
Committee Date:	12/12/2013	Application Number:	2013/04225/PA
Accepted:	18/09/2013	Application Type:	Full Planning
Target Date:	18/12/2013		
Ward:	Selly Oak		

Former Selly Oak Industrial Estate, Elliott Road, Selly Oak, Birmingham,
Erection of 25 no. houses and 18 no. flats with associated roads, parking
and landscaping

Applicant: William Davis Limited
Forest Field, Forest Road, Loughborough, Leicestershire, LE11 3NS
Agent: Stephen George & Partners
170 London Road, Leicester, LE2 1ND

Recommendation

Approve Subject To A Section 106 Legal Agreement

Report Back

1. Background

1.1 On 17th October 2013 your Committee recommended the above development for approval, subject to a Section 106 legal agreement. The legal agreement comprised of:-

- i) A minimum of 16 residential units for affordable rent (35% of the total units);
- ii) A financial contribution of £84,010.69 towards education provision in Selly Oak District;
- iii) A financial contribution of £107,600 towards public open space provision in Selly Oak Ward; and
- iv) A financial contribution of £62,318.61 towards canalside/public realm improvements in the vicinity of the development.

1.2 Since your Committee recommendation, the applicant had agreed a draft legal agreement, but has now stated that the scheme would be undeliverable with the financial contributions towards education, public open space and canalside/ public realm improvements. The explanation given is that the financial package drawn up with Midland Heart was agreed some time ago, before the other Section 106 contributions became apparent.

1.3 The applicant intends to deliver the scheme for Midland Heart Housing Association and both parties have entered into a contract to provide the 43 affordable housing units. Subsequently, the total development costs of the scheme are equal to the borrowing, grant funding and cross subsidy from existing rental income which the Housing Association derives. Midland Heart have requested that their borrowing figures are kept confidential, however the scheme is subject to a grant from the Homes and Communities Agency (HCA) of £1,247,000 as part of their affordable housing programme and the scheme would have to comply with the HCA's enhanced design and quality standards, with rents also regulated.

2. Justification

- 2.1 The developer now plans to amend the majority of planning obligations, removing contributions of £254,000. However, it should be noted that the scheme still offers 43 units for affordable housing, 100% of the development. This level is well in excess of the 35% (16 units) required in the adopted UDP and would now be secured in an amended Section 106 legal agreement.
- 2.2 Although the renegotiation proposed is a significant reduction in the value of the monetary obligation offered, your Committee are directed to the fact that the delivery of the scheme is already dependant on a grant from the HCA, effectively central government, of over £1.2 million. This grant adds to build costs as the HCA requires the development to be built to its own design and quality standards along with Secure by Design, Lifetime Homes and Code level 4 for Sustainable Homes. This effectively adds approximately £6,500 to the build cost of each unit, an overall increase of £279,500 in total build cost to provide these enhanced measures.
- 2.3 To further contribute to the delivery of the scheme, Midland Heart have undertaken significant borrowing well in excess of the HCA subsidy and have stated that they cannot afford further contributions. Therefore, even with the amended proposals, the applicant states that the scheme is already at its very limit in terms of viability and ultimately, will not be developed in its current form if the financial contributions are maintained. As a fallback position, there is a recently renewed consent to deliver a 331 bed student scheme on the site (2013/06055/PA).
- 2.4 Your Committee may be aware of the adjacent scheme on Elliott Road (2010/01303/PA), for 69 residential units, also developed by Midland Heart, which provides 100% affordable housing (only 35% was secured through the S.106), plus which contributed £90,000 towards canal improvements and £164,000 towards public open space. These figures, combined with the £1.7 million towards schools places, £96,000 towards the canal towpath, £70,000 towards sports pitches on Selly Park Recreation Ground and 3.99 ha of public open space in the Section 106 agreement associated with the hospital site to the south (2012/02303/PA), means that the loss of these obligations, although unfortunate, is still acceptable in order for the scheme to deliver all 43 new houses and flats for affordable rent.
- 2.5 In other schemes where the development delivers a high proportion of the total as affordable housing, most notably BMHT schemes, a similar approach has been taken on financial obligations for public open space and schools places.
- 2.6 Therefore, it is recommended that your Committee recommend the scheme for approval, subject to completion of a Section 106 legal agreement to secure 100% of the residential units for affordable rent across the site.

3. Recommendation

- 3.1 i) That consideration of application 2013/04225/PA be deferred pending completion of a S106 legal agreement to secure the following:
- a) The provision of 43 units (100% of the development) for Affordable Rent.
 - ii) That payment of a monitoring and administration fee associated with the legal agreement of £1,500 be secured.

iii) In the absence of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 17th December 2013, planning permission be REFUSED for the following reason:

The development does not include the provision of affordable housing within the Selly Oak Ward. The development would therefore conflict with policies 5.37 and 8.50-8.54 of the Birmingham Unitary Development Plan 2005 and the National Planning Policy Framework 2012.

iv) That the Director of Legal and Democratic Services be authorised to prepare, seal and complete the planning obligation.

v) That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 17th December 2013, favourable consideration be given to this application, subject to the conditions listed below

Original report

Approve Subject to conditions

1. Proposal

1.1. Planning permission is sought for the erection of 25 dwellings and 18 flats in the following arrangement:

- 18 no. 1-bedroom flats
- 21 no. 2-bedroom houses
- 4 no. 3-bedroom houses

1.2. This is the second of two phases of residential development on the former Selly Oak Industrial Estate at the end of Elliott Road. Phase 1 comprised 71 units, all affordable, which are largely complete and are now being occupied (2010/01303/PA and 2010/07007/PA). The applicant is working in conjunction with Midland Heart Housing Association and the proposed dwellings within Phase 2 would also all be Affordable Rent.

1.3. Site layout: The proposed dwellings would be accessed via the new road created to access Phase 1. They would be laid out to the southeast of this road in short terraces with two blocks of flats located at the northeast boundary of the site overlooking the canal. Each house would have a front garden incorporating off-street parking and private amenity space to the rear. The flats would have a communal parking area between the two blocks and amenity space in front of each block.

1.4. House types are as follows:

Type A: 2-bedroom, 4 person house. Total floorspace: 75sqm. Ground floor: hallway, kitchen, WC and lounge/diner. First floor: 2 bedrooms (14sqm and 11.7sqm) and family bathroom. 20 units.

Type A1: 2-bedroom, 4 person house. Total floorspace: 76.9sqm. Ground floor: hallway, kitchen, WC and lounge/diner. First floor: 2 bedrooms (14.5sqm and 13.1sqm) and family bathroom. 1 unit.

Type B: 3-bedroom, 5 person house. Total floorspace: 84sqm. Ground floor: hallway, lounge, WC and kitchen/diner. First floor: 3 bedrooms (11.7sqm, 10.6sqm and 6.26sqm) and family bathroom. 4 units.

- 1.5. Flat layout: 18 1-bedroom units comprising combined lounge/kitchen/diner, 1 bedroom and separate bathroom. Bedrooms sizes are 14.5sqm, 13.5sqm and 13.2sqm depending on the position of the flat within the blocks.
- 1.6. Elevations: The houses would be traditional two-storey pitched roof properties but with contemporary elevations achieved through the use of render and cladding. The apartment blocks would be three-storey with flat roofs and similar render and cladding to the houses. The design approach continues that established on Phase 1 and once completed the development would appear as a single estate.
- 1.7. Site area: 0.6ha Density:71dph Parking: 109%
- 1.8. The application is supported by the following statements: Design and Access Statement, Noise Assessment, Phase 1 and 2 Geo-Environmental Factual and Interpretive Report, Remediation Strategy, Transport Statement.
- 1.9. An EIA screening opinion has been provided in respect of this proposal.

[Proposed block plan](#)

[Proposed house elevations](#)

[Proposed apartment elevations](#)

2. Site & Surroundings

- 2.1. The application site is located at the southern end of Elliott Road. The industrial buildings have been demolished and in part replaced by Phase 1 of the development. The application site is currently cleared and awaiting development.
- 2.2. Elliott Road is a long cul-de-sac comprising a mix of industrial and residential properties. To the northwest on Elliott Road there are a number of industrial units which form a separate industrial estate. To the south the site adjoins the former Selly Oak Hospital site and to the west of Elliott Road the area is predominantly residential comprising small terraced properties many in student occupation. The northeast boundary of the site is defined by the Worcester and Birmingham canal and the towpath adjoins the site. The site is approximately 330m from Bristol Road.

[Site location](#)

[Streetview](#)

3. Planning History

Application site:

- 3.1. 05.08.2004 - S/03181/03/OUT - Proposed residential development with associated car parking and landscaping - appeal against non-determination approved.

- 3.2. 05.08.2004 - S/03187/03/OUT - Proposed residential and student accommodation with associated parking and landscaping - appeal against non determination approved.
- 3.3. 26.10.2005 - S/04595/05/FUL - Redevelopment to provide 97 residential units and 104 student flats with associated roads, open space, hard and soft landscaping - withdrawn.
- 3.4. 21.08.2006 - S/03427/06/FUL - Redevelopment of site to provide 88 residential units and 80 student flats and associated roads, open space and hard and soft landscaping - refused.
- 3.5. 13.11.2008 - 2007/03386/PA – Redevelopment of site to provide residential accommodation comprising 46no. flats, 31no. houses & 81no. student flats & associated roads, open spaces and hard and soft landscaping – Approved with conditions and S106 but consent subsequently quashed.
- 3.6. 12.08.2010 - 2010/01277/PA - Redevelopment of site to provide 331 bed student accommodation comprising of 79 cluster flats and 13 studios and associated roads and hard and soft landscaping – Approved subject to conditions and legal agreement.
- 3.7. 27.09.2010 - 2010/01303/PA - Detailed application for the redevelopment of the site to provide 69 residential units comprising 28 two bed houses, 6 three-bed houses, 10 four-bed houses and 25 two-bed flats – Approved subject to conditions and legal agreement.
- 3.8. 10.02.2011 – 2010/07007/PA – Planning permission granted for the addition of 2 no. dwellings and alterations to access and landscaping, in association with planning consent 2010/01303/PA.
- 3.9. 25.03.2013 - 2013/00493/PA - Pre application discussion for the erection of approximately 43 new houses/apartments.
- 3.10. 12.08.2013 – 2013/06055/PA - Application for a new planning permission to replace an extant planning permission number 2010/01277/PA for redevelopment of site to provide 331 bed student accommodation comprising of 79 cluster flats and 13 studios and associated roads and hard and soft landscaping. Awaiting decision elsewhere on this Agenda.

4. Consultation/PP Responses

- 4.1. Transportation Development: No objection subject to conditions requiring S38/S278 agreement, pedestrian visibility splays incorporated into each driveway, provision of cycle storage and residential travel plan. The site is within short walking distance of Selly Oak railway station and regular and frequent bus services and pedestrians and cyclists can travel to and from the site from surrounding areas. The proposed road layout is such that it could be adopted. Tracking details demonstrate that refuse vehicles can manoeuvre through the site. The Transport Statement concludes that the proposed development would result in an increase of 29 two-way vehicle trips during the morning and evening peak hour which is not a significant increase and will not have an impact on the operation of the surrounding highway network.
- 4.2. Regulatory Services: No objection.

- 4.3. Children, Young People and Families: The number of proposed dwellings exceeds 20 and would impact on education provision in the area. A contribution of £84,010.69 should be secured towards primary and secondary education.
- 4.4. Leisure Services: No objection. A contribution of £107,600 should be secured towards the provision, improvement and maintenance of public open space and children's play facilities in the Selly Oak Ward and £62,318.61 towards canal-side/public realm works in the vicinity of the application site.
- 4.5. West Midlands Police: Active frontages generally support natural surveillance opportunities. Parking within front gardens benefits from overlooking from active rooms except at Plot 18 where a gable end window is recommended. Boundary treatment proposals are not clear. Communal alleyways need to have controlled access to improve security. Lighting will be needed and should be consistent across the site.
- 4.6. West Midlands Fire Service: No objection.
- 4.7. National Grid: No response received.
- 4.8. Severn Trent Water: No objection subject to a drainage condition. It is noted that a public sewer crosses the site and the applicant should discuss proposals directly with Severn Trent Water.
- 4.9. The Inland Waterways Association: No objection.
- 4.10. Canal and River Trust: No objection subject to a condition requiring details of the proposed landscape and ecological planting strip to the canal boundary referred to in the Design and Access Statement, and a drainage condition. Clarification of the improvements to the canal towpath referred to in the Design and Access Statement are also sought.
- 4.11. Site and press notices posted, local MP, Councillors, Residents' Associations and the owners/occupiers of nearby properties notified of the application; 1 response received as follows:

* Community Partnership for Selly Oak: Supports the application on the grounds that the site is located adjacent to similar new development and it is for family housing rather than student accommodation.

5. Policy Context

- 5.1. UDP 2005; Draft Birmingham Development Plan 2012; SPG Selly Oak Local Action Plan 2001; SPG Places for Living 2001; SPD Car Parking Guidelines 2012; National Planning Policy Framework 2012; Site of Local Importance for Nature Conservation; Wildlife Corridor.

6. Planning Considerations

PRINCIPLE

- 6.1. The application site falls within a large area of land extending from Metchley Lane Playing Fields in the north to Selly Oak Hospital in the south identified under UDP allocation M32 for mixed use development. Appropriate uses, some now complete, include a new hospital, high-technology industry associated with the University of Birmingham and Hospital, mixed leisure, retail and office uses, and housing. Within

this large area, the application site lies between Phase 1 of the redeveloped Selly Oak Industrial Estate and the Selly Oak Hospital site, both of which will be developed for housing. Given this growing residential context, use of the application site for housing is appropriate.

- 6.2. Housing notes that Homes and Communities Agency grant funding has been secured to support this scheme so it will need to be complete by March 2015 and this provides some confidence that the units will be delivered. There was overwhelming demand for accommodation on Phase 1 and this is expected to continue. The 21 2-bedroom properties are welcome and would help to satisfy a specific demand identified in the Strategic Housing Market Assessment. Although normally multi-tenure is preferable within a development, in this case, the single tenure proposed – affordable rent – is considered to be acceptable.

LAYOUT AND DESIGN

- 6.3. Development of the site is constrained by public sewers and a gas main and their associated easements, and a private road at the end of Elliott Road and these have influenced the proposed layout. However, the layout still accords with the principles set out in Places for Living. The front elevations of the houses and apartment blocks face the access roads and the canal, giving good natural surveillance, containing the roadways and making the most of the pleasant outlook offered by the canal. Rear gardens of plots 20-25 back onto the rear boundary of the site where it adjoins the Selly Oak Hospital site giving a secure boundary. Plots 1-7 would ideally face Elliott Road but at this point it is a private, gated road and is not open to public access and consequently, these plots face into the development site.
- 6.4. Block G, a three-storey apartment block, would be close to the boundary with the Selly Oak Hospital site. The indicative masterplan for redevelopment of that site shows a new access to the canal towpath together with a landscaped strip and footpath adjacent to the shared boundary with the application site. Windows in Block G are secondary windows, including to kitchens and lounges, and would provide good surveillance of this footpath and canal access. The indicative masterplan also shows a potential residential block facing the site boundary at a distance of 10m from it. Block G would be 2.5m from the hospital site boundary giving a total separation distance of 12.5m. I note that the Hospital Trust has not objected to the proposal.
- 6.5. Overall, the layout is generally appropriate, but there are three specific areas where the Places for Living recommended separation distances cannot be met:
- Rear elevations of Plots 9, 10 and 11 would face the flank wall of Plot 7 at a distance of 10.8m instead of 12.5m
 - Front elevations of Plots 3, 4 and 5 would face the flank wall of Plot 25 at a distance of 10.67m instead of 12.5m.
 - Bedrooms within apartments in Block F would face the flank wall of Plot 19 at a distance of 8m instead of 12.5m.
- 6.6. The first two of these shortfalls would reduce outlook but not significantly. The separation distance between Block F and Plot 19 is shorter but is better than the separation approved on the Phase 1 development, with the same applicant, where apartment bedrooms at Plot 56 are just 2.5m from the flank wall of Plot 35. Also, the flats have an excellent outlook on their opposite side, over the canal.

- 6.7. There are also small shortfalls in rear gardens sizes of up to 5sqm for the houses, although useable spaces are proposed and, subject to removal of permitted development rights for extensions, would be maintained. Communal amenity space for the apartments in Block F equates to 12sqm/unit and in Block G it is 19sqm/unit instead of 30sqm/unit, which is comparable with apartments in Phase 1. Again, I note the amenity resource of the adjacent canal, and much forthcoming public open space in the adjacent Selly Oak Hospital development.
- 6.8. Frontage car parking is provided for the houses and is broken up with planting areas which would be sufficient to accommodate trees. There are also planting beds at key corners on road junctions and around the two apartment blocks.
- 6.9. With regard to the elevations, the proposed dwellings are designed to match Phase 1 and would give a consistent appearance across the whole site. They offer a contemporary version of the modest Victorian terraces found on Elliott Road and roads off it such as Winnie Road and Gleave Road.
- 6.10. The City Design Officer notes that the boundaries of the site, particularly where it adjoins the canal and the hospital site, and exposed rear garden boundaries will need careful attention and a condition is attached to deal with this. The Canal and River Trust is interested in the boundary with the towpath and recommends a specific condition requiring details prior to commencement. This is dealt with by an amendment to the standard landscaping condition instead and is attached. Conditions are also attached requiring details of protective fencing along the canal boundary during construction to protect the SLINC and the provision of bat and bird boxes.

RESIDENTIAL AMENITY

- 6.11. Bedrooms in all housetypes except Type B exceed the Places for Living guidelines for bedroom sizes. Type B is a 3-bedroom house with bedrooms measuring 11.7sqm, 10.6sqm and 6.26sqm. The first double is 0.8sqm short of the Places for Living recommendation of 12.5sqm and the small bedroom is 0.3sqm short. Bedrooms of these sizes have already been approved in the 3-bedroom units in Phase 1. This shortfall only affects 4 units across the site, furniture layouts demonstrate that the usual bedroom furniture could be accommodated in these rooms and, on balance I do not consider significant harm would be caused to residential amenity.
- 6.12. Due to the former industrial use of the site the application is accompanied by a geo-environmental report dated December 2010 and a remediation strategy dated October 2012. A geotechnical and environmental assessment report was also produced in 2005 and the remediation strategy takes account of both the 2005 and 2010 data. Remediation measures comprising a specific damp proof membrane and sub-floor void to prevent ingress of gas into buildings and an imported capping layer within gardens and landscaped areas across the site are recommended. Regulatory Services has not commented on the remediation strategy but, in order to bring this permission in line with Phase 1, conditions are attached requiring the development to be carried out in accordance with this strategy and the subsequent provision of a validation report.
- 6.13. The Birmingham to Redditch railway line runs to the east of the application site beyond the canal. There are industrial units beyond this on Ewhurst Avenue off Heeley Road and there is traffic noise nearby roads. A noise assessment dated December 2009 has been submitted with the application but is based on the former proposal for student accommodation, where mechanical ventilation rather than

opening windows was proposed. Regulatory Services has not recommended any specific conditions.

PARKING AND HIGHWAY SAFETY

- 6.14. The application proposes 1 parking space per unit for the 1-bedroom apartments and 2-bedroom houses, and 2 spaces each for the 3-bedroom houses. The site is within Area 2 identified in the Car Parking Guidelines SPD, being within 500m of Selly Oak railway station, so a maximum of 1.5 parking spaces per dwelling should be provided. Provision across the site is 109% which is below the maximum however the site is very close to Selly Oak district centre with excellent access to shops and public transport, and there is direct access to the canal towpath through the Phase 1 development, and Transportation Development is satisfied with the proposed parking provision.
- 6.15. With respect to traffic generation, Transportation Development is satisfied with the results of the Transport Statement which indicates that, while there would be an increase in traffic movements it would not adversely affect highway safety.
- 6.16. A Section 38 agreement would enable the proper adopted link to be provided between the existing and proposed phases of the development.

SECURITY

- 6.17. The Police recommend a number of improvements to security including lighting and controlled access to the communal alleyways, which can be secured by condition. A side window is recommended in the gable end of Plot 18 to overlook the car parking space immediately adjoining this house; a suitable condition is attached requiring a ground floor window only to avoid overlooking of the rear garden of Plot 17.

PLANNING OBLIGATIONS

- 6.18. Draft Heads of Terms were submitted with the application offering 100% affordable housing and contributions towards the provision of education and public open space in line with UDP policy 8.50-8.54. In addition, UDP policy 20.17A states that developments within this area will be subject to a contribution towards environmental improvements, including to the canal network. A S106 agreement has been prepared securing the following:
- 35% affordable housing (16 units)
 - £84,010.69 towards the provision of education
 - £107,600 towards the provision and maintenance of public open space and a children's play area
 - £62,318.61 towards canalside/public realm works
- 6.19. Although 100% affordable housing is offered, this is well above the 35% required in UDP policy 5.37B and there is no justification for forcing the developer to provide it. I am satisfied that the agreement meets the tests set out in the NPPF for planning obligations, namely that they are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development.

7. Conclusion

- 7.1. This application is recommended for approval. The development would complete the regeneration of the former Selly Oak Industrial Estate in a manner which is consistent with Phase 1 and is in keeping with the character of new development

around it. The high level of affordable housing would help to satisfy demand within the area and, notwithstanding the shortfalls against Places for Living guidelines, the overall accommodation would be of an acceptable standard. Full S106 contributions would be secured.

8. Recommendation

8.1. i) That consideration of application 2013/04225/PA be deferred pending completion of a S106 legal agreement to secure the following:

- a) The provision of a minimum of 16 units for Affordable Rent with the location, size, type and mix to be first agreed with the Council.
- b) A financial contribution of £84,010.69 to be paid upon implementation (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) towards the provision of education within the Selly Oak District.
- c) A financial contribution of £107,600 to be paid upon implementation (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) towards the provision, improvement and maintenance of public open space and children's play facilities in the Selly Oak Ward.
- d) A financial contribution of £62,318.61 to be paid upon implementation (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) towards canalside/public realm improvements in the vicinity of the development.

ii) That payment of a monitoring and administration fee associated with the legal agreement of £8,887.50 be secured.

iii) In the absence of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 12th December 2013, planning permission be REFUSED for the following reason:

The development does not include the provision of affordable housing or financial contributions towards the provision of education, public open space or canalside/public realm improvement works within the Selly Oak Ward. The development would therefore conflict with policies 8.50-8.54, 20.16A and 20.17A of the Birmingham Unitary Development Plan 2005, supplementary planning guidance Selly Oak Local Action Plan 2001 and the National Planning Policy Framework 2012.

iv) That the Director of Legal and Democratic Services be authorised to prepare, seal and complete the planning obligation.

v) That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 12th December 2013, favourable consideration be given to this application, subject to the conditions listed below.

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- 1 Requires the scheme to be in accordance with the listed approved plans
 - 2 Requires the prior submission of details of protective fencing along the canal boundary
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- 3 Requires the development to be carried out in accordance with the remediation strategy submitted
 - 4 Requires the prior submission of a contaminated land verification report
 - 5 Requires the prior submission of a drainage scheme
 - 6 Requires the prior submission of level details
 - 7 Requires the prior submission of sample materials
 - 8 Requires the prior submission of hard and soft landscape details
 - 9 Requires the prior submission of hard surfacing materials
 - 10 Requires the prior submission of boundary treatment details
 - 11 Requires the prior submission of a lighting scheme
 - 12 Requires the prior submission of security gates for communal alleyways
 - 13 Requires the prior submission of bat and bird box details
 - 14 Requires the prior submission of plans showing a side window in Plot 18
 - 15 Requires the road to be finished to adoptable standard prior to occupation
 - 16 Requires the prior submission of a residential travel plan
 - 17 Requires the prior submission of cycle storage details
 - 18 Requires pedestrian visibility splays to be provided
 - 19 Removes PD rights for extensions
 - 20 Limits the approval to 3 years (Full)
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Case Officer: Amy Stevenson

Photo(s)



Figure 1: View into site from Elliott Road



Figure 2: View across application site towards Selly Oak Hospital

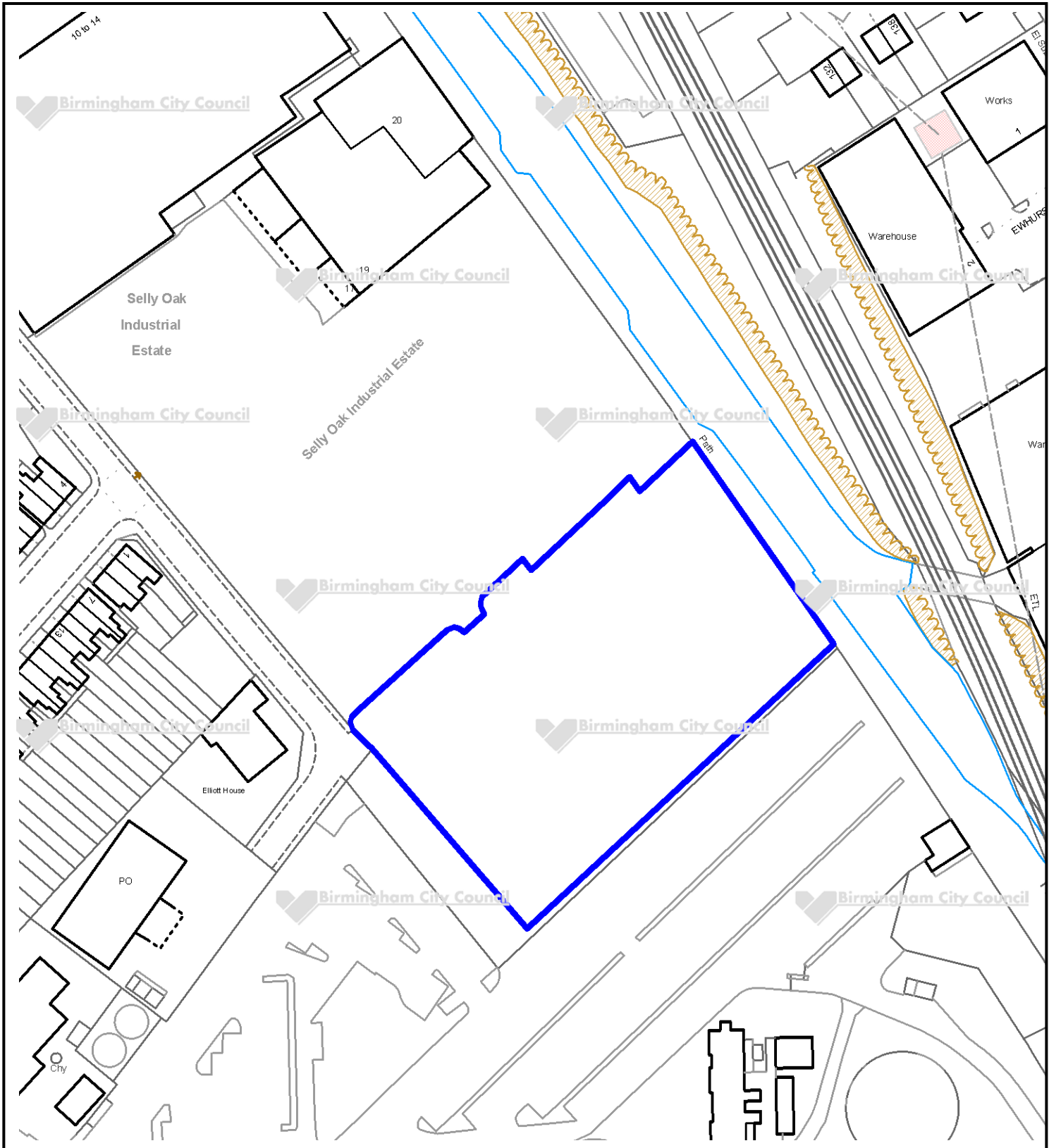


Figure 3: View of application site from canal towpath



Figure 4: View from access road towards Elliott Road

Location Plan



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