

PLANNING APPLICATION NUMBER: P07/2372

Type of approval sought	Full Planning Permission
Ward	BRIERLEY HILL
Applicant	Westfield Shoppingtowns Ltd
Location:	PHASE V/SERVICE YARD C, MERRY HILL, BRIERLEY HILL, WEST MIDLANDS
Proposal	ALTERATIONS AND EXTENSION TO FORM NEW FOOD COURT WITH EXTERNAL ENTRANCE. DISPLACEMENT AND REALLOCATION OF EXISTING A1 FLOOR SPACE FROM RETAIL UNITS TO UNIT U70 - U71. EXTENSION TO UPPER MALL LEVEL FOR A3, A4, A5 FOOD COURT. EXTENSION TO EXISTING TOILET ACCOMMODATION AND REFURBISHMENT OF EXISTING, PROVISION OF NEW BACK OF HOUSE FACILITIES, AND NEW MEZZANINE AND ANCILLARY BACK OF HOUSE FACILITIES WITHIN EXISTING WAREHOUSE H, TOGETHER WITH SOME EXTERNAL TEMPORARY MAINTENANCE ACCOMMODATION TO THE REAR OF U21A. (AMENDMENT TO PREVIOUS APPROVED APPLICATION P06/2177).
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The main application site is located to the east of the Merry Hill Centre between two storey retail premises and car parks. Houses and flats on Madison Avenue are located beyond car parks adjacent to Pedmore Road.

2. This site is currently utilised as a delivery and service area with warehousing for eastern sections of Phase V of the Merry Hill Centre, which includes large users such as Debenhams and ASDA. Part of this site also includes 869 square metres of existing retail trading space located at first floor mall level.

3. The secondary site relates to an upper mall area on the mid-western side of the centre, located above existing ground floor retail units and having a blank façade

onto the existing upper mall walkway. This section of the site is not visible from the exterior of the centre.

PROPOSAL

4. This application seeks approval for the creation of a new food court in the central part of the east upper level section of Merry Hill. The food court would be accessed internally from the existing centre and also via a proposed new entrance to the east side of the centre flanked by three restaurants. The new entrance will be from a large car park which will be reconfigured under previously approved application P06/2178.
5. The specific aim of the proposed development is to provide a focus for catering within Merry Hill for customers which is currently lacking and to create a new major public entrance to the centre.
6. Specific elements of the application relate to the following:-

Removal of existing retail units U40, U40A, U41 and in part U92, with replacement of this floorspace by the construction of upper level mezzanine floors to units U70 and U71, (including raising of existing roof level). Existing retail units are removed in order to provide an internal entrance to the food court.

Construct a first floor extension to the rear of the removed units to create the additional food court floorspace, predominantly above existing Service Yard 'C' and provide additional service cores with lifts and stairs.

Carry out internal modifications to the existing maintenance facility, warehouse H, within the service yard, to provide new dedicated storage rooms with offloading provision, toilet, shower and changing facilities for staff.

Construct new two storey restaurant units to each side of new external entrance with lift and escalator to provide access from car park.

Infill to existing mall void to provide floor space for food court use and an 'orangery' within an enclosed courtyard that would allow restaurant seating to spill out .

Alterations and extension of the existing Square 'A' public toilet facilities to provide additional disabled toilets and parent and child facilities.

Modification to access car park and servicing arrangements.

7. The main food court will accommodate an envisaged 17 kiosks arranged around a covered space with central roof light, some kiosks will be free standing within the central space with the majority on the periphery with varied types of seating areas.
8. The new major entrance between balcony fronted restaurants will open into a large external courtyard with a clear canopy overhead. This courtyard is to have peripheral landscaping with restaurant and food court seating spilling out into this area.
9. Significantly increased toilet facilities will be accessible to both the food court and the mall with new entrance lobbies. Additional disabled facilities and a new parent lounge to incorporate baby changing, feeding cubicles and parent/child toilets.
10. This application is supported by Design and Access Statement, A Planning Context Report and Supplementary information relative to Planning Policy Statement 6 – Planning for Town Centres.

HISTORY

11.

APPLICATION No.	PROPOSAL	DECISION	DATE
P06/2178	Car parking management system with re-configured parking areas, entrance/exit barriers, pay stations and variable messaging system	Approved Subject to Conditions	16 th January 2007
P06/2177	Erection of food court, alteration to car park, access and servicing arrangements and relocation of displaced retail floorspace	Approved subject to conditions following referral to the Government Office West Midlands	17 th July 2007

12. This current application differs from that approved only in terms of there being one more external restaurant and access to the servicing areas being from the south of the development instead of traversing beneath the proposed food court.

PUBLIC CONSULTATION

13. Following statutory publicity in the press, the display of site notices and direct notification of properties in the area, no observations or objections have been received.

OTHER CONSULTATION

14. Group Engineer – Development: raised no objection following the submission and assessment of a safety audit subject to the imposition of specific a condition and the service area height clearance being a minimum of 4.1 metres.

15. In view of the gross floor space of the overall development exceeding 5000 square metres this application would have normally been referred to the Regional Assembly in line with the Regional Conformity Protocol. However, previous application P06/2177 was considered by the by the assembly in terms of the Planning Context Report and Supplementary Information relative to PPS 6 and raised no objection. This application is similar in all aspects but proposes very slightly less floorspace for A3 use.

RELEVANT PLANNING POLICY

16. National Planning Policy
PPS6 Planning for Town Centres

Regional Policy

RSS11 Regional Planning Guidance for the West Midlands. January 2008.

Adopted Unitary Development Plan (2005)

DD1 Urban Design

DD3 Design of Retail Development

DD6 Access and Transport Infrastructure

CR11 Retail (A3-A5) Uses and Amusement Arcades

ASSESSMENT

17. The key issues for consideration are:-

- Whether the development conforms with planning policy and is acceptable in principle.
- The impact of development upon access and service area provision
- Design.

Principle of Development

18. The key issue from a development plan policy perspective relates to the principle of the acceptability of A3 restaurant, A4 licensed premises or A5 hot food takeaway use in this location.

19. Brierley Hill and the Merry Hill Shopping Centre have now been designated as a strategic town centre in the 2008 Regional Spatial Strategy (RSS) under Policy PA11. Policy PA11A of the RSS sets a requirement that no substantial comparison retail development takes place at Brierley Hill until an Action Area Plan is in place as part of the Local Development Framework, with associated accessibility improvements such as car parking charges and midland Metro. On the basis that the proposed restaurant and hot food floorspace is restricted to such as with the previous approval, this application conforms with RSS guidance.

20. As such the previously relevant policy in the adopted UDP (used for the consideration of the original food court application P06/2177) CR9 Edge of Centre and Out of Centre Development., is no longer specifically relevant. This policy required that the development of key town centre uses including (A1, A2 and A3) would normally only be permitted in the defined town centres.

21. The development would also now be appropriate in terms of national Planning Policy Statement 6, Planning for Town Centres., however, information in relation to

retail development and exception to the former policy presumptions has again been submitted to support this application.

22. PPS6 sets out five key considerations by which developments for town centre uses should be assessed. These are;

The need for development

That the development is of an appropriate scale

That there are no more central sites for the development

That there are no unacceptable impacts on existing centres

That locations are accessible

23. The information submitted to address the above policy requirements and tests was previously considered and found to be acceptable by the Regional Assembly. Given the self contained nature of the food court and significant separation from residential premises with no adverse impact upon environmental quality, public or highway safety and the vitality and viability of the centre, the proposed development is also considered to comply with the requirements of Policy CR11.

Safe Access and Service Area Provision

24. The development has been considered relative to the requirements of Policy DD6 – Access and Transport Infrastructure which seeks to ensure that development is of an appropriate scale or includes appropriate mitigation proposals, makes safe and adequate provision for loading/unloading, access/egress for vehicles, pedestrians and road users and is well linked to the public transport system.
25. The Group Engineer – Development has assessed the development plans and is satisfied that access servicing, delivery and egress arrangements are satisfactory, safe and operable for both fixed body or articulated delivery vehicles and cars. This view has been confirmed by a safety audit of proposals. The number of additional vehicle movements attracted to the site as a result of this development is not considered to be significant and the food court is primarily intended to serve

customers visiting the centre as whole, not to attract as a specific destination for new visitors. The whole of the area subject to the application is private land and no impacts are likely to arise on the public highway.

26. Access and servicing arrangements will change from the previously approved development as a result of accommodating third party concerns and ensuring that deliveries to ASDA no longer come beneath the proposed buildings. On this basis the development is considered to make appropriate provision for access and servicing in accordance with adopted UDP Policy DD6 Access and Transport Infrastructure.
27. It should be noted that it is a long established principle of the planning system that it operates to serve the public good and not to protect private interests which are raised as an objection for consideration in this instance. Appropriate notice has been served on all landowners and the development will only proceed with owners permissions. Such issues beyond the service of notice are not material planning concerns. Comments related to the incorrect site layout refer to a parking layout approved under application P06/2178.

Design

28. The design and layout of the proposed scheme in accordance with the accompanying Design and Access Statement, pays full regard to the requirements of Policies DD1 Urban Design and DD3 Design of Retail Development. The site is highly accessible, provides a choice of safe access routes within the public realm. The development provides for a distinct and legible new access point to the centre and indicates the use of sustainable materials to elevations, which pay due regard to the scale and context of surroundings. Service areas are screened and care facilities are provided with spaces that will remain flexible to accommodate future alternative uses.

Procedural Information

29. It should be noted that should the Development Control Committee resolve that the application be approved, the regulations require that application must be referred to the Government Office for the region for consideration and possible intervention. A period of three weeks (which may be extended) is provided before such a decision is made.

CONCLUSION

30. The proposed development subject to an appropriate condition to restrict uses within categories A3-A5 will provide for a necessary and appropriate scheme, that will not impact upon the vitality of any nearby town or centre. The development also provides for appropriate access and servicing arrangements within an overall design package that is responsive to its context in accordance with adopted Unitary Development Plan Policies DD1, DD3, DD6, CR11, RSS Policies PA11 & PS11A and guidance contained within PPS6 – Planning for Town Centres.

RECOMMENDATION

31. It is recommended that the application be approved subject to:-
- a) Referral to the Government Office for the West Midlands under the Town and Country Planning (Shopping Development) England and Wales (No. 2) Direction 1993; and
 - b) Delegated powers to add/amend the attached conditions as appropriate; and
 - c) The imposition of the following conditions.

REASON FOR APPROVAL

The proposed development subject to an appropriate condition to restrict uses within categories A3-A5 will provide for a necessary and appropriate scheme, that will not impact upon the vitality of any nearby town or centre. The development also provides for appropriate access and servicing arrangements within an overall design package that is responsive to its context in accordance with adopted Unitary Development Plan Policies DD1, DD3, DD6, CR11, RSS Policies PA11 & PA11A and guidance contained within PPS6 – Planning for Town Centres.

INFORMATIVE

For the avoidance of doubt, this permission relates to plan drawing numbers: 1620-INC-SA(08)0001 B, MA(08) 0010 A, 0020 A, 0021 A, 0022, 0101 B, 0102B, 0201 A, 0202, 0301 A, 0302, 0111 C, 0112 C, 0211 C, 0212, 0213, -311 C, 0312, 0015 C, 0025 C, 0026 , 0027 C & 0028

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. Development shall not begin until details of the type, texture and colour of materials to be used in the external elevations have been submitted to and approved by the local planning authority. Development shall be in accordance with the approved details.
3. No development shall take place until there has been submitted to and approved by the local planning authority a detailed scheme of landscaping which accords with the landscape strategy hereby approved. Development shall be in accordance with the approved details.
4. Notwithstanding the provisions of the Town and Country Planning General Permitted Development (Amendment) Order 2005 (or any order revoking and re-enacting that order), none of the floorspace hereby approved for A3, A4 or A5 use

shall be utilised for purposes within Class A1 retail of the Town and Country Planning (Use Classes) Order 1987 (as amended).

5. Prior to the commencement of development a detailed scheme shall be submitted to and approved in writing by the Local Planning Authority to indicate pedestrian crossing facilities and safety access arrangements and signing within the service area. Such details shall be implemented prior to first use of the development and maintained for the life of the development unless otherwise agreed in writing by the Local Planning Authority.

C	UPDATED DRAWING NO.	21/27
F	GENERAL NOTES	01/18
A	DATE OF ISSUE	11/18
P	PROJECT NO.	11000
1	DATE OF ISSUE	11/18



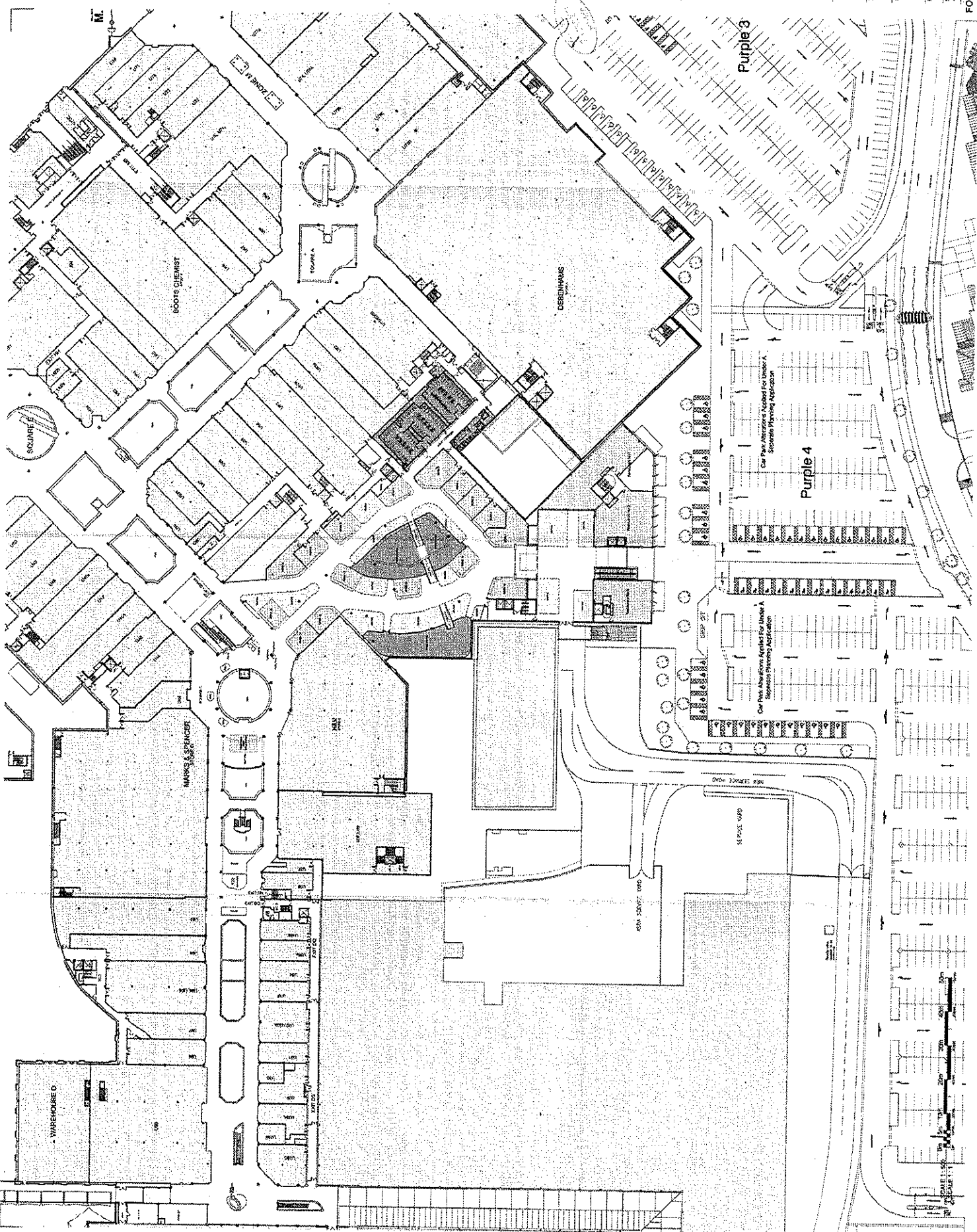
ASSOCIATES LTD
 1 Dairy Court North, Westmont East
 West Montreal, Q3 2P
 T: 514 342 3133 F: 514 342 5744
 E: info@incassociates.com



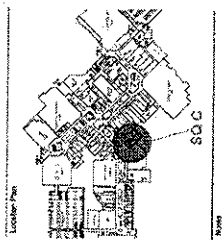
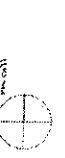
PROPOSED FOOD COURT: SQUARE C
 11000
 PROPOSED UPPER WALL PLAN
 SHEET 3A

Project No.	11000
Scale	1/8" = 1'-0"
Sheet No.	3A
Revision	
Date	

FOR ILLUSTRATIVE PURPOSES ONLY



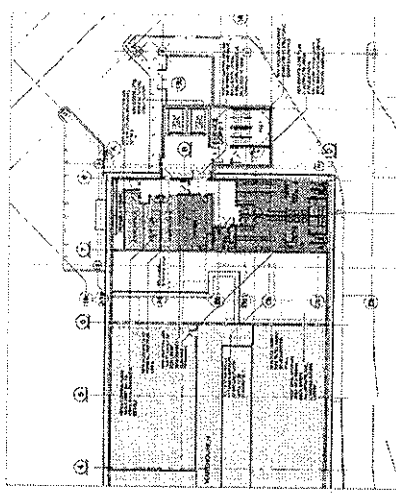
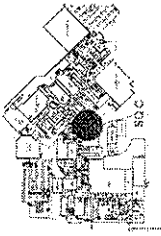
DO NOT SCALE FROM THIS DRAWING.
 PROJECT ARCHITECT TO BE ADVISED BY
 CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE.
 THIS DRAWING IS COPYRIGHT
 P 07 72372
 inc



DO NOT SCALE FROM THIS DRAWING.
 PROJECT SUBJECT TO THE NOTES OF
 CONTRACT TO VERIFY ALL DIMENSIONS ON SITE.
 THE DRAWING IS CONTRACT.



Location Plan



WAREHOUSE H - MEZZANINE FLOOR LEVEL

C Updated to Scheme 1a 21/07/07
 B General Amendments to Layout & 01/11/06
 A Original Layout & Grid Approved 14/02/05
 Rev Description Date



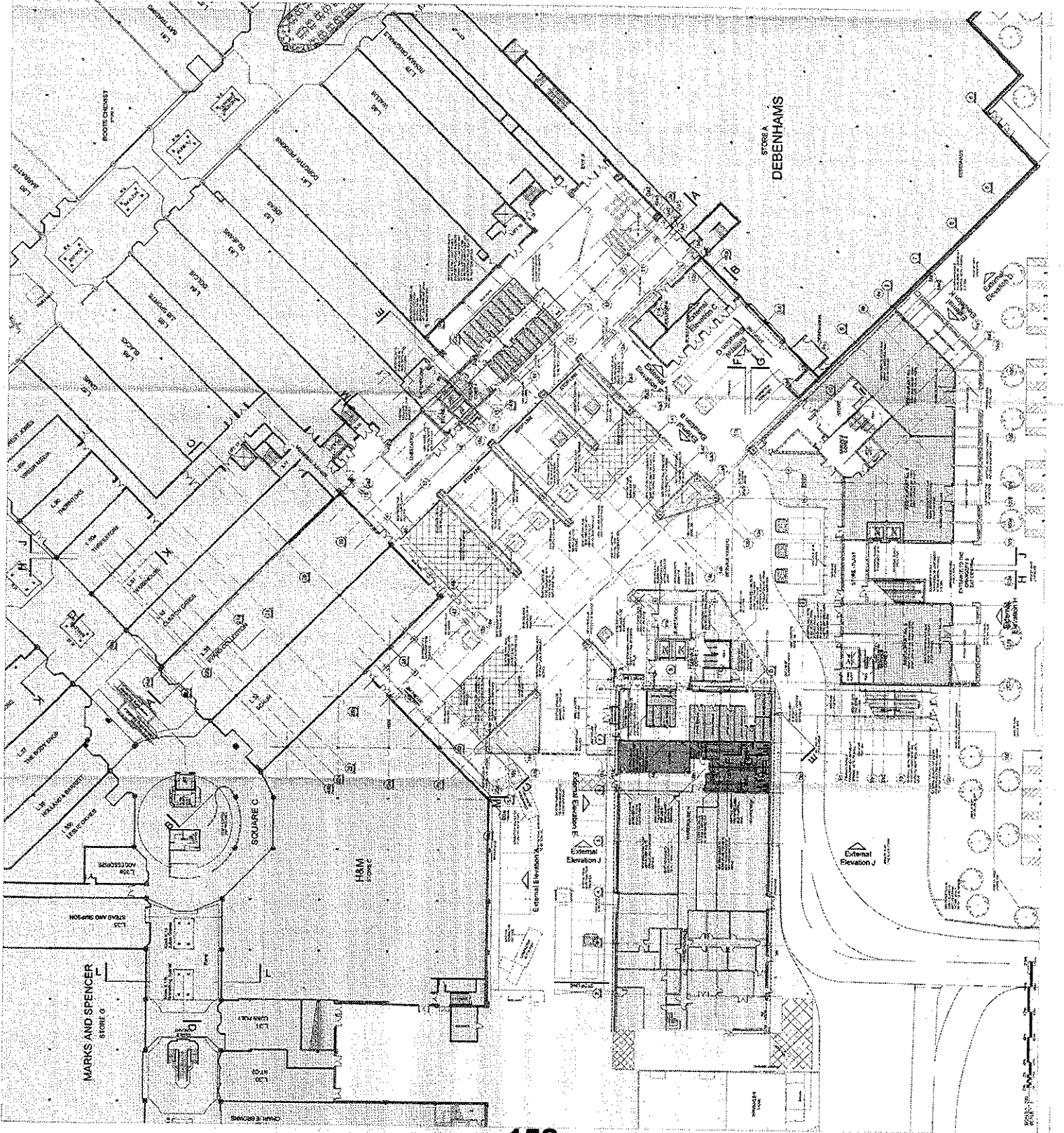
1 Deodar Court, Westfield Park
 Westfield Park, Westfield Park
 Westfield Park, Westfield Park
 Westfield Park, Westfield Park



Project: PROPOSED FOOD COURT DEVELOPMENT
 Location: WESTFIELD PARK
 Drawing No: PROPOSED LOWER LEVEL PLAN

Issue No: 1
 Issue Date: 21/07/07
 Issue By: [Signature]
 Scale: 1:100
 Date: 21/07/07

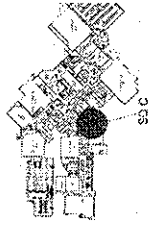
PLANNING



DO NOT SCALE FROM THIS DRAWING.
 THIS DRAWING IS THE PROPERTY OF
 WESTFIELD GROUP LIMITED. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE
 SPECIFICALLY IDENTIFIED IN THE TITLE. IT IS NOT TO BE REPRODUCED OR
 TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL,
 INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE
 AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF WESTFIELD
 GROUP LIMITED.



1:5000 Scale

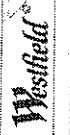


S2 C

Westfield Group Limited
 100 Broad Street, London E14 4JF
 Tel: 020 7552 1000
 Fax: 020 7552 1001
 Email: info@westfieldgroup.com



ASPECT ASSOCIATES LTD
 100 Broad Street, London E14 4JF
 Tel: 020 7552 1000
 Fax: 020 7552 1001
 Email: info@aspectassociates.com



Project: PROPOSED FOOD COURT DEVELOPMENT
 Location: 100 Broad Street, London E14 4JF
 Drawing No: 100-000-000-001
 Date: 15/03/05

Proposed Upper Mall Plan

Scale: 1:5000

Planning

