PLANNING APPLICATION NUMBER:P10/0222

Type of approval sought		Full Planning Permission	
Ward		BELLE VALE	
Applicant		Earls Way Halesowen LLP	
Location:	FORMER ALL ELECTRIC GARAGES LTD, EARLS WAY, HALESOWEN, WEST MIDLANDS, B63 3HR		
Proposal	DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF SINGLE STOREY RETAIL UNIT (A1) WITH ASSOCIATED ACCESS, CAR PARKING, LANDSCAPING AND SECURITY FENCING.		
Recommendation Summary:	APPROVE SU	JBJECT TO A 106 AGREEMENT	

SITE AND SURROUNDINGS

- 1. This is a former car showroom site with the main showroom/sales building located in the western section of the generally triangular 0.67ha site. This pitched roof and single storey building is sited close to the footway, with the main entrance facing onto the former tarmac and gravel display area within the site. There are other, smaller temporary buildings located in the eastern and northern parts of the site.
- 2. The site has a long frontage onto Earls Way and to the River Stour Valley at the rear. There is a shorter side boundary onto an adjoining electricity control station to the east. That adjoining site contains a 3 storey building and an open yard with transformers set approximately 2 metres lower than the application site.
- 3. There is a fall in levels across the site from the Earls Way frontage of approximately 600 mm. The River Stour is in a densely wooded cutting, some 10 metres deep at the rear of the site.
- 4. The character of the area is relatively mixed in an edge of centre location. There is an island of land between Earls Way and Whitehall Road located opposite the site. This site was previously used for a variety of uses including a taxi base and car lots but is now vacant and has planning permission granted at appeal for apartments. There is an office block (Whitehall House) on the opposite side of Whitehall Road to this site,

- and relatively large office blocks further west towards Halesowen Town Centre. The River Stour runs in a culvert under Earls Way and there is open land to the west of the site.
- 5. Earls Way is a 2 lane carriageway running in a single direction (east), with Whitehall Road running west. There is a crossing point across Earls Way immediately to the west of the site. Further west, Earls Way feeds onto a roundabout at the junction of the A456 and A458. The distance from the site to the Town Centre is approximately 500 metres.

PROPOSAL

- 6. The proposal seeks the erection of an A1 retail store with a gross internal floor area of 1,544 square metres. The net retail floor space would be 990 square metres with the convenience goods element forming 80% of the net, or 792 square metres. The scheme would also include associated car parking, servicing, boundary treatment and related landscaping. The proposed opening hours would be 8am-10pm Monday-Saturday and between 10am-5pm on Sundays.
- 7. The proposed store would be located along the eastern boundary of the site with its principal elevation facing the proposed car parking area and Earls Way. Vehicular and pedestrian access is proposed from Earls Way. The proposed development would be served by an 81 space car park, which would include the provision of 6 mobility impaired spaces and 3 parent and toddler spaces. The proposed car park would be operated using a one-way system in order to aid the circulation of vehicles within the site.
- 8. The proposed building would be serviced adjoining the rear (northern) elevation of the building with service vehicles using the same access into the site as customers. The service area would include a delivery ramp, canopy and dock leveller system so that the back of service delivery vehicles would be level with the bay.
- 9. The scheme would include a proposed brick boundary wall with brick capping and railing inserts stones fronting Earls Way. The proposed boundary wall would be a

- total of 1.2 metres high including the brick piers and railing inserts and would include a 1.6 metre wide pedestrian link located in the western corner of the site.
- 10. The proposed building would be single storey with a flat roof standing approximately 5.5 metres high. The building would be contemporary in its style comprising sand cement render, grey powder coated aluminium windows and a canopy in goosewing grey formed by metal profiled sheeting. The entrance to the building would be defined by glazing extending from floor to ceiling and then enclosed by the proposed canopy on both the southern and western elevations of the building.
- 11. Immediately adjoining the northern elevation of the building would be a concrete base for plant comprising of 3 no. chillers and 2 no. refrigerators.
- 13. The application is accompanied by a design & access statement, a flood risk statement, a retail study, a transport statement, a phase 1 habitat survey and ecological survey, a tree survey, a report on site investigations and a low frequency electric and magnetic filed report.

HISTORY

APPLICATION	PROPOSAL	DECISION	DATE
No.			
P06/1311	Demolition of existing garages	Refused	23/03/07
	and showroom and erection		
	of 121 apartments	Allowed	13/03/08
	(resubmission of withdrawn	on appeal	
	application P05/1850)		

PUBLIC CONSULTATION

- 14. The application was advertised by way of neighbour letters being sent to the occupiers of twenty-one properties within close proximity to the site, the display of a site notice and the placing of an advert within the local press.
- 15. One letter of support has been received with respect to the proposed development stating that it would be beneficial for residents and businesses located to the north-east of Halesowen town centre.

OTHER CONSULTATION

- 16. **Group Engineer (Development):** The majority of issues initially raised have now been addressed including:
 - Agreement by the applicant to extend the existing traffic regulation order along Earls Way to prohibit waiting on the highway.
 - Further assessment of the capacity of the Mucklow Hill/Earls Way traffic island having regard to the potential net increase in traffic that would occur as a result of the proposed development.
 - Redesign of the proposed access to include a pedestrian refuge and realignment of the proposed access so that it is perpendicular to Earls Way.
 - Redesign of the proposed access to include a pedestrian refuge and realignment of the proposed access so that it is perpendicular to Earls Way.
 - Submission of further details with respect to vehicle swept path information, including service vehicles to support the proposed access design.
 - Submission of further details of signing and lining to ensure compliance with the one way systems both on Earls Way and within the site.

- Confirmation that the proposed site access can maintain the required visibility splay of 4.5 metre (m) (X-distance) by 120m (y-distance) upon exit from the site.
- Provision of a taxi pick-up point within the site layout.

Details still to be agreed relate to;

- The submission of further information with respect to the previous trip rates associated with the previous use of the site as a car showroom.
- 17. Head of Environmental Health and Trading Standards: No objection subject to conditions relating to noise and ground conditions.
- 18. Environment Agency: No comments received at the time of writing the report.
- 19. Access Officer: No objection subject to conditions relating to details of the height and colour contrast of proposed bollards and the clear definition of the glazed entrance into the store to ensure that the scheme is in accordance with The Building Regulations, Access to and use of buildings, Approved Document M.

RELEVANT PLANNING POLICY

Adopted Unitary Development (2005)

S3 - Green Assets

AM14 - Parking

DD1 - Urban Design

DD3 - Design of Retail Development

DD6 - Access and Transport Infrastructure

DD7 - Planning Obligations

DD10 - Nature Conservation and Development

DD11 - Water Courses

DD12 - Sustainable Drainage Systems

CR9 - Edge-of-Centre and Out-of-Centre Development

CR10 - Conditions on Major Retail Development

HTC2 - Town Centre Development Blocks

S02 - Linear Open Space

AM11 - Cycle Routes

AM14 - Parking

NC1 - Biodiversity

NC5 – Sites of Local Importance for Nature Conservation (SLINC)

NC6 - Wildlife Species

EP4 - Development in Floodplains

- 20. The site is within the Halesowen Town Centre Inset Plan but is located outside of the defined town centre boundary. The site is designated as falling within Development Block 10, which seeks to ensure that new development strengthens the links of this part of Halesowen with the town centre, that creates a stronger frontage to Earls Way and which takes into account the presence of the Stour Valley. The proposals map proposes a cycle route along Earls Way. The site itself falls within an area of linear open space with the River Stour cutting to the rear of the site. This is designated as falling within the flood plain and as a Site of Local Importance for Nature Conservation.
- Supplementary Planning Document(s)
 Parking Standards and Travel Plans

Planning Obligations

Nature Conservation

Strategic Flood Risk Assessment

Regional Spatial Strategy

QE3 Creating a high quality built environment for all

National Planning Guidance

PPS1 Delivering Sustainable Development

PPS4 Planning for Sustainable Economic Growth

PPG25 Development and Flood Risk

ASSESSMENT

Key Issues

- Principle
- Parking and Access
- Impact upon linear open space, Stour Valley and Site of Local Importance for Nature Conservation
- Trees
- Flooding
- Layout and Form
- Scale and Massing
- Character and Appearance
- Sustainability
- Planning Obligations

<u>Principle</u>

- 21. The application site is located within Halesowen Town Centre Block 10 Dudley Road/Whitehall Road and is designated under Policy HTC2xii Established Areas. Policy HTC2xii states that new development or a change of use will be given favourable consideration providing that the proposal does not conflict with other Plan policy or does not result in loss of amenity by surrounding land users.
- 22. Although within the wider Adopted 2005 UDP Halesowen Town Centre Inset Proposals Map boundary, the site is located upwards of 300m from Halesowen Town Centre's retail core, and is thus an out-of-centre location in retail terms the Government's 'Planning Policy Statement 4: Planning for Sustainable Economic Growth', PPS4, Annex B refers. Given this, Adopted 2005 UDP Policy CR9 Edge-of-centre and Out-of-centre Development applies.
- 23. Policy CR9 applies to retail proposals in excess of 200 square metres gross floorspace and sets out criteria to be satisfied at such out-of-centre locations -

notably an evidenced demonstration of need for the retail development and (should need be proven) to demonstrate also that there is no reasonable possibility of such a development being accommodated within or otherwise on the edge of the primary retail core. Policy CR9 sets out a number of additional criteria to be satisfied in instances where out-of-centre retail is being proposed (as is the case in this instance) – including a requirement to submit what is in effect a retail impact assessment.

- 24. PPS4 encourages and adds to the above Policy CR9 approach, with emphasis on sequential site search and retail impact assessment requirements.
- 25. The applicant's submitted 'Retail Statement' dated February 2010 sets out to evidence issues as required under Policy CR9 and PPS4. In terms of the sequential site search assessment, the evidence submitted is reasonable in terms of demonstrating that there are no available and suitable alternative premises that exist that are sequentially preferable (with regard to proximity to the town centre) compared to the application site.
- 26. The submitted evidence satisfactorily demonstrates that the street blocks comprising Halesowen's retail core (Blocks 1 to 5) could not at present accommodate this A1 convenience retailing proposal. This is due to existing units already being occupied, vacant units being too small in size, and or Adopted 2005 UDP policy precluding such a development within certain of these street blocks.
- 27. Street blocks outside the retail core but within the wider town centre boundary (Blocks 6, 7, 8, 9) were also assessed in the submitted evidence in terms of site availability and suitability, and in terms of Adopted 2005 UDP plan policy, whereby it is accepted that there are no other suitable, viable and available sites that exist which could reasonably accommodate the proposed Aldi discount foodstore.
- 28. In this regard, the submitted 'Retail Statement' (Feb 2010) reasonably satisfies the sequential site search requirements of Policy CR9 and PPS4.

- 29. In accordance with Policy CR9 and PPS4 consideration must also be given to the potential retail impact of the proposed development in the context of ensuring that the scheme would not have an adverse impact upon the vitality or viability of Halesowen town centre.
- 30. Policy EC10.2 of PPS4 sets out general impact considerations against which all planning applications for economic development must be assessed. Main town centre uses which are not in an existing centre and not in accordance with an up to date development plan will require a retail impact assessment under policy EC16.1. Policy EC17 sets out the general approach as to the consideration of planning applications for main town centre uses in out-of-centre locations, contrary to development plan policies. As the proposal site is an out of centre location, in retail terms the above PPS4 impact tests apply along with the UDP Policy CR9 impact considerations (third bullet point).
- 31. The proposed development would not result in an adverse impact upon carbon dioxide emissions within the area and would not require mitigation. The proposed development site is located on the northern side of the A458 Earls Way which is identified as a strategic highway in the adopted Dudley Unitary Development Plan with frequent bus services available along both the Earls Way and Whitehall Road. The proposal site is located approximately 600 metres from Halesowen Town centre, and would typically take less than ten minutes to walk. The development would be accessible and well served by a choice of means of transport, in particular public transport.
- 32. Dudley Borough's Local Area Agreement (2008/9 to 2010/11) includes National Indicator 153 (Working Age People Claiming Out of Work Benefits in the Worst Performing Neighbourhoods). There are 18 lower super output areas (LSOAs) designated as "worst performing neighbourhoods" across Dudley Borough. The proposed development is sited immediately adjacent to one of the 18 LSOAs. The impact of the recession has had a more severe effect on the number of people claiming Jobseekers Allowance in the 'worst performing neighbourhoods' compared with the Borough. The claimant rate for Jobseekers Allowance in the worst

performing areas has increased by 3.8 percentage points since May 2007 which is 1 percentage point more than the total increase in the rate for Dudley Borough. Thus, the proposed development supports Strategic Aim 1 of the 2010/11 Economic Strategy for Dudley Borough by "optimising the opportunities for local people (including the most vulnerable and those from deprived areas) to develop and improve their skills and obtain jobs". The proposed development has the potential to bring a long-standing vacant site into economic use. At present, the site generates no employment. The proposed development would therefore have a positive impact with respect to both economic and physical regeneration.

- 33. Paragraph 6.21 of the Retail Statement states the proposed development will create 15 new FTE jobs. Jobs of this nature would be categorised as 'sales and customer service occupations'. In November 2009, sales and customer service occupations accounted for 17.2% (313) of Jobcentre Plus notified vacancies in Dudley Borough (out of a total of 1,816). In January 2010, sales and customer service occupations accounted for 7.9% (72) of all notified vacancies in the Borough. Whilst all notified vacancies have decreased overall from November 2009 to January 2010 (apart from Managers and Senior Officials) the sales and customer service occupations has seen a significant decrease since November 2009. Overall, the proposal does appear to have the potential to impact positively on local employment.
- 34. The criterion relating to the need for a high quality and inclusive design which will significantly improve the character and quality of the area and the way it functions within the context of Policy EC10.2 of PPS4 and other material considerations will be discussed separately within the report.

35. Policy EC16.1 relates to:

- The potential impact of a proposal on public and private investment in a centre;
- Impacts on town centre vitality and viability, impacts on proposed development on allocated sites outside of town centre;
- Impact of the proposed development on the in-centre trade and turnover of the centre.

- Locally important impacts.
- 36. An assessment as to how the proposed development meets each of these issues criterion is set out below.
- 37. There are no committed and planned public or private investments in Halesowen or centres in the catchment area of the proposal.
- 38. The GVA Grimley's Black Country Centres Study 2009 Health Check for Halesowen, which was prepared as a background document to the emerging core strategy concludes that the town centre is performing well, in-line with its position in the retail hierarchy. Currently the Lidl store on the Hagley Road provides the local consumer choice in Halesowen to a deep discounter. However, it is recognised that the catchment area to the north of Halesowen is under-represented in terms of a deep-discounter and such a foodstore would aid competition and add consumer choice in a deprived area.
- 39. There are no allocated sites outside Halesowen identified in the development plan that would be affected by the proposed development.
- 40. The Black Country Centres Study 2009 represents the most up to date evidence as to the retail capacity figures and shopping patterns in terms of consumer behaviour within the Zone (10) that the application/catchment falls. The GVA survey as described showed that the relatively new Asda at the Cornbow Centre is currently trading at below average levels (£46m average sales) as it is possible that it is not yet fully established as a convenience goods destination. As reported there are no further foodstore commitments in the 0-5 minute catchment area used in the retail statement.
- 41. Table 4 in the retail statement shows £1.77m would be diverted from Halesowen to the proposed Aldi meaning the 2015 turnover of the town centre would be reduced from £54.35m to £52.58m. The percentage impact on the convenience goods retail spend of Halesowen is 3.3%. This is a low level of impact and when the stated £2.96m turnover of the proposed Aldi store is factored in, the turnover of Halesowen

would increase to £55.54 – a positive impact of 6%. The majority of the trade diversion (£1.13m) is from Asda and the store is forecast to have a turnover of £46.31m by 2015. In summary the provision of an Aldi foodstore would increase consumer choice without having any significant impact upon any existing in-centre trade/turnover.

42. The adopted UDP Policy CR9 applies to all Edge of Centre and Out of Centre Development over 200 sq m. and requires assessment in accordance with PPS4. The impact assessments required are all addressed above. In conclusion the proposed foodstore would not lead to any significant adverse impacts on Halesowen Town Centre and on balance the likely positive impacts outweigh any potential negative impacts in terms of policies EC10.2 and 16.1 of PPS4.

Parking and Access

- 43. Based on a gross floor area of 1552 sq m indicated in the transport statement the maximum parking standard for A1 retail is 1 space per 14 sq m = 110 spaces. 81 spaces have been provided which is less than the maximum standard. The TRICS database, however, indicates that there could be in the region of 0.0568 vehicles parking per sq m at weekday peak periods, which would mean up to 88 vehicles being parked within the site at busy times. On this basis, the provision of 81 spaces would be in accordance with Policy AM14 of the Adopted Dudley Unitary Development Plan (2005) and the Parking Standards and Travel Plan SPD for most periods but there may be an under provision at exceptionally busy times resulting in overspill parking onto Earls Way. An amendment to the existing traffic regulation order adjacent to the site to prohibit the waiting of vehicles on the highway would remove concerns regarding this aspect thereby ensuring that the scheme does not result in highway safety concerns and would be considered on balance to be in accordance with Policy AM14 of the Adopted Dudley Unitary Development Plan (2005) and the Parking Standards and Travel Plan SPD.
- 44. The submitted Transport Statement provides some information with respect to expected traffic generation relating to the proposed development. In addition, the TRICS database has been assessed with respect to traffic generation associated

with discount food retail. Examining the TRICS database suggests that the pm peak could attract more than 170 vehicles. Applying a 34% discount in accordance with the Parking Standards and Travel Plan SPD would result in an overall traffic generation of 112 vehicles. The TRICS database of car show rooms gave a trip rate of 42 vehicles per hectare in the PM peak at 0.68 hectares = 28.56 vehicles, which allowing for a discount of 10% in accordance with the Parking Standards and Travel Plan SPD would have generated 25.6 vehicles. On this basis there would therefore be a net increase in the PM peak of 86.4 vehicles (112-25.6)

- 45. At the time of writing the report both Group Engineer (Development) and the applicant's highway consultant have agreed on the traffic generation associated with the proposed discount food retail store but have yet to agree on an appropriate figure for the former car showroom use. The outcome of these discussions will be reported in a pre-committee note.
- 46. The transport statement states that the pm eastbound average for Earls Way is 856 vehicles. This seems reasonable compared with existing counts. At this stage, a net increase of 86.4 vehicles would represent an approximate 10% increase in traffic along Earls Way and this raises highway concerns. The applicant is in the process of providing further evidence of the potential impact of the proposed development on the Mucklow Hill/Earls Way traffic island with particular emphasis on the impact during the pm peak. The outcome of this further work will be reported in a precommittee note.
- 47. The design of the proposed access into the site is at present not considered to be suitable. The access would need to be redesigned allowing for a pedestrian refuge in the centre in the interests of pedestrian safety and to also serve to act as a splitter island to force traffic left out of the access. The access would need to be re-aligned so the access road is perpendicular to Earls Way. Tactile paving should also be provided at the access to guide pedestrians across the junction. The applicant has agreed in principle to make these amendments. The details of the amended plans will be reported as a pre-committee note.

- 48. Despite the above issues, Group Engineer (Development) envisages that the scheme would be able to achieve a suitable access and therefore that the proposed development would be in accordance with Policy DD6 of the Adopted Dudley Unitary Development Plan (2005).
- 49. Group Engineer (Development) raised concerns regarding the manoeuvring of service vehicles into the store. Service vehicle swept paths provided by the applicant now satisfactorily illustrate how such vehicles would access the service yard. These details will be reported in a pre-committee note as well as the details of a condition requiring the submission of a service vehicle delivery management plan.
- 50. The proposed car parking spaces located adjacent to the river bank of the River Stour would currently abut a chain link fence. The lack of support for vehicles along the northern boundary raises concerns by Group Engineer (Development) that vehicles could be vulnerable to falling into the adjoining wooded embankment. The applicant does not consider it necessary to provide vehicle protection measures along the Stour Valley boundary. This is not considered a sufficient reason in which to warrant the refusal of planning permission.

Impact upon linear open space, Stour Valley and Site of Local Importance for Nature Conservation

- 51. The scheme is supported with a proposed landscaping scheme that seeks to have regard to the fact that it adjoins the River Stour valley and that the site itself is designated as falling within a linear area of open space. The submitted landscaping scheme proposes enhancements running along the northern boundary of the site that immediately abuts the River Stour through the retention of existing trees that abut the northern boundary of the site, additional hedgerow, shrub and woodland planting.
- 52. The proposed car parking area would be softened with the addition of three formal areas of planting incorporating shrub and hedgerow planting with the frontage of the site softened by further shrub and tree planting. The proposed building would also incorporate a green sedum roof over the proposed warehouse and welfare part of the

store equating to a third of the entire roof space. The green roof would positively contribute towards the ecological and sustainable benefits of the site.

53. The submitted landscaping scheme would serve to soften the visual appearance of the proposed car parking area, seeking to assimilate the development into the backdrop of the River Stour and would provide positive nature conservation enhancements. This would ensure that the proposed development would be in accordance with Policies DD10, NC1, NC5 and NC6 of the Adopted Dudley Unitary Development Plan (2005).

Trees

54. The mature tress adjoining the northern boundary of the site are protected by a blanket tree preservation order. The proposed development would not have a detrimental impact upon the health of these trees subject to the retention of suitable root protection areas and suitable construction techniques and the use of appropriate materials within a certain distance of these trees. These issues can be controlled by condition.

Flooding

55. The site lies to the south-east of the River Stour with the river itself being positioned at a significantly lower level than the application site. The Strategic Flood Risk Assessment demonstrates that the site falls outside of the floodplain associated with the River Stour thereby superseding the information on the UDP Proposals Map, which shows the site as falling within the floodplain. In this regard, the proposed development would therefore not raise any concerns with respect to flooding and would be in accordance with Policy EP4 of the Adopted Dudley Unitary Development Plan (2005) and PPG25.

Layout and Form

- 56. Policy HTC2(IX) of the Adopted Dudley Unitary Development Plan (2005) sets out a number of important development criteria associated with the redevelopment of the site. This includes development creating a stronger frontage to Earls Way (A458) as well as development taking into account the presence of the Stour Valley located to the rear of the site.
- 57. The proposed store would be sited along the eastern boundary of the site with the front elevation facing the proposed car parking area and the side (south) elevation fronting Earls Way. The siting of the building would establish good visual legibility for the store for cars approaching along Earls Way but due to the limited frontage development would not define and enclose Earls Way with limited frontage development to Earls Way itself.
- 58. Whilst the front elevation facing the car park comprises some glazing the majority of this would be formed by the use of high level windows. This elevation would therefore be limited in its ability to provide surveillance of car park and the inter-relationship of the building to its outside space. The side elevation facing Earls Way does also not have a second entrance, which again reduces the ability of the store to actively address the street as well as improving the accessibility of the building.
- 59. These issues have been discussed with the applicant's agent but the applicant is reluctant to amend the position of the proposed building within the site or to significantly amend the external appearance of the building. Whilst amendments would add value and improve the layout and form of the development the scheme as submitted is not considered sufficiently poor to warrant the recommendation for refusal. The current siting of the building does serve to leave the western part of the site free of buildings thereby in conjunction with the landscaping scheme provides an opportunity to retain views of the River Stour from the site and its enhancement with the landscaping. In addition, whilst the store would not fully enclose and define the Earls Way frontage as the previously approved residential scheme would have, the south elevation facing Earls Way would form an active frontage to the eastern part of

the site. In this regard, the proposed development would on balance be in accordance with Policies DD1 and DD3 of the Adopted Dudley Unitary Development Plan (2005).

Scale and Massing

60. The single storey building would sit appropriately within its context and would not dominate the surroundings. However, the proposed building is largely a functional and operationally designed building with limited articulation to both the roofline and elevations. Amended plans were sought from the applicant to seek to break up the mass of the building through additional articulation to both the roofline and elevations. Unfortunately, the applicant is not willing to amend the scheme to this extent given that in his opinion any changes would "compromise the architectural aesthetic of the building which is based upon a contemporary style with clean lines and fenestration related to function." Amended plans do now include the provision of an element of green roof, which would improve the overall sustainability and ecological benefits of the scheme as well as its setting adjoining the River Stour valley. The scale and massing of the building is appropriate in its context and would be in accordance with Policies DD1 and DD3 of the Adopted Dudley Unitary Development Plan (2005).

Character and Appearance

- 61. The site is considered to be relatively isolated from surrounding development. There is therefore limited justification for the proposal to take design cues from the local environment but consideration should be given the context of the site backing onto the River Stour and being located within an area of linear open space. The applicant's are seeking to introduce a contemporary designed store within this location comprising a simple rectangular building with a flat roof, with white rendered elevations and grey aluminium glazing to its main shop front.
- 62. No objection is raised in principle to the use of modern architecture but regard must be had to the natural setting of the site, taking an imaginative approach to materials, landscape and the roofline of the building. The applicant's agent has revisited the approach to the design of the store to incorporate natural materials and cladding and

to consider the use of a green roof to ensure that the building is able to improve its relationship to the immediate backdrop of the site against the River Stour. A green roof has now been included within the development, as well as the inclusion of additional tree planting within the site and an improvement upon the overall quality of proposed boundary treatment. In this regard, whilst it is disappointing that the scheme has not been amended in full, on balance, the altered scheme would be in accordance with Policies DD1 and DD3 of the Adopted Dudley Unitary Development Plan (2005).

Sustainability

- 63. Tackling climate change is central in terms of delivering good development and is inherent within planning policy from national policy downwards. The proposed building comprises a significant amount of glazing along the south and west elevation. The glazing would ensure the maximum use of natural daylight within the store. The applicant would be reluctant to use porous paving due to concerns regarding its success and states that the proposed landscaping and green roof within the site would reduce surface water run off thereby being acceptable in drainage terms. Given recent changes to the General Permitted Development Order, (which require the submission of planning applications for the creation of hard surfaces that exceed a certain area where they are not be formed with porous materials or would not incorporate measures to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site) it is reasonable in the context of major developments such as this, for car parking areas to be drained using these techniques. This issue can be further addressed by condition.
- 64. The installation of a green roof on the building would serve to help store water, provide wildlife habitats and to improve the insulation of the building. The attachment of a condition to deal with surface water drainage within the site and the provision of cycle parking for both customers and staff would be sufficient to secure a sustainable form of development that would be in accordance with Policies DD1 and DD12 of the Adopted Dudley Unitary Development Plan.

65. Amended plans include the provision of secure and undercover cycle parking for staff and customers as well as the provision of a free phone telephone service to taxis. These elements would improve the access of the site by alternative modes other than the private car in the interests of creating a sustainable form of development. The amount of staff cycle parking would be determined by a Travel Plan, which can be secured by condition. A taxi drop off point has not been included within the amended plans as requested. The applicant states that this would be subject to misuse by all customers. In addition, it is stated that since the access road is one-way and 7 metres wide that there would in any event be space for taxi's to drop off and pick up customers without result in highway safety concerns. This argument is reasonable and the amended layout would be acceptable from the point of encouraging the use of sustainable travel modes in accordance with Policies AM1 and AM11 of the Adopted Dudley Unitary Development Plan (2005).

<u>Planning Obligations</u>

66. The proposed development has a requirement to provide planning obligations to mitigate against the consequential planning loss to the existing community. Should permission be granted a S106 Agreement would be required in respect of the following contributions.

Offsite Contributions:

The proposal attracts a requirement for a commuted sum to be paid towards the following infrastructure:

- Public Art The development cost of the scheme is estimated by the applicant as £1.2 million. 1% of the development cost would trigger an obligation of £12,000.
 The applicant has offered an off site contribution of £12,000 on this basis.
- Public Realm The scheme would give rise to a payment of £23,000 for public realm enhancement.
- Transport Infrastructure Improvements A planning obligation is required where there would be a net increase in trips from the use as a car showroom to a

discount food store. At the time of writing the report, further information has been requested from the applicant's transport consultant to determine the trip rate associated with the previous use of the site. This figure will be report in a precommittee note.

- A payment of £5,000 to amend the Traffic Regulation Order on Earls Way.
- Management and Monitoring Charge to be confirmed.

Onsite and other Contributions

The proposal also attracts a requirement for the provision of the following onsite planning obligations:

- Economic and community development in this instance, this is best delivered by providing a commitment to secure local materials and jobs for local people.
- Nature Conservation Enhancements in this instance are provided on site by the provision of the green roof to the store and by enhancements to the originally submitted landscaping scheme.
- 67. The position with regard to planning obligations at this site will be reported in a precommittee note.

CONCLUSION

- 68. The principle of the proposed development has been established through the submission of a retail study which has successfully demonstrated that there are no other available or suitable alternative sites that are sequential preferable and that the proposed development would not have an adverse impact on the vitality and viability of Halesowen town centre.
- 69. The scheme would be acceptable from a highway perspective subject to agreement by the applicant to fund a Traffic Regulation Order to prohibit the waiting of vehicles on Earls Way, an amended access into the site, additional swept path information being submitted with respect to service vehicles, an agreement to trip rates

associated with the previous use of the site and agreement on the capacity of the Earls Way/Mucklow Hill island.

- 70. The proposed landscaping scheme would include the planting of additional trees within the site and the provision of a green roof on part of the building. This would provide positive nature conservation enhancements within the site to ensure that there would be no adverse impact upon the adjoining SLINC and to help assimilate the development into the backdrop of the River Stour. The scheme would not have an adverse impact upon mature trees adjoining the northern boundary of the site that are protected by a Tree Preservation Order subject to tree protection conditions.
- 71. The development would not pose an unacceptable increase to flooding since the site falls outside of the floodplain of the River Stour and conditions can be attached to require the inclusion of sustainable drainage within the site to limit surface water runoff.
- 72. The siting of the building would provide good visual legibility for vehicles approaching the site along Earls Way and some limited frontage development and enclosure of Earls Way, which is considered, on balance, acceptable. The scale and massing of the building would sit appropriately within its context and would not dominate its surroundings and would ensure that views of the River Stour beyond are retained.
- 73. Concerns are raised regarding the proposed external appearance of the building and the lack of articulation of the elevations of the building and its roof with the building making limited reference to the natural setting of the site. However, on balance, given that the scheme has been amended to include a green roof, additional tree planting and improved boundary treatment, this would improve the stores relationship to the backdrop of the site set against the River Stour and is broadly acceptable.
- 74. The scheme would result in the creation of a sustainable form of development with the provision of a green roof, staff and customer cycle parking and taxi telephone point; would result in job creation and the redevelopment of a vacant previously developed site into a suitable use.

75. The scheme would also secure an appropriate level of planning obligations in accordance with Council policy to ensure that the development does not have an adverse impact upon infrastructure or result in a consequential planning loss to the existing community.

RECOMMENDATION

- 76. It is recommended that the application be approved subject to:
 - a) The development shall not be commenced until a scheme for the submission and approval of a planning obligation to guarantee the provision of an off site obligation towards public art, transport infrastructure improvements, the amendment of the Traffic Regulation Order along Earls Way and management and monitoring and onsite provision of economic development benefit has been submitted to and agreed in writing by the Local Planning Authority.
 - b) The Scheme shall include the method, timing and arrangements including a means to guarantee a financial payment, increased through index linking from the first April each subsequent year, in accordance with the Council's planning obligations policies.
 - c) The following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary

Conditions and/or reasons:

Reason for approval

The principle of the proposed development has been established through the submission of a retail study which has successfully demonstrated that there are no other available or suitable alternative sites that are sequential preferable and that the proposed development would not have an adverse impact on the vitality and viability of Halesowen town centre.

The scheme would be acceptable from a highway perspective subject to agreement by the applicant to fund a Traffic Regulation Order to prohibit the waiting of vehicles on Earls Way and an agreement to trip rates associated with the previous use of the site and agreement on the capacity of the Earls Way/Mucklow Hill island.

The proposed landscaping scheme would include the planting of additional trees within the site and the provision of a green roof on part of the building. This would provide positive nature conservation enhancements within the site to ensure that there would be no adverse impact upon the adjoining SLINC and to help assimilate the development into the backdrop of the River Stour. The scheme would not have an adverse impact upon mature trees adjoining the northern boundary of the site that are protected by a Tree Preservation Order subject to tree protection conditions.

The development would not pose an unacceptable increase to flooding since the site falls outside of the floodplain of the River Stour and conditions can be attached to require the inclusion of sustainable drainage within the site to limit surface water runoff.

The siting of the building would provide good visual legibility for vehicles approaching the site along Earls Way and some limited frontage development and enclosure of Earls Way, which is considered, on balance, acceptable. The scale and massing of the building would sit appropriately within its context and would not dominate its surroundings and would ensure that views of the River Stour beyond are retained.

Concerns are raised regarding the proposed external appearance of the building and the lack of articulation of the elevations of the building and its roof with the building making limited reference to the natural setting of the site. However, on balance, given that the scheme has been amended to include a green roof, additional tree planting and improved boundary treatment, this would improve the stores relationship to the backdrop of the site set against the River Stour and is broadly acceptable.

The scheme would result in the creation of a sustainable form of development with the provision of a green roof, staff and customer cycle parking and taxi telephone point; would

result in job creation and the redevelopment of a vacant previously developed site into a suitable use.

The scheme would also secure an appropriate level of planning obligations in accordance with Council policy to ensure that the development does not have an adverse impact upon infrastructure or result in a consequential planning loss to the existing community.

The decision to grant planning permission has been taken with regard to the policies and proposals in the adopted Dudley UDP (2005) and to all other relevant material considerations.

The above is intended as a summary of the reasons for the grant of planning permission. For further detail on the decision please see the application report.

Note to Applicant

The development hereby permitted shall be built in accordance with the approved plans numbered 960 01, 960 02 Rev G, 960 03 Rev B, 960 04 Rev E, 960 05 Rev A, 960 06 Rev C, 960 07 Rev A, 960 08, 960 09, 960 11, 960 12, 960 13, 1270-01 Rev A and 1270-02 Rev A unless otherwise agreed in writing by the Local Planning Authority.

These amendments might be either minor amendments agreed through correspondence, or an application to vary the consent, the conditions or a whole new application for the site or part of it.

Conditions and/or reasons:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2. The development shall not be commenced until a scheme for the submission and approval of a planning obligation to guarantee the provision of an off site obligation towards public art, transport infrastructure improvements and the amendment of the Traffic Regulation Order along Earls Way, on site economic development benefit and management and monitoring has been submitted to and agreed in writing by the Local Planning Authority. The Scheme shall include the method, timing and

arrangements including a means to guarantee a financial payment, increased through index linking from the first April each subsequent year, in accordance with the Council's planning obligations policies.

- 3. Prior to commencement of the development a detailed scheme showing, visibility splays, means of access, parking areas and any on site highway works shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and retained for the lifetime of the development.
- 4. Prior to first use of the development the means of access and parking area will be provided in accordance with Drawing no. xxx, be graded, levelled, surfaced, drained and marked out and will be maintained thereafter for no other purpose for the life of the development.
- 5. Prior to commencement of the development details of plans and sections of the lines, widths, levels, gradients and form of construction of access roads, service roads, footways, footpaths and drainage systems will be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and retained for the lifetime of the development.
- 6. Prior to first use of the development all highway works undertaken by the applicant will be completed.
- 7. The visibility splays will be provided in accordance with Drawing No. xxx and will be maintained thereafter for no other purpose for the life of the development.
- 8. The development shall not be commenced until a Travel Plan has been submitted and approved in writing by the local planning authority. The Travel Plan will contain a timetable including hard targets and monitoring proposals and shall be implemented for the life of the development.
- 9. Prior to the opening of the store hereby permitted to the public a shopping management plan shall be submitted to and approved in writing by the Local Planning Authority. The store shall be operated in accordance with this plan for the lifetime of the development.
- 10. Prior to the opening of the store hereby permitted to the public a service vehicle traffic management plan shall be submitted to and approved in writing by the Local Planning Authority. The store shall be operated in accordance with this plan for the lifetime of the development.
- 11. Prior to the practical completion of the development hereby approved, any redundant kerbs immediately adjoining the boundaries of the site shall be reinstated with full height kerbs and the highway made good.
- 12. Prior to the opening of the store to the public a free call facility to taxis shall be provided within the store and retained for the lifetime of the development.
- 13. Not more than 20% of the sales area of the retail store hereby permitted shall be used for the sale of comparison goods, unless otherwise agreed in writing by the Local Planning Authority.
- 14. No development shall take place until there has been submitted, and approved in writing by the local planning authority details of the tree protection measures on site. The details shall include:
 - a. A plan showing the location and identification (with reference to a survey schedule if necessary) of all trees on, or directly adjacent to the development site,

that are to be retained during construction. These trees are to be marked with a continuous outline.

- b. A plan showing the location and identification (with reference to a survey schedule if necessary) of all the trees on, or directly adjacent to the development site that are to be removed prior to, or during development. These trees are to be marked with a dashed outline.
- c. A plan showing the extent of the Root Protection Area, which is to be protected by physical barriers during development. The extent of the area that is to be protected will be calculated in accordance with Clause 5.2 of British Standard BS: 5837 2005 'Trees in Relation to Construction Recommendations'.
- d. Design details of the proposed protective barriers to be erected around the trees during development. Any protection barriers should be designed and constructed in accordance with the provisions set out in section 9.2 of British Standard BS:5837 2005 'Trees in Relation to Construction Recommendations'.
- 15. No development or other operations shall commence on site or in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. Such method statement shall include full detail of the following:
 - Implementation, supervision and monitoring of the approved Tree Protection Plan.
 - Implementation, supervision and monitoring of the approved Treework Specification.
 - Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Plan.
 - Timing and phasing of arboricultural works in relation to the approved development.
- 16. No development or other operations shall commence on site or in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed tree felling / pruning specification has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall commence on site until the approved tree felling and pruning works have been completed. All tree felling and pruning shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998 (1989) Recommendations for Tree Work.

- 17. All excavations to be undertaken within 6 metres of the stem of existing trees on site shall be undertaken in accordance with NJUG Publication number 10 'Guidelines for the Planning, Installation and Maintenance of Utility Services in proximity to Trees'
- 18. No development or other operations shall commence on site in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed service (gas, electricity and telecoms) and foul and surface water drainage layout has been submitted to and approved in writing by the Local Planning Authority. Such layout shall provide for the long term retention of the trees. No development or other operations shall take place except in complete accordance with the approved service/drainage layout.
- 19. No development shall take place until there has been submitted to and approved in writing by the local planning authority technical details of any proposed pathway / hard surfacing / driveway / parking area within the RPA of any trees to be retained that are either situated on or off the site. The details of the vehicular access and parking areas shall include existing and proposed ground levels, materials to be used and the relative time of construction within the whole development and must be in accordance with appropriate guidelines, namely BS 5837:2005 'Trees in Relation to Construction' and Arboricultural Advisory & Information Service Practice Note 'Driveways Close to Trees' (1996). Any driveway / parking areas within 3 metres of existing trees must be constructed using "no-dig" techniques incorporating appropriate surfaces to avoid damage to trees and to prevent any potential direct of indirect damage caused by trees.
- 20. No development shall commence until a scheme for surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained for the lifetime of the development.
- 21. Prior to the commencement of development details shall be submitted of the type, texture and colour of materials to be used in the proposed car parking area and curtilage of the site, the boundary wall and railings running along the southern boundary of the site, the paladin fencing and the external elevations of the building hereby approved including details of glazing and the proposed canopy to the south and west elevations. The scheme shall be implemented in accordance with the approved details and retained for the lifetime of the development.
- 22. Prior to the commencement of development details shall be submitted of the proposed substrate depth and planting regime associated with the proposed green roof as shown on Drawing No. 960 07 Rev A. The green roof shall be implemented in accordance with the approved details and retained for the lifetime of the development.
- 23. Prior to the commencement of development a management plan for the future maintenance of the green roof as shown on Drawing No. 960 07 A shall be submitted to and approved in writing by the Local Planning Authority. The green roof shall be maintained in accordance with the plan for the lifetime of the development.
- 24. No development approved by this permission shall be commenced until a scheme to deal with contamination of land (including ground gases and vapours) has been submitted to and approved by the Local Planning Authority (LPA). Furthermore, no part of the development shall be occupied until the LPA has been satisfied that the

agreed scheme has been fully implemented and completed.

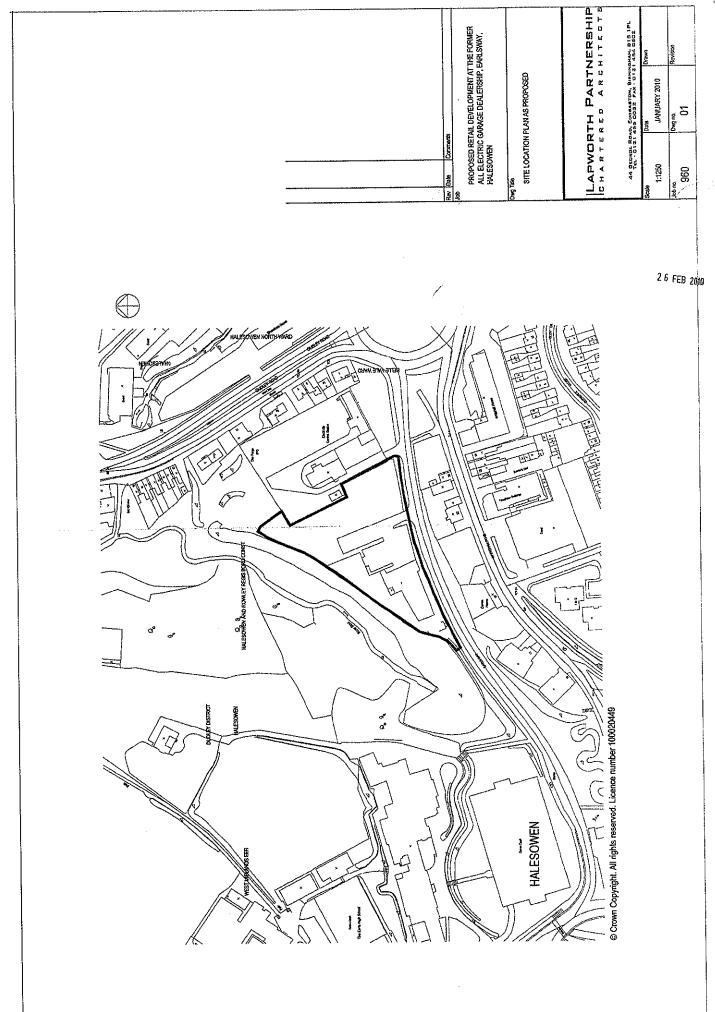
The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically in writing:

- i) A desk-top study to formulate a conceptual model of the site. The requirements of the LPA shall be fully established before the desk-study is commenced;
- ii) Once the desk study has been approved by the LPA, a site investigation shall be carried out to identify and evaluate all potential sources and impacts of identified contamination in accordance with the conceptual model. The findings of site investigation shall be presented in report format for approval by the LPA and shall include a risk-based interpretation of any identified contaminants in line with UK guidance;
- iii) Following the approval of both desk-top study and site investigation reports, a written remediation scheme and method statement (the contamination proposals) shall be agreed in writing with the LPA prior to commencement of the development. The contamination proposals shall include provisions for validation monitoring and sampling, including a scheme and criteria for both the use of imported materials and reuse of site-won materials, and be retained throughout the lifetime of the development.
- iv) The contamination proposals shall be implemented in full and no deviation shall be made from the contamination proposals without the express written agreement of the LPA.
- v) If during development works any contamination should be encountered which was not previously identified or is derived from a different source and/or of a different type to those considered under the contamination proposals then the LPA shall be notified immediately and remediation proposals formulated/amended for consideration.
- vi) If during development work, contaminants are found in areas previously expected to be acceptable, then the LPA shall be notified immediately and remediation proposals formulated/amended for consideration.
- vii). A completion report confirming the objectives, methods, results and conclusions and demonstrating that the contamination proposals have been fully implemented and completed shall be submitted to the LPA for approval.

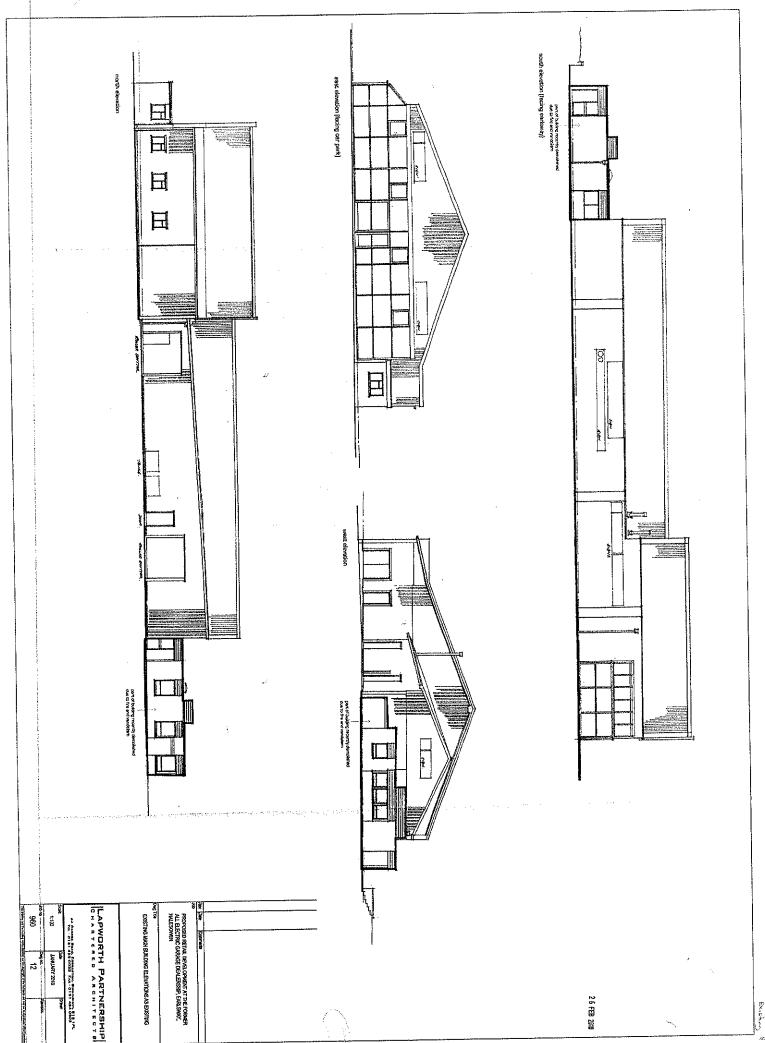
Reason: To ensure that the risks associated with any contamination are reduced to acceptable levels and to ensure that the development complies with UDP Policy UR9 and PPS23.

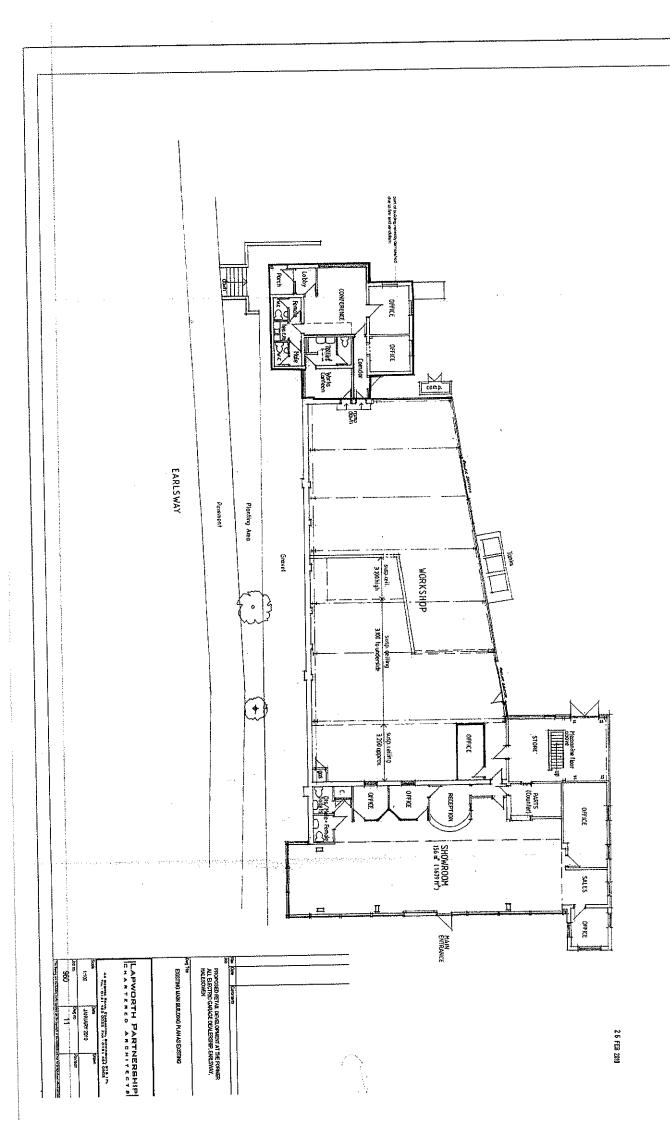
25.• The operation of fixed plant and/or machinery associated with the development shall not cause background noise levels at any nearby dwelling to be exceeded by a Noise Rating Level of more than 5 dB (A), as assessed under the

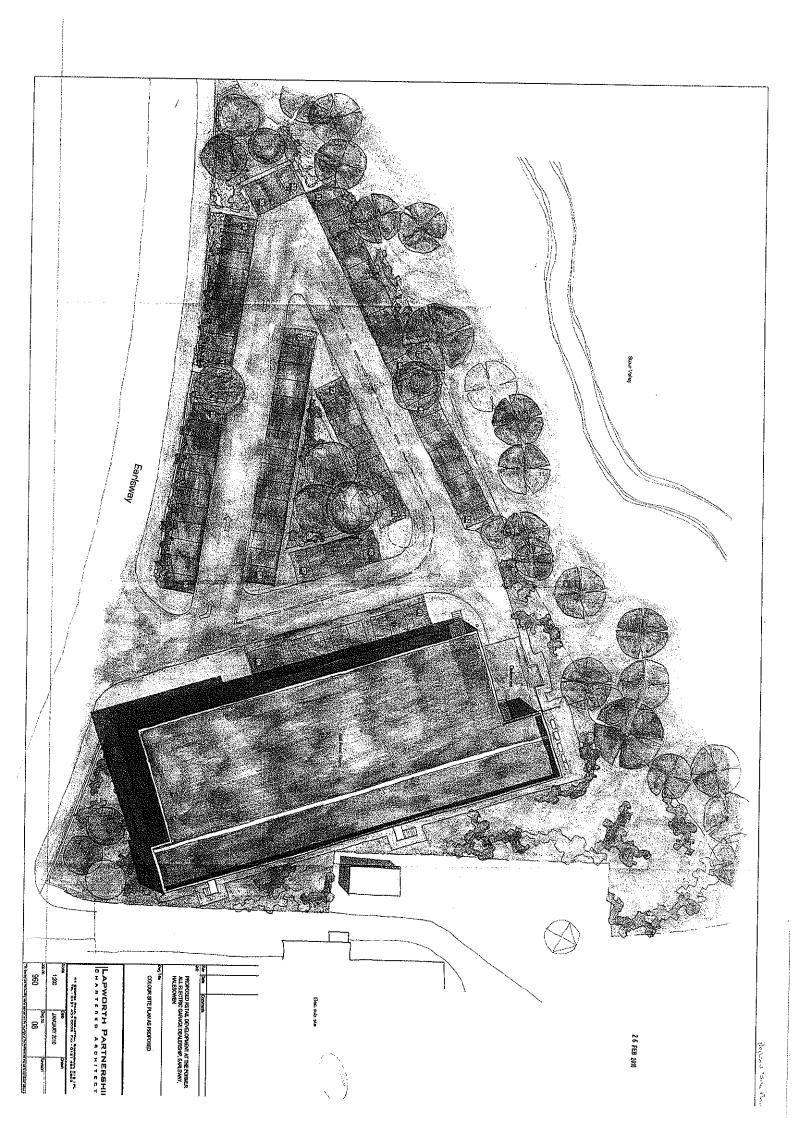
- methodology of BS 4142 (1997) (Method for rating industrial noise affecting mixed residential and industrial areas) and/or its subsequent amendments.
- 26. The premises shall not be open to the public before the hours of [08:00] nor after (22:00) Monday to Saturday, before [10:00] nor after [17:00] on Sundays and Public Holidays.
- 27. No deliveries or despatches shall be made to or from the site, and no delivery or despatch vehicles shall enter or leave the site (whether laden or unladen), before the hours of [0700] nor after [22:00] Monday to Saturday, before [09:00] on Sundays nor after 17:00 on Bank Holidays.
- 28. Prior to the commencement of development details shall be submitted to and approved in writing by the Local Planning Authority of the proposed bollards to be installed to the front of the proposed building to include details of the height and colour contrast as shown on Drawing No. 960 02 Rev G. The bollards shall be implemented in accordance with the approved details and retained for the lifetime of the development.
- 29. Prior to the commencment of development details shall be submitted to and approved in writing by the Local Planning Authority showing how the glazed entrance doors on the front (east) elevation as shown on Drawing No 960 04 E would be differentiated from the associated glazed curtain walling. The scheme shall be implemented in accordance with the approved details and retained for the lifetime of the development.
- 30. Prior to the commencement of development details shall be submitted to and approved in writing by the Local Planning Authority showing how the proposed glazed entrance screen with be defined with manifestations on the glass. The scheme shall be implemented in accordance with the approved details and retained for the lifetime of the development.
- 31. The landscaping scheme associated with the development shall be implemented in accordance with Drawing No. 1270-01 Rev B and 1270-02 Rev B. The landscaping scheme shall be implemented before the end of the first planting season following intial occupation of the development.
- 32. Prior to the commencement of development, a detailed landscape strategy for the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include a timetable for the implementation of the works and their ongoing maintenance, and shall be implemented in accordance with the approved details.
- 33. The landscaped areas shall be retained in the form shown on the approved plan throughout the life of the development and shall not be used for any other purpose, unless otherwise agreed in writing by the local planning authority.
- 34. To ensure that those trees and hedges to be retained on the development site are not subject to damage because of either works carried out on site or during the carrying out of such works in accordance with policy NC10 of the Dudley MBC Unitary Development Plan 2005.





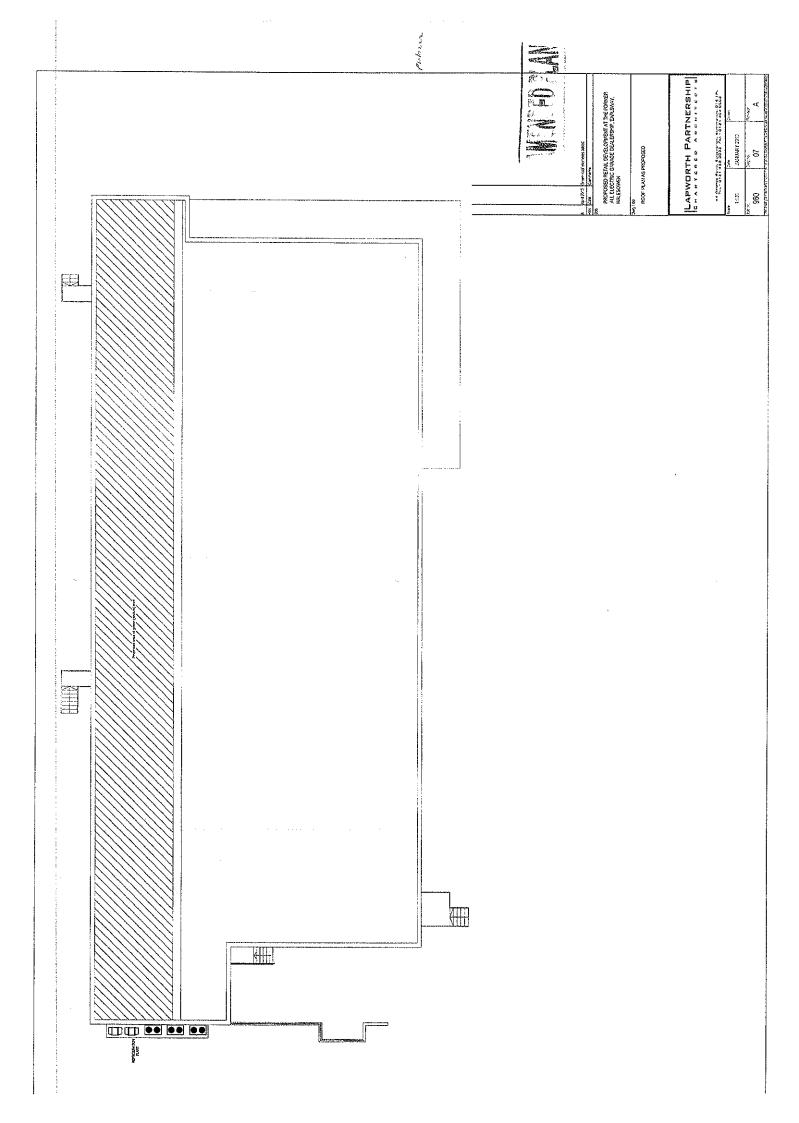


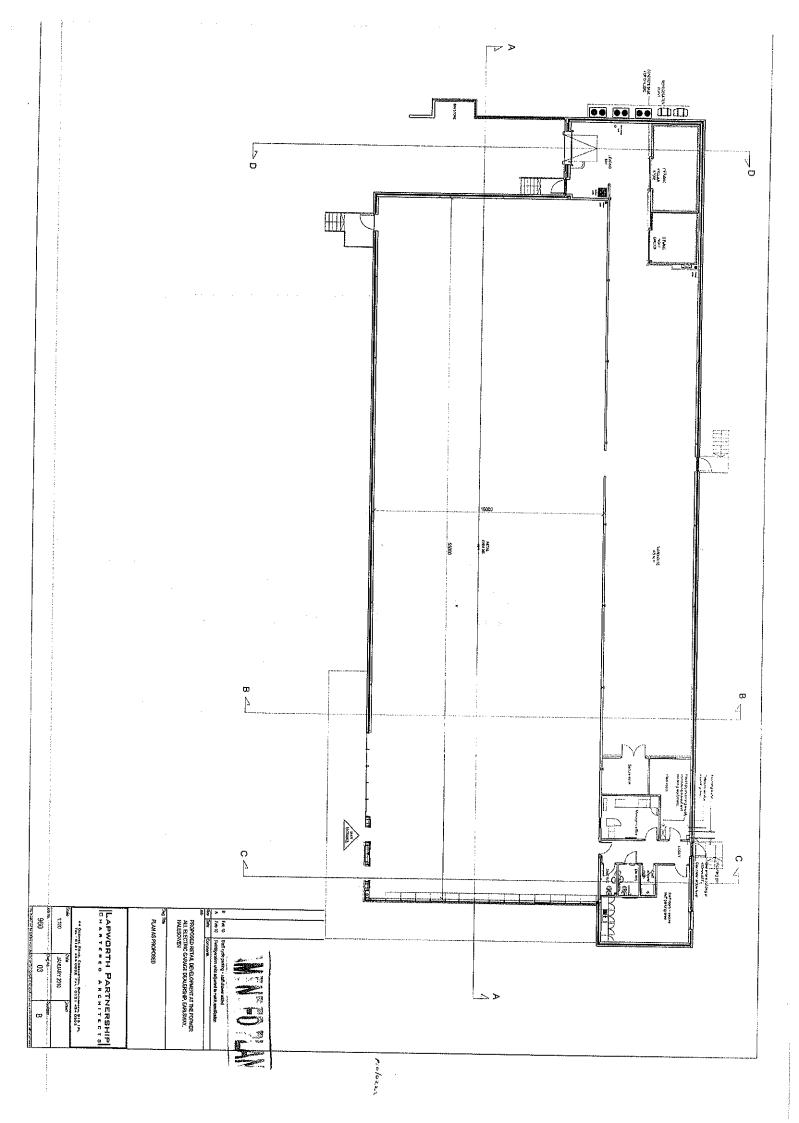


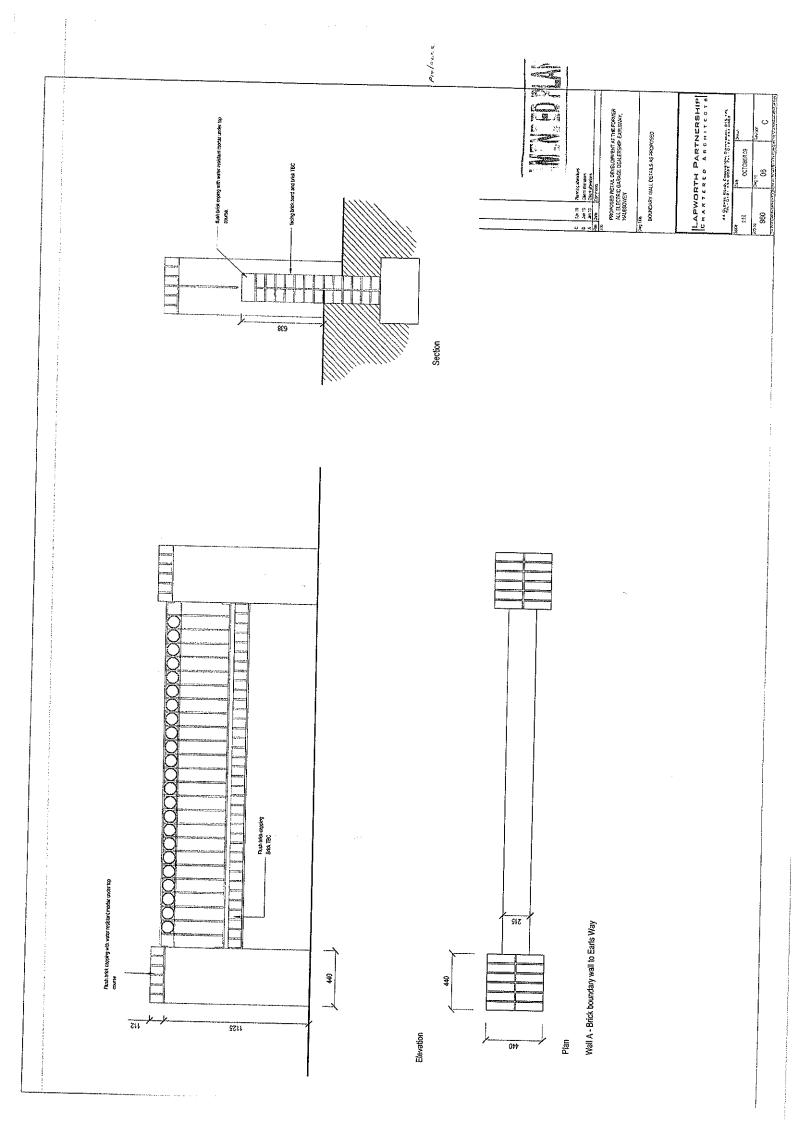


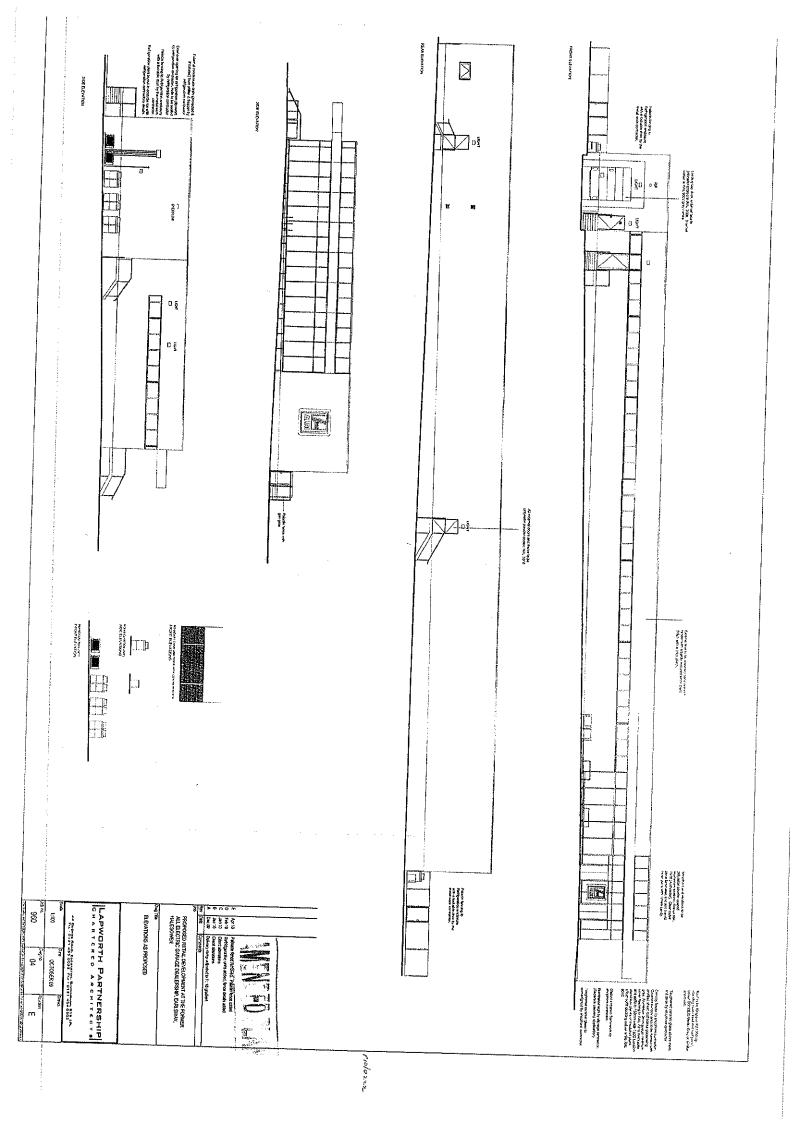


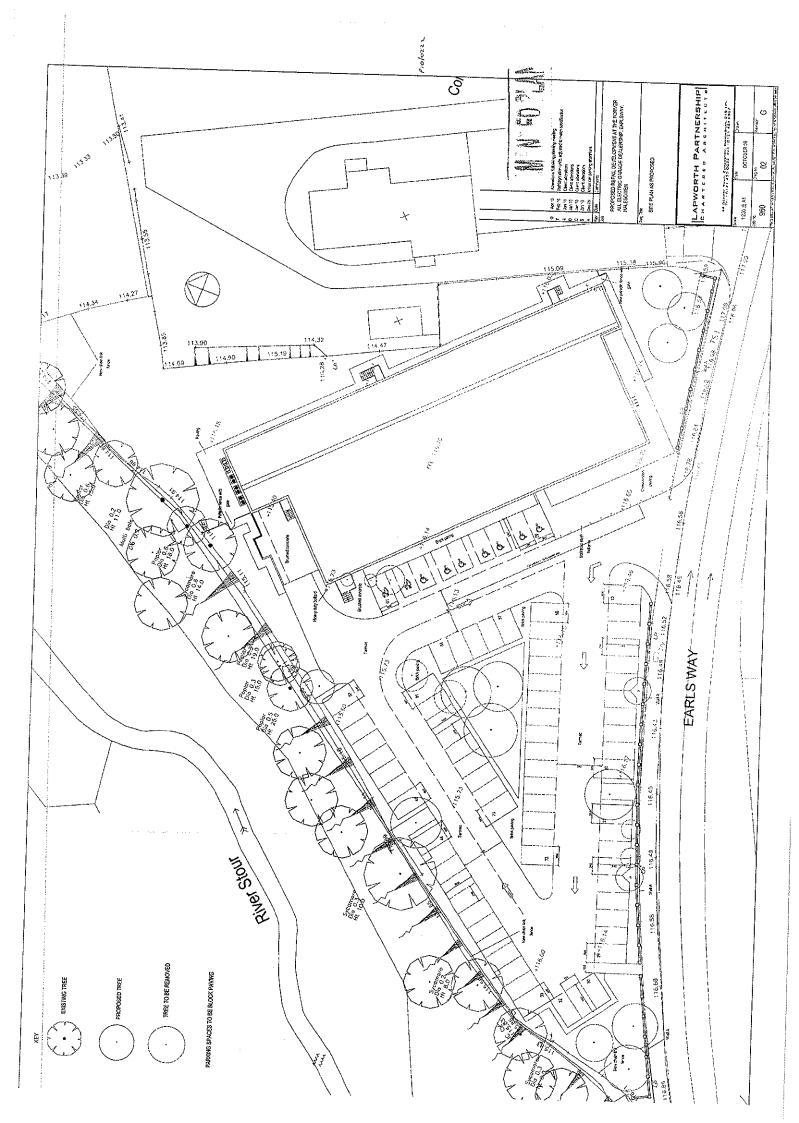
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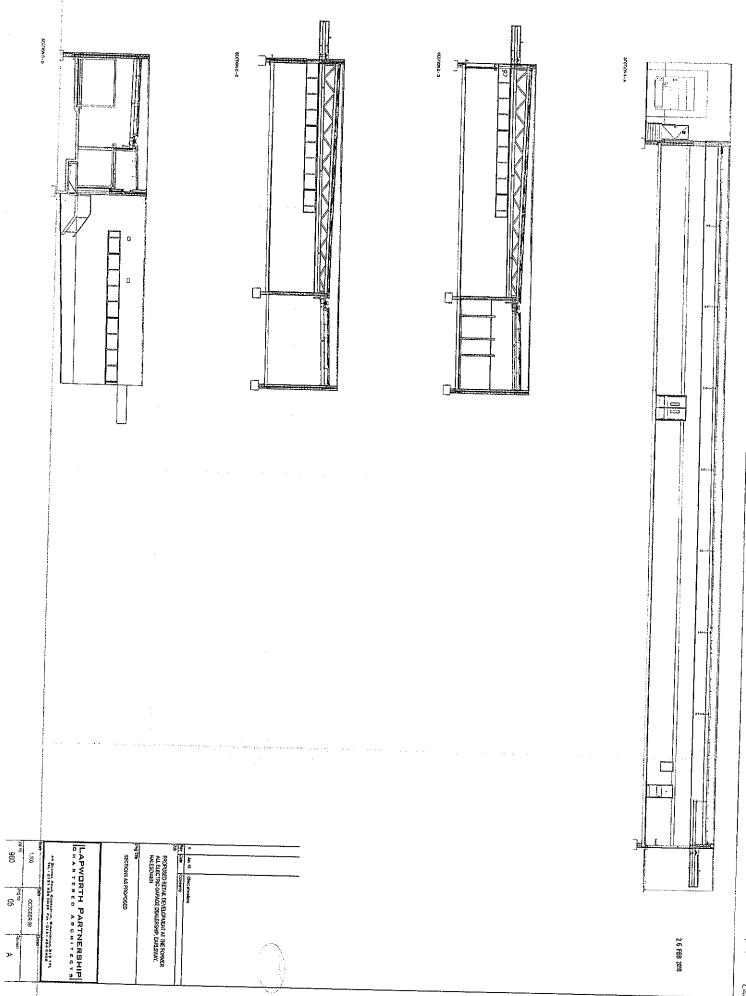












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