

**WARD:** Lockleaze **CONTACT OFFICER:** Paul Chick  
**SITE ADDRESS:** Eastgate Centre Eastgate Road Bristol

**APPLICATION NO:** 18/00634/P Outline Planning

**DETERMINATION DEADLINE:** 16 May 2018

**Outline Planning Application for the demolition of an existing Class A3 / A5 drive-thru restaurant and erection of new Class A1 retail unit, two Class A3 / A5 pod units and a replacement Class A3 / A5 drive-thru restaurant. Access, Layout and Landscaping sought for approval. (Major Application)**

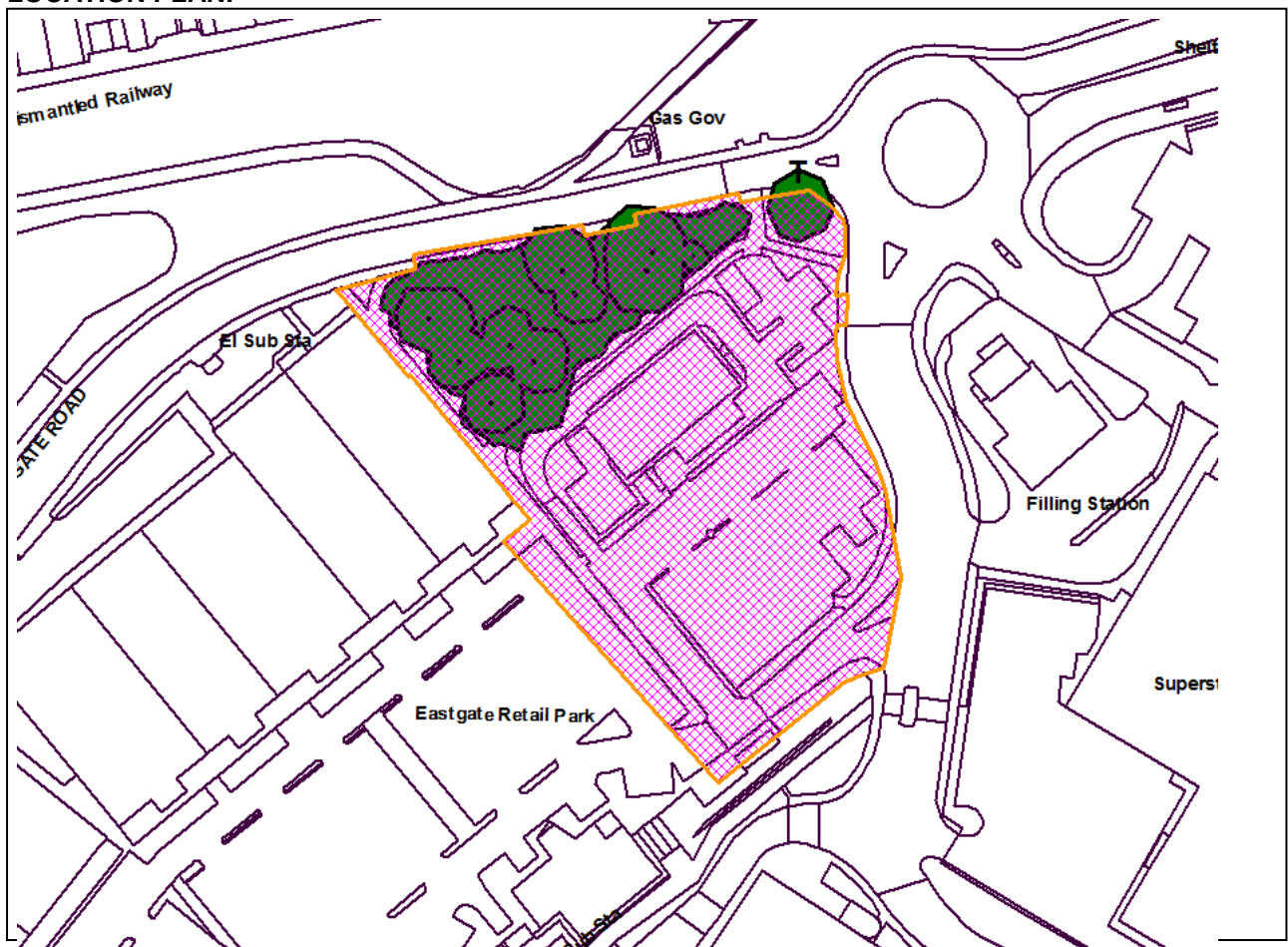
**RECOMMENDATION:** Other

**AGENT:** Savills (UK) Limited  
Belvedere  
12 Booth Street  
Manchester  
M2 4AW

**APPLICANT:** CPG Wilmslow Limited  
c/o Agent

*The following plan is for illustrative purposes only, and cannot be guaranteed to be up to date.*

**LOCATION PLAN:**



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## BACKGROUND

Members will recall that this application was considered at the previous Committee meeting of 16th May 2018 when the resolution was 'that the application is brought back to a future Committee including conditions that could form part of a planning approval'. A copy of the 16th May Committee report is appended to this report.

It was confirmed at the time that the application was undetermined.

During the previous Committee meeting, the comments made by members on the application of the Sequential Test were noted in that no objection was made to the principle of extending the Eastgate Centre. However, no clear conclusion had been reached on the issue of the loss of trees or the highway safety implication in proposing to move the position of the Zebra crossing on Eastgate Road.

The Key Issues section of the appended report includes commentary on both the loss of green infrastructure and highway safety. However, following the previous meeting additional comments have been sought from consultees to expand on the points made, as well as to provide the planning conditions requested in accordance with the resolution. These conditions are also appended to this report.

Taking these issues in turn the following can be added:

## TREES

The application was submitted with insufficient survey detail to cover all the trees on the site including the understorey, and how they would be impacted by the proposed development. However, it is clear that one mature poplar tree would remain (adjacent to the existing retail unit on the western end of the site) and possibly one mature ash tree within the remaining area of landscaping following implementation of the scheme. It should be noted that the chances of this ash tree surviving are slim, as more than 40% of its root area would be removed.

In the absence of an Arboricultural Implications Assessment or an Arboricultural Method Statement it is not possible to assess whether what is shown to be retained is in fact feasible. It is highly likely that much of the existing tree cover shown to be retained will be lost. The majority of the understorey would not survive the works proposed and any remaining understorey would be unprotected and more vulnerable to adverse weather.

In short, given the proposed layout the conditions suggested will only be certain of protecting one mature tree. All the remaining trees will in all likelihood be lost.

In terms of the ecological quality of the trees to be lost, the following additional comments can be added:

The area of green infrastructure contains six ash trees that have been identified in particular as locally notable trees of age and are characterised as being 'transition veterans'. This means that they provide important habitat due to their age and characteristics within a heavily built-up area where habitats are limited and they have the potential to become potentially important veteran trees for biodiversity in time.

It should also be noted that this group of trees provides a significantly greater ecological benefit than a single tree as proposed. The group of trees also provides an element of future proofing the site, as if a single tree is lost due to the natural laws and forces of nature others remain that continue to provide ecological benefit.

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HIGHWAY SAFETY

To the north of the site is an unsegregated cycle path which links Glenfrome Road to Eastgate Road via a zebra crossing. To enable vehicles to access the rear service yard, the application proposes to re-site the crossing 15m westwards. The plan of the proposed access arrangements indicates that vehicular visibility splays of 2.4m x 25m (20mph) and clear forward visibility of at least 50m can be provided. To ensure that moving the zebra crossing could be achieved safely the applicant was asked to commission a Stage One Road Safety Audit. This was undertaken and four key issues were identified:

- 1) Risk of Nose to Tail Shunt Type Collisions: Due to the close proximity of the entrance to the service yard to the exit from the roundabout onto Eastgate Road, motorists exiting the roundabout could fail to comprehend that an HGV in front is leaving the road at the proposed new access. This risk is increased due to the speed of some vehicles as they leave the roundabout and the presence of a retaining structure in the nearside verge, which restricts visibility from the roundabout.
- 2) Risk of vehicle/pedestrian and/or vehicle/cycle collisions: Whilst the crossing will be moved westwards the existing unsegregated cycle path from Glenfrome Road to Eastgate Road will be left in situ. Unless a new spur is provided on the desire line, rather than doubling back pedestrians/cyclists may choose not to use the crossing. This could place them at a greater risk of being unseen by approaching vehicles resulting in those crossing being hit and injured.
- 3) Risk of vehicle/cycle collisions: A number of cyclists were observed to use the crossing. To avoid the risk of confusion as to who has the right of way and the risk of shunt type collisions or collisions with cyclists, the crossing should be changed to one designed for both pedestrians and cyclists.
- 4) Risk of vehicle/pedestrian collisions: Drivers turning left out of the service yard may not realise they are approaching the zebra crossing, or that a pedestrian is crossing and fail to stop, thereby resulting in their being injured.

In response the applicant stated:

- 1) As the entrance to the service yard is 25m from the exit from the roundabout, vehicles travelling within the speed limit will have adequate time to avoid such a collision.

[This however, assumes that all vehicles currently using Eastgate Road travel at 20mph. Any proposals must take into consideration existing road conditions and if necessary provide appropriate mitigation. A speed survey is therefore recommended.]

- 2) As the applicant does not own the land on which the unsegregated cycle path is located, it is not possible to move it so that it will be on the desire line. Instead they have proposed installing a guard rail.

[This would be contrary to national guidance. Such a length of guard railing in this location would lead to pedestrians evading it either by climbing over or walking alongside the carriageway edge. By doing so it would see an increase in the potential conflict between them and a vehicle. In addition the railing could be a hazard to cyclists on the highway which would result in cyclists becoming trapped between it and a vehicle.

Installing railings to take pedestrians away from direct routes is now avoided, but they are considered outside places such as school entrances where large numbers of children join the footway at the same time. It is considered that railings are visually obtrusive and unnecessarily reduces footway width plus they can obscure children and can also create a 'race track' environment which would change the drivers perception that they can drive at higher speeds than normal.

This is an unresolved issue that must be addressed as any development must ensure the safety of all road users and not give rise to unacceptable traffic conditions.]

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3) The existing zebra crossing operates safely and as a result does not need to be changed, as evidenced by the lack of any road traffic accidents at this location.

[This is based solely on accident data and not observed users. Consequently a survey of the number of cyclists/pedestrians using the crossing should be undertaken to determine if a revised design is required.]

4) The zebra crossing will be moved further westwards. This would be in line with paragraph 2.1.1 Approach to a Side Road of Local Transport Note 2/95 The Design of Pedestrian Crossings.

**CONCLUSION**

Members should determine the application in the light of their consideration of the issue of the retail sequential test at the previous meeting (conditions have been provided as requested) and also with regard to the advice provided here and in the previous officer report on the remaining substantive issues of trees and highway safety.

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SUGGESTED CONDITIONS

1. Reserved Matters

Approval of the details of the appearance and scale of the development (hereinafter called "the reserved matters") shall be obtained from the council in writing before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Local Planning Authority.

2. Outline Permission

Application for approval of the reserved matters shall be made to the council before the expiration of 3 years from the date of this permission.

The development hereby permitted shall begin no later than the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Trees:

The applicant wishes to provide an arboricultural method statement as a pre-commencement condition. As mentioned in the main report, to date the arboricultural documentation has been insufficient. In terms of a Bristol Tree Replacement Standard (BTRS) contribution if consent is granted by Committee, the understorey trees now protected by TPO 1332 have not been considered. The current proposal identifies a significant loss of these trees that have not been surveyed, stem diameters measured or BTRS calculations provided. The Unilateral Undertaking being prepared does not account of these trees.

The Proposed site layout plan identifies a significant encroachment of around 40% in to the root protection area of T7; this is unacceptable and will likely lead to the loss of this tree in the near future along with the younger trees within the undeveloped area adjacent to this tree. An arboricultural method statement needs to be undertaken to determine the full extent of the tree loss.

PRE COMMENCEMENT:

3. Submission and Approval of Detailed Arboricultural Implications Assessment & Arboricultural Method Statement

No work of any kind shall take place until there has been submitted to and approved in writing a detailed Arboricultural Implications Assessment that sets out the constraints posed by the trees on site relating to the proposed development and an Arboricultural Method Statement that provides an updated assessment of tree loss and mitigation in accordance the with the Planning Obligations SPD (Bristol Tree Replacement Standard) and an achievable methodology to be followed in the sequence of operations so that any retained trees will be adequately protected from all above and below ground development operations. The detail thereby approved shall be carried out in accordance with that approval.

The approved fences and ground protection shall be in place before any equipment, machinery or materials are brought on to the site for the purposes of development and shall be maintained until all

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equipment, machinery and surplus materials have been removed.

The method statement will include details of any proposed works to the trees and details of the precise location and specification of tree protective fencing. Any approved tree works shall subsequently be carried out prior to works commencing.

Reason: To protect trees on or adjacent to the site from damage during development activities.

4. Protection of Retained Trees during the Construction Period

No work of any kind shall begin on the site until the protective fence(s) have been erected around the retained trees (TPO 915) in the position and to the specification to be submitted and agreed in writing with the Local Planning Authority.

The Local Planning Authority shall be given not less than two weeks prior written notice by the developer of the commencement of works on the site in order that the Authority may verify in writing that the approved tree protection measures are in place when the work commences.

The approved fence(s) shall be in place before any equipment, machinery or materials are brought on to the site for the purposes of demolishing or development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Within the fenced area(s) there shall be no scaffolding, no stockpiling of any materials or soil, no machinery or other equipment parked or operated, no traffic over the root system, no changes to the soil level, no excavation of trenches, no site huts, no fires lit, no dumping of toxic chemicals and no retained trees shall be used for winching purposes. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

Under no circumstances should the tree protection be moved during the period of the development and until all works are completed and all materials and machinery are removed.

Reason: To protect the retained trees from damage during construction and in recognition of the contribution which the retained tree(s) give(s) and will continue to give to the amenity of the area.

5. Cellular Confinement

Notwithstanding the information submitted to date, prior to any works taking place on site, including demolition, full design and product details of the cellular confinement system, as identified within the arboricultural method statement, including installation methodology, shall be submitted to and approved in writing by the LPA. The cellular confinement system shall be installed in accordance with the approved detail prior to demolition and construction taking place and retained and maintained in perpetuity

Reason: In order that the Local Planning Authority may be satisfied that the trees to be retained on-site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice.

6. Arboricultural Supervision

Prior to the commencement of demolition/development a pre-commencement site meeting shall be held and attended by the developer's arboricultural consultant, the designated site foreman and a representative from the Local Authority to discuss details of the working procedures. Subsequently and until the completion of all site works, site visits should be carried out on a fortnightly basis by the developer's arboricultural consultant. Copies of written site notes and/or reports detailing the results of site supervision and any necessary remedial works undertaken or required shall be submitted to and approved in writing by the Local Planning Authority. Any approved remedial works shall subsequently

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be carried out under strict supervision by the arboricultural consultant immediately following that approval.

Reason - In order that the Local Planning Authority may be satisfied that the trees to be retained on-site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice.

## HIGHWAYS

### PRE COMMENCEMENT CONDITIONS

#### 7. Approval of road works necessary

Prior to commencement general arrangement plan(s) indicating the following works to the highway shall be submitted and approved in writing by the Local Planning Authority as set out in "Proposed Access Arrangements Drawing – H807-SK01 Revision D."

- Relocation of zebra crossing westwards of its current position and construction of two vehicle crossovers to permit access to the rear service yard on Eastgate Road.
- Indicating proposals for:
  - Threshold levels of the finished highway and building levels
  - Alterations to waiting restrictions or other Traffic Regulation Orders to enable the works
  - Locations of lighting, signing, street furniture, street trees and pits
  - Structures on or adjacent to the highway
  - Extents of any stopping up or dedication of new highway

These works shall be completed prior to occupation of the development to the satisfaction of the Local Highway Authority

Reason: In the interests of public safety and to ensure that all road works associated with the proposed development are planned and approved in good time to include any statutory processes, are undertaken to a standard approved by the Local Planning Authority and are completed before occupation.

NB: Planning consent is not consent to work in the highway. A Highway Agreement under Section 278 of the Highways Act 1980 must be completed, the bond secured and the City Council's technical approval and inspection fees paid before any drawings are considered and approved and formal technical approval is necessary prior to any works being permitted."

#### 8. Construction Management Plan

No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:

- Parking of vehicle of site operatives and visitors
- Routes for construction traffic
- Hours of operation
- Method of prevention of mud being carried onto highway
- Pedestrian and cyclist protection
- Proposed temporary traffic restrictions
- Arrangements for turning vehicles

Reason: In the interests of safe operation of the highway in the lead into development both during the demolition and construction phase of the development.

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9. Highway Condition Survey

Prior to the commencement of any work on site, a highway condition survey shall be undertaken of the existing public highway adjacent to the site with a schedule of existing defects, submitted and approved in writing by the Local Planning Authority. This should be undertaken in the presence of a council representative. The applicant will be responsible for any damage to the highway caused as a result of the development process.

Reason: To ensure that any damage to the highway sustained throughout the development process can be identified and subsequently remedied at the expense of the developer.

10. Further details of staff cycle storage

Detailed drawings at the scale of 1:50 of the proposed staff cycle storage and service yard shall be submitted to and be approved in writing by the Local Planning Authority before the relevant part of work is begun. The detail thereby approved shall be carried out in accordance with that approval.

Reason: In the interests of visual amenity and the character of the area.

**PRE OCCUPATION CONDITIONS**

11. Implementation/Installation of Refuse Storage and Recycling Facilities - Shown on approved plans

No building or use hereby permitted shall be occupied or the use commenced until the refuse store, and area/facilities allocated for storing of recyclable materials, as shown on the approved plans have been completed in accordance with the approved plans. Thereafter, all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area, as shown on the approved plans, or internally within the building(s) that form part of the application site. No refuse or recycling material shall be stored or placed for collection on the public highway or pavement, except on the day of collection.

Reason: To safeguard the amenity of the occupiers of adjoining premises, protect the general environment, and prevent obstruction to pedestrian movement, and to ensure that there are adequate facilities for the storage and recycling of recoverable materials.

12. Completion of Vehicular Access - Shown on approved plans

No building or use hereby permitted shall be occupied or the use commenced until the means of vehicular access has been constructed and completed in accordance with the approved plans and the said means of vehicular access shall thereafter be retained for access purposes only.

Reason: In the interests of highway safety.

13. Completion of Pedestrians/Cyclists Access - Shown on approved plans

No building or use hereby permitted shall be occupied or the use commenced until the means of access for pedestrians and/or cyclists have been constructed in accordance with the approved plans and shall thereafter be retained for access purposes only.

Reason: In the interests of highway safety.



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14. Installation of vehicle crossover - Shown on approved plans

No building or use hereby permitted shall be occupied or the use commenced until the vehicular crossover(s) has been installed and the footway has been reinstated in accordance with the approved plans.

Reason: In the interests of pedestrian safety and accessibility

15. Completion and Maintenance of Vehicular Servicing facilities - Shown on approved plans

No building or use hereby permitted shall be occupied or use commenced until the facilities for loading, unloading, circulation and manoeuvring have been completed in accordance with the approved plans. Thereafter, these areas shall be kept free of obstruction and available for these uses.

Reason: To ensure that there are adequate servicing facilities within the site in the interests of highway safety.

16. Completion and Maintenance of Car/Vehicle Parking - Shown on approved plans

No building or use hereby permitted shall be occupied or the use commenced until the car/vehicle parking area shown on the approved plans has been completed, and thereafter, the area shall be kept free of obstruction and available for the parking of vehicles associated with the development

Reason: To ensure that there are adequate parking facilities to serve the development.

17. Completion and Maintenance of Cycle Provision - Shown on approved plans

No building or use hereby permitted shall be occupied or the use commenced until the cycle parking provision shown on the approved plans has been completed, and thereafter, be kept free of obstruction and available for the parking of cycles only.

Reason: To ensure the provision and availability of adequate cycle parking.

18. Cycle Path Spur

Prior to the occupation of the development hereby approved works to construct a new spur from the cycle path to the relocated zebra crossing shall be undertaken in accordance with drawings to be approved in writing by the Local Planning Authority and it shall subsequently be confirmed in writing by the Local Planning Authority that the completed works are acceptable prior to occupation.

Reason: In the interests of highway safety.

19. Car Park Layout

Prior to the occupation of the development hereby approved the works to construct and lay out the carpark, zebra crossings, carriageway markings and traffic signs shall be undertaken in accordance with the approved drawings and it shall subsequently be confirmed in writing by the Local Planning Authority that the works are acceptable prior to occupation.

Reason: In the interests of highway safety.

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20. Approved Visibility Splays

The access(es) hereby approved shall not be brought into use until works have been undertaken to provide the visibility splays shown on the approved plan(s) to an adoptable standard. These visibility splays shall be retained clear of all obstructions for the lifetime of the development.

Reason: In the interest of highway safety.

21. Gates to be Set Back from Adopted Highway

Any gates to the development site must be set back at least 5m from the back edge of the carriageway and only open inwards.

Reason: To ensure vehicles are able to pull clear of the adopted highway and avoid becoming an obstruction to oncoming traffic.

22. Signage (In and Out)

Prior to the occupation of the development hereby approved details (including the location and size) of proposed In and Out signage, clearly visible to motorists, shall be submitted to and been approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety.

POST OCCUPATION MANAGEMENT

23. Travel Plan Statement – Not Submitted

No building or use hereby permitted shall be occupied or the use commenced until a Travel Plan Statement comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and been approved in writing by the Local Planning Authority.

The Approved Travel Plan Statement shall be implemented in accordance with the measures set out therein.

Within three months of the occupation evidence of the implementation of the measures set out in the Travel Plan Statement shall be submitted to and agreed in writing with the Local Planning Authority unless alternative timescales are agreed in writing.

Reason: To support sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking and cycling.

24. Servicing & Management Plan

No building or use hereby permitted shall be occupied or use commenced until a servicing and management plan that addresses how vehicle arrivals, departures, parking, stopping and waiting has been prepared, submitted to and been approved in writing by the Local Planning Authority. The measures shall thereafter be implemented in accordance with the approved servicing and management plan.

Reason: To ensure that the development has appropriate arrangements for servicing in the interests of amenity and public safety.

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25. Waste Management Plan

No building or use hereby permitted shall be occupied or use commenced until a waste management plan setting out how waste will be stored and collected is submitted to and been approved in writing by the Local Planning Authority. The measures shall thereafter be implemented in accordance with the approved waste management plan.

Reason: To ensure adequate waste storage facilities are provided.

26. Standard advertisement conditions

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
2. No advertisement shall be sited or displayed so as to:-
  - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (b) obscure, or hinder the ready interpretation of any traffic sign, railway signal or aid to navigation by water or air; or
  - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: These conditions are specified by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

27. Protection of parking and servicing provision

The areas allocated for vehicle parking, loading and unloading, circulation and manoeuvring on the approved plans shall only be used for the said purpose and not for any other purposes.

Reason: To ensure the provision and availability of satisfactory off-street parking and servicing/loading/unloading facilities for the development.

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COUNCILLOR REFERRAL

The application has been referred to the Development Control Committee by local ward councillors Gill Kirk and Estella Tincknell on the grounds that Eastgate should be considered as an existing local/district shopping centre with associated local planning policy, and the wider implications for potential improvements along the Muller Road corridor, and knock on effects including relating to sustainable transport.

SITE DESCRIPTION

The site concerned is 0.74 hectares in size and comprises the north eastern part of the Eastgate Retail Park. The site is occupied by a mix of car parking and circulation space, a Burger King 'Drive-Thru' A3 / A5 restaurant and a triangular-shaped belt of trees which separate the Burger King from Eastgate Road to the north. The trees are protected by two Tree Preservation Orders.

The site is unallocated in the Bristol Local Plan and lies within the Lockleaze ward.

PROPOSED DEVELOPMENT

The application is submitted in outline, and proposes a new Class A1 retail unit of 929 square metres (net), two class A3/A5 pod units and a replacement A3 / A5 'drive-thru' restaurant, with the existing one demolished. All matters would be reserved with the exception of access, layout and landscaping.

It is a resubmitted application following the withdrawal of application reference 17/01580/F for the same proposal on 5<sup>th</sup> December 2017.

The majority of the trees would be removed to provide a new service entrance and exit from Eastgate Road.

COMMUNITY INVOLVEMENT

A Statement of Community Involvement has been submitted with the current application, advising that discussions were held with cabinet members of Place [Growth and Regeneration] and Highways, local ward members, the Lockleaze Network Trust, South Lockleaze and Purdown Neighbourhood Group, Easton Business Improvement District and The Lockleaze Voice. (These discussions were held before the submission of the withdrawn application reference: 17/01580/F.)

The applicant advised that all parties confirmed their full support for the proposed development at that time.

PLANNING HISTORY

The Eastgate Park has a detailed and long planning history. The Park was initially granted full planning permission in March 1987 (ref: 00207F/87/N) for non-food retail warehousing and associated car parking. The planning consent had a restrictive goods condition attached as follows (Condition 7):

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"No retail warehouse hereby permitted shall be used for the retail sale predominantly of clothing, fashion accessories, sporting goods, books or stationery or any of them and for the avoidance of doubt it is confirmed that the occupation of Unit 2 by Children's World Limited, a subsidiary of the Boots Company Plc or their successors trading in a similar manner is deemed to comply with the provisions of this Condition".

The Council's case for justifying a restriction on the range and type of goods sold from the application site and across the Eastgate retail warehouse park is driven by a need to seek to protect the vitality and viability of the hierarchy of protected retail centres across the City. Whilst not in force at the time of the 1987 decision, the objective as set out above is established by the former national policy framework PPS 6 and specifically by former Local Plan policies S1 and S2.

Further applications to increase the overall quantum and to vary the nature of the use of the floor space were considered in 1999 and 2000 either by the Council and/or at appeal and were duly dismissed. It is relevant to note that during the consideration of one of the appeals that were heard in 2000 with regards to condition 7 of the 1987 permission as set out above, an Inspector concluded that the use of the word predominant within the condition established a bench mark for enforcement purposes.

In September 2002 planning permission (ref: 02/01127/F/C) was granted for the extension of units D and H to form 3no. new retail units referred to as H, J and K and an extension to existing unit D to form a new unit E. The permission effectively allowed an increase in the amount of retail floor space by approximately 18 sq m (as reported) and 124 car parking spaces. To reflect a change in the retail trade since 1987 and to continue to ensure there was no impact on existing retail centres, the following condition (condition 3) was attached to the consent:

'None of the floor space hereby permitted shall be used for the retail sale predominantly of clothing, fashion accessories, sporting goods, books or stationery, or any of them'.

The key change arising from the wording of the condition compared to the 1987 condition is that the restriction applies to the approved floor space and not to each individual unit.

Subsequent to the 2002 approval, application 03/04902/X/C was submitted and sought to vary condition 3 as set out above to allow the sale of clothing, fashion accessories and footwear in as far as it relates to unit H. The application was refused on the grounds that no robust assessment had been undertaken including an assessment of need and available sites and that the proposed liberalisation of retail trade from the site would be detrimental to the vitality and viability of surrounding centres. Whilst the application was refused, Unit H is now occupied by Next selling a full product range. Because the unit still sells predominantly non-restricted goods in terms of the amount of floor space allocated to each product range, the LPA have not pursued enforcement action. When interpreting condition 3 the LPA has agreed that providing the restricted ranges of goods did not take up a greater proportion of retail space than the non-restricted goods, then that change of goods could not be argued to be predominant. This approach would allow up to 49% of the floor space within the 4 units covered by the 2002 permission to be used for retail restricted goods.

Planning permission 05/04078/X then varied the terms of trade to provide greater clarity for any future occupier of Unit K. (Unit K was then the only unit of the four covered by the 2002 permission which had never been occupied). Planning permission 05/04078/X established an overall limit of floor space (5331 sqm) across all the floor space in the 4 units covered by the 2002 application. Thresholds for each unit are based on the proposition that all of the floor space in unit K is used to retail goods from the restricted range. Further variations to the pattern of trade were then approved 06/01237/X (Units A, B, C, D F and G) and 06/04148/X (units E to K) to seek to clarify the terms of trade across the park as a whole. No increase in floor space was involved in either of these later proposals.

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Planning permission for an insertion of additional mezzanine floorspace into combined units J/K and alterations to the pattern of trade across the park was approved on 9th August 2007 (07/02550/F). The approval included a condition which applied a single figure of 5,331sq to the permitted floor area for the sale of restricted goods across the park.

The next application 08/01342/F granted permission for the insertion of additional mezzanine floorspace into combined Units C/D and alterations to the front and rear of Units C/D. Permission was granted subject to a condition restricting the area of floorspace which can sale comparative goods.

The applicants sought to remove the restrictive goods condition on two separate occasions in the last few years (12/00254/X and 12/05316/X). Both applications were refused under delegated powers and appeals were lodged against the decisions. On both occasions the Planning Inspectorate dismissed the appeals following an informal hearing and a public inquiry respectively. On both occasions the inspector concluded that in terms of the 'sequential test' there were suitable, viable and available premises within the City Centre to accommodate these retail units to sell unrestricted goods. Allowing the appeals could prolong their vacancy longer than would otherwise be necessary and to this extent there would be an adverse impact on the city centre's vitality and viability in the short term.

In 2015 permission was granted to sell food from Unit J (15/04749/X). Restrictive conditions were still attached to the permission to ensure that the existing terms of sale of retail goods remained unchanged across the remaining retail units in Eastgate Park.

A further planning application (15/04749/X) was submitted in 2015 to again remove the condition. This was refused permission under delegated powers for the same reasons as the previous appeals, that the proposal still fails the sequential test and would have an impact on retail investment and undermine the growth of the city centre.

Finally, in 2016 the last in a line of identical proposals was submitted by CPG South East Ltd at Eastgate Retail Park (ref: 16/01193/X), which have included two appeal dismissals (in 2013) and a refusal of permission without a subsequent appeal in 2015.

The application sought to remove the following condition:

“Unless otherwise agreed in writing by the Local Planning Authority the amount of floor space to be used for the retail sale of clothing, fashion accessories, sporting goods, books or stationery or any of them, shall not exceed 1,858 sqm in Units C/D and 3,473 sqm in the total combined floorspace of Units A, B, E, F, G, H, J and K.”

Reason: To minimise any adverse impact upon designated centres.

The applicants submitted a detailed retail assessment which addressed the tests required by the NPPF and the Bristol Local Plan (sequential test and impact). The applicants considered that the circumstances had changed since the decision taken in 2015 by officers and the appeal decision and considered the application acceptable for the following reasons:

- o An appeal decision by the Secretary of State (Rushden Lakes 2014) and the fact that the Government has rescinded the practice guidance on need, impact and the sequential approach that previously required applications to consider the scope for disaggregation. Therefore the sequential test for this application should consider sequentially preferable sites for the entire retail park, and there were no suitable sites available in the city centre.

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- o Two development plan sites in the City Centre were previously identified as part of the previous appeal as being potentially capable of accommodating retail development. These were sites KS02 and KS03 identified in the Bristol Central Area Action Plan (CAP). The applicant considered that both these sites were unlikely to be available within the medium to long term, and therefore could not be considered to be available sites.
- o The proposal would not have a significant adverse impact on Bristol City Centre as concluded by the previous appeal inspector.
- o The condition is unenforceable. In order to enforce the condition, the use of the retail floorspace as a whole had to be constantly monitored.

However, the recommendation was to refuse the application in accordance with the previously refused applications referred to above. The application was however, referred to a Development Control Committee by a local ward councillor, Gillian Kirk. The Committee at its meeting on 28<sup>th</sup> September 2016 resolved to go against the Officer recommendation and granted permission to remove the restrictive goods condition.

**RESPONSE TO PUBLICITY AND CONSULTATION**

The application was advertised by way of a site notice and local residents and businesses were consulted.

In response, 15 objections were received including submissions from the Bristol Civic Society and the Ingmire Road Residents' Association:

The Bristol Civic Society Commented as follows:

*"Although there has been some reduction in the proposed net additional floorspace, [from the original submission of the withdrawn application] the reasons for that objection are the same as the Society's reasons for objecting to this proposal and they are copied below for ease of reference.*

*Bristol Civic Society objects strongly to the proposal. In the Society's view it would be harmful to the successful functioning of the city centre shopping area to permit an expansion in retail floorspace of this magnitude at Eastgate. There are significant vacancies in Broadmead and Galleries and the proposal would also be inconsistent with the possible redevelopment of the Callowhill site. It is important that the City Centre shopping offer is encouraged to consolidate and improve so that it is an effective counter attraction to Cribbs Causeway. We note that the retail analyst commissioned by the Council considers that the proposal would not satisfy the Council's planning policies for retail development.*

*Retail development comprising 15,000 sq. ft. in addition to the replacement drive through would also generate a lot of extra road traffic. The nearby junction with the M32 is already congested at peak times and this would be exacerbated by the proposal. Inevitably, there would also be additional traffic on the neighbouring residential streets which would harm the amenity of these areas and reduce air quality."*

The Ingmire Road Residents' Association commented as follows:

*"I write in relation to the above planning application on behalf of the Ingmire Road Residents' Association.*

*I will not repeat all that has been said by the very many objectors to the previous application [Ref: 17/01580/P], but to summarize; this area already has completely unacceptable levels of traffic*

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*congestion, with all the horrible air and noise pollution that goes with it. The Council has a duty to be reducing this congestion and pollution, and certainly not allowing any application that is going to increase it. This proposed expansion of the number of units and activity in the area clearly will increase traffic congestion in the area very substantially."*

Objections received from the public are concerned with two areas: an increase in traffic, resultant traffic congestion and increasingly poor air quality; and the loss of trees and impact on the remaining trees to be retained.

In addition, a comment was made that the Statement of Community Involvement is misleading as there is a high level of opposition to the proposals and claiming unanimity of support cannot be substantiated.

No comments were received in support of the application.

It should be noted that the above is a summary of the public comments received and that full copies of all comments received are available on the Council's online planning register.

**INTERNAL CONSULTTEES**

Transport Development Management:

Principle:

The application proposes to demolish the existing drive thru and in its place construct a new A1 unit, two pod units one of which will have a mezzanine which is proposed as a gym, with a new drive thru with associated car/cycle parking and waste storage. As the Stage One Road Safety Audit raises concerns which have not been adequately addressed, Transport Development Management recommends that the application be refused.

Transport Statement:

The Transport Statement submitted sets out that excluding the drive thru, the proposed retail units will generate 958 two way trips on a Friday and 974 trips on Saturday and with the drive thru will result in 1,212 two way trips on a Friday and 1,210 two way trips on a Saturday. Using data set out within TRICS Research Report 95/2 – Pass-by & Diverted – A Resumé 80% of these trips are assumed to be pass by and linked trips with only 20% being new trips. Applying this assumption to the peak periods - Friday between 1pm and 2pm and Saturday between 2pm and 3pm, just 20 new two way trips would be created. Whilst many of the objections received cite concerns with an increase in traffic an analysis of the capacity of the roundabout using TRL software Junction 9 indicates that whilst the maximum RFC (Ratio To Flow Capacity) will increase on all four arms during the above periods (with the exception of Eastgate Road (E) during the Friday midday peak) the levels are below 0.85 (saturation level) and as such the roundabout will be able to safely support the additional vehicle movements the site is likely to generate.

Travel Plan:

A Framework Travel Plan has been submitted. However, based on the size of the development, only a Travel Plan Statement is required.



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Eastgate Road: Zebra Crossing:

To the north of the site is an unsegregated cycle path which links Glenfrome Road to Eastgate Road via a zebra crossing. To enable vehicles to access the rear service yard, the application proposes to re-site the crossing 15m westwards. The plan of the proposed access arrangements indicates that vehicular visibility splays of 2.4m x 25m (20mph) and clear forward visibility of at least 50m can be provided. To ensure that moving the zebra crossing could be achieved safely the applicant was asked to commission a Stage One Road Safety Audit. This was undertaken by Avon Traffic & Safety Services Ltd on Wednesday the 18th of April at 1pm. Four key issues were identified:

- 1) Risk of Nose to Tail Shunt Type Collisions: Due to the close proximity of the entrance to the service yard to the exit from the roundabout onto Eastgate Road, motorists exiting the roundabout could fail to comprehend that an HGV in front is leaving the road at the proposed new access. This risk is increased due to the speed of some vehicles as they leave the roundabout and the presence of a retaining structure in the nearside verge, which restricts visibility from the roundabout.
- 2) Risk of vehicle/pedestrian and/or vehicle/cycle collisions: Whilst the crossing will be moved westwards the existing unsegregated cycle path from Glenfrome Road to Eastgate Road will be left in situ. Unless a new spur is provided on the desire line, rather than doubling back pedestrians/cyclists may choose not to use the crossing. This could place them at a greater risk of being unseen by approaching vehicles resulting in those crossing being hit and injured.
- 3) Risk of vehicle/cycle collisions: A number of cyclists were observed to use the crossing. To avoid the risk of confusion as to who has the right of way and the risk of shunt type collisions or collisions with cyclists, the crossing should be changed to one designed for both pedestrians and cyclists.
- 4) Risk of vehicle/pedestrian collisions: Drivers turning left out of the service yard may not realise they are approaching the zebra crossing, or that a pedestrian is crossing and fail to stop, thereby resulting in their being injured.

In response the applicant stated:

- 1) As the entrance to the service yard is 25m from the exit from the roundabout, vehicles travelling within the speed limit will have adequate time to avoid such a collision. This however, assumes that all vehicles currently using Eastgate Road travel at 20mph. Any proposals must take into consideration existing road conditions and if necessary provide appropriate mitigation. A speed survey is therefore recommended.
- 2) As the applicant does not own the land on which the unsegregated cycle path is located, it is not possible to move it so that it will be on the desire line. Instead they have proposed installing a guard rail, although this would be contrary to national guidance. This must be addressed as any development must ensure the safety of all road users and not give rise to unacceptable traffic conditions as set out within Policy DM23: Transport Development Management of Bristol Local Plan – Site Allocations and Development Management Policies.
- 3) The existing zebra crossing operates safely and as a result does not need to be changed, as evidenced by the lack of any road traffic accidents at this location. This however, is based solely on accident data and not observed users. Consequently a survey of the number of cyclists/pedestrians using the crossing should be undertaken to determine if a revised design is required.
- 4) The zebra crossing will be moved further westwards. This would be in line with paragraph 2.1.1 Approach to a Side Road of Local Transport Note 2/95 The Design of Pedestrian Crossings.

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If these issues can be addressed the applicant would be required to enter into a Section 278 Agreement to undertake these works and the existing Traffic Regulation Order for the crossing will need to be amended, the cost of which (£5,395) must be met by the applicant.

**Vehicular Access Points:**

To enable the units to be served, a rear service yard is proposed which will have a dedicated entrance and exit both of which will be signed, feature vehicle crossovers for which a Section 171 Licence will be required and a set of gates. This is acceptable.

**Layout of Car Park:**

The site layout plan indicates that all of the parking spaces will be 2.4m wide x 4.8m long, with the four disabled spaces having a 1.2m side and rear hatched area. This is acceptable providing they are signed and marked accordingly. All of the spaces will be laid out communally and where they face each other a 6m gap has been provided for manoeuvring purposes. To link the drive thru to this footway and the footway that runs through the site to the adjacent Pizza Hut, four zebra crossings are proposed with pedestrian crossing facilities and dropped kerbs incorporating tactile paving. To avoid any conflict between vehicles accessing the carpark the site layout plan proposes a one way route that will be denoted by road markings and a stop and give way line as well as “No Entry” and “No Right Turn”. Swept path analysis has been submitted which demonstrates that a car can safely enter and exit the running lane.

**Pedestrian Access:**

The site layout plan indicates that the existing pedestrian routes will be maintained with the exception of the footway through the carpark which will be removed to enable additional parking spaces to be created. To enable pedestrians to reach Tesco and Ikea from Eastgate Road there are pedestrian crossing facilities with dropped kerbs incorporating tactile paving within the deflection island at the roundabout. Several requests have received by Highways Area Engineering Team to provide zebra crossings and a pedestrian island within the area of white diagonal stripes that separates incoming and outgoing traffic. Whilst this is outside the sites boundary such a link would improve connectivity for pedestrians and cyclists which can only improve the accessibility of the proposed units/drive thru. To ensure pedestrians/cyclists have unrestricted access to the site the footpath between the existing retail units and the proposed units as well as the link next to unit three should be dedicated as a permissive route.

**Servicing:**

The site layout plan proposes that the retail units will be served from the rear by a new service yard that will have a gated entrance and exit. To prevent vehicles becoming an obstruction to oncoming traffic the gates will be left open during the day and only one delivery vehicle will be permitted to use the yard at any one time. Swept path analysis has been submitted that demonstrates a 16.5m articulated HGV can turn right out of the yard. Whilst a right turn ban could not be practically enforced to avoid becoming an obstruction to oncoming traffic drivers should be encouraged to turn left out of the site and use the roundabout between Glenfrome Road and Eastgate Road to turn around. This manoeuvre should be reinforced by no right turn signs within the curtilage of the site. In order to serve the proposed drive thru a substantial section of the carpark within the site's boundary will need to be coned off whilst an HGV undertakes deliveries. Whilst this is acceptable such manoeuvres should be undertaken early in the morning or late at night to avoid times at which the carpark will be at its busiest. A Servicing and Management Plan setting out how deliveries will be managed for both the drive thru and retail units must be submitted prior to occupation.

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**Car Parking / Cycle Parking:**

The application proposes to reduce the size of the overall car park from 498 to 466 spaces, representing a loss of 32 spaces. To assess what affect the proposals would have on the car park, parking surveys were conducted on Friday the 13th and Saturday the 14th. These showed that even with this reduction, when factoring in the demand for additional parking based on proposed new retail units and the gym, there would still be 168 empty spaces during the Friday peak and 22 empty spaces during the Saturday peak. Of the 63 spaces adjacent to the development four spaces will be designated for the use of disabled people, which based on the above standards is acceptable. The Stage One Road Safety Audit indicated that at least one of these should be located near to the drive thru and this therefore should be taken into consideration.

In respect of cycle storage nine Sheffield Stands are proposed for visitors which providing they are set at least 1m from the kerb edge are acceptable. Ideally all of the stands should be protected by a canopy. For staff a secure, enclosed store will be provided. This must be able to accommodate at least six cycles. Vertical or angled racks are not acceptable. Appropriate showering and changing facilities should be provided.

**Waste:**

The site plans submitted propose that for the drive thru there will be an external area which will be gated, where refuse will be stored. Given that there is likely to be food waste all of the bins must be fully secure. No information has been provided as to the number of bins that will be provided or how often they will be collected and in what manner. The same applies for the store for the retail units and the gym. Clear plans showing the layout and design of these stores must be submitted to ensure that they are suitable. As they are both commercial uses, a commercial contractor will be responsible for collecting the waste. Bristol Waste now offers a commercial service. A Waste Management Plan setting out how waste will be stored and collected must be submitted prior to occupation.

**Construction Management:**

Due to the impact the demolition and construction works will have on the surrounding highway network a Construction Management Plan must be produced and submitted. This would need to be adhered to throughout the construction period.

**Recommendations:**

Whilst Transport Development Management is not adverse to the commercial usage of the site the applicant must adequately address the issues raised by the Stage One Road Safety Audit and in particular the relocation of the zebra crossing vis a vis the unsegregated cycle path. Whilst Transport Development Management appreciate that the applicant does not own the land on which it is located the cycle path must be re-sited so that it links directly to the relocated crossing. If it is not on the desire line pedestrians/cyclists may choose not to use it, thereby placing themselves at risk of being hit by approaching vehicles that may not see them. Moving the crossing without altering the cycle path would introduce an unacceptable risk, which presently does not exist, as demonstrated by the fact that there have been no recorded accidents. Whilst the applicant cannot be held responsible for individual's behaviour, any proposals must not give rise to unacceptable traffic conditions. As such in its current form the proposal would be contrary to National Planning Policy Framework paragraphs 32 and 35, Policy BCS10: Transport and Access Improvements of Bristol Development Framework Core Strategy – Policies and Policy DM23: Transport Development Management of Bristol Local Plan – Site Allocations and Development Management Policies. Consequently Transport Development Management recommends that the application be refused.

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Landscape Design:

As the application is a resubmission of the previous scheme (ref: 17/01580/F) the comments submitted are the same, as set out in full below.

The application seeks approval for the redevelopment of a retail site located within an area of significant green infrastructure surrounding the complex of large retail developments in Eastville. Considered as a whole this infrastructure mitigates to some extent the effects of intense traffic activity both in terms of visual amenity and urban air quality.

Approval of this outline application will result in the felling of a number of TPO'd mature trees and the removal of a substantial amount of existing green infrastructure. The application covering letter mentions the inclusion of a tree survey, but a full arboriculture assessment was not submitted. The Design and Access Statement provides little evidence of appreciation of the value of the existing landscape particularly the mature oak on the visually significant apex of the site between Eastgate Road and the access road to the Ikea. The loss of the existing landscape arises through the location of a new service road off Eastgate Road to the rear of the proposed units. There is no consideration of alternative layout arrangements - building lines, building size, parking arrangements - to facilitate retention of important site vegetation. Further, the trees schedule for retention will have suffered canopy suppression due to having developed alongside other trees and will not make good specimens when surrounding vegetation is removed.

The applicant claims that the landscape scheme provided justifies the development proposal in relation to a raft of design and green infrastructure policies; in the absence of proper site analysis this is merely a statement rather than a considered conclusion and the proposals will not mitigate for the deleterious effects - loss of green infrastructure, TPO'd trees and visual amenity arising from the proposal. For this reason I recommend that the application is refused.

Further Landscape Design Comments (following amendments):

The revised Tree Survey supplied by Alan Engley and Associates provides a higher rating for a number of trees lost to the development on Eastgate Road than as was previously assessed. While the proposals to ensure the retention of the important oak are welcomed, it clear that the other grade B trees make a contribution to the quality of the townscape on this frontage. The loss of important trees that further impoverishes townscape quality (aesthetic, wildlife interest, mitigation of climate change, air quality) is clearly counter to the aspirations of the Local Plan Core Strategy policy BCS9 which requires individual green assets (including trees) to be retained wherever possible. The revised Design and Access Statement provides no evidence that alternative layout arrangements have been considered that might avoid or reduce tree loss, so from the perspective of BCS9 the proposals cannot be supported.

Tree Officer Comments:

The arboricultural report provided is dated July 2017 and is the same report that was provided for application 17/01580/P (withdrawn). This is a preliminary inspection of the trees on site which provides an opinion on the condition of each tree more akin to a tree health & safety survey rather than a development site survey. A Tree Constraints Plan (July 2017) has been provided to aid the design but no further arboricultural documentation has been provided to support this application. The report provides insufficient detail to support this application.

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The following is required:

- An arboricultural report in line with BS5837: 2012: Trees in relation to design, demolition and construction – Recommendations.
- Tree survey detailing trees on and off site that have an influence on the proposed development
- A tree protection plan to identify trees to be retained or removed
- Arboricultural implications assessment and method statement for the protection of trees to be retained

The proposed site layout (10195-P-103-H) seeks to remove all but 3 trees on site, this is completely unacceptable and I most strongly object to this proposal.

The mature trees on site are protected by TPO 282 due to the significant amenity contribution they provide, During the previous application it appeared that some of the under storey vegetation had been removed and therefore woodland TPO 1321 was applied to ensure all of the young and mature trees on site were protected.

The mature trees ash and oak are a historic remnant of a landscaped garden (Circa 1900) from the former gas works that occupied the site, the ash appear to have been managed as old pollards which have now grown out. They are historic trees with potential veteran tree characteristics that warrant the TPO status and must be retained. Due to poor management or lack of management the trees have a number of less than satisfactory defects associated with them that have in part been identified within the supporting arboricultural report from July 2017.

I have aged the trees using the stem diameters provided within the arboricultural report and the Alan Mitchell methodology of estimating the age of trees. The average estimated age of the ash trees (T4,5,7,9 & 10) is 90 years (the ash have been historically pollarded which will have reduced their growth rate and therefore their actual age is likely to be greater than this estimate); the estimated age of the oak T12 is 108 years. These are trees of considerable age, that present a number of veteran and ancient tree characteristics.

The National Planning Policy Framework (NPPF)

Conserving and enhancing the natural environment

Para 118: When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that locations clearly outweigh the loss.

The proposal takes no account of the Bristol Core Strategy Policy (BCS9) which requires an appropriate type and amount of new or enhanced green infrastructure to be incorporated into new development.

The proposed does not identify any new or enhanced green infrastructure assets.

DM15: Green Infrastructure Provision

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Trees:

The provision of additional and/or improved management of existing trees will be expected as part of the landscape treatment of new development. The design, size, species and placement of trees provided as part of the landscape treatment will be expected to take practicable opportunities to:

- I. Connect the development site to the strategic green infrastructure network, and/or Bristol Wildlife Network.
- II. Assist in reducing or mitigating run-off and flood risk on the development site.
- III. Assist in providing shade and shelter to address urban cooling.
- IV. Create a strong framework of street trees to enclose or mitigate the visual impact of the development.

The trees protected by Tree Preservation Order (TPO) 282 on site (T1, 2, 3, 4, 5, 7, 9, 10, 11 & 12) are valuable amenity assets that warrant the protection of this order and have not been considered during the design process. Poor quality mitigation has been suggested; outlined within the Planting Plan 17-01- PL-201-Rev A. This has not considered any of the requirements set out in the Planning Obligations, Supplementary Planning Document 2013 (Bristol Tree Replacement Standard).

This proposal seeks to remove 16 of the 19 trees on site, 8 of which are protected by TPO 282. 3 trees have been classified as category R and therefore would not require mitigation. However the 13 trees that have been identified for removal would require 50 replacements or a financial contribution. 6 replacement trees have been identified within the Planting Plan (17-01-PL-201-Rev F) although one is unlikely to survive in the location proposed. In excess of 40 further replacement trees are required or a financial contribution of £38,269. These figures show the dramatic change suggested within the locality and the deficiency in mitigation proposed. Insufficient justification has been provided to remove all but 3 of these trees.

If consent is granted T7 has been isolated to such an extent with a significant encroachment into its root protection area (RPA) of approximately 40%, that its loss is highly likely within a few years of the completion of the proposed development along with the younger trees within the undeveloped area adjacent to this tree.

The loss of these trees would directly conflict with DM15. Rather than improving or enhancing the visual amenity and natural environment, the proposed development would fragment, degrade and remove a key green infrastructure asset located within the heavily developed retail park. This verdant area is the only natural area of any significance within the whole of the Eastgate retail park and must be retained.

**DM17: Development Involving Existing Green Infrastructure**

Trees

- All new development should integrate important existing trees
- Development which would result in the loss of ancient woodland, aged trees or veteran trees will not be permitted.
- Where tree loss or damage is essential to allow for appropriate development, replacement trees of an appropriate species should be provided, in accordance with the tree compensation standard.

*“Due to their characteristics and value, Aged and veteran trees are considered to be of relatively greater importance than other trees and even trees of a similar species. Aged trees, by definition, have developed characteristics associated with great age and often have particular landscape and townscape value. Veteran trees are considered to have particularly important nature conservation value. Both will often have significant visual amenity, and potentially historic and cultural*

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*importance. As such their loss or harm will not be permitted, and design and layout of development will be expected to integrate them into development.”*

Conclusion:

The proposed has not provided sufficient arboricultural documentation to assess the application with regard to tree protection and working methodology around the small number of tree identified for retention.

The proposed mitigation measures are poor and have not been presented to show due consideration to the Bristol Tree Replacement Standard within the Planning obligations SPD.

The trees are protected by TPOs 282 and 1321; and this has been given no consideration regarding design layout or retention of these important amenity features.

#### OTHER CONSULTEES

Air Quality Officer: Raise no objection as the additional traffic generated by the proposal is below the threshold at which air quality effects are considered significant.

Pollution Control: There are no issues with the current Burger King premises. Raise no objections. Recommend conditions.

Nature Conservation: Raise no objections. Recommend conditions.

Sustainable City Team: Raise no objections. Recommend conditions.

Flood Risk Team: Raise no objections. A detailed Sustainable Drainage Strategy for management of surface water would be required through the reserved matters application in the event of an approval.

Land Contamination: Raise no objection. Recommend conditions.

Urban Design: No comments received.

#### EXTERNAL CONSULTEES

The Coal Authority: Raise no objection. Recommend condition.

The Bristol Waste Company: Raise no objection.

Wales and West Utilities: Raise no objection.

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KEY ISSUES

(A) IS THE PRINCIPLE OF RETAIL DEVELOPMENT ACCEPTABLE IN THIS LOCATION?

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the Development Plan, unless other material considerations indicate otherwise.

Eastgate Retail Park is one of four retail parks found in the city which are not identified within the hierarchy of retail centres set out under Policy BCS7 of the Bristol Core Strategy. It is therefore defined as an 'out of centre' location and there are no specific policies which protect and promote retail provision in such locations.

The application therefore proposes a number of 'main town centre uses' (in this case retail and food and drink uses) in an out of centre location. Policy BCS7 requires designated centres to be the focus for retail, office, leisure and entertainment uses. Policy DM7 requires that "*Retail and other main town centre uses should be located within the centres identified on the Policies Map*". It states that out of centre development of main town centre uses will only be permitted where:

- i. No centre or edge of centre sites are available and the proposal would be in a location readily accessible on foot, by cycle and by public transport, or*
- ii. The proposal is of a small scale and aimed at providing for local needs.*
- iii. In assessing the availability of centre and edge of centre sites, alternative formats for the proposed uses should be considered."*

This policy requirement is known as the 'Sequential Approach' or 'Sequential Test' and is also set out in the NPPF (Paragraph 24 and 27).

The policy also states that retail development in out of centre locations will not be permitted if it would be liable to have a significant adverse impact on the vitality, viability and diversity of existing centres.

The Sequential Test

The applicant has undertaken the relevant assessments and concluded in a 'Planning, Retail and Economic Statement' (PRES) that the proposal complies with the 'sequential test' stating that there are no sequentially preferable sites either within or adjacent to any existing defined centres. A further conclusion is reached that the development would not have a harmful impact on any existing designated centres.

Section 6 of the PRES assesses alternative sites and premises based on the scale and form of the whole proposed development. The approach adopted is that there is no policy requirement to disaggregate the proposals so that a range of sites can be considered as suitable to accommodate different parts of the proposal in applying the sequential test. For clarity, this also includes the requirement to accommodate the replacement Class A3/5 retail unit, in terms of its physical design to accommodate a drive-through element.

In response to this, the Council's retail consultant has advised that this is an incorrect approach to the sequential test. The advice received is that whilst it had been assumed that the requirement for consideration of disaggregation had been dropped from national retail planning policy, recent decisions by the Planning Inspectorate suggest that the picture is mixed, depending on the circumstances of the case.



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In this case the application is in outline with no named retailers or confirmed type/style of comparison goods retailer. The applicant has put forward a suggested condition to restrict the range of goods sold to 'bulky goods'. The proposed wording would state that the retail floorspace would not be used for the sale of the following goods, unless any individual category of the following goods is sold from no more than 10% of the retail sales area.

- a) Food and Drink
- b) Adult and children clothing, shoes and accessories
- c) Jewellery and watches
- d) Pharmaceutical goods, toiletries and perfumes
- e) Books, magazines and stationary
- f) Toys and games

However, this proposed wording would allow for a significant range of non-bulky items. In so doing, the proposed unit would be attractive to a range of retail operators.

This suggests that there is no reason why separate sites and/or premises in sequentially preferable locations could not be suitable alternatives for individual units within the proposed development.

The Council's retail consultant considers that the PRES does not demonstrate flexibility in format and scale when assessing the suitability of alternative sites, and considers that there are suitable and available vacant premises within Bristol City Centre, such as within Broadmead and Cabot Circus. In addition the Horsefair/Callowhill Court redevelopment area should be considered as a suitable and available sequentially preferable alternative to the application site.

Outside the city centre, the consultant also disagrees with the findings of the PRES in respect of other vacant premises in the Fishponds town centre that in his view should not be discounted.

Accordingly, it is concluded that the applicant has failed to demonstrate that the proposed development complies with the sequential test.

It should be noted that the above is a summary and that detailed arguments have been submitted in relation to the sequential test including two legal opinions referring to various appeal decisions. The legal opinion that the Council has received states that as a matter of law the flexibility required under Paragraph 24 of the NPPF to consider format and scale is a matter of planning judgement and cannot be prescribed or limited as suggested by the applicant's QC. This includes the question of disaggregation. Further advice received was that issues of availability and the appropriate timescale for the sequential test were also questions of judgement for the Council.

#### Retail Impact

There is agreement that the proposed development is unlikely to have a significant adverse impact upon the health of, or investment within, defined 'town centres' in the catchment of the proposal.

#### (B) IS THE LOSS OF GREEN INFRASTRUCTURE ACCEPTABLE?

The proposal would result in the loss of 16 of the 19 trees on the application site and one of the three trees shown to be retained is unlikely to survive. This loss of green infrastructure has to be considered against Core Strategy Policy BCS9, which aims to protect, provide, enhance and expand the green infrastructure assets which contribute to the quality of life within and around Bristol. BCS9 states that individual green assets should be retained wherever possible and integrated into new development. Loss of green infrastructure will only be acceptable where it is allowed for as part of an adopted Development Plan Document or is necessary, on balance, to achieve the policy aims of the Core Strategy. When this is considered to apply, appropriate mitigation of the lost green infrastructure assets will be required. BCS9 further adds that open

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spaces which are important for recreation, leisure and community use, townscape and landscape quality and visual amenity will be protected and sets out criteria whereby some areas of open space may be released, through the development plan process.

DM17 provides further detail regarding development involving existing green infrastructure. The policy states that development which would result in the loss of unidentified open space (other than Important Open Space designated on the accompanying SA and DM Policies Map) which is locally important for recreation, leisure and community use, townscape and visual amenity will not be permitted.

In respect of trees, DM17 states:

*“All new development should integrate important existing trees.*

*Development which would result in the loss of Ancient Woodland, Aged trees or Veteran trees will not be permitted.*

*Where tree loss or damage is essential to allow for appropriate development, replacement trees of an appropriate species should be provided.”*

The area of the application site with the trees is a historic remnant of a landscaped garden (Circa 1900) from the former gas works that occupied the site. It is protected by two TPOs and contains several trees with potential veteran characteristics. This green infrastructure would effectively be lost through implementation of the development proposed. It is an important landscaped area of open space that provides significant visual amenity and relief from what is otherwise an intensely built up area on this side of Eastgate Road. Its loss would impoverish the townscape quality in all senses (aesthetic, wildlife interest, mitigation of climate change and air quality). There has been no consideration of alternative layout arrangements that might avoid or reduce the loss of trees, and indeed the applicant has advised that no suitable alternative configurations exist.

In terms of achieving the policy aims of the Core Strategy (see BCS9 above), it should again be noted that the Eastgate Centre is not a defined retail centre within the Core Strategy. It is an out-of-centre retail destination and as such is unallocated in the Local Plan.

The Core Strategy retail policy aim is to support a network of defined accessible centres in Bristol as key focuses for development and as the principal locations for shopping and community facilities as well as local entertainment, art and cultural facilities. As Eastgate is not a defined centre, its expansion does not meet this policy aim.

In view of the above, the loss of green infrastructure is unacceptable as it fails to comply with the requirements of BCS9 and DM17.

In support of the proposal, the applicant's agent has argued the following points (in response to which comments are added in brackets):

In terms of mitigation for the loss of green infrastructure, the proposal would deliver green infrastructure through:

- The delivery of sustainable buildings that meet Core Strategy policy requirements
- The delivery of a green wall
- The delivery of new landscaping within the car parking
- Assisting the Council in delivering environmental realm improvements for the proposed links to the Frome Greenway [However no detail has been provided on this point]
- Assisting the delivery of a Charging Hub for electrically powered vehicle modes by providing land within Eastgate Centre for the facility [Discussions had commenced on this possibility,

**Development Control Committee A – 16 May 2018****Application No. 18/00634/P: Eastgate Centre Eastgate Road Bristol**

however, due to funding issues charging hubs cannot be located on private land such as Eastgate Centre]

- Works to the oak tree on the Eastgate roundabout to ensure its protection and enhancement

The applicant contends that the loss of the trees is ... *“de minimus in the context of the overall landscaped areas that surround the Eastgate Centre”*, but has agreed to provide a payment of £38,269 in accordance with the Bristol Tree Replacement Standard.

In addition the agent notes that the proposal would deliver £192,000 in the form of a Community Infrastructure Levy payment, 15% of which would be provided to the Lockleaze Neighbourhood Partnership (£28,000). The agent suggests that some of this payment could be used to provide replacement green infrastructure in the vicinity.

Further points raised in support are as follows:

- The application accords with the relevant policies in the Local Plan [As set out above it does not comply with the relevant policies in the Local Plan]
- The new facilities will support Eastgate Centre as a key retail destination in the hierarchy of Bristol’s retail offer [Eastgate Centre is not a defined retail centre and is unallocated in the Local Plan. Notwithstanding this point, the Eastgate Centre has consistently traded well and currently has no vacancies. Following the removal of restrictions on the range of goods that can be sold (reference: 16/01193/X), it is now attractive to a wider range of retail operators further securing its vitality]
- Food and Drink facilities will increase the dwell time at the Eastgate Centre and provide employment [This would equally apply if the development was located in a defined centre in accordance with the sequential test]
- Retention of the existing employment and service facilities through relocation of the existing Burger King facility
- Delivery of development that promotes sustainable retail trips through the co-location with existing facilities [This would apply equally if not more so if the development was located in an existing defined centre in accordance with the sequential test]
- The delivery of retail facilities that would not harm existing town centre vitality and viability [If located in a defined centre, the facilities would improve that centre’s vitality and viability]
- The creation of additional employment [The additional employment would occur if the development was located in a defined centre]
- Support by CPG (applicant) of the Easton Business Improvement District (‘BID’) application

(Please refer to the agent’s letter of 26<sup>th</sup> April 2018 appended to this report for full details of the above.)

To conclude, it is considered that the points raised do not provide justification to outweigh the provisions of the relevant policies of the Local Plan as outlined above. Accordingly, the removal of this important area of green infrastructure is unacceptable.

**(C) IS THE PROPOSAL ACCEPTABLE IN TERMS OF TRANSPORT AND MOVEMENT ISSUES?**

The detailed comments submitted by Transport Development Management are set out above.

In summary, there is an issue over the proposed relocation of the zebra crossing on Eastgate Road as the cycle path should be re-sited so that it links directly to the relocated crossing. As proposed it is not on the desire line for pedestrians and cyclists who may choose not to use it, thereby placing themselves at risk of being hit by approaching vehicles. Moving the crossing without altering the cycle path would introduce an unacceptable risk. As a principle, highway proposals must not give rise to unacceptable traffic conditions that would occur if this scheme was implemented.

**Development Control Committee A – 16 May 2018****Application No. 18/00634/P: Eastgate Centre Eastgate Road Bristol**

In response to this the applicant refers to Paragraph 32 of the NPPF and the consideration of whether a proposal would have a severe impact on the highway network. However, the word 'severe' refers not just to traffic impact but considers the scheme as a whole. As such, although it is appreciated in terms of actual movements the proposal is unlikely to have a significant impact on the highway network, the re-location of the crossing and the adverse impacts on the risk of vehicle/pedestrian/cycle collisions as set out in the submitted Road Safety Audit is considered unacceptable. Therefore the proposal can be considered 'severe' and as such is contrary to the NPPF and Local Plan policies BCS10 and DM23.

In all other respects the proposals are considered acceptable in terms of transport and movement issues.

**(D) ANY OTHER ISSUES:**

**Air Quality:** Many of the objections received refer to deterioration in air quality as a result of the proposals. However, the advice received from the Air Quality Team is that the additional traffic generated by the scheme is below the threshold at which air quality effects are considered significant.

In terms of all other relevant issues such as flood risk, nature conservation, pollution control and sustainability the proposals are considered acceptable.

**CONCLUSION**

It is considered that the proposal fails to satisfy the sequential test required under long established retail policy and should be refused, as stated at Paragraph 27 of the National Planning Policy Framework and in accordance with Local Plan policy DM7.

The proposal would result in the loss of green infrastructure protected by two Tree Preservation Orders. This is an important landscaped area providing significant visual amenity in an intensely built-up area on the south side of Eastgate Road. There is no justification to allow for the loss of trees proposed and the proposals should be refused in accordance with Local Plan policies BCS9 and DM17.

The proposals would result in a highway safety issue through the proposed relocation of the zebra crossing on Eastgate Road and should be refused in accordance with Local Plan policies BCS10 and DM23.

**RECOMMENDED REFUSE**

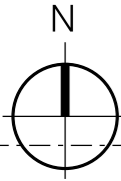
The following reason(s) for refusal are associated with this decision:

1. The Planning, Retail and Economic Assessment submitted with the application fails to satisfy the requirements of the sequential test as set out in the National Planning Policy Framework and DM7 of the Bristol Local Plan, as there are sequentially preferable, suitable and available alternatives within Bristol City Centre and Fishponds Town Centre.
2. The proposal would result in the unjustified loss of green infrastructure and as such is contrary to the provisions of policies BCS9 and DM17 of the Bristol Local Plan.
3. The proposed re-location of the zebra crossing on Eastgate Road would result in adverse impacts on the risk of vehicle/pedestrian/cycle collisions and is considered unacceptable. As such the proposal is contrary to policies BCS10 and DM23 of the Bristol Local Plan.

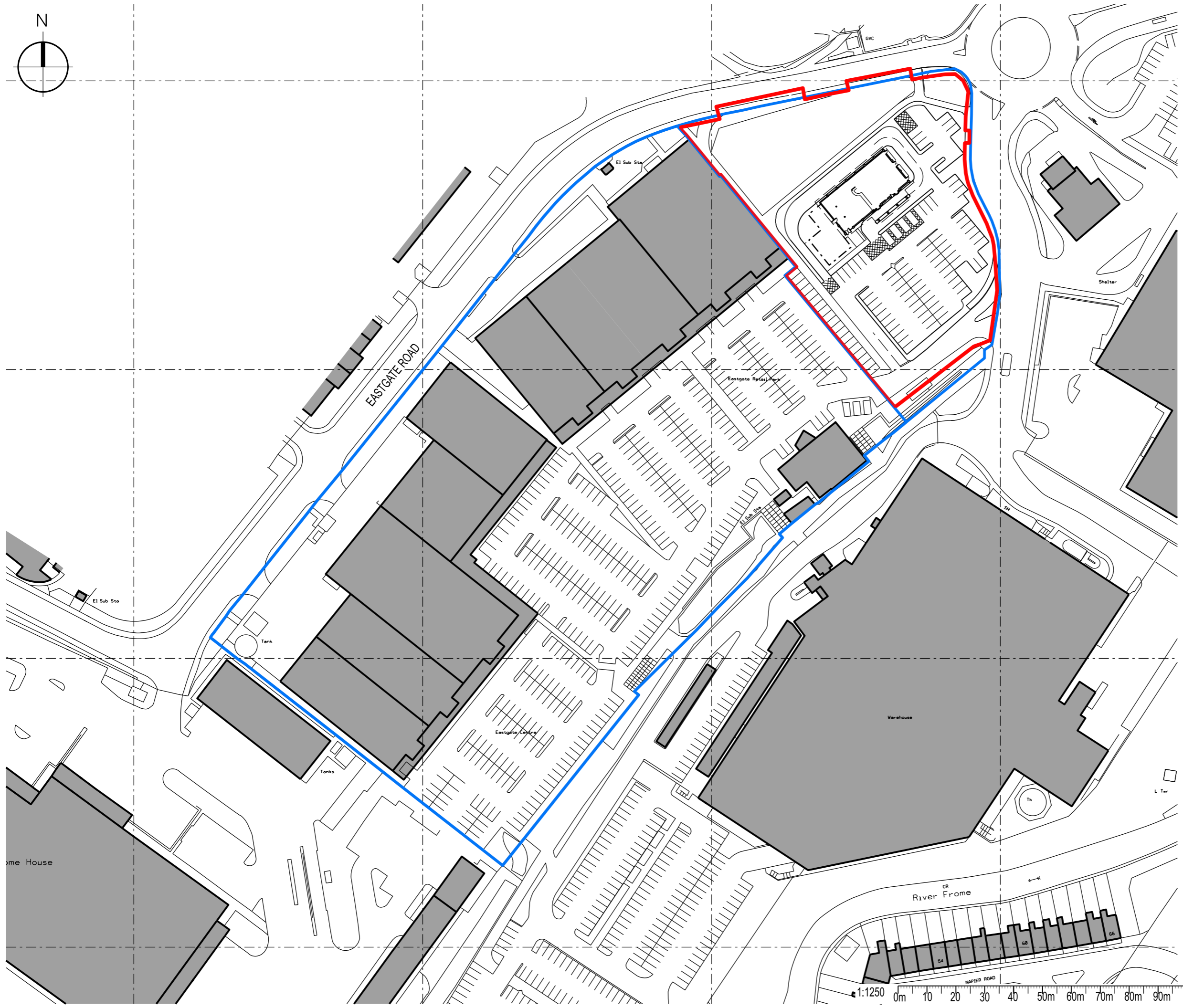
## Supporting Documents

### **5. Eastgate Centre**

1. Site location plan
2. Proposed site layout
3. Indicative proposed elevations
4. Indicative elevations Burger King
5. Letter from agent 26<sup>th</sup> April



- OWNERSHIP BOUNDARY
- APPLICATION BOUNDARY  
0.744 Ha



REV.	DATE	NOTES	INIT.

CLIENT / PROJECT  
**CONSOLIDATED PROPERTY GROUP**  
**eastgate**  
 RETAIL CENTRE

DRAWING TITLE  
**SITE LOCATION PLAN**

STATUS  
**PLANNING**

DATE	DRAWN	SCALE @ A3
AUG.17	SW	1:1250

PROJECT NUMBER	UNIT / BLOCK	CI / SFB CODE	TYPE & NUMBER	REVISION LETTER
10195	P		100	

DRAWING NO.	10195	P	100
Site Location Plans	L	GA Plans	P
Sections	S	Details	D
		Elevations	E
		Prefix Colour	C

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 LONDON WC1R 4EB  
 T. 020 7600 6666 E. london@rgp.uk.com



28/07/2018 12:28:02 P:\0\p\10000010100-10189\10189\1-Sheets\10195-100.dgn  
 edempridge@bristol-eastgate.rp

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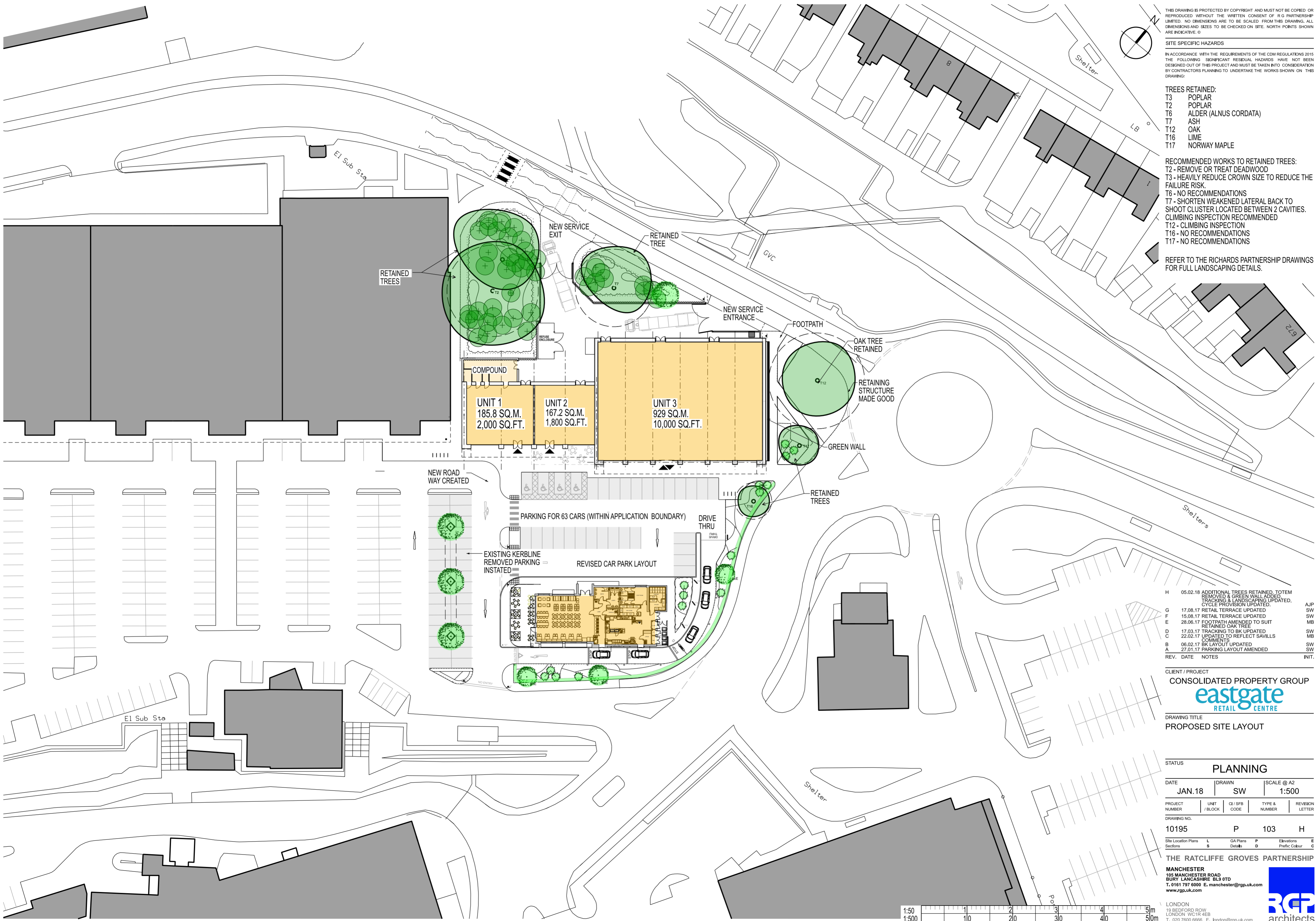
**SITE SPECIFIC HAZARDS**

IN ACCORDANCE WITH THE REQUIREMENTS OF THE CDM REGULATIONS 2015 THE FOLLOWING SIGNIFICANT RESIDUAL HAZARDS HAVE NOT BEEN DESIGNED OUT OF THIS PROJECT AND MUST BE TAKEN INTO CONSIDERATION BY CONTRACTORS PLANNING TO UNDERTAKE THE WORKS SHOWN ON THIS DRAWING:

- TREES RETAINED:**  
 T3 POPLAR  
 T2 POPLAR  
 T6 ALDER (ALNUS CORDATA)  
 T7 ASH  
 T12 OAK  
 T16 LIME  
 T17 NORWAY MAPLE

- RECOMMENDED WORKS TO RETAINED TREES:**  
 T2 - REMOVE OR TREAT DEADWOOD  
 T3 - HEAVILY REDUCE CROWN SIZE TO REDUCE THE FAILURE RISK.  
 T6 - NO RECOMMENDATIONS  
 T7 - SHORTEN WEAKENED LATERAL BACK TO SHOOT CLUSTER LOCATED BETWEEN 2 CAVITIES. CLIMBING INSPECTION RECOMMENDED  
 T12 - CLIMBING INSPECTION  
 T16 - NO RECOMMENDATIONS  
 T17 - NO RECOMMENDATIONS

REFER TO THE RICHARDS PARTNERSHIP DRAWINGS FOR FULL LANDSCAPING DETAILS.



REV.	DATE	NOTES	INIT.
H	05.02.18	ADDITIONAL TREES RETAINED, TOTEM REMOVED & GREEN WALL ADDED, TRACKING & LANDSCAPING UPDATED, CYCLE PROVISION UPDATED.	AJP
G	17.08.17	RETAIL TERRACE UPDATED.	SW
F	15.08.17	RETAIL TERRACE UPDATED.	SW
E	28.06.17	FOOTPATH AMENDED TO SUIT RETAINED OAK TREE.	MB
D	17.03.17	TRACKING TO BK UPDATED.	SW
C	22.02.17	UPDATED TO REFLECT SAVILLS COMMENTS.	MB
B	06.02.17	BK LAYOUT UPDATED.	SW
A	27.01.17	PARKING LAYOUT AMENDED.	SW

CLIENT / PROJECT  
**CONSOLIDATED PROPERTY GROUP**  
**eastgate**  
 RETAIL CENTRE

DRAWING TITLE  
**PROPOSED SITE LAYOUT**

STATUS  
**PLANNING**

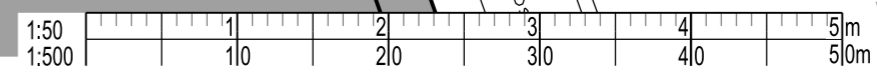
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JAN.18	SW	1:500

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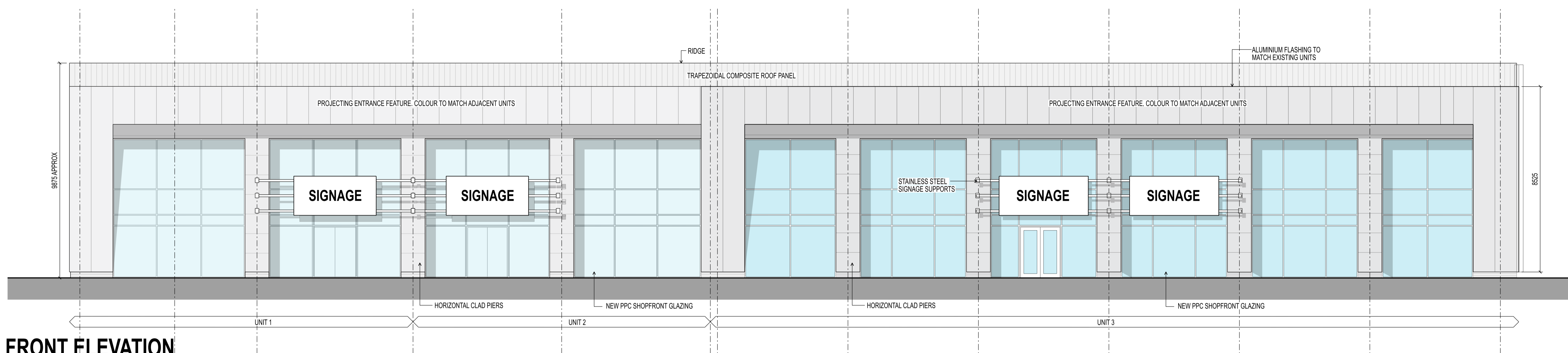
Site Location Plans	L	GA Plans	P	Elevations	E
Sections	S	Details	D	Prefix Colour	C

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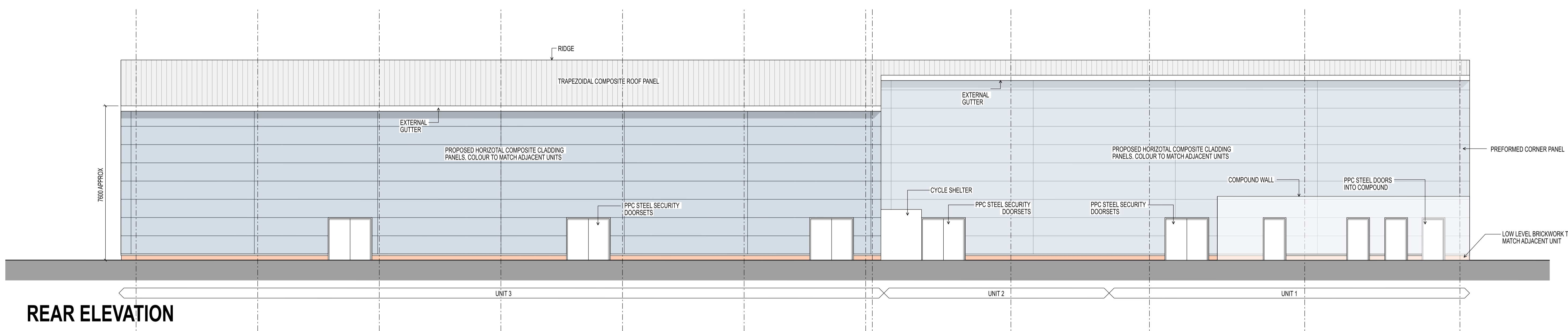
LONDON  
 19 BEDFORD ROW  
 LONDON WC1R 4EB  
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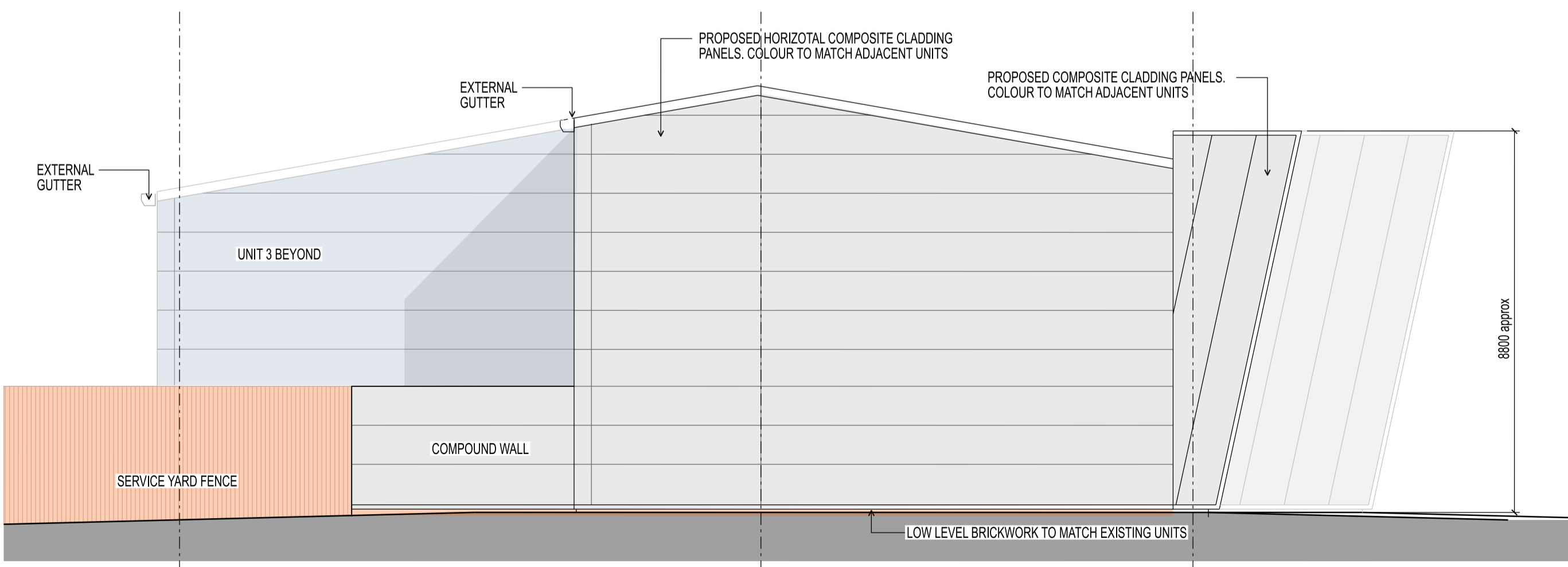
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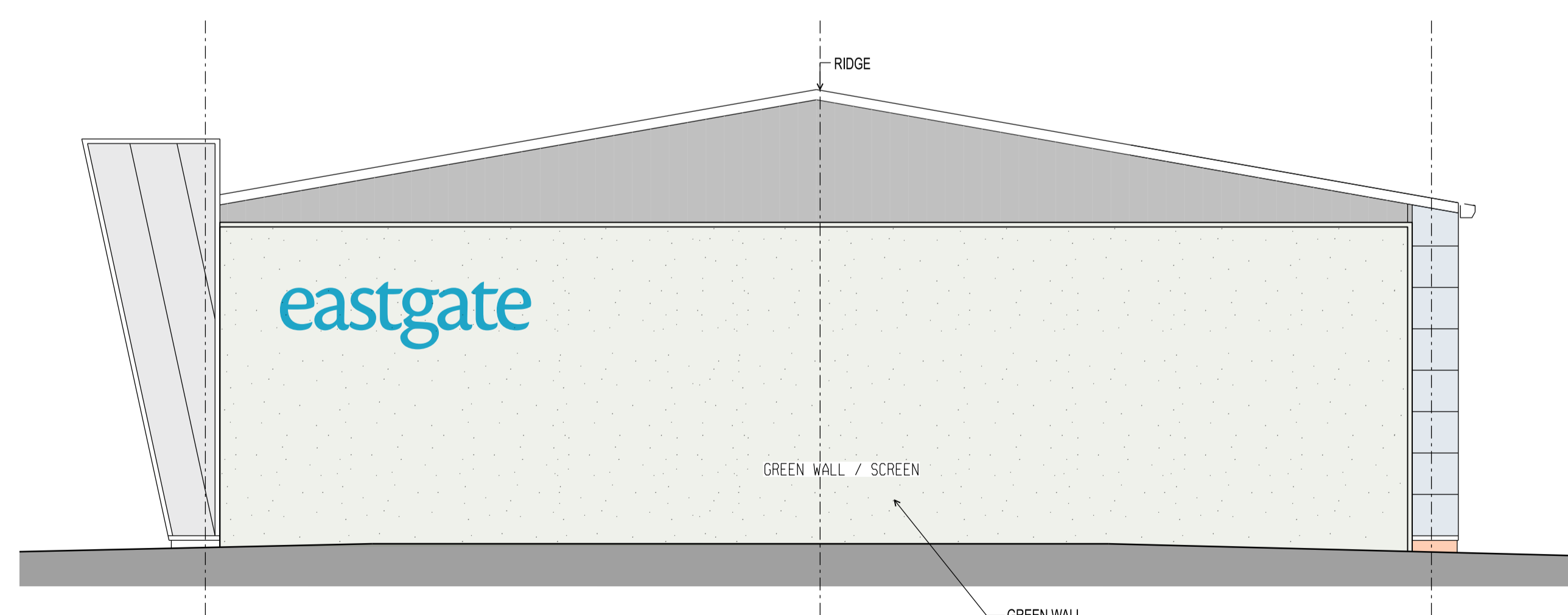
FRONT ELEVATION



REAR ELEVATION



SIDE ELEVATION (UNIT 1)



SIDE ELEVATION (UNIT 3)

F	05.02.18	TOTEM REMOVED & GREEN WALL ADDED TO UNIT 3 SIDE ELEV. BOUNDARY WALL CHANGED TO FENCE	A/P
E	17.08.17	TERRACE UPDATED	SW
D	16.08.17	TERRACE UPDATED	SW
C	26.06.17	ELEVATIONS AMENDED	M/S
B	17.03.17	ELEVATIONS AMENDED	SW
A	27.02.17	COLORS ADDED TO ELEVATIONS	SW
REV.	DATE	NOTES	INT.

CLIENT / PROJECT  
**CONSOLIDATED PROPERTY GROUP**  
**eastgate**  
 RETAIL CENTRE

DRAWING TITLE  
 INDICATIVE PROPOSED ELEVATIONS

STATUS  
**PLANNING**

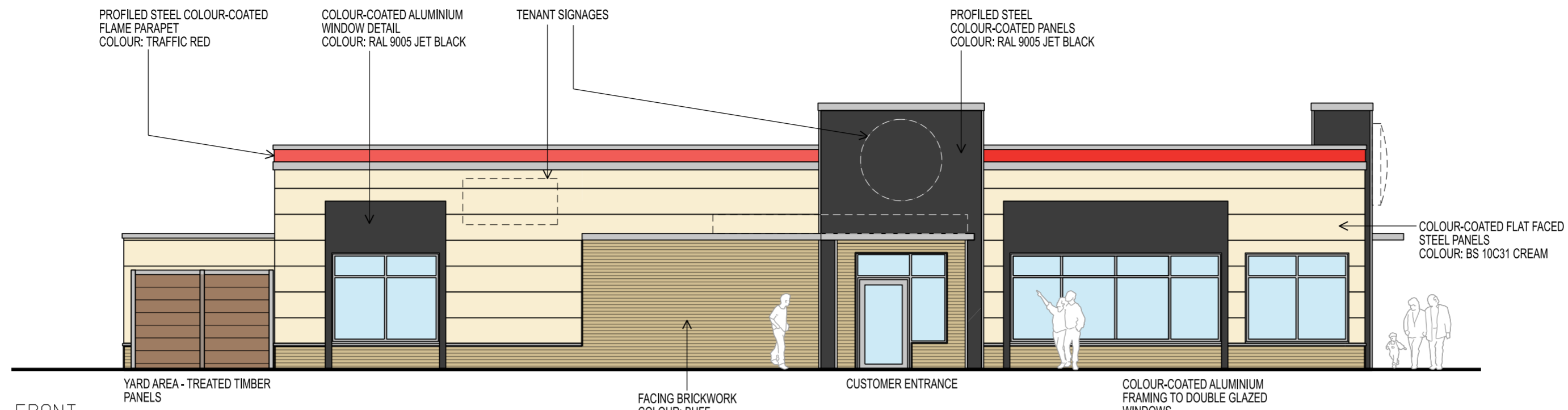
DATE	JAN. 18	DRAWN	SW	SCALE @ A1	1:100
PROJECT NUMBER	10195	UNIT	P	TYPE A	REVISION LETTER
DRAWING NO.	10195	UNIT	P	107	F

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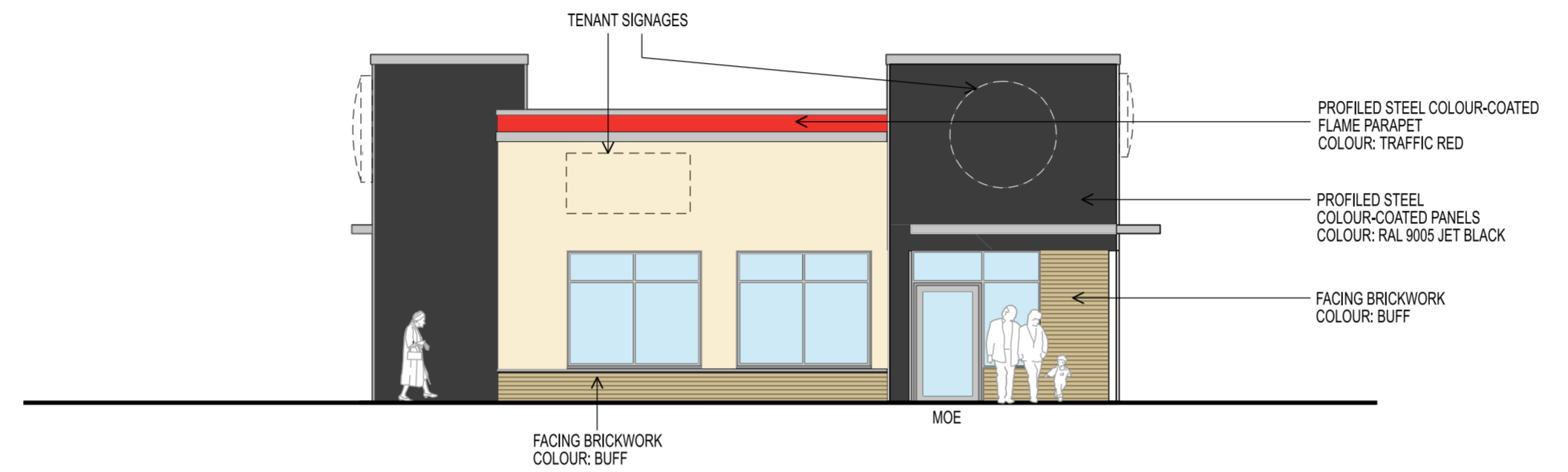
LONDON  
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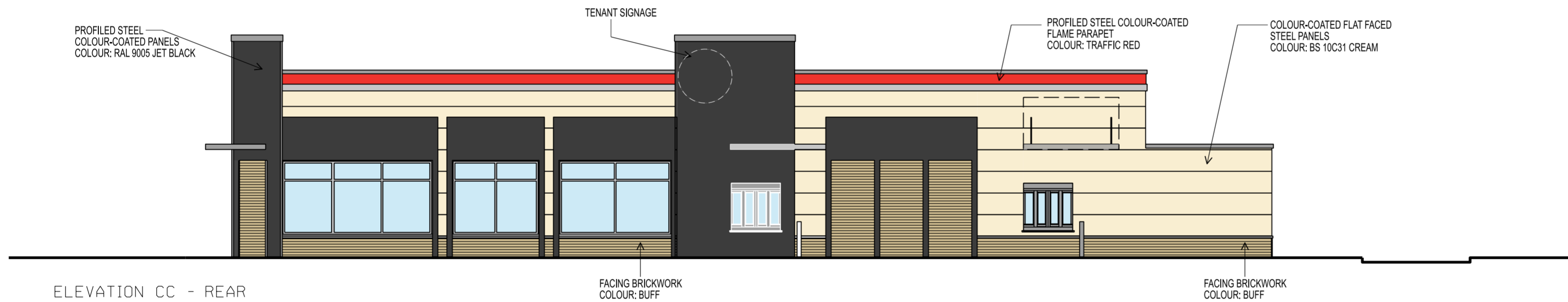




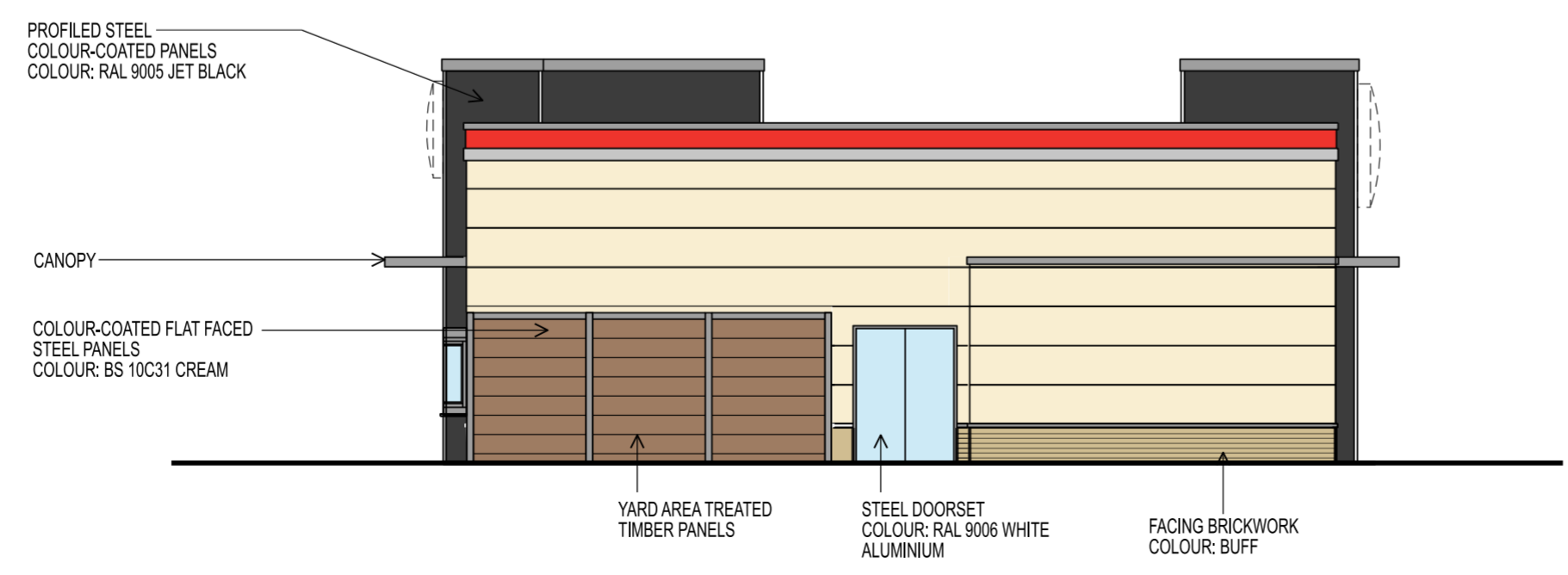
ELEVATION AA - FRONT



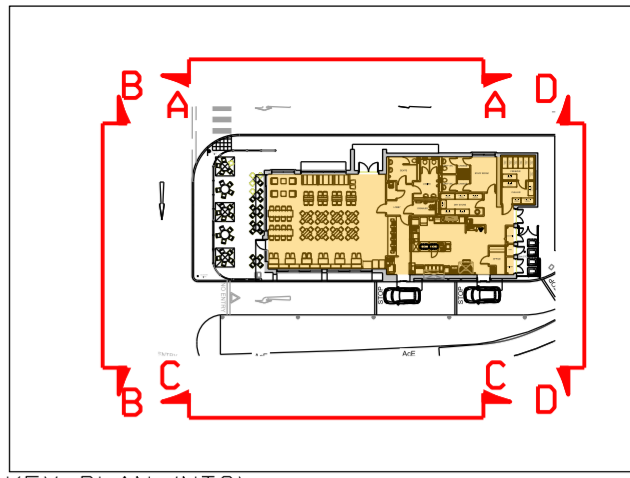
ELEVATION BB - SIDE



ELEVATION CC - REAR

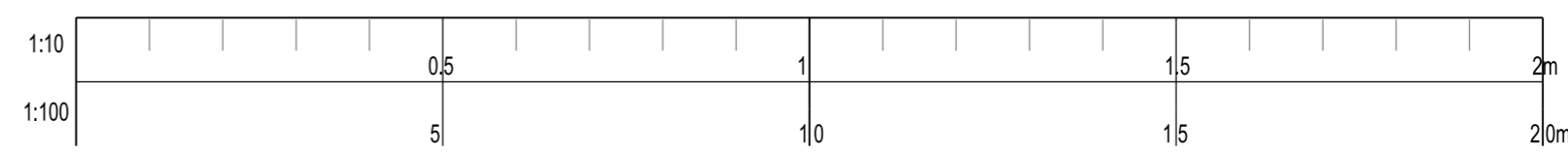


ELEVATION DD - SIDE



KEY PLAN (NTS)

TENANT SIGNS SHOWN INDICATIVE AND ARE SUBJECT TO A SEPARATE PLANNING APPLICATION



REV.	DATE	NOTES	INIT.
A	22.02.17	BK LAYOUT UPDATED	SW
			INIT.

CLIENT / PROJECT  
**CONSOLIDATED PROPERTY GROUP**  
**eastgate**  
 RETAIL CENTRE

DRAWING TITLE  
 INDICATIVE PROPOSED ELEVATIONS  
 BURGER KING

STATUS  
**PLANNING**

DATE	DRAWN	SCALE @ A2
AUG.17	SW	1:100

PROJECT NUMBER	UNIT / BLOCK	CI / SFB CODE	TYPE & NUMBER	REVISION LETTER
10195	P	111	A	

Site Location Plans	L	GA Plans	P	Elevations	E
Sections	S	Details	D	Prefix Colour	C

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**RG**  
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 26/07/2018 12:28:29 P:\p001\10195\10195-01\10195-01\10195-01.dwg

26 April 2018  
L180426 - Benefits of the Proposal



Paul Chick  
Team Leader – City Centre  
Planning Services  
Bristol City Council  
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savills.com

Dear Paul,

**The Town and Country Planning Act 1990 (as amended)  
Eastgate Retail Park, Eastgate Road, Bristol, BS5 6XX  
Application Reference 18/00634/P**

**Outline Planning Application for the demolition of an existing Class A3 / A5 drive-thru restaurant and erection of new Class A1 retail unit, two Class A3 / A5 pod units and a replacement Class A3 / A5 drive-thru restaurant. Access, Layout and Landscaping sought for approval  
Application by CPG Wilmslow Limited**

### Introduction

We write further to our telephone conversation on 19 April 2018, and your e-mail dated 12 April. The e-mail set out matters in relation to the following points:

1. Retail policy
2. Landscaping
3. Ecological matters
4. Highways

We discussed and agreed that ecological matters and highways would be addressed imminently and that they would not result in a reason to refuse the planning application.

On retail policy matters, we have provided substantial evidence that demonstrates the proposal is acceptable in retail policy grounds both as part of the application submission and subsequently both in the form of comments to address the matters raised in your e-mail of 12 April and a Legal Opinion from Leading Counsel, David Elvin QC.

It is agreed that the proposed development will not have a significant adverse impact on defined retail centres and our evidence demonstrates that the proposal satisfies the sequential test. Our approach to the sequential test is endorsed by a number of parties including those advising the Council and development partners and we would be hopeful that the Local Planning Authority confirms that this matter is addressed prior to taking the application to planning committee. We don't propose to reiterate in detail the case on the sequential test, other than to state that there is no policy that requires retail proposals to be disaggregated. The whole proposal needs to be considered as that is what is proposed. There are no available sites that are suitable for the proposed development, which comprises a replacement drive-thru, two small pod units and a bulky goods retail warehouse. The sequential test is satisfied.

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East..

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As the proposed retail development will be restricted to the sale of bulky goods, it will not compete with the City Centre in terms of existing trade, nor will it compete with the City Centre for occupiers. Occupiers that would operate under the proposed condition will be large format bulky goods retail warehouse occupiers.

Our view therefore is that there is only one matter between the parties, which relates to landscaping matters. This letter sets out details of the material considerations that weight heavily in favour of the grant of permission and should outweigh any concerns over the landscaping that is removed as a result of the planning application.

## **Policy Background**

The Local Planning Authority's position is that the removal of the landscaping conflicts with Policies BCS9, DM15 and DM17 of the development plan. For ease of reference, we set out the policy text below. It is firstly however important to note that the landscaped area that is affected by the proposal is not 'Important Open Space' as defined on the Council's Local Plan Policy Map. There are areas around the wider Eastgate Centre that benefit from this designation. That is not the case here and so it follows that the Council itself does not consider the landscaped area to be Important Open Space in the development plan that requires protecting. The approach to have substantial concerns over its removal when there are substantial benefits realised by the proposed development conflicts with relevant planning policies.

The policy text referred to above is:

### **Policy BCS9**

*'The integrity and connectivity of the strategic green infrastructure network will be maintained, protected and enhanced. Opportunities to extend the coverage and connectivity of the existing strategic green infrastructure network should be taken.'*

*Individual green assets should be retained wherever possible and integrated into new development. Loss of green infrastructure will only be acceptable where it is allowed for as part of an adopted Development Plan Document or is necessary, on balance, to achieve the policy aims of the Core Strategy. Appropriate mitigation of the lost green infrastructure assets will be required.'*

*Development should incorporate new and/or enhanced green infrastructure of an appropriate type, standard and size. Where on-site provision of green infrastructure is not possible, contributions will be sought to make appropriate provision for green infrastructure off site.'*

### **Policy DM15**

*'...Trees*

*The provision of additional and/or improved management of existing trees will be expected as part of the landscape treatment of new development.'*

*The design, size, species and placement of trees provided as part of the landscape treatment will be expected to take practicable opportunities to:*

- i. Connect the development site to the Strategic Green Infrastructure Network, and/or Bristol Wildlife Network; and*
- ii. Assist in reducing or mitigating run-off and flood risk on the development site; and*
- iii. Assist in providing shade and shelter to address urban cooling; and*
- iv. Create a strong framework of street trees to enclose or mitigate the visual impact of a development.'*

### **Policy DM17**

*'All new development should integrate important existing trees.'*

*Development which would result in the loss of Ancient Woodland, Aged trees or Veteran trees will not be permitted.*

*Where tree loss or damage is essential to allow for appropriate development, replacement trees of an appropriate species should be provided, in accordance with the tree compensation standard below:...*

Policy DM15 requires additional management of existing trees and new landscape opportunities to meet certain criteria. The existing trees are not managed, but the grant of permission provides the Local Planning Authority with an opportunity to ensure that existing trees are managed appropriately. It is common-place for a landscape management condition to be imposed on the grant of permission and it would be appropriate to include in this instance. We understand that there are no concerns over the landscaping proposed as part of the application, but the removal of existing trees is resisted. Accordingly, the proposal doesn't conflict with Policy DM15.

Policy BCS9 does not provide a bar to the removal of trees, and enables the Local Planning Authority to take a balanced judgement to considering proposals. Likewise none of the trees are characterised as 'Aged trees or Veteran trees' and there is no policy bar under Policy DM17 to the removal of the trees. In any event, the National Planning Policy Framework ('The Framework') is clear at Paragraph 118 that the grant of permission can be forthcoming where Aged trees or Veteran trees are proposed to be removed, if the benefits of the development clearly outweigh the removal of the trees.

It follows that there is no policy bar to the removal of the trees and the matter is a planning judgement which should be weighed against the benefits of the proposed development in accordance with the requirements of relevant policies in the development plan.

Likewise the provision for planning judgement is encapsulated in Policy DM1 of the development plan and Paragraph 14 of The Framework, which sets out the presumption in favour of sustainable development and confirms that permission should be granted unless any adverse impacts of granting permission would significant and demonstrably outweigh the benefits of the proposal<sup>1</sup>.

Paragraph 21 of The Framework provides clear policy support for proposals that secure sustainable economic growth and confirms that:

*'Investment in business should not be over-burdened by the combined requirements of planning policy expectations.'*

Paragraph 70 of The Framework also confirms that planning decisions should: *'ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.'*

In the light of the above, it is clear in relation to landscaping matters that:

1. The trees at the site are not Aged trees or Veteran trees and so their removal is not expressly prevented by Policy DM17 – we comment that The Framework does not prevent the removal of such trees in any event.
2. The development plan policies provide a requirement to consider all matters when weighing up the balance of whether a proposal that results in the removal of trees is acceptable.
3. Investment in business that secures sustainable economic growth should not be over-burdened by the requirements of planning policy.

---

<sup>1</sup> Savills notes that this is where there are no policies relevant to the application or relevant policies are out of date, but consider the emphasis of planning judgement is encapsulated in this requirement.

It follows that a planning judgement on the removal of trees in accordance with the requirements of planning policy must be taken in full view of all other planning matters before concluding whether their removal is acceptable or not. We do not consider that the Local Planning Authority has approached the removal of the trees in this way and accordingly, has not applied the policies of either the development plan, or The Framework in the way that they are required. We set out as follows that when assessed in the round, the conclusion on the proposal is that:

1. There are overwhelming benefits delivered by the application proposal
2. There is an urgent requirement for the proposal
3. The proposal is positive investment in Bristol
4. The proposal has substantial community benefits
5. The benefits of the proposal far outweigh the loss of trees
6. Accordingly, the proposal accords with the development plan

We therefore conclude that the balancing judgement applied to the proposal tilts the balance firmly toward the grant of permission.

#### **Background: The Proposal**

The Local Planning Authority is aware that the Eastgate Centre is an important retail facility in the City and that there is a strong level of support for its ongoing vitality and viability from Councillors and residents. There is specific support from Councillors for this application.

Not only is the Eastgate Centre an important retail facility, it is a valuable economic location providing substantial levels of employment for local residents, with at least 630 people employed at the Centre.

The Centre is therefore of strategic importance as a retail facility and employment location to local residents.

CPG acquired the Eastgate Centre in 2011 and have sought to proactively promote its importance and devise strategies that ensure its future vitality and viability. The initial phase of the strategy was to ensure that conditions preventing the sale of certain goods were removed to ensure that any vacant retail space that arose could quickly be occupied to ensure continuity of retail and employment provision in the local area. Whilst that application was either refused or recommended to be refused by officers on a number of occasions, Members of the Planning Committee provided officers with a clear position in granting permission to remove those restrictions against officer recommendation to refuse in 2016<sup>2</sup> that the Eastgate Centre is an important and vital retail destination in the retail hierarchy of Bristol that meets the shopping needs of the local community and fulfils a district centre role. Accordingly, Councillors requested that officers designate the Eastgate Centre as a district centre in the Local Plan Review. A representation to request that appropriate designation for the Centre in the Local Plan Review was submitted on the 21 February 2017.

Subsequently, CPG has continued to proactively promote the Eastgate Centre to ensure its future vitality and viability including through applications to enhance the branding and signage at the Centre, and this current application that will deliver buildings that meet modern occupier requirements, increase the retail offer and dwell time at the Centre and create enhanced employment opportunities. The proposal therefore assists in future-proofing the Eastgate Centre as an important retail destination in the City and assists CPG in being able to maintain current retail provision at the site, and in turn local employment.

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<sup>2</sup> Application Reference 16/01193/X

The Council will be alert to uncertainty in the retail occupier market at present and the Eastgate Centre is not immune to this uncertainty. The uncertainty surrounding the Cribbs Causeway proposal and the prospect of its delivery is also impacting on tenant discussions at the Eastgate Centre. Ensuring that the Eastgate Centre can fulfil its role as an important retail facility and employment generator in Bristol should therefore be considered an important economic objective of the Council. The proposal is positive investment in Bristol that assists in securing the sustainable economic growth of the City through the delivery of positive economic development that will assist with the vitality of the existing retail destination and ensure that it can contribute to meeting existing and future retail and economic needs in the City.

We note that the Council has been supportive of initiatives at Imperial Retail Park in the south of the City to ensure that it can evolve and contribute vitally and viably to the retail offer of the City. These proposals include the removal of Tree Preservation Order (TPO) trees<sup>3</sup>. The Eastgate Centre fulfils a similar role to Imperial Retail Park, but in the north of the City. We consider that efforts that identify its important contribution to the retail offer of the City and proposals that promote its vitality and viability should be supported for the same reasons that proposals at Imperial Retail Park are supported. Ensuring this important retail destination in Bristol can contribute vitally and viably to meeting local residents' retail needs is a material consideration for that weighs in favour of the grant of permission.

### **Consideration: The Proposal**

The above frames the context for the urgent requirement and the positive benefits that it will deliver. The substantial benefits that the proposal delivers, means that when all matters are weighed in the planning balance, the proposal does not conflict with either Policy BCS9 or DM17, namely:

1. The proposal is necessary as demonstrated above and meets other policy aims in the development plan
2. The removal of the trees is essential to the delivery of the proposal to support the vitality of the Eastgate Centre as an important retail and employment location in Bristol

It is critical to the retention of Burger King at the site that a new drive-thru facility is delivered for this occupier. The Council will be aware that the economics of development mean that it is not as simple as demolishing the existing Burger King and delivering a new drive-thru restaurant in its place. That would not be viable. Funding is required to deliver the new facility which only arises through the delivery of the remainder of the development. The proposal is a composite proposal that will be delivered in a single construction phase.

There are no other locations at the site that the proposal can be delivered on. The remaining land at the wider site is car parking land to the front of existing units and is not suitable to accommodate the proposal. A new drive-thru could not be placed on the site of the existing drive-thru with the remainder of the development in the location of the proposed drive-thru. There is not sufficient space to accommodate the remainder of the development on the location of the proposed drive-thru and nor would any suitable configurations exist that would deliver the necessary infrastructure required to deliver the development including servicing provision. Commercially no retailer would take a retail unit on that corner. The commercial requirement is for a unit to front face onto the car park in a consistent manner to the existing retail terrace.

There is no alternative configuration or location on the site that could deliver the proposed development. The development proposed is the only appropriate configuration that can be delivered at the site.

The removal of trees is necessary to accommodate the development. Against that background, there is no conflict with Policies BCS9 or DM17 providing:

1. Appropriate mitigation is provided

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<sup>3</sup> Permission Reference 17/00996/F

2. Replacement trees are provided

We set out below how appropriate mitigation is provided, and provision is made for replacement trees. Therefore, the proposal accords with Policies BCS9 and DM17. The landscaping scheme submitted with the application demonstrates the maximum amount of landscaping that can be retained as part of the proposal and having reviewed matters further with our Arboriculturalist and Landscape Consultant, it is appropriate that a Arboricultural Method Statement is required as a pre-commencement of development condition to avoid conflicts with construction.

In terms of mitigation to address the removal of landscaping, the proposal delivers a substantial amount of green infrastructure, namely:

1. The delivery of sustainable buildings that meet:
  - a. The Council's energy efficiency requirements;
  - b. On-site renewable energy generation; and
  - c. Drainage and flooding requirements.
2. The delivery of a Green Wall on the north east elevation of the proposed Class A1 retail building to deliver amenity value and an architectural focal point to the development.
3. The delivery of new landscaping within the car parking and around the site boundary.
4. Assisting Bristol City Council in delivering environmental realm improvements for the proposed links to the Frome Greenway (which runs alongside the M32) from the Stapleton Road area and connecting to the Eastgate Centre under the M32. The applicant is in discussions with Lucy Empson, the Council's Landscape Architect over possibilities for this scheme, which is of strategic importance to the Council.
5. Assisting the delivery of a Charging Hub for electrically powered vehicle modes by providing land to the Council at the Centre to enable the delivery of this facility. This is a specific strategic objective of the Council that my client will facilitate and can only be delivered if permission is granted as part of the development. The applicant is currently working up plans for this facility with Gill Galloway, the Council's Project Manager. The Hub will improve the environmental credentials of the Centre as a whole and is a substantial environmental benefit, reducing the reliance on the use of carbon producing fossil fuels.
6. Works to the oak tree on the Eastgate Road roundabout to ensure the protection and enhancement of this tree.

In terms of replacement trees, the applicant accepts that there is limited scope for replacement trees on site, although it is important to note that there is substantial landscaping that exists around the Eastgate Centre and the removal of trees at the application site is *de minimus* in the context of the overall landscaped areas that surround the Eastgate Centre. Accordingly, the applicant has acknowledged as part of this application and that previously withdrawn that there will be a requirement for a contribution to off-set the removal of trees in accordance with the Council's Planning Obligations Supplementary Planning Document adopted 27 September 2012.

We note from the response from the Council's Arboricultural Officer, Matthew Bennett, dated 23 April 2018, that a contribution of £33,660 is required. The applicant is committed to this contribution.

The contribution can be put towards delivering environmental realm improvements for the proposed links to the Frome Greenway and so the landscape mitigation can be in the immediate vicinity of the site and meet strategic landscape objectives of the Council. In addition, the proposal will deliver £192,000 in the form of a Community Infrastructure Levy ('CIL') payment. 15% of the CIL payment will be provided to the Lockleaze Neighbourhood Partnership (i.e. £28,800). The remainder of the CIL payment can be put towards infrastructure schemes to

support the regeneration of Lockleaze under the terms of the Council's Regulation 123 List, meaning further green infrastructure can be provided in the immediate vicinity of the site. These are all important material considerations that tilt the balance firmly toward the grant of permission.

The wider benefits of the proposal in addition to the green infrastructure benefits are set out in Section 4 of the Planning, Retail and Economic Statement provided with the application and replicated as follows for ease of reference:

1. The application accords with relevant policies in the development plan and material considerations. The proposal is therefore sustainable development that benefits from the presumption in favour set out at Paragraph 14 of The Framework.
2. The introduction of new retail facilities that will support the offer of the application site as a key retail destination in the hierarchy of Bristol's retail offer, particularly serving its local residents.
3. Food and drink facilities that will increase the dwell time at the Retail Park and increase its attraction that will have positive economic benefits in terms of on-site employment and supporting the retail offer of the existing Centre. This will assist in future-proofing the Retail Park to ensure that it can continue to be a viable important retail and economic location serving residential areas in the immediate surrounds and to the north of Bristol.
4. The retention of existing employment and service facilities through the relocation of the existing Burger King facility.
5. The delivery of development that promotes sustainable retail trips through the co-location with existing facilities where there will be high cross-visitation.
6. The delivery of retail facilities that will not harm existing town centre vitality and viability.
7. The creation of an additional 40 employment positions. The employment is provided in areas where long-term unemployment is higher than the City-wide area. It follows that there is an acute need to promote economic growth within the area where the site is located. In addition, the proposal supports existing jobs at a substantial employment location in the City. Considerable weight should therefore be given to supporting proposals for economic development that provide new employment and support existing employment.
8. Support by CPG of the Easton Business Improvement District ('BID') application.

## Summary and Conclusion

All of the above benefits are directly related to the proposal and will only be realised through the grant of permission. Under the requirement to consider all material considerations as part of the planning balance to appraising an application, the benefits of the proposed development overwhelmingly tilt the balance firmly in favour of granting permission. In our discussions you confirmed that little weight is being given to either the proposed green infrastructure benefits set out above, including those measure proposed that meet strategic aims of the Council, nor the wider benefits of the proposal. We consider therefore that a full view on planning judgement is not being taken as is required by policy. When weighed into the planning balance the environmental, social and economic benefits all tilt the balance firmly toward the grant of permission.

Taking into account all of the evidence before the Council, the proposal accords with all relevant policy considerations<sup>4</sup> as set out below.

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<sup>4</sup> Savills notes that highway and ecological matters are being addressed, but that it is agreed between the Local Planning Authority and the applicant that these matters will be addressed. We also note that the Local Planning Authority has not provided a final position on



<b>Policy Consideration</b>	<b>Addressed</b>
Highways	✓
Accessibility	✓
Flooding	✓
Sustainable Building Design	✓
Renewable energy generation	✓
Sustainable Construction	✓
Drainage	✓
Ecological	✓
Amenity	✓
Retail Policy Considerations: The Impact Assessment	✓
Retail Policy Considerations: Sequential Test	✓
Sustainable Economic Growth	✓
Landscape	✓
Sustainable Transport	✓
Environmental	✓
Ecology	✓
Coal Mining Matters	✓
Conservation	✓
Access	✓
Layout	✓

Accordingly, the proposal complies with the following policies in the development plan:

- BCS3 – Northern Arc and Inner East Bristol – Regeneration Areas
- BCS7 – Centres and Retailing
- BCS8 – Delivering a Thriving Economy
- BCS9 – Green Infrastructure
- BCS11 – Infrastructure and Developer Contributions
- BCS13 – Climate Change
- BCS14 – Sustainable Energy
- BCS15 – Sustainable Design and Construction
- BCS16 – Flood Risk and Water Management
- BCS20 – Effective and Efficient Use of Land
- BCS21 – Quality Urban Design
- BCS23 – Pollution
- DM1 – Presumption in Favour of Sustainable Development
- DM7 – Town Centre Uses
- DM10 – Food and Drink Use and the Evening Economy
- DM15 – Green Infrastructure Provision
- DM17 – Development Involving the Loss of Existing Green Infrastructure

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retail policy considerations in relation to the sequential test, but as set out above, the substantial evidence before the Council demonstrates that the sequential test is satisfied.

- DM19 – Development and Nature Conservation
- DM23 – Transport Development Management
- DM26 – Local Character and Distinctiveness
- DM27 – Layout and Form
- DM28 – Public Realm<sup>5</sup>
- DM29 – Design of New Buildings
- DM32 – Recycling and Refuse Provision in New Development
- DM33 – Pollution Control, Air Quality and Water Quality

We would be grateful if you could confirm all of the policies that the proposal accords with as part of any committee report on the application.

If you have any questions, please contact either Matthew Sobic or Brad Wiseman.

Yours sincerely



**Savills (UK) Limited**  
Planning

cc. Zoe Willcox – Bristol City Council Head of Planning  
Garry Collins – Bristol City Council Head of Development Management

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<sup>5</sup> This will be secured through the contribution that can be used for the Froome Gateway proposals.