

The Churchmanor Estates Company and Churchmanor Ltd

A12 Chelmsford to A120 widening scheme

Deadline 7 Submission to the Examining Authority post CAH3 hearing, 27th June 2023

These representations are made The Churchmanor Estates Company plc (ref A12C-AFP355) and Churchmanor Ltd (A12C-AFP354) (related group companies, and hereinafter referred to together as “Churchmanor”) in respect of its interest in development land at Gershwin Park, Witham. The representations are made further to our previous representations, and our appearance at the CAH3 hearing on 27th June 2023. Churchmanor has been the landowners’ consortium development partner since 2010, and has a legal interest in the land by way of a development agreement which, subject to certain conditions being satisfied, gives it a contractual right to acquire land for development from the landowners as required. This legal interest is registered on the various Land Registry titles over which the development agreement applies. Accordingly, Churchmanor is understood to be an Affected Person, and not merely an Interested Party. A copy of the development agreement can be supplied to the Planning Inspectorate on request, but is not submitted herewith due to the fact it contains confidential commercial information, and therefore it would not be appropriate to publish it on the Examination website.

Gershwin Park is a strategic westwards extension to Witham. It is located to the north of the existing A12 and to the east of the existing A12 Witham South junction 21. Several outline planning permissions for a combination of residential, commercial, and community uses have been granted in the past, with the latest outline permission (12/01071/OUT) granted by Braintree District Council in July 2013. The approved masterplan is attached at **Appendix 1**. This consent has been partially implemented via several reserved matters applications; in addition, other full permissions have also been granted for related development not strictly in accordance with the outline permission.

The undeveloped parts of Gershwin Park are also allocated in Section 2 of the Braintree District Local Plan (2013-2033), which was adopted in July 2022. These are broadly in accordance with the outline permission, with the areas of the site remaining to be developed variously allocated for retail and town centre uses, retail warehousing, business park, residential, and informal recreation. The relevant part of the adopted Local Plan map covering Witham South is at **Appendix 2**.

The area affected by the DCO application is clearly allocated for “Business Parks” (blue dots), and part of the “Employment Policy Area” (blue tinting). In the south west corner of Gershwin Park, this allocation directly abuts the current extent of the A12. The site is referred in policy LPP2 of the Local Plan as site reference “h”, and is known therein as the “Maltings Lane Business Park (Gershwin Park)”. By way of explanation, the reference to “Maltings Lane” is a historic one, on the basis the north eastern extent of Gershwin Park (when originally proposed) abutted Maltings Lane, and therefore (at the time) was the point at which the strategic extension to Witham commenced. Policy LPP2 sets out the new strategic employment sites within the District, and it is clear Gershwin Park forms an important contribution to the total land supply. It is also specifically referred to in policy LPP6, again as “Maltings Lane”.

From our engagement with National Highways’ agent to date, we do not believe the planning status of the land as outlined above is in dispute.

Specifically, the red line around the draft compulsory purchase order and DCO application affects the following developable parts of Gershwin Park within the area allocated in the Local Plan for Business Parks:

- an area known as “plot 1”, and extending to approximately 1.27 hectares, immediately to the north of the existing A12, west of Gershwin Boulevard, and south of Griggs Way. On National Highway’s land acquisition plans, plots 7/14a, 7/16h, and 7/16f (part) are to be permanently acquired from plot 1, together with 7/16e (required for the acquisition of service rights only). The plots to be acquired amount to approximately 0.39 hectares, or 30% of plot 1.
- an area of land known as “plot 28” extending to approximately 0.8 hectares, immediately to the south of Chipping Hill Primary School, the north of Gershwin Boulevard, and west of Owers Road. On National Highway’s land acquisition plans, plots 7/16b, 7/16c, and 7/17c are to be acquired for temporary occupation as a recovery yard. For the avoidance of doubt, this area is not included within Churchmanor’s development agreement.

The above are shown on the extract from National Highway’s latest Land Plan, submitted to the Examination as REP6-015, at **Appendix 3**.

In addition to the above, the landowners also own further plots of land affected by the DCO application (7/16a, 7/16d, 7/16f (remainder), 7/16g, 7/17a, and 7/17d). These comprise verge/public access land alongside Gershwin Boulevard. For the avoidance of doubt, they are not regarded as developable land, and are also not included within Churchmanor’s development agreement.

The red line also borders a developable part of Gershwin Park (known as “plot 18”) to the south Hatfield Road, west of Gershwin Boulevard, north of Griggs Way, and east of the Motus Mercedes premises. It appears to us that the red line stops at the back of the existing footway, and therefore plot 18 is not affected by the DCO proposals. However, this is being raised at the Examination now due to a holding objection now made by National Highways until 29th September 2023 in relation to a planning application Churchmanor has made to Braintree District Council (23/00827/FUL) on plot 18. National Highways have not yet commented on whether they have any actual objection to the proposed development on plot 18, and therefore the landowners and Churchmanor need to reserve their position in this regard.

It is important to reiterate Churchmanor understands the importance of the A12 widening scheme, and do not object to the principle of the development. As a result, Churchmanor (along with the landowners’ representatives Strutt & Parker, and Ceres Property) has engaged with National Highways’ agents in a positive and constructive manner as soon as the original s48 notices were issued in June 2021, in order to identify and attempt to mitigate potential conflicts with the allocated and consented development land as early as possible. Our detailed plans for the development of plot 1, including drainage arrangements, were shared in full electronic form with National Highways well before the DCO process commenced in December 2021/January 2022, to allow them to be overlaid onto the A12 proposals and conflicts identified.

However, despite that engagement, and repeated undertakings from National Highways that they would investigate mitigation options, no meaningful response was received from National Highways until a brief confirmation on 24th April 2023 that no changes to the design of the DCO scheme would be made. As a result of the extended period of uncertainty, Churchmanor has had no option (due to its contractual obligations to the landowners under the development agreement, which National Highways were warned about on numerous occasions) to draw up and submit a detailed planning application to Braintree District Council for the development of plot 1 as it currently stands, within the

current extent of the Business Park allocation for this part of Gershwin Park as shown on the Local Plan map, and before confirmation of the DCO. This has been registered by Braintree District Council with reference 23/00836/FUL, for the development of 18 no. business and light industrial units, totalling 33,900 sqft gross internal area on the ground floor.

A plan showing the location of plot 1 and the layout of this application overlaid with the DCO red line boundary is attached at **Appendix 4**. From this it is clear that:

- 5 units totalling 13,000 sqft (38% of the floorspace of proposed scheme) are directly affected.
- When the site is redesigned to take account of the DCO boundary, it is likely that once boundary landscaping and surface water drainage is considered, the loss will be closer to 45-50% of floorspace, resulting in a significant injurious affection claim for the retained land, on top of compensation for land acquired compulsorily. Churchmanor will in addition have a separate claim for loss of development profit.

Accordingly, we must continue to object to the scheme insofar as it affects Plot 1, for the reasons stated below:

- The proposals would substantially impact on consented and allocated development land, firstly by compulsorily acquiring land, and secondly by way of injurious affection, as a result of the remaining land being very irregularly shaped, and some being rendered undevelopable. In particular, the eastern end of plot 1 would taper into a triangular point, and the southern boundary would feature several “steps”. This is we are told by National Highways as a result of the need to a) provide an emergency refuge on the northbound carriageway, resulting in the land required “stepping in”, and b) the need to provide drainage to prevent run off onto the A12 from the surrounding land. These features are shown at **Appendix 5** on the extract from National Highway’s latest General Arrangement Plans (Part 3), presented to the Examination as REP6-019.
- The above matter was highlighted to National Highways over 18 months ago, well before the DCO application was made. Despite extensive engagement with National Highways, regular undertakings from them to investigate the matter, and chasing for updates, no change to the design of the scheme has been made. This was only confirmed to Churchmanor on 24th April 2023, almost two months after the CAH1 hearing, and 3 days before the CAH2 hearing. Whilst it is appreciated space needs to be made for drainage to capture run off from the adjacent land, together with the proposed emergency refuge, no proper explanation has been provided as to why:
 - the current design requires such a large buffer between the road alignment and edge of the land take
 - the retaining wall proposed immediately to the west cannot be extended eastwards to reduce the extent of embankment around the emergency refuge (and therefore land take) needed, as per our suggestion to mitigate the impacts of the scheme
 - the emergency refuge cannot be moved a very short distance to the east where it would run alongside, and make use of, otherwise undevelopable land, as per our suggestion to mitigate the impacts of the scheme
 - as appears to be the case with adjoining parcels of land, the drainage cannot be run much “tighter” to the boundary, as per our suggestion to mitigate the impacts of the scheme

Essentially, the only response we have received was simply that National Highways had decided it would not make those changes.

- No assessment appears to have been made of the costs of making such an adjustment, versus the compensation that would need to be paid for land purchase, injurious affection, and loss of development profit. Without this, it is impossible to say whether best value is being obtained for public money.
- No account appears to have been taken of the economic effects of the loss of consented development land, nor the need to replace it to maintain a suitable supply within Braintree District.
- We have asked for National Highways to confirm it will make an on account payment of reasonable professional fees to allow a re-design of the plot 1 layout and resubmission of the planning application to be made if the proposed land take boundary is confirmed, but to date no such confirmation has been received. These costs will include fees for the architect, civil engineer, landscape architect, mechanical and electrical engineer, BREEAM assessor, air quality assessor, ecologist, acoustician, and highway engineer. We would anticipate these costs to be in region of £50,000, plus the cost of the new planning application fee.
- Despite requests for confirmation, no detail has been provided to date of the extent of services acquisition needed in parcel 7/16e, so we are unable to understand whether this parcel is in fact capable of beneficial use once the services are installed, or is effectively sterilised and therefore should be included within the land required for permanent acquisition.
- We note and do not disagree with the comments made in the CAH3 hearing by the Valuation Office that the parties are in broad agreement informally as to the rate per unit area proposed to be paid for any development land that is to be compulsorily acquired. However, compulsory purchase should always be a final fallback following all attempts to mitigate the quantum of land needed, and we object on the basis that the land take proposed still appears to be excessive and unnecessary.

We have a further objection to make in respect of Plot 18. Plans showing the location and layout of the proposed development for which the planning application referred to above is attached at **Appendix 6**.

- This site is not within the red line of the DCO. We have submitted a planning application to Braintree District Council (23/00827/FUL) for the development of 3 no. retail units, 2 no. drive thru units, and an ultra-rapid electric vehicle charging station. National Highways made a holding objection on 15th May 2023 that the application should not be determined before 29th September 2023, noting that:

“We are currently reviewing the documentation supporting this planning application and have not yet reached a view if the development proposals will have a material impact on the operation of the Strategic Road Network. Consequently, it is requested that this application is not determined before 29 Sept 23. If we are in a position to provide a formal response earlier we will withdraw this recommendation accordingly. It is noted that the A12 construction red line boundary is close to this site.”

National Highways should be capable now of confirming the development proposals on this plot do not fall within the red line of the DCO, nor affect the DCO proposals. If that is the case, there is no justification for a response time of up to four and a half months – it is not uncommon for National Highways to require a little extra time to consider applications, but the time proposed is excessive. We would be very concerned if National Highways now regard

any part of plot 18 as falling within the DCO boundary, as they have not raised this point at any point in the last 2 years since the issue of the original s48 notices.

We trust these comments set out our current objections clearly to the Inspector, but we would be pleased to expand further or clarify any point which remains unclear.

Matt Cloke

Development Director

3rd July 2023

Appendix 1 – approved masterplan for Gershwin Park (planning consent 12/01071/OUT)

INDICATIVE FLOOR AREAS SCHEDULE

UNIT	BUILDING	GROSS INTERNAL AREA	NETT SALES AREA
14A	NON FOOD RETAIL		
14B	NON FOOD RETAIL		
14C	NON FOOD RETAIL		
15	FOOD RETAIL		990m ²
16	PUBLIC HOUSE /FAMILY RESTAURANT	680m ²	
18	NON FOOD RETAIL		
19	NURSERY	459.4m ²	
21	NON FOOD RETAIL		450m ²
26A-E	RESIDENTIAL	63 FLATS TOTAL	
27	NEIGHBOURHOOD FOOD STORE		280m ²
31	PAVILION	139m ²	
OFFICE BLOCKS			
1A-L	OFFICES	8485.6m ² TOTAL	
17A-D	OFFICES		
20A-H	OFFICES		
28A-H	OFFICES		

TOTAL OF LAND ASSOCIATED WITH SPORTS & LEISURE USE = 4.75 ACRES OR 1.92 HECTARES
 TOTAL OF LAND ASSOCIATED WITH B1 OFFICE USE = 9.5 ACRES OR 3.84 HECTARES
 TOTAL (COMBINED) FOOD NETT SALES AREA = 1270m²
 ALL AREAS ARE APPROX ONLY

To be read in conjunction with all other drawings, engineers & specialist drawings and specifications. All dimensions are to structural elements only unless otherwise stated. Any discrepancies between drawings to be reported to the architect before commencement of affected work. Dimensions marked * to be checked on site. This drawing is copyright of the architect and shall not be reproduced without his permission.
 REVISIONS :-



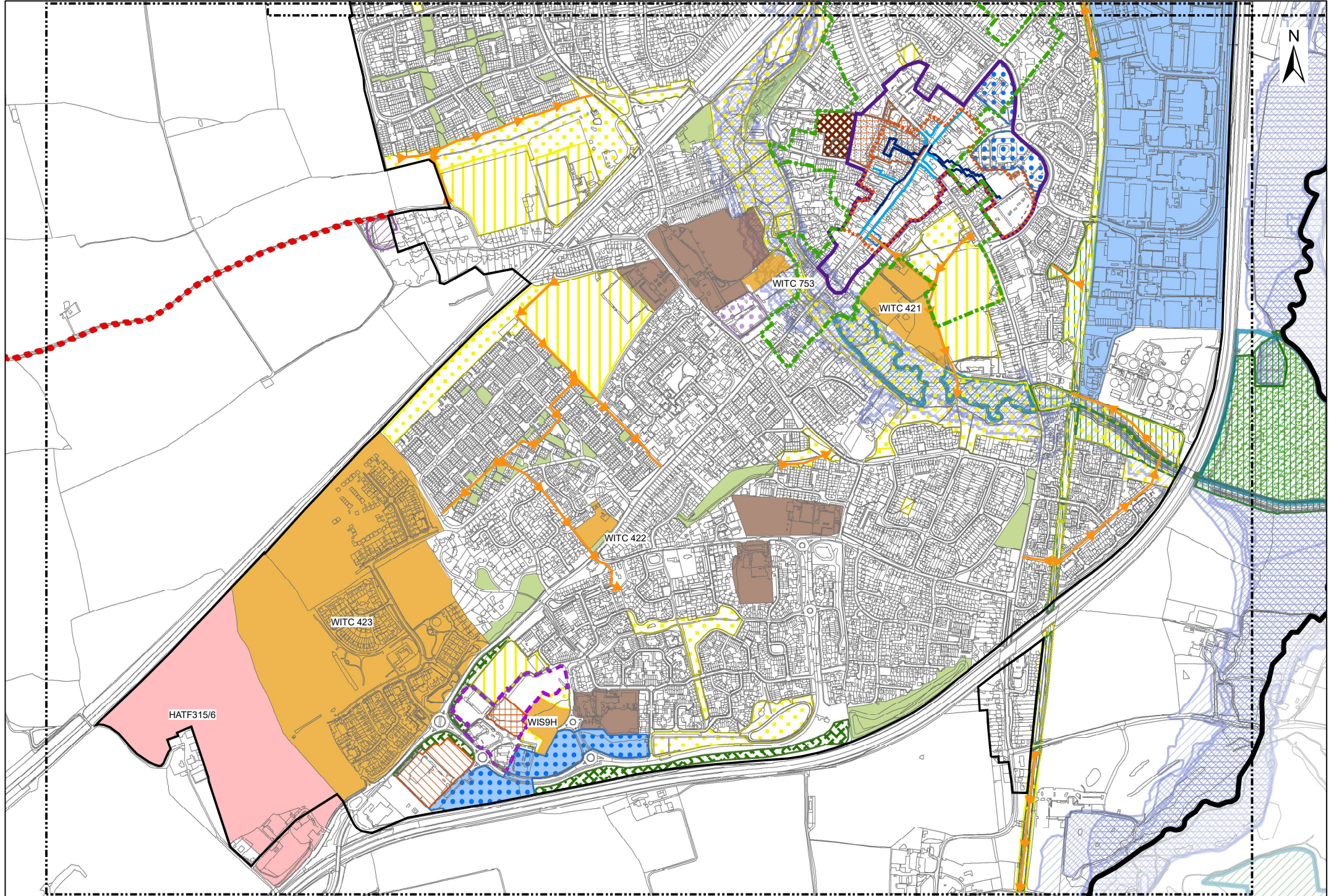
ILLUSTRATIVE RESIDENTIAL SCHEME SHOWN
 MALTINGS LANE, WITHAM
 MASTERPLAN A
 DATE 06-10-11 SCALE 1:2500@A3DRG No.1277-L1000 REV. P40
 CAD REF No.1277-L1000 DRAWN BY DP CHECKED CJ

BARBER ~ CASANOVAS ~ RUFFLES
 CHARTERED ARCHITECTS

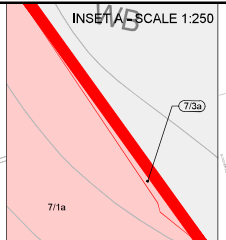
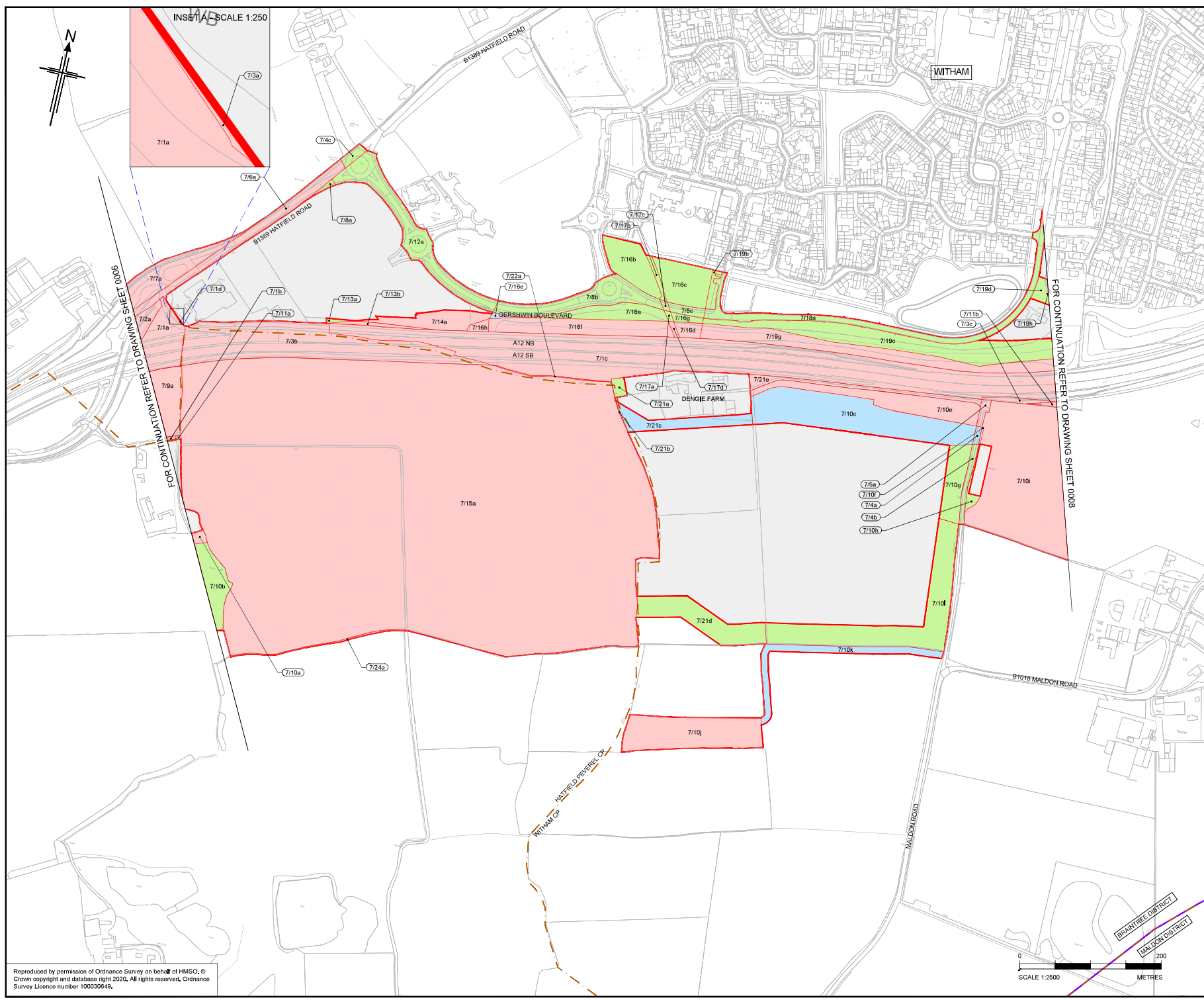
Appendix 2 – Braintree Local Plan Part 2, policies map for Witham South

Key: Local Plan 2013-2033

	District Boundary		Designer Outlet Centre		Formal Recreation
	Inset Map		Strategic Growth Location		Informal Recreation
	Development Boundary		Residential Site 10 or more Dwellings		Visually Important Space
	Conservation Area		Specialist Housing		Structural Landscaping
	Road Proposal		Proposed Gypsy/Travellers Site		Local Wildlife Site
	Halstead Bypass Corridor		Business Parks		Cemetery/Churchyard
	Protected Lanes		Employment Policy Area		Local Nature Reserve
	Cycleway		Comprehensive Development Area		Green Buffer
	Local Centre		Special Employment Area		Suitable Accessible Natural Greenspace
	District Centre		Vehicle Storage		Site of Special Scientific Interest (SSSI)
	Town Centre		Transport Related Policy Area		Historic Parks and Gardens
	Primary Shopping Area		Education		Scheduled monument
	Primary Frontage		Car Park		Flood Zone 2
	Secondary Frontage		Community Uses		Flood Zone 3
	Retail & Town Centre Uses		Leisure and Entertainment		Flood Zone 3B
	Retail Warehousing		Allotments		

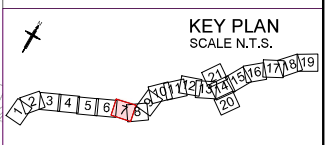


Appendix 3 – Extract from National Highway’s latest Land Plan, REP6-015



- NOTES**
1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE STATED.
 2. THE BASE MAPPING IS BASED ON ORDNANCE SURVEY (OS) DATA.
 3. ALL EASEMENTS, SERVITUDES AND PRIVATE RIGHTS ARE PROPOSED TO BE EXTINGUISHED ON LAND THAT IS TO BE ACQUIRED UNLESS STATED OTHERWISE IN THE BOOK OF REFERENCE.
 4. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL OTHER PLANS AND DOCUMENTATION, IN PARTICULAR THE WORKS PLANS [TR010060/APP/2.2] AND BOOK OF REFERENCE [TR010060/APP/4.3]

- LEGEND**
- ORDER LIMITS
 - PERMANENT ACQUISITION OF ALL INTERESTS IN LAND
 - LAND TO BE USED TEMPORARILY
 - LAND TO BE USED TEMPORARILY AND NEW RIGHTS TO BE ACQUIRED PERMANENTLY
 - PERMANENT ACQUISITION OF ALL INTERESTS IN THE AIRSPACE OVER LAND
 - PERMANENT ACQUISITION OF ALL INTERESTS IN THE SUBSOIL
 - LAND NOT SUBJECT TO POWERS OF COMPULSORY ACQUISITION OR TEMPORARY POSSESSION
 - LAND NOT SUBJECT TO POWERS IN THE ORDER
 - PLOT NUMBERS
 - ADMINISTRATIVE BOUNDARY
 - PARISH BOUNDARIES



P02	28/03/2023	DEADLINE 4 UPDATE	GJ	CC	KC	ND
P01	20/07/2022	FINAL FOR DCO SUBMISSION	GJ	CC	KC	ND
Rev	Rev. Date	Purpose of revision	Drawn	Checked	Rev'd	Approved
Development Consent Order Number			Development Consent Order Drawing Number			
TR010060			TR010060/APP/2.7			

Client: **national highways**

Project: **A12 CHELMSFORD TO A120 WIDENING SCHEME**

Drawing title: **LAND PLANS SHEET 07 OF 21**

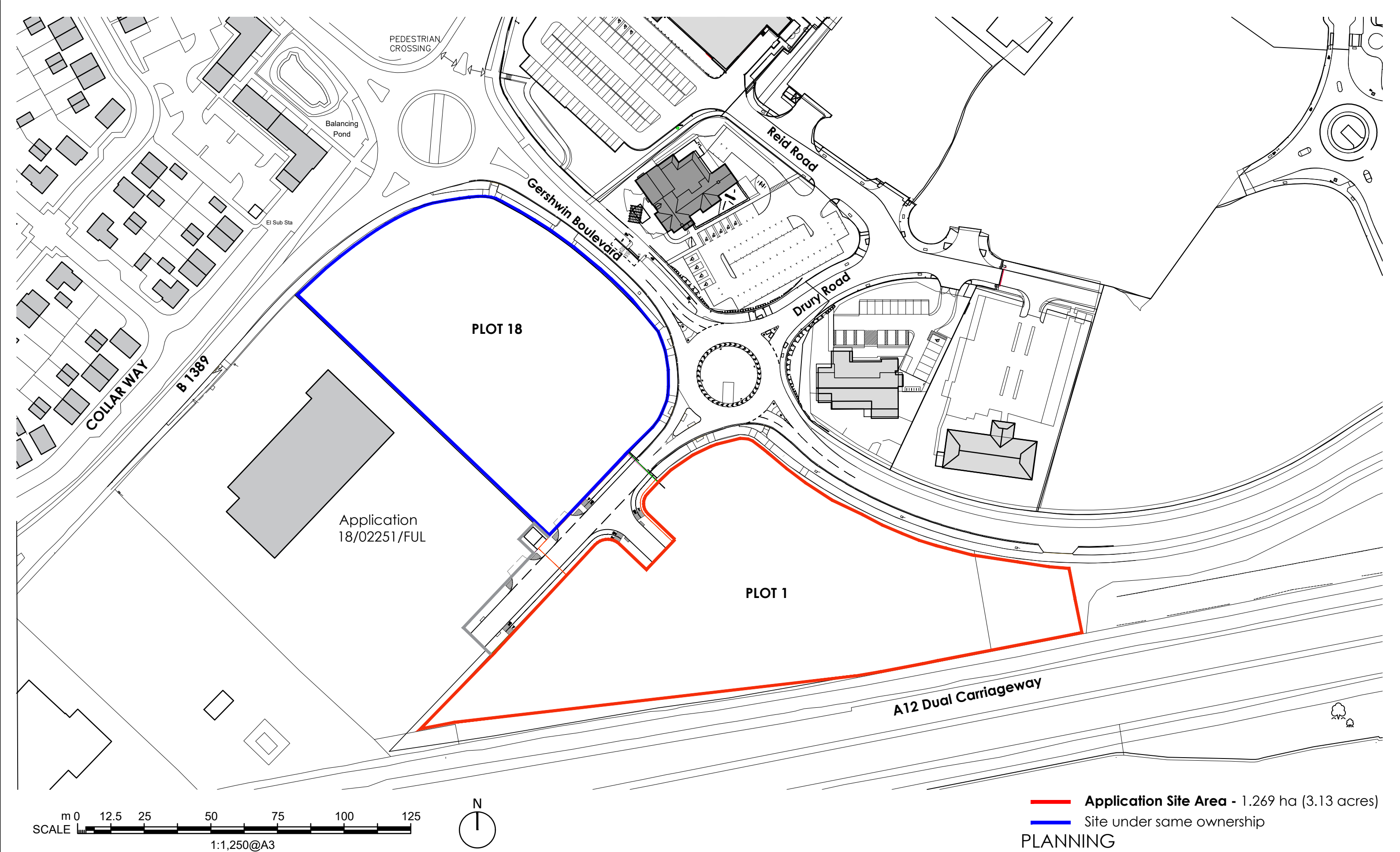
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Purpose of issue	DCO EXAM	
State Code	Statutory Powers and Procedures	
Project Stage	PCF4	Drawing status
Scale at A1 (841x594mm)	1:2500	S4
Jacobs No.	B36601D1	Rev
Client no.	HE551497	P02
Drawing number	Pin	Originator
HE551497 - ARD - LDC - SCHW		
	Location	Volume
	Role	Number
	-DR-	X-0307



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Appendix 4 – plot 1, Gershwin Park – location plan, and submitted planning application layout with DCO boundary overlaid



— **Application Site Area - 1.269 ha (3.13 acres)**
— Site under same ownership
PLANNING

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Revisions
 A- ---- --/-- --

Drawing Title
 Site location Plan
 Project
 Plot 1 - Gershwin Park, Witham

 Client

 CAD Reference: 1277- A-099

Drawing Number
 1277- 1885-PL099
 Scale
 1:1250
 Date
 Aug 2022
 Drawn by: MRA

 Checked by: MRA

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RIBA
 Chartered Practice

PARKING

83 Large bay size (5.5m x 2.9m)
 100 Standard spaces previously
 5 Accessible

**88 TOTAL SPACES
 105 TOTAL SPACES PREVIOUSLY
 (OVERALL LOSS OF 17)**

EV charging @1 no. wall mounted space per unit - Units 1-16 and 2 no. wall mounted spaces for Units 17 & 18.

CYCLES

32 Cycle Staff spaces
 16 Cycle Visitor spaces

48 Total cycle spaces

MOTORCYCLES

6 no. spaces

KEY

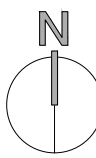
- EL:+34.65 Existing Site level
- PL:+34.95 Proposed Site level
- Roof Falls
- - - Roof skylights
- Indicative zone for solar panels on the roof
- Extent of A12 Widening



Note: Landscaping shown indicative refer to Landscape Consultants drawings for full details



Scale 1:600 @A3



Revisions
 A - All standard parking spaces changed to large bay size; 2.9m x 5.5m, subsequent reduction of 17 spaces. Access road to units 9 - 16 subsequently moved further south. More trees and planting areas added where possible - 12/06/23 RU
 B - Extent of A12 widening added - 26/06/23 JMP

Drawing Title
 SITE PLAN/ROOF PLAN/BLOCK PLAN
 Project
 WITHAM - PLOT 1
 BUSINESS/ LIGHT INDUSTRIAL UNITS
 Client

Date 08-09-2022

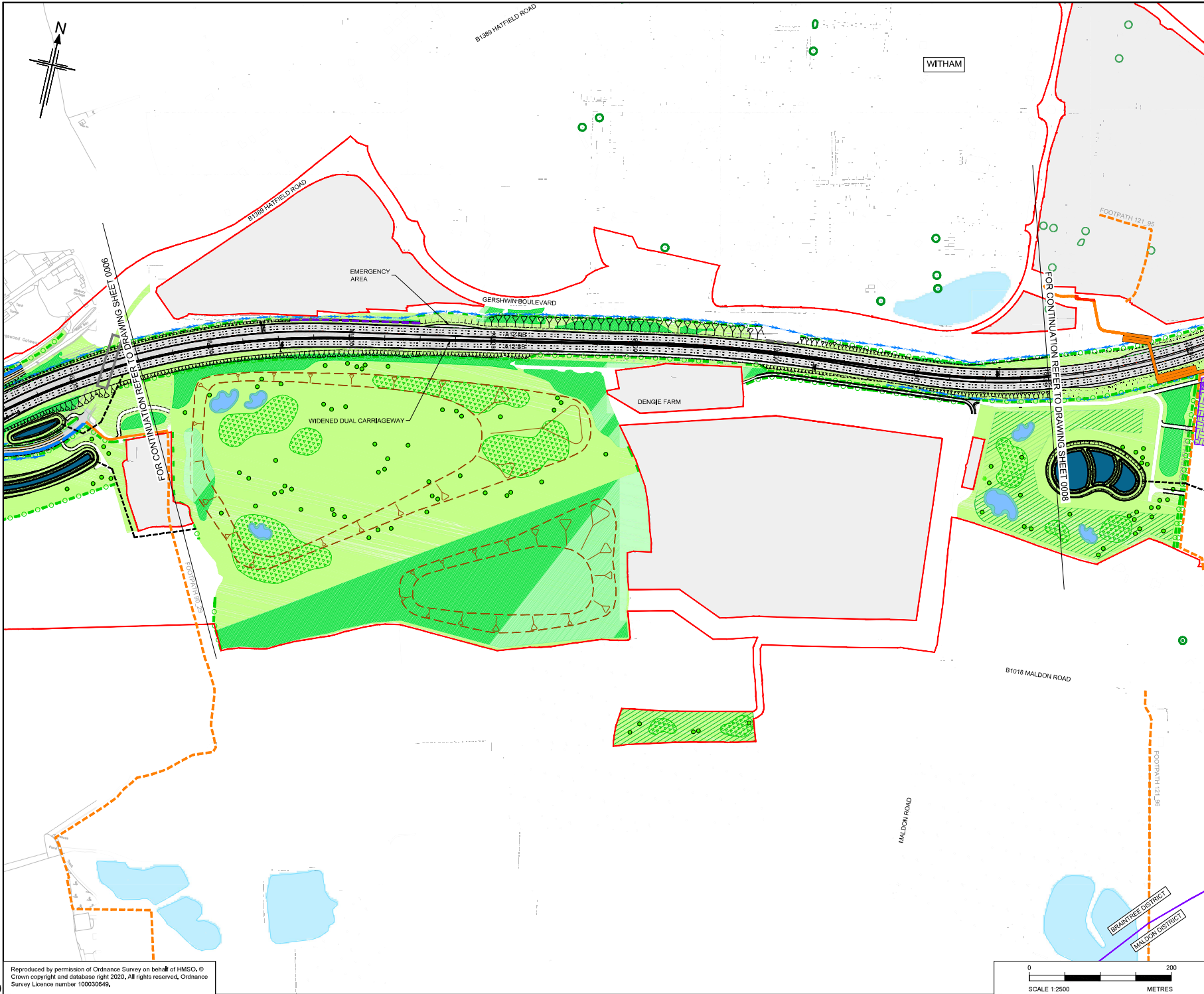
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 Revision:

Scale: 1:600
 Drawn by: JH/MRA
 Checked by: CJ

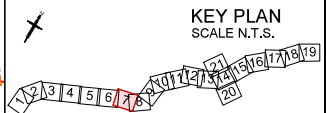
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**Appendix 5 – Extract from National Highway’s latest General Arrangement Plans (Part 3),
REP6-019**



- NOTES**
1. ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE STATED.
 2. THIS PLAN SHOULD BE READ IN CONJUNCTION WITH THE GENERAL ARRANGEMENT PLANS, LEGEND AND OTHER APPLICATION DOCUMENTS IN PARTICULAR SCHEDULE 3 OF THE DEVELOPMENT CONSENT ORDER.
 3. THE BASE MAPPING IS BASED ON ORDNANCE SURVEY (OS) DATA.



Rev	Rev. Date	Purpose of revision	Drawn	Checked	Rev'd	Apprv'd
P01	01/08/22	FINAL FOR DCO SUBMISSION	AE	GC	GA	DT
P02	25/05/23	DCO CHANGE	AE	LH	RM	RM

Development Consent Order Number: TR010060
 Development Consent Order Drawing Number: TR010060/APP/2.9



Client: national highways
 Project: A12 CHELMSFORD TO A120 WIDENING SCHEME

Drawing title:
GENERAL ARRANGEMENT
CH. 18300 TO 19600/20000
SHEET 7 OF 21

Regulation	REGULATION 8(1)(K)
Purpose of issue	DCO EXAM
State Code	Statutory Procedures and Powers
Project Stage	PCF 4
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Jacobs No.	B36601D1
Client no.	HE551497
Drawing number	P02

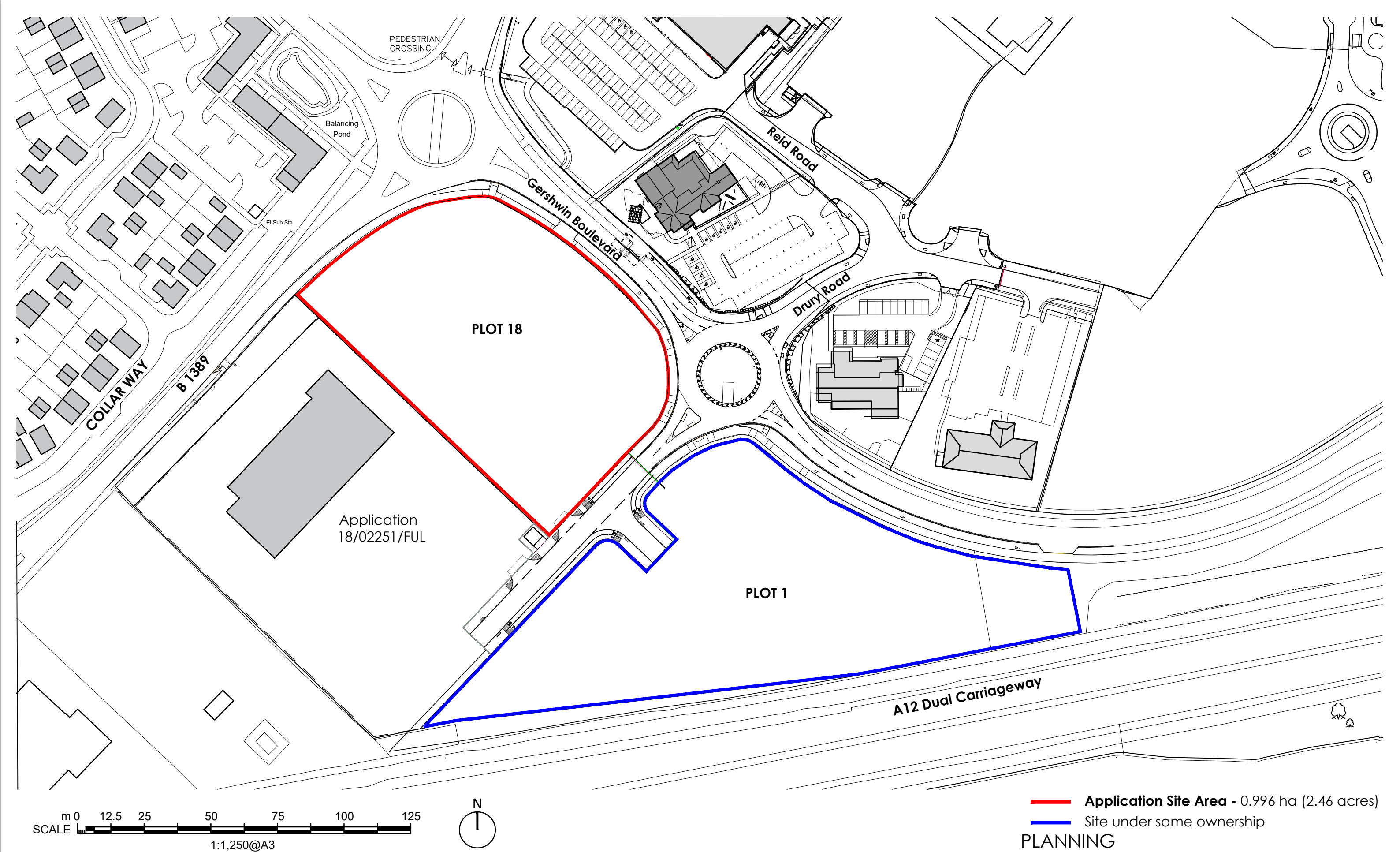
HE551497 - JAC - LDC - SCHW - DR - C - 0027



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Appendix 6 – plot 18, Gershwin Park – location plan, and submitted planning application layout



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Revisions
 A- ---- -/-/- -

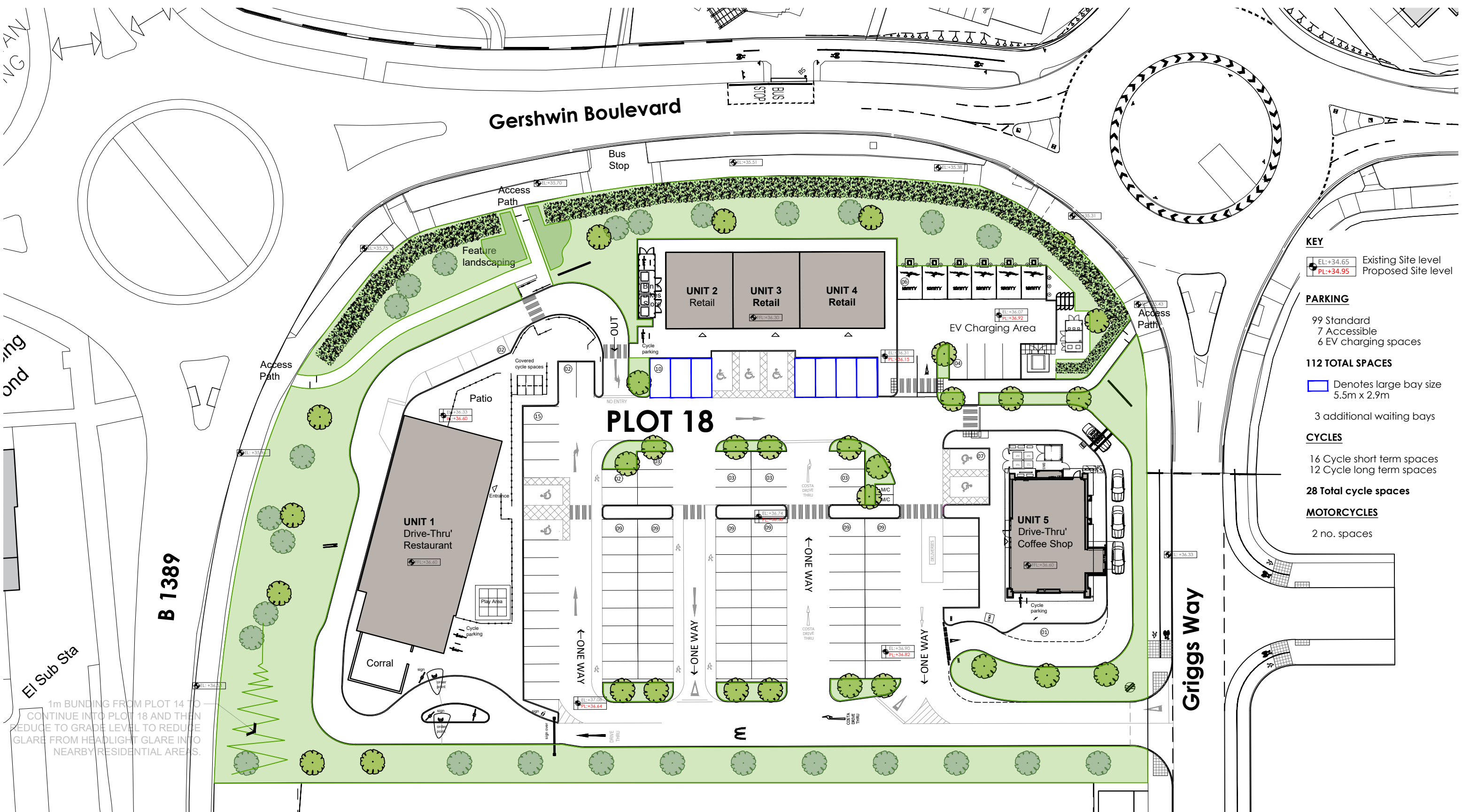
Drawing Title
 Site location Plan
 Project
 Plot 18
 Gershwin Park, Witham
 Client

 CAD Reference: 1792-PL01

Drawing Number
 1792-PL01
 Scale
 1:1250
 Date
 Aug 2021
 Drawn by: CP
 Checked by: MRA

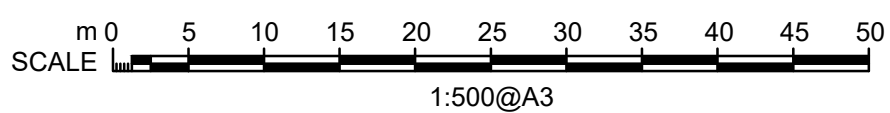
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- KEY**
- EL:+34.65 Existing Site level
 - PL:+34.95 Proposed Site level
- PARKING**
- 99 Standard
 - 7 Accessible
 - 6 EV charging spaces
- 112 TOTAL SPACES**
- Denotes large bay size 5.5m x 2.9m
 - 3 additional waiting bays
- CYCLES**
- 16 Cycle short term spaces
 - 12 Cycle long term spaces
- 28 Total cycle spaces**
- MOTORCYCLES**
- 2 no. spaces

1m BUNDING FROM PLOT 14 TO CONTINUE INTO PLOT 18 AND THEN REDUCE TO GRADE LEVEL TO REDUCE GLARE FROM HEADLIGHT GLARE INTO NEARBY RESIDENTIAL AREAS.



Note: Landscaping shown indicative refer to Landscaping Consultants drawings for full details

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Revisions
A- Updated to Mc Donalds latest model 10/02/23 MRA

Drawing Title
Proposed Site Plan
Project
Plot 18
Gershwin Park, Witham

Client

CAD Reference: 1792-PL03

Drawing Number
1792-PL03

Scale
1:500

Date
Sept 2021

Drawn by: CP

Checked by: MRA

PLANNING

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