

BIRMINGHAM CITY COUNCIL

CABINET MEMBER AND CHIEF OFFICER

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A G E N D A

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1 STREET TRADING POLICY

Report of Managing Director City Operations

Birmingham City Council
Report to the Leader of the City Council
 17 December 2021



Subject: Street Trading Policy

Report of: Rob James , Managing Director of City Operations

Relevant Cabinet Member: Leader of the Council - Councillor Ian Ward

Relevant O &S Chair(s): Councillor Carl Rice – Co-Ordinating Overview and Scrutiny Committee

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference: 007273/2020		
Is the decision eligible for call-in?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:		

1 Executive Summary

- 1.1 Birmingham City Council is the Licensing Authority responsible for considering applications for a range of activities that require a street trading consent under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

- 1.2 This legislation allows the Council to set a policy, conditions and fees for the grant, variation, renewal and revocation of street trading consents or licences.
- 1.3 Birmingham originally adopted street trading provisions in 1991 and formally approved a Street Trading Policy in 2020.
- 1.4 It was agreed that the Policy should be reviewed after 12 months
- 1.5 The purpose of this report is to consider that review and provide a final version of the Street Trading Policy (as amended October 2021).

2 Recommendations

- 2.1 That Cabinet Member approves the final version of the Street Trading Policy (as amended October 2021).
- 2.2 The Cabinet Member approves that the Street Trading Policy (as amended) takes affect from 24 December 2021.

3 Background

- 3.1 The legislation that applies to street trading is contained in the Local Government (Miscellaneous Provisions) Act 1982 and the Pedlars Act 1871. Some exceptions are contained in the Police, Factories etcetera (Miscellaneous Provisions) Act 1916 relating to charitable street collections.
- 3.2 The 1982 Act allows local authorities to adopt provisions to control street trading as follows: -
 - Prohibited Streets- where no street trading is allowed;
 - Consent Streets- where trading is allowed when a consent is issued;
 - Licensed Streets- whereby trading is allowed from a designated pitch- this is often used for street markets.
- 3.3 There is no statutory appeal against the refusal to issue a consent, but there is a statutory appeal in the event there is a refusal to issue a licence. If the local authority does not apply a designation for street trading, then legislative controls are minimal and generally only cover pedlars and charity issues.
- 3.4 Birmingham originally adopted the 1982 Act street trading provisions in 1991.
- 3.5 Since the introduction of the Policy streets have been classified as either Consent Streets or Prohibited Streets. 51 parks and open spaces have not been given a designation, as this enables the parks service to manage and enforce any trading in these areas under specific byelaws.

3.6 Key Drivers for Policy Direction

3.6.1 The city of Birmingham has undergone and will continue to undergo significant changes in years ahead. These changes (listed below) are the key drivers in influencing the policy direction outlined below.

- Changing infrastructure throughout Birmingham
- Introduction of red routes, metro routes, public squares and pedestrianised areas and hostile vehicle mitigation
- City Centre Public Realm Revitalisation
- Big City Plan
- 2022 Commonwealth Games
- Business Improvement Districts
- Supporting businesses and consumer needs
- Frankfurt Christmas Market

3.6.2 In addition we believe that to ensure that the administration of the application and renewal process is compliant with the EU Services Directive 2006 and the Provision of Services Regulations 2009 a review was necessary. One of the requirements of this legislation is that any authorisation scheme in respect of the provision of a service within the Directive (which street-trading is) must not be “dissuasive” *i.e.* of new entrants to the market who wish to provide the service in question.

3.8. Key Policy Issues

3.8.1 The introduction of prohibited streets (red routes and metro routes). All other streets will be consent streets except for the 51 Birmingham City Council Parks and Open Spaces that are not given any designation.

3.8.2 The introduction of annual and occasional consents.

3.8.3 Introduction of design brief for trading units for annual consents over 12 weeks. The design brief was prepared by planning and includes a maximum unit size (subject to limited discretion where necessary) of 2.3m (width) 4.9m (length) 2.6m (height) and the stipulation of no trading outside the unit or from canopies.

3.8.4 All street trading units to be at least 30m apart except for match day traders.

3.8.5 Public safety, the prevention of crime, disorder and public nuisance, and appropriate consumer protection (including enhancing the retail offer provided by street traders) is at the heart of the considerations to approve, revoke, vary a consent.

3.8.6 The criteria that will be considered at application and renewal seek to prevent nuisance/obstruction of the highway, ensure retail business visibility and will enable Birmingham City Council to ensure the location, size and appearance of trading units are appropriate and quality goods are offered for sale.

- 3.8.7 The process will enable revocation if consent conditions are not adhered to or for any other reason. There is no statutory appeal against revocation, variation, non-renewal or refusing the application.

The Council has introduced an internal officer appeal process in relation to revocation. This appeal mechanism will trigger a review of the original decision-making process.

- 3.8.8 The introduction of a Scheme of Delegations to enable applications to be determined at an appropriate level
- 3.8.9 Full implementation was on 1 April 2021 when new street trading consents were issued, the traders are in position trading and new applications are being dealt with on a case by case basis.

4 Options considered

- 4.1 When considering the review of street trading in Birmingham the following options were considered:
- Retain the Street Trading policy 2020 in full
 - Amend the policy to further clarify matters, simplify processes and reflect the current position in practice

5 Consultation

5.1 External

- 5.1.1 There is no requirement for external consultation any amendments have removed temporary allowances which applied to the first year of the policy only or are related to matters of clarity, simplicity or minor changes.

5.3 Internal

- 5.3.1 Consultation for the initial policy was been carried out by the service area with Legal Services, to ensure that the final policy is compliant with all relevant legislation and reflects the corporate views in both policy direction and specific conditions in permitting street trading.

6. Redaction, Addition or amendment following this review

The main amendments made to this final policy are set out below.

- 6.1 The introduction of one application for special events
- 6.2 Removal of references to this review
- 6.3 Minor amendments to what matters are considered as part of the site assessment as they were duplications of issues considered in other criteria

- 6.4 An update to the contact email address
- 6.5 Removal of the temporary internal appeals process
- 6.6 Introduction of a scheme of delegations

8 Risk Management

- 8.1 The Street Trading Service has sought legal advice to ensure it is compliant with the consultation process and the contents of the final policy. Advice has been received confirming that compliance.

9 Compliance Issues

- 9.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?
 - 9.1.1 The proposals within the policy support the delivery of the Council Priority "Birmingham is an entrepreneurial city to learn, work and invest in" as set out in the Birmingham City Council Plan 2018 – 2022.
 - 9.1.2 The proposals within the policy are consistent with the objectives of the Big City Plan and the City Centre Public Realm Revitalisation.

9.2 Legal Implications

- 9.2.1 The Council's primary statutory rights in relation to street trading are set out in Schedule 4 of the Local Government Miscellaneous Provision Act 1982.
- 8.2.3 In addition to activities authorised expressly under the above legislation, the Council may also do whatever is reasonably incidental to that power. This is given statutory effect in Section 111 (1) Local Government Act 1972 which states:
 - "Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions."

9.3 Financial Implications

- 9.3.1 Street Trading operates a net nil budget on a cost recovery basis with expenditure funded by income collected through consent fees. The cost of administration and compliance activity for street trading consent informs the setting of consent fees. The continued impact of the policy will inform the setting of consent fees for 2022/23 and include all relevant costs.
- 9.3.2 It should be noted that fees will be charged in two stages, with the initial application fee covering only the costs of the authorisation itself, to comply with the requirements of the EU Services Directive 2006 and Provision of Services Regulations 2009.

9.4 Public Sector Equality Duty

- 9.4.1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment was prepared for the original Street Trading Policy and as the changes to the policy are purely administrative, no further assessment is required.

10 Appendices

- Appendix A Street Trading (as amended October 2021)
- Appendix 1, 2, 3, 4, 5, 6, 7, 8, 9 (appendices to Street Trading Policy (as amended October 2021))

11 Background Documents

- 11.1 Local Government Miscellaneous Provisions Act 1982
- 11.2 European Convention on Human Rights and Fundamental Freedoms
- 11.3 EU Services Directive 2006 (the Directive)
- 11.4 Provision of Services Regulations 2009 (PSRs).

Birmingham City Council Street Trading Policy

As reviewed and amended October 2021

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1. Introduction

Birmingham City Council is the Licensing Authority responsible for considering applications for a range of activities that require a street trading consent under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 referred to in this policy as “the Act”.

The aim of this Street Trading Policy is to **create a street trading environment which is sensitive to the needs of the public and businesses, provides quality consumer choice and contributes to the character and ambience of the local environment whilst ensuring public safety, and preventing crime, disorder and nuisance.**

Street trading can aid the local economy and contribute to the facilities offered to people who visit, live and work in Birmingham and it supports the Birmingham City Council's priorities:

- Birmingham is an entrepreneurial city to learn, work and invest in
- Birmingham is a great city to live in

This policy will be reviewed formally every five years; however, it will be kept under continuous review and where any significant amendments are considered necessary these will be made by the Authority function of Birmingham City Council after appropriate and relevant consultations have taken place. Minor amendments that do not impact on the aim and objectives of the policy, for example due to changes in legislation, review of design brief etc. will be made in line with the delegation scheme.

An Equality Assessment on this policy has been undertaken.

2. Purpose of Policy

This policy sets out the criteria and guidance that Birmingham City Council (hereafter referred to as the Council) will use as the regulatory framework for street trading. This policy also clarifies the requirements around special events and occasional markets. It gives prospective traders an early indication as to whether their application is likely to be granted or not. It also provides prospective applicants with details of what is expected of them.

The policy recognises the importance of street trading to the local economy and the character of the area whilst trying to ensure that location and activities do not cause obstruction, nuisance or annoyance.

3. Definition of street trading

Street trading is defined in paragraph 1 of Schedule 4 of the Act as:

‘the selling or exposing or offering for sale of any article (including living thing) in a street’.

The Act defines the term ‘street’ as including:

'any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980'.

Streets located on private land are included within the scope of this policy.

The Act in paragraph 1(2) of schedule 4 states that the following types of trade are not street trading:

- *A pedlar trading under the authority of a pedlar's certificate granted under the Pedlar's Act 1871;*
- *Anything done in a market or fair, the right to hold which was acquired by virtue of a grant, enactment or order;*
- *Trading in a trunk road picnic area provided by the secretary of state under section 112 of the Highways Act 1980.*
- *Trading as a news vendor.*
- *Trading carried on at a premises used as a petrol station.*
- *Trading carried on at premises used as a shop or in a street adjoining a shop where the trading carried on is part of the business of the shop.*
- *Selling things, or offering or exposing them for sale as a roundsman.*

4. Types of street

Streets may be designated as either 'prohibited', 'licensed' or 'consent streets' for the purpose of street trading.

Definitions:

Prohibited streets

If a street is designated as a prohibited street then a criminal offence is committed by any person engaging in street trading in that street. There could be a number of reasons for wishing to designate a street as prohibited. For example the street may not be wide enough to facilitate a trader or the council may wish to restrict trading in a particular location. All current red routes and metro routes (and approved extensions) within Birmingham are prohibited streets (Appendix 1 details prohibited red routes and Appendix 2 details prohibited metro routes).

Licensed streets

A licensed street designation is considered appropriate for the more formalised market type of trading in a street where the strict control of a limited amount of space is required. There are no licensed streets within Birmingham.

Consent Streets

Designating a street a consent street enables trading to take place upon it, subject to the trader receiving a consent to trade from the Council. All streets within Birmingham are designated as consent streets with the exception of the prohibited streets and the parks and open spaces listed in Appendix 3.

5. Street trading within Birmingham

Birmingham City Council has designated all streets within Birmingham as consent streets, except the red routes and metro routes identified in Appendix 2 which are prohibited, and certain Birmingham parks and open spaces identified in Appendix 3. This policy applies to all street trading which is undertaken within Birmingham.

The Council has decided not to give a street designation to 51 parks and open spaces within Birmingham as these have been selected as appropriate for mobile catering concessions. The Parks Service has byelaws in place that prevent the display, sale etc. of goods without the agreement of the Council and the means of enforcement of the same. It is considered appropriate to exclude specific parks and open spaces from designation as consent or prohibited streets within the 1982 Act. The list of parks and open spaces excluded can be found at Appendix 3. Maps of the excluded parks and open spaces can be found at Appendix 4.

This policy refers at times to the city centre. This is defined as the area of the city within and including the A4540 (Inner Ring Road).

Where an applicant wishes to trade on private land or land that is not Highway Maintained at Public Expense (HMPE), a consent will not be granted by the Council unless the applicant provides written permission from the landowner showing they have permission to trade.

Street trading consents are issued by Birmingham City Council. The consents come under the following classifications:

Annual Street Trading

This is a consent that lasts up to 12 months and enables the trader to trade up to seven days a week at a particular pitch within Birmingham per financial year. An Annual Consent will not be granted for periods of less than four weeks.

Occasional Street Trading

This type of consent will be for one to thirty trading days for a particular pitch in Birmingham per financial year.

Special Event Street Trading

The Birmingham Corporation (Consolidation) Act 1883 gives Birmingham City Council the market rights for any market (five stalls or more) within six and two thirds miles of a market run by Birmingham City Council. At present this is the Bullring Markets and the distance is measured from St. Martins Church, Birmingham City Centre. Therefore, any special events held within this ring-fence will be subject to an application for and the granting of a licence issued by the Markets Service. Street trading consent is not required for licensed markets.

If the special event is for street trading of less than five stalls or outside this ring-fence the organiser of an event can apply to the Council requesting their event to be considered a 'special event' where street trading is taking part at the event. The event organiser will provide full details

of each trader attending the event and make one application for the event. Consents will be issued by the Council to individual traders on successful application to the council.

6. Why do we have street trading?

Street trading supports the Birmingham City Council's priorities of:

- Birmingham is an entrepreneurial city to learn, work and invest in
- Birmingham is a great city to live

Street trading encourages a vibrant and prosperous economy. It provides valuable employment opportunities for local people as well as a seedbed of entrepreneurship, allowing new entrants to test their business skills and ideas in an environment which has a low start-up costs, minimal overheads and existing customer footfall.

Goods on sale in the street provide convenient access to hot and cold drinks, fresh fruit and vegetables, household goods and other services for local communities, those travelling to work, and the visitors to Birmingham. The designation of both consent and prohibited streets within Birmingham has taken place to support:

- Public safety
- Prevention of crime and disorder
- Prevention of public nuisance
- An enhanced retail offer

7 Implementing this Policy

Under this Policy, any applicant can apply for a consent for street trading in Birmingham.

Consents will only be considered for an annual period running from 1 April to 31 March in the preceding year. A 42-day (six week) application window will open each year from 1 December to 11 January (in the preceding year) where applicants may apply for a consent in the following financial year.

Applications received outside this six week window will be considered in date order and against the criteria set out in this Policy and its aim.

Consents will be granted to those applicants who best meet the criteria in this policy and hence best reflect the aim of this Policy to:

“create a street trading environment which is sensitive to the needs of the public and businesses, provides quality consumer choice and contributes to the character and ambience of the local environment whilst ensuring public safety, preventing crime, disorder and nuisance”

For application received in the six week window: on any one street where we receive more applications for an annual consent than availability of suitable locations (that comply with the street trading consent criteria) then all applications will be considered on the basis of the highest score awarded through the assessment framework. The application/s with the highest score/s will then

be chosen and discussion with the trader/s about a suitable location on that street will follow. If agreement on location cannot be made then the next best applicant will be chosen and the same discussion will be held. The assessment of the applications will be made by jointly Birmingham City Council's planning, highways and street trading teams (and any other consultee deemed appropriate by the Council) through a points system.

The assessment framework can be found at Appendix 5.

8 Key considerations when assessing an application

The following criteria apply to all types of street trading:

Public safety

- The proposed location of the activity should not present a risk to the public in terms of highway safety and obstruction.
- All locations will require an officer visit before a consent can be issued.
- Applications in respect of sites that have previously been the subject of refusal due to the unsuitability of the location are unlikely to be accepted.

Prevention of crime and disorder

- The proposed activity should not present a risk of crime and disorder.

Prevention of nuisance

- Activities at the pitch must not cause a nuisance, annoyance or disturbance to neighbouring properties, this includes businesses. Controls must be in place to ensure that nuisance from noise, light, refuse, vermin, fumes, obstruction, littering, and smells does not occur.
- If at any time the City Council receives complaints a nuisance, annoyance or disturbance is occurring, the Council is duty bound to investigate and, if complaints are found to be justified, may decide to take enforcement action, including withdrawal of the consent.

Suitability of the applicant

- Birmingham City Council will consider any unspent convictions the applicant may have and this information will be requested in the application form.
- When determining whether an applicant is suitable, the Council will consider the reliability of the applicant in paying fees and charges based on previous history.
- An applicant's history of street trading will also be taken into consideration e.g. whether previous street trading consents have been used appropriately and whether the Council's requirements have been met, including deadlines.

Suitability of the trading unit

- The vehicle, trailer or unit (now referred to as a 'unit' within this policy) to be used should be of a high quality design (that complies with the Council's design brief, including size and colour if appropriate –Appendix 6), build, be harmonious with the character of the locality, add to the quality of the street scene and comply with the legal requirements for the activity proposed.

- The design brief will apply to all annual consents that are requested for longer than 12 weeks.
- The design brief does not strictly apply to annual consents of less than 12 weeks or for occasional consents or special events. However, the design brief should be used for guidance.
- The unit shall be of a high-quality design, with robust construction and materials that the daily removal will not result in the rapid deterioration in appearance of the unit.
- A high quality design means: material used are of high quality; a design that is reflective of the quality and planning requirements of the facades of the surrounding retail offer; a design that is attractive and may be unique.
- The quality and appearance of the unit must be maintained at the standard approved in the original consent.
- The design brief will be kept under review and where appropriate will be subject change.
- The unit must meet with all of the consent conditions including removal after trading unless specifically permitted to remain
- The unit will be inspected by an officer from Birmingham City Council prior to consent being issued.
- Goods, ancillary equipment and stock must be contained within the unit.

Power

- City centre units will be powered by electricity through a plug and use process that will be chargeable.
- Diesel generators will be permissible outside the city centre only when no other power source is available. They shall be positioned so as to reduce the length of cabling required to an absolute minimum and to minimise disturbance to local residents or businesses from noise or fumes. Where required, silenced generators or acoustically insulated generators shall be sourced.

Advertising

- Advertising must only relate to goods offered for sale on that pitch.
- Third party advertisements are prohibited.
- It is not permitted to illuminate any advertisement on the outside of the unit without express consent of the Council.
- The use of 'A' boards or any other display board/structures are prohibited.

Barriers

- Barriers for safety purposes will only be allowed on a consent pitch where they have been specifically included within the unit's consent approval.
- Any barriers proposed shall not constitute a nuisance or danger under the Highways Act 1980, must not impede the free flow of pedestrians or traffic and must not restrict the pavement so as to inhibit social distancing (if it is required).

Hours of trading

Trading hours will be set on the basis of promoting the following purposes:

1. Preventing crime, disorder and antisocial behaviour.
2. Avoiding disturbance due to noise, smell or any other matter the Council considers appropriate.

3. Protecting public safety.
4. Preventing obstruction of the highway.
5. Having regard to location and operating hours of business activity.

Cumulative Impact

The Council will not normally grant consent for a street trading unit within 30 metres of another street trading unit.

Street Trading in relation to football match days and other sporting events may allow trading to be more densely located than 30 metres apart.

Selling the right goods

The types of goods allowed to be sold will be considered on a pitch-by-pitch basis and specified on the consent. The quality of goods and innovative approach will be considered.

Quality of goods refers to traders making the proper (and legal) checks to ensure their goods are safe for use or consumption. In addition, the use of recyclable materials in the product or packaging or the reduced use of packaging to minimise plastic or other waste will be improving quality.

Innovative products refers to goods that are not readily available within the High Street marketplace.

Anyone applying for a stall must clearly state the nature of the proposed goods. The goods must not:

- Cause a nuisance, disturbance or annoyance to nearby properties/ people, including cooking smells, smoke, noise, litter and additional cleansing requirements for the Council.
- Cause or contribute to crime and disorder – including the selling of fake or counterfeit goods.
- Have a negative public health impact e.g. vaping products, locality of fast food units near schools, etc.

Site assessment

In determining whether street trading in a particular area is appropriate the council will have regard to:

- Any potential obstruction of pedestrian, vehicular or disabled access.
- Any obstruction to the safe passage of pedestrians and wheelchair users.
- Any nuisance/interruption to pedestrian flow or maintenance of appropriate social distancing.
- The safe access and egress of customers and staff from the pitch and immediate vicinity.
- Obstruction of entry to or sight lines to the entrance of retail premises or obstruction of display windows of retail premises.
- Public squares will not be appropriate for annual street trading consents longer than 12 weeks.
- In terms of any land that is not Highway Maintained at Public Expense (HMPE) permission needs to be obtained from the landowner and submitted with the application e.g. private land or Birmingham City Council park or open spaces (that are not part of the excluded 51 parks and open spaces)

Other criteria

- The consent holder will at no time have the exclusive right to trade from the street or any part of it.
- Street trading can only take place in the area outlined in the consent and on days and hours detailed in the consent.
- The consent holder may only trade in goods that are outlined on the consent.
- A copy of the consent shall be made immediately available upon request to an authorised officer of the Council or the police.
- Auction sales shall not be permitted as part of the consent.
- All street trading units will be equipped with safe and adequate lighting for operation during the hours of darkness.
- Evidence of a commercial waste contract must be provided before the consent is issued and on request by a Council officer.

Failure to comply with any of these requirements may result in refusal to issue or renew consents or revocation of an existing consent.

9 Types of Street Trading Consent

Annual Street Trading

This consent enables the consent holder to trade up to seven days a week at a particular pitch within the City Council area. Annual street trading consents will run from the 1 April until 31 March the following year. Consents can be applied for part way through the year, but they will only run until 31 March. An Annual Consent will not be granted for periods of less than four weeks.

Occasional Street Trading

This type of Occasional consent will last for one trading day for a particular pitch in Birmingham. No more than 30 consents will be issued per pitch per trader per financial year. Trading days must be specified in the application and can be consecutive.

10 Consent Application, Renewal and Surrender

Application or Renewal

Applicants must submit a new application or a renewal application for an annual or occasional consent at least eight weeks before the date they wish to start trading. This is to enable the Council to consult with partner agencies. **Failure to do so may result in a delay in being able to trade.**

Consent holders will be reminded that their consent is due to expire at least eight weeks before the expiry date. This is done to assist the trader, the Council accepts no liability if the trader does not receive the reminder. It is the trader's responsibility to ensure that they have the correct consent, to submit their application prior to the expiry of their consent and to update the Council should their contact details change.

Surrendering a consent

Where the trader wishes to surrender a consent they must give the council 21 days written notice. Notice must be sent to streettrading@birmingham.gov.uk

11 Special event and occasional market/fair street trading

Special Event Street Trading (two to four street trading units)

A 'special event' is where there are two or more street trading consents to be issued to the traders at that event, and where the event is organised by a single person/ organisation

The organiser of the special event that will apply to the Council requesting their event to be considered a 'special event' where street trading is taking part at the event. The event organiser will provide full details of each trader attending the event and apply to the Council for an occasional consent. Occasional consents will be issued by the Council to individual traders on their successful application to the Council. All applications must be made 8 weeks prior to the event taking place.

Occasional market/fair (five or more street trading units)

The Birmingham Corporation (Consolidation) Act 1883 gives Birmingham City Council the market rights for any market within six and two thirds of a mile from St. Martins Church, Birmingham City Centre (Appendix 7) and or any other market run by Birmingham City Council. Therefore, any market or fair including antique fairs, coin, stamp and postcard fairs, book fairs etc. where street trading from five or more units occurs held within this ring-fence will be considered as a market and will be subject to an application for and the granting of a licence issued by the Markets Service. Street trading consent is not required for licensed markets.

The organiser of the market or fair must apply to the Markets Service for a licence at least 8 weeks prior to the market or fair taking place.

12. Letting of pitches

Sub-letting pitches

Consent holders are not permitted to sub-let the pitch they are allocated under any circumstances.

Re-letting pitches

Street traders must make full use of their consent. The local authority will assess whether a consent holder has made a full use of their consent. Street traders shall notify the Council in circumstances where, and for whatever reason, they do not intend to make use of their consent, and notification should be made in advance. Consent holders must inform the Council of the date upon which they intend to resume trading. In circumstances where the date is not known, consent holders must give appropriate notice of their intention to resume trading. Where no prior notification has been received and in circumstances where the council is satisfied that the consent holder is not making full use of their consent it may re-let the street trading pitch to another trader. Multiple street trading consents may be granted to different applicants for the same site provided specific trading days/ periods are applied for.

13. Temporary relocation

When a pitch becomes temporarily unsuitable for any reason, the Council will seek to relocate consent holders to an alternative street trading pitch. The Council will not be liable for any claims for loss of earnings etc. If agreement cannot be reached on relocation, then consideration needs to be given by the trader in terms of giving notice for the consent and by the Council in terms of revoking the consent.

14. Fees and charges

Birmingham City Council set fees and charges for street trading. Fees and charges are reviewed annually. There will be an application fee and a consent fee.

Please visit <https://www.birmingham.gov.uk/street-trading> to find out what the current fees and charges are for street trading. When making an application the application fee must be paid in advance and is non-refundable. If a consent is granted or renewed, payment will be on receipt of the invoice for the consent in advance. Methods of payment are described on the invoice. The requirement to pay fees for the consent on or before the due date specified by the Council forms one of the conditions of the consent.

Where a consent is surrendered, the Council will remit or refund, as they consider appropriate, the whole or part of any consent fee paid for a grant or renewal of the consent.

Payment of fees for Annual Consents

Annual consent fees are published on Birmingham City Council's website. For annual consents the fee will be paid quarterly in advance of the relevant quarter. The consent will run from the 1 April until 31 March the following year. If an applicant makes an application during this period, the consent will cease on 31 March in the financial year that it was applied for or the length of time the annual consent is requested provided it expires before 31 March in the same financial year.

Payment of fees for Occasional Consents

Occasional consent fees are published on Birmingham City Council's website. For Occasional consents the applicant will need to pay prior to the consent being granted. The consent fee will cover up to thirty days trading in any part of one financial year with the year ending on 31 March. All trading must take place at the same pitch.

15. Applications for grant or renewal

All applications will be considered on their individual merits taking into account all relevant matters.

Consents will not normally be granted or renewed where:

- Enforcement action is pending or has previously been undertaken and proved against the applicant.
- The holder is currently in arrears with any charges.
- The location is unsuitable
- There is a potential risk to public safety
- The activities are likely to cause a nuisance, disturbance or annoyance to neighbouring properties.
- The applicant is unsuitable.
- An applicant has failed to appropriately use previous consents.
- The unit is unsuitable.
- It may cause or contribute to crime and disorder.

This list is not exhaustive.

Who can apply?

To apply for consent a person must be: -

- An individual or business
- 17 years of age or over
- Legally entitled to live and work in the UK

Making an application

All applications must be made on the Council's prescribed application form. The application must be completed in full, with all the required information, before it will be considered. Applicants can apply online by visiting <https://www.birmingham.gov.uk/licensing> If there are any queries relating to this then contact streettrading@birmingham.gov.uk

The application form must be submitted along with the following:

- A non-refundable application fee (based on the cost of administering the application)
- Photographic identification (e.g. passport, photo card driving licence)
- A site plan of the proposed trading area or list of proposed streets
- Photographs of the trailer, stall, or vehicle proposed for use
- The make and model of any generator to be used (if applicable)
- Gas certificate (if applicable)
- Public Liability Insurance certificate cover for £5,000,000
- Current MOT certificate (if using a vehicle)
- Appropriate current business use motor insurance (if using a vehicle)
- Proof that the applicant and any assistants are entitled to work in the UK

Upon receipt of the complete application the Street Trading Team will consider the application in line with the key considerations outlined in section 8 of the policy and conduct a consultation as detailed in this section of the policy.

Once the application is complete and has been accepted, the council will either:

- Determine to grant the consent as applied for and attach standard conditions.
- Determine to grant the consent with specific conditions or a variation to the application.
- Determine to refuse the consent.

Where it has been determined to grant the consent, before the consent is issued the following must be provided:

- the appropriate fee
- evidence of a commercial waste contract

Where a consent is refused the council will notify the trader in writing detailing the reason for refusal.

Receipt of application and fees

An application will be treated as being received only when the relevant application and all the necessary supporting evidence has been received and the relevant non-refundable application fee has been paid. The application must be completed in full. Incomplete applications will be rejected. Failure to follow the application process may result in the consent being refused or delayed. Applicants are encouraged to submit their applications in plenty of time before the trading date to ensure that if there are any problems they can be rectified or discussed before they intend to trade.

Consultation

In determining a street trading consent the Council may decide it is appropriate to consult with various people or groups. The Council will consider relevant representations.

The Council may consult the following people before determining a consent:

- West Midlands Police
- West Midlands Fire Service
- Highways Division, Birmingham City Council
- Transportation Division Birmingham City Council
- Transport for West Midlands
- Planning Division Birmingham City Council
- Parks Division Birmingham City Council
- City Centre Management, Birmingham City Council
- Business Improvement Districts
- Relevant services at Birmingham City Council e.g. trading standards, environmental health, waste management etc.
- Any other person or body deemed necessary.

Information obtained from these people/ bodies will be considered during the application process and will help determine whether a consent should be granted.

Renewal

The Council has adopted an assessment framework with a limited presumption of renewal for a maximum of one 12 month period running from April to March the following the year the consent was granted, if there has been full compliance (and in the absence of contra indicators) with the consent conditions in the first year or part of. On any renewal application

after this maximum 24-month period, a full competitive reappraisal will take place.

This is only a presumption of renewal and not a guarantee. There may be circumstances in which a renewal is not granted. Aside from failures to comply with consent conditions, examples include where changes to the locality since the original consent was granted mean that a first consent would not, at the time of renewal, have been granted for trading in that location, or otherwise where BCC's criteria for granting a consent are no longer met.

16. Insurance

The council will accept no liability for the street trading activities undertaken by the consent holder(s). Evidence of suitable public liability insurance (minimum value of £5 million) will be required from the applicant covering the period they wish to trade.

The insurance must be maintained throughout the period of the consent and the consent will be revoked should the insurance be cancelled or breached or its sum altered as to provide less than the minimum value.

If the insurance is due for renewal during the period covered by the consent, it is the responsibility of the consent holder to provide the council evidence that public liability insurance is continuous for the period of the consent.

17. Food units

All food businesses must be appropriately registered with their local authority. Certain low risk businesses are exempt from the hygiene rating scheme, so will not require a hygiene rating, however the Council may contact Environmental Health to ensure adequate compliance with food law. Other low risk food businesses (the decision of what is classed as a low risk business will be determined by the Environmental Health Team), may be considered safe to trade whilst awaiting inspection by their local authority or in other circumstances. All other traders that sell or provide food must have a national food hygiene rating of a 4 or 5. Where a rating drops below a 4 or where there is significant food hygiene or food safety breach whilst a consent is in place, consent may be suspended or revoked. Applicants and consent holders should notify Birmingham City Council of any changes to their national food hygiene rating.

18. Removal of waste

Traders shall ensure that they comply with the law in relation to the disposal of waste. All businesses must put in formal commercial arrangements for the collection of waste created by their activities. It is an offence to dispose of trade waste in domestic refuse bins.

19. Enforcement Actions

Where the conditions of the consent are breached, and it is deemed appropriate, necessary and proportionate for enforcement action to be taken then the disciplinary process attached at Appendix 8 will apply.

20. Appeal against revocation

There is no statutory right of appeal against a decision to revoke a consent however an appeal may be made to the Head of Licensing within 5 working days of the written revocation. A panel of two independent senior officers will review the decision to revoke the consent. After considering the original evidence (new evidence or material will not be permitted) the panel will make a decision in writing on whether to uphold the appeal (with or without conditions) or not to uphold the appeal.

21. Refusing applications

The Council may refuse to grant or renew a consent. Where a consent is refused the Council will advise the applicant in writing and notify them of the reason for the refusal. There is no right of appeal against an officer's decision to refuse a consent.

If an application for consent has been refused applicants will be able to access:

- Support to relocate to the Bullring Retail Markets
- Detailed feedback on any unsuccessful consent application to enable a better application to be developed in the future or for submission at another location
- Face to face discussion with unsuccessful traders to try and identify other suitable locations provided all other criteria are satisfied

22. Conditions, complaints and offence

General conditions will be attached to every consent. These are found at Appendix 9. Additional conditions may also be attached relating to the type of the consent given. Failure to comply with conditions may result in enforcement action, revocation of your consent, and refusal to grant further consents on application.

Complaints

Complaints will be fully investigated in accordance with the Council's Complaints Policy and consent holders will be expected to liaise with the Council to resolve them. Substantiated complaints may result in a consent being revoked and refusal to grant further consents on application.

Offences

Decisions regarding enforcement action will be made in accordance with the Council's enforcement policy.

A person commits an offence if they:

- a) Engage in street trading in a prohibited street.
- b) Engage in street trading in a consent street without first obtaining authorisation from the council.

Any person guilty of such an offence will be liable, on conviction at a magistrates' court to a fine of up to £1,000.

23. Definitions

Roundsman

A roundsman is a person who followed the round of his/her customers to take orders and deliver the pre-ordered goods of these customers.

News vendor

News vendor is a reference to trading where:

- a) The only articles sold or exposed or offered for sale are newspapers or periodicals; and
- b) They are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not:
 - (i) exceed one metre in length or width or two metres in height;
 - (ii) occupy a ground area exceeding 0.25 square metres; or
 - (iii) stand on the carriageway of a street.

24. Scheme of Delegation

The Licensing and Public Protection Committee is responsible for making licensing decisions with Sub-Committees and officers having delegated powers to make some decisions. The table below describes how licensing decisions will be made. This scheme of delegations will be subject to regular review

Nothing within this scheme of delegations shall prevent matters being referred to a higher level where appropriate, e.g. officers may refer matters to a sub-committee, or a sub-committee may refer a matter to full committee.

Street Trading Consent		Decision to be made by:		
Matter to be dealt with:	Full Council	Cabinet Member	Full Committee	Officers (Senior Licensing Officer or above)
Application for grant.				All cases
Application for renewal, transfer, or variation				All Cases
Revocation of Licence				All Cases
Make/amend regulations prescribing standard conditions, terms and restrictions			All cases	
Setting of fees			All cases	
To make and amend policy relating to Street Trading Consents		All cases		

Street Trading Consent				
Matter to be dealt with:	Decision to be made by:			
	Full Council	Cabinet Member	Full Committee	Officers (Senior Licensing Officer or above)
Designation of Streets	All cases			
To enforce the provisions of Part III and Schedule 4 of the Local Government Miscellaneous Provisions Act 1982				All Authorised Officers

Prohibited Streets- Birmingham City Council Red Routes

A4540 Ring Road Birmingham Red Route

Dartmouth Circus
A4540 Dartmouth Middleway
A4540 Lawley Middleway
Curzon Circus
A4540 Lawley Middleway
Garrison Circus
A4540 Watery Lane Middleway
Bordesley Circus
A4540 Bordesley Middleway
Camp Hill Circus
A4540 Camp Hill Middleway
A4540 Highgate Middleway
Haden Circus
A4540 Belgrave Middleway
Belgrave Interchange
A4540 Lee Bank Middleway
A4540 Islington Row Middleway
Five Ways
A4540 Ladywood Middleway
Ladywood Circus
A4540 Ladywood Middleway
Spring Hill roundabout
A4540 Icknield Street
Key Hill Circus
A4540 Boulton Middleway
Lucas Circus
A4540 New John Street West
A4540 Newtown Middleway
Dartmouth Circus

A38 Queensway Birmingham Red Route

A38 Bristol Street (entire length, from junction with Lee Bank Middleway to Holloway Circus)
Holloway Circus
A38 Suffolk Street Queensway
Paradise Circus
A38 Great Charles Street Queensway
A38 St. Chad's Queensway
Lancaster Circus

Walsall Road etc. Birmingham Red Route

Includes the B4114 from Lancaster Circus to the junction with the A4540 New John Street West, and from there, continuing as the same road, the A34 to the city boundary with Sandwell at Scott Arms.

B4114 Lancaster Street (Lancaster Circus to Princip Street)

B4114 / A34 Newtown Row (Princip Street to Phillips Street)

A34 High Street (Phillips Street to Lozells Road)

A34 Birchfield Road (Lozells Road to junction with the A453 Aldridge Road)

A34 Walsall Road (junction with the A453 Aldridge Road to the city boundary)

A38 Kingsbury Road Birmingham Red Route

A38 Kingsbury Road from the junction with the Tyburn Road to the Minworth island roundabout.

Tyburn Road Birmingham Red Route

A38 Corporation Street (Lancaster Circus to canal bridge)

Aston Road (canal bridge to Dartmouth Circus)

A5127 Aston Bridge, northbound (Dartmouth Circus to junction with Avenue road, then Aston Road North to junction with Rocky Lane)

A5127 Aston Road North / Aston Road, southbound (Rocky Lane to Dartmouth Circus)

A5127 Lichfield Road (Rocky Lane to Salford Circus)

Salford Circus

A38 Tyburn (Road Salford Circus to junction with Kingsbury Road)

A45 Coventry Road Birmingham Red Route

A45 Small Heath Highway (entire length)

A45 Coventry Road (Heybarnes Circus to the city boundary with Solihull), including the section of the westbound New Coventry Road

A34 Stratford Road Birmingham Red Route

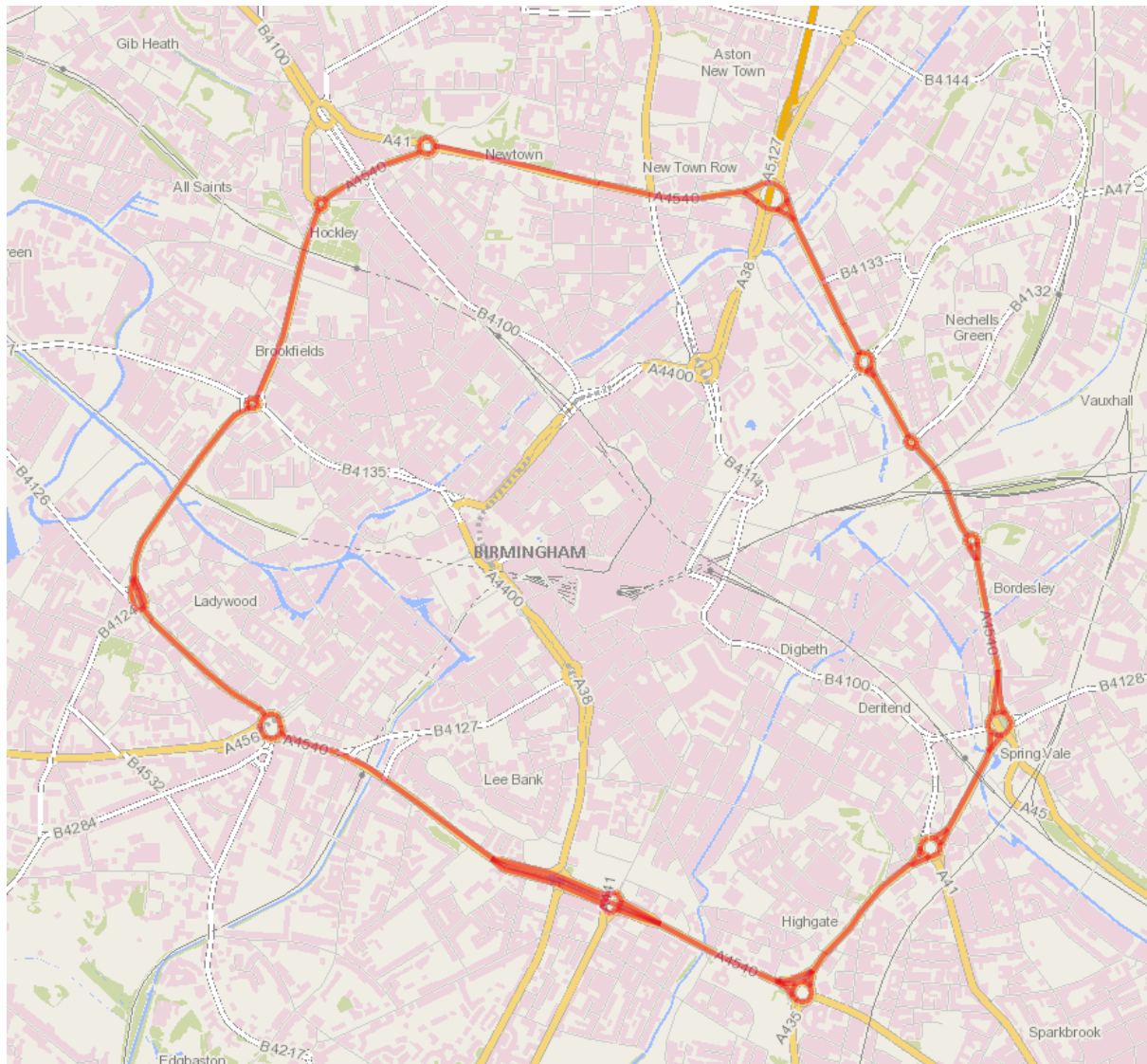
A34 Stratford Road (from Camp Hill Circus to the city boundary with Solihull)

MAPS FOR ILLUSTRATIVE PURPOSES ONLY

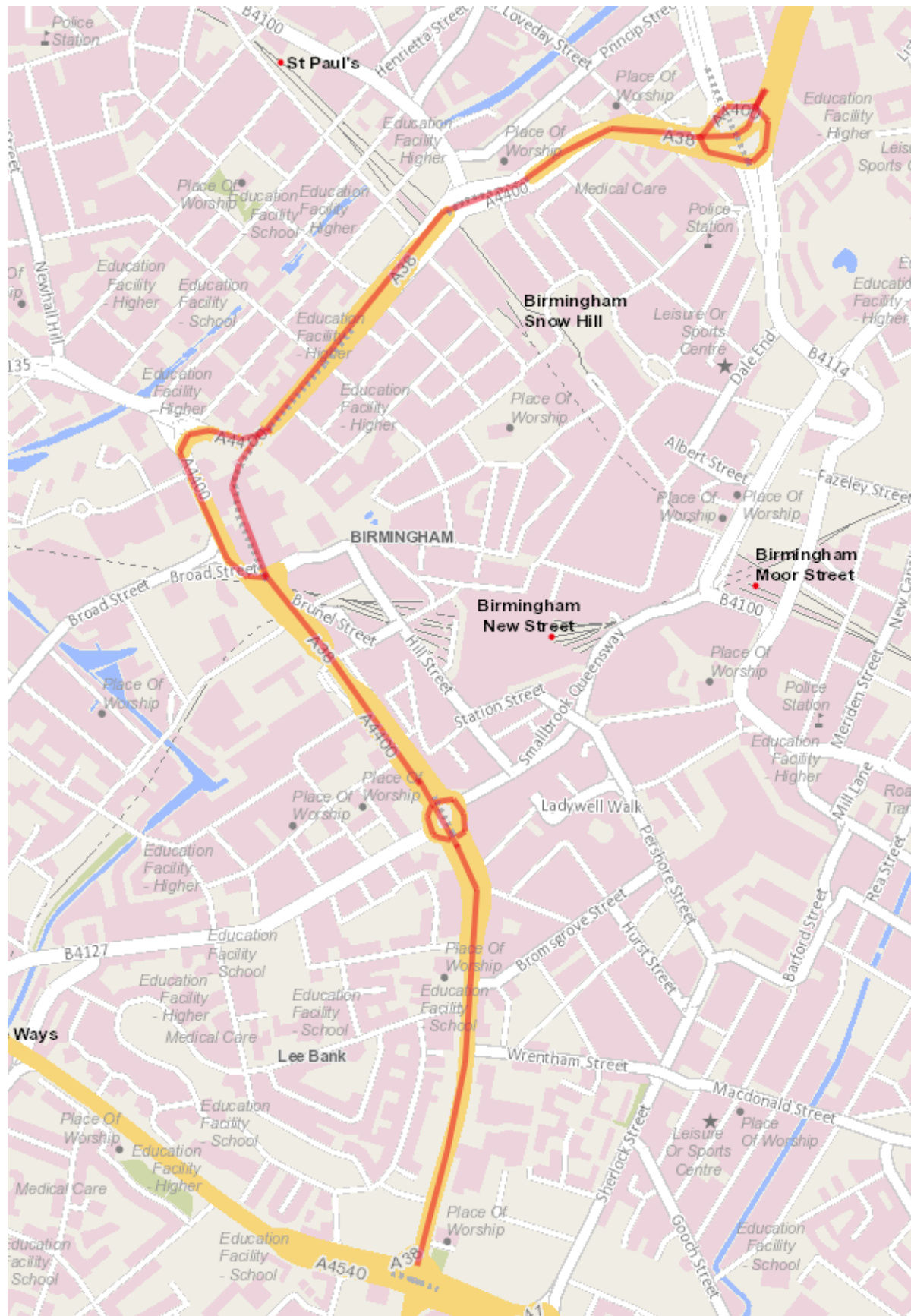
Birmingham City Council – Red Route Overview



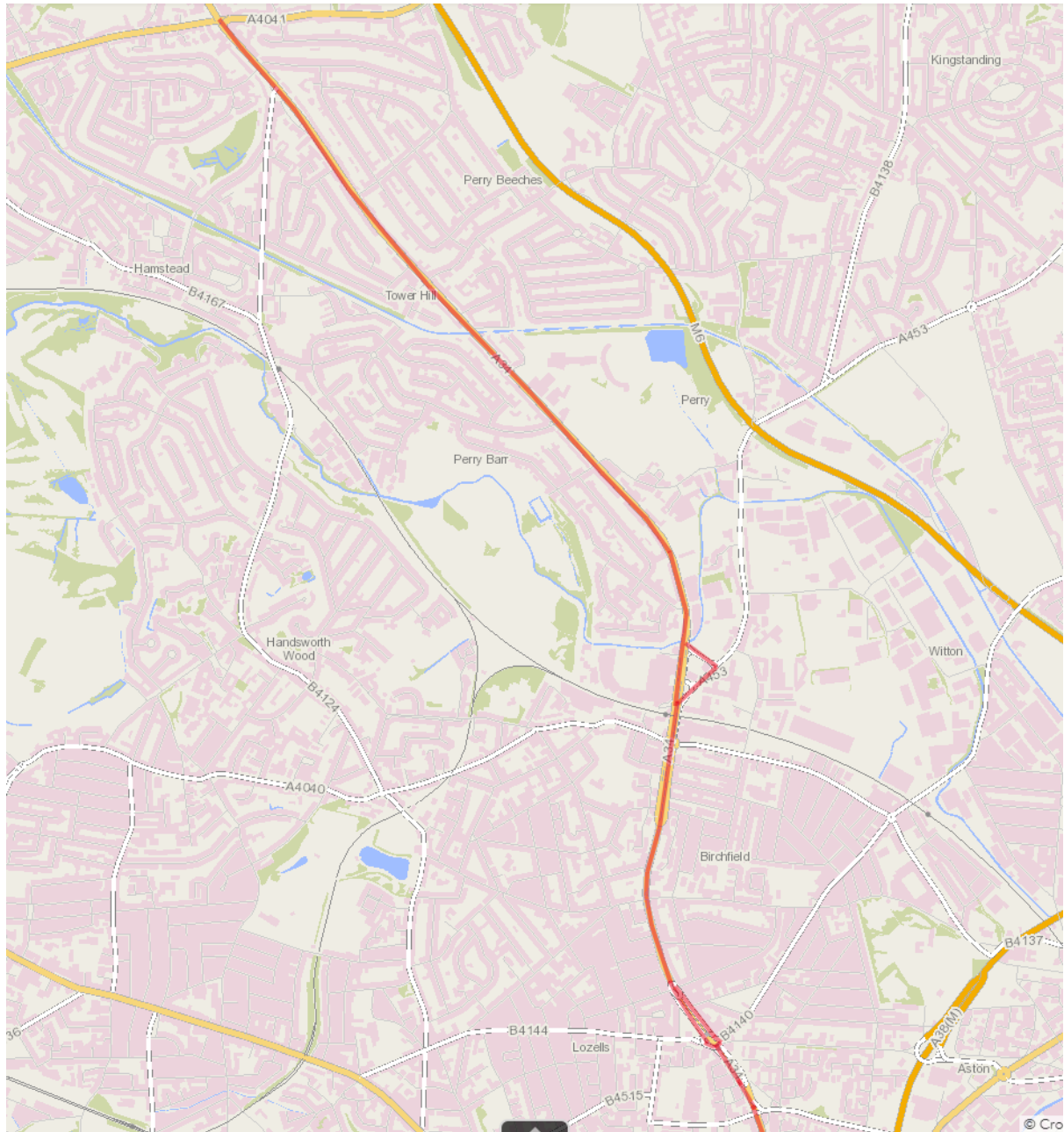
A4540 Ring Road Red Route



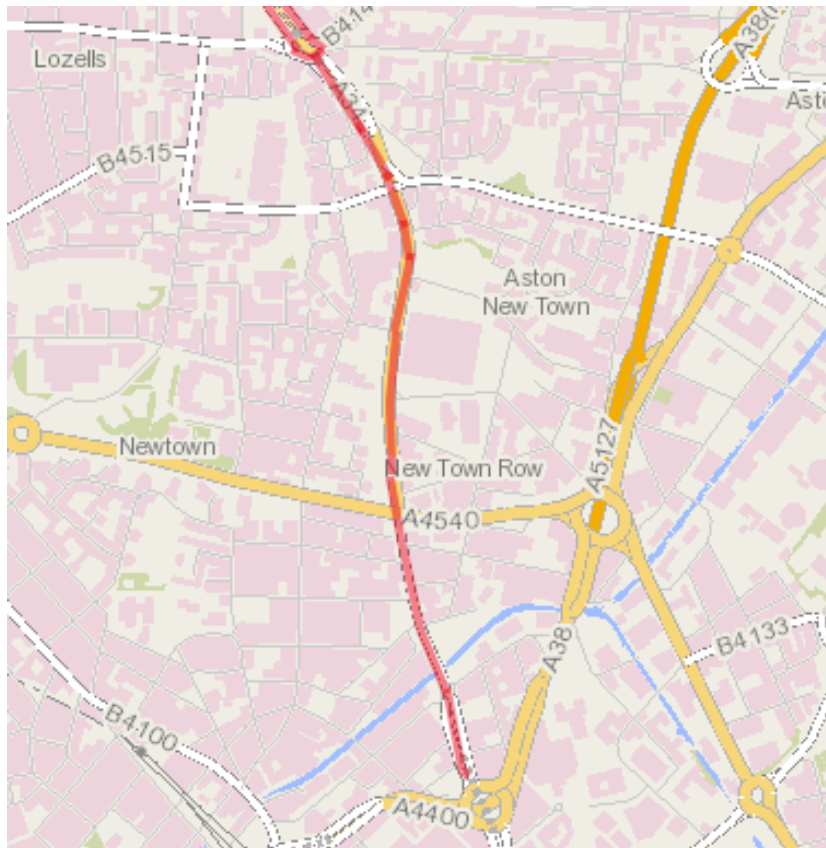
A38 Queensway Red Route



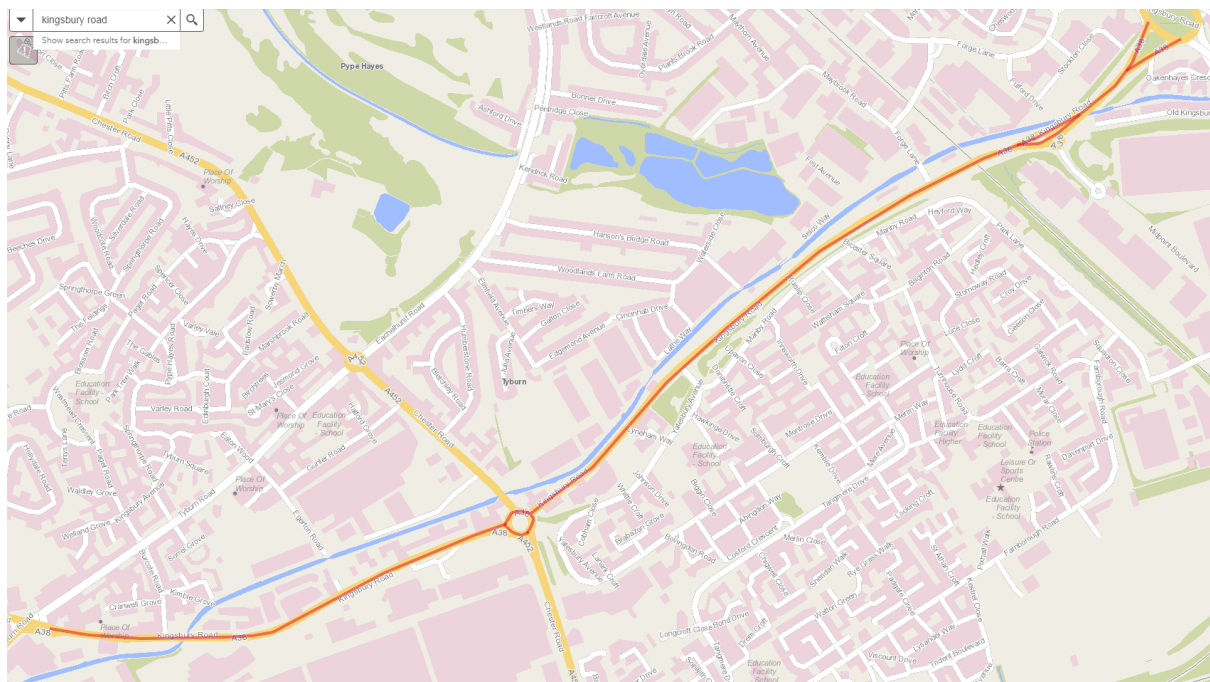
Walsall Road Red Route(Scott Arms junction to Birchfield Road)



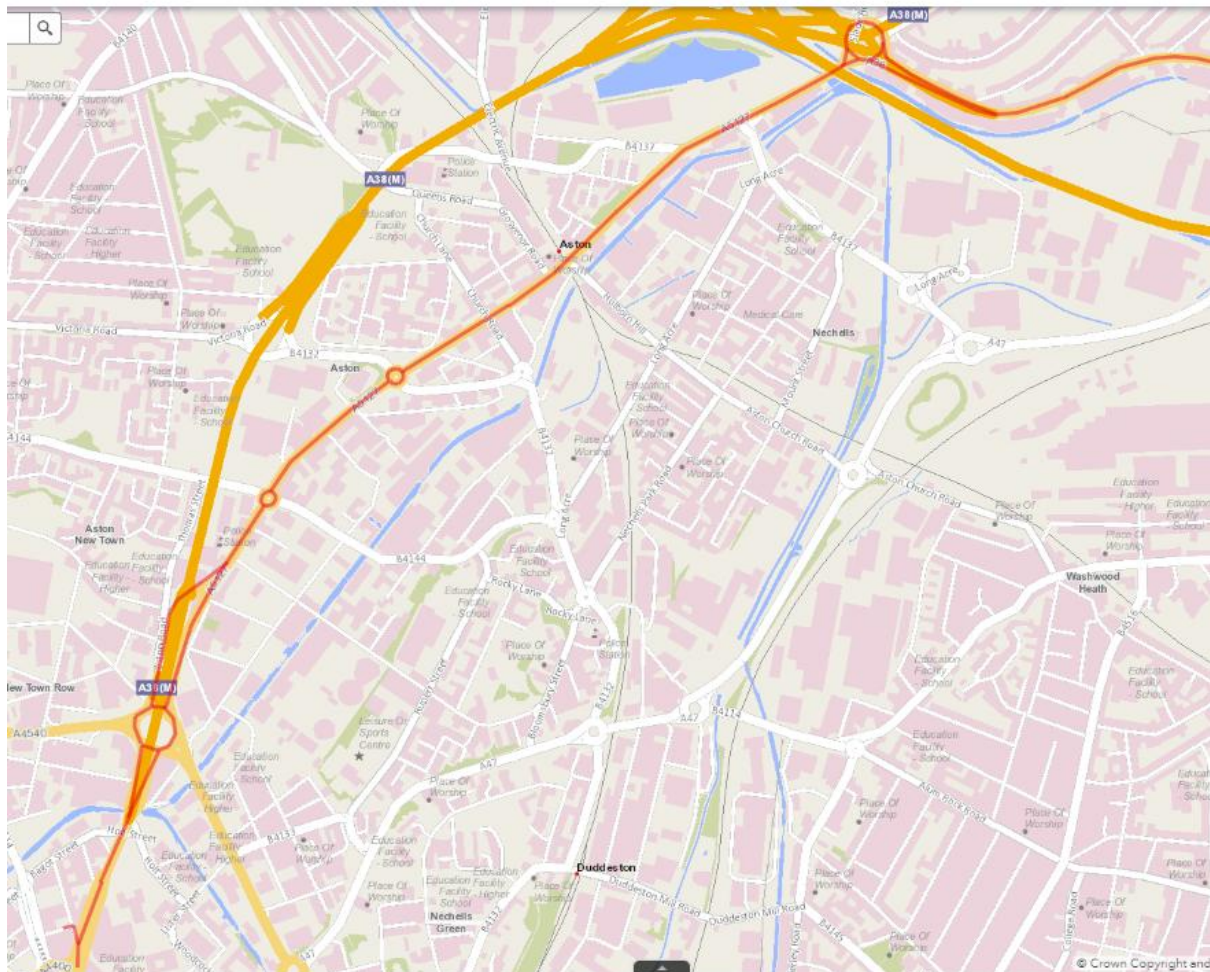
Walsall Road Red Route (Birchfield Road to Lancaster Street)



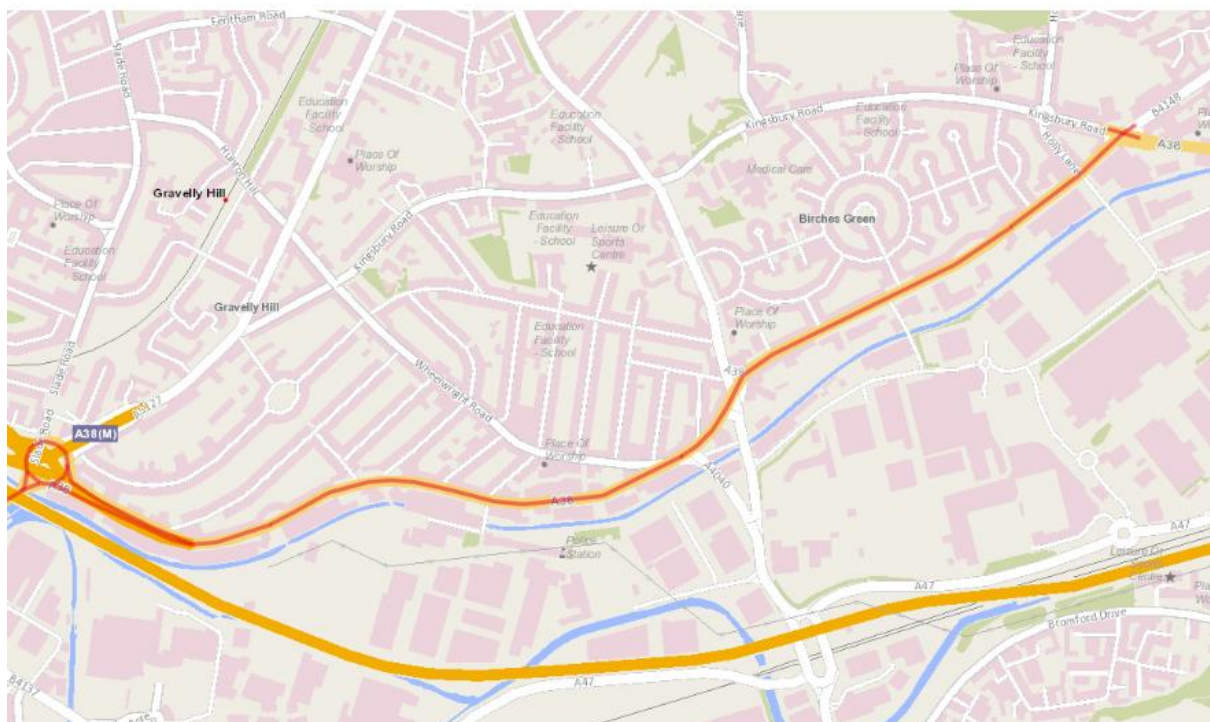
A38 Kingsbury Road Red Route



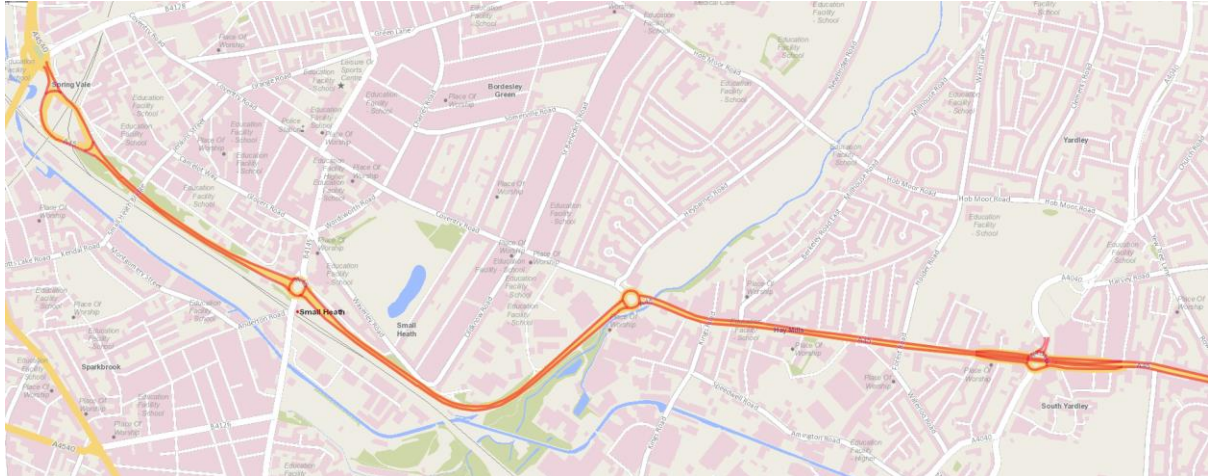
Tyburn Road Red Route (Corporation Street to Bromford Lane junction)



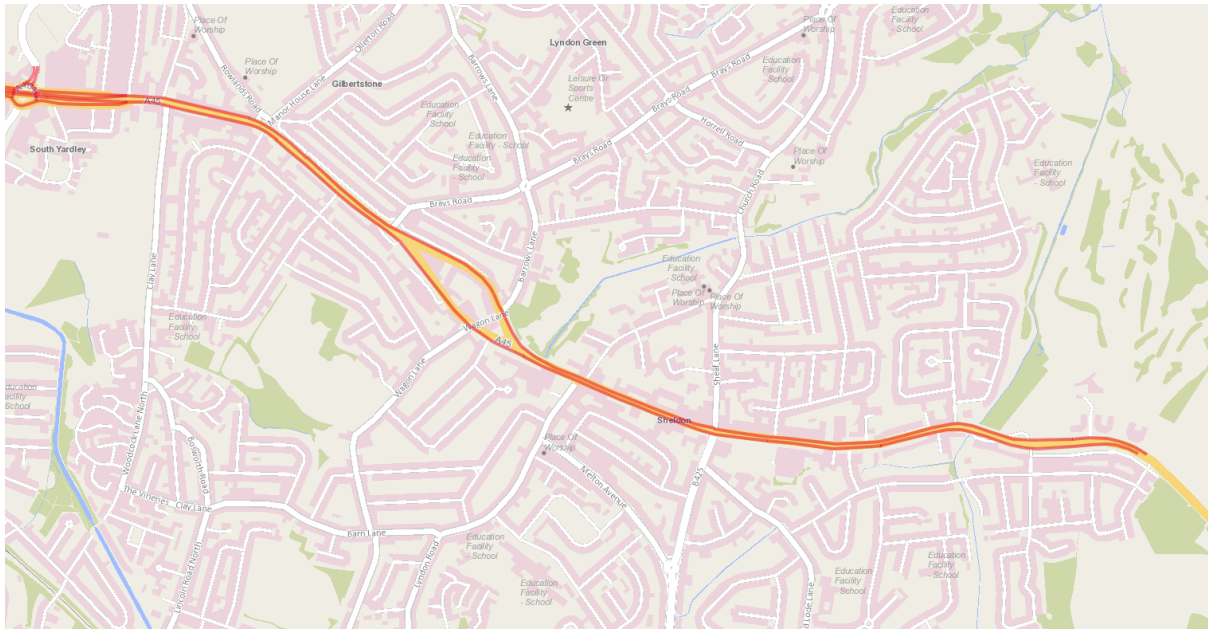
Tyburn Road Red Route (Salford Circus to Kingsbury Road junction)



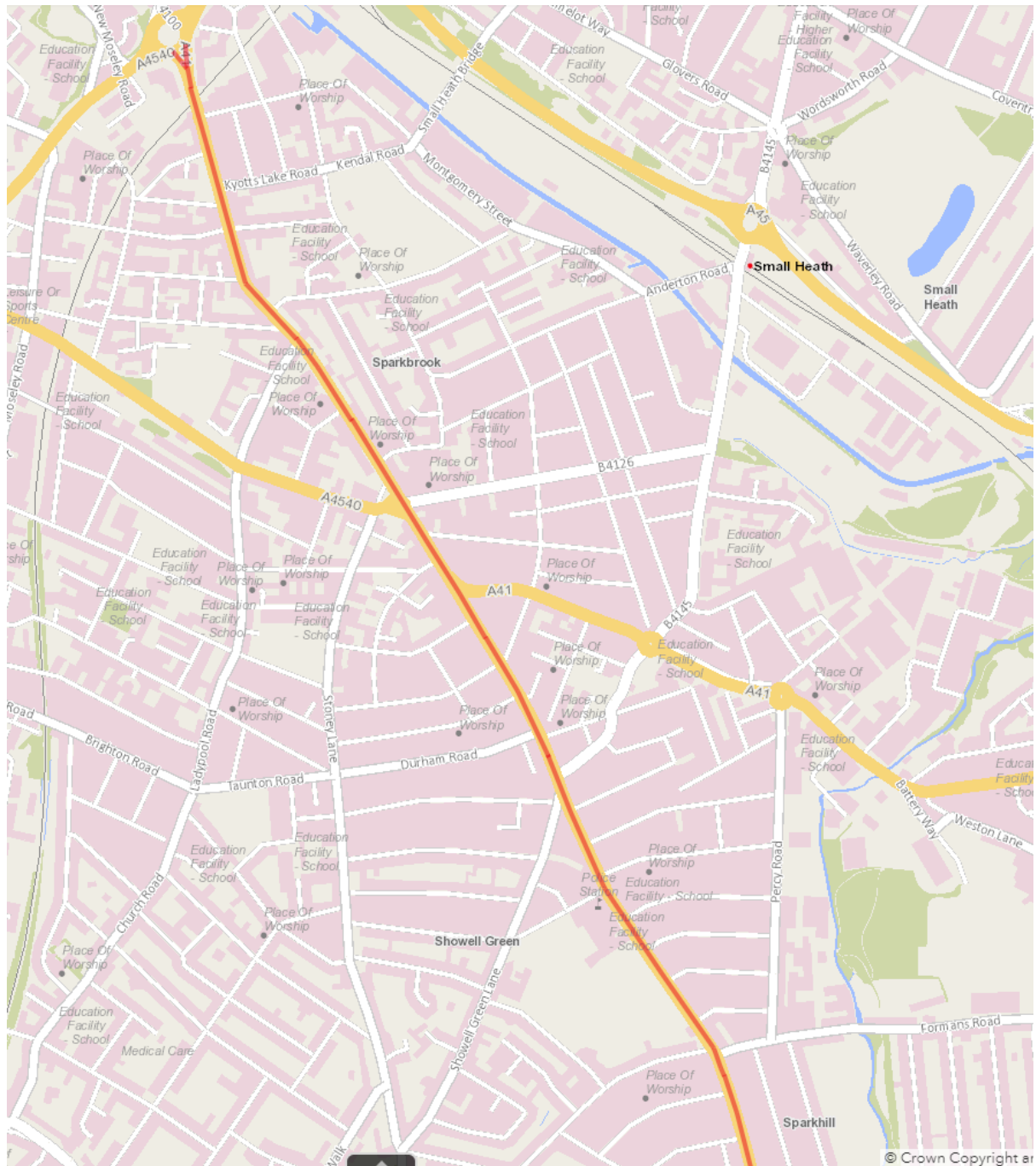
A45 Coventry Road Red Route (Bordesley Circus to Clay Lane)



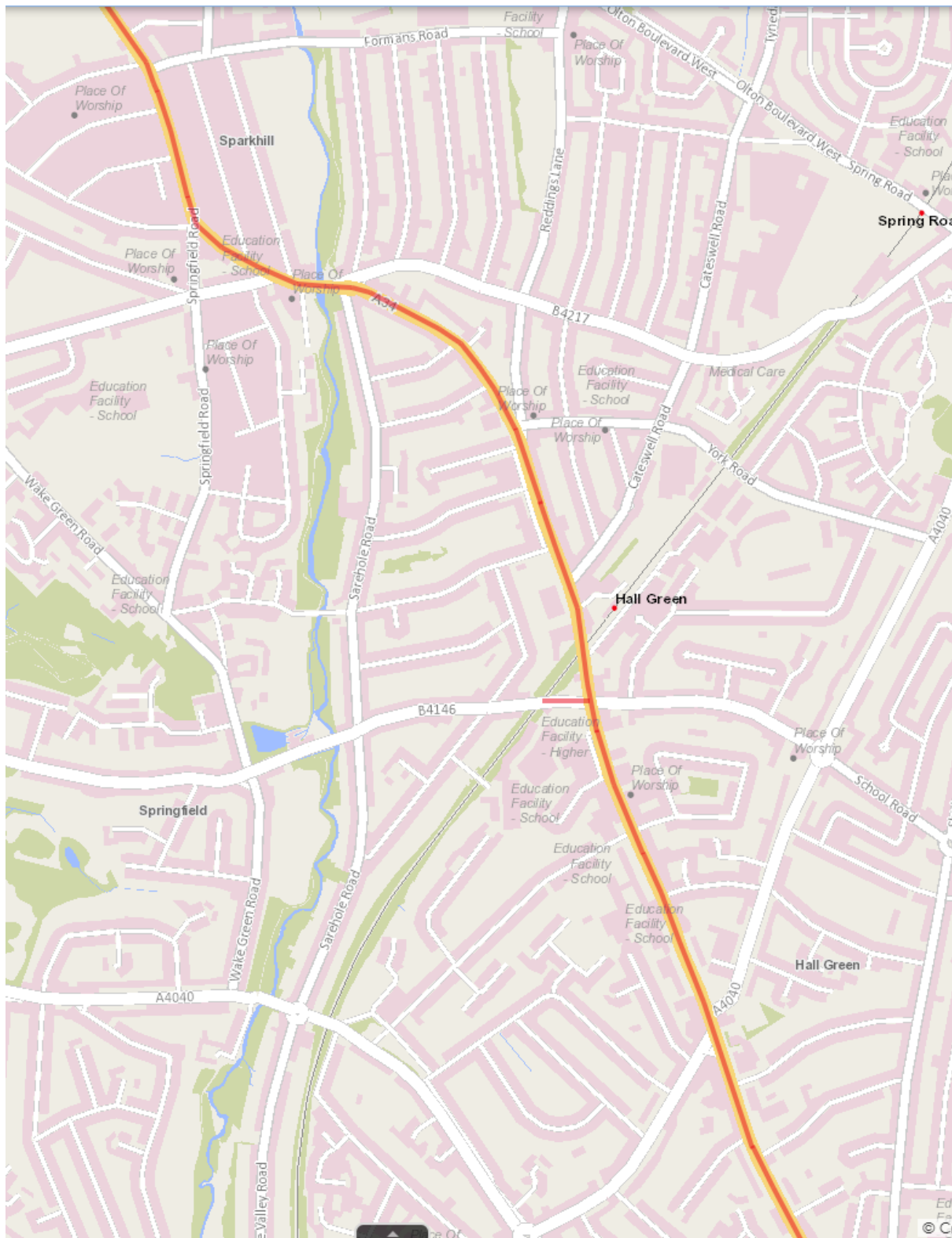
A45 Coventry Road Red Route(Swan Island to Solihull Boundary)



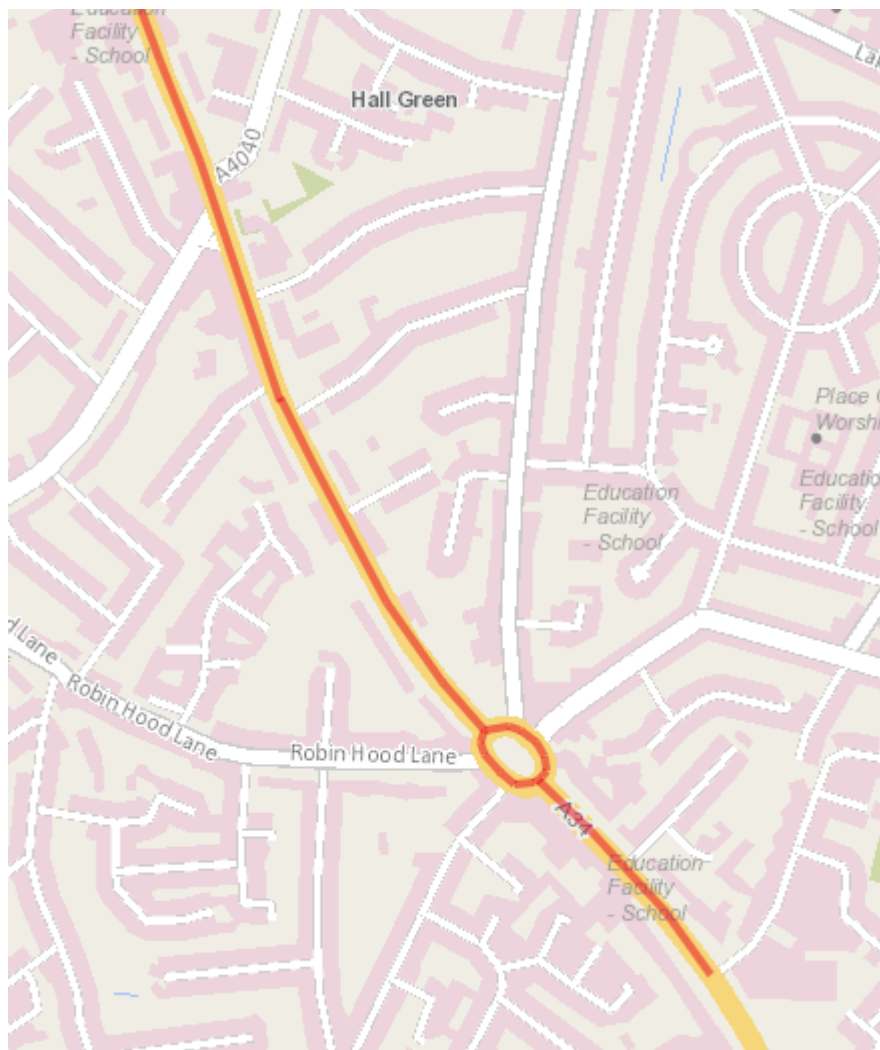
Stratford Road Red Route (Camp Hill Circus to Greswolde Road)



Stratford Road Red Route (Formans Road to Beechcroft Avenue)



Stratford Road Red Route (Fox Hollies Road to Greenhill Way)



Appendix 2

Prohibited Street – Metro Routes**LINE 1 (Wolverhampton to St Paul's Tramstop)**

None

Birmingham City Centre Extension (St Paul's Tramstop to Birmingham Grand Central Tramstop)

Colmore Circus Queensway B4 (portion of street west of Snowhill Train Station)

Bull Street B4 (Colmore Circus Queensway junction to Corporation Street junction)

Corporation Street B4 (Bull Street junction to Stephenson Street junction)

Stephenson Street B2 (Corporation Street junction to 21 Stephenson Street)

Westside extension Centenary Square Extension (Birmingham Grand Central Tramstop to Centenary Square Tramstop)

Stephenson Street B2 (21 Stephenson Street to Pinfold Street)

Pinfold Street B2 (Stephenson Street junction to New Street junction)

New Street B2 (Pinfold Street junction to Paradise Street)

Paradise Street B1 (to Paradise Circus)

Paradise Circus B1 (from Paradise Street to Broad Street)

Westside extension (Edgbaston Extension Centenary Square Tramstop to terminus at 54 Hagley Road)

Broad Street B1 (to Hagley Road)

Hagley Road B16 (A456) (to 115 Hagley Road)

Eastside extension

Bull Street B4 (Corporation Street junction to Dale End junction)

Dale End B4 (Carrs Lane junction to Albert Street junction)

New Meeting Street B4

Moor Street Queensway (Albert Street junction to Carrs Lane junction)

Park Street (Fazeley Street junction to Masshouse Lane junction)

Masshouse Lane (Park Lane junction to 22 Masshouse Lane)

Albert Street B5

Fazeley Street B5 (Queensway junction to Park Street junction)

Fazeley Street B5 (41 Fazeley Street to Benacre Drive junction)

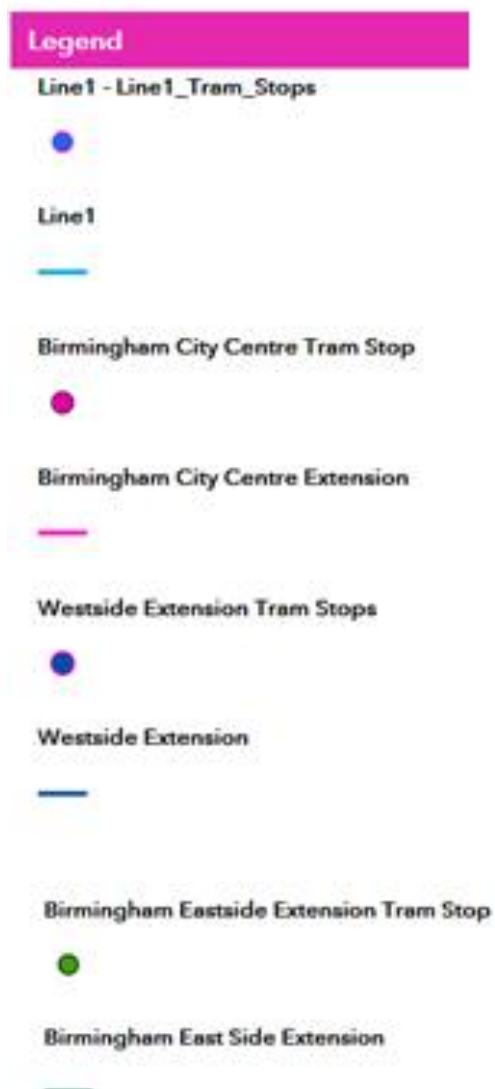
New Bartholomew Street B5 (Fazeley Street junction to 36 New Bartholomew Street)

New Canal Street B5 (Banbury Street junction to Meriden Street)

Meriden Street B5 (to Digbeth B4100 junction)

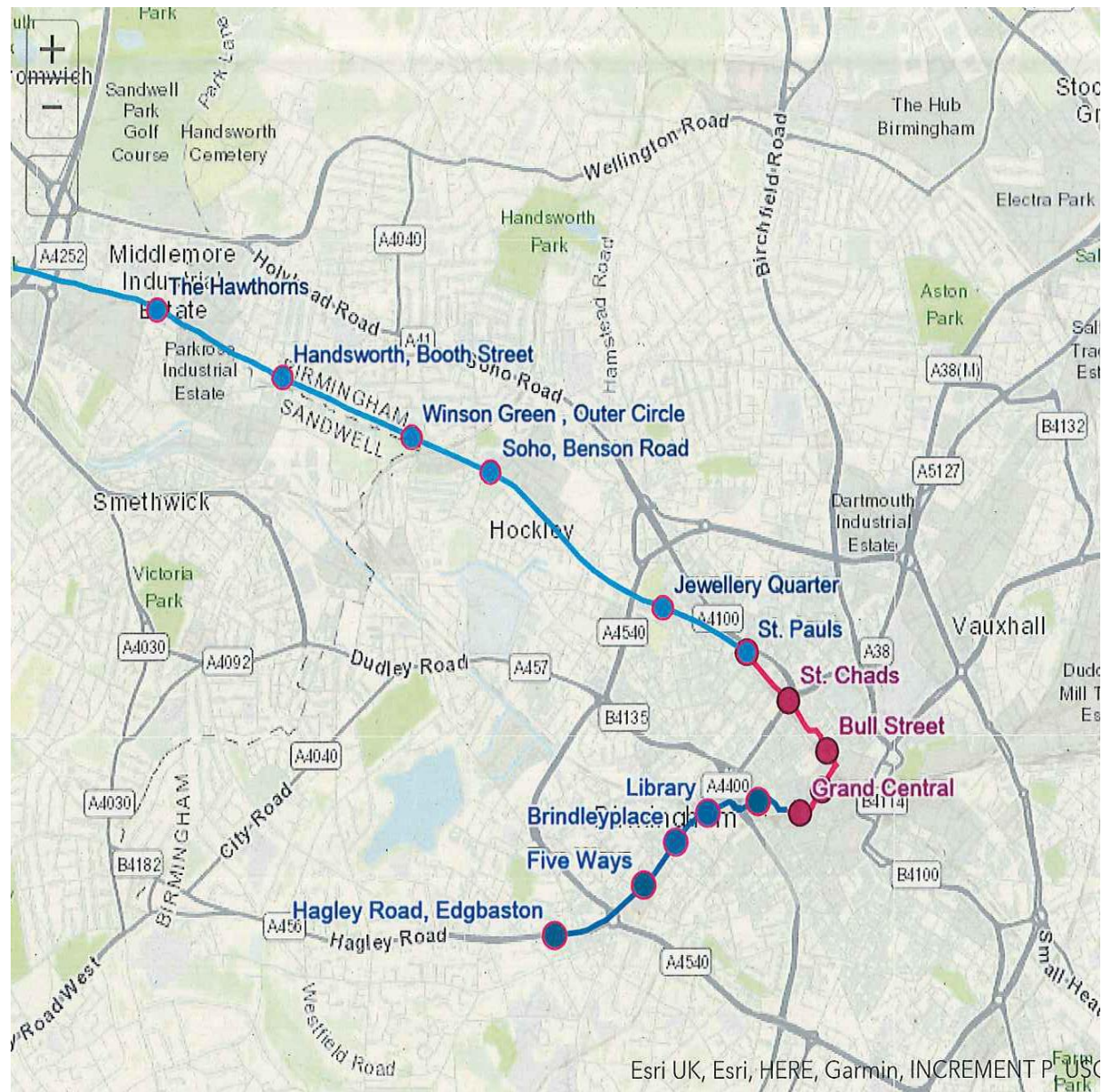
Digbeth B4100 B5 (Alison Street junction to Clyde Street junction)

MAPS FOR ILLUSTRATIVE PURPOSES ONLY

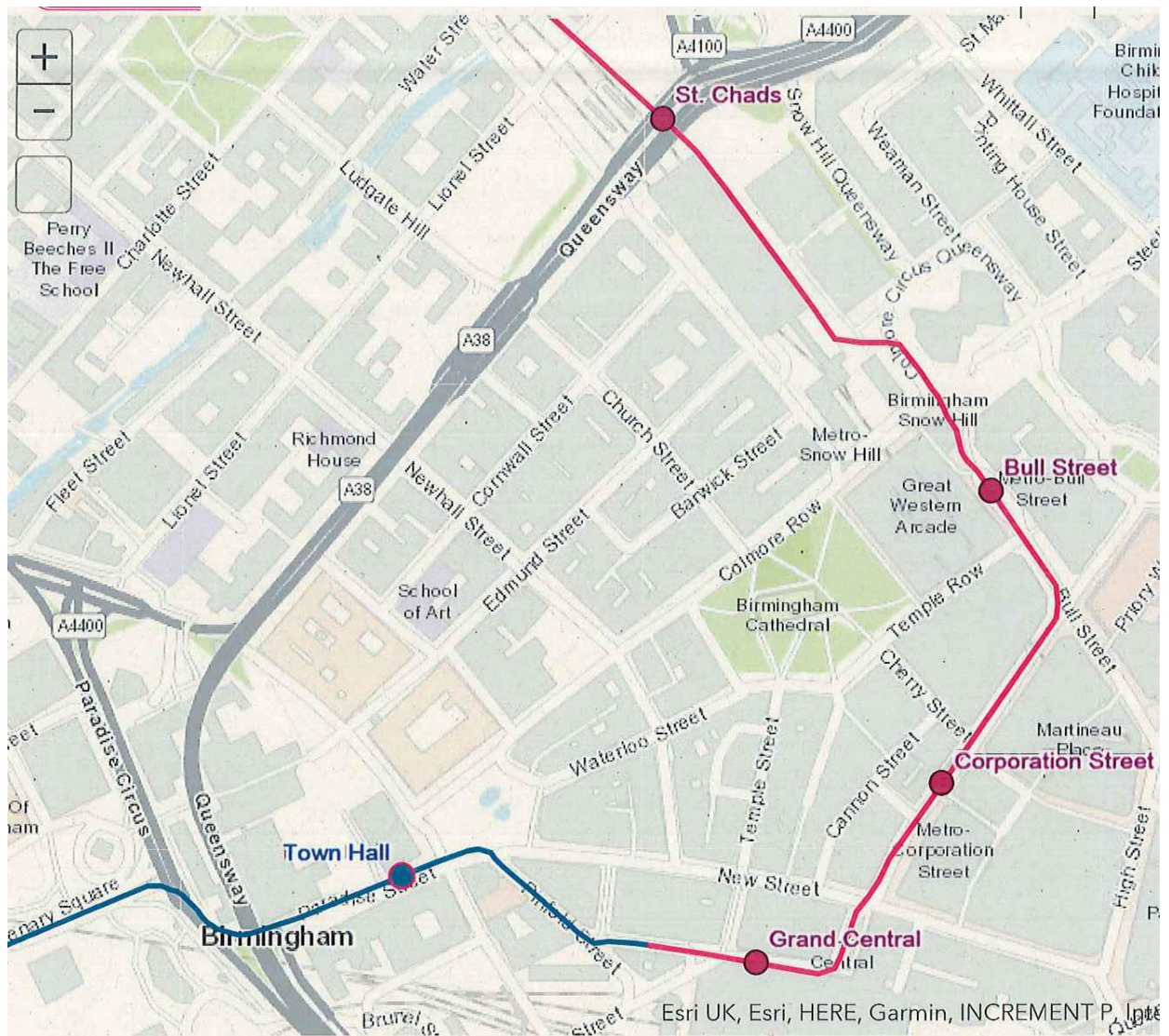


Line 1, Westside Extension (Centenary Square Extension and Edgbaston Extension)

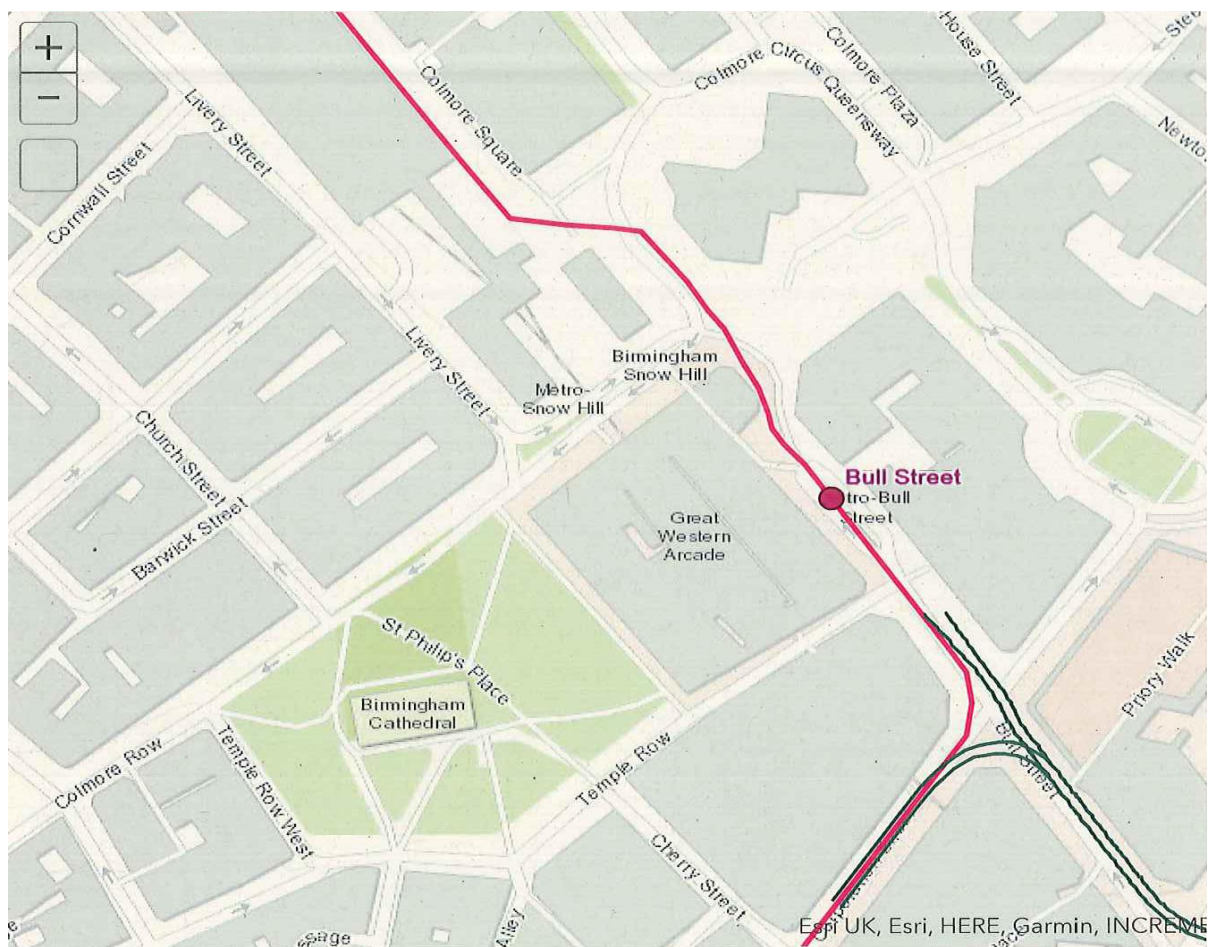
Overview



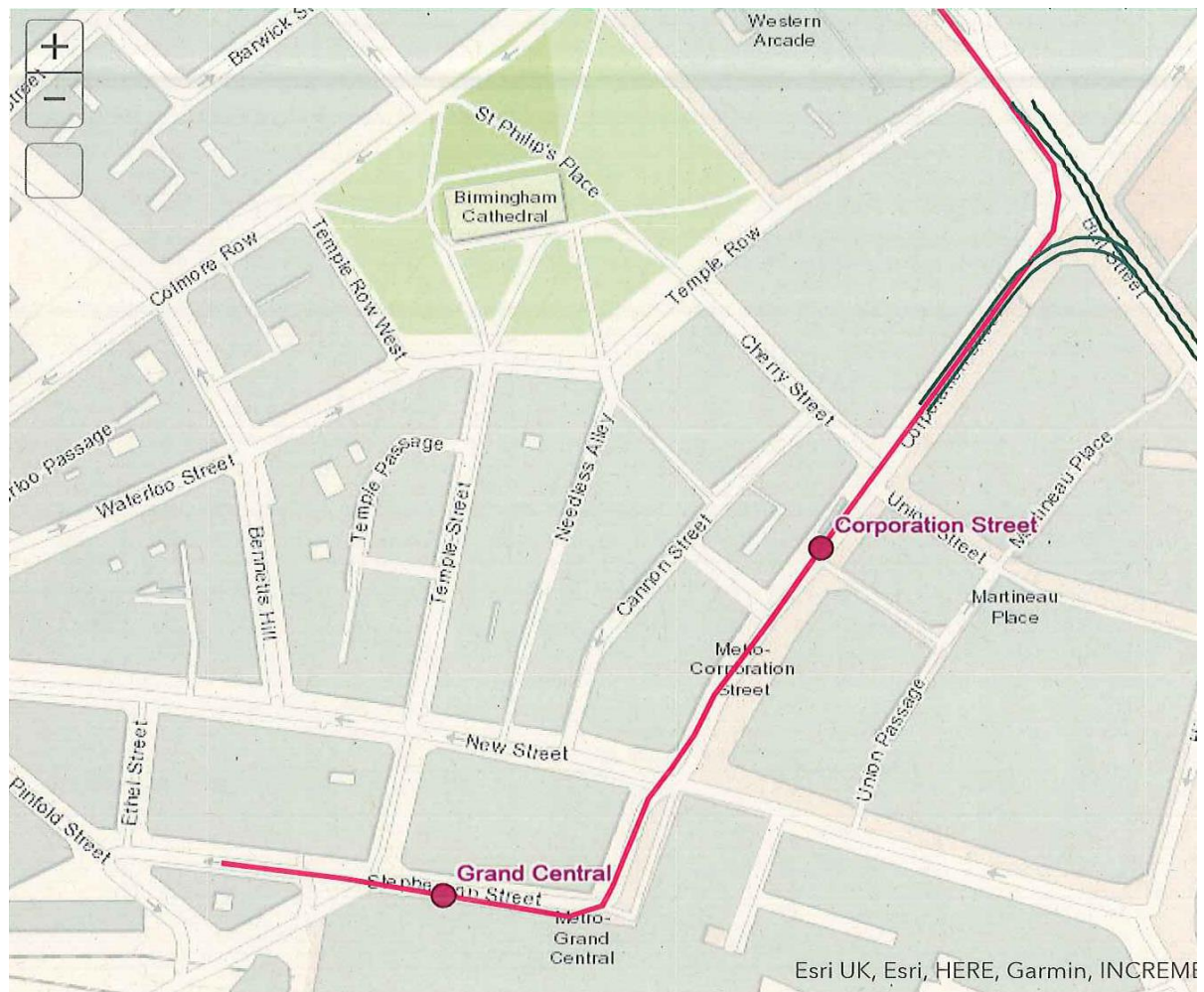
Centenary Square Extension (St. Chads to Grand Central)



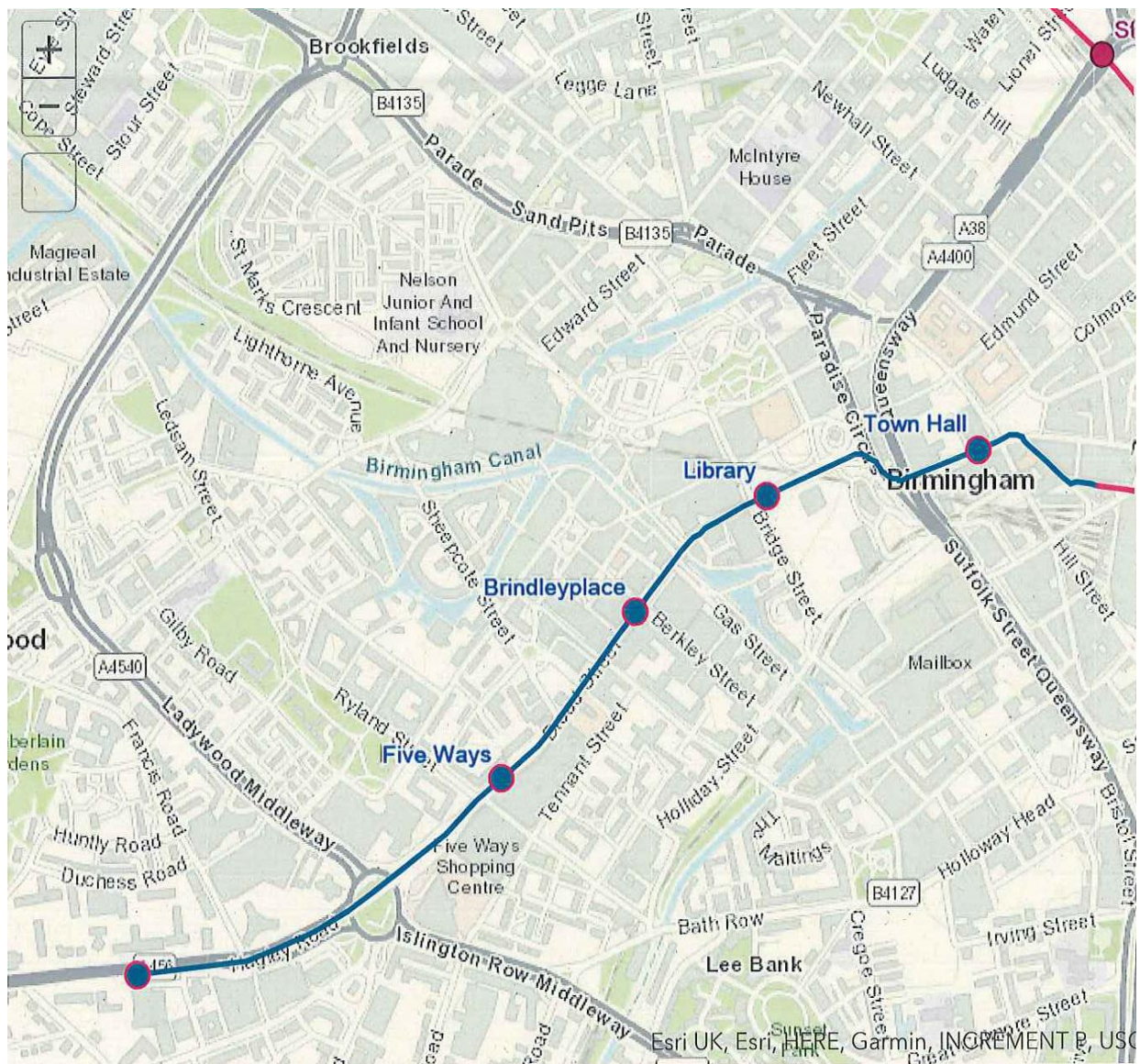
Centenary Square Extension (Colmore Square to Corporation Street)



Centenary Square Extension (Corporation Street to Stephenson Street)



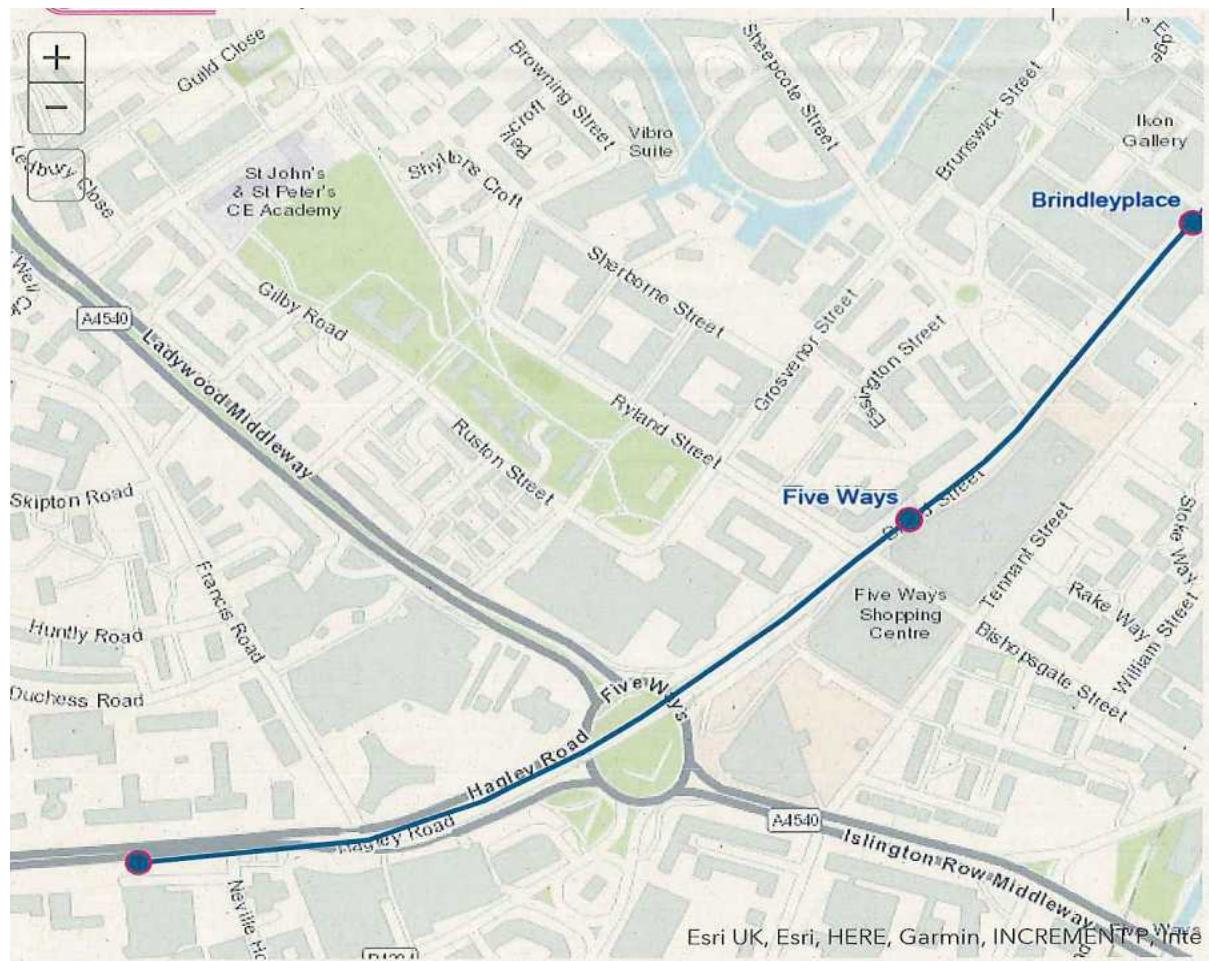
Westside Extension (Edgbaston Extension) Overview



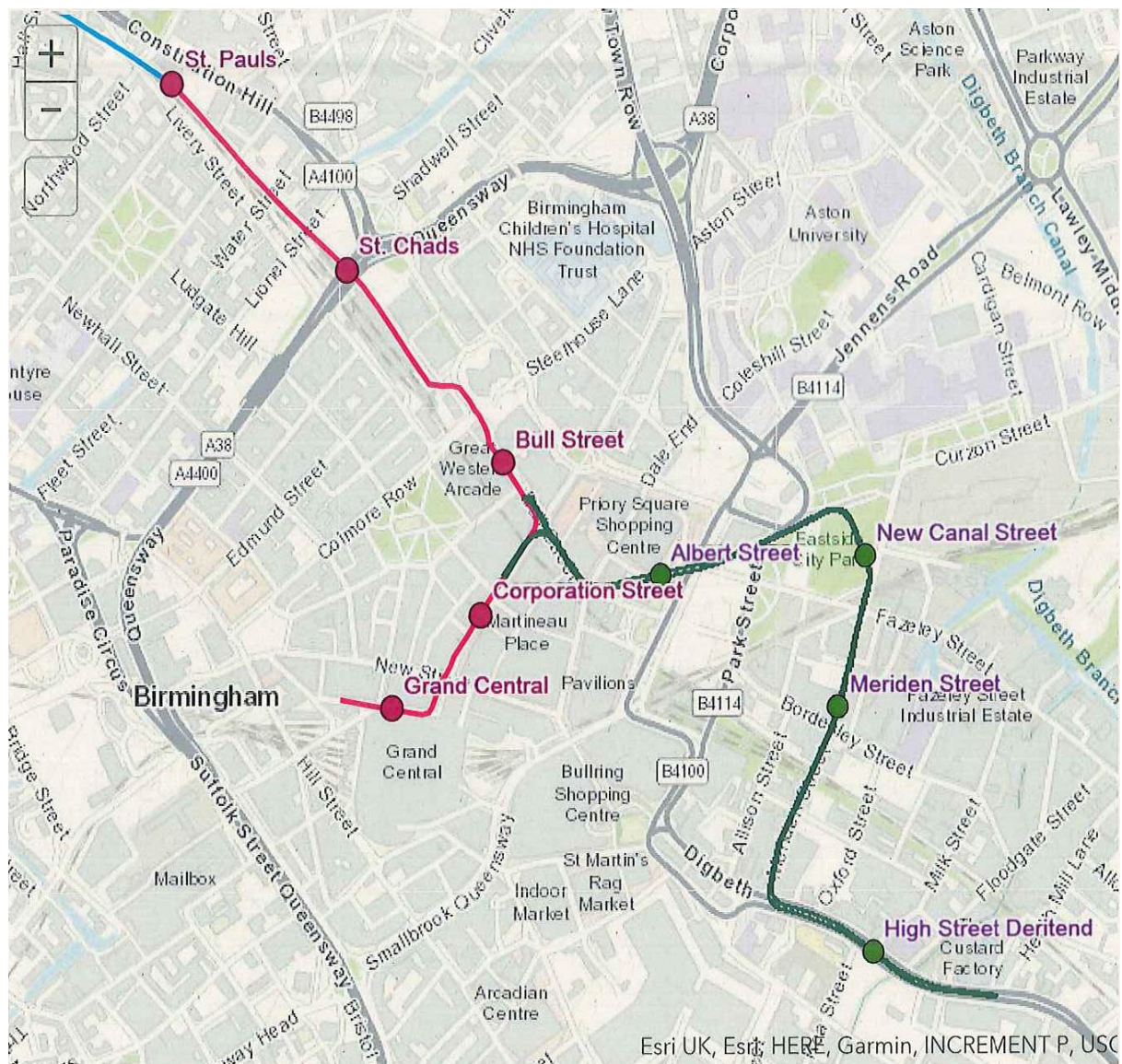
Edgbaston Extension (Pinford Street to Broad Street)



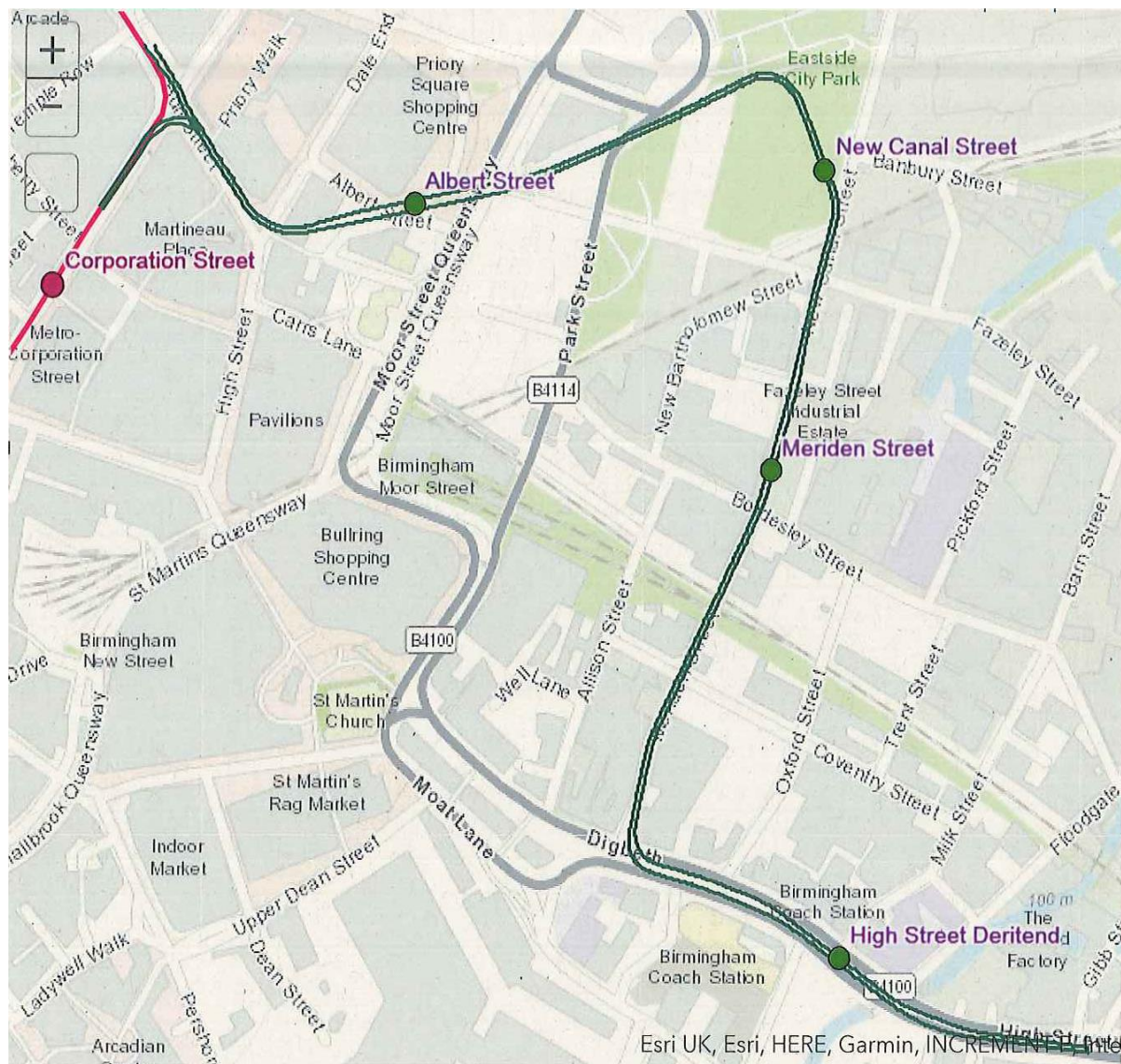
Edgbaston Extension (Broad Street to Hagley Road)



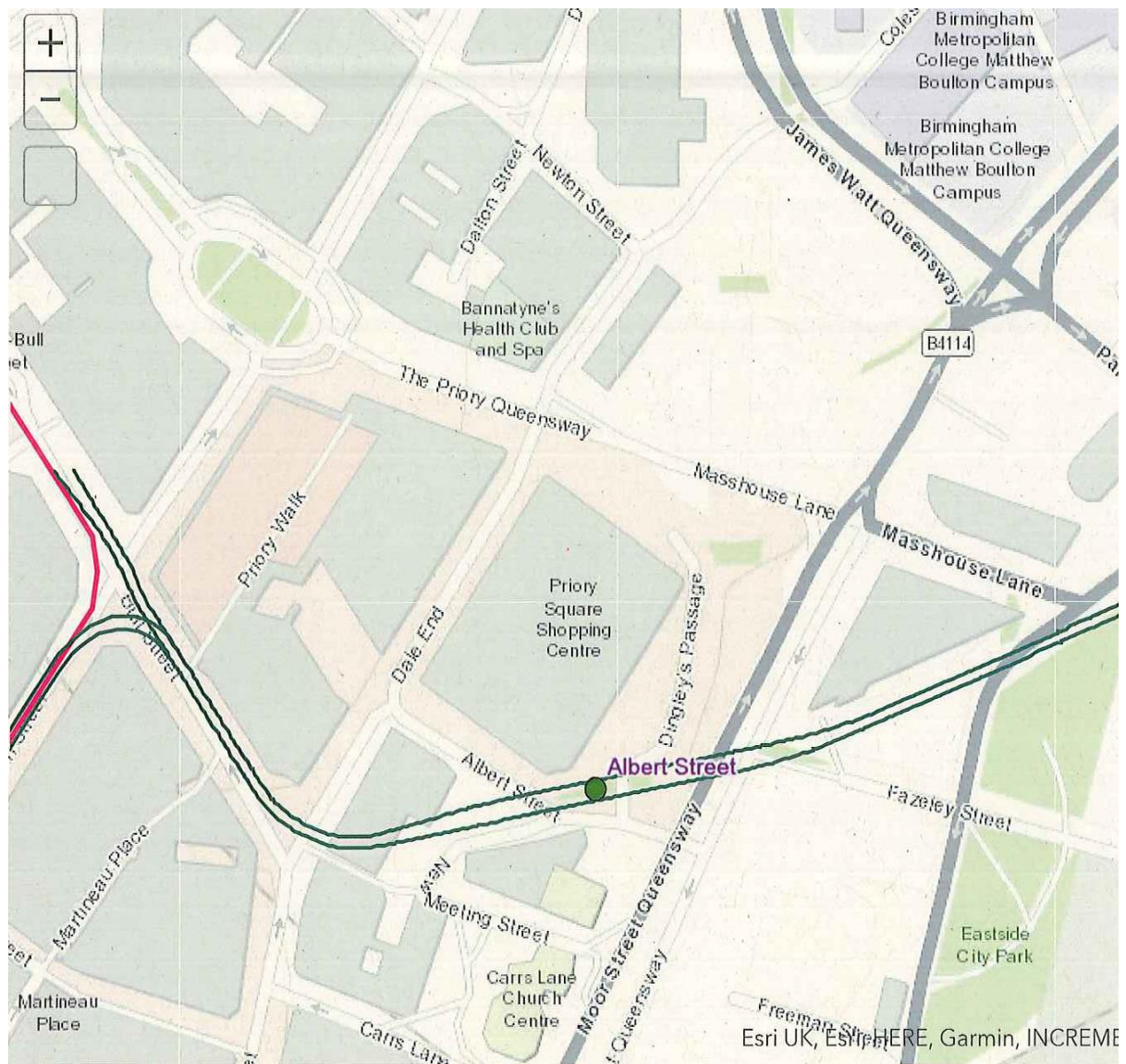
Westside Centenary Square Extension and Eastside Extension Overview



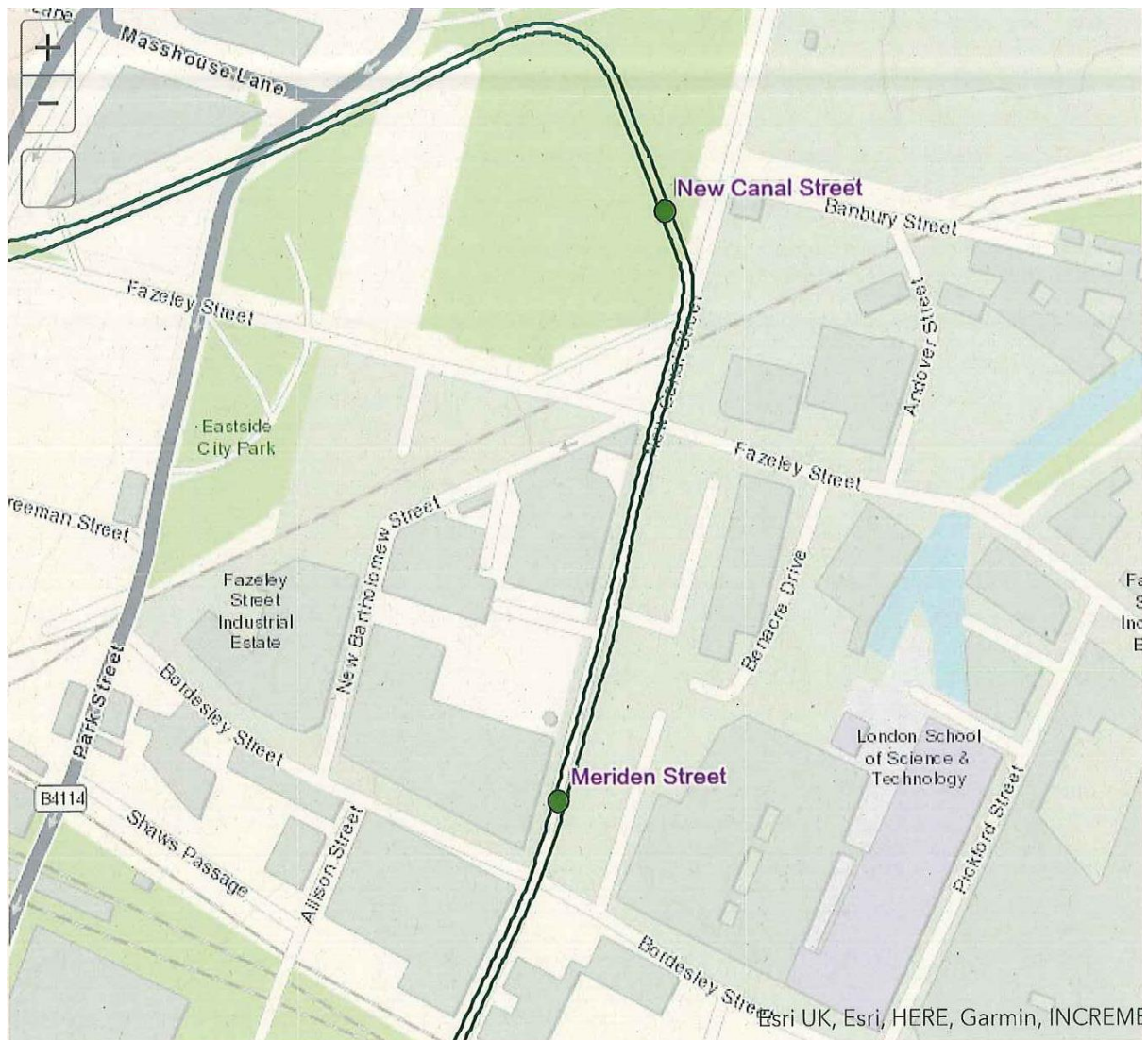
Eastside Extension Overview



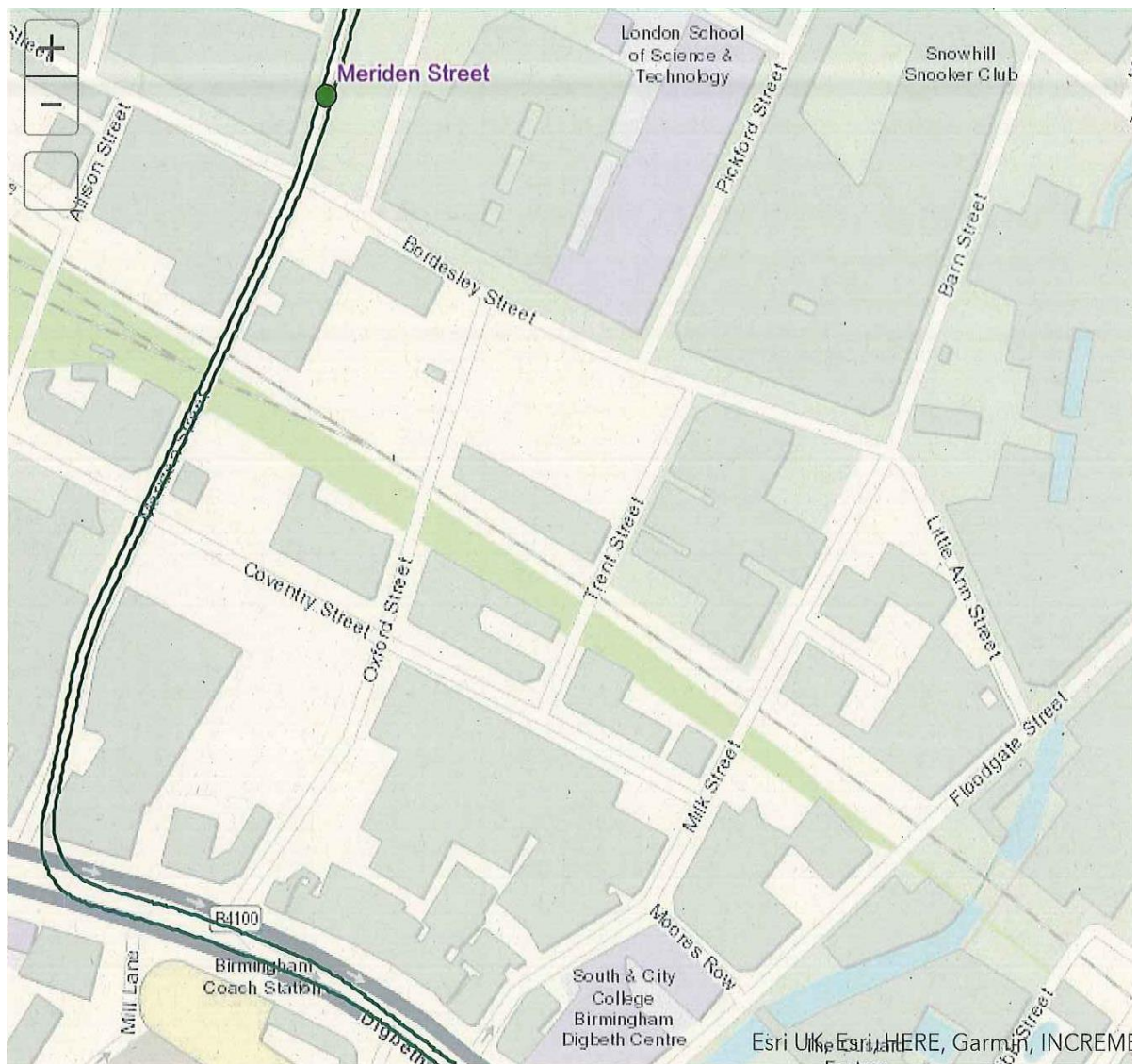
Eastside Extension (Bull Street to Fazeley Street and Masshouse Lane)



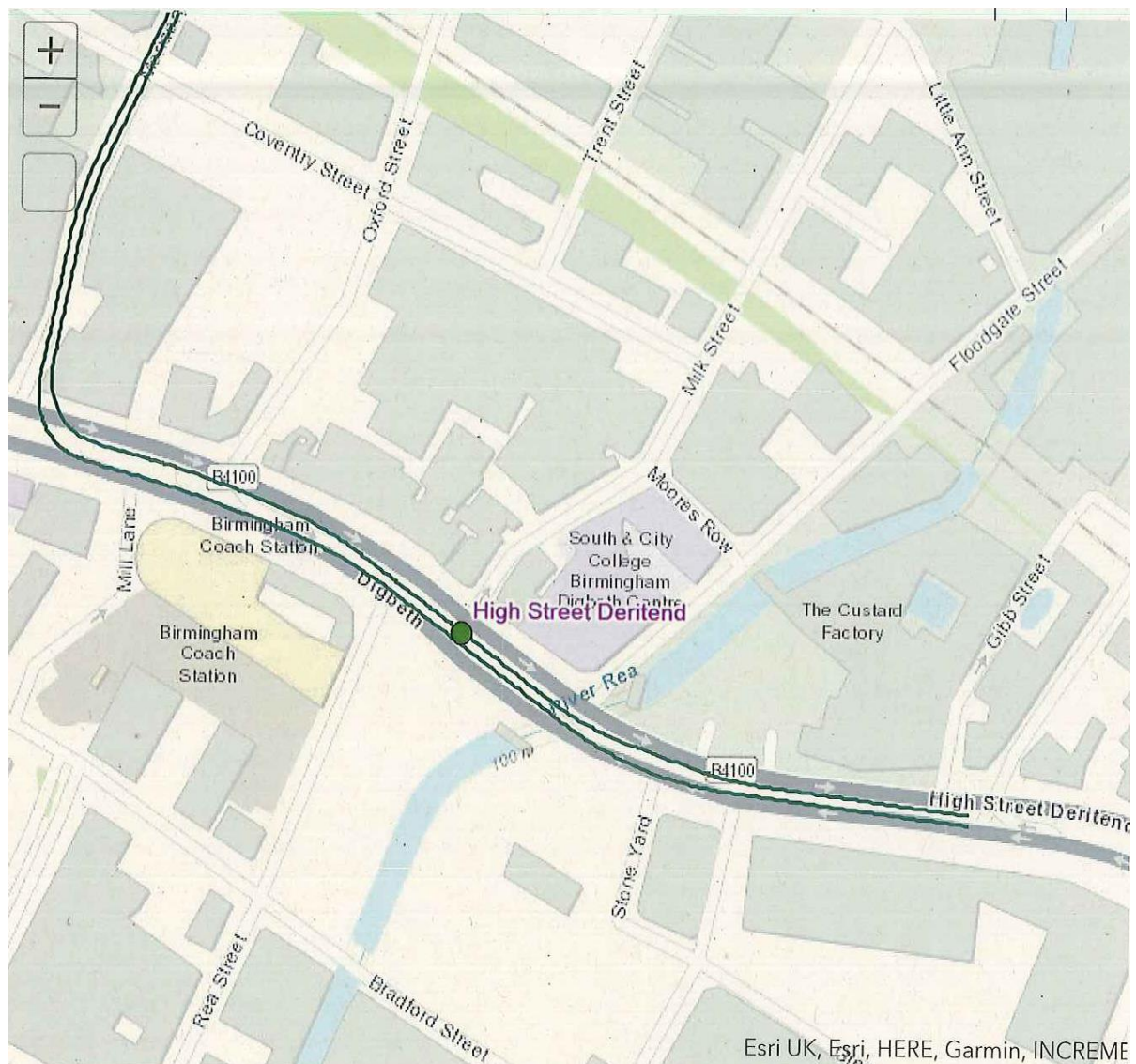
Eastside Extension (City Park to Meriden Street)



Eastside Extension (Meriden Street to Digbeth)



Eastside Extension (Digbeth to High Street, Deritend)

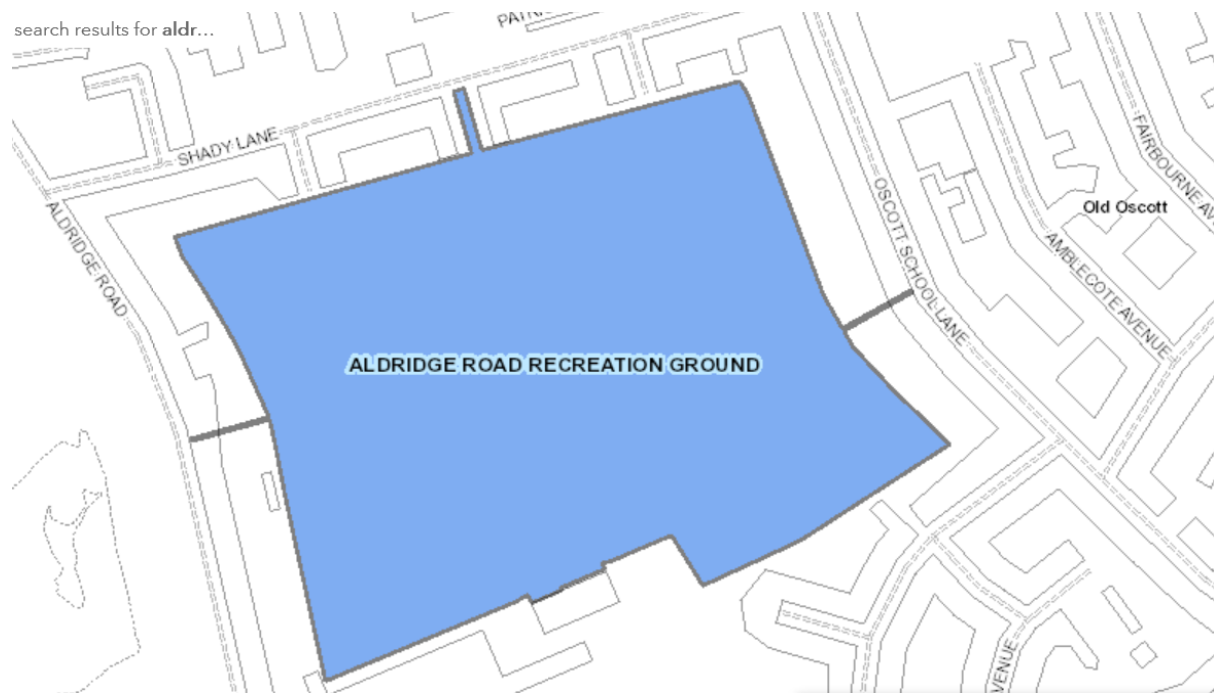


<u>List of Parks</u>	<u>List of Open Spaces</u>
<ul style="list-style-type: none"> • Aston Park • Cannon Hill Park • Bournville Park • Brookvale Park • Calthorpe Park Extension • City Centre Gardens • Cofton Park • Daisy Farm Park • Grove Park • Handsworth Park • Hazelwell Park • Kings Norton Park • Manor Farm Park • Perry Park • Pype Hayes Park • Queens Park • Rectory Park • Rookery Park • Selly Oak Park • Senneleys Park • Small Heath Park • Sparkhill Park • St Thomas Peace Garden • Summerfield Park • Sutton Park/Sutton Park Boldmere Gate • Swanshurst Park • Ward End Park 	<ul style="list-style-type: none"> • Aldridge Road Recreation Ground • Billesley Common • Bleak Hill Recreation Ground • Gilbertstone Recreation Ground • Gressel Lane Playing Fields • Highfield Farm Recreation Ground • Holders Lane Playing Fields • King George V Playing Fields • Kings Norton Playing Fields • Ley Hill Recreation Ground • Lickey Hills Monument Lane • Lyndon Playing Fields • Norman Chamberlain Playing Fields • Oakfields Recreation Ground • Perry Common Recreation Ground • Perry Hall Playing Fields • Sandwell Recreation Ground • Sarehole Mill Recreation Ground • Selly Park Recreation Ground • Valley Parkway • Victoria Common • Wake Green Playing Fields • Walkers Heath Sports Ground • West Heath Recreation Ground

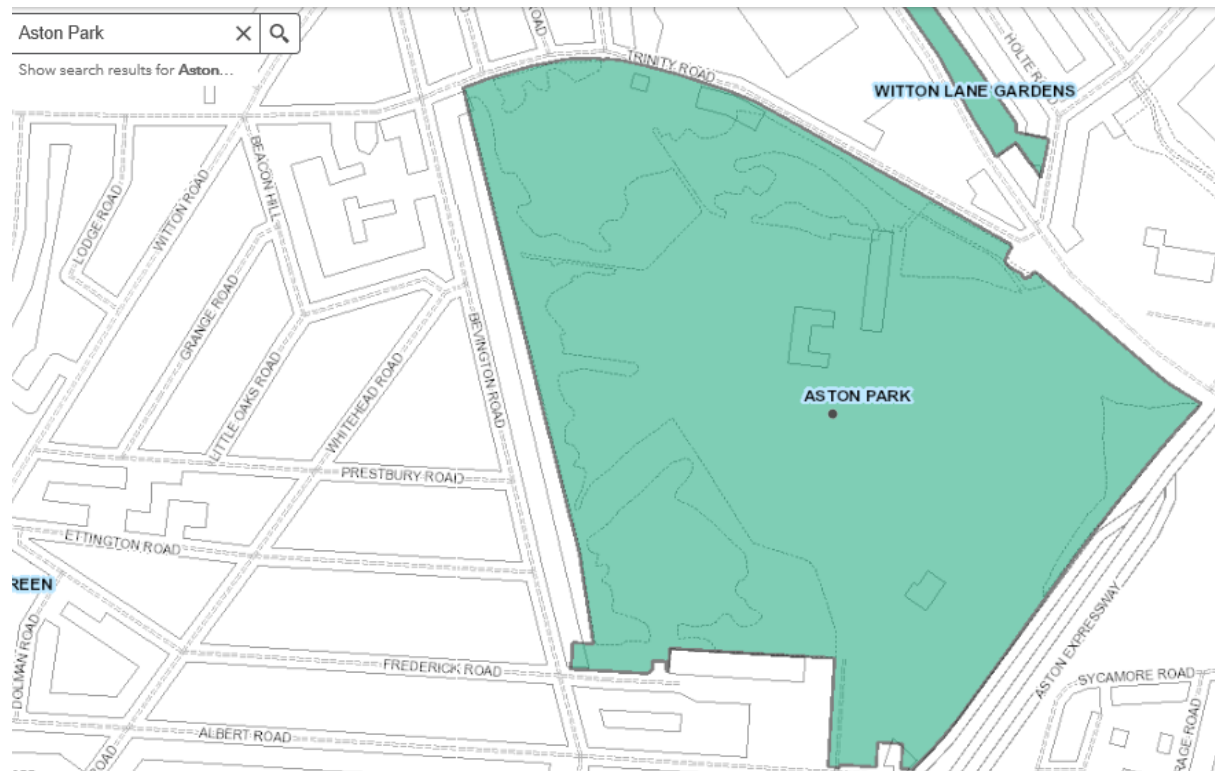
Appendix 4

List of Parks and Open Spaces excluded from Street Trading Policy

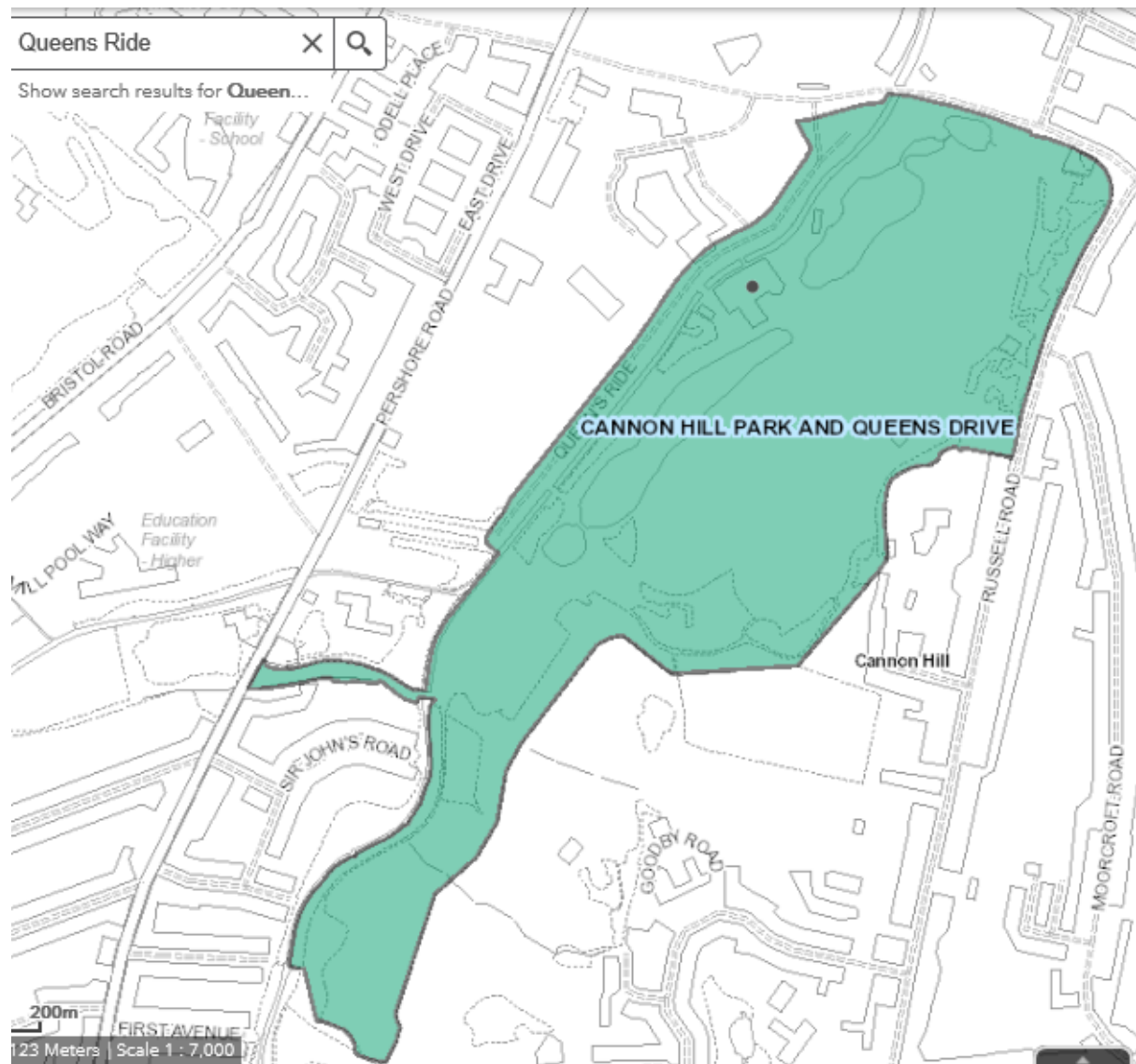
Aldridge Road Recreation Ground



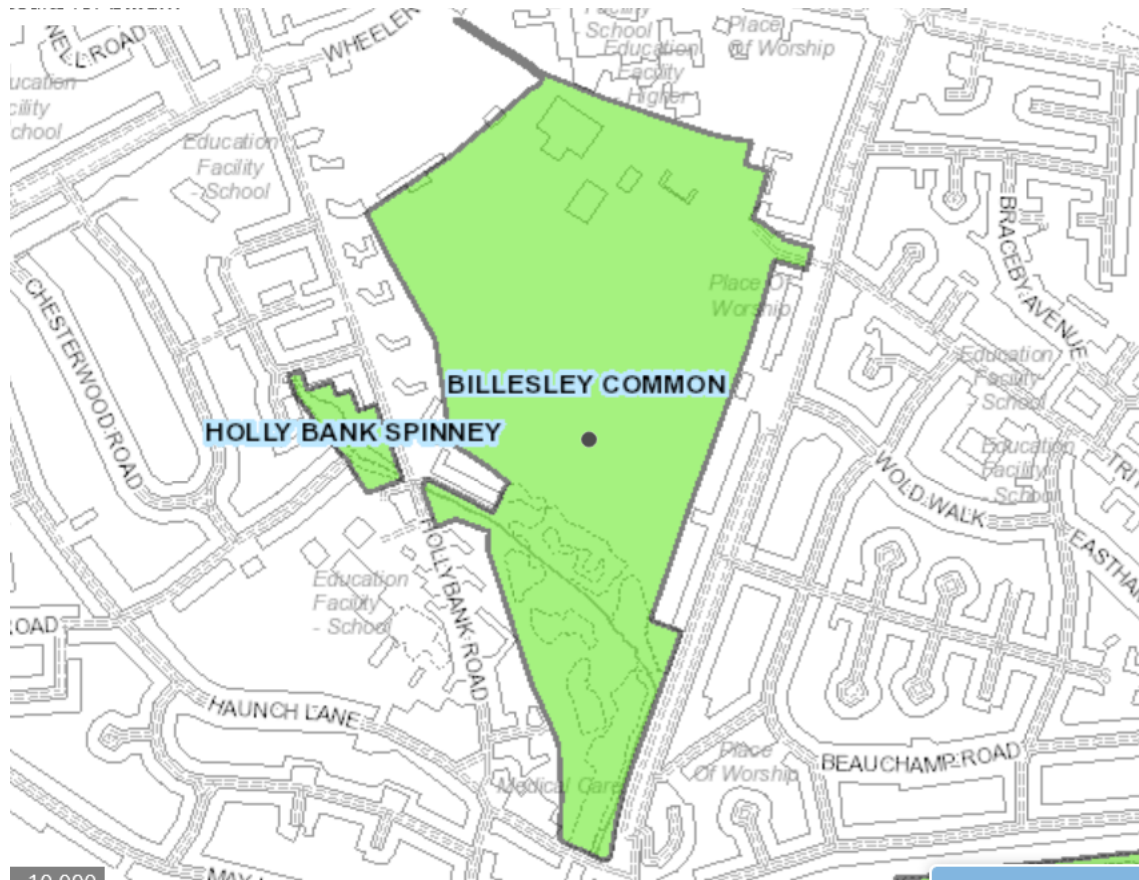
Aston Park – Trinity Road



Cannon Hill Park



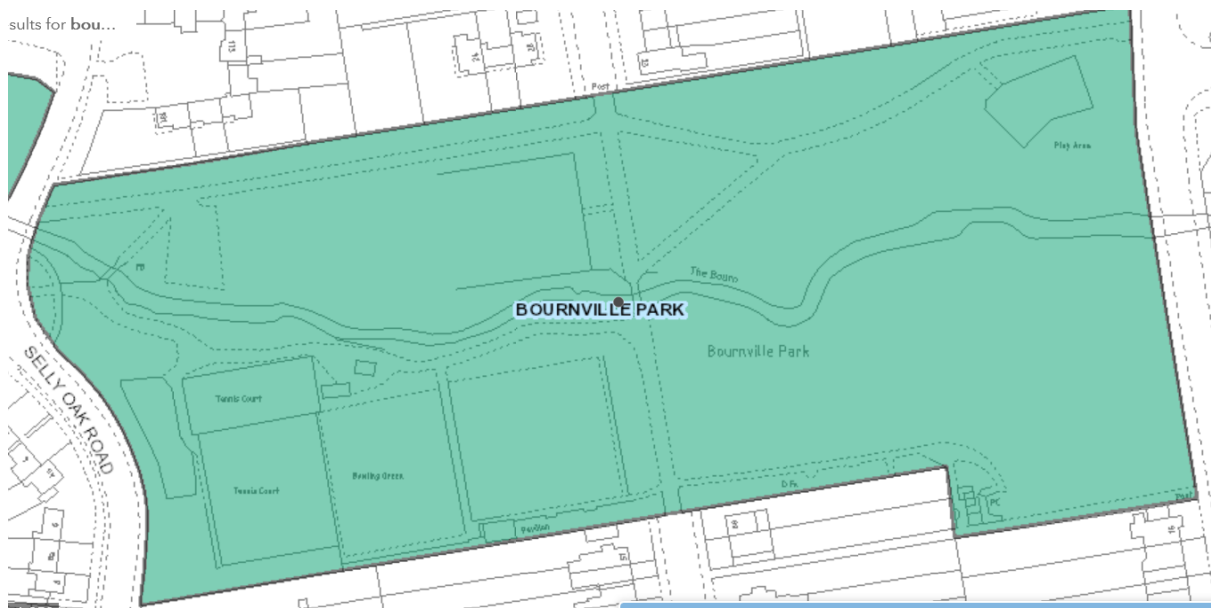
Billesley Common



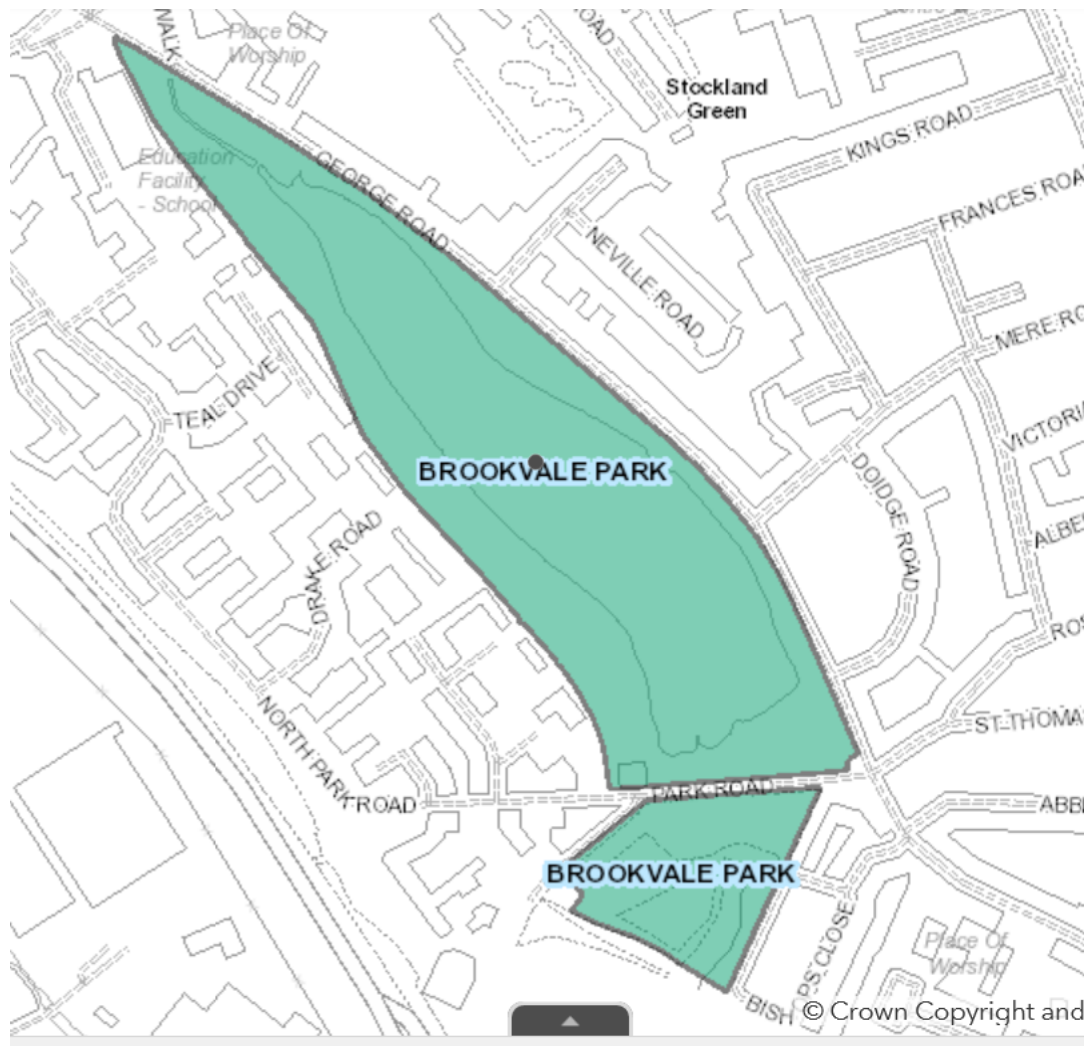
Bleak Hill Recreation Ground



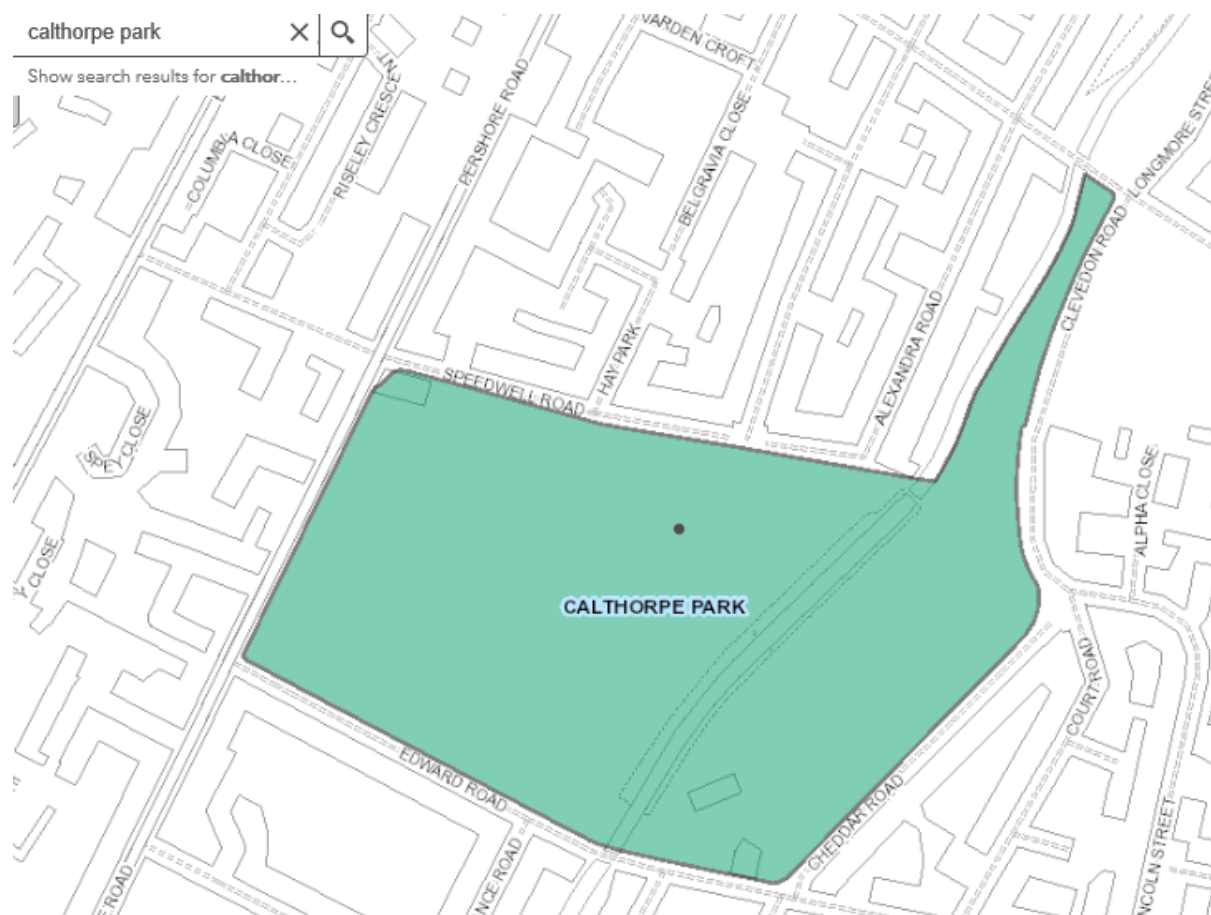
Bournville Park



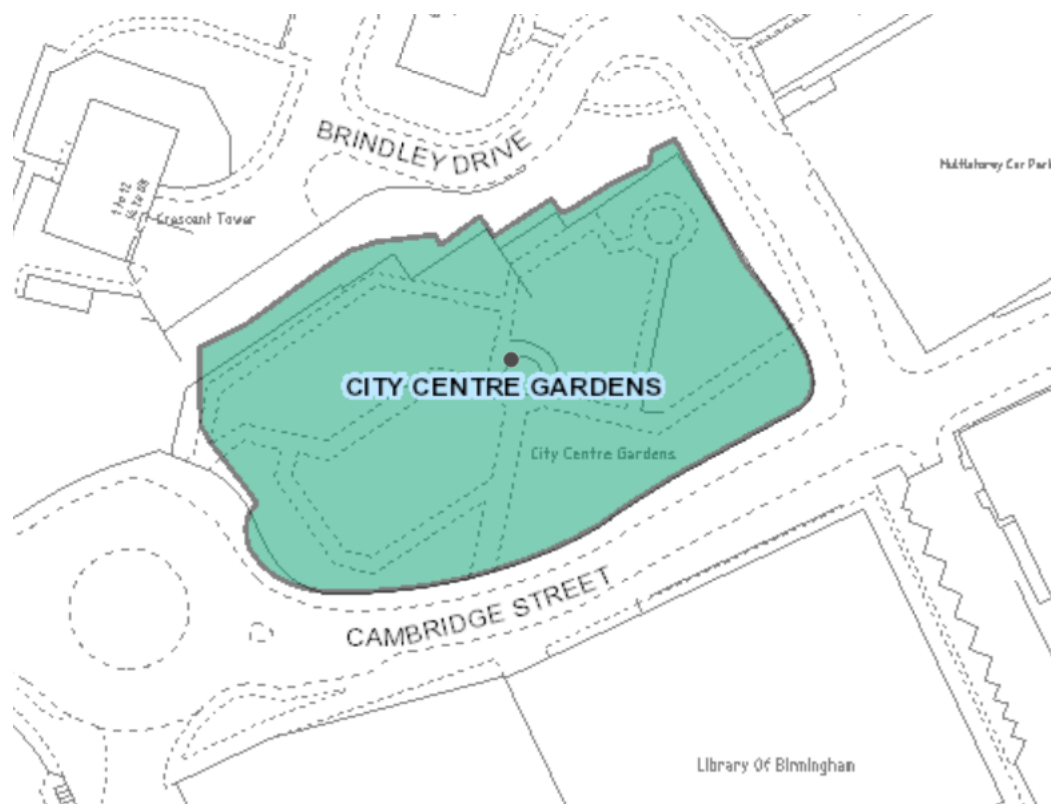
Brookvale Park



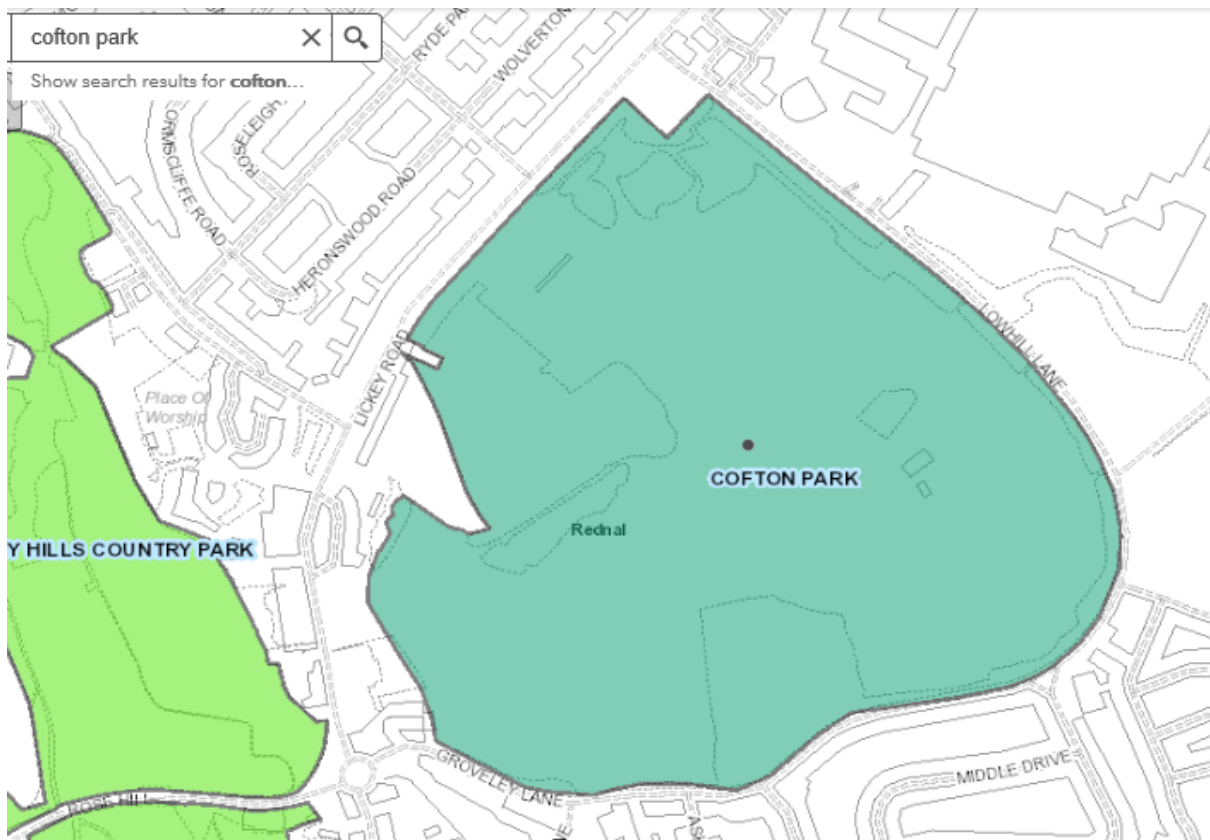
Calthorpe Park Extension



City Centre Gardens



Cofton Park



Daisy Farm Park



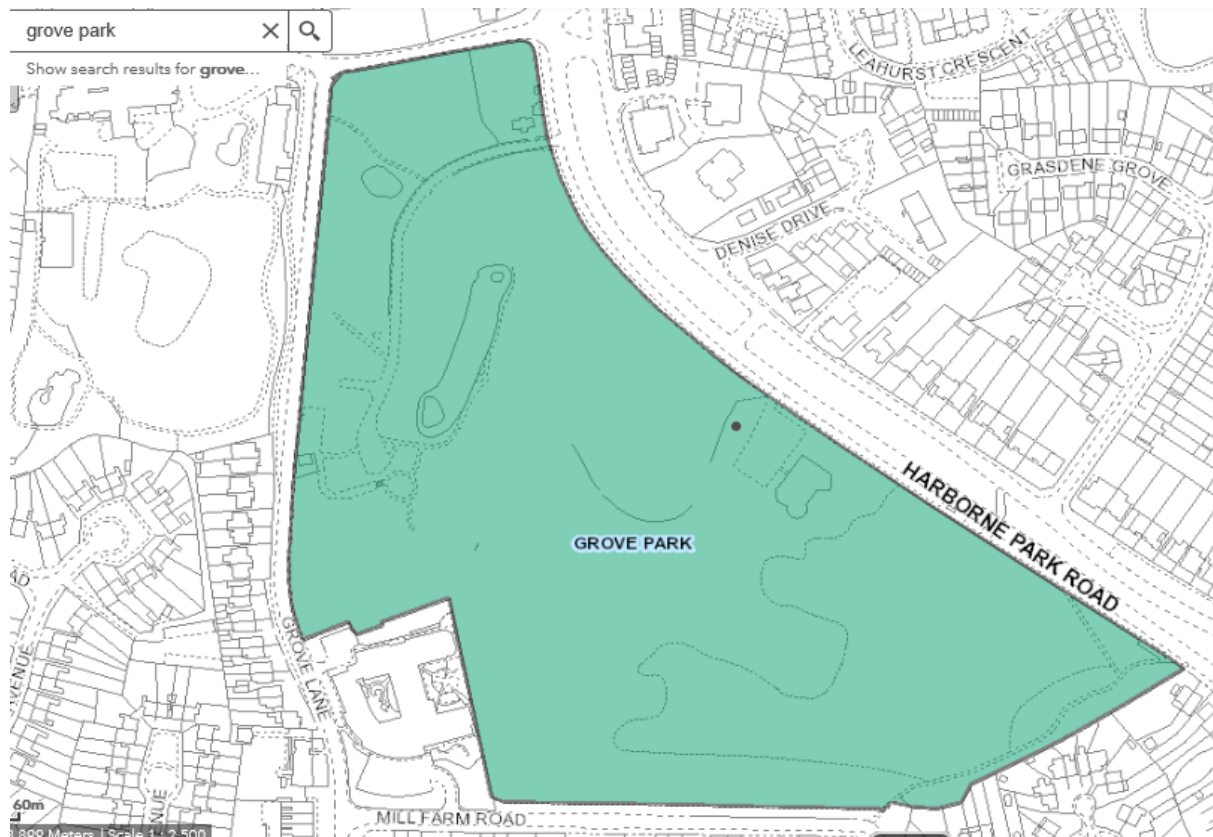
Gilbertstone Recreation Ground



Gressel Lane Playing Fields



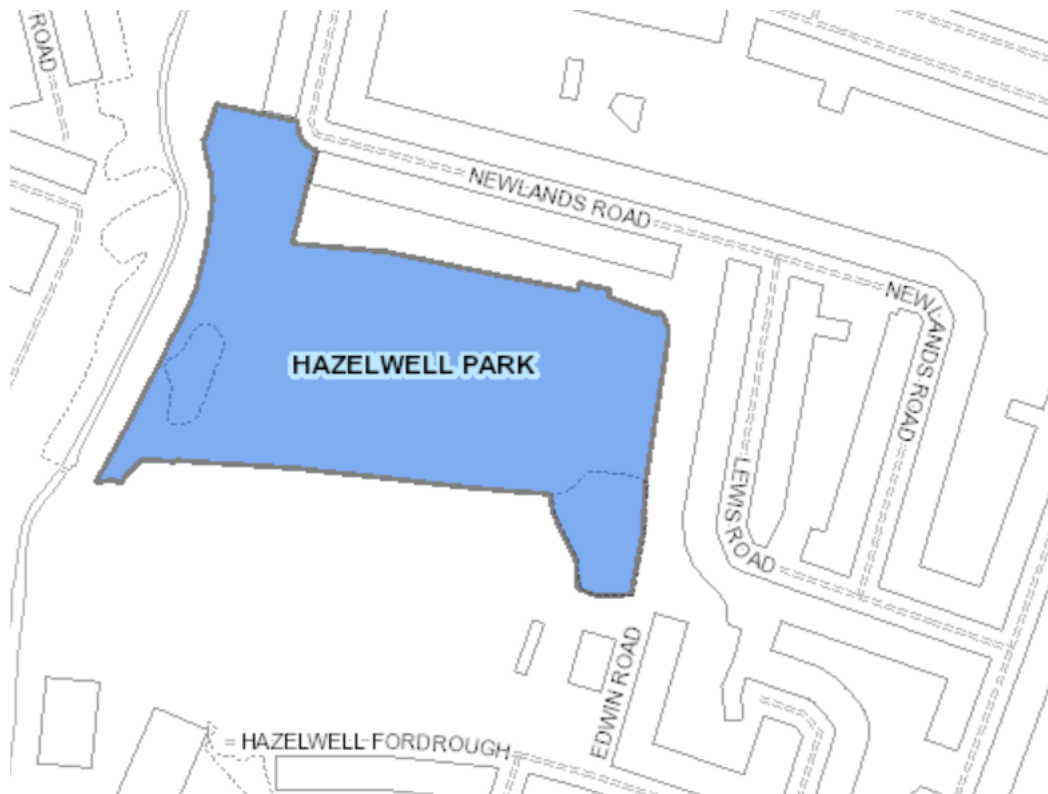
Grove Park



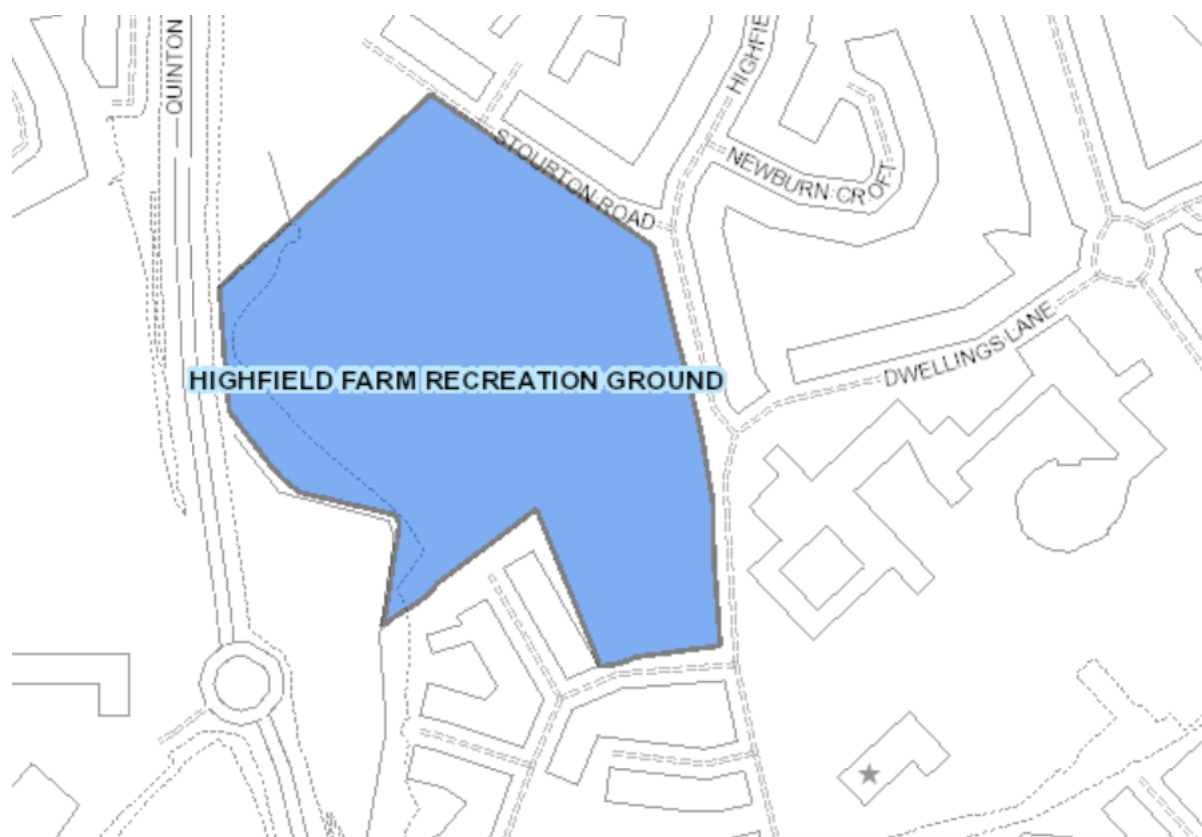
Handsworth Park



Hazelwell Park



Highfield Farm Recreation Ground



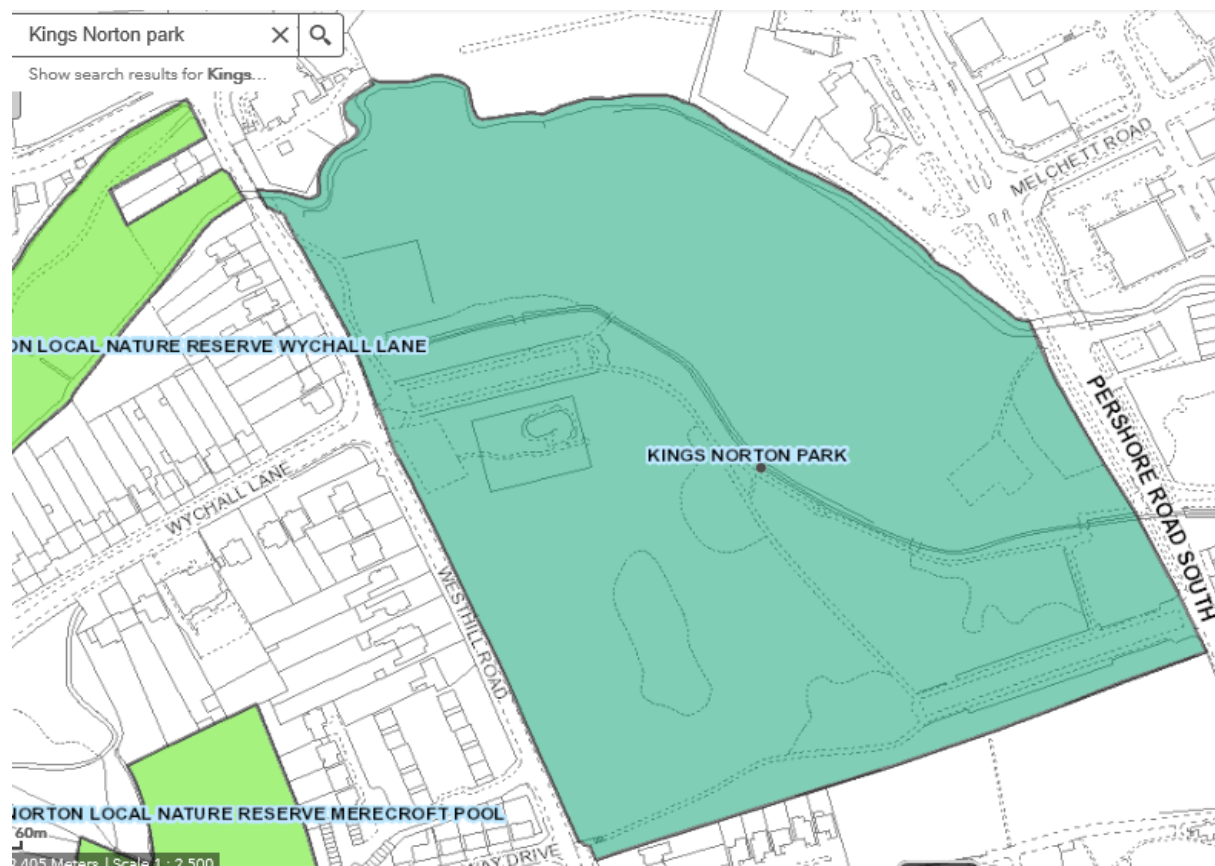
Holders Lane Playing Fields



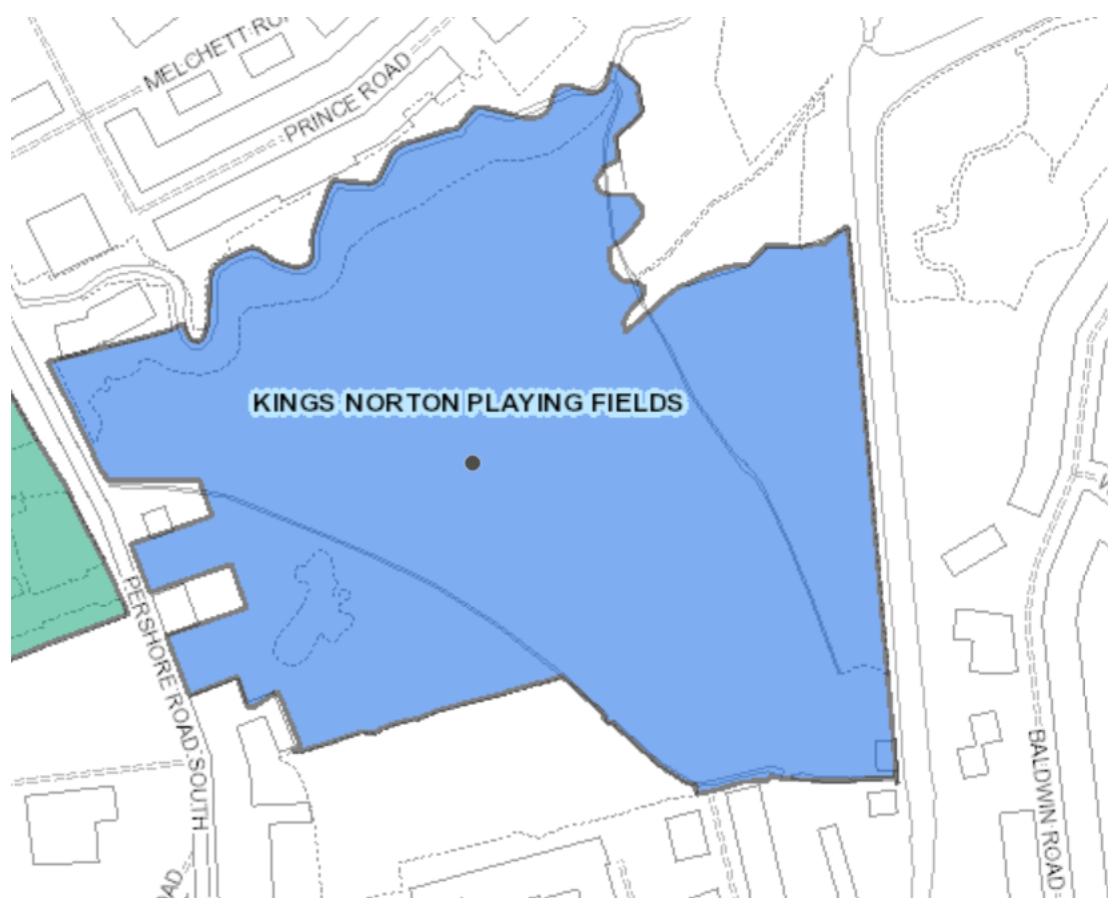
King George V Playing Fields



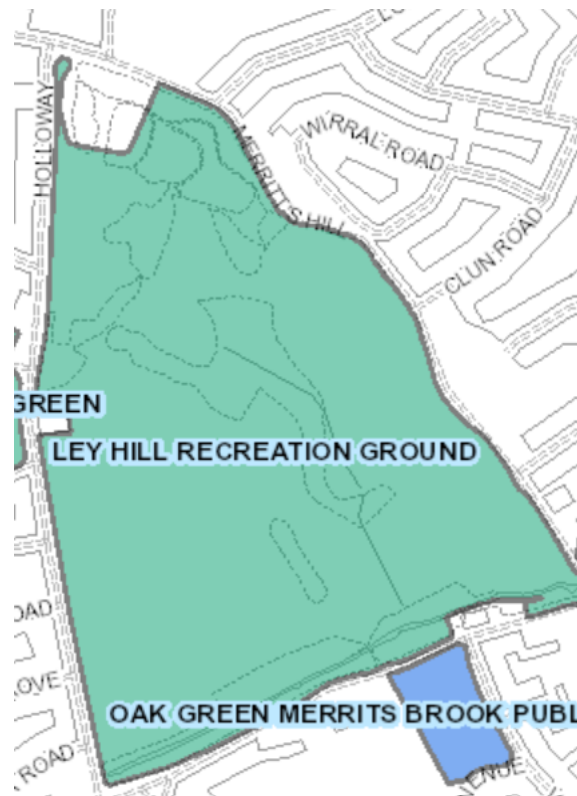
Kings Norton Park



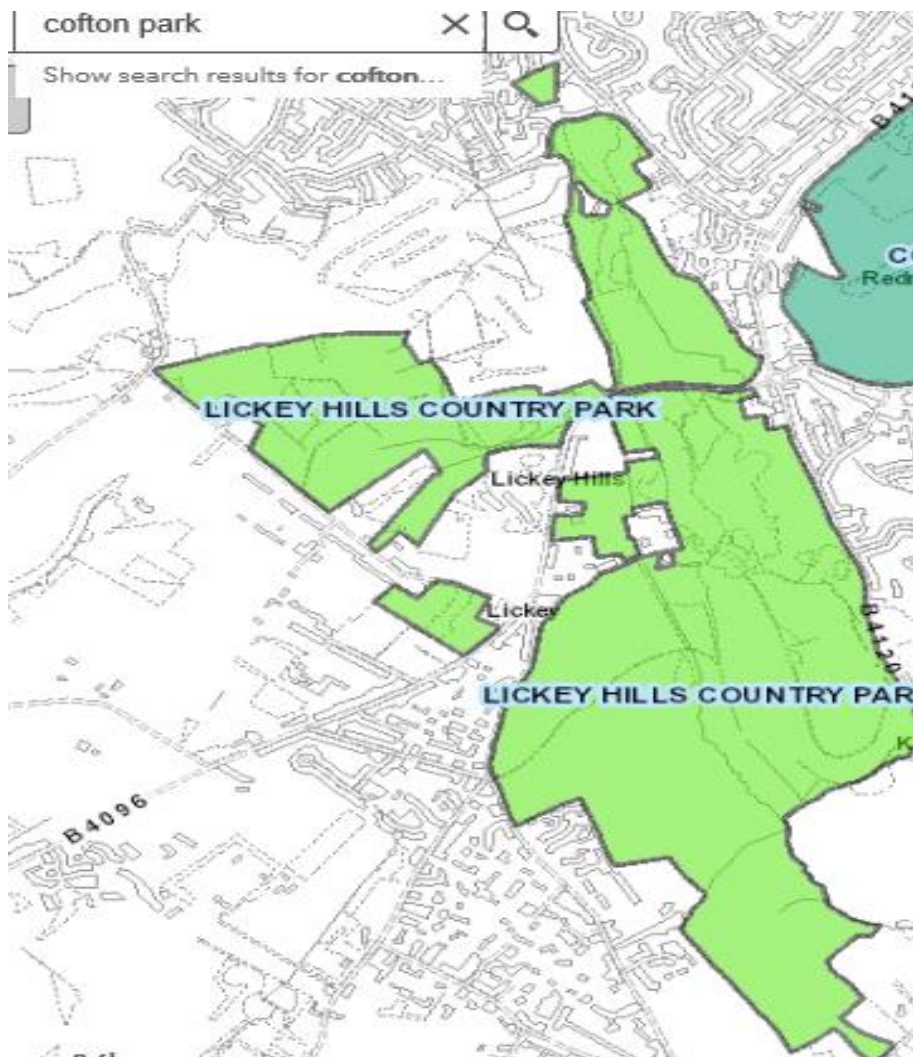
Kings Norton Playing Fields



Ley Hill Recreation Ground



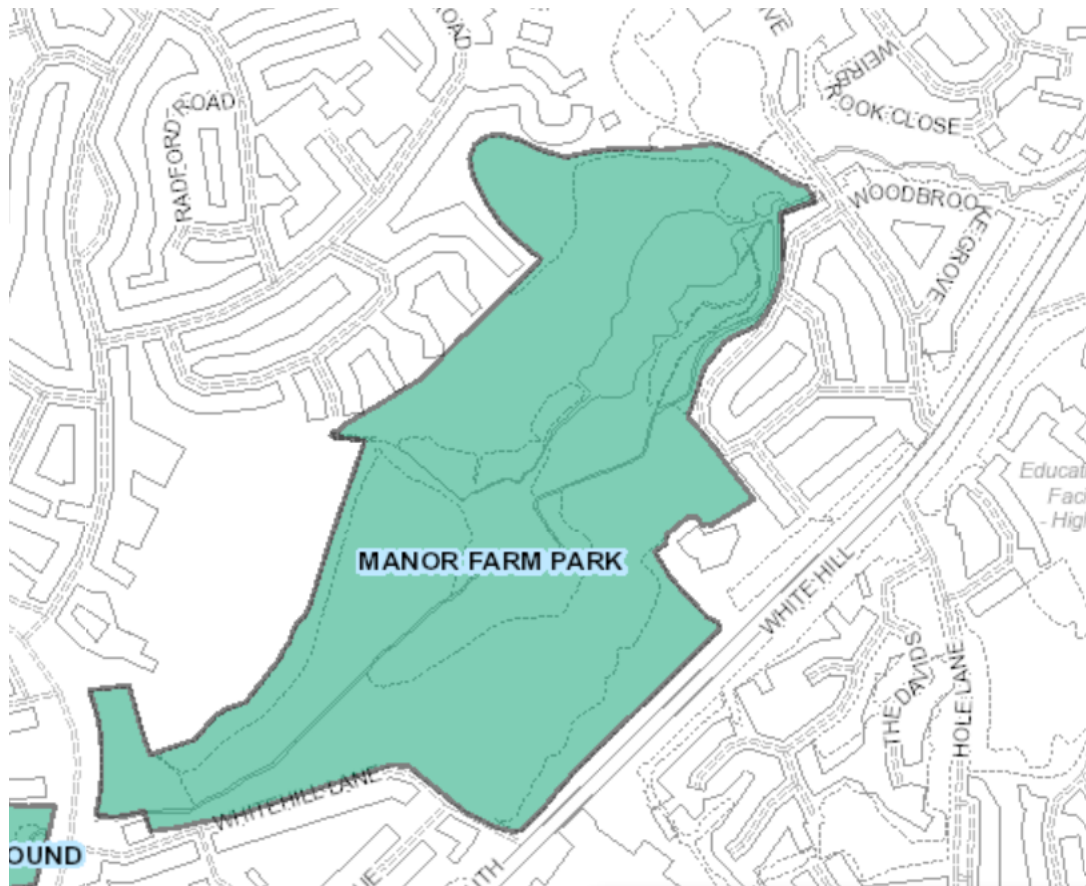
Lickey Hills Monument Lane



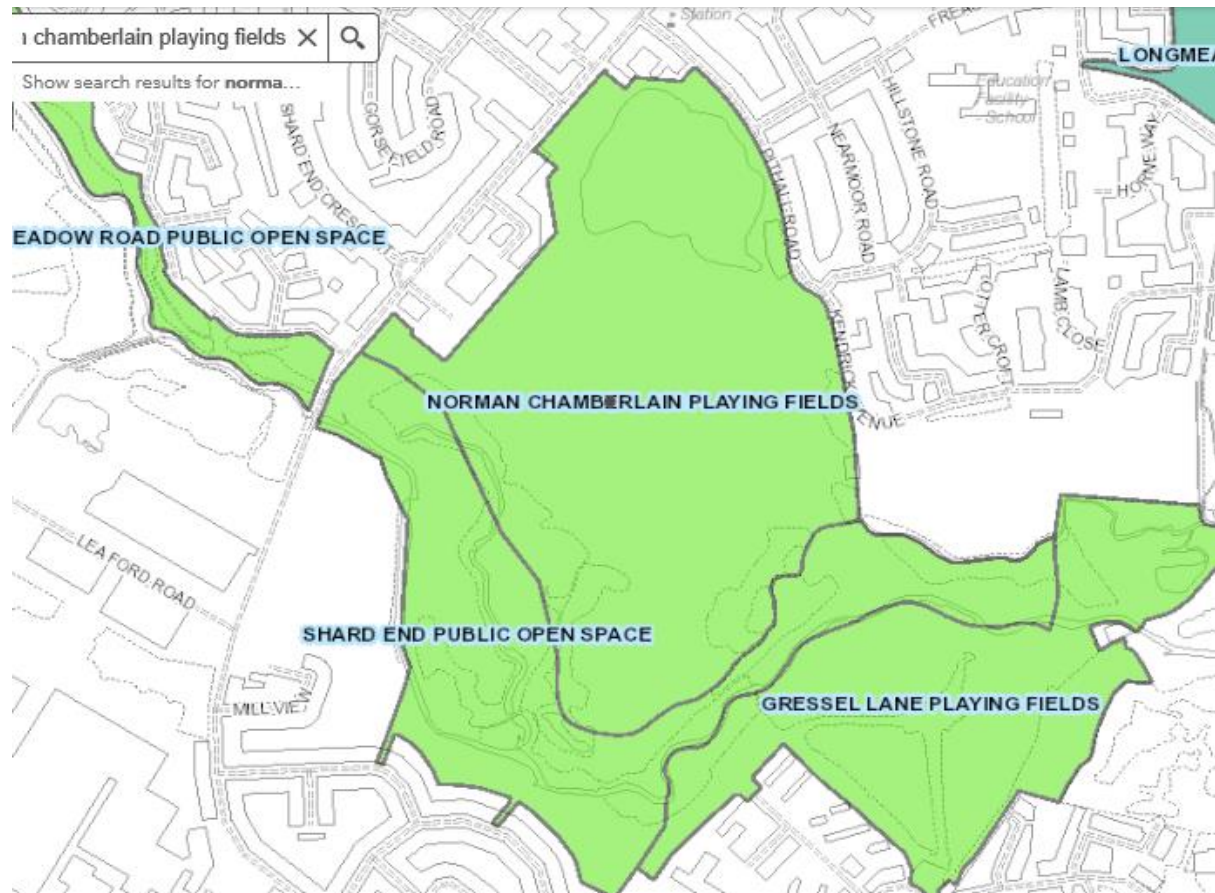
Lyndon Playing Fields



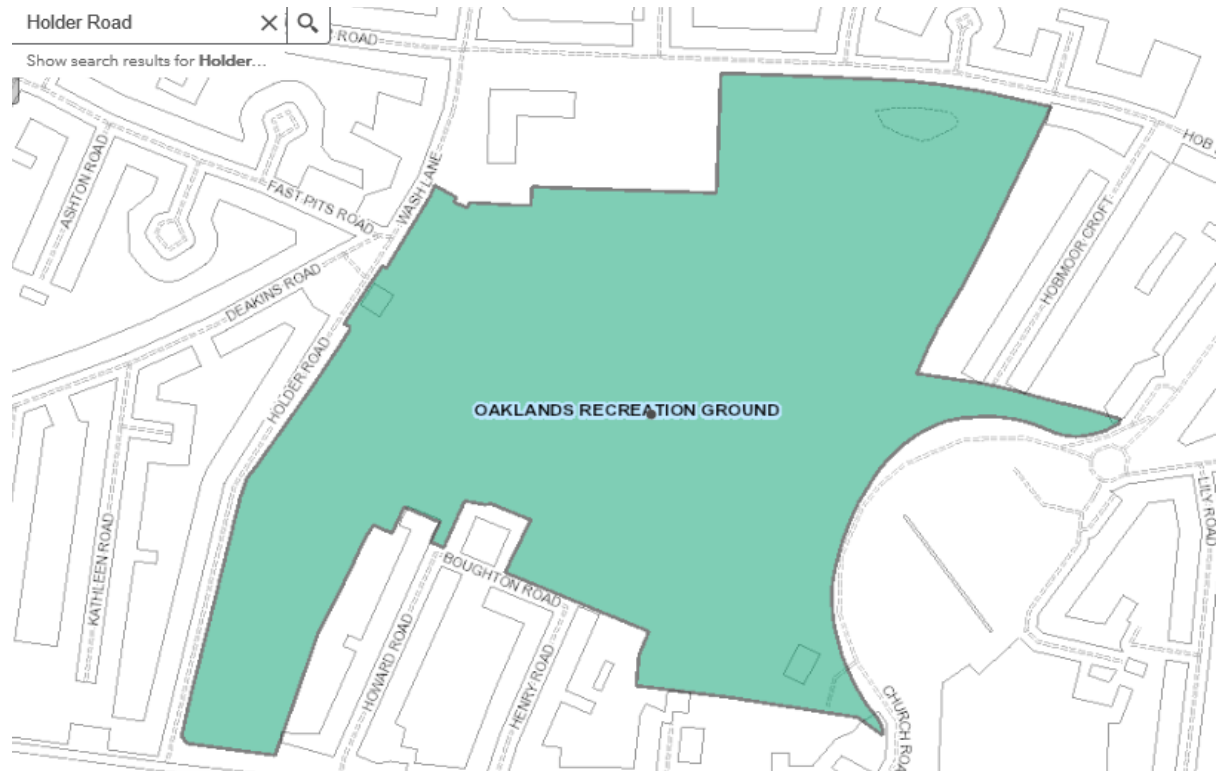
Manor Farm Park



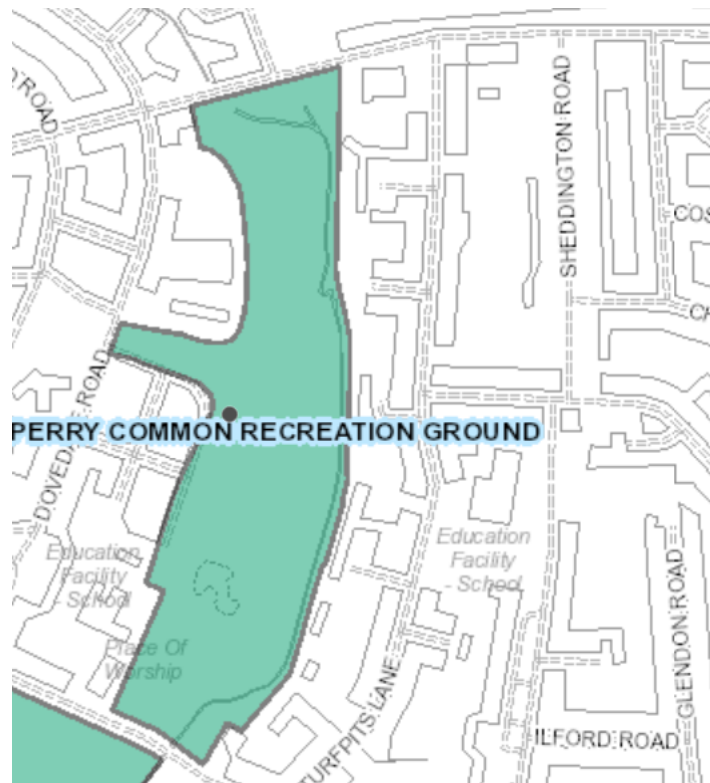
Norman Chamberlain Playing Fields



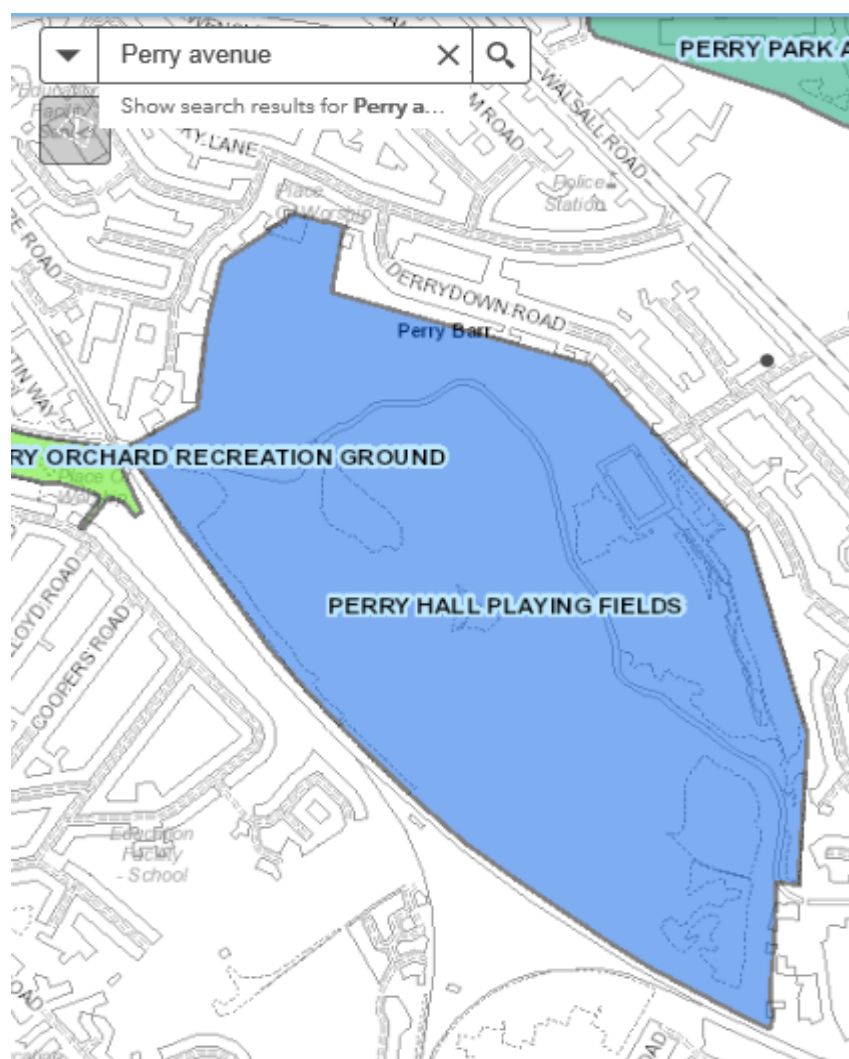
Oakfields Recreation Ground



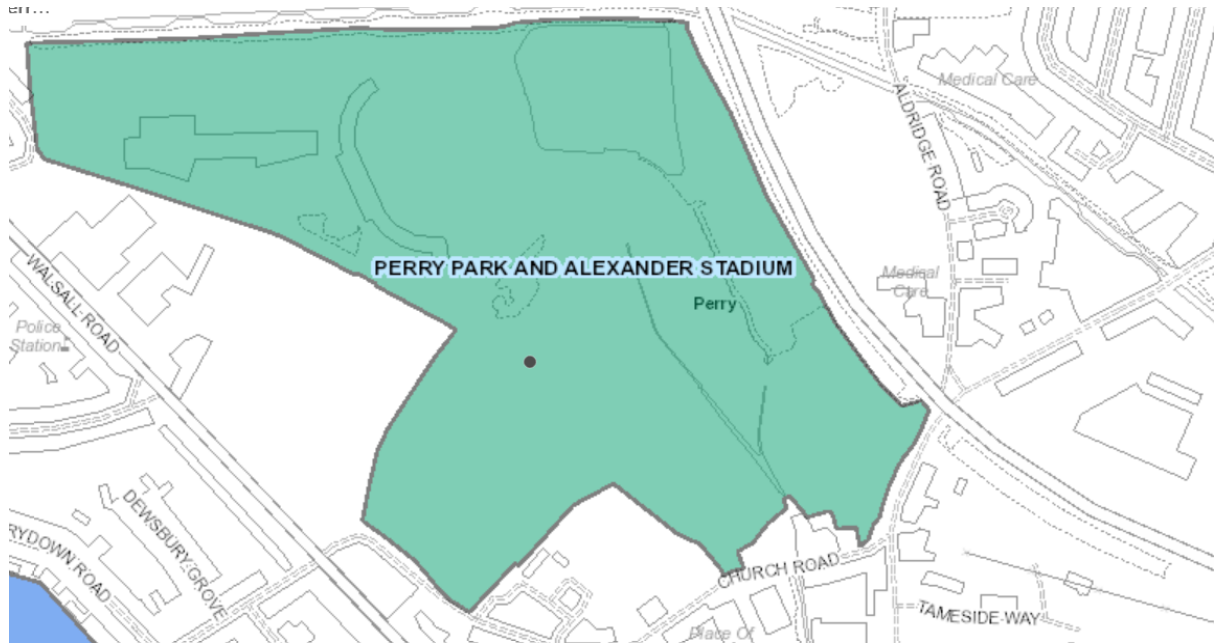
Perry Common Recreation Ground



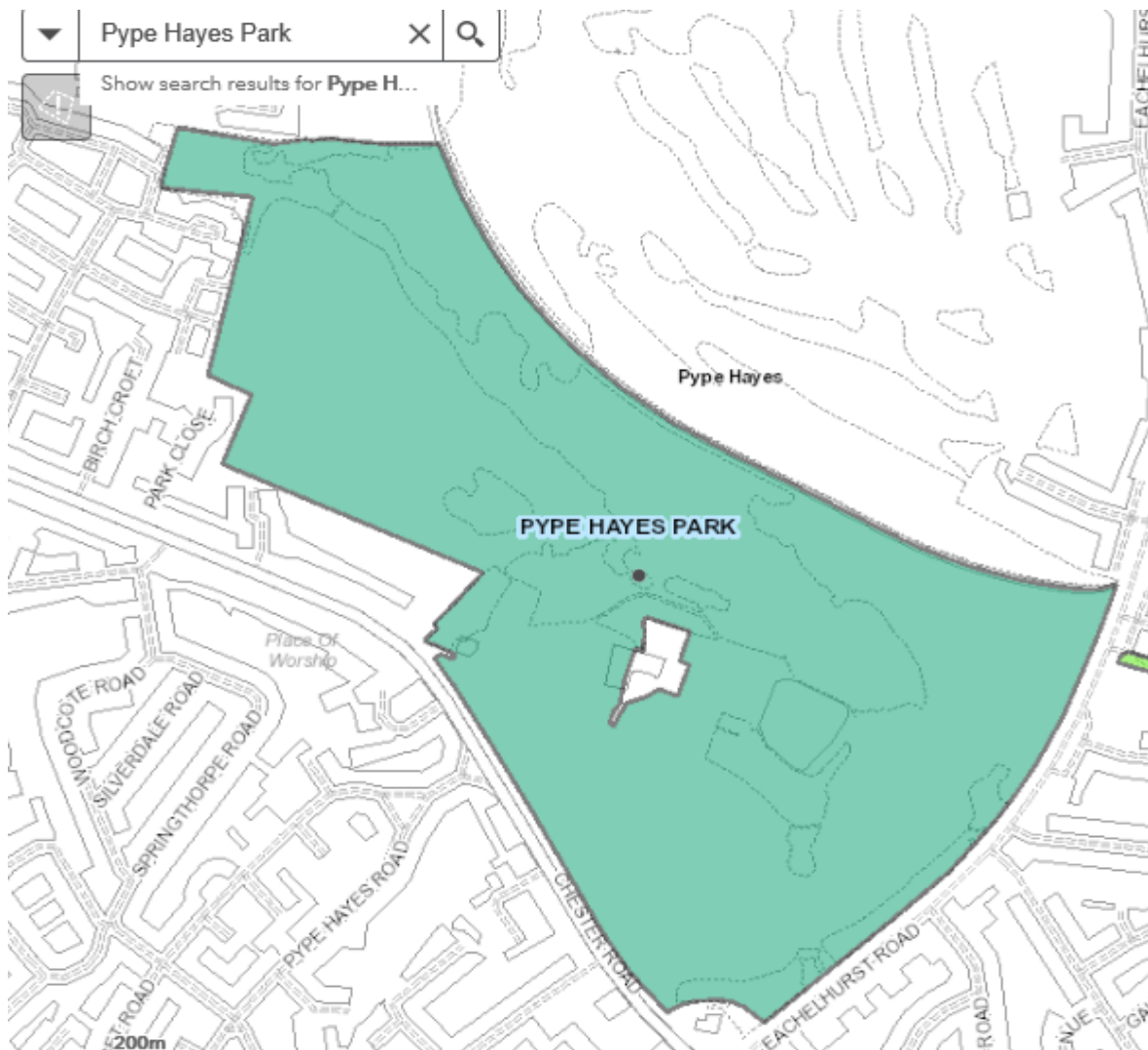
Perry Hall Playing Fields



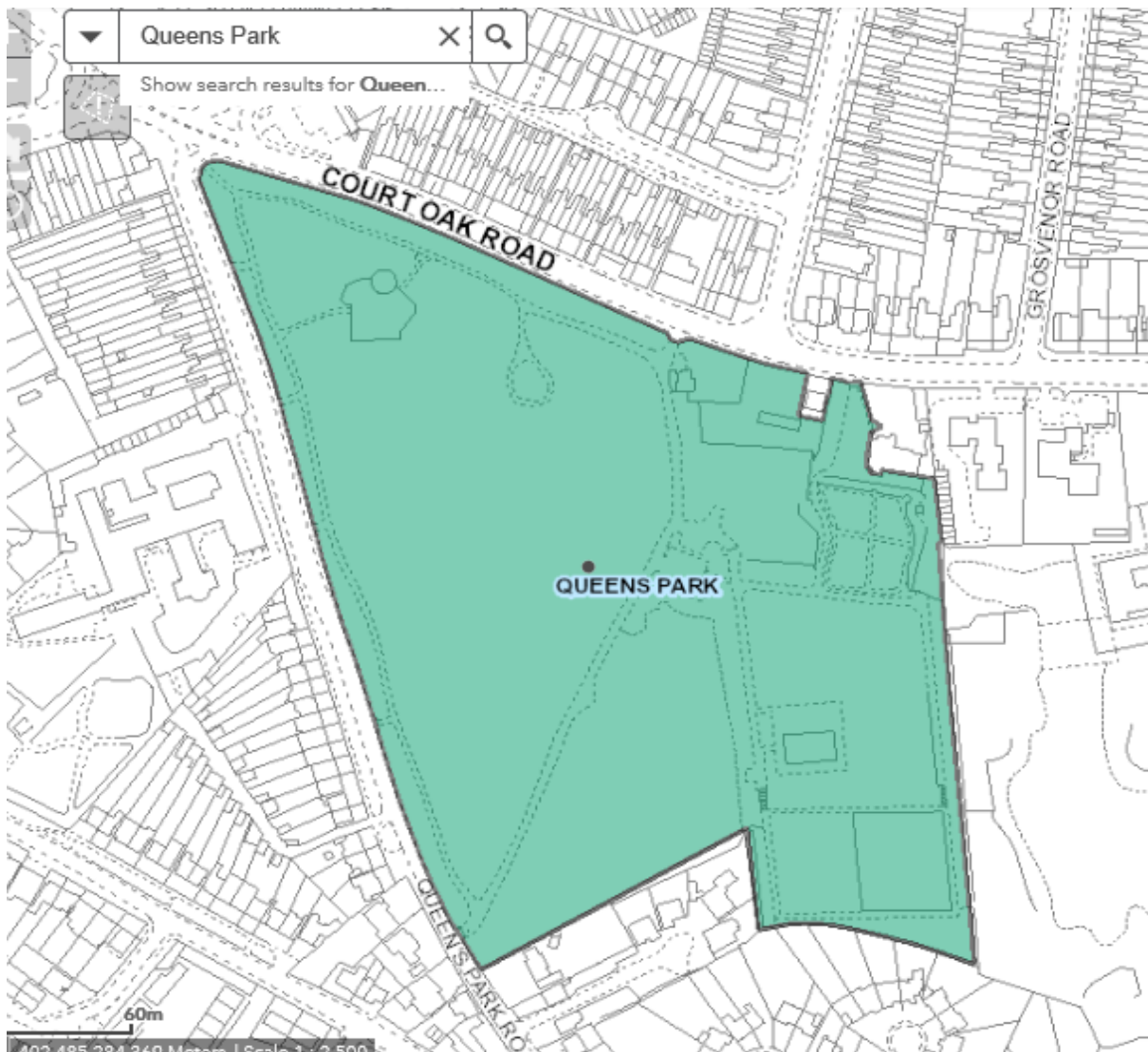
Perry Park



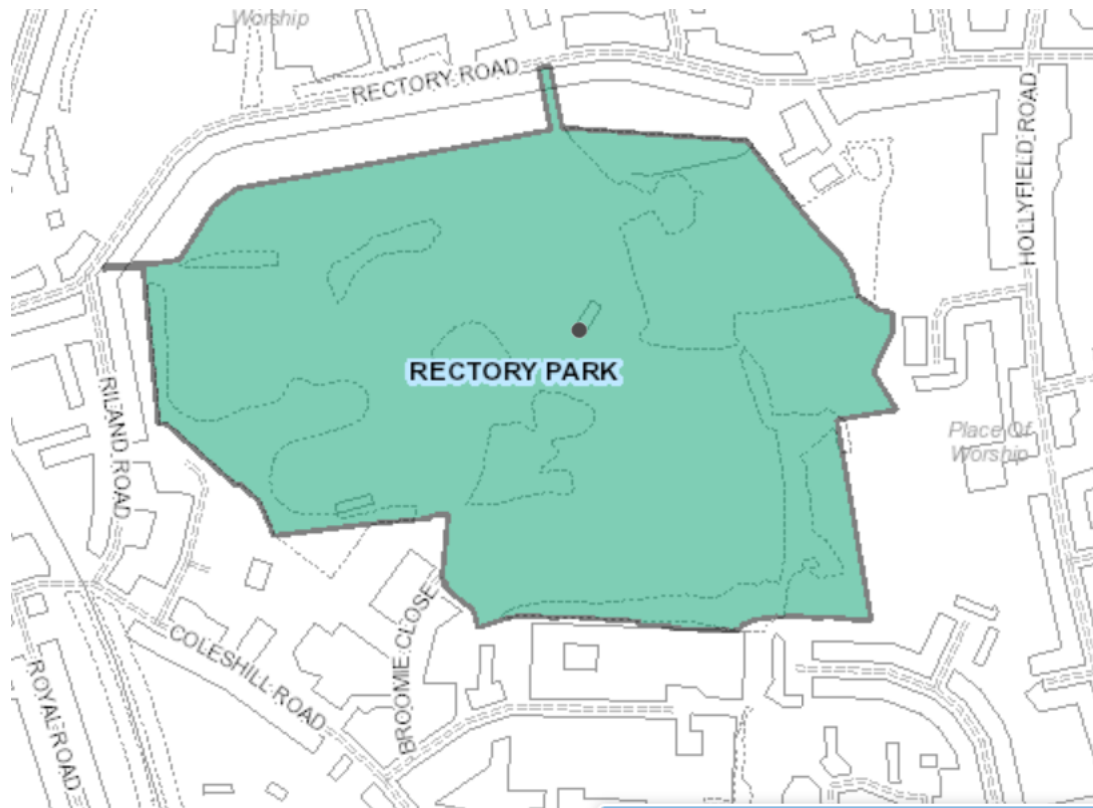
Pype Hayes Park



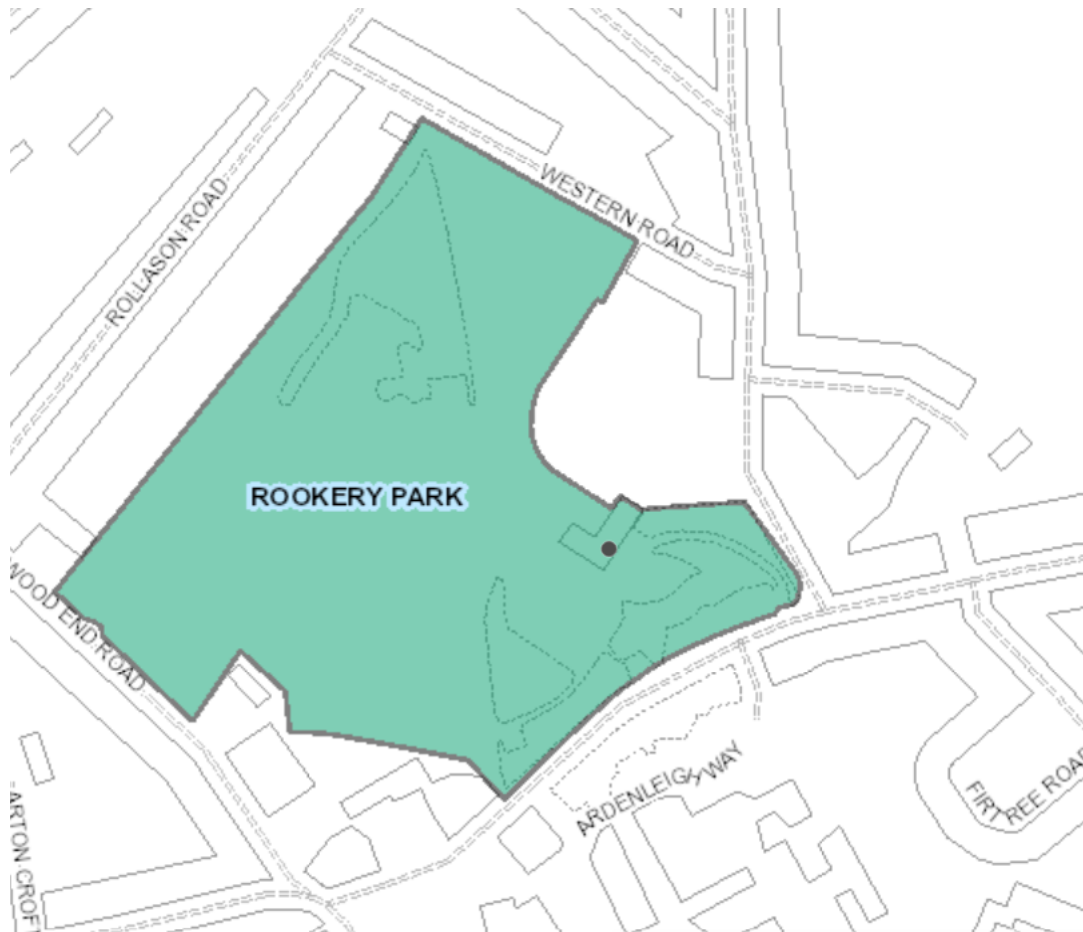
Queens Park



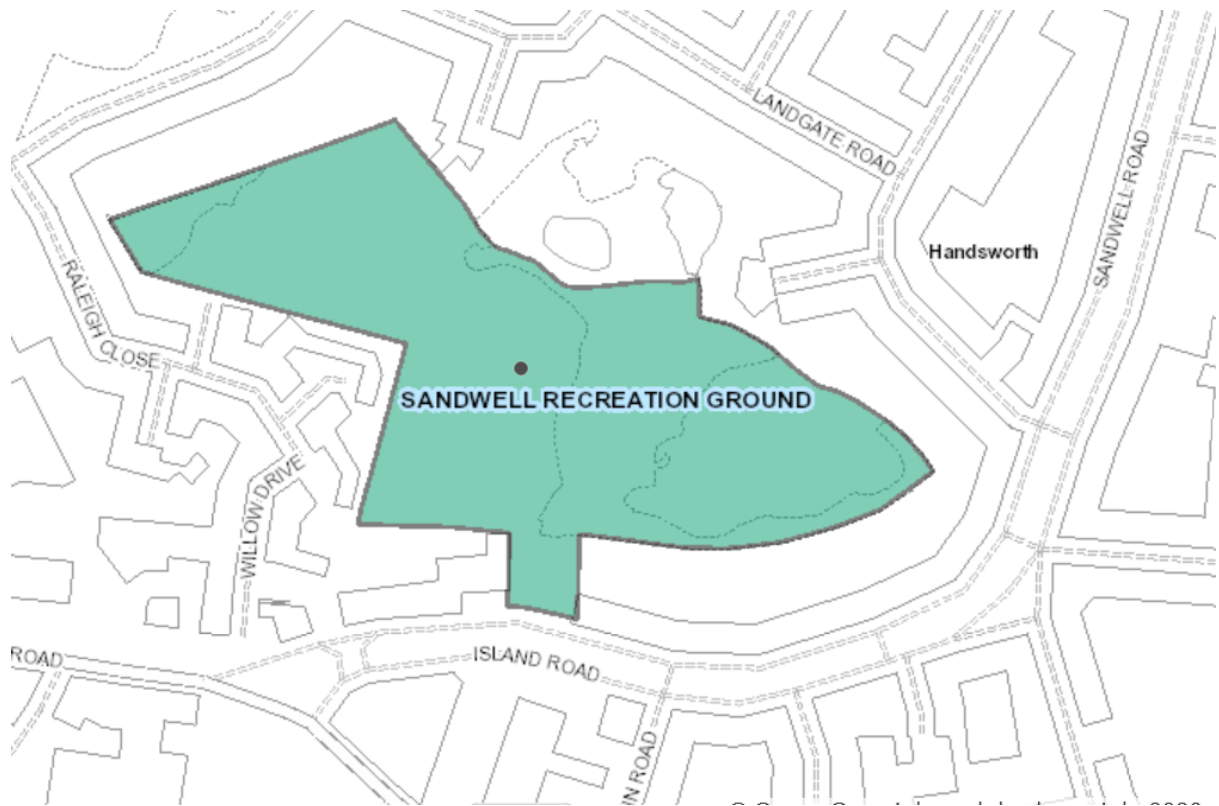
Rectory Park



Rookery Park



Sandwell Recreation Ground



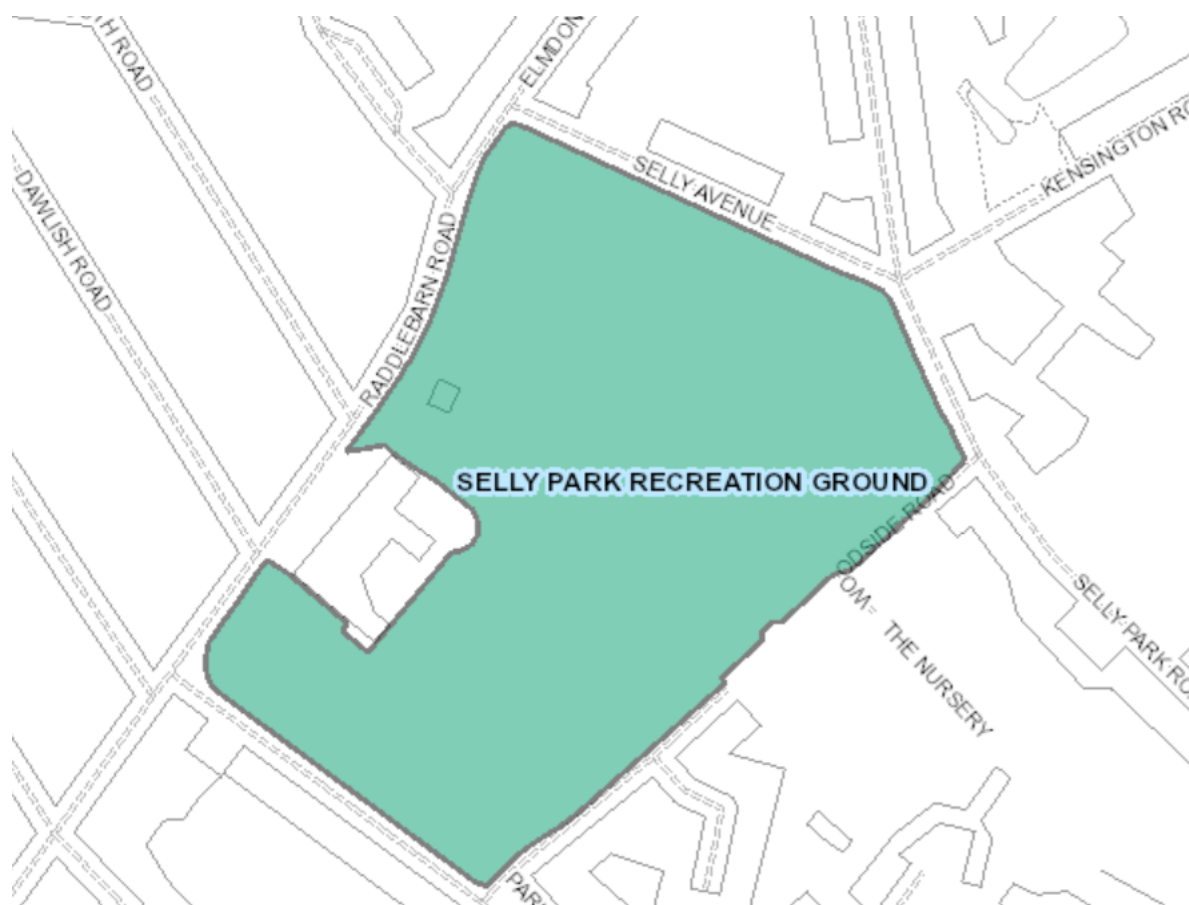
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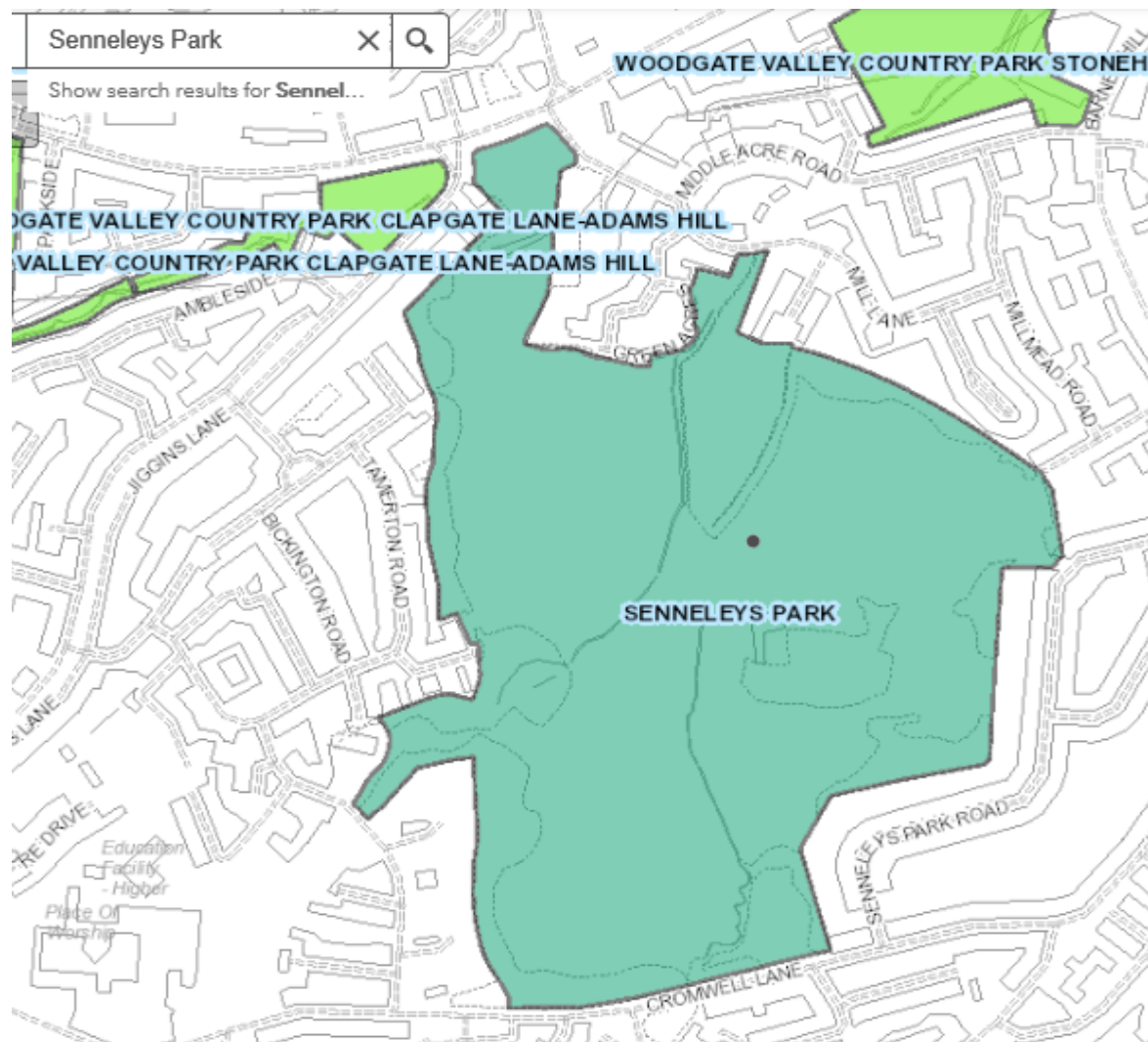
Selly Oak Park



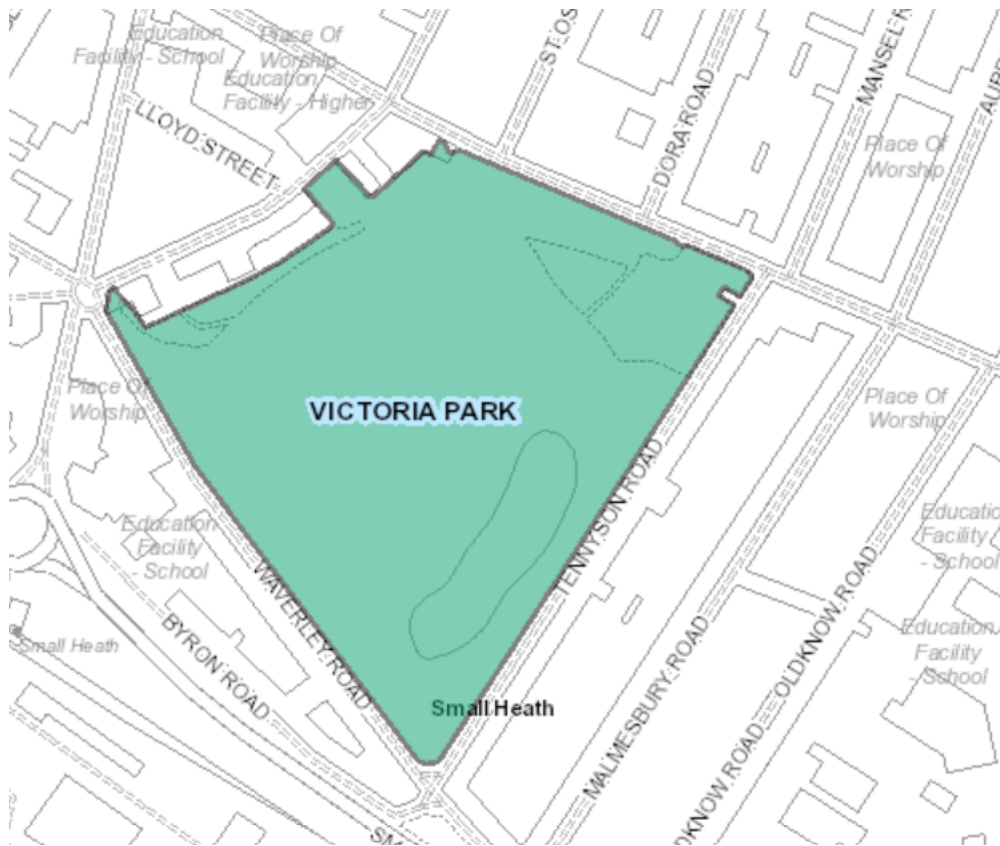
Selly Park Recreation Ground



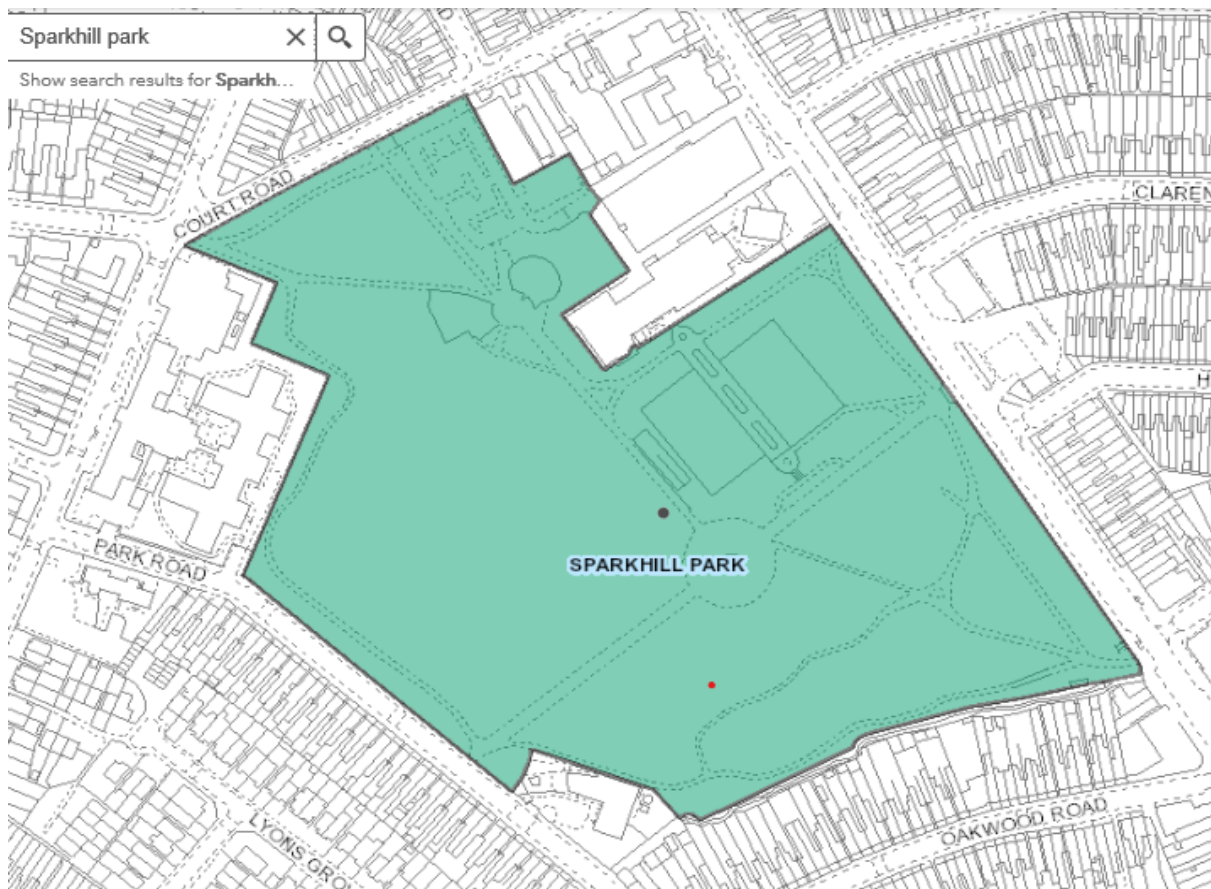
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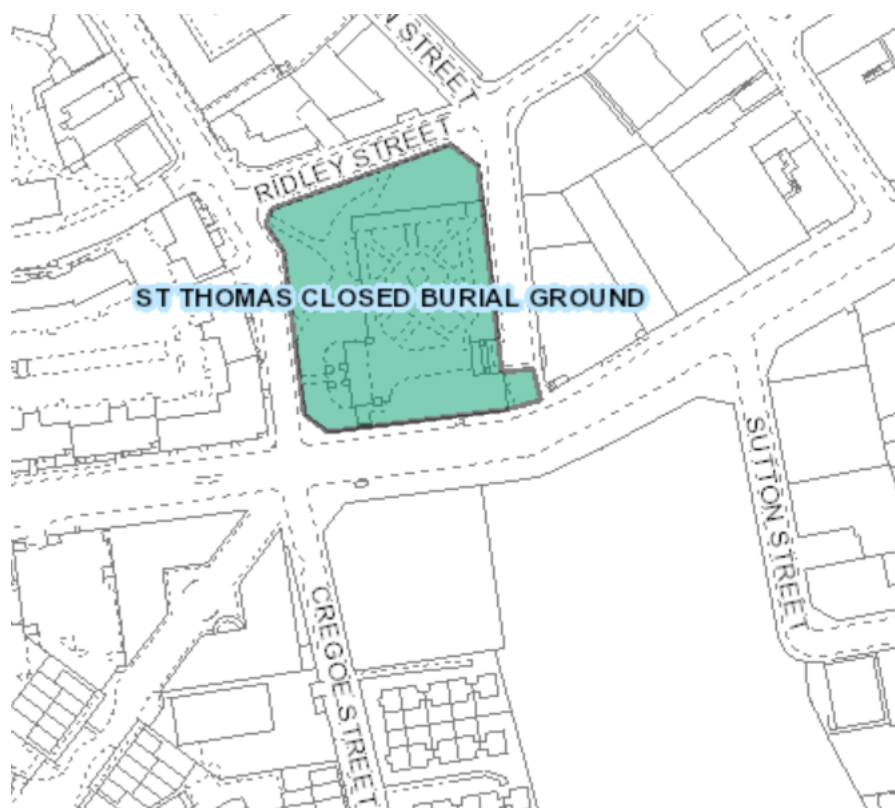
Small Heath Park



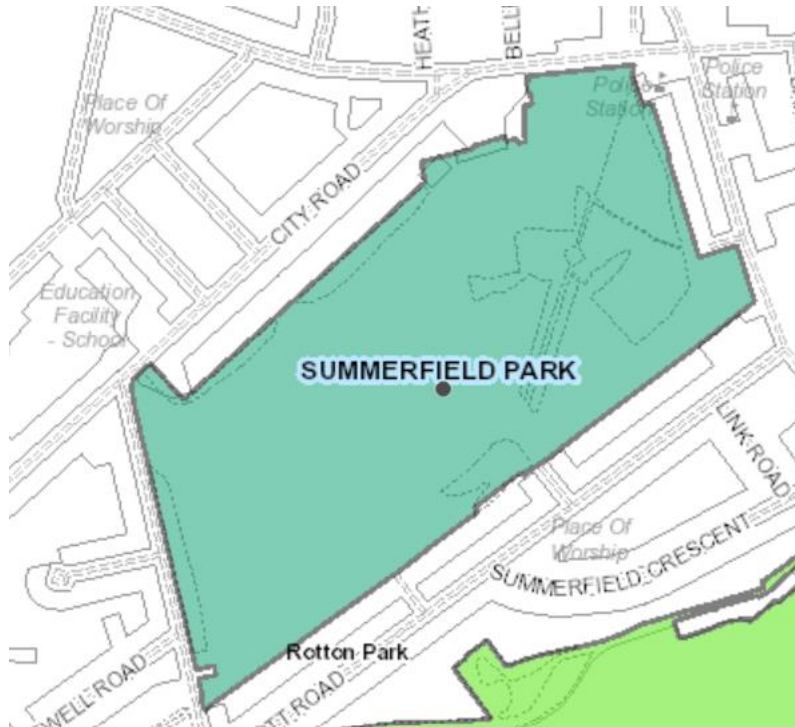
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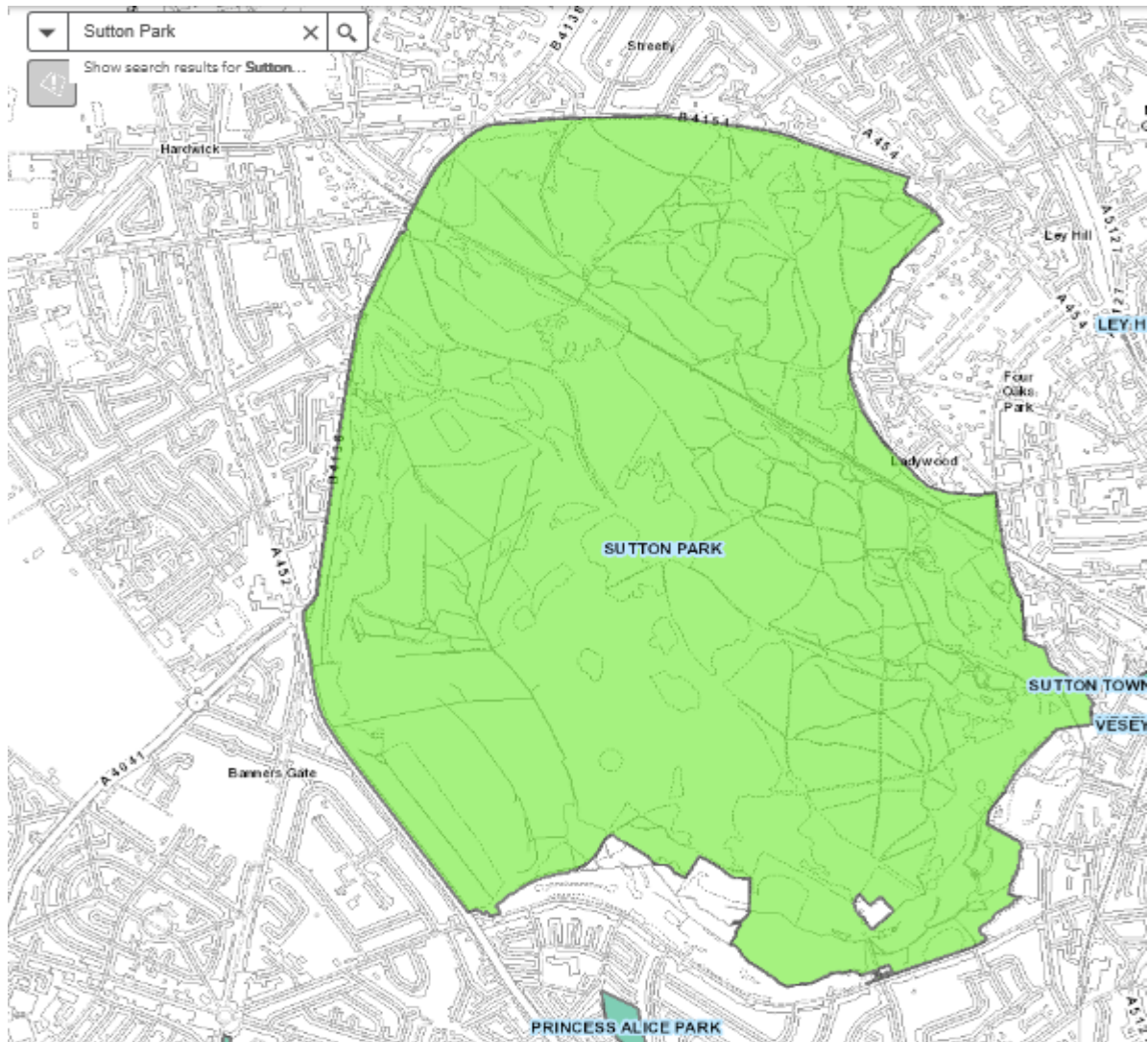
St Thomas Peace Garden



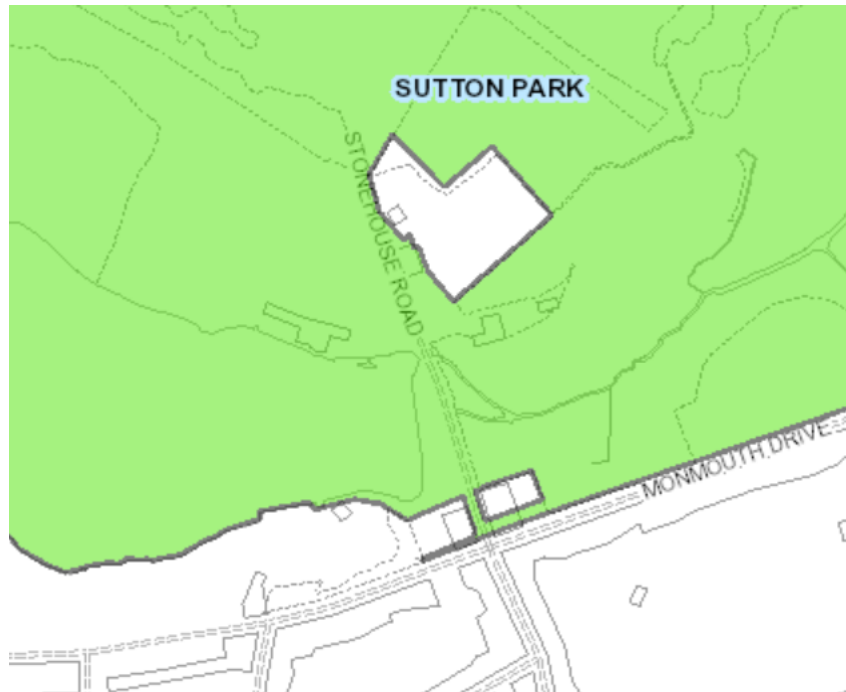
Summerfield Park



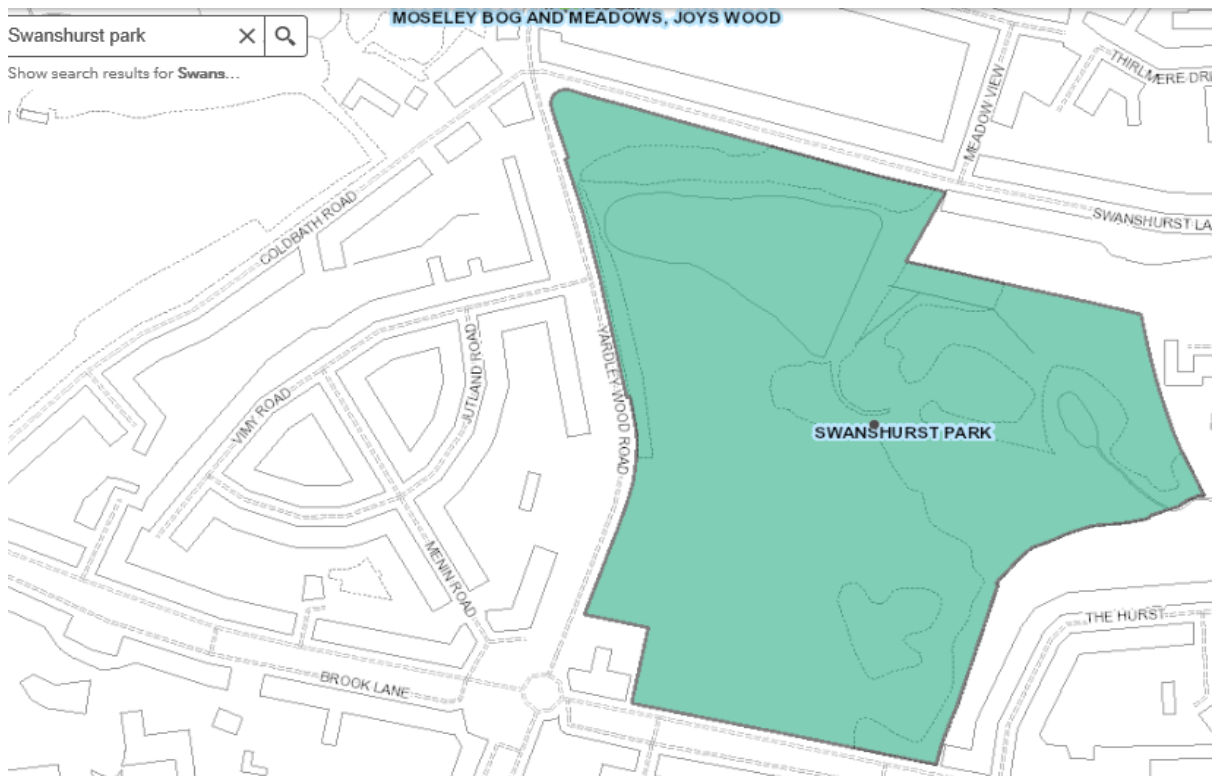
Sutton Park Whole



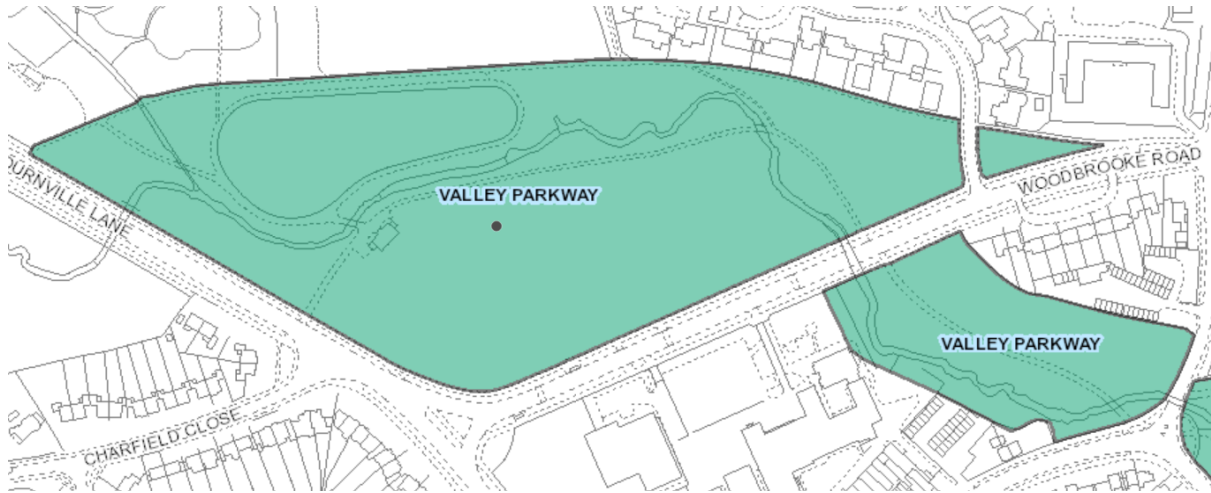
Sutton Park Boldmere Gate



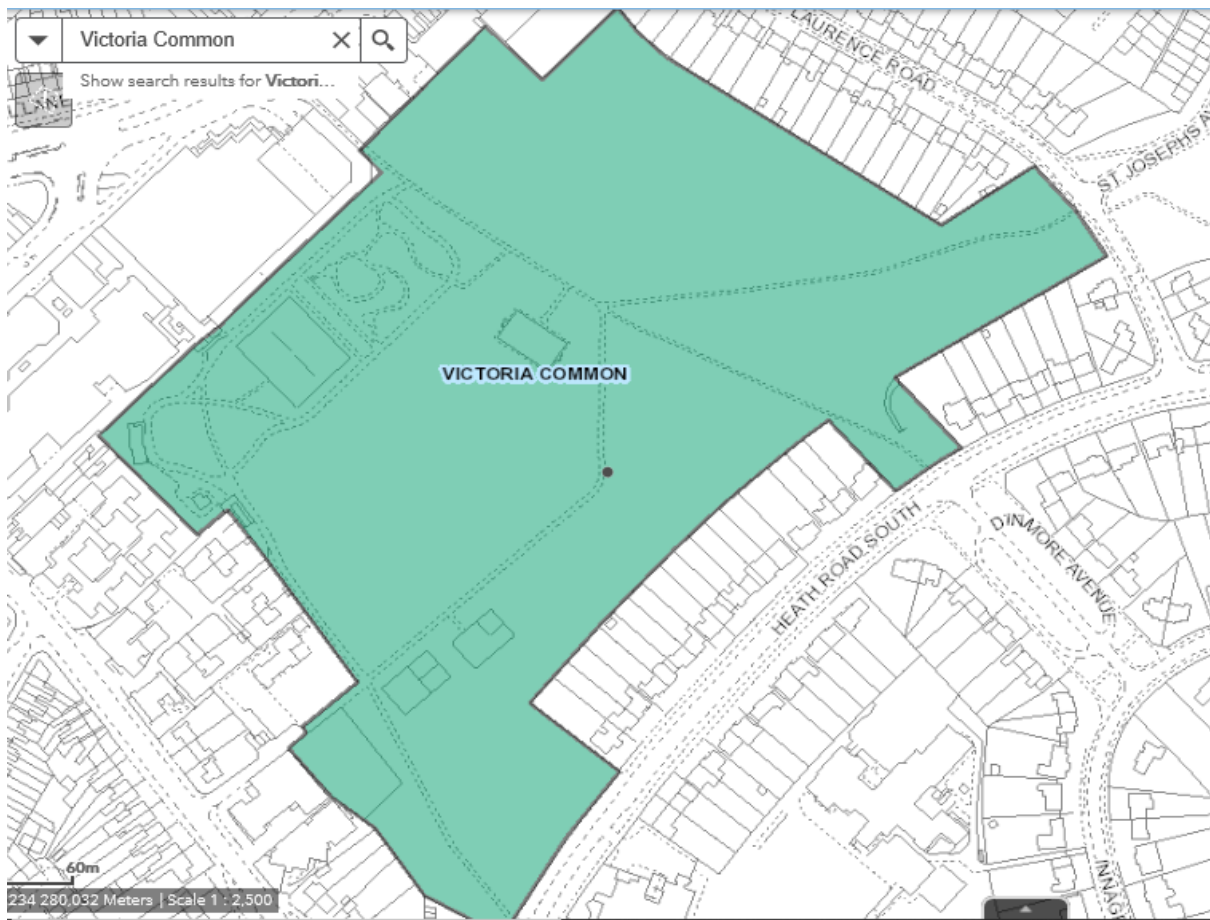
Swanshurst Park



Valley Parkway



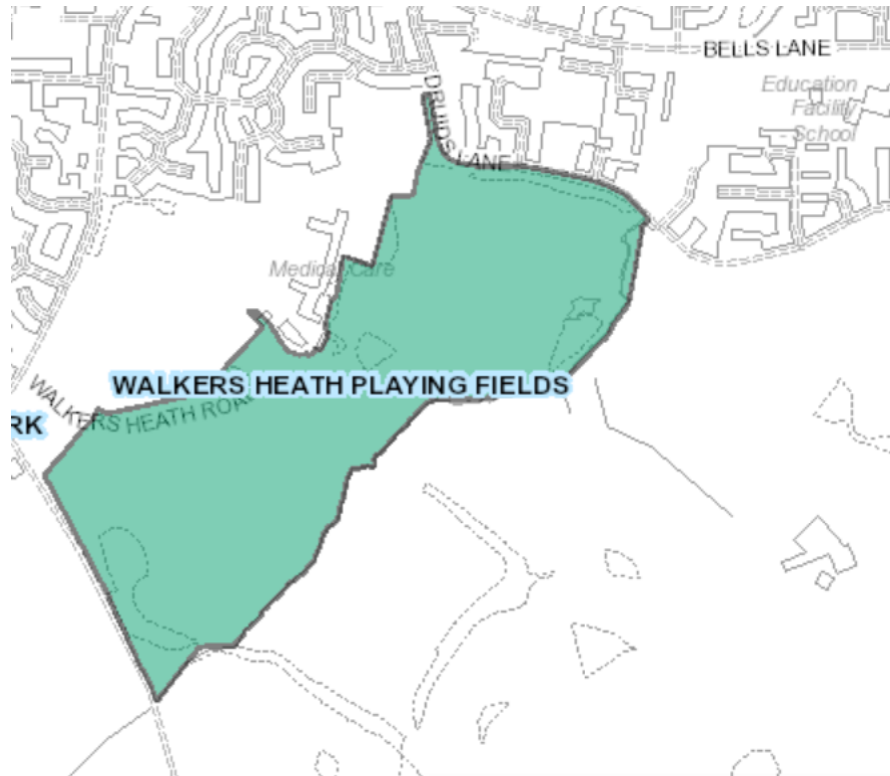
Victoria Common



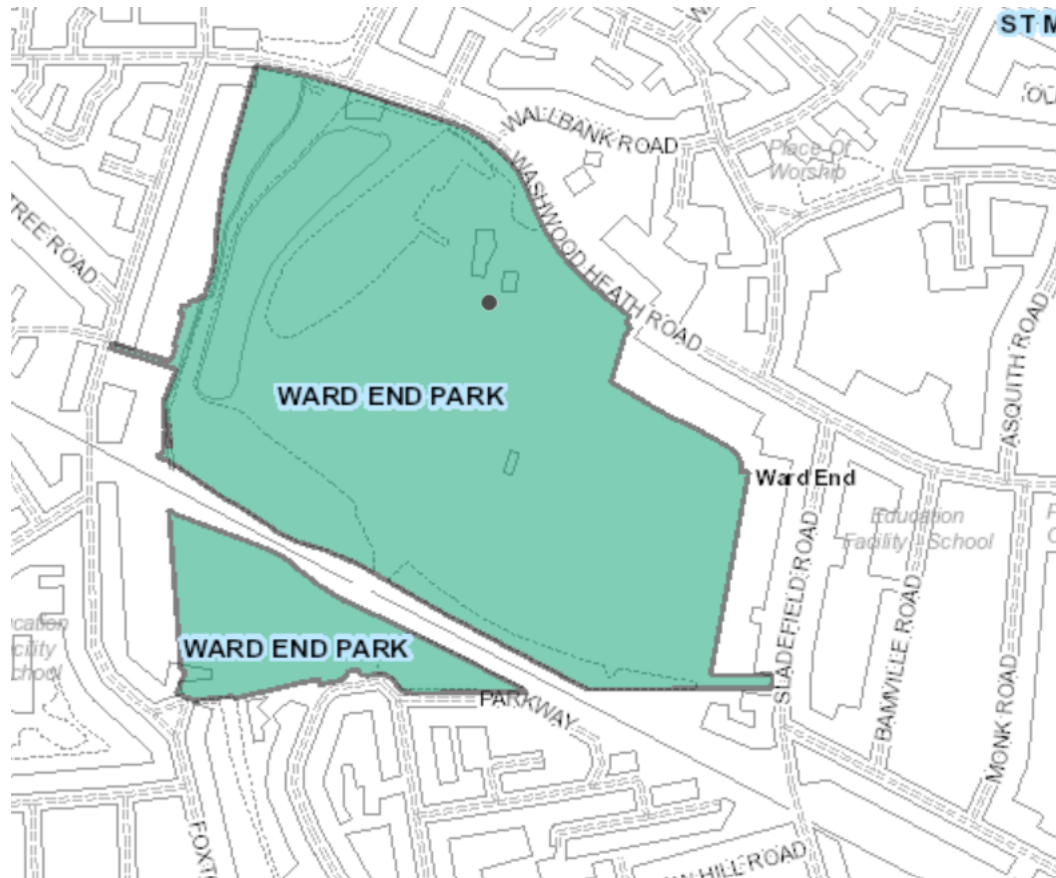
Wake Green Playing Fields



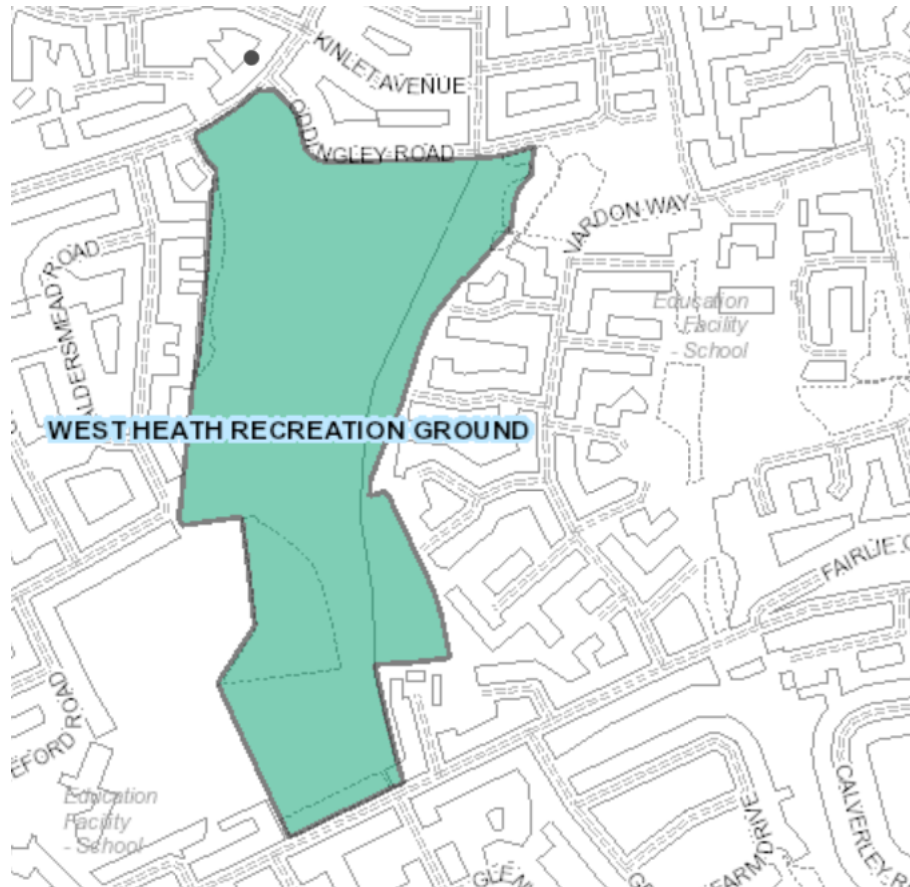
Walkers Heath Sports Ground



Ward End Park



West Heath Recreation Ground



Street Trading Consent Application and Renewal Assessment Framework

Street Trading Policy 2020

The assessment criteria within this assessment framework are described more fully in the Policy and the Policy will be used in conjunction with the information below to guide the consideration of specific criteria.

This assessment framework will be used for both applications and renewals except for a renewal occurring within 12 months of the grant of the original application. In this case renewal will normally occur for one further 12-month period if the original terms of the consent have been adhered to and there are no other circumstances that make the original application no longer appropriate e.g. changes in road layout. This will occur without the need for a renewal form to be completed.

A scale of 0 to 5 will be used with 0 being poor evidence and 5 being excellent evidence of meeting the assessment criteria. The final score will be made by the Street Trading Team after analysing the information put forward by the consultees.

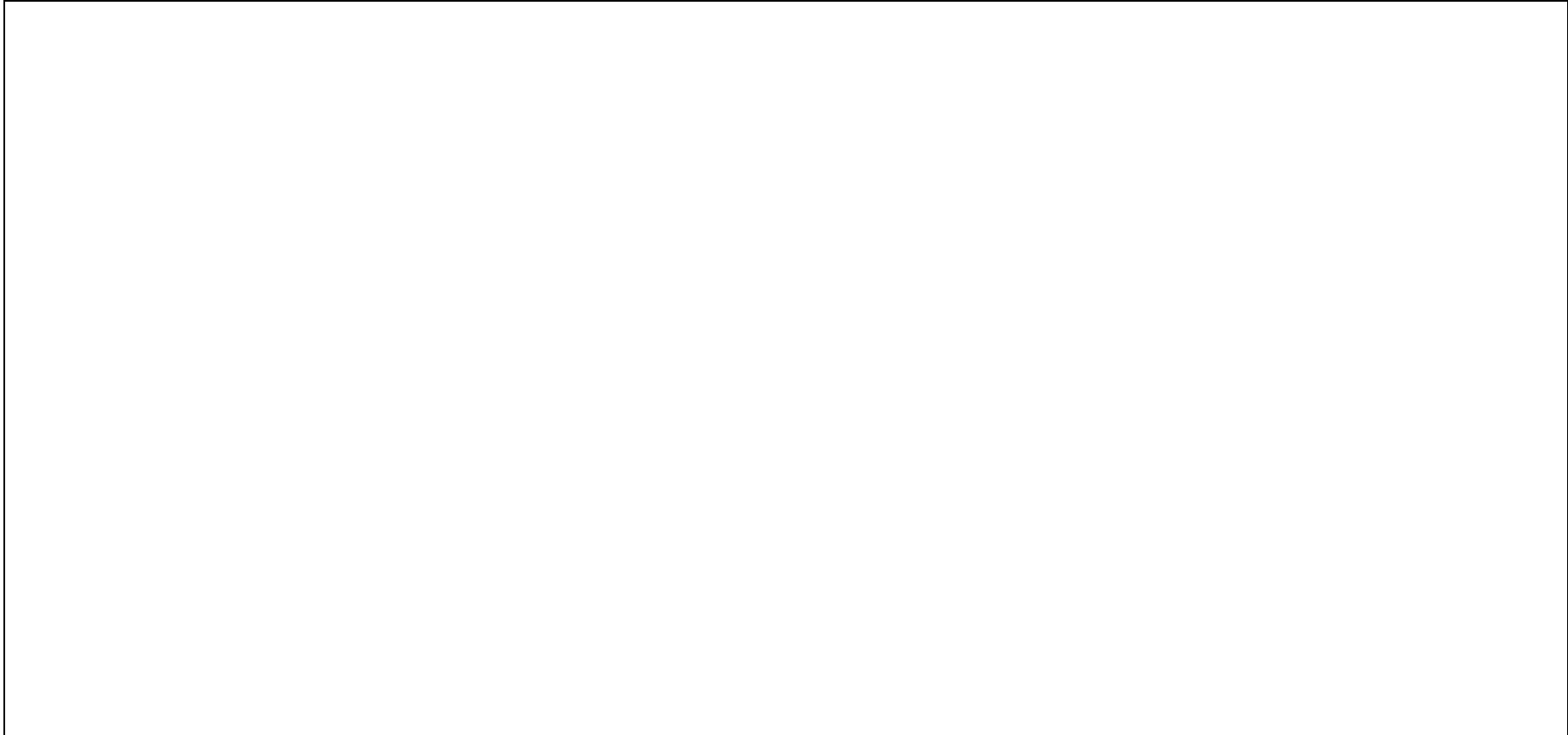
Assessment criteria	Specific factors linked to criteria	Score	Comments (Additional guidance in italics)
1. Public safety	<ul style="list-style-type: none"> Adverse comment made by Highway Authority or any other relevant consultee in terms of location 		<i>Any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving.</i> <i>Any loss of amenity caused by noise, traffic, smell etc.</i> <i>Existing traffic orders e.g. waiting restrictions.</i>
2. Prevention of crime and disorder	<ul style="list-style-type: none"> Adverse comment made by Police or any other relevant consultee in terms of increased risk 		

3. Prevention of nuisance	<ul style="list-style-type: none"> Consideration of proposed activity and how that may impact on neighbouring residences and businesses 		
4. Suitability of applicant	<ul style="list-style-type: none"> Any adverse unspent convictions Previous history of reliable payment of fees Previous history of compliance with any street trading consent 		<p><i>A poor payment history or a history of noncompliance for any consent previously held with Birmingham Council is likely result in a low score.</i></p> <p><i>If the applicant is in debt in relation to a street trading consent with Birmingham City Council at the time of renewal/new application, then it is likely that the renewal/application will not be granted.</i></p>
5. Suitability of trading unit	<ul style="list-style-type: none"> Compliance with design brief (applicable for consent over 12 weeks in any financial year) Appropriate size for proposed location High quality design Agreed removal of unit after trading All goods, ancillary equipment and stock kept within unit 		<p><i>Where the unit does not comply with the design brief the application is likely to be refused unless the application is for a food unit where some modifications may be considered for technical operation.</i></p> <p><i>The design brief does not apply to occasional consents or annual consent for a duration less than 12 weeks but should still be used as guidance.</i></p>

6. Power	<ul style="list-style-type: none"> • All units to be compatible with being powered by electricity • If generator is proposed for use outside city centre evidence must be provided that no alternative power supply is available and cannot be made available 		
7. Advertising	<ul style="list-style-type: none"> • Advertising only relates to goods on sale • Advertising is not illuminated and is contained in unit • No "A " Boards etc. 		
8. Barriers	<ul style="list-style-type: none"> • These are necessary and appropriate 		<i>Any barriers proposed should not constitute a nuisance or danger under the Highways Act 1980, would not impede the free flow of pedestrians or traffic and would not restrict the pavement so as to inhibit social distancing.</i>
9. Hours of Trading	<p>Trading hours promote:</p> <ol style="list-style-type: none"> 1. Preventing crime, disorder and antisocial behaviour. 2. Avoiding disturbance due to noise, smell or other matter. 3. Protecting public safety. 4. Preventing obstruction of the highway. 		

	5. Having regard to location and operating hours of business activity.		
10.Cumulative impact	<ul style="list-style-type: none"> Except for football trading the trading unit is situated 30m distant from any other trading unit 		<i>It is accepted that this may not be known when new applications are first being made under this policy. All traders will therefore be given a score of 3 where other traders have applied for the same street. As stipulated under section 7 of the policy the applicants awarded the highest score in the assessment framework in a competitive scenario will be chosen and a location identified on that street.</i>
11.Selling the right goods	<ul style="list-style-type: none"> Quality of goods Innovative products Goods do not cause nuisance Goods do not contribute to crime and disorder Goods do not have a negative health impact 		
12.Site assessment	<ul style="list-style-type: none"> Any potential obstruction of pedestrian, vehicular or disabled access. Any obstruction to the safe passage of pedestrians and wheelchair users. Any nuisance/interruption to pedestrian flow or social distancing 		<i>It is accepted that this may not be known when new applications are first being made under this policy. All traders will therefore be given a score of 3 As stipulated under section 7 of the policy the applicants awarded the highest score in the assessment framework in a competitive scenario will be chosen and a location identified on that street.</i>

	<ul style="list-style-type: none"> • The safe access and egress of customers and staff from the pitch and immediate vicinity. • Obstruction of entry to or sight lines to the entrance of retail premises or obstruction of display windows of retail premises. • Public squares will not be appropriate for annual street trading consents longer than 12 weeks. • If land is not HMPE then permission of landowner is required. 		<p><i>The above does not apply to instances where the land is not HMPE and the applicant has the permission of the landowner. If the applicant does not have the permission of the landowner this will lead to the application being refused.</i></p>
Decision/ Additional			



Street Trading Design Brief for Units

Unit proportions

The external height of the unit must not exceed 2.6 metres

External size of the units must not exceed 2.3 metres x 4.9 metres

These dimensions do not include the tow bar.

It is recognised that units may not be a uniform shape and uniqueness is supported but will generally only be considered if the unit is within the proportions outlined above and compliant with the other conditions outlined in this design brief.

This design brief gives a maximum size (to accommodate standard food trailers), however applicants are advised to consider the size of trading unit that will be appropriate in the location that they are suggesting.

Special consideration will be given in relation to food units/trailers. Where a food trader can establish that (a) the design brief size requirements would be inadequate for the technical operation of their business which would otherwise be granted a consent and (b) that the location in question can support a larger unit, then the council will be willing to consider some modifications of the design size requirements.

Unit design

Units must be of a high quality, bespoke design that complements and enhances its surrounding environment. The proposed unit design must be agreed by Birmingham City Council.

(It is suggested traders do not purchase a unit until the proposed design has been agreed by Birmingham City Council).

The unit must not have protruding signage from the top, side or any element of the unit.

Colour

The colour of the unit must be approved by Birmingham City Council. Consideration will be given to the proposed location of the unit and how the colour will help the unit enhance its surroundings.

Signage

Signage must be painted (or attached via vinyl sticker) onto the trailer / stall. No other signage can be utilised by traders (such as hanging, floor sited A boards, etc)

Signage must be in no more than two colours.

Graphics or logos must be no more than three colours of which one is the same as the signage colour and not cover more than 1/3rd of an elevation. Graphics must directly relate to the business.

Where graphics associated with branding/logos are considered too dominant then these will not be considered acceptable.

Temporary signage or product pictures are not permitted on any elevation and must be contained on the product/menu board or within the trading unit.

Product/menu boards must be sited internally or on shutters.

All signage designs must be approved by the Birmingham City Council as part of the street trading consent application process.

Siting of stock & trading area

Goods cannot be displayed outside the areas of the unit e.g. via build-outs, externally hung on the unit, sited on the public realm around the unit, or by any other means. All produce / stock must be located and displayed within the unit.

Goods cannot be displayed directly on the ground and must be presented from a product specific display unit (e.g. tiered shelving for flowers)

The unit should aim to have at least 3 opening or glazed elevations.

Subject to above, signage can be used to help enhance blank elevations.

Canopies

No goods can be hung or displayed on or from the canopy.

Canopies should only be located on the serving or opening side of the unit, for shading purposes only.

Canopies should not project any more than 1m from the unit.

The colour of canopies must complement or be the same, as the unit colour. The design and appearance of the canopy will be approved by BCC as part of the wider unit design.

Waste

Commercial waste must be stored within the stall / trailer.

Food stalls should aim to have a public waste bin sited next to the unit. This should be black and managed by the trader with waste removal forming part of the trader's commercial waste contract. The need for such a waste receptacle will be considered on a case by case basis acknowledging that there may be instances where the provision of a waste receptacle will be required.

Lighting

The unit must not have external lighting.

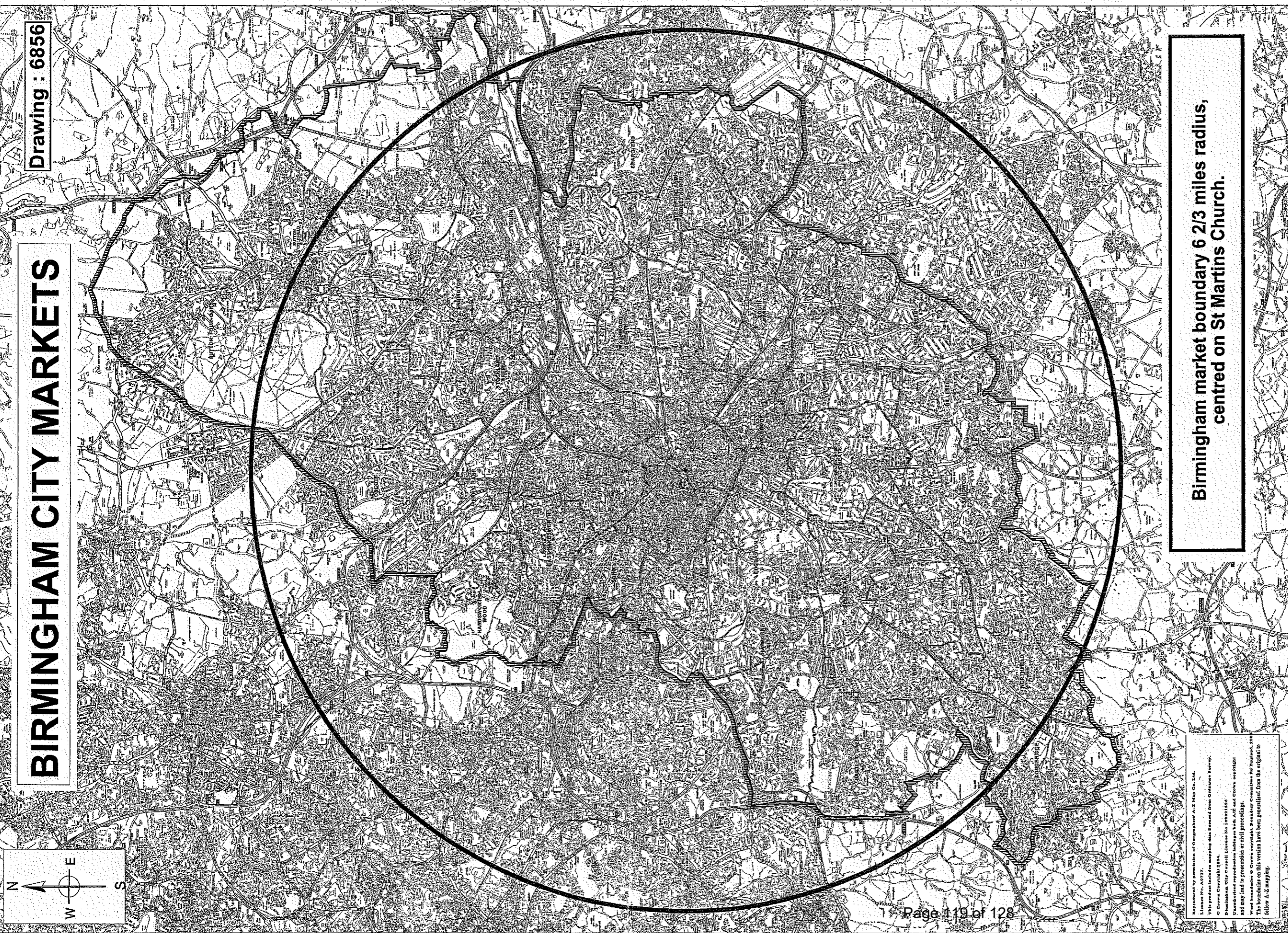
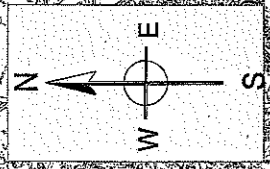
City Centre additional design requirements

Trading units within the city centre (within the inner ring road) will be expected to align with the vision for the city centre as a high-quality retail destination. Units should be high in both quality and design. Any trading unit in the city centre will only be permitted if it reflects these requirements. The following examples are provided to illustrate the types of unit that may be permissible:



Drawing : 6856

BIRMINGHAM CITY MARKETS



Birmingham market boundary 6 2/3 miles radius,
centred on St Martins Church.

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The boundaries on this version have been generalised from the original to
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BIRMINGHAM CITY COUNCIL

STREET TRADING

DISCIPLINARY PROCESS

All Street Trading Consent Holders must comply with the Conditions attached to their Street Trading Consent.

Should a Consent Holder breach the conditions, the following process will be applied.

FIRST OFFENCE

The Consent Holder will be verbally warned on site by an “Authorised Officer” and a formal verbal warning will be issued in writing and placed on the traders file.

SECOND OFFENCE

Should the Consent Holder commit a further breach of the conditions within **six months** of the second offence, a formal written warning will be issued and placed on the traders file.

THIRD OFFENCE

Should a Consent Holder commit a further breach within **twelve months** of the third offence, the Consent Holder will be asked for a written submission relating to the breaches. A senior authorised officer will review the consent with a potential outcome being revocation.

In addition, should a consent holder commit a significant breach of the conditions so as to be considered as serious misconduct or such as to impact significantly on the following:

- **Public Safety**
- **Prevention of crime and disorder**
- **Prevention of public nuisance**

Then immediate suspension of the consent will occur which will trigger a review of the consent by a senior officer with a potential outcome being revocation. Written submissions for both the Street Trading Team and the consent holder will be sought prior to a decision being made.

Where circumstances change or there are serious concerns regarding a consent, officers will compile a report for consideration by a senior officer. A copy of this report will be provided to the consent holder in advance of its consideration in order that they are able to provide any explanation or justification to support their position within a reasonable time.(14 days) The matter will be determined after the 14 days

whether a response has been received or not. The senior officer will consider all evidence and make the decision whether to revoke the consent.

Where a consent is revoked the Council will advise the applicant verbally and confirm the reasons for this in writing within 10 working days.

Appeal against revocation

There is no statutory right of appeal against a decision to revoke a consent however an appeal may be made to the Head of Licensing within 5 working days of the written revocation. A panel of two independent senior officers will review the decision to revoke the consent. After considering the original evidence (new evidence or material will not be permitted) the panel will make a decision in writing on whether to uphold the appeal (with or without conditions) or not to uphold the appeal.

The appeal process is:

- Senior officer will write to the trader informing him/her that the consent is revoked and give details for this outcome and how to appeal.
- Panel of two senior officers of Birmingham City Council (not connected with making any decision to revoke the consent)
- Panel to consider original report from the Street Trading Team, original evidence submitted by the trader, and the revocation letter from the senior officer.
- Panel to defer decision making if further evidence required from officers or trader
- Panel to determine whether the appeal is upheld or not
- Panel to write to trader detailing final decision.

BIRMINGHAM CITY COUNCIL

STREET TRADING CONDITIONS

These Conditions are intended to assist in the operational effectiveness of Street Trading, to ensure equity in relationship to the traders and to support the City Council's intention to provide a high-quality service.

All Street Trading Consent Holders shall comply with these Conditions. Where applicable, employees shall also comply with these Conditions.

In these conditions, the following terms have the meaning hereby assigned:

'Council'	means Birmingham City Council
'Division'	means the Council's Regulation and Enforcement Division
Street Trading	the selling or exposing or offering for sale any article (including a living thing) in a street
Street	a) any road, footway, beach or other area to which the public have access without payment; and b) a service area as defined in section 329 of the Highways Act 1980
'Consent Holder'	means a Street Trader who has been granted a Consent by the Division to trade on the street
'Consent'	means a Consent granted by the Division in respect of street trading
'Employee'	means a person working for a Street Trading Consent Holder
'Authorised Officer'	an Officer employed by Birmingham City Council and authorised by the Assistant Director of Regulation and Enforcement in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982
'Senior Officer'	means an Operational Manager within the Division
'Serious Misconduct'	Includes, but is not limited to any of the following: Sexist, racist, foul or abusive language Acts of dishonesty Acts of indecency Any act causing or likely to be dangerous or cause personal injury to a person

General Conditions

Consent Details

1. A copy of the consent must be displayed prominently on the unit at the street trading site and the trader or his employees shall produce it whenever required by any Police Officer, Market Officer or other person authorised by the Council.
2. The consent holder shall not trade outside the time and days permitted by the consent and trading shall only take place from the agreed specified trading unit.
3. The consent holder shall not trade within the consent area other than at the location permitted by the consent.
4. The consent holder shall trade in compliance with the consent and must not digress e.g. affixing barriers or advertising etc. that has not been specified in the consent.
5. The consent holder will comply with all statutory orders, regulations or bye laws made and for the time being in force.
6. The consent holder and their employees shall comply with all statutory requirements and statutory instruments including without limitation the Control of Substances Hazardous to Health Regulations 2002 and the Health and Safety at Work Act 1974 in relation to the sale of goods or provision of services from their unit.
7. The goods, articles or things, the sale of which is authorised by this consent, are strictly limited to those specified, unless written approval to amend has been given by Birmingham City Council.
8. The trading unit must be of the size and design approved by the Council and/or specified in the consent. Written approval to change the specified sales unit must be obtained from Birmingham City Council.
9. The consent holder shall not at any time lend, or purport to transfer or assign this licence to, or permit it to be used, by any other person except that he/she may employ any other approved person to assist him/her in trading without a further consent being required. Birmingham City Council must be notified of all employees/persons authorised to assist prior to them working.
10. All consent holders and their employees shall register their names and current addresses with the Division in accordance with the requirements outlined on the Division's application form and give written notice to the Division immediately of any changes in such details.
11. All consent holders shall ensure that all their employees comply fully with the Conditions as disciplinary action may be taken against any consent holder or their employees for any breaches of the Conditions. Consent holders are under a duty to bring the Conditions to the attention of their employees.
12. The consent holder may employ another person to 'assist' with trading but shall be expected to be in attendance at the site regularly in order to remain in control of trading for the majority of trading hours.

13. The consent may be revoked by the council at any time for non-compliance with conditions or any other reasonable cause or surrendered by the consent holder at any time.
14. Nothing in these conditions shall excuse the consent holder from any legal duty or liability and the consent holder shall indemnify the council in respect of all claims, actions or demands arising from the consent except where due to the Council's own negligence.
15. The consent holder shall always maintain a valid third-party public liability insurance policy to the value of £5,000,000 and shall produce a valid certificate of insurance at any time.
16. The consent holder and any employees must notify the Council in writing within two working days of any change of address, any changes, police investigations and/or convictions or cautions which arise during the terms of the consent. The Council reserves the right to suspend a consent with immediate effect pending a review of the consent by the Head of Licensing or another senior authorised officer should any criminal matter serious enough that there are concerns for public safety.
17. The fees for the consent must be paid on or before the due date for payment as specified by the Council and by one of the methods stipulated by the Council on the invoice.
18. Should the trader wish to surrender their consent, they must do so formally in writing, returning their consent. Failure to do so will result in consent fees remaining payable.
19. Notwithstanding the details of a consent, when a pitch becomes temporarily unsuitable for any reason, the consent holder will agree to relocate to an alternative street trading pitch for the period of the temporary restriction.

General Conduct

20. The consent holder must not sell or leave any articles/goods outside of the agreed trading dimensions of the trading unit. No goods shall be hung from canopies or be placed on the ground.
21. The consent holder shall not trade in such a way that is likely to cause obstruction of any part of any street or public place.
22. The consent holder shall not trade in such a way that is likely to cause an injury to any person using the street or place.
23. The consent holder shall not trade in such a way that is likely to cause damage to any property in the street or place.
24. The consent holder shall not trade in such a way that is likely to cause a nuisance or annoyance to persons using the street or public place, or to occupiers of premises in the vicinity.
25. The consent holder shall be clean in his person and shall not exhibit insobriety, incivility, improper language or other misconduct.

26. Serious misconduct will result in an immediate suspension of the consent to enable a review to take place by the Head of Licensing or other senior authorised officer potentially leading to revocation.
27. If requested to move for any reason the consent holder shall comply the reasonable instructions of any authorised Birmingham City Council Officer or West Midlands Police Officer.
28. The consent holder agrees to abide by the disciplinary procedure as approved by the Division.
29. Where more than one mobile ice cream trader has been granted a mobile street trading consent to trade in the same street, then any such ice cream trader on entering a street where an ice cream trader is already trading shall immediately leave that street without trading in it.

Protection of Young People

30. Street trading will not normally be authorised within 50 metres of any entrance or exit to a school or nursery. (The distance from the entrance to a school or nursery may be extended where issues of public safety are raised during the consultation of the application).
31. No child aged 16 or below shall be engaged in or employed to undertake any street trading under a consent issued by the Council.

Noise Nuisance

32. The consent holder shall not use any device for the reproduction or amplification of sound; or any device or instrument to attract vendors to the stall/vehicle/trailer by sound. Ice cream vans may use a chime only in accordance with the Code of Practice on Noise from Ice Cream Van Chimes etc. 1982.

Vehicle/Unit Compliance

33. Any vehicle/unit/trailer used by the consent holder in the course of trading shall be constructed and maintained to the satisfaction of the Council and as stipulated by the consent and design brief. A high standard of presentation and appearance will be expected to be maintained.
34. Any replacement or new units must be approved by the Council prior to being purchased or its building being commissioned.
35. The unit will comply in all respects with any legal requirements relating to the activity proposed
36. The unit shall be of a high-quality design, with robust construction and materials that the daily removal will not result in the rapid deterioration in appearance of the unit.

37. The quality and appearance of the unit must be maintained at the standard approved in the original consent.
38. The unit will be of a mobile type and must be removed daily after trading has ceased unless authorised by the Division. It must not cause damage to the street or endanger persons using the street.

Health & Safety

39. The use and storage of LPG will comply with the requirements of the Health and Safety at Work etc. Act 1974 and any Fire Authority requirements.
40. Where any LPG or electricity is used then suitable fire extinguishers must be provided and maintained in a satisfactory condition.
41. The consent holder will not be permitted to erect additional awnings, tents or other structures at the site without permission.
42. The consent holder shall be responsible for any damage to the highway resulting from the trading activity.
43. The consent holder shall not keep or store explosive materials and inflammable liquids on their trading units, other than gas cylinders in compliance with current legislation.
44. The consent holder shall comply with all Traffic Regulation Orders and ensure that vehicles used in respect of their stalls are moved from the trading site immediately they are unloaded or at the request of any authorised Officer.

Advertisements / Signage

45. Advertisements must not be placed outside the perimeter of the trading site or affixed to any street furniture - e.g. lamp posts, road signs, fences, bollards.
46. Advertising should only relate to goods offered for sale on that pitch.
47. Illumination of advertisements on the outside of the unit not permitted.
48. The use of 'A' boards and any other display board/structures are prohibited.

Waste Management

49. The consent holders shall provide and maintain adequate refuse receptacles for litter and shall remove all litter in the trading vicinity; suitable arrangements must be in place for the disposal of commercial waste.
50. The consent holder must prevent the deposit in any street of solid or liquid refuse and shall not discharge any water (except as may be necessary for cleansing) to the street surface or to the surface water drains. The surrounding area shall be kept clean and tidy including the necessary washing of street surfaces.

Additional Requirements for Food Operations

51. The consent holder must maintain a Food Hygiene Rating Scheme score of 4 or 5.
The hygiene rating must be displayed prominently on the stall, trailer, or vehicle.

PLEASE NOTE:

Failure to comply with these conditions may result in enforcement action, leading to this street trading consent being revoked or an application to renew being refused.

The council reserve the right to amend these standard conditions at any time.

The Council may attach any further reasonable conditions to this consent which it appears appropriate to meet particular circumstances.

This consent and any associated documents must be surrendered to the Council if the consent holder wishes to cease trading.

Any person who engages in street trading in a designated consent street unless authorised by the Council under the provisions of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 commits an offence and is liable, on conviction, to a fine not exceeding £1000 per offence i.e. for each day of trading without consent.