19th December 2022
Ref:

Black Box Planning

[redacted]

BlackBoxPlanning.co.uk

David Millinship
Planning Services
Gloucester City Council
92 Westgate Street
Gloucester
GL1 2PE

Dear David,

APP Ref: 22/00519/FUL Land East of Winnycroft Lane (Snow Capel), Matson, Gloucester

I have the pleasure of enclosing some additional information, including an Addendum to the Environmental Statement in accordance with Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, in respect of the above planning applicaition. The additional information has been prepared following receipt of a number of consultation responses and ongoing discussion with key stekholders. In doing so, the amendments made are positive in seeking to deliver a high quality affordable housing led proposal.

This letter provides a summary of the key issues, including planning policy considerations, pertinent to the determination when considered alongside the additional information submitted. In doing so, it sets out a range of issues pertinent to the planning balance in decision making terms.

The information enclosed includes:

- Consultation Tracker;
- A Social Value Report, prepared by Bromford;
- Heritage Rebuttal, prepared by EDP;
- Housing comments, prepared by Bromford;
- Environmental Statement Addendum;
- Transport Assessment Addendum, prepared by Pegasus;
- Revised layout (dwg no: 0030);
- The following revised plans:
    - Site Location Plan (dwg no: 001);
    - Proposed areas for adoption (dwg no: 0200);
    - Proposed street heierarchy (dwg no: 0201);
    - Proposed refuse collection strategy plan (dwg no: 0202);

   - Proposed EV charing plan (dwg no: 0203);
   - Proposed fire strategy plan (dwg no: 0205);
   - Proposed cycle storage plan (dwg no: 0207);
   - Proposed housing tenure plan (dwg no: 0210); and
   - Proposed housing treatment plan (dwg no: 026).
- Revised accommodation schedule;
- Revised Drainage Strategy, prepared by DDP;
- Landscape Visual Impact Addendum and Rebuttal Comments (integrated), prepared by James Blake Associates; and
- Acoustic Assessment Addendum, prepared by Acoustics 24.

Proposed Development

The development for which planning permission is sought remains unchanged since the planning application was first submitted in May 2022. The description of development remains the same. It is an affordable housing led development proposal, which will deliver at least 50% (Bromford have committed to 50% provision at this stage, but are reviewing whether further provision can be made) affordable housing.

The proposal also sits alongside extensive stakeholder engagement and will deliver significant added value benefits, such as:

- Providing assistance in the wider regeneration of the Matson Estate, both directly and indirectly;
- A new footpath connection within the site, adjacent to Winneycroft Land, to secure a 'missing link' in pedestrian access for existing residents of Matson working at the Gloucester Services. This provision will aid safe access for those people who currently have to walk alongside the road. It will also encourage others to access the services by non-car modes;
- Improved footpath connections to 'Big Winney' to the north in the form of a surfaced path and bridge structure;
- Heritage and educational benefits to provide greater appreciation of the Moat, which is a Scheduled Monument. The wider heritage issues will be considered in more detail, below, alongside the additional information submitted;
- Biodiversity enhancements; and
- A range of social benefits, including local skills development and employment.

The proposal will also be delivered in an environment where there is currently a chronic need in the City and, as recognised within the Emerging Local Plan, not enough sites to meet the needs.

Social Value

The accompanying Report prepared by Bromford, sets out a range of social value commitments proposed as part of the development. These issues are matters of very substantial weight in considering the proposed development in the context of sustainable development and, ultimately, the determination of the planning application. Bromford are seeking to play a key role in the delivery of new homes which is targeted at meeting the requirements of those who are most in need. In doing so, as part of their role as a housing association, the commitment is long-term and they will retain an interest in the management of the site and the creation of a vibrant and sustainable community. Accordingly, the commitments go well beyond those of market housing led proposals.

The regeneration of Matson is supported by the Matson Estate Regneration SPD (November 2019) which sets out a range of key spatial objectives for the area. In addition, there is also a key regeneration document prepared as part of the 'Power of Three' project, run by the Matson, Robinswood and White City Community Partnership which targets a range of adult skills, economic, climate change, built environment, democratic participation and youth educational attainment objectives. The role that high quality affordable housing provision alongside long term commitment from Bromford, as developer, can play in working towards these objectivs should not be underestimated.

The delivery model and approach to the development in this case, extends well beyond just housing delivery. It is a facilitator of regeneration, and social and economic progression.

Historic Environment

The proposed development has been prepared alongside an extensive evidence base which considers the historic environment within the local area, both directly and indirectly. This assessment and associated evidence base has informed the baseline assessment included within the accompanying Environmental Statement, as a matter which may have potential for significant effects, it has also informed an assessment of any potential impacts having regard to both statutory provisions and policy considerations set out in the NPPF.

Whilst the applicant has serious concerns about the consultation response received from the City Archaeologist and the extent to which it considers the evidence base submitted and the development proposed, it does, helpfully recognise that there will not be any direct harm to the Scheduled Monument (SM). Accordingly, impacts are therefore focused on the setting of the asset, which in this case is a SM, protected by the provisions of the Ancirnet Monuments and Archaeological Areas Act 1979. As such, there is no statutory provision to protect the setting of the SM, in the same way as there is, as set out at Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 for listed buildings. The issue in dispute in this case, is a matter of policy and not law.

The accompanying Rebuttal Letter prepared by the applicant's heritage advisors, EDP, sets out a detailed response on matters raised in the City Archaeologist, and shall not be repeated here. However, it is appropriate to set out that, in planning terms, the assessment of impacts on the setting of a heritage asset is a matter of evaluative judgement and it is not uncommon for their to be differences of professional opinion. In this case, the failure of the consultation response to recognise and reflect on the significant evidence submitted, the failure to apply correct policy tests and the misrepresentation of the development proposed do raise serious concerns about the ability to draw an objective conclusion to inform the decision making process.

At the time of submission of the planning application, it was the applicant's position that, based on direct assessment within the Tier 2 Water Environment Assessment prepared in accordance with HR Guidance, there was no clear signal as to the source of the water within the Moat, suggesting it was supplied by a combination of rainfall, surface water runoff, and some shallow groundwater seepage. This formed the basis of a precautionary approach to the proposal, based on the principle that if the quality of water entering the moat remained as existing, there would not be a direct impact (it was proposed that benefits could be derived from controlling the quantum of water entering the moat, but this has not been recognised/acknowledged by the consultee as a potential benefit). However, irrespective of this, the City Archaeologist, in conjunction with Historic England and their scientific advisor, sought further direct assessment in the form of a Geoachaeological Borehole Study prepared by ARCA. This concluded that the aracheological deposits within the moat were not medieval afterall. The Study identified a date of the late 17th Century AD at the earliest for the deposits in the moat. This adds a high degree of uncertainty to the traditional interpretation of the asset. Faced with this objective third party assessment, it seems highly unusual that it is not even mentioned in the consultation response. It is a reponse which is not based on the most up to date evidence. There are a number of examples of this set out in the accompanying rebuttal.

In decision taking terms, paragraph 202 of the NPPF sets out the critical test which is known as the Heritage Balance. It has been established through the Courts that the decision maker must consider proposals in the context of the Heritage Balance before going on to apply the Planning Balance. It is a two stage process. The weight afforded to potential impacts is then a matter which should be weighed in the planning balance, in accordance with paragraph 199 of the NPPF.

With regard to the Heritage Balance, paragraph 202 states:

'Where a development proposal will lead to less than substantial harm to the significance of a designated asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'

In the City Archaeologist's response, it sets out in the Recommendation that:

'Regarding public benefit, in my judgement there are no public beneftis to heritage from these proposals.'

The test in the NPPF is not solely restricted to public benefits to heritage, to undertake the NPPF202 heritage balance on that basis would be incorrect. In giving the consultation response the benefit of the doubt, it could be construed that the recommendation was based on a very focused view of the policy test in so far as it only related to heritage. But even this, demonstrates an absence of objective assessment because the conclusion is so absolute and zero.

The proposal, even when subject to the most pesimisitc of assessments, will delvier a large number of public benefits, in both heritage terms and more generally, including:

- In a heritage context:
    - Presenting the heritage asset to the public, enhancing the ability of the casual observer to appreciate it.

- Greater public access, including the introduction of new views, including in context of Sneedhams Green, of the monument and seating areas from which to enjoy it. It is currently only visible from the public rights of way in the field.

- Re-instatement of the historic hedgerow to the south west of the scheduled area. This re-instatement of the hedgerow will broadly depicted the 'lost' southern arm of the moat, which is no longer visible, helping the casual observer to appreciate the extent and historic form of the moat. Note: the consultation response states that there is no attempt to re-instate historic hedgerows or field boundaries, which is wholy inaccurate.

- Installation of an interpretation board adjacent to the seating area overlooking the SM. This will be a significant aid in increasing awareness and understand the of the monument and its heritage significance and tie the experience into the wider wider Public Right of Way (the Glevum Way) walking route. This interpretative element will have a beneficial effect on the monument's heritage significance. The consultation response states that the SM survives in a form which can be understood and appreciated today. From a casual observers perspective, this is wholly inaccurate. The form (earthworks) of the moat are not appreciable to any reasonable degree, they appear as an unkempt pond within the field.

Wider public benefits also include:

- The role and contribution of housing delivery generally;
- The provision of an affordable housing led proposal which will make a significant contribution to meeting the needs of at least 95 families who currently cannot meet their own needs;
- A range of social value and regenerative benefits as set out in the accompanying Social Value Report:
    - Economic: Local Labour commitments, local supply chain commitments; provision of apprenticeships; work experience opportunities for local people; construction skills certificate training programme; additional expenditure to support local services and facilities; and expenditure boost during construction.
    - Social: delivering a more balanced and mixed community by redressing the shortfall in provision at 'Big Winney'; supporting a more integrated community; and supporting the Matson Estate Regneration Project.
    - Environmental: delivering a large area of open amenity space; improving connectivity; sustainable construction; and biodiversity enhancements (BNG: 17% increase for habitats and 31% increase for hedgerows).

Collectively the proposals will create an appropriate setting from which the SM can be appreciated, from a much larger number of viewing opportunities and for a greater range of people. When the substantial benefits are weighed against the extent of harm identified by the applicant's consultant as part of their extensive assessment, which is concluded as residually negligible at the very low end of less than substantial, the proposal satisfies the heritage balance.

The pessimistic assessment provided in the consultation response, whilst extremely disappointing in its own right, has undermined the extent to which it can be used in reaching an objective assessment of the proposal. The final paragraph of the response, provides a further example of it not being informed by the 'development proposed' and the information submitted to support it. It recommends that, if a contrary conclusion is reached that provisions for the management of the SM are sought and secured. This shows no indication that the supporting information has actually been reviewed, including the proposals for a Heritage Management Plan – an accepted mechanism for the securing the management provisions already proposed.

It remains the evidenced position of applicant that there is not a heritage based reason to resist development on this site. The heritage impacts are recognised but they have been well considered following detailed assessment. The response received to date has failed to consider the information available in both considering the significance of the asset and also the development proposed.

Landscape

The accompanying Lanscape Visual Impact Assessment Addendum and Response provides detailed information in respect of the issues raised in consultation to the planning application.

As is the case with all greenfield development, there will be effects associated with development. However, the position of the applicant, following detailed assessment, is that there are no overriding effects in landscape character or visual amenity terms which should prevent development.

The revised proposals do have some helpful landscape measures, including the introduction of additional planting along the bund adjacent to the M5 motorway and the re-orientation of some housing blocks to limited visibility (considered alongside acoustic measures).

As set out in the LVIA Addendum, the site is remarkably well visually contained and screened by existing vegetation and topography. The assessment undertaken is representative in establishing this conclusion. However, from a spatial planning perspective, it is also worth noting that the wider area is sensitive in landscape and green belt terms, with much of the urban edge of Gloucester and Cheltenham affected by one or the other. This is reflected in the spatial distribution of housing within the Joint Core Strategy area. A recent appeal decision (Ref: APP/B1605/W/21/3273053) in respect of land at Oakley Farm, Cheltenham considered similar issues and it is recognised at IR20 that:

'….the Council accepts it is likely to be necessary to build on land outside of the principal urban area in order to restore five year supply. <u>This is because the current urban footprint covers a significant part of the administrative area and virtually all remaining undeveloped land is either in the AONB or Green Belt. Indeed, the Council acknowledges that further development may be required on Green Belt, or possibly AONB….'</u>

This was also the view of the Inspector in his concluding remarks at paragraph 112 in respect of the second test at NPPF177 which relates to the ability to delvier the development elsewhere.

The principle that each planning application is considered on its own merits is true. However, it is wholly relevant that the spatial distribution of development in Gloucester mirrors, to a large extent, that of Cheltenham, albeit Gloucester has a large flood plain to contend with along much of its western border as a further restriction. In the case of Oakly Farm, it is worth noting that the Inspector felt it appropriate to grant consent for 250 new homes within the AONB, on a prominent site, where the exceptional tests set out at NPPF177 (relating to major development in the AONB). It was concluded that the need for housing and the ability to delvier homes elsewhere was such that it outweighed the very high bar for developing within the national landscape designation.

In the case of the application site, one of the few remaining developable sites within the administrative area outside of the AONB, the balancing exercise is not as acute in policy terms. The updated proposals map is clear that the proposal site assumes a logical location from which to make a contribution to meeting the City's housing needs. The alternative is to deliver homes beyond the City boundary in less sustainable and more sensitive locations.

The constraints of the wider area and spatial distribution of housing in the wider JCS area is a material consideration which should inform the approach to considering landscape context in this case.

Highways & Rights of Way

The applicant is maintaining dialogue with the Highways Authority and the accompanying update to the Transport Assessment and associated plans reflects the progress which is being made towards a positive response on matters.

The accessibility proposals, which will secure part of a 'missing piece' of footpath to enable exsiting residents to access the M5 Services, which is a large employer locally, will help to meet an important existing objective of the County Councail access team.

Local Plan

It is understood that the Main Modifications incorporated into the emerging Gloucester City Plan were presented to Cabinet recently, with a view to then presenting the draft Plan to Full Council on 23rd January 2023 to enable adoption. It should be noted that significant concerns remain around the legal compliance of the Local Plan. However, Bromford, the landowners and existing promoters, hope to work co-operatively with the Council moving forward in respect of this planning application.

It is also material that, at this stage, the emerging Local Plan does not yet form part of the Development Plan for the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004. In the context of the current housing position (not only in the context of housing land supply, but also in the context that there remains a significant shortfall in the level of housing planned for in the City, when assessed against the adopted requirements). In the context of the adopted Development Plan, the policies most relevant to the determination of this planning application are out of date and the tilted balance set out at paragraph 11(d) of the NPPF is engaged.

Planning Balance

Notwithstanding the tilted balance at 11(d) which sets out that planning applications should be approved, unless the harm caused would significantly and demonstrably outweigh the benefits, there remains a chronic need for the delivery of more affordable housing in the City to meet existing needs. This is a material consideration of sufficient weight, having regard to the context of spatial distribution and inability of the City to meet its own needs, in its own right to support the grant of planning permission, a point recognised by the Local Plan Inspector who did advocate a more positive approach to decision making in such circumstances.

It is a high quality proposal which seeks to deliver substantial social benefits directly, to aid the delivery of further substantial benefits through the provision of homes to help facilitiate aspects of the wider Matson Regeneration, in accordance with the adopted SPD and emerging GCP Policy A3 in respect of Estate Regeneration.

A number of further benefits will also be secured by virtue of its mix as an affordable housing led proposal, being delivered by a recognised Housing Provideder. Bromford's committed investment will be long term, seeking to support and develop a stronger community, homes for those in need and opportunities to develop employment and skills.

The location in proximity to the heritage asset is recognised as the principal issue relating to the proposal. The applicant's extensive evidence recognises that, in planning policy terms, development in the setting of the monument will have a 'less than substantial impact'. However, that is an assessment which rationally concludes that it will be at the lowest end of that spectrum. Little remains of the historic setting and the design approach to set the Monument into a generous area of suitably landscaped open space with 'Tier 1' properties around, is an appropriate approach to establishing an appropriate setting from which a large (signficiantly larger than currently) number of people can appreciate it. The delivery of a Heritage Management Plan and Bromford's ongoing involvement and commitment to manage the area will also be beneficial, alongside the deliver of interpretative information.

None of those benefits have been recognised by the Council's Archaeological Officer. The content of the response and approach to the assessment of the proposal has raised a number of significant concerns, as set out above and in the accompanying Heritage Rebuttal. Albeit that it is recongised that the proposal will not give rise to direct impacts on the monument itself. In that context, the assessment of impact on the setting of a scheduled monument is a matter of policy and is not afforded the same statutory protection that a listed building is. There are other examples of this in the City, such as at Llantony Secunda Priory (albeit that also includes listed buildings), where the City has evolved since the medieval period and it now sits in a compact setting within the built area of the City.

The proposal will satisfy the heritage balancing exercise that is required by NPPF paragraph 202, given the extensive public benefits that will be derived from the scheme, when set against the harm. However, as directed by NPPF 199 it remains appropriate to go on to give that limited harm great weight, but in the context of the wider heritage benefits that will be accrued.

In light of the above, the substantial benefits which weigh in favour of the proposed development in respect of: housing delivery generally (significant), affordable housing specifically (very substantial), social (very significant), economic (moderately significant) and environmental (moderate) far outweigh the harm in respect of heritage (significant) and landscape (moderate).

Having regard to the presumption in favour of sustainable development at paragraph 11, planning permission should be granted without delay.

I hope that the above is acceptable. However, please let me know if you have any queries.

Yours sincerely

[redacted]

proj: 19-026 drg: 0202 date: 12/12/22 rev: -

ORIGIN3
Tyndall House
17 Whiteladies Road, Clifton
[redacted]

N

m 10 20 30 40 50
1:500 @ A0 / 1:1000 @ A2

Snow Capel, Matson

Proposed Refuse Collection Strategy

Bromford & EWH

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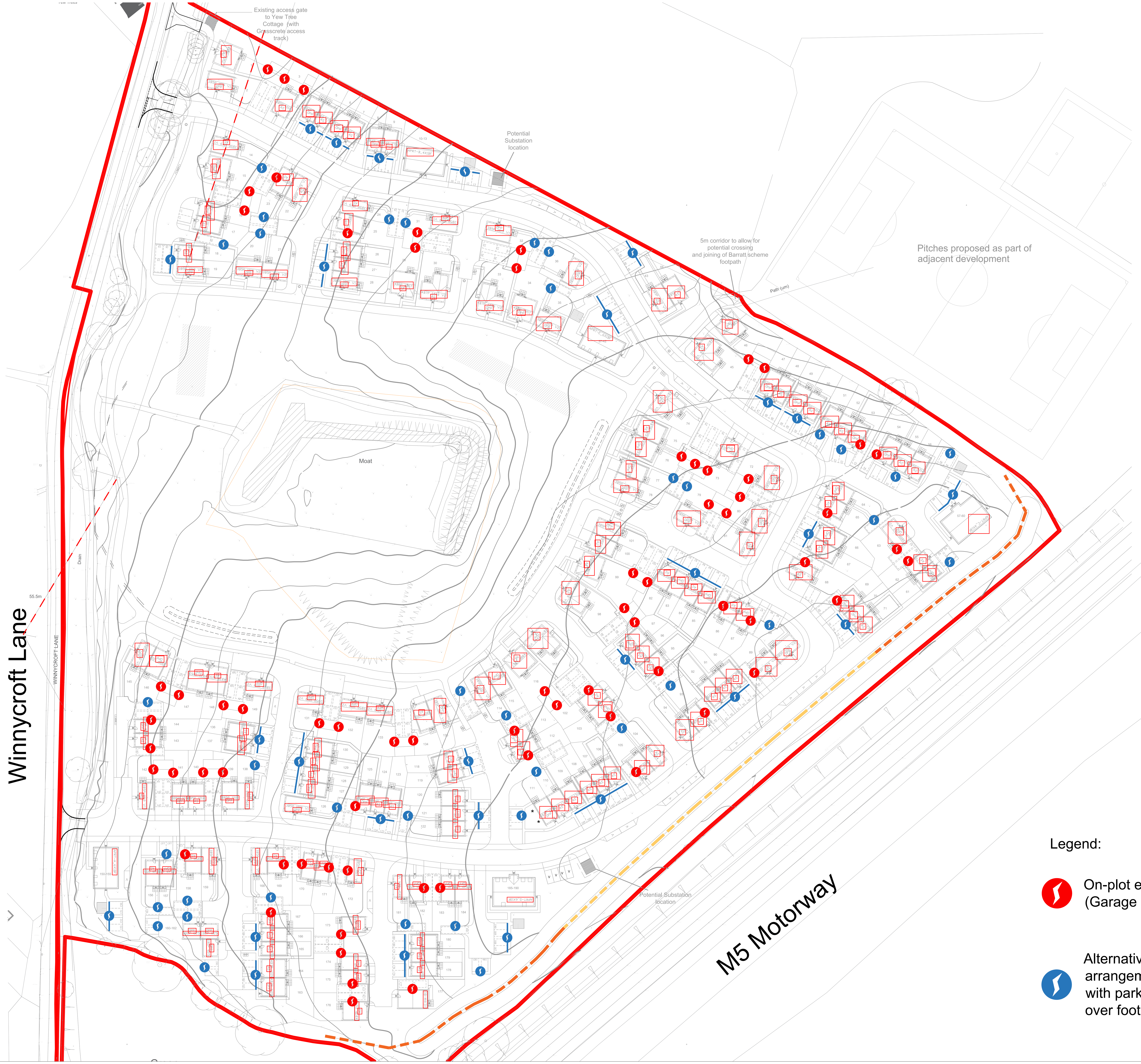

Legend:

On-plot electric vehicle charging point (Garage or driveway arrangement)

Alternative electric vehicle charging arrangement to be required (for plots with parking to the rear, frontage parking over footpath or parking court)

proj: 19-026 drg: 0203 date: 16/12/22 rev: -

ORIGIN3
Tyndall House
17 Whiteladies Road, Clifton
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Snow Capel, Matson

Proposed Electric Vehicle Charging Plan

Bromford & EWH

proj: 19-026 drg: 0205 date: 16/12/22 rev: -

ORIGIN3
Tyndall House
17 Whiteladies Road, Clifton
Bristol, BS8 1PB

[redacted]

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Snow Capel, Matson

Proposed Fire Strategy

Bromford & EWH

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Legend:

CYC Cycle Store for Apartments (4 Spaces)

Private Cycle Storage for Single Dwelling (1.2m x 1.8m Shed)

proj: 19-026 drg: 0207 date: 16/12/22 rev: -

ORIGIN3
Tyndall House
17 Whiteladies Road, Clifton
Bristol, BS8 1PB

[redacted]

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Snow Capel, Matson

Proposed Cycle Storage Strategy Plan

Bromford & EWH

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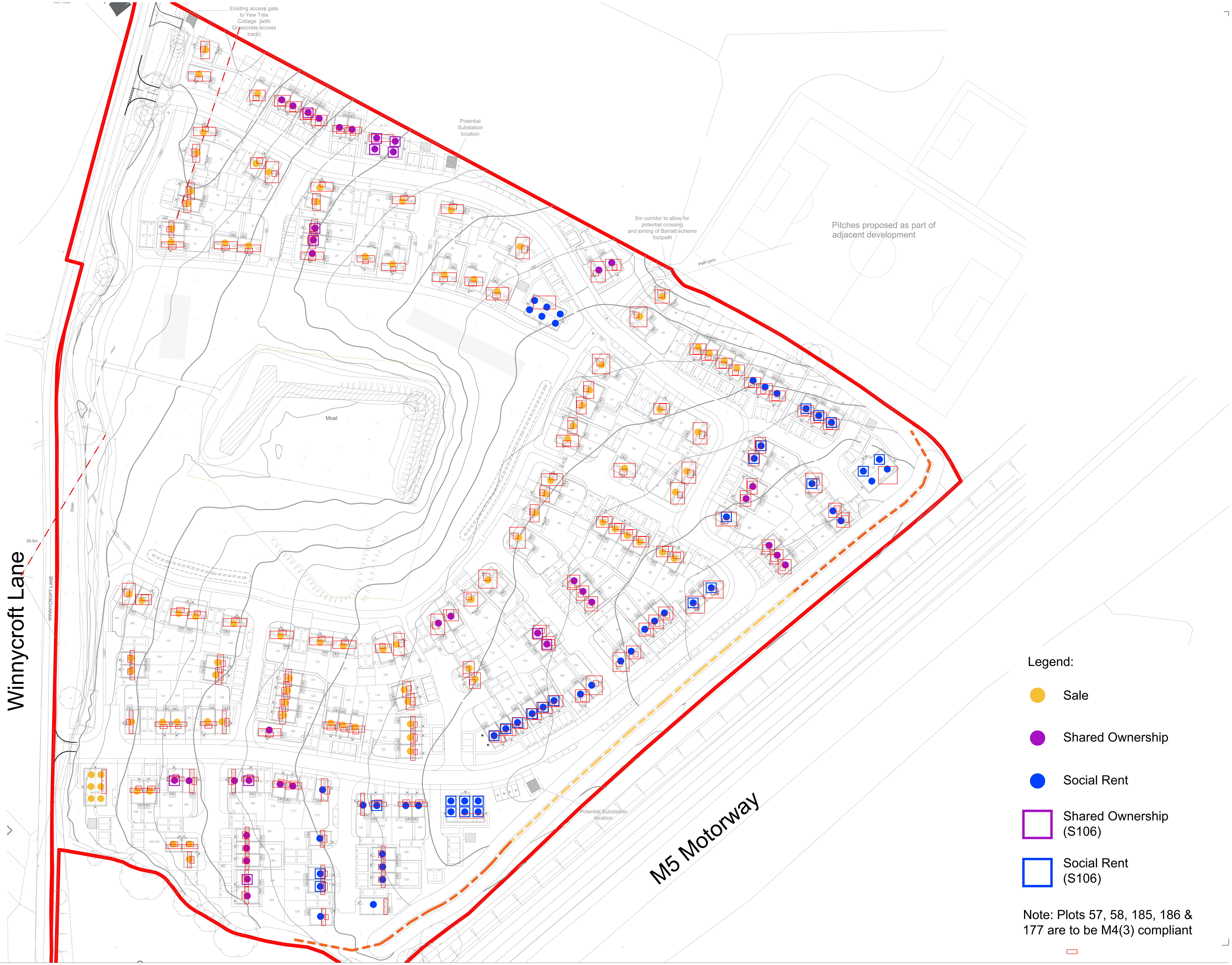

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ORIGIN3
Tyndall House
17 Whiteladies Road, Clifton
Bristol, BS8 1PB

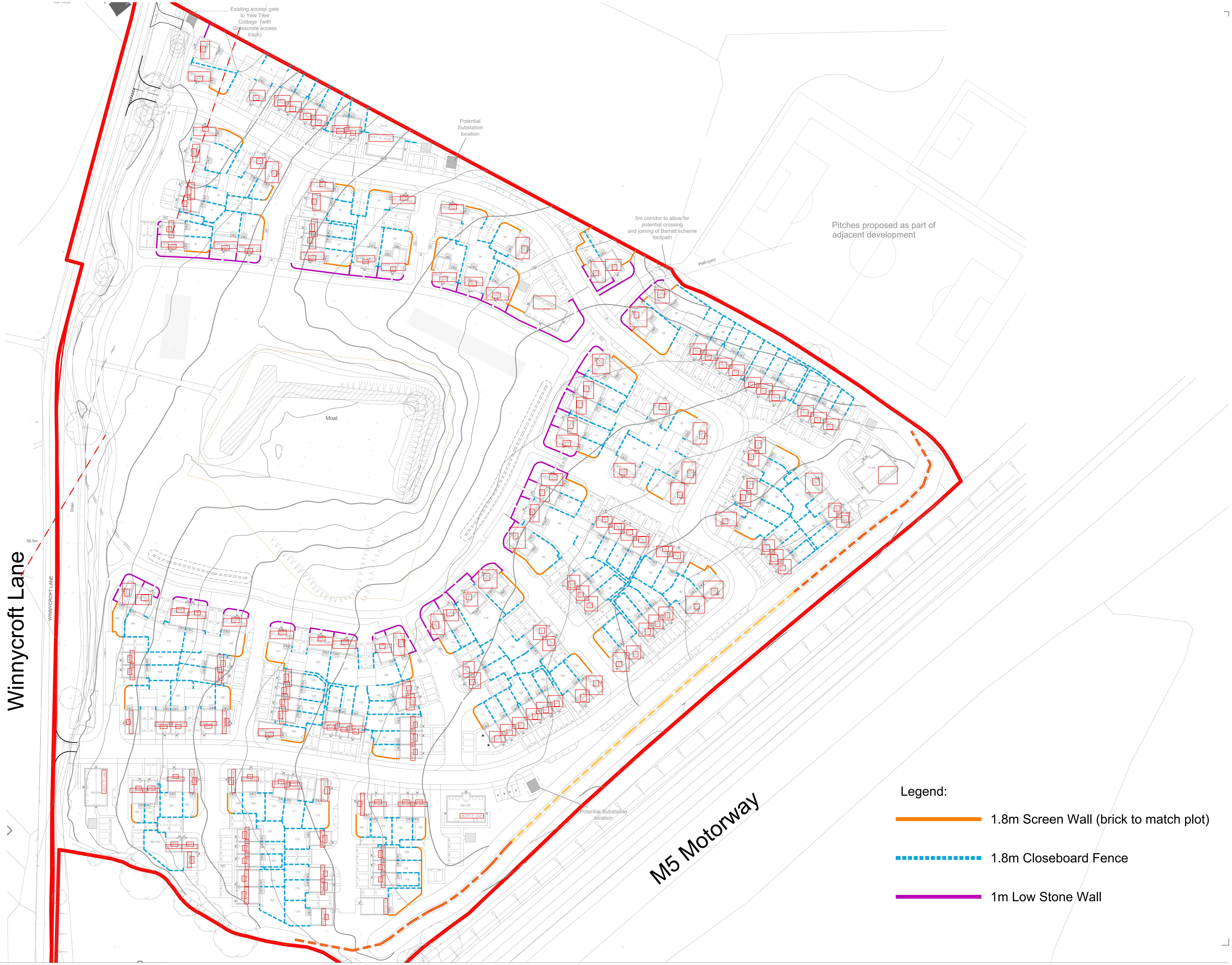
[redacted]

1:500 @ A0 / 1:1000 @ A2

Snow Capel, Matson

Proposed Housing Tenure Plan

Bromford & EWH



proj: 19-026 drg: 0210 date: 16/12/22 rev: -

ORIGIN3
Tyndall House
17 Whiteladies Road, Clifton
Bristol, BS8 1PB
[redacted]

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Snow Capel, Matson

Proposed Boundary Treatment Plan

Bromford & EWH

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proj: 19-026 drg: 0001 date: 11/12/22 rev: -

ORIGIN3

23 Westfield Park,
Redland,Bristol,
BS6 6LT

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Snow Capel, Matson

Site Location Plan

Bromford & EWH

Sketch proposals are for illustrative purposes only & as such are subject to detailed site investigation including ground conditions/contaminants, drainage, design & planning/density negotiations. Sketch proposals may be based upon enlargements of OS sheets & visual estimations of existing site features, accuracy will therefore need to be verified by survey.

m 25 50 75 100 125 1:1250 @ A1 / 1:2500 @ A3

Acoustic fence on Bund (1.5m)

Localised heightening of Acoustic fence on Bund (2m)

Note: Bund to be 1.5m before acoustic fence added

Legend:

- 1.8m Closeboard fence
- 1.8m Screen Wall
- Low Stone Wall
- 0.9m Private Path
- 1.2m Private Path M4(3)
- Private Parking Space
- Visitor Parking Space
- Bin Collection Points
- Proposed Hedge
- Proposed Trees

NOTE: Please refer to detailed landscape design for full landscape proposals

proj: 19-026 drg: 0030 date: 14/12/22 rev: F

ORIGIN3
Tyndall House
17 Whiteladies Road, Clifton
Bristol, BS8 1PB

[redacted]

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Snow Capel, Matson

Proposed Site Plan

Bromford & EWH

proj: 19-026 drg: 0200 date: 16/12/22 rev: -

ORIGIN3
Tyndall House
17 Whiteladies Road, Clifton
Bristol, BS8 1PB
[redacted]

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Snow Capel, Matson

Proposed Areas of Adoption

Bromford & EWH

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Legend:

Adopted Street (5.5m wide carriageway, 2m footpath either side)

Adopted Lane (6-6.8m wide with localised narrowings to 4.8m in places)

Private Drives/Courts (4.1 - 4.6m wide)

proj: 19-026 drg: 0201 date: 16/12/22 rev: -

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ORIGIN3
Tyndall House
17 Whiteladies Road, Clifton
Bristol, BS8 1PB

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Snow Capel, Matson

Proposed Street Hierarchy Plan

Bromford & EWH

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