

Report to Planning Committee

9 March 2022

Application Reference	DC/21/66143
Application Received	21 September 2021
Application Description	Proposed 1 No. dwelling (Outline application for access only)
Application Address	Land To The Rear St Michaels Crescent Oldbury
Applicant	Mr D Joyner
Ward	Langley
Contact Officer	Mr Andrew Dean andrew_dean@sandwell.co.uk

1 Recommendations

1.1 That outline planning permission with access for a residential development is granted subject to the further approval of Reserved Matters (Appearance, Landscaping, Layout and Scale) and subject to the following conditions; -

- i) Ground conditions;
- ii) Drainage including sustainable drainage;
- iii) Finished floor levels plan;
- iv) Noise assessment and mitigation measures;
- v) Comprehensive vibration assessment;
- vi) Electric Vehicle Charging point;





- vii) Low NOx boiler;
- viii) Construction management plan;
- ix) Refuse management plan;
- x) The submitted plan is for indicative purposes only.

Other conditions usually associated with a residential scheme are covered by the above later reserved matters submissions.

2 Reasons for Recommendations

- 2.1 The proposal offers a housing proposal within the context of an established residential area. The proposed access to the site for the development of a single dwelling is acceptable with the remaining matters (appearance, landscaping, layout and scale) to be submitted as part of a reserved matters application.

3 How does this deliver objectives of the Corporate Plan?

	Quality homes in thriving neighbourhoods – The design of the proposal is acceptable in respect of national and local planning policy.
	A strong and inclusive economy

4 Context

- 4.1 This application is being reported to your Planning Committee because 4 objections to the application have been received.
- 4.2 To assist members with site context, a link to Google Maps is provided below:

[Land to the rear of St Michaels Crescent, Oldbury](#)



5 Key Considerations

- 5.1 The site is unallocated within the development plan.
- 5.2 The material planning considerations which are relevant to this application are:-

Government policy (NPPF)

Planning history (including appeal decisions)

Access, highway safety, parking and servicing

Please note this application is for outline consent for access only. Other material considerations such as loss of light, outlook and privacy etc will be dealt with via a reserved matters application should your planning committee be minded to approve this application.

6. The Application Site

- 6.1 The application site relates to a vacant piece of land between the rear of properties on Wolverhampton Road and St Michaels Crescent. The site is accessed from a dropped kerb off St Michaels Crescent with existing residents using the land to access the rear of their properties. To the south of the site is a railway embankment.

7. Planning History

- 7.1 The site has been subject to two planning refusals for a pair of semi-detached dwellings in 1978 and 1980. The reasons for refusal of these applications were as follows:-
 - i) The site is environmentally unsuitable for residential development by reason of its situation at the rear of existing development fronting to St Michaels Crescent and Wolverhampton Road and adjoining a high railway embankment.
 - ii) The development would involve inconvenient means of access for served and trade vehicles.



7.2 An application for 34 Lock up garages was granted outline consent on the site in 1982.

7.3 Relevant planning applications are as follows:

DC/07815	Erection of one pair of semi- detached dwelling house facing away from railway.	Refusal. 11.10.1978.
DC/11361	Erection of one pair of semi- detached dwelling houses facing away from the railway.	Refusal. 22.05.1980.
DC/14670	Erection of 34 lock-up garages.	Grant Outline Consent. 30.06.1982.

8. Application Details

8.1 The applicant is applying for outline consent (access only) for 1 No. dwelling. Access to the site will be via an existing drop kerb from St Michaels Crescent adjacent to number 36A. This access is used by neighbouring dwellings for vehicle access to the rear of their properties. All other matters will be reserved (appearance, landscaping, layout and scale).

8.2 The applicant has amended the description of development by reducing the number of dwellings proposed from two to one. A revised indicative layout plan has been submitted. This amendment was undertaken following concerns from the Head of Highways regarding the width of the access to serve two dwellings and comments received from residents regarding access rights.



9. Publicity

- 9.1 The application has been publicised by neighbour notification letter, with 4 objections to the application being received. Following receipt of the amended indicative layout to reduce the proposal to one dwelling, neighbours were re-consulted with a further 2 objections being received raising the same concerns.

9.2 Objections

Objections have been received on the following grounds:

- i) Dwellings on Wolverhampton Road have a right of way across the land at the rear. This is stated in the property deeds.
- ii) A previous application for two houses has been refused twice on the site.
- iii) Environmental concerns and health and safety hazard.
- iv) Impact on wildlife.
- v) The proposal would cause a loss of light, outlook and privacy to neighbouring dwellings.
- vi) The proposal is overdevelopment of the site.
- vii) There are too many already.
- viii) The development is out of character with the surrounding area.
- ix) Highways concerns with regards to limited visibility at the entrance/ exit of the site, street parking of vehicles near the proposed entrance and access to the site for of emergency services and refuse collection.
- x) The proposal raises security concerns as the proposal would takeaway the natural security protection at the rear.
- xi) Noise and disturbance from construction vehicles.

Immaterial objections have been raised regarding Loss of property value.



9.3 Responses to objections

I respond to the objector's comments in turn:

- i) The granting of planning approval would not override or supersede any legal rights of access or legal covenants. The applicant would need to design a scheme to ensure no breaches of this access are restricted. Blocking of a right of access would be a civil matter.
- ii) Please see material planning considerations paragraph 13.2.
- iii) The Pollution Control team have reviewed the application and recommended planning conditions in respect of contaminated land.
- iv) The site is not allocated as a wildlife corridor or site of local importance to nature conservation. The landscaping reserved matter would require a soft landscaping scheme to be submitted and approved. The developer would have to abide by The Wildlife & Countryside Act 1981.
- v) This application is only to deal with access with scale, layout and appearance of the proposed dwelling being a reserved matter application.
- vi) I do not consider the proposed development of 1 dwelling to be overdevelopment of the site. Ample space would be available for private amenity space, soft landscaping and car parking.
- vii) The proposal is for a residential development within a residential area.
- viii) I do not consider a residential development within a residential area to be out of character. The design of the proposal has not been assessed as part of the application and would remain a reserved matter.
- ix) The Head of Highways has reviewed the application and raised no objections to the proposal.
- x) The site currently is free to access with no gating system in place. In my opinion the proposal would improve security for existing residents by increasing natural surveillance in the area.
- xi) A condition for a construction management plan which would include hours of working, vehicle parking and control of dust has been including within the recommendation.



10. Consultee responses

10.1 Planning Policy

Planning Policy have raised a concern with regards to compliance policy SAD H2 (Housing Windfalls). The proposal site meets some of the H2 criteria, in that it is underused land. However, SAD H2 also requires development to meet other development plan policy requirements.

Whilst policy comments describe the proposal as “back land” development, the definition of back land development in the Revised Residential Design Guide SPD does not cover this particular circumstance. The SPD describes back land development as being when a new access is created between existing buildings on established road frontage and where no new built form is visible on the street frontage. Access is usually achieved through the removal of one or more existing frontage properties. It also states that proposals will be considered on their own individual merits. The current access into the site from St Michaels Crescent is existing and is used by residents to access the rear of their properties by vehicles.

The proposal would contribute to the target in HOU1 Delivering Sustainable Housing Growth and other matters such as sustainable drainage (ENV5) and Air quality (ENV8) have been raised. I am therefore satisfied the proposal would comply other development plan policies and therefore would comply with policy SAD H2.

10.2 Highways

No objection to the amended scheme to reduce the proposal to one dwelling. Comments raised the potential for the proposed dwelling needing a sprinkler system. This would be dealt with via building regulations approval.



10.3 Public Health (Air Quality)

No objection subject to conditions for an electric vehicle charging point, low NO_x boilers and a construction management plan to control dust.

10.4 Public Health (Contaminated Land)

No objection subject to the standard contaminated land condition.

10.5 Public Health (Air Pollution and Noise)

No objection subject to conditions for a noise assessment including recommendations for mitigation measures, a comprehensive vibration assessment and a construction management plan to include hours of working.

11. National Planning Policy

11.1 National Planning Policy Framework promotes sustainable development but states that local circumstances should be taken into account to reflect the character, needs and opportunities for each area.

12. Local Planning Policy

12.1 The following policies of the council's Development Plan are relevant:

HOU1: Delivering Sustainable Housing Growth.

HOU2: Housing Density, Type and Accessibility.

ENV3: Design Quality.

ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island Effect.

ENV8: Air Quality.

SAD EOS9: Urban Design Principles.

SAD H2: Housing Windfalls.



- 12.2 With Regards to Housing Policy HOU2, the development would bring forward a dwelling to add to the range of property types available in the borough. In respect to Policy SAD H2, the development site is not allocated for residential development in the Local Plan and is therefore classed as a housing windfall site. The proposed residential development meets the guidance set out in this policy and would bring an under used piece of land back into beneficial use.
- 12.3 ENV3 and SAD EOS9 refers to well designed scheme that provide quality living environments. The proposed scheme would be assessed against these policies when a reserved matters application is submitted dealing with appearance, landscaping, layout and scale.
- 12.4 ENV5 seeks the incorporation of sustainable drainage systems to assist with reducing the impact of flooding and surface water run-off. A drainage condition has been included within the recommendation.
- 12.5 ENV8 refers to mitigation measures to offset air quality issues. In this instance conditions for an electric vehicle charging point and low NOx boilers has been included within the recommendation.

13. Material Considerations

- 13.1 National and local planning policy considerations have been referred to above in sections 11 and 12. With regards to the other material considerations, these are highlighted below:

13.2 Planning history (including appeal decisions)

It is noted that two previous applications for a pair of semi-detached houses were refused on the site in 1978 and 1980 on environmental and highway matters (see section 7.1). These applications were determined 44 and 42 years ago and significant changes have taken place in terms of local and national planning policy since this time. The current proposal also differs from the refused schemes in that only one dwelling is proposed. Whilst all the facts of the previous refusals are not available



due to the age of the applications (proposed site layout etc), environmental matters may be dealt with via condition (noise assessment and vibration survey). In terms of highways matters, paragraph 111 of the NPPF states “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”. Taking into consideration Highways has raised no objections to the application, I do not consider the impact of the development on highway safety would be severe.

A refusal for a similar development for two bungalows on land at the rear land of Arlington and Ebrington Road, West Bromwich (application reference DC/11/53351) was appealed and allowed by the Planning Inspectorate with no reference being made to the land to the rear of houses being unsuitable for the development. The same site achieved a further approval at appeal in 2020 for five houses and four flats under planning application DC/19/62696. On this the basis of the above I am of the opinion the site would be suitable for the proposed one dwelling.

13.3 Access, highway safety, parking and servicing

The Head of Highways has reviewed the amended proposal for one dwelling only and raised no objections to the application regarding the suitability of the proposed access or on highway safety grounds.

14 Alternative Options

- 14.1 Refusal of the application is an option if there are material planning reasons for doing so. In my opinion the proposal is compliant with relevant policies and there are no material considerations that would justify refusal.



15 Implications

Resources:	When a planning application is refused the applicant has a right of appeal to the Planning Inspectorate, and they can make a claim for costs against the Council.
Legal and Governance:	This application is submitted under the Town and Country Planning Act 1990.
Risk:	None.
Equality:	There are no equality issues arising from this proposal and therefore an equality impact assessment has not been carried out.
Health and Wellbeing:	None
Social Value	None.

16. Appendices

Site Plan

Context Plan

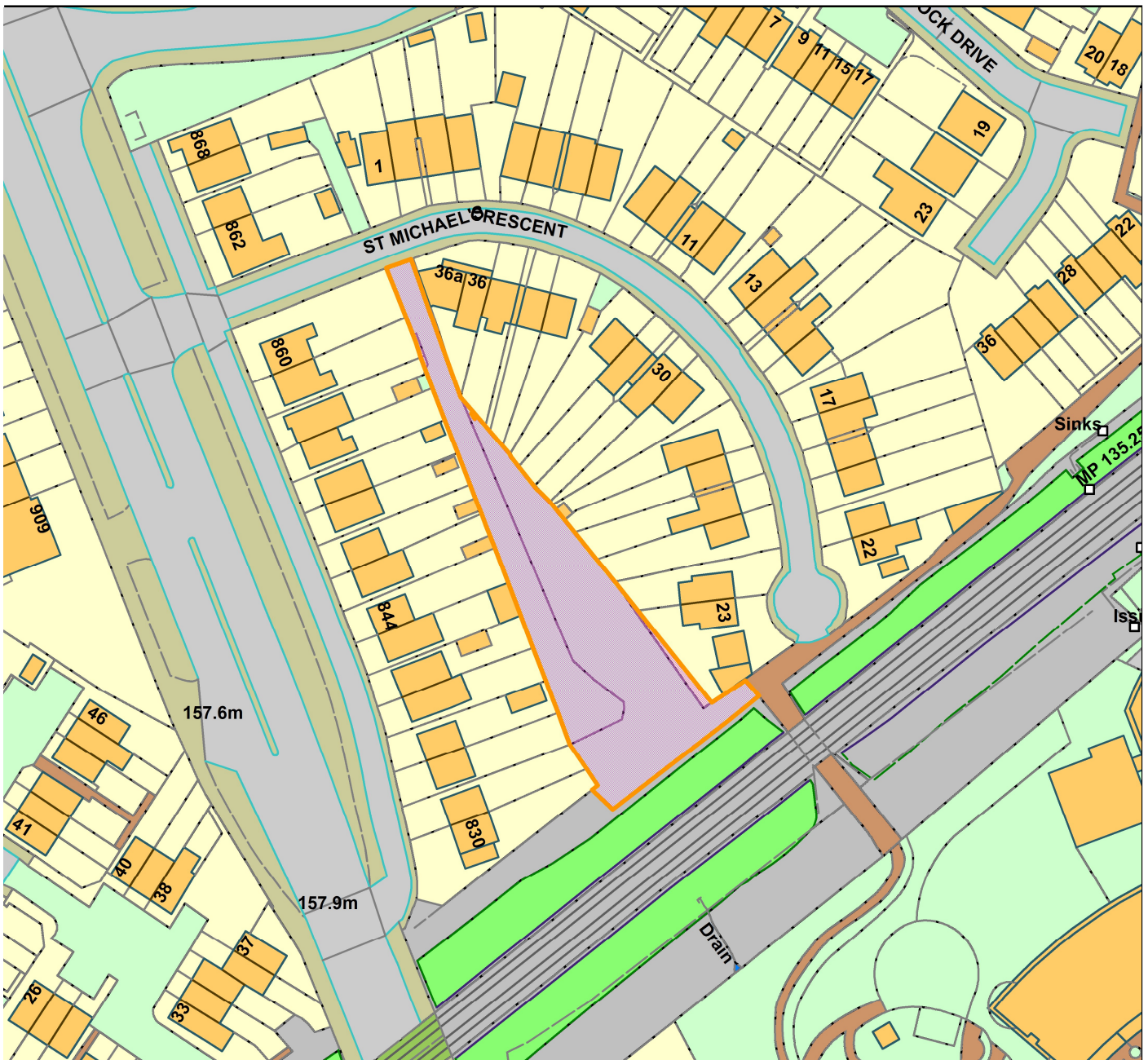
SA42053-BRY-00-PL-A-01

SA42053-BRY-00-PL-A-03 REV C



DC/21/66143

Land To The Rear of St Michaels Crescent, Oldbury



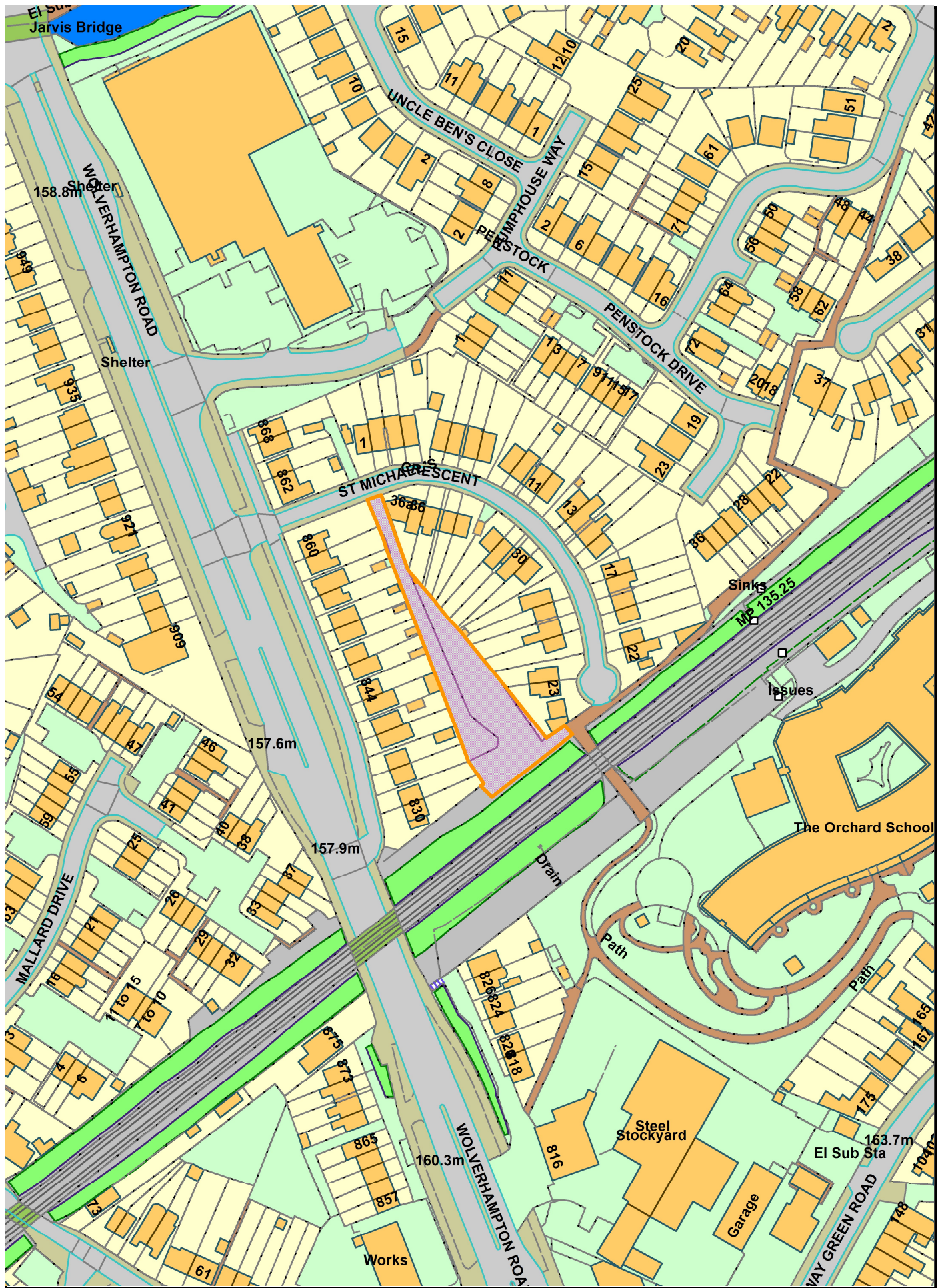
Legend

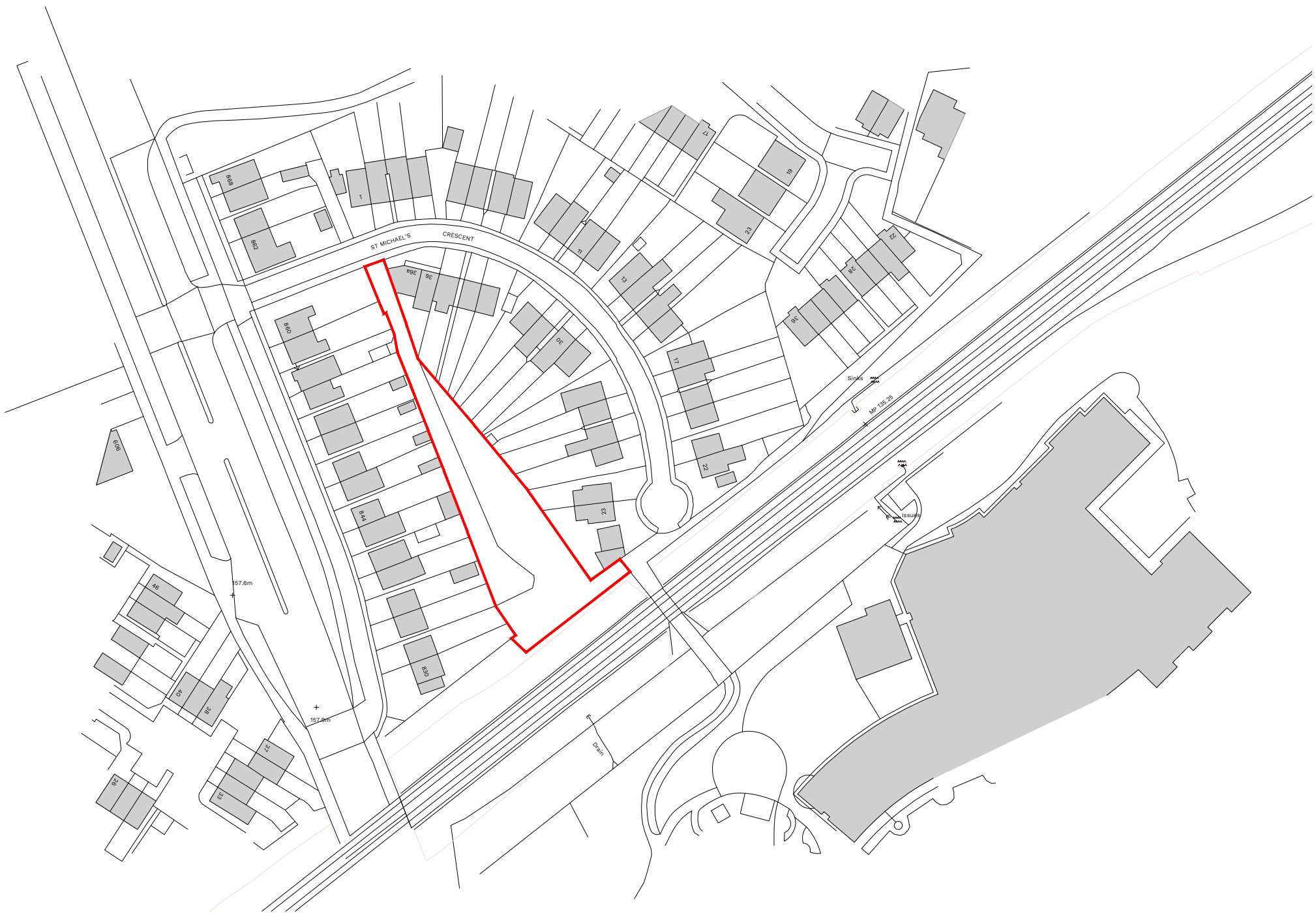
Scale 1:1114

m 14 28 42 56 70

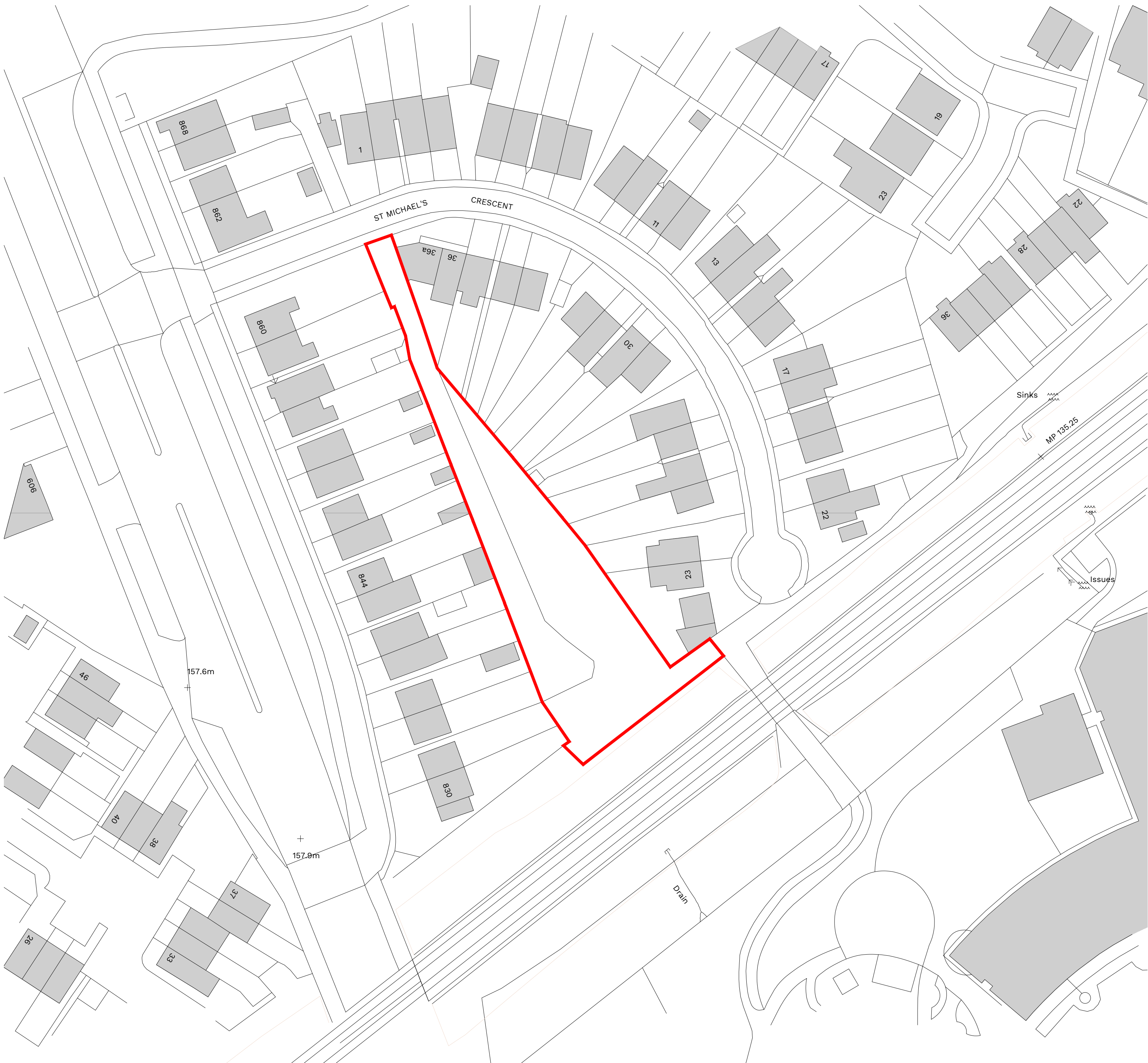
© Crown copyright and database rights 2019
Ordnance Survey Licence No 100023119

Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	21 February 2022
OS Licence No	

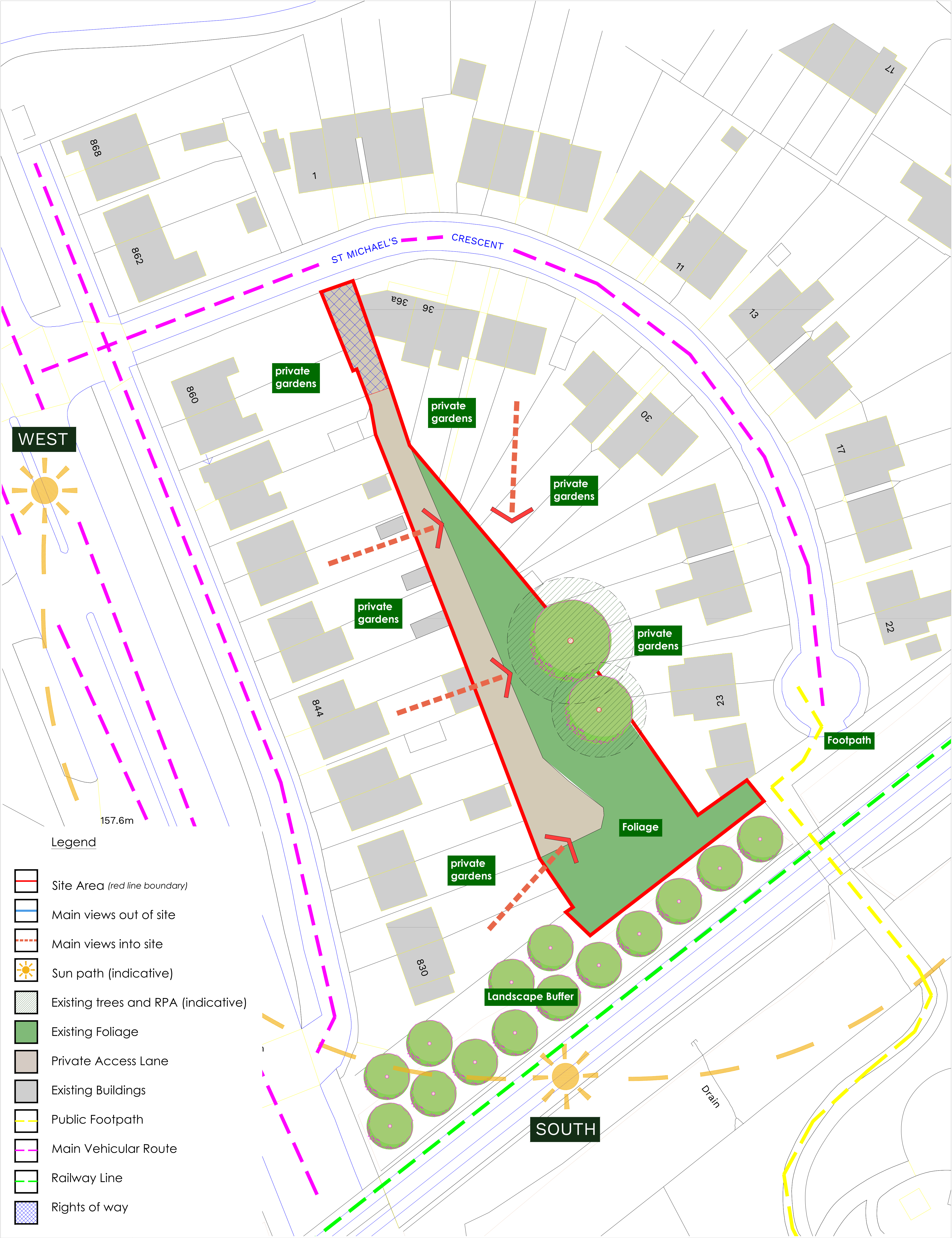




LOCATION PLAN 1:1250 @ A1



BLOCK PLAN 1:500 @ A1





SCHEDULE OF ACCOMMODATION			
PLOT	DESCRIPTION	BEDS	AREA
01	DETACHED	3	120
TOTAL		1	120m ²