in the population within the area with no thought of the impact this will have on existing residents.
- Area already had 900 new homes built just off Frogmore Road and another 850 built on Frankley Beeches Road as well as at the Longbridge development. This is an established Parish with green space which has already been reduced in the last ten years.
- Should build new homes on former factory sites.
- No additional schools, dentists or GP surgery would be provided and there is struggle to get appointments. Location not sustainable to cope with increase in properties.
- The local police is depleting in their numbers. More homes and less police is a bad combination.
- Network of local shops will not cope with extra homes.
- No capacity or infrastructure for more homes. Frankley already has at least 1000 homes and we cannot cope with anymore.
- Crime in the area is rising rapidly. Development will cause more unsociable things to happen.
- Biodiversity, wildlife and ecology will be affected due to further pollution and traffic and no ecological enhancement has been proposed.
- There would be further roads, street lighting and street furniture
- New development provides opportunity for swift bricks.
- An open space is proposed, however, this would not counteract the destruction that would be caused.
- Site is used regularly by children as a safe place to play and this will remove one of the very few available recreation spaces.
- Walk my dog here on a daily basis.
- Design is not in keeping with local area and will be an eyesore.
- The development is over-intensive for the site.
- Affordable homes within area have very small gardens and this space is invaluable.
- There is no need for more affordable homes to be filled with problem families and to be pushed out of the city centre.
- It would seem that the Council has a policy on shoving all under privileged residents into areas on the outskirts with the intention to turn it into a slum.
- No reference within ecological appraisal about peregrine falcon that nests within the area. Have also seen several kestrels and a buzzard. It is also a hunting ground for raptors. Duty of the Council to protect the birds and their

habitat.

- Houses should be built on brownfield land and there are many left which can be used for affordable housing. There is industrial land in Ormand Road and a derelict model car racing site which could be used instead.
- Council should work to improve the area, not destroy it.
- Issues with the outline plans for Frankley from 1971 and understand they still apply.
- Study found increased risk of premature death from living near to a major highway and long term exposure to traffic pollution increased risk of poor cognition.
- Can see no exceptional circumstances to allow the development of this land.
- Where would the contractors and workers park during construction? Parked vehicles on Boleyn Road would cause major disruption.
- The land is the community's countryside and not everyone can get to nearby open space, which also charges for parking.
- If planning permission is given to build on the field north of the disused railway line in contravention of the order PE1/1961/223/4, it is considered that Bromsgrove would take the opportunity to apply to develop the other land within their boundary. As Birmingham is the Authority that has broken the status quo, they would be hard pressed to object.
- Of the four parcels of land involved, the one under Birmingham's control is the smallest and the one with the most construction problems.
- There is a public right of way through the land which was there before the school was built. Any movement of the gate or path would need formal consultation.

6. Relevant National & Local Policy Context:

6.1. National Planning Policy Framework (2021)

Chapter 2: Achieving sustainable development
Chapter 5: Delivering a sufficient supply of homes
Chapter 8: Promoting sustainable transport
Chapter 11: Making effective use of land
Chapter 12: Achieving well-designed places

6.2. Birmingham Development Plan 2017:

PG 3 Place Making
TP3 Sustainable Construction
TP4 Low and zero carbon energy
TP9 Open space, playing fields and allotments
TP27 Sustainable Neighbourhoods
TP28 The location of new housing
TP30 The type, size and density of new housing
TP31 Affordable Housing
TP44 Traffic and Congestion Management

6.3. Development Management in Birmingham DPD 2021

DM1 Air Quality
DM2 Amenity
DM4 Landscaping and Trees
DM6 Noise and Vibration
DM10 Standards for Residential Development
DM14 Highways safety and access
DM15 Parking and servicing

- 6.4. Supplementary Planning Documents & Guidance:
Birmingham Design Guide 2022
Birmingham Car Parking Standards SPD 2021
National Design Guide
Technical Housing Standards – nationally described space standards (2015)

7. Planning Considerations

- 7.1. The application has been assessed against the objectives of the policies as set out above. The main matters for consideration are as follows:

Five Year Housing Land Supply

- 7.2. NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.3. The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be calculated against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.

Background and Principle of Development

- 7.4. The site was previously used as a playing field within the grounds of King Edward VI Balham Wood Academy School. At some point between 1999 and 2001 the site was fenced off from the school grounds and ceased to be used as playing fields.
- 7.5. Considering the previous use as playing fields, Sport England was consulted, and they raised no objections to the loss of the former playing field. They confirmed that it would meet with exception 1 of Sport England's playing fields policy and paragraph 99a) of the NPPF, which requires the playing field to be surplus within the catchment area and that this would remain the case after the development of the site, in order for it to be released to other development. In addition, the site would not have any special significance to the interests of sport.
- 7.6. The site is not classified as Green Belt land. In addition, whilst residents claim that the land is used for dog walking and for children to play, the site does not provide formal public access. However, within the meaning of policy TP9 of the Birmingham Development Plan 2017, the site is classed as open space and would be assessed on that basis.
- 7.7. The policy outlines that planning permission would not normally be granted for development on open space except where it can be shown by an up to date assessment of need that the open space is surplus taking account of a minimum standard of 2 ha per 1,000 population and the accessibility criteria listed within the policy. As per the most recent figures, the level of public open space within the Frankley Great Park Ward, in which the application site lies, was 4.35 ha. Therefore,

in excess of the minimum required 2 ha and the proposed development would not reduce the provision to below 2ha.

7.8. In addition, the accessibility and quality standards require:

- All residents should have access within 400m, (5 to 10 minutes walk) to an area of publically accessible open space which should have grass and trees and be at least 0.2 ha in size. Similarly, there should be children's play facilities within 400m of all residents
- Within 1km (15 to 20 minutes walk) of all residents there should be an area of publically accessible open space of at least 2 ha in size. This should have paths, seating, bins, trees and landscape features. It should be capable of accommodating differing and potentially conflicting recreational activities without problem e.g. space for football and for those who want to sit and relax
- Within 3km of all residents there should be access to a publically accessible park which has a wide range of facilities and features which may include water features, children's play facilities, cafés and formal landscaping. These spaces should be capable of holding local, or in some instances national events. These sites should be more than 2 ha in size and should also have good access for public transport and for walkers and cyclists. Some of these parks will have additional facilities and will be of a size which allows them to be used for major events and celebrations. It will be a priority to ensure that these parks have good access by public transport and adequate car parking.

7.9. As there are currently no play facilities within the site, the proposed development would have no impact on the access to play standard. Similarly, the site is not a park and therefore, its development would not impact on the standard for access to a publically accessible park. In addition, the submitted Open Space Assessment has mapped existing open spaces which show that the standards would continue to be satisfied post-development and there is appropriate access to publically accessible open space and parks within the distance requirements. It is noted that the nearest children's play area is situated outside the required 400m accessibility and therefore, following further discussions, it is now proposed as part of the development to provide a children's play area within the new open space. Therefore, subject to the provision of the play area, the scheme would comply with policy TP9 of the BDP 2017 and the principle of the loss of the open space would be acceptable.

7.10. Leisure Services has been consulted on the scheme and raised no objections. They have requested a compensation payment for the loss of the playing field (£580,000,00) However, considering the scheme is fully compliant with policy TP9 of the BDP 2017 in terms of the loss of the open space, it would not be reasonable or appropriate to request a further compensation payment in this instance.

7.11. In terms of the proposed use of the site for housing, the application site is not allocated for any specific future uses and the scheme would comply with the principles of policies TP27 and TP28 of the BDP 2017 in terms of the provision of new housing, subject to consideration of detailed technical matters, as discussed below.

Design and Impact on Visual Amenity

7.12. The scheme seeks to redevelop the informal open space to the north of the existing settlement at Rubery with residential uses. The site is situated on the edge of the settlement, with open countryside to the north. A Landscape and Visual Impact Assessment (LVIA) was undertaken by the applicant which concluded that there would be no significant adverse impact on the immediate visual environment. The development would be visible within the wider context, however, the proposal would not be uncharacteristic of the typical views experienced by users of the neighbouring Country Park and public rights of ways. Development proposals would not cause significant harm to the local visual environment. The assessment further

acknowledges the importance of the natural edge along Princess Diana Way, and suggests that the edge of the settlement would extend to Boleyn Road which would be enhanced by the establishment of a new hedgerow and retention of existing vegetation, thus moving the perceived green edge of Rubery further towards the north.

- 7.13. The findings and conclusions of the assessment are considered to be appropriate and it is accepted that the site and locality is capable of some development with mitigation and landscape enhancement respecting the existing landscape area and existing features within and adjacent to the site.
- 7.14. In terms of the proposed layout, the scheme seeks to provide the residential dwellings along the new access road off Boleyn Road to the west with an apartment building and new public open space within the north-eastern corner. Perimeter blocks have generally been used within the site in order to create well defined streets with private rear gardens and parking within the curtilage of each dwelling to reduce the dominance of the car on the street scene.
- 7.15. The proposal would provide overlooking and active frontages along Boleyn Road and along the southern boundary as well as dual aspect corner units. The proposed public open space would prioritise the retention of the mature oak tree which would add to the character of the development and would provide a central focal space which could help to foster a sense of community which is supported. In addition, the proposed public open space within the site has been amended during the application process to provide children's play facilities and the outline proposals are shown on the submitted plans. Further details of the provision would need to be provided to ensure they are suitable for the site and visually attractive, and such details would be conditioned.
- 7.16. Furthermore, existing desire lines have been responded to, with stepped access to Dorset Close to the south and additional pedestrian connection points have been also been included from Boleyn Road to the north and north-west to ensure permeability of the site.
- 7.17. The proposed three-storey apartment block, with its slightly angled position, would be located within the north-eastern corner of the site and has been sited to address both the frontage along Boleyn Road as well as the new open space, providing overlooking and an appropriate containment of the space, whilst also providing an appropriate separation to the adjoining road with improved landscaping and setback, which overall is considered to be acceptable.



Figure 4: CGI of proposed apartment building



Figure 5: CGI of proposed dwelling

- 7.18. The proposed residential dwellings would be largely two-storeys in height with a small number of bungalows (one and a half-storey in height) which is characteristic of existing residential development within the area. Gables have been introduced to frontages facing the street in order to punctuate the streetscenes to provide interest along runs of houses. Whilst the apartment block would be three-storeys in height, it is sited approximately one storey lower than the adjoining Boleyn Road which would help to reduce its overall bulk. Therefore, the overall scale and massing of the proposal, in relation to surrounding uses is considered acceptable.



Figure 6: Street Scene along new apartment building



Figure 7: Street Scene Internal Road Example 1



Figure 8: Street Scene Internal Road Example 2 (bungalows)

- 7.19. In terms of the proposed architecture and materiality, the proposed design and access statement references the local character in relation to the material reference, introducing a contemporary design with the proposed use of a warm varied palette, with red brick and a mix of red and grey/black roof tiles which is supported. It is further proposed to add projecting frames and corner windows and corner brick tiles to accentuate the corners. Matching wall and roof tile colours have been specified to read as a continuation of wall and roof ceramic materiality, whilst the use of fenestration with large picture windows and form of the porches would add to the contemporary appearance of the scheme. It is considered that the proposed architecture and material choice has the potential to create an interesting and varied residential scheme and the strategy, subject to conditions for materials and architectural details, would be supported.
- 7.20. Whilst concerns have been raised by local residents that the scheme would provide poor outlook for existing dwellings, it should be highlighted that the existing landscaping strip to the south would be retained and therefore, there would be minimal change to the future outlook of those dwellings.
- 7.21. In summary it is considered that the scheme positively responds to the site's surrounding by creating an active frontage with appropriate overlooking and surveillance. In addition, there would be an appropriate transition to the adjoining countryside to the north, north-west and north-east as well as adjoining existing residential uses to the south. The contemporary architectural approach is supported and City Design has also confirmed they raise no objections. The scheme is therefore considered to be acceptable in terms of its design and impact on visual amenity, subject to conditions.

Density and Proposed Dwelling Mix

- 7.22. Policy TP30 of the BDP 2017 states that housing should be provided at a target density responding to the site and its context with a density of at least 40 dwelling per hectare 'elsewhere' (i.e. outside of the city centre and not situated on transport routes). Whilst local residents raise concerns that the scheme would be over-intensive for the site, the scheme proposes a density of approximately 32.7 dwellings per hectare, which is below the requirements set out in policy. However, it is considered that the proposed lower density would be appropriate in this instance as it would assist with preserving the character of the locality in this suburb location and on the edge of the settlement and countryside, with the provision of public open space and a children's play area within the site.
- 7.23. The policy further states that new housing should seek to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable communities. The scheme would provide a wide mix of dwellings, including two-bedroom apartments (12no.), two-bedroom bungalows (5no.), two-bedroom houses (25no.), three-bedroom houses (20no.) and four-bedroom houses (8no.). In addition, 61.4% of the dwellings would be provided as affordable (social rent) and therefore, it is considered that the proposed mix of housing would be acceptable and supported.

Affordable Housing

- 7.24. Policy TP31 of the BDP 2017 states that the Council will usually seek 35% affordable homes as a developer contribution on residential developments of 15 dwellings or more. The scheme proposes 43 of the 70no. residential units (61.4%) to be provided as affordable housing (social rent) on this site which is significantly in excess of the requirements of the adopted policy and would be supported. The provision of affordable homes would be delivered by the Birmingham Municipal Housing Trust (BMHT) and provide rented accommodation for tenants currently on the Council's

waiting list for affordable housing provision. The market units would be sold off separately by the chosen developer.

Impact on residential amenity

- 7.25. The scheme is located to the north-east of the existing settlement of Rubery and adjoined by Boleyn Road to the north, west and north-west with the grounds of the school adjoining the site to the east. Nearest residential dwellings are situated to the south and south-west, along Dorset Close.
- 7.26. The minimum separation distance between nearest existing dwellings and the proposed new dwellings would be a minimum of 36m and therefore in excess of the minimum separation distance guidelines as set out in the Birmingham Design Guide. In addition, there is existing vegetation in between those existing and proposed residential units. Therefore, the scheme would not have an unacceptable impact on the residential amenity of surrounding, existing occupiers, subsequently not resulting in any loss of light or privacy, poor outlook or overlooking and would be acceptable in this regard.
- 7.27. In terms of future occupiers, all residential units proposed within the site would comply with the minimum spacing standards as set out within the Technical Housing Standards – nationally described spacing standards (2015). In addition, all bedrooms are appropriately sized and all habitable rooms would achieve appropriate outlook and day light provision.
- 7.28. The scheme would provide external amenity space to all residents, comprising of private rear gardens for the proposed houses as well as shared communal amenity space for the residential apartments. In addition, all apartments would also have their own individual balcony, exceeding the standards for external amenity space as set out in the Birmingham Design Guide. The scheme would therefore provide future residents with an appropriate living environment and would be supported.
- 7.29. Regulatory Services has been consulted on the application and they accept the conclusions and recommendations from the submitted Noise Assessment and Phase I and II Site Appraisals. This would form the basis for the further required works in relation to a contamination remediation scheme and noise mitigation scheme and such details would be conditioned. In addition, the appropriate management of the site and surrounding highways during construction, including measures to prevent mud on the highway and suitable operational hours would be important and a further condition in this regard has also been imposed. Whilst a separate condition for site delivery hours was recommended by Regulatory Services, it is considered that this element can be suitably covered by the proposed condition for a construction management plan.
- 7.30. Local Residents raised concerns with regard to proposed street lights and potential light pollution from the development and a condition for the provision of a lighting scheme, to ensure there would be no unacceptable impact on surrounding residents or any wildlife has been imposed accordingly.

Impact on highway safety

- 7.31. The application site is situated within a sustainable location on the northern edge of Rubery and within walking distance to the nearest Local Centre at Frankley (approximately 400m to the east) as well as public transport facilities, with the bus stop of the regular no.61 bus service situated approximately 200m to the south-west of the site.
- 7.32. The application site would provide 70no. residential dwellings and would be reached via a new vehicular access from Boleyn Road at the western end of the site. In

addition, a 2m wide footpath is proposed on the northern side of the road as well as dropped kerbs and tactile paving to assist pedestrians with crossing the access to the road. The scheme would provide all residential dwellings with off-street parking with 100% (1 space) provision for the proposed two-bed units (including the apartments) and 200% (2 spaces) provision for the proposed three- and four-bed units. They would also be provided with electric vehicle charging points in line with the recently adopted Parking Standards SPD (2021). The proposed apartment block would have access to a secured and sheltered cycle storage facility and the proposed dwellings would be provided with garden sheds to store their bicycles.

- 7.33. Whilst concerns from local residents with regard to the proposed access, additional traffic, parking and speeding along Boleyn Road are noted, the application is supported by a detailed Transport Assessment which has assessed such matters. In addition, Transportation Development has reviewed the application and supporting information and raises no objections. It is accepted that parking within the site is in line with relevant adopted policy guidance and that overspill parking beyond the site would be minimal, as would the level of additional traffic, and it would not be anticipated to result in a material intensification of the local highway network. The scheme would require works to the adjoining public highway, including the installation of traffic calming measures in order to reduce traffic speed on Boleyn Road and a relevant informative for works to the public highway (S278 Highways Agreement) has been imposed accordingly to address this matter. In addition, a construction management plan would be attached to ensure there would be no impact on adjoining residents or the surrounding highway network during construction.
- 7.34. In addition, the proposed development would not directly impact any Public Rights of Way. However, the proposed development area is bounded on three sides by public highway, to the north and west by all-purpose highway (Boleyn Road and to the south by a footpath also classified as HMPE (Highway Maintainable at the Public Expense). There is no public right of way crossing the site and the PROW Officer raised no objections but has highlighted that any proposed closure or diversion of areas of the adjoining HMPE must be subject to a stopping up order under section 247 or 257 of the Town and Country Planning Act 1990 before works commence. An informative in this regard has been imposed.
- 7.35. In summary, it is considered that the proposed layout of the scheme, in terms of its parking provision, access and impact on surrounding highway network would be acceptable and would not negatively impact on pedestrian or highway safety.

Ecology, Landscaping and Public Open Space

- 7.36. The proposed site was originally managed as a close mown playing field, with little biodiversity value at the time. Following the end of the use as playing fields, the site developed to a more naturalistic habitat which is classed as semi-improved grassland which is in a relatively poor to moderate condition and floristically not diverse. The boundaries of the site are covered by bramble and scattered scrubs with a mature oak being situated within the main field. The development would result in the loss of the grassland with some sections, including along the boundaries and around the mature oak tree, being retained and enhanced. Non-residential verges would be enhanced with grassland species and boundaries planted with a more diverse woodland edge and scrub mix. In addition, planting of trees, shrubs and herbaceous plants within landscaped gardens would further increase the diversity within the site.
- 7.37. The Council's Ecologist has reviewed the scheme including the submitted Preliminary Ecological Appraisal and Biodiversity Impact Assessment. Given the site layout, the proposed habitat loss and gain through the proposal would result in a net loss on site and further works are proposed on an off-site location. The site, approximately 150m to the east, is within Birmingham City Council ownership and management and

currently has little direct management. The proposed works to this nearby site would include the cutting back of existing bramble around the scrub woodland and sown of species rich varieties to bring the site into a more favourable state. It is considered that the proposed enhancement would be in close proximity to the area of loss and therefore, the immediate vicinity would not be detrimentally impacted on. The proposed enhancement would mitigate for the net loss and would add habitat units overall to provide 8.63% biodiversity net gain. On that basis, the Council's Ecologist raises no objections to the proposed development. As agreed with the applicant, a financial sum has been secured for £76,200.00 for the proposed site works and management as well as monitoring in the future, and a condition in this regard has been imposed accordingly.

- 7.38. Concerns from local residents with regard to the loss of the green space and that various different species of wildlife were spotted on this site has been noted. However, it is considered that suitable measures to protect wildlife and further enhancement measures within the site and nearby site are proposed to ensure there would be no unacceptable impact on the ecological features. A condition that the scheme would need to adhere to the recommendations set out in the Ecological Appraisal has been imposed accordingly.
- 7.39. The application is for over 20 dwellings, and whilst the scheme would provide an area of open space within the site as well as a children's play area, this would be below the general requirements of policy TP9 of the BDP 2017 and therefore, an off-site Public Open Space contribution (£68,770.00) has been requested by Leisure Services. The application is supported by detailed viability information of the scheme and BMHT works, which confirm that the scheme, with the provision of 61.4% affordable housing as well as required off-site biodiversity net gain compensation payment for works and monitoring, would not be viable and therefore, no further contribution could be sought from the development without impacting on viability and deliverability. Therefore, it is considered that it would not be appropriate to seek the public open space contribution in this instance.
- 7.40. However, the applicant has confirmed that a formal written agreement with the Council's Leisure Team and Finance Team is in place in order to cover the costs of the future ground maintenance and management of the Public Open Space and children's play area within the site. In addition, a Landscape Management Plan would be attached to ensure any other landscaped areas would also be suitably managed in the future.
- 7.41. In addition, the Council's Tree Officer was consulted on the scheme. It was highlighted that the key feature of the site would be the retained oak tree and appropriate tree protection measures would be required prior to any works commencing. In addition, the proposed additional tree planting is supported, however an arboricultural method statement would be required to ensure the existing tree and proposed trees would be suitably protected and cared for. Relevant conditions would be imposed in this regard.

Other matters

- 7.42. Flood Risk and Drainage - The application site is located within Flood Zone 1 and the applicant has submitted a detailed Flood Risk Assessment and Drainage Strategy. The LLFA and Severn Trent have reviewed the relevant documents and raised no objections. Concerns from local residents that the site may be located within a flood plain and that surrounding areas would be prone to flooding are noted, however, it is considered that relevant conditions for a sustainable drainage scheme, drainage operation and maintenance plan as well as appropriate connections to the existing sewer system would be acceptable, addressing potential concerns and would not increase the flooding to surrounding areas any further.

- 7.43. Energy and Sustainability – It is acknowledged that the proposed specification of the scheme, with the inclusion of triple glazing, goes beyond the building regulations uplift on building fabric first targets. In addition, the scheme would provide air source heat pumps instead of gas and windows throughout the scheme have been designed to maximise daylight, reduce overshadowing and open manually, which would allow natural ventilation through the internal rooms, where appropriate. The supporting Energy and Sustainable Construction Statement has considered a range of different energy generation options, with the proposed provision of air source heat pumps. The use of solar PV panels, considering the provision of 61.4% affordable housing, would however, not be viable in this instance. The scheme has been assessed against the relevant policies and it is considered to comply with policy TP3 and TP4 of the BDP 2017. A condition would be appropriate to ensure the scheme is delivered in line with the submitted Statement.
- 7.44. Community Infrastructure Levy (CIL) – The proposed development would not be liable to the provision of CIL.
- 7.45. Safety/Security – Local concerns were raised that crime within the area was rising rapidly. However, wider anti-social behaviour issues would not be directly related to this application. In addition, West Midlands Police raised no objections and the scheme has been designed to ensure surveillance and overlooking of roads as well as the open space.
- 7.46. Other matters: Comments have been received that there would be a 'Protection/ Preservation Order of the Secretary of State' on the land, with a letter submitted with the response from the Secretary of State, dated 1971 (relating to Birmingham overspill and an outline application for residential development in various areas), referring to the land as open space and therefore, it is argued that the land could not be developed. The letter and information are noted, however, the Authority, is not aware of any previous stipulations or agreements that this land would not or could not be built on. Relevant title records have been reviewed and legal advice has been sought in this regard and there is no evidence of any statutory trust or any other matter that would prevent development on the site. In detail, the Council's Legal Department considers that the statement within the letter was a view expressed at the time of the planning application and more than 50 years have passed since then. The Secretary of State's view would not be binding on the Authority in considering this current planning application. Highlighting the significant changes in planning policy and housing requirements within the Local Authority area, and the public benefits of the scheme, including the provision of 61.4% of affordable housing, the development of the site is considered to be acceptable.
- 7.47. Concerns were raised by local residents that insufficient consultation was undertaken as part of the development. However, a site notice was displayed on the site for 21 days with evidence of the displayed notice being available. In addition, a press notice was published and all adjoining residents as well as Local Councillors and the MP were separately consulted accordingly as well. In terms of questions raised about internal consultees, it should be highlighted that they are listed for information only on the website, however, no further contact details are provided as it would not be appropriate if they were to be contacted directly by the public.
- 7.48. Further concerns were raised that there is already too much development happening within the local area, with other recent developments having been granted permission. Consequently, the local infrastructure, including GP practices, dentists and shops not being able to cope. However, the provision of a further 70 dwellings would unlikely significantly increase the pressure on such services.

- 7.49. Local residents also raised the potential devaluing of homes as a concern arising from the development. However, such matters would not be considered as part of an assessment of a planning application.
- 7.50. Finally, concerns were raised that the proposal would result in and act as a catalyst for further development towards the north and north-west, threatening the adjoining countryside. However, it should be highlighted that the adjacent land is classed as Green Belt (whilst the application site is not) with strong policy protection. However, it should also be highlighted that the adjoining land is situated within Bromsgrove District Council and therefore, any future proposals for this land would be outside the remit of consideration of Birmingham City Council.

8. Conclusion

- 8.1. The application seeks planning permission for the proposed erection of 58no. dwellings and 12no. apartments (a total of 70no. units of which 43no. would be affordable) with associated public open space and children's play area, landscaping, access, parking and associated works at land off Boleyn Road in Rubery. The application has been submitted by Birmingham Municipal Housing Trust (BMHT). The scheme is considered to be acceptable in principle and complies with relevant policy TP9 of the BDP 2017. In addition, the scheme would be acceptable in terms of its design and impact on the visual amenity of the surrounding area, highway safety and residential amenity. Furthermore, the scheme is acceptable in terms its impact on ecology, drainage and sustainability and is therefore recommended for approval subject to conditions.

9. Recommendation

- 9.1. Approve, subject to conditions.

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| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Implement within 3 years (Full) |
| 3 | Requires the submission prior to occupation of hard and soft landscape details |
| 4 | Requires the submission of hard surfacing materials |
| 5 | Requires the prior submission of earthworks/levels details |
| 6 | Requires the submission of boundary treatment details |
| 7 | Requires the submission of sample materials and architectural details |
| 8 | Requires the implementation of the recommendations and landscape enhancement measures in accordance with submitted ecological statement. |
| 9 | Requires the submission of a landscape management plan |
| 10 | Requires the submission of a lighting scheme |
| 11 | Requires the prior submission of drainage plans for disposal of foul and surface water flows |
| 12 | Requires the prior submission of a sustainable surface water drainage scheme |
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| 13 | Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan |
| 14 | Requires the prior submission of details of the proposed children's play area |
| 15 | Requires the prior submission of a contamination remediation scheme |
| 16 | Requires the prior submission of a construction method statement/management plan |
| 17 | Requires the prior submission of a noise mitigation scheme |
| 18 | Requires the prior submission of a construction method statement/management plan |
| 19 | Requires the provision of a vehicle charging point |
| 20 | Requires pedestrian visibility splays to be provided |
| 21 | Prevents occupation until the access/service road, turning and parking area has been constructed |
| 22 | Removes PD rights for extensions |
| 23 | Requires the prior submission of a financial contribution of £76,200.00 towards works, management and monitoring of off-site biodiversity net gain proposals |
| 24 | Requires prior submission of arboricultural method statement and tree protection plan |
| 25 | Requires pre-commencement meeting to discuss tree protection |
| 26 | Energy and Sustainability measures in accordance with submitted statement |
| 27 | Requires implementation of affordable housing provision in accordance with submitted details |
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Case Officer: Laura Shorney

Photo(s)



Photograph 1: Aerial View of Site (@Google Maps)



Photograph 2: View of site from Boleyn Road looking north-east

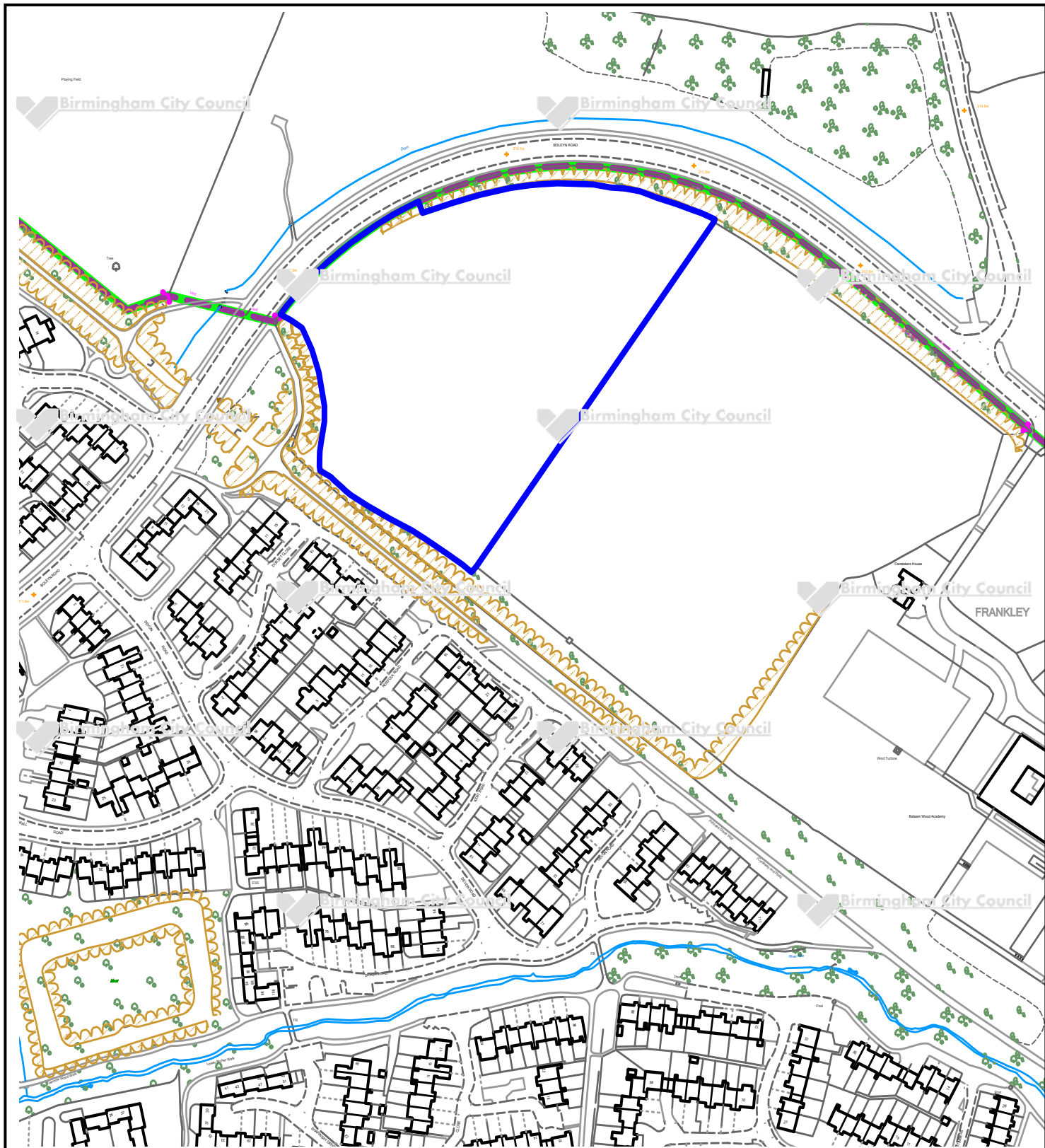


Photograph 3: View of site from Boleyn Road looking west



Photograph 4: View from within the site

Location Plan



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