

PLANNING APPLICATION NUMBER:P12/1107

Type of approval sought	Full Planning Permission
Ward	St Thomas's
Applicant	Commercial Estates Group
Location:	22 - 37 KING STREET, 4 - 6 FLOOD STREET AND FALCON HOUSE, THE MINORIES, DUDLEY, DY2 8PG
Proposal	DEMOLITION OF EXISTING OFFICE AND RETAIL ACCOMMODATION. ERECTION OF FOOD STORE (A1) WITH ASSOCIATED PETROL FILLING STATION, CAR PARKING, LANDSCAPING, HIGHWAY IMPROVEMENTS TO FLOOD STREET AND OAKEYWELL STREET AND THE STOPPING UP OF PUBLIC HIGHWAY UNDER S247 OF THE TOWN & COUNTRY PLANNING ACT 1990.
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The site measures 2.10 hectares and lies within Dudley town centre. The site is located to the south of the High Street with the northern part of the site falling within the retail core of the town centre. Pedestrian access to the town centre is provided in the form of a crossing point linking King Street with Union Street to the north and via a pelican crossing linking King Street with the Churchill Shopping Centre and Long Entry located to the north. Long Entry is a public right of way that connects the High Street with King Street to the south. The site is L-shaped encompassing land to the west and east of Flood Street.
2. The main part of the site lies to the west of Flood Street with the northern boundary of this part of the development site fronting King Street, the western and southern boundary of the site adjoining New Mill Street and the eastern boundary of the site abutting Flood Street. The smaller part of the site lies to the east of Flood Street, to the south of Oakeywell Street and the north of the Dudley Southern bypass.

3. The land that lies to the south of King Street currently comprises a mix of A1 retail and A2 financial and professional service units. There are ten units that front King Street with five of these currently being vacant. One of the largest units within this block has recently re-opened as a supermarket (24-29 King Street). The other units currently occupied comprise a furniture shop, a blind retailer, a music shop and a unit offering printing services. The vacant units would have appeared to have been previously used for A1 retail purposes. The building fronting King Street was built in the 1960's and is single storey in nature with the exception of the unit on the corner of King Street and Flood Street that is 2 storeys.
4. Situated outside of the application site but still on the south side of King Street and on the corner of King Street and New Mill Street is Ye Olde Foundry Public House. The pub was built in 1936 and lies within the Dudley Town Centre Conservation Area. The remainder of the northern part of the site lies outside of the boundary of the Conservation Area. The public house is a 2 storey building.
5. King Street is a bus only carriageway with private vehicles being restricted access. Due to the heavy bus use of this street, there is a pedestrian safety barrier that extends outside of the frontage of No. 22-37 King Street to prevent pedestrians crossing the highway in an uncontrolled manner. There is a pedestrian crossing located immediately to the east No. 23 King Street providing access to The Churchill Shopping Centre and Long Entry. There are also two bus stops positioned adjoining the northern boundary of the site on King Street.
6. The northern side of King Street comprises predominantly the rear service areas associated with a number of retail units that front the High Street (Plaza Malls, Wilkinson). These buildings are modern being three and four storeys in height. Situated on the corner of Union Street and King Street is a two storey office building and adjoining this is a three storey club that fronts King Street.

7. Located to the rear of the retail units on King Street is Falcon House. This is a nine storey 1970's built office building with an associated under-croft and deck-accessed car park. The car park is accessed off New Mill Street. The Falcon House development encompasses much of the remainder of the western part of the site with its associated parking area being positioned immediately to the rear of Ye Olde Foundry Public House and the office building extending down towards New Mill Street in the south. The office development is set in from New Mill Street a little providing some softening in the form of a soft landscaping including a number of semi-mature trees. The southern boundary of this part of the site is formed by a low brick wall.
8. Immediately located to the north of New Mill Street is an area of short-stay surface level public car park. This car park comprises 74 spaces. The Minories forms the northern and western boundary to this car park and provides a second access to the car park along with the access located to the south of the car park off New Mill Street.
9. The Flood Street frontage associated with the application site comprises the short stay public car located off The Minories, Falcon House itself, a shed manufacturing company, two retail units (2 storeys) and a building that comprises a furniture shop that wraps around the corner of King Street and Flood Street (2 storeys).
10. The eastern part of the application site comprises a long-stay surface level car park accessed off Oakeywell Street. The car park adjoins the Dudley Southern Bypass with its southern boundary being formed by a grass bank planted with trees and a safety barrier. The rest of the car park is enclosed by a timber trip rail fence.
11. Immediately abutting the northern boundary of this part of the application site is a single storey retail unit used for furniture sales. Beyond the northern boundary of eastern part of the application site is a further area of short stay public car parking.

12. There is a significant change in levels across the application site with the land falling in a north to south direction. The junction of New Mill Street and Flood Street lie at 192.24 AOD and the junction of King Street and Flood Street lies at 201.8 AOD. This shows a fall of 9.56 metres from King Street to the bottom of Flood Street. The junction of New Mill Street and King Street lie at 200.28 and the junction of New Mill Street and Flood Street lie at 192.24 AOD. This shows a fall of 8.04 metres from the top to the bottom of New Mill Street.

PROPOSAL

13. The proposal seeks the demolition of existing office and retail accommodation, erection of food store (A1) with associated petrol filling station, car parking, landscaping, highway improvements to Flood Street and Oakeywell Street and the stopping up of public highway under s247 of the Town & Country Planning Act 1990.
14. There is no named operator for the proposed food store as part of the application. The proposed food store would comprise a gross internal floor area of 8178 square metres. Within this overall floor space figure would be the provision of 6267 square metres gross internal retail sales area, a 452 square metre gross internal ancillary cafe and the kiosk associated with the petrol filling station comprising 68 square metres gross internal. Other floor space associated with the food store would relate to the proposed lobby and service core/stairs. The food store would be sited to the west of Flood Street.
15. The food store would be served by an undercroft parking area comprising a total of 264 spaces including 18 disabled spaces and 12 parent and child spaces. Provision would also be made for 4 motorcycle spaces and 36 cycle spaces. The car park serving the food store would be accessed off Flood Street.

16. The proposed development would include a lower level parking area accessed off New Mill Street as a public car park. The access to the lower parking area would utilise the existing point of access associated with The Minories. The remainder of The Minories would be stopped up as a result of the proposed development. The lower level parking area would comprise 129 long stay car parking spaces including 9 disabled parking spaces.
17. The service yard associated with the food store would be located on the corner of Flood Street and New Mill Street. This would have its own independent access located off New Mill Street. This access would generally be in the same location as the access into the existing short-stay car park albeit the proposed access would be widened and improved.
18. The petrol filling station would be sited to the south of Oakeywell Street and to the east of Flood Street. In order to facilitate access into the petrol filling station, Oakeywell Street would be stopped up at its junction with Flood Street and a new highway would be constructed extending Oakeywell Street southwards and then westwards to then connect back with Flood Street approximately 55 metres to the north of the Flood Street island.
19. The proposed development would result in the creation of a signalised junction with the extended Oakeywell Street, New Mill Street and Flood Street. The signalised junction would control vehicles entering and exiting the petrol filling station, the new public car park and the food store itself. Access to the food store would be located approximately 50 metres to the north of the signalised junction via a mini-roundabout. The signalised junction would have pedestrian crossover facilities on each arm of the junction.
20. The proposed food store would be sited on the northern most end of the site fronting King Street and Flood Street. The proposed food store would be raised on stilts to provide under-croft parking with the re-grading of the existing levels across the site to provide a level shoppers car park below the store and an additional lower car parking level for public use. The proposed development would comprise a cafe and store

entrance at street level with King Street in the form of a mezzanine with the sales area being at a lower level. Access to the sales area would be via a glazed atrium that wraps around the corner of the store as it adjoins King Street and Flood Street. The atrium would comprise lifts, stairs and a travelator to provide access to the lower level store.

21. The proposed atrium would be higher than the main body of the store. The atrium would allow views through into the sales area of the store from Flood Street. The King Street frontage would include the proposed cafe and the potential for the creation of small retail units within the proposed atrium space and the potential for views through into the retail sales area.
22. The proposed store would be of a contemporary design. The building would be built using a solid facade cladding system to the New Mill Street frontages whilst the main entrance and focal point of the building would be formed through the addition of the atrium to the King Street and Flood Street frontages.
23. The Flood Street elevation would comprise vertical louvers to the glazed atrium as a means of providing solar shading. The King Street elevation would be broken up by the entrances into the atrium being framed by an asymmetrical frame and also through the addition of a feature window as part of the proposed cafe close to the King Street/New Mill Street/Union Street junction. The proposed materials would comprise metallic panels as a reference to the historic use of the site as an area for forges and blacksmiths.
24. The New Mill Street elevations of the store have been defined with the use of high level windows with projecting frames. The projecting frames would continue with the use of a similar material to the fins on the eastern elevation of the building and to the King Street elevation. The 'rear' elevations of the building that would face the bypass has been defined with the addition of corner features with a higher roofline than the main building behind and with the continued use of projecting fins similar to the proposed eastern elevation of the building.

25. The New Mill Street elevations comprise predominantly metal cladding. This would be broken up through the use of varying panel sizes and colours and the inclusion of semi-recessed glazed spandrel panels to add interest.
26. The proposed petrol filling station would be treated in a similar manner to the main store. The kiosk would be sited closest to the junction with the extended Oakeywell Street and Flood Street with the associated canopy to the east. Timber vertical fins would be applied in varying lengths around the canopy to provide a curved roofline making some reference to the form of the main store. The kiosk would be treated in cladding panels similar to those used on the main building.
27. The materials proposed in order to construct the store would be:
 - Rainscreen cladding
 - Aluminium framed glazed curtain walling
 - Metal louvres/fins
 - Timber fins to the PFS
 - Insulated panel roofing system with polycarbonate rooflights
28. The proposals also include a landscape, public realm and public art strategy. This includes improvements to King Street through:
 - Creation of a shared surface,
 - New pedestrian crossing across King Street
 - Enhancement of the existing pedestrian link along Union Street to the Market Place
 - Re-paving and enhancements to the Long Entry passageway to repave with natural setts
 - new tree planting,
 - provision of an outdoor seating area adjacent to the cafe,
 - new public space outside of store entrance semi enclosed with new tree and hedge planting. Provision of new public seating.

- External space extended southwards towards the bypass through the creation of small terrace plots providing further opportunities for seating and landscaping
- Creation of a green screen and tree and shrub planting around the proposed service yard and the southern boundaries of the food store part of the site.

29. The materials palette of the public realm enhancement scheme would comprise natural stone to Union Street and Long Entry to reflect the historic core of the town centre, man-made materials to the King Street corridor and then man-made paving units with natural stone trims to the store entrance area. Tarmac would be used only in secondary areas.
30. Street furniture would be of a contemporary style in the form of cast stone benches and metal bollards and bins.
31. The planting palette of the proposed landscape and public realm scheme would include native species as well as references to the proposed food store with the use of edible plants and herb species within the overall planting scheme. The planting palette would aim to be low maintenance with year round changing interest.
32. No detailed lighting scheme has been submitted but it is intended that lighting would form part of the overall development enhancing the scheme at night in terms of safety as well as providing a means to deliver feature lighting as a part of overall public art provision.
33. No detailed public art scheme has been developed but it is acknowledged as being an important component of the overall development. It is envisaged that public art would be incorporated into the elevations, within the paving or as part of the overall lighting strategy. Key locations have been identified as being on the southern elevation of the building that faces the bypass, on the Flood Street elevation immediately to the south of the proposed atrium and within the public square on the corner of Flood Street and King Street.

34. A number of technical reports have been submitted in support of the proposed development including:
- Planning Statement
 - Design and Access Statement
 - Energy and Sustainability Statement
 - Statement of Community Involvement
 - Transport Assessment
 - Archaeological Desk Based Assessment
 - Coal Mining Report
 - Flood Risk Assessment
35. During negotiation of the proposed development two sets of amended plans have been received relating to the overall design and appearance of the building and two sets of amended plans relating to the associated highway improvements, creation of new highways and public realm scheme.

Environmental Impact Assessment (Screening Opinion)

36. In accordance with Article 5 of the Environmental Impact Assessment (EIA) Regulations 2011, the Local Planning Authority adopted a Screening Opinion at the pre-application stage. The Screening Opinion considered and determined whether the proposed development would constitute EIA development as set out by the Regulations and therefore require the submission of an Environmental Statement with a planning application submission.
37. In providing the Screening Opinion, the Local Planning Authority had regard to the provisions of the Regulations and guidance provided in Circular 2/99 (Environmental Impact Assessment) as well as to the characteristics of the site, the scale and nature of the proposed development.
38. The proposal falls within the description of development as set out within Section 10 (b) of Schedule 2 of the Regulations being defined as an 'Urban Development Project' The site does not fall within a 'sensitive area' within the context of the

Regulations 2011 but due to the size of the site (exceeding 0.5ha) consideration must still be given as to whether the proposed development would likely to have significant environmental effects.

39. In determining whether the proposed development would have significant environmental effects consideration was given to the criteria set out in Regulation 4 (6) and to the advice set out in paragraph 33 of Circular 2/99 which states that an ES would normally only be expected to be submitted as a part of a planning application where;
- It was a major development of more than local importance;
 - The development was proposed within an environmentally sensitive location related to developments with unusually complex or potential hazardous environmental effects.
40. Annex A to Circular 2/99 provides further advice as to the need for EIA with respect to Schedule 2 development with paragraphs A18 and A19 providing specific advice regarding urban development projects and Schedule 3 of the Regulations setting out criteria to be considered in terms of the characteristics of the development, location of development and characteristics of the potential impact.
41. Having regard to the legislative background and context, the Local Planning Authority considered that development would not be of more than local importance and that the site is not within an environmentally sensitive area as defined by the Regulations. The site constitutes previously developed land located within Dudley town centre that has been designated for redevelopment within the Adopted Dudley Unitary Development Plan and the subsequent Dudley Area Development Framework.
42. The potential environmental effects of the proposed development during the demolition and construction phase would largely relate to noise, dust and vibration and the potential risk of groundwater from working with contaminated soils and the possible disturbance of archaeological remains. During the operational phase of the

development, the environmental effects are likely to relate to increased vehicle movements and changes with respect to noise and air quality.

43. The main environmental effects of the proposed development would relate to traffic, air quality, noise, ground water and archaeology. The Local Planning Authority considered due to the scale, nature, characteristics and non-environmentally sensitive location of the site, that the potential environmental impacts would not individually or cumulatively require the submission of an ES as part of a planning application submission.

HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
P01/0684	Comprehensive mixed development consisting of retail uses in class A1, including food store, retail use in class A3, leisure use in class D2, hotel in class C1, residential units, car parking, infrastructure and highway works.	Withdrawn	06/10/06

44. There are currently two other schemes for foodstore proposals within the town centre. Both of these applications relate to land associated with Cavendish House, off Trindle Road. The first application was submitted in full, presented to the Development Control Committee on the 7th January 2013 and subsequently approved following deferral to the Secretary of State on the 17th January 2013 and was for:

- P12/0581 - Demolition of existing buildings and erection of Foodstore (A1), car park and petrol filling station together with associated access works, servicing and landscaping.

45. The second application is also on this agenda and relates to a larger site area. The application is submitted in outline with means of access submitted for consideration and is for:
- P12/1042 - Redevelopment to provide retail superstore (A1), further retail, service and leisure accommodation (A1, A3, D2), conversion, redevelopment and alteration of premises along Hall Street to accommodate A1, A2, A3, A4, A5, B1 uses, taxi rank and office, transport interchange, public space, petrol filling station, highways and access works, car parking, landscaping and associated works (outline)(access to be considered);

PUBLIC CONSULTATION

46. The application was advertised by way of neighbour notification letters being sent to the occupiers of properties within close proximity to the site, the display of three site notices and the placing of an advertisement in the local press. Following receipt of amended plans, including alterations to the design and appearance of the food store, revisions to the site boundary, associated highway infrastructure works and the proposed stopping up of existing highways comments were due by 30 March 2013.
47. At the time of writing the report, six letters have been received. Two of these letters are from the same objectors providing further comments upon receipt of amended plans. On this basis, there are a total of four objections into the proposed development. The following material planning considerations have been raised:
- Concerns regarding the orientation of the store presenting itself to the rear elevations of the properties on the High Street. Its integration into Dudley town centre remains unaddressed.
 - The scheme would result in the creation of an isolated store serving to further detract from rather than support the regeneration of Dudley's town centre.
 - There are other more suitable sites available that could accommodate a food store.

- Policy CEN4 of the BCCS seeks the provision of an additional 5,000 square metres net of convenience floor space. The proposed development would include a gross sales floor area of 6,500 square metres. The proposal exceeds the threshold set by Policy CEN4.
- The town centre turns its back onto King Street and the Flood Street/King Street application site. It would be difficult to integrate a food store into the town centre at King Street due to its physical relationship to the main retail area.
- The proposed development does not make adequate provision to meet its car parking requirements. It relies on adjoining public car parks to make up the shortfall. These car parks are to be redeveloped for future uses thereby potentially resulting in a long term short fall of public car parking.
- Concerns about the impacts of the proposed development upon existing accesses to businesses off New Mill Street.
- The proposed development would have an adverse impact on the Dudley Town Centre Conservation Area.
- The scheme would have an adverse effect on the existing small businesses within Dudley Town Centre.

OTHER CONSULTATION

48. Group Engineer (Development): The submitted Transport Assessment, its subsequent Addendum and highway improvements proposed as part of the scheme would provide satisfactory operational vehicle capacity and pedestrian and cycle facilities to accommodate the traffic generated by the proposed development. The proposed development would reduce the number of long stay parking spaces available within the town centre.
49. The proposed development would result in the delivery of a number of highway improvements, the creation of new highway and the stopping up of existing highway. The detailed design of the highway works and the stopping up of existing highways would be worked up as part of a public realm scheme and in a subsequent S247 and a S278 Agreement which would include the following:

Dwg. No. L-90-100

- Resurfacing western footway of High Street from No. 42 to the junction with Union Street and the northern footway of Union Street from its junction with High Street to the junction with King Street.
 - Relocation and improvements to the existing signal controlled pedestrian crossing facility, at the eastern end of King Street.
 - Resurfacing the carriageway and footways, relocation of bus stops, introduction of street trees and furniture on King Street from its junction with Union Street to its junction with Flood Street.
 - Widening of the western footway of Flood Street to 3m and resurfacing from its junction with King Street to its junction with New Mill Street.
 - Resurfacing the eastern footway of New Mill Street from its junction with Flood Street to the rear boundary of the Foundry PH, including widening of the footway to take account of visibility requirements at the lower level car park access and the inter-visibility for the traffic signals at Flood Street/New Mill Street:
- Revoke existing *limited waiting* TRO on New Mill Street.
- Introduce *No Waiting or Loading At Any Time* TRO on New Mill Street from its junction with Flood Street to the junction with King Street.

Dwg. No. 02-03 Rev. E

- Introduction of ghost right turn lane on Flood Street to serve store car park access, closure of existing access to public car park and closure of existing Flood Street/Oakeywell Street junction.
- Revoke existing *limited waiting* TRO on Flood Street.
- Introduce *No Waiting or Loading At Any Time* TRO on Flood Street from its junction with King Street to the junction of Flood Street & Dudley Southern By-pass.
- Introduce *Prohibition of Driving* TRO at the junction of Flood Street & Oakeywell Street.
- Extinguish under Sec. 247 of the Town & Country Planning Act 1990 King Street Passage and The Minorities.
- Revoke existing *Limited Waiting* TRO's on both King Street Passage and The Minorities.
- Construction new stretch of highway to serve the proposed PFS and link into existing section of Oakeywell Street. This will form a four arm cross roads at the

junction at Flood Street/New Mill Street/Oakeywell Street, which will be controlled by traffic signals and include pedestrian crossing facilities.

-The new section of Oakeywell Street will need to be covered by a *No Waiting or No Loading At Any Time* TRO.

50. The applicant has submitted plans showing the preliminary layout of the highway improvements works including details of the creation of new highway and highways to be stopped up. The designs of the highway improvements as shown on these drawings (Dwg. No. 28849-A-02-03 Rev. E, 28849-A-03-01, 28849-A-03-02, 28849-A-03-10 Rev. C, 28849-A-03-20) are acceptable as preliminary layouts. The principle of extinguishing The Minories and King Street Passage is acceptable by the Highway Authority. The work on the existing public highway and those works requiring the adoption of new public highway proposed will be subject to a detailed design process under highways legislation, which will include the material specifications, vertical and horizontal alignments etc. The Highway Authority would want a condition placed on the approval preventing works from commencing on site until the detailed design of said works has been agreed.
51. Head of Environmental Health and Trading Standards: No objections with respect to ground conditions, noise or air quality subject to conditions.
52. Environment Agency: No objections subject to the scheme being implemented in accordance with the submitted Flood Risk Assessment, which includes a drainage strategy incorporating SUDs. Conditions would also be required with respect to the limitation of surface water runoff in order to prevent flooding.
53. English Heritage: No comments
54. West Midlands Police: A number of suggestions have been put forward that could improve community safety issues that may arise from the proposed development. This includes the design of store and its elevations, the service yard, petrol filling station and car park. Specific comments were also made regarding the nature and

design of and the proposed fire exits, CCTV, lighting, landscaping and the proposed materials of the store.

55. West Midlands Fire Service: No objections
56. CENTRO: The applicant and Centro have been in discussion regarding concerns raised over New Mill Street/Flood Street junction and the schemes ability to allow the implementation of the Metro. The applicant has undertaken further work on this issue and re-designed the associated highway works related to the development and its potential impacts upon Metro. The amended scheme provides a solution for the delivery of the detailed tramway design and would not prejudice the implementation of Metro. No objection.

RELEVANT PLANNING POLICY

National Planning Guidance (2012)

57. The National Planning Policy Framework (NPPF 2012) sets out the Governments planning policies for England and how these are expected to be applied. The NPPF is a material consideration in planning decisions, but does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved.
58. The NPPF advises that the purpose of the planning system is to proactively drive and support sustainable economic development to deliver the businesses, infrastructure and thriving local places that the country needs, to encourage the effective use of previously developed (brownfield) land, and focus significant development in locations which are or can be made sustainable. In the case of retail superstores this is the principle of town centre first.
59. The development of the site for a food store at this site is in general accordance with the broad NPPF aims in that this is a brownfield site in a highly sustainable location, and that the proposal provides an opportunity to deliver a significant job-creating development which will help to regenerate this part of the town centre.

Regional Spatial Strategy for the West Midlands (RSS11) (Jan 2008)

60. The Regional Spatial Strategy for the West Midlands was first issued as Regional Planning Guidance in June 2004. Under the Planning and Compulsory Purchase Act 2004, it became the Regional Spatial Strategy in September 2004. The Strategy is intended to provide a broad development strategy for the West Midlands region for 15 to 20 years. At that time, the then Secretary of State supported the principles of the strategy, but proposed several policy issues that needed to be addressed to fully develop the spatial nature of the document. These issues were divided into three phases, with the intention being that each would form a partial revision to the strategy.
61. Of particular relevance was 'Phase One' - the development of a long term strategy for the Black Country. This determined the designation of Brierley Hill as a strategic town centre in place of Dudley. Dudley will continue to perform an important role as a non-strategic town centre. The Phase One work was incorporated into a consolidated document, the Regional Spatial Strategy for the West Midlands, which was published in January 2008. This is the Regional Strategy now in force. Work on Phases Two and Three was undertaken, but revisions were never finalised. The Coalition Government has made clear its intention to revoke the regional strategies using powers contained within the Localism Act 2012, subject to the outcome of Strategic Environmental Assessment. Until such time the RSS remains a material consideration in the determination of planning applications.

Regional Spatial Strategy for the West Midlands (RSS11) (Jan 2008)

UR3 Enhancing the role City, Town and District Centres

PA11A Brierley Hill and Dudley

QE3 Creating a high quality built environment for all

EN2 Energy Conservation

T2 Reducing the need to travel

T5 Public Transport

Black Country Core Strategy Policies (2011):

CSP1 The Growth Network

CSP4 Place Making

DEL1 Infrastructure Provision

EMP5 Improving Access to the Labour Market

CEN2 Hierarchy of Centres

CEN4 Regeneration of Town Centres

CEN8 Car Parking in Centres

TRAN1 Priorities for the Development of the Transport Network

TRAN2 Managing Transport Impacts of New Development

TRAN5 Influencing the Demand for Travel and Travel Choices

ENV2 Historic Character and Local Distinctiveness

ENV3 Design Quality

ENV5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island

ENV7 Renewable Energy

ENV8 Air Quality

Dudley Unitary Development Plan (2005)

62. The Development Plan for Dudley MBC is made up of the Adopted Black Country Core Strategy, the adopted Brierley Hill Area Action Plan and the Adopted Saved Dudley Unitary Development Plan (UDP). The Core Strategy and Dudley UDP are the relevant policy documents that apply to this application. The Dudley UDP was adopted in accordance with the Planning and Compulsory Purchase Act 2004 and as such for 12 months from the day of publication of the NPPF (27th March 2012) full weight was given to the relevant Dudley UDP saved policies.

63. Given that this 12-month period has ended Paragraph 211 states that *'For the purposes of decision-taking, the policies in the Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of the Framework (NPPF)'* Paragraph 215 adds further that *'following this 12-month period, due weight should be given to relevant policies in existing plans according to their*

degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).'

64. Now that the 12-month adjustment period has ended planning officers have completed the Planning Advisory Service (PAS) 'Local Plans and NPPF: LPA Self Assessment' as part of the Council's process in assessing whether the Development Plan Policies are in accordance with the NPPF. The Dudley UDP 'Dudley Town Centre Chapter Policies (DTC1 – DTC2 (xvi) and Policy CR4; 'Protected Frontages,' promote sustainable development consistent with the NPPF.
65. In particular under the second theme of the framework 'Ensuring the vitality of town centre,' (NPPF Para's 23- 27) the Conformity Self Assessment confirms that the Saved UDP Dudley Town Centre chapter policies and the allocation of suitable sites (the development blocks) to meet the scale and type of development for Dudley are still appropriate. The policies/designations and Dudley Town Centre Inset Plan set out the strategy for the management and growth of the centre until they are replaced by a Dudley Area Action Plan. The UDP Dudley Town Centre Chapter, associated Inset Plan and Policy CR4 identify a town centre boundary, retail core and protected frontages which are to be saved until reviewed as part of the Dudley Town Centre Area Action Plan process. It is anticipated the AAP will be adopted in March 2016.
66. Overall, it can be concluded that the UDP Dudley Town Centre Chapter/Inset Plan and Policy CR4 are currently in direct conformity with the NPPF. There are no significant differences or conflict between them and they do not impact on the overall strategy.

DD1 Urban Design

DD3 Design of Retail Development

DD9 Public Art

DD10 Nature Conservation and Development

DD14 Advertisement Control

CR4 Protected Frontages

DTC1 Thorough and Public Spaces

DTC2 Street Blocks
DTC2 (xii) Block 21 – King Street/Flood Street
HE4 Conservation Areas
HE5 Buildings of Local Historic Importance
HE8 Archaeology and Information

Other Relevant Documents:

Dudley Area Development Framework (ADF) Opportunity Site 6: 'New Mill Gate,
Adopted December 2005
Access for All SPD
Parking and Travel Plans SPD

ASSESSMENT

Key Issues

- Principle;
- Policy Considerations
- Design, Public Realm and Landscape
- Impact on the Conservation Area/Heritage Assets;
- Archaeology
- Inclusive Design
- Access and Parking;
- Nature Conservation;
- Flood Risk;
- Air Quality;
- Planning Obligations.

Principle

67. The site is designated as falling within the a major opportunity site being identified as an area suitable for major new development integrated with the established retail

core (Policy DTC2 (XII) (Block 21 'King Street/Flood Street'). The north of the application site falls within the defined retail core (primary shopping area).

68. The site adjoins a further opportunity site (Policy DTC2 (ii) (Market Place South), which includes land to the south of the High Street and the Churchill Shopping Centre.
69. Policies DTC2 (ii and xii) included proposals for the down-grading of King Street and the removal of King Street to provide an opportunity for a strong retail frontage to King Street providing a direct link between opportunity areas ii and xii with associated public realm improvements. The supporting commentary forming part of the policy also highlights that improvements to Long Entry would contribute towards this overall objective as well as referring to the provision of improved and safer pedestrian access between the High Street/Market Place and King Street.
70. In seeking to deliver the redevelopment of the application site Policy DTC2 (xii) of the Adopted Dudley Unitary Development Plan sets out a number of specific design requirements for proposed development as follows:

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- retail frontage to King Street (area between New Mill Street and Flood Street);
 - mixed use with residential component;
 - good fit with surrounding residential areas;
 - high quality elevations to the Bypass/gateway;
 - clear, direct and convenient pedestrian connections to the rest of the town centre;
 - high quality two/three storey elevations to King Street;
 - high quality treatment to public spaces; and
 - The Midland Metro integration, and possible Metro stop provision;
 - comprehensive traffic management.
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71. Policy DTC1 (Thoroughfares and Public Spaces) provides a policy framework for the delivery of the redevelopment of the opportunity areas in terms of ensuring that the development blocks are well connected through the creation of a network of thoroughfares and public spaces that allow ease of movement within an attractive

environment. Improved accessibility for pedestrians, cyclists and public transport users forms an important aspect to this policy. In terms of these particular proposals, this relates to:

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- the ability of the scheme to not prejudice the implementation of the Midland Metro down Flood Street including the provision of a stop;
 - the creation of a new improved environment for pedestrians in the form of public spaces;
 - improving accessibility as well as the quality of the approach to this gateway into the town centre as part of the overall development proposals; and
 - ensuring the continued provision of sufficient town centre parking to support its vitality.
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72. Of specific relevance to these proposals is with Policy DTC1 seeking the creation of safe and convenient pedestrian movement along King Street between New Mill Street and Flood Street and between Market Place/Churchill Centre/Long Entry/King Street and public transport improvements in the form of the development of the Midland Metro. The Policy also seeks to deliver improvements to a number of major entrances into the town; this specifically includes the Flood Street roundabout.

73. The site is located adjacent to Dudley Town Centre Conservation Area. Ye Olde Foundry Public House that adjoins the western boundary of the site and properties located to the north of King Street are located within the Conservation Area. In this regard, it would be important that the proposed development complies with saved Policy HE4 of the Dudley Unitary Development Plan and the NPPF in terms of ensuring no adverse impact upon heritage assets.

74. The application site is also located within Regeneration Corridor RC11a: Dudley – Brierley Hill of the Black Country Core Strategy. This policy seeks to set the framework for the long term development of Dudley town centre reflective of its role as a focus for tourism and leisure development as well as being a centre for heritage-led environmental improvements. The strategy for future growth in this corridor is also

defined as where 'housing development opportunities around the larger centres of Dudley and Brierley Hill will increase walk-in population to serve day-to-day shopping needs and have sustainable regeneration benefits,' (Appendix 2 of the BCCS).

75. The Core Strategy Policy CSP1: 'The Growth Network,' promotes the creation of a network of vibrant and attractive centres offering an appropriate choice of facilities. The Centres and Regeneration Corridors provide the most sustainable locations for economic and housing growth across the Black Country although the BCCS makes it clear that improvements are required to accessibility and connectivity.

Policy Considerations

Retail Policy

76. Policy CEN2: 'Hierarchy of Centres,' identifies Dudley as a town centre in the second tier where investment in retail of an appropriate scale will be promoted to meet day-to-day shopping needs. The Black Country Centres Study (2009), undertaken by GVA Grimley, represents the most up to date retail evidence base for the Borough. The study includes capacity projections for convenience goods floorspace based on survey zones and uses population forecasts and expenditure growth projections. Refer to the Centres Study Appendix 5 – for Dudley's convenience goods catchment area Appendix 7 – for the convenience modelling; and Appendix 9 – for Impact Modelling. The GVA Study also includes a Town Centre Health Check for Dudley and the UDP Retail Health Check monitoring (Saved Policy CR4 'Protected Frontages') for Dudley is relevant.
77. The GVA Centres Study (2009) refers to the need to rebalance current convenience shopping patterns, and to seek to retain main food shopping expenditure within the catchments where it is generated. Para 8.54 states '*we consider the JCS (Joint Core Strategy) should prioritise the need for a new convenience foodstore in Dudley town centre on the King Street/Flood Street site, which will in effect bring about a redistribution of trade away from Brierley Hill and out-of-centre foodstores back into Dudley town centre. Given the need for a large foodstores capable of competing effectively with other stores in the area, we consider the JCS should make provision for*

up to circa 5,000 sq m net of additional convenience goods floorspace in Dudley town centre as a priority in the period up to 2016.'

78. On this basis Policy CEN4: 'Regeneration of Town Centres,' allows up to a total of additional 5,000 sq m net of convenience floorspace for Dudley town centre to address a clear quantitative and qualitative deficiency. Up to a total of an additional 15,000 sq m gross of comparison retail floorspace would also be acceptable. There has long been a commitment to provide such levels of convenience and comparison retail floorspace to bolster and enhance Dudley town centre.
79. The UDP Retail Study (1999) and subsequent updates indicated a requirement in Dudley for additional convenience retail floorspace. As a priority, a quantitative and qualitative need was identified for a new foodstore in the range of 5,000 – 8,000 sqm (gross) to act as an 'anchor' attraction for Dudley town centre. The site recommended as suitable was King Street/Flood Street, subject to good town centre and Midland Metro integration. Paragraph 7.2.25 of the study states the overall conclusion that Dudley Town centre's future would be best addressed by concentrating on attracting a major new foodstore to the area and the Flood Street site is the most suitable for such development. The Retail Study advised that it would be appropriate to focus retail floorspace within a 'compact' retail core but at the same time, however, there is the potential for major retail development on the Flood Street site to complement the retail provision in the town centre and act as an important 'anchor' attraction.
80. The application site is designated in part within the retail core for Dudley Town Centre and Policy DTC (xii) allocates Block 21 – King Street/Flood Street for a mix of uses including a 'required' large foodstore (part of opportunity site H), "preferred" A2, A3, B1, D2 and C3 use and "acceptable" comparison shopping. An unacceptable use on the site is a petrol filling station, which is being proposed as part of the scheme. Small scale convenience units would not be encouraged on this site because these could compete adversely with the established shopping core and market area where provision is concentrated. Development Block 21 provides a major opportunity for the integration of a substantial new development into the established retail core area and with public transport facilities. Any new development would need to meet the specific

design requirements that form part of Policy DTC2 (xii) and which are listed earlier in this report.

81. The Inspector's Report (March 2004) into objections to the Dudley Town Centre Policies and Proposals, UDP Development Plan in Para 8.3 clearly sets out that the new development schemes at Flood Street/King Street must be well integrated with the present Town Centre:

'If this were not achieved, there would be a danger that established retailing area on High Street and Market would suffer. In the specific context of Opportunity Site H, the Plan already requires clear, direct and convenient pedestrian connections to the rest of the town centre. This is based on the point highlighted in the text of the previous paragraph, which identifies this site as a major opportunity for integrating a substantial new development into the established retail core area and with public transport facilities. I am satisfied that in respect of this area the Plan recognises the importance of integrating development with the existing Core.'

Para 8.3 – 8.4, Pages 70 & 71, Inspectors Report

82. The UDP provides the statutory policy on the components of development on the Flood Street site. The Dudley Town Centre Area Development Framework (ADF) was adopted by the Council as Supplementary Planning Guidance (SPG) in December 2005. The ADF presents a vision, development strategy and illustrative development framework. The ADF itself describes its plans as illustrative and as showing just one of 'many possible scenarios.' The ADF states that in respect of implementation that the next step in terms of progressing the scheme is identifying a preferred development; would be to prioritise design considerations in terms of integration with the rest of the town centre and establishing the parameters to move forward to the detailed design stage.
83. The Dudley ADF explores in detail the nature of the development opportunity south of King Street, around Flood Street and looks at the important principles that would ensure that any new development helps sustain the town centre as a whole. The area is described as currently being dominated by large areas of surface car parking and

also contains Falcon House. The ADF describes the 'New Mill Gate Opportunity Area' as a new urban quarter proposed around New Mill Street and Flood Street incorporating a large foodstore, a mix of substantial new comparison retail and residential development. The vision is that development in New Mill Gate would re-establish a fine pattern of connected streets across the area with blocks designed to accommodate the needs of modern retail uses. In New Mill Gate East the core retail area of the town centre would be extended around Flood Street with frontage development and a Midland Metro stop. Development would be designed around a network of well defined public and private spaces with an emphasis on high quality to ensure that New Mill Gate would become an integral part of Dudley Town Centre.

84. Design requirements for the New Mill Gate area are set out on page 54. They are generally that there is a need for a strong retail frontage, mixed use with a residential component, high quality elevations, clear and direct pedestrian linkages, high quality spaces and full integration of the Midland Metro. The ADF puts forward fundamental design principles which include introducing traditional patterns of streets and public spaces around a compact retail core. The document goes on to state that if new significant retail development is brought forward south of King Street the layout should contribute to the creation of a legible and logical circular pedestrian route that connects the main shopping anchors through the market and the Churchill Centre. These objectives could be realised by a variety of different approaches to development on the site and not only by the form of development suggested on the illustrative plan. It is important that the proposal provides a strong retail frontage into the established retail core area. The key to delivering the integration would be highway and public realm improvements from the site to the High Street.
85. In policy terms (Policy DTC2 (XII): Block 21) the petrol filling station (PFS) proposal is deemed an unacceptable use on the site. However, the PFS is not proposed in isolation and it forms an ancillary offer to the wider foodstore proposal. Modern retailing requires a broad offer and the presence of an ancillary PFS offer would make the scheme more viable and attractive to the market. Without it, the long standing UDP aim of delivering an anchor foodstore within the retail core at this site may well not occur. A PFS is a suitable use, as a matter of principle, within a town centre environment.

However, it is also right to recognise that they would not be appropriate within the heart of a town centre, where the grain of building is much finer, and actively focused on pedestrian movement. The location proposed within the application site is outside the retail core and close to the existing car movement corridor of the by-pass thereby maximising 'pass by' trade potential. In view of these comments, the proposed use would be acceptable as an ancillary use to the foodstore in policy terms.

Other Policy Considerations

86. Adequate car parking provision is essential to support town centre vitality, but with a clear priority for shoppers and visitors short term needs. The Dudley ADF states the existing car parks would over time be replaced with multi-storey parking of equivalent capacity. Surface car parking represents an extremely inefficient use of valuable land within a town centre. The strategy for parking seeks to maintain the current level of parking provision, ensuring that it is evenly distributed around the town, has minimal impact upon the public realm and is safe and convenient for users. This is to be achieved through a combination of measures:
- Condensing surface parking in the Flood Street area into multi-deck parking to release land for new development.
 - Encouraging the provision of undercroft or on-plot car parking.
87. Beneath the trading floor of the foodstore a car parking level of 263 spaces is located for short stay parking and at ground level, undercroft parking of 128 spaces for long stay parking use is provided. The proposed development would therefore have a total of 391 spaces.
88. The Midland Metro route, which is proposed to run along Flood Street, has through the application discussions between DMBC Highways and Centro been accommodated within the overall development, and would provide a stop from which the foodstore would be accessed. The applicant's proposal would meet the Metro link requirements of Block 21 by providing acceptable integration and stop provision.

89. As the proposed foodstore is more than 1,000 sq m gross floorspace, the proposed development needs to comply Policy ENV7 of the BCCs, which states that *‘ All non-residential developments of more than 1,000 sq m floorspace (whether new build or conversion) must incorporate generation of energy from renewable sources sufficient to off-set at least 10% of the estimated residual energy demand of the development on completion. The use of combined heat and power facilities should be explored for larger development schemes. An energy assessment must be submitted with the planning application to demonstrate that these requirements have been met.’*
90. The applicant has submitted an energy/sustainability assessment. This statement is a general document and it is not entirely clear how much reduction in energy use would be achieved as a result of the proposed development. The Sustainability Statement mentions the use of combined heat and power (CHP) in achieving 10% reduction in energy requirement. However, no further information has been provided to support that technology. The statement also states that the project team would investigate the potential provision of suitable Low Zero Carbon (LZC) technologies at the development. Potential LZC's include photovoltaic, solar water heating etc. These technologies would indeed make a reduction in the emissions but again no information has been provided on the size or scale of these technologies specific to the scheme. The general nature of the use of renewable and energy reduction is largely due to the fact that the proposed development is speculative without an end user having been secured. To ensure compliance with Policy ENV7, a condition can be attached to a planning approval.

Planning Policy Conclusion

91. The whole of the King Street/Flood Street Opportunity Site (Site H) covers an area of 6 hectares. Notwithstanding the style of development envisaged in the ADF the primary ambition having regard to the above planning policy context for Flood Street is for the delivery of a foodstore. The Dudley UDP refers to the priority for a large foodstore as a ‘required use’ for the site. The King Street/Flood Street site remains the most significant Development Opportunity Site and ‘sequentially preferable’ for mixed use retail in Dudley town centre. The site has been allocated in Adopted Dudley Development Plan’s since 1993 and there has effectively been a presumption in favour

of retail development on the Flood Street for nearly 20 years. In the 1993 UDP the Flood Street Opportunity Area covers much the same site as it does in the current UDP and the then Policy TC12 included mixed uses including a large foodstore.

92. It is acknowledged that only one planning application (Ref:P01/0684 - submitted in April 2001 for its comprehensive redevelopment, comprising retail (including a foodstore) food and drink, leisure, hotel, residential and associated car parking) has been made on the site over the last decade and that was withdrawn in October 2006. Nevertheless, the King St/Flood St Block remains a suitable and viable location for a foodstore development.
93. The proposed foodstore would meet the requirements of Core Strategy Policy CEN4 for Dudley by addressing the quantitative and qualitative convenience retail deficiency in the town centre. The foodstore would act as an important 'anchor' attraction and it is suggested that the development would employ up to 300 staff full time positions. There would also be associated employment benefits during the construction, and during the operation and running of the foodstore. All the leading supermarket operators offer a range of training programmes for employees across the workforce and Core Strategy Policy EMP5 'Improving Access to the Labour Market' would be applied to ensure the recruitment and training of local people.
94. The principle of a foodstore on the site has already been established in policy terms as the proposed development would be appropriate within Development Block 21 – King St/ Flood St (UDP Policy DTC2 (I)).

Design, Public Realm and Landscape

95. The planning policy framework for delivering a successful development on the site has highlighted the key design criteria that a scheme should deliver to ensure that the proposed development would make a positive contribution to the regeneration and increased vitality of the town centre. The proposed development must link with the wider town centre in terms of being able to deliver public realm improvements and improve pedestrian connectivity between the wider town centre and application site.

96. The site is not without its difficulties in design terms. The site and therefore proposed building would have a public face on each elevation with the scheme fronting and facing King Street, New Mill Street and Flood Street and both the proposed foodstore and PFS facing Dudley bypass. The prominence of the site is heightened by its challenging topography with the site running down significantly from King Street along Flood Street / New Mill Street. The change in levels across the site have informed the resultant design and informed how the proposed building mass would be articulated and the development sited within the site in order to accommodate and exploit the major level changes.
97. In negotiating with the applicant over a number of months officers have sought to ensure the delivery of a good quality, inspiring and appropriately designed building that would have a distinctive character and which would deliver a new public realm context for the site and its wider connectivity with the town centre. A good quality scheme that would be well designed was vital given the gateway nature of the site being visible from long distance views and comprising one of the “first” major developments on land to the south of King Street when viewed from the Dudley southern bypass.

Access and Movement

98. The proposal sits within close proximity to the major strategic highway network with good car and bus access, with bus stop provision already currently provided at the King Street frontage and Dudley Bus Station being a short walk to the east of the site via King Street. Legible and currently connectable pedestrian routes through Union Street and Long Entry are present from the site to the heart of the town centre.
99. The proposed development through its public realm improvements and the creation of new and improved highways would significantly improve the current relationship of the site to the town centre and would enhance its connectivity and integration with the existing built form.
100. An initial drawing showing the general arrangements of public realm and highway works to form the basis of a detailed scheme has been submitted for consideration.

The scheme includes improvements to King Street and its pedestrian linkage with Long Entry and the enhancement of the existing footway crossover connecting the site with Union Street. The scheme would include the resurfacing of the whole length of Union Street and part of the High Street to provide a seamless link to the site from Market Place and the pedestrianised part of the town centre.

101. The design approach taken for the works to Union Street, the High Street and the northern part of King Street would involve the use of high quality natural hard landscape materials. These would seek to reflect the historic character of the medieval core. The materials associated with works within the curtilage of the building would be contemporary in nature in order to reflect the composition and nature of the proposed foodstore.
102. The developer would manage the immediate public realm around the site with works falling within existing or new highway to be secured via an S247 Agreement and within a future S278 should the application be approved.
103. The Midland Metro route, as protected by the Transport and Works Act of Parliament would be accommodated within the proposed development. The Midland Metro would run immediately to the east of Flood Street and would then cross Flood Street at the junction of Flood Street and New Mill Street. A number of amendments have been secured to the proposed development to ensure the scheme delivers alterations to the highway that would accommodate the Metro. This would avoid further works in the future and future proofs and the design and overall highway capacity of the proposed development.
104. The store has been designed to have regard to its potential connectivity with the Metro with an additional store entrance provided within the Flood Street elevation to provide a direct link from the proposed Metro stop into the food store.
105. The proposal would result in the loss of the current short stay car parking at The Minories. Access to the store car parking would be from Flood Street and this would be provided in the form of integral parking inside the continuous built form of the

store. The proposed development would provide links from the car park levels internally for customers to gain access into the store and would link externally to the town centre, bus station and proposed Metro through public realm improvements.

106. With the primary car parking for the store provided within its curtilage, supermarket trolleys would therefore be contained within the store confines. Measures would also be adopted within the detailed design of the store to ensure that trolleys would not be able to cross over the public roads surrounding the store in the interests of highway safety and design quality.

Layout and form

107. The proposal would result in the demolition of the disconnected and partly used current Falcon House and small row of 1960's retail units on the King Street frontage of the site with its redevelopment for a single foodstore within which a number of small retail units may be located within an inner atrium/"glazed street".
108. The proposed store would have two pedestrian entrances from King Street, with the primary entrance being located on the corner of Flood Street. The stores cafe entrance would provide access to the store at the junction of Union Street with King Street, and with the café at a mezzanine level inside.
109. The King Street and Flood Street elevations would comprise a glazed atrium. This would provide a light and airy sheltered active "inner street" with transparent glazing set within well articulated facades.
110. The glazed atrium would be large but its structure would be broken up through the use of interesting asymmetrical architectural door forms to the King Street frontage and the height of the overall structure would rise up towards the King Street / Flood Street façades. The atrium would be broken up with the use of vertical metal fins on its Flood Street elevation.
111. The amended scheme proposes a varied built form to both of the New Mill Street frontages. This includes raised elements on the corners of the building incorporating

the service core and as the building adjoins Ye Olde Foundry public house and the continued use of vertical fins and windows with projecting frames to add visual interest and activity to each of the facades. The New Mill Street frontages would comprise a contrasting palette of materials to the Flood Street and King Street elevations.

112. Servicing would be provided by a large open yard area taking in the southern end of the site, which would be contained by a well designed integral wall & fence. The boundary treatment would be broken up with a good width of soft landscape and tree planting.
113. The PFS would be located opposite the Flood Street elevation, and sits in somewhat isolation. In the event of the implementation of the Metro, the PFS would be in close proximity to the proposed line. The lack of other built form surrounding the PFS weakens its design and it is not ideal as a key gateway into the town centre. It is disappointing that the PFS would be separate from the main built form of the foodstore.
114. However, the PFS has been given careful consideration in terms of its design and appearance. The kiosk would be constructed of a similar palette of materials to the main foodstore, as well as the treatment of the proposed canopy with timber battens. The complementary design of the PFS to the store would help it assimilate visually into the overall street scene. Details have not been provided at this stage regarding the landscape and public realm setting of the PFS but this can be conditioned to ensure the integration of this part of the site with the overall development.

Scale and mass

115. Major supermarket proposals require large mass forms, and likewise of a large scale as a requirement of their business function. On a steeply sloping site such as this, the challenge has been to ensure the delivery of a design the layout and form that as far as possible has been able to break down the scale and massing within the street scene and to ensure that the built form has regard to its local context. The scheme has been significantly amended since it was originally submitted. The revised

scheme now breaks down the massing of each of the elevations which creating a distinctive and active face on all sides of the building.

116. The sloping topography has been used to accommodate the sales area of the store, its associated car parking level on stilts and a lower public parking area. The existing topography of the site serves to help reduce the scale and mass of the building.
117. The King Street frontage is presented at a smaller scale, and maintains a human scale to the street. The use of the asymmetrical door forms adds quality and interest to the building.
118. The sloping roof of the atrium at King Street / Flood Street would achieve a distinctive feature and would aide legibility marking the main entrance corner. The café end of King Street frontage respects the scale of “Ye Olde Foundry” and provides some separation between this historic asset and the new building.

Character and appearance

119. The present area within this edge of Dudley town centre comprises a poor built environment particularly in terms of built form, with poorly defined dead and inactive edged buildings of low or little architectural quality. The northerly side of King Street is such that shops within the Market Place present 'backs' in effect to King Street, acting then as 'fronts' to this key thoroughfare. The character of architectural style found within close proximity to the site is non-descript, save for the Olde Foundry pub, which is a locally listed building. The application site does not contain any built form of architectural or historic merit. It is therefore considered that the demolition of the buildings on the site is acceptable and would provide an opportunity to introduce a more appropriate built form of the highest quality that would serve to provide a positive gateway into the town centre.
120. The scheme has evolved considerably since its initial submission and the building has now been broken down by what would have otherwise been the creation of a monolithic building with flat plane facades. The proposed use of metal vertical “fins” applied to the atrium and the New Mill Street frontages would create an interesting

rhythm running and varying around the facades. The use of glazing panels set within contemporary cladding panels of varying shades of colour and the introduction of windows with projecting frames would also serve to add interest to the elevations to help deliver a positive built form.

121. The depth and form of the fins and the detail design of the feature windows with their deep set rectangular forms, as well as the variation and size of glazing panel arrangements to the facades would be critical in creating a building of positive character and appearance. Further details are required with respect to these details to ensure they deliver a good quality scheme and one which delivers what is shown in the submitted design and access statement and artist's impression of the proposed building. This detail can be secured by condition.

Landscape and public realm

122. The quality of connection between the application site and Dudley Market Place / Town Centre and the quality and range of the hard landscape, street furniture, street and feature lighting, soft landscape and maintenance would form a key part of the assimilation of the proposed development into the surrounding area and its connectivity with the town centre.
123. A public realm strategy has been submitted as part of the planning application submission. This strategy has evolved and developed through the design process with the appointment of a landscape architect by the applicant. This has ensured that landscape and public realm proposals are designed into the scheme at the outset and are not an after-thought and to ensure that the achievement of the connectivity of the development to the town centre. The strategy confirms the extent of the intended public realm improvements outside of the site and within the curtilage of the site and provides some detail as to the type of materials that would be used for hard surfacing and the form and nature of associated soft landscaping.
124. The public realm improvements would significantly improve the setting of the site. The works proposed within the immediate boundaries of the store would be contemporary in nature reflecting the design ethos of the proposed modern storey

with the works extending towards and linking with the town centre reflecting their historic context with the use of natural materials.

125. The soft landscaping would include a holistic tree planting scheme around the store along with shrub planting to soften the proposed development and provide the store with positive landscaped context. The private-public interfaces within the public realm are defined within the overall scheme. A 2m to 3m planted zone would be included adjoining the New Mill Street boundaries of the site. This would serve to break up the built form as well as allowing the integration of the proposed service yard wall within the overall development. Major tree planting would be located within this planting edge.
126. Some planting may be lost as a result of land subject to highway improvements and the creation of new highway. It would be important that if the public realm strategy has to be depleted in some areas in order to accommodate highway requirements that further enhancements and alterations to the scheme are made elsewhere to ensure the delivery of good quality public realm and landscaping associated with the development.
127. The public realm strategy forms a sound and robust basis in which to ensure the delivery of a good quality built environment for the store and its connection with the town centre. Conditions would be required to secure details of the detailed landscape and public realm proposals associated with the proposed development.

Public Art and Lighting

128. The design and access statement includes potential locations for public art and some suggestions as to the type and nature of artwork that could be incorporated into the overall development. This needs to be further evolved and agreed. The building provides a major opportunity to provide public art to increase the overall built form and quality of the development as well as enabling the scheme to make historic reference to the previous uses of the site.

129. It would be important that a lighting strategy is developed for the proposed development. Lighting provides an opportunity to support the overall public realm strategy as well as adding interest and vitality to the proposed building. The applicant has submitted illustrative day and night time street scene montages so show how lighting could be used to emphasise the character and appearance of the building. This drawing illustrates the positive contribution that lighting would have on the overall quality of the proposed development. Lighting details and subsequent maintenance can be secured by condition.

Conclusion

130. Overall, the evolved and amended scheme would result in the creation of a well designed development in both urban design and landscape terms. The proposed development would be of good quality and of an appropriate form, mass, scale, character and appearance. The public realm and landscape strategy would serve to further enhance the setting of the building, its assimilation into the existing built form and its connectivity with the town centre. The proposed development would provide an opportunity to make a positive contribution to the regeneration and increased vitality of the town centre thereby ensuring compliance with the NPPF, Policies CSP4, ENV2 and ENV3 of the BCCS, saved Policies DD1, DD3, DTC2 (xii) and DTC1 of the Dudley Unitary Development and the Dudley Area Development Framework (ADF).

Impact on the Conservation Area and Heritage Assets

131. The evolved and amended design would constitute a potential enhancement to the setting of the directly adjacent Dudley Town Centre Conservation Area. The reduced scale of the built form of the store adjacent to the historic 'Foundry' Public House, which lies within the Conservation Area itself at the corner of King Street and Flood Street, is respectful and responds to the more modest commercial presence of the historic building. The proposals to enhance the public realm around the pub would also make a positive contribution to its ongoing viability.

132. In the absence of any obvious historic design cues within the immediate vicinity, which is dominated by surface car parking, the contemporary somewhat eccentric

architectural design is refreshing and would be capable of setting an interesting precedent and a benchmark for future development in the area. The scheme now responds well to the steeply sloping topography and proposed elevations on all sides of the building are interestingly articulated and well detailed. The proposed development would therefore be in accordance with the NPPF, Policies ENV2 of the BCCS and saved Policies HE4 and HE5 of the Dudley Unitary Development Plan.

Archaeology

133. It is notable that before 20th century slum clearances the Flood Street area was home to the first streets and small scale industrial premises to spring up at the inception of the Industrial Revolution as Dudley's growing population burst out of the confines of the original medieval town and expanded onto its previously open fields. This was the epicentre of the Dudley Fire Iron and Fender Industry with small foundries and a host of other metal bashing trades sitting directly alongside worker housing, pubs and chapels in a dense network of tightly packed narrow streets.
134. The land is, therefore, of potential archaeological interest in relation to the late 18th and early 19th century expansion of Dudley Town Centre and it is considered that there is a relatively high potential for the survival on the site of significant below ground archaeological remains from the period of the Industrial Revolution. These will need to be taken fully into account and dealt with as part of the planning process and prior to development of the site taking place.
135. In this regard and in line with the NPPF and Saved UDP Policies HE8 & HE11 the applicant has commissioned an Archaeological Desk Based Assessment (DBA) and a report has been produced by CgMs Consulting entitled "Land off King Street Dudley" August 2012.
136. The DBA makes it clear that whilst the modern construction of Falcon House including underground car parking has no doubt removed much archaeological evidence in impacted areas there are areas of the development site, in particular the "eastern spur" where archaeological preservation might be expected. This does not in itself justify preventing development from taking place but any surviving remains

need to be located through archaeological evaluation trenching that demonstrates the actual degree of survival and allows an assessment of the significance of the material. Detailed archaeological recording may then need to be undertaken to an extent that would provide enough information to constitute reasonable mitigation against the potential destruction of the remains as part of the redevelopment. Dependent upon the condition, location and depth of surviving remains it may prove justifiable to require “preservation in situ”, which is the preferred policy route (Saved policy HE11 of the UDP).

137. This archaeological work would normally take place pre-determination of the planning application but it is apparent that the developer is not in a position to physically access the land in question at this point as it currently lies outside of their ownership. However, in the context that overall this is a positive development proposal in this particular case this can be dealt with via a negative condition on any planning consent.

Inclusive Design

138. In implementing the proposed development it would be important that it creates an inclusive design and meets the needs of all disabled people. The public realm strategy provides an indication of the siting and indicative design of street furniture. The detailed design of the entrance to the store and its car park would also require careful consideration in the context of providing an inclusive development.
139. It would be important that seating areas are defined and protected by detectable rails or barriers. All trees proposed in paved areas would need to adopt a bonded resin design with the infilling of the tree pit to avoid potential tripping hazards.
140. Seating is indicated within the overall scheme. This should include a variety of seating types to feature armrests (that should be provided to assist people sitting and standing) for at least 50% of the total number of seats; supportive backrests, for at least 50% of the seats and use of ‘warm to the touch’ materials e.g. wood/nylon.

141. Bollards positioned in the paved/pedestrian thoroughfares should be a minimum 1m high and contrast in colour with the background against which they are seen. Stainless steel bollards are unacceptable unless additional colour contrasting banding is included. Where street furniture has to be located in a pedestrian access route, it should be consistently and logically located to maximise accessibility and minimise obstruction. Sufficient space (preferably 1800mm, no less than 1000mm) should be maintained around the furniture to ensure unfettered access. Street furniture generally e.g. litter bins should also be made visually apparent, possibly by contrasting the colour of street furniture against the background against which it is seen.
142. In terms of the car parking provision for Blue Badge parking, at 18 spaces, is 1 space above the Council's Parking Standards SPD. However, there appears to be no allowance for enlarged spaces, disabled employees or the minimum allowance of 1 parking space for converted commercial vehicles. This can be secured by condition.
143. The pedestrian crossings traversing the car parks should include buff coloured tactile paving (contrasting in colour to the surrounding paving) to aid orientation and way-finding for people with visual impairments.
144. Access into the store, from the corner nearest to Union Street would be fully supported as it provides ready access from the town centre for disabled people.
145. The mass of glazing at street level should be made apparent to ease accessibility/recognition; sufficient to ensure that the glazing does not become a hazard for people with visual impairments. Glazing would need to be clearly defined using correctly sized and coloured contrasted markings fixed on the glass at two levels: 850mm to 1000mm and 1400mm to 1600mm.
146. Further details would also be required that all the proposed public entrances (including the main store entrance, entrances from the car park into the store and small retail units) would be easily identifiable by ensuring doors and or door frames contrast in colour from other elements of the building (typically adjoining walls or

screens). Glazed entrance doors, adjacent to, or incorporated within glazed screens (which pose particular problems for people with visual impairments) should similarly be easily identifiable, by contrasting in colour the top and sides of the entrance door frame. Where entrance doors are not automated, then these should not exceed an opening force greater than 30 Newtons.

147. The detailed design of these matters can be dealt with by condition to ensure compliance with the Access for All SPD.

Access and Parking

148. The submitted Transport Assessment confirms that the proposed development would generate an additional 2752 two-way trips over the operational day.
149. In accordance with the Parking Standard and Travel Plan SPD, the proposed food store would generate a requirement for the provision of a maximum of 503 parking spaces. The proposed development would provide a total of 391 parking spaces split with 263 for short stay parking and 128 for long stay parking.
150. The Highway Authority advises that larger retail uses would generally be expected to provide parking up to the maximum standard so that they are publicly available with maximum parking standards being exceeded where parking is to serve the wider centre. However, parking reductions below the maximum standard for stores of the size proposed will be considered having regard to the outcome of a Travel Plan and Transport Assessment.
151. Based on the trip rate information used to assess the impact of the development on the surrounding highway network, the development would have a maximum parking accumulation of 262 vehicles during the peak hour (11 to 12). Despite the maximum parking standards seeking the provision of a total of 503 spaces, the maximum parking demand associated with the proposed development shows the provision of a sufficient amount of parking to meet the peak demand associated with it. In this regard, the proposed amount of on-site short stay parking provision is acceptable.

152. The proposed development would also involve the loss of The Minorities car park and the lower part of the Flood Street car park for use as the proposed service yard and PFS respectively. The Minorities car park contains 74 short stay car parking spaces and the lower part of the Flood Street car park provides 148 long stay car parking spaces. The proposed development would therefore result in the loss of a total of 222 public car parking spaces.
153. The peak hour for car park occupancy within Dudley Town Centre is 1100 to 1200. This coincides with the peak parking demand for the food store when the upper car parking level would be fully occupied. The Highway Authority considers that since the upper car parking level would be full during the peak hour that it should not be considered within the car parking calculation with respect to the potential impacts of the proposed development upon town centre car parking. Therefore, the proposed development would result in the loss of 94 town centre parking spaces (222-128) that could be used to accommodate long or short provision.
154. Policy DTC1 of the Adopted Dudley Unitary Development Plan set out the framework for the delivery of the development of the opportunity sites with the preparation of a comprehensive parking strategy for the town centre forming a key component of understanding the appropriateness of future development and its impacts upon town centre parking. A town centre parking strategy has not been produced.
155. In the absence of an adopted town centre parking strategy and given that the loss of town centre parking spaces would only account for 2% of the overall town centre parking provision, the loss of town centre parking as a result of the proposed development would not have a significant impact upon the availability of town centre parking. The proposed development would therefore not be detrimental to the long term viability of town centre. The overriding positive benefits of the proposed development in regeneration terms outweigh the minimal impact upon the loss of a small amount of town centre parking.

156. In order to ensure that the proposed parking associated with the development operates appropriately, a car parking management plan for both the short stay parking on the upper level and the long stay parking on the lower level will need to be submitted and approved in writing by the Local Planning Authority. This management plan would establish appropriate charging regimes and the duration of stays.
157. In light of the above, the submitted Transport Assessment, its subsequent Addendum and the package of highway improvements would provide satisfactory operational vehicle capacity and pedestrian & cycle facilities to accommodate the traffic generated by proposed development. In this regard, the proposed development would be in accordance with Policies TRAN1, TRAN2 and TRAN5 of the BCCS.

Nature Conservation

158. The site is urban in nature with limited nature conservation value. There is an existing landscaped area planted with some semi-mature trees within the south-western part of the site. This would be removed as a result of the proposed development. However, the proposed public realm strategy would include tree planting to Flood Street, King Street and New Mill Street as well as the inclusion of hedge and shrub planting within the Flood Street area of public open space and the proposed New Mill Street planting area. The detailed planting scheme would be considered as part of a condition and would need to ensure that as well as serving to enhance the visual appearance of the development that it would also have nature conservation benefits. In this regard, the proposed development would ensure the delivery of nature conservation enhancements on site thereby being in accordance with Policy DEL1 of the BCCS and saved Policy DD10 of the Dudley Unitary Development Plan.

Flood Risk

159. The application site is located in Flood Zone 1 and satisfies the requirements of the sequential test in its suitability for redevelopment. Historic records do not suggest that the site has a history of flooding with the risk of flooding from groundwater and surface water being low.

160. The main impact of the proposed development would be to ensure the provision of a robust drainage strategy to prevent flooding by service water runoff and to ensure that the building would be designed to it would not be susceptible to flooding implications.
161. In this regard, the ground floor finished floor level of the foodstore would be built at a minimum of 0.15m above adjacent ground levels following the regarding of the site associated with the implementation of the scheme. Access and egress to the store would be via New Mill Street and Flood Street. The access points are located in Flood Zone 1 and would therefore provide dry access and egress to the site.
162. The redevelopment of the site would result in an increase in the impermeable areas of the site. The submitted FRA proposes the incorporation of SUDs to restrict surface water runoff from the site to equivalent Greenfield rates. The FRA includes two indicative surface water drainage strategies including the provision of storage through the use of cellular storage and over-size pipes. The detailed design of the drainage system would be secured by condition.
163. The submitted Flood Risk Assessment and drainage strategy for the site would ensure compliance with Policy ENV5 of the BCCS through incorporation of SUDs to restrict surface water runoff from the site to equivalent Greenfield rates.

Air Quality

164. The proposed development would comprise a number of positive features with respect to ambient air quality. The scheme would safeguard the potential construction and implementation of Metro as a sustainable form of transport as an alternative to the private car. The site is located within 200 metres of the bus station, located to the north-east of the site. The proposed public realm improvements would include an improved pedestrian crossing over King Street, which would aide access to the bus station. The scheme would include provision for cycle storage and the public realm strategy would significantly improve the pedestrian links and crossings to the site from and between the town centre. These measures would encourage the

use of sustainable travel modes thereby contributing towards an improvement to air quality.

165. The submitted renewable energy statement does suggest the potential installation of a CHP plant. This is not worked up in any detail and does not form part of the scheme at this stage. Further details would need to be submitted regarding its location, thermal capacity, fuel and proposed chimney height and in order for consideration to be given as to the appropriateness of this form of technology in improving air quality in this case.
166. Conditions can also be attached to secure measures that would serve to mitigate against any potential adverse impacts associated with the proposed development with respect to air quality. This would include the provision of electric vehicle charging points, provision of a low emissions delivery fleet and/or specification of a minimum Euro standard for delivery vehicles, provision of alternative fuels at the petrol station, provision of measures to discourage the idling of delivery or passenger vehicles on the supermarket premises and the submission and development of an employee travel plan. Subject to these conditions, the proposed development would be in accordance with Policy ENV8 of the BCCS.

Planning Obligations

167. Black Country Core Strategy Policy DEL1 'Infrastructure Provision' sets out the adopted policy framework for Planning Obligations within Dudley and the Planning Obligations SPD provides further detail on the implementation of this policy; these policy documents were prepared in accordance with national legislation and guidance on planning obligations.
168. Policy DEL1 requires all new developments to be supported by sufficient on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

169. In determining the required planning obligations on this specific application the following three tests as set out in the CIL Regulations, in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development.

170. Following consideration of the above tests the following planning obligations are required for this application:

On-Site Provision (to be secured by condition)

- Economic and Community Strategy Statement.
- Nature Conservation Enhancements to be incorporated into a detailed landscape scheme.
- Public Art to be included within the scheme.
- Public Realm improvements incorporated within the site boundary and adjoining highway land extending to and connecting with the town centre.
- Air Quality Improvements to be delivered in the form of the submission of a low emission strategy, a dust management plan during demolition and construction works and the submission of a renewable energy strategy.

171. It is considered that these contributions meet the necessary tests as stated above in that they contribute to the delivery of a sustainable development, are being provided directly on the development site itself and are deemed to be in scale and kind to the proposed development.

172. This development complies with the requirements of BCCS Policy DEL1 and the Planning Obligations SPD.

173. The applicant has agreed to the delivery of these onsite planning obligations.

Other Issues

174. The initial inception of the application site as an opportunity site did seek the delivery of a comprehensive mixed use development with improvements to the existing retail frontages of properties on the north side of King Street along with redevelopment. A food store has been identified on the application site for nearly twenty years with only one planning application being submitted during this time and this was withdrawn. The proposed development is not ideal in that it would not facilitate the full integration and connection of the site with the town centre. However, the scheme would have many other benefits including:

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- highway and public realm improvements that would link the site with Union Street/High Street and Long Entry/High Street thereby providing direct pedestrian connections with the rest of the town centre;
 - the integration of Midland Metro and its associated stop;
 - high quality design with active elevations to the bypass as a gateway into the town centre;

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- the ability to draw convenience retail spending back into Dudley town centre that currently leaks into out of town stores that are over-trading thereby enhancing the local economy;
 - the potential for positive spin-off economic benefits with patrons to the store then visiting the town centre for comparison shopping purposes;
 - it is anticipated that the foodstore occupier would employ 300 staff in the running and management of the store. There would also be associated employment benefits during the construction of the development.

175. There are a significant number of benefits associated with the proposed development. The scheme has the ability to deliver a food store in the town centre as an anchor and facilitator of further regeneration and positive economic benefits. The fact that the development does not fully and comprehensively connect with the town centre is not considered, on balance, a sufficient reason in which to not support the

scheme given the overriding and positive contribution that it would make to the role and function of Dudley as a town centre.

CONCLUSION

176. Notwithstanding the style of development envisaged in the ADF, the primary ambition having regard to the above planning policy context for Flood Street is for the delivery of a foodstore. The Dudley UDP refers to the priority for a large foodstore as a 'required use' for the site. The King Street/Flood Street site remains the most significant Development Opportunity Site and 'sequentially preferable' for mixed use retail in Dudley town centre. The site has been allocated in Adopted Dudley Development Plan's since 1993 and there has effectively been a presumption in favour of retail development on the Flood Street for nearly 20 years. In the 1993 UDP the Flood Street Opportunity Area covers much the same site as it does in the current UDP and the then Policy TC12 included mixed uses including a large foodstore.
177. It is acknowledged that only one planning application (Ref:P01/0684 - submitted in April 2001 for its comprehensive redevelopment, comprising retail (including a foodstore) food and drink, leisure, hotel, residential and associated car parking) has been made on the site over the last decade and that was withdrawn in October 2006. Nevertheless, the King St/Flood St Block remains a suitable and viable location for a foodstore development.
178. The proposed foodstore would meet the requirements of Core Strategy Policy CEN4 for Dudley by addressing the quantitative and qualitative convenience retail deficiency in the town centre. The foodstore would act as an important 'anchor' attraction and it is suggested that the development would employ up to 300 full time staff. There would also be associated employment benefits during the construction, and during the operation and running of the foodstore. All the leading supermarket operators offer a range of training programmes for employees across the workforce and Core Strategy Policy EMP5 'Improving Access to the Labour Market' would be applied to ensure the recruitment and training of local people.

179. The principle of a foodstore on the site has already been established in policy terms as the proposed development would be appropriate within Development Block 21 – King St/ Flood St (UDP Policy DTC2 (I)).
180. No significant adverse impacts have been indentified but positive impacts would arise in terms of economic, social, environmental and health and wellbeing issues.
181. In terms of economic issues the development will generate economic outputs, physical regeneration and local employment. The development could create 300 jobs in full time positions. The development would also generate jobs in the construction phase of the development. The foodstore would therefore generate a significant number of new jobs and economic benefits to Dudley, the Black Country and the West Midlands as a whole at a time of high unemployment.
182. The principle of the use of the site for retail purposes accords with the relevant Saved UDP land designation for this part of the town centre. As a substantial new retail development the proposal provides an opportunity to help sustain the town centre as a whole and would help to achieve one of the aims of the NPPF to secure economic growth in order to create jobs and prosperity.
183. A sufficient amount of parking would be provided, and the proposed highway improvement works would ensure that the increased vehicular and pedestrian generation can be satisfactorily accommodated. An appropriate amount of additional infrastructure would be provided to ensure that the development achieves its sustainability objectives.
184. In terms of social benefits, the development would help to achieve the NPPF aim of supporting the health and social well-being of communities, by creating a high quality built environment within an existing site that comprises poor quality built form that is under-utilised with a significant amount of vacant floor space and by providing an additional option for the residents of the Borough to purchase a range of quality, healthy foods.

185. With respect to the environmental benefits of the scheme, the development would contribute to the enhancement of the built and historic environment, having a positive impact on the appearance of the town centre and the character of the Conservation Area. A sufficient amount of parking is to be provided, the proposed highway improvement works would ensure that the increased pedestrian and vehicle generation can be satisfactorily accommodated and the scheme provides for the future implementation of Metro. An appropriate amount of additional infrastructure is to be provided in the form of public realm and nature conservation enhancements to ensure that the development achieves its sustainability objectives.
186. Finally there would be a positive health and wellbeing impact arising from the proposed development since it would be sufficiently linked with the rest of the town centre, would propose clear and legible pedestrian routes, an active street frontage and a high quality public space which would help to create healthy, inclusive communities.

RECOMMENDATION

187. It is recommended that the application is approved subject to:
- (a) Referral to the Secretary of State for consideration in accordance with Section 77 of the Town and Country Planning Act 1990.
 - (b) The applicant being invited to make an application to the Secretary of State, under Section 247 of the Town and Country Planning Act 1990 to close, create and improve highways as shown on drawing number Mouchel 1044480 SK02 120313 or subsequent revised drawing as agreed under delegated powers by the Director DUE, to enable development authorised by planning permission to take place to enable development authorised by planning permission to take place. The full costs and works to the Local Authorities satisfaction shall be met by the developer.
 - (c) the following conditions:

Reason for approval

Notwithstanding the style of development envisaged in the ADF the primary ambition having regard to the above planning policy context for Flood Street is for the delivery of a foodstore. The Dudley UDP refers to the priority for a large foodstore as a 'required use' for the site. The King Street/Flood Street site remains the most significant Development Opportunity Site and 'sequentially preferable' for mixed use retail in Dudley town centre. The site has been allocated in Adopted Dudley Development Plan's since 1993 and there has effectively been a presumption in favour of retail development on the Flood Street for nearly 20 years. In the 1993 UDP the Flood Street Opportunity Area covers much the same site as it does in the current UDP and the then Policy TC12 included mixed uses including a large foodstore.

It is acknowledged that only one planning application (Ref:P01/0684 - submitted in April 2001 for its comprehensive redevelopment, comprising retail (including a foodstore) food and drink, leisure, hotel, residential and associated car parking) has been made on the site over the last decade and that was withdrawn in October 2006. Nevertheless, the King St/Flood St Block remains a suitable and viable location for a foodstore development.

The proposed foodstore would meet the requirements of Core Strategy Policy CEN4 for Dudley by addressing the quantitative and qualitative convenience retail deficiency in the town centre. The foodstore would act as an important 'anchor' attraction and it is suggested that the development would employ up to 300 full time staff. There would also be associated employment benefits during the construction, and during the operation and running of the foodstore. All the leading supermarket operators offer a range of training programmes for employees across the workforce and Core Strategy Policy EMP5 'Improving Access to the Labour Market' would be applied to ensure the recruitment and training of local people.

The principle of a foodstore on the site has already been established in policy terms as the proposed development would be appropriate within Development Block 21 – King St/ Flood St (UDP Policy DTC2 (I)).

No significant adverse impacts have been identified but positive impacts would arise in terms of economic, social, environmental and health and wellbeing issues.

In terms of economic issues the development will generate economic outputs, physical regeneration and local employment. The development could create 300 jobs in full time positions. The development would also generate jobs in the construction phase of the development. The foodstore would therefore generate a significant number of new jobs and economic benefits to Dudley, the Black Country and the West Midlands as a whole at a time of high unemployment.

The principle of the use of the site for retail purposes accords with the relevant Saved UDP land designation for this part of the town centre. As a substantial new retail development the proposal provides an opportunity to help sustain the town centre as a whole and would help to achieve one of the aims of the NPPF to secure economic growth in order to create jobs and prosperity.

A sufficient amount of parking would be provided, and the proposed highway improvement works would ensure that the increased vehicular and pedestrian generation can be satisfactorily accommodated. An appropriate amount of additional infrastructure would be provided to ensure that the development achieves its sustainability objectives.

In terms of social benefits, the development would help to achieve the NPPF aim of supporting the health and social well-being of communities, by creating a high quality built environment within an existing site that comprises poor quality built form that is under-utilised with a significant amount of vacant floor space and by providing an additional option for the residents of the Borough to purchase a range of quality, healthy foods.

With respect to the environmental benefits of the scheme, the development would contribute to the enhancement of the built and historic environment, having a positive impact on the appearance of the town centre and the character of the Conservation Area. A sufficient amount of parking is to be provided, the proposed highway improvement works would ensure that the increased pedestrian and vehicle generation can be satisfactorily accommodated and the scheme provides for the future implementation of Metro. An appropriate amount of additional infrastructure is to be provided in the form of public realm

and nature conservation enhancements to ensure that the development achieves its sustainability objectives.

Finally there would be a positive health and wellbeing impact arising from the proposed development since it would be sufficiently linked with the rest of the town centre, would propose clear and legible pedestrian routes, an active street frontage and a high quality public space which would help to create healthy, inclusive communities.

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.

APPROVAL STATEMENT INFORMATIVE

In dealing with this application the local planning authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining the delivery of sustainable development. The development would improve the economic, social and environmental concerns of the area and thereby being in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan – 28849-02-01 Rev B, Proposed Site Layout Plan – 28849-02-03 Rev E, Proposed Parking Level Plan – 28849-03-01 Rev D, Proposed Site Sales Level Plan – 28849-03-02 Rev B, Proposed Mezzanine Level Plan – 28849-03-03 Rev B, Proposed Roof Plan – 28849-3-04 Rev B, Proposed PFS – 28849-03-10 Rev C, Proposed Lower Parking Level – 28849-03-20 Rev D, Existing Site Layout Plan – 28849-02-02 Rev B, View 1 day 28849-03-100 _Rev -, View 1 night 28849-03-100 _Rev -, View 2 28849-03-100 _Rev -,

Existing Site Sections – 28849 -04-001 _Rev -, Proposed Site Sections 28849-04-002 _Rev A, Proposed Building Sections 28849-04-003 Rev A, Proposed Elevations 28849-05-001 Rev A, Public Realm Proposals General Arrangement Plan 28849-L-90-100 _rev -

3. No development shall commence until details of nature conservation enhancement works have been submitted to and approved in writing by the Local Planning Authority. The nature conservation enhancement works shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
4. No development shall commence until details of public realm works have been submitted to and approved in writing by the Local Planning Authority. The public realm works shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
5. No development shall commence until details of works of public art have been submitted to and approved in writing by the Local Planning Authority. The works of public art shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
6. No development shall commence until an Economic and Community Development Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall address as a minimum, measures to increase the number of jobs open to local people available on the site and the development of initiatives that support activities to upskill local unemployed people of working age so as to support them into sustained employment as outlined in the Council's Planning Obligations Supplementary Planning Document. The development shall be implemented in accordance with the approved Statement and retained in accordance with the Statement for the lifetime of the development.
7. No development, excluding demolition, shall commence until a schedule of all materials to be used on the external surfaces walls and/or roof(s) of the building(s) has been submitted to and approved in writing by the local planning authority and thereafter the development shall only be constructed in accordance with these details.
8. Prior to the installation of any fixed Closed Circuit Television (CCTV) details shall be submitted to and approved in writing by the Local Planning Authority. The CCTV shall be implemented in accordance with the approved details and be maintained for the life of the development unless otherwise agreed in writing.
9. Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority of measures to protect the proposed glazed atrium on the King Street and Flood Street from accidental/hostile vehicle penetration. The scheme shall be implemented in accordance with the approved details and retained for the lifetime of the development.
10. Prior to the commencement of development details shall be submitted to and approved in writing by the Local Planning Authority of means to ensure the creation of an inclusive design that meets the needs of all. The submitted scheme shall include the detailed design of the public realm improvements including the siting, specification and design of street furniture, the detailed design of the entrances to the store and the car park. The submitted scheme should be designed in

accordance with the Access for All Supplementary Planning Document. The scheme shall be implemented in accordance with the approved details and retained for the lifetime of the development.

11. The foodstore hereby approved shall not be sub-divided into smaller retail units and shall be retained as one large foodstore as shown by approved Drawing 03-02 Rev B (Proposed Sales Level Plan).
12. Prior to the commencement of development, full details shall be submitted of the proposed public realm scheme as shown on Drawing No. L-90-100. Details shall include the type, texture and colour of the proposed hard landscaping materials and the siting and specification of all street furniture including seating, bollards and bins. Notwithstanding the details shown on the Public Realm General Arrangement Plan (L90-100), details shall include proposed works to the existing pedestrian safety rail and lighting columns along King Street to ensure the delivery of a coherent design. The scheme shall also include full landscaping details to be in accordance with the principles shown on Drawing No. L-90-100. The scheme shall include details with respect to the maintenance of the public realm scheme for the lifetime of the development along with timeframes for the implementation of works. The public realm and landscape scheme shall be in place prior to the opening of the store.
13. Prior to the commencement of development, details of the boundary treatments/walls/fences to be installed on the whole site shall be submitted to and approved in writing by the Local Planning Authority. These details shall include location of boundary treatment. Elevation details shall also be supplied, or planting species/distances, as appropriate. The development shall proceed in accordance with the approved details, which shall be installed on site prior to occupation and thereafter maintained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.
14. Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority of external lighting associated with the approved development. These details shall also include details of the lighting of the under-croft parking. The lighting details shall include details of the siting, specification, style, colour and type of lighting proposed along with details relating to hours of use, light spillage and light glare. The scheme shall be implemented in accordance with the approved scheme and retained for the lifetime of the development.
15. PD rights removed for temporary buildings
16. Development shall not commence on the relevant phase excluding demolition until a low emissions strategy for mitigating the air quality impacts of the development is submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before occupation of the relevant phase unless otherwise agreed in writing by the local planning authority. The measures in the agreed scheme shall be maintained throughout the life of the development.
17. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources (as described in the glossary of Planning Policy Statement: Planning and Climate Change (December 2007)). Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority [as a part of the reserved matters submissions required by condition x]. The approved details shall be implemented in accordance with the

approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.

18. No development approved by this permission, including the construction of any building, 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.

19. A Delivery Management Plan for the management and operation of the delivery process (whether laden or unladen) carried out shall be submitted to the local planning authority for written approval. The proposals in the approved Delivery Management Plan shall be fully implemented and maintained throughout the life of the development.
20. No retail unit shall be first occupied until electric vehicle charging points have been provided to 5% of all parking spaces (unless otherwise agreed in writing by the local planning authority) within each level of the parking area. The electric vehicle charging points and corresponding parking spaces shall thereafter be maintained throughout the life of the development. An external charging point shall be provided adjacent to each allocated parking space and shall be designated for the sole use of electric vehicles. The charging point shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to EN61296-2.
21. No development shall commence until details of pedestrian and cycle signage have been submitted to and approved in writing by the local planning authority. The development shall be implemented in full accordance with the approved details in accordance with a timetable to be submitted to and approved in writing by the local planning authority. The signs shall thereafter be maintained for the life of the development.
22. No development shall take place until details of the provision for the secure, and where appropriate, covered storage for cycles and motorcycles have been submitted to and approved in writing by the Local Planning Authority. Provision shall thereafter be implemented and maintained in accordance with the approved details.
23. None of the development hereby approved shall be first commenced until details of shower facilities for staff cycling to work has been submitted to and approved in writing by the local planning authority. The showers for staff shall thereafter be provided in accordance with the approved details and shall be retained for the life of the development.
24. Prior to commencement of development a shopping trolley management plan will be submitted to and approved in writing by the local planning authority. Prior to first use the shopping trolley management plan will be implemented and maintained for the life of the development.
25. No part of the development hereby permitted shall be commenced until details of any shopping trolley storage structures within the car park area have been submitted to and approved in writing by the local planning authority. The structures shall thereafter be provided in accordance with the approved details.
26. No part of the development hereby permitted shall be commenced until a car park management strategy, including charges and duration of stay permitted for both the upper and lower car parking levels have been submitted to and approved in writing by the local planning authority. The management strategy shall thereafter be provided in accordance with the approved details.
27. No building on the site shall be first occupied until the parking for that building has been provided in accordance with the approved details. The parking to that building shall thereafter be made available at all times for parking and shall be retained for the life of the development. In submitting the details regard should be given to the councils parking standards.
28. No development shall commence until the full technical highway design of the roads (including cycle lanes), pedestrian facilities and the public realm within the site or

affected by the external highway works, as indicated on Dwg. No. L-90-100 & Dwg. No. 02-03 Rev. E including details of lines, levels, cross sections, lighting, drainage, structures and signage has been submitted to and approved in writing by the local planning authority. The development shall be carried out in full accordance with the approved details prior to the first occupation of the buildings.

29. No demolition or construction shall take place on any part of the site until a Construction Method Statement incorporating a Construction Environmental Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period.

The statement shall provide for:

- the parking of vehicles of site operatives and visitors
- traffic management scheme for delivering the scheme and its associated highway improvements
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- construction hours
- noise control devices (silencers, SMART reversing alarms etc)
- delivery routeing
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt during construction
- measures to control the impact of vibration on surrounding buildings
- a scheme for the recycling/disposing of waste resulting from construction works.

30. Information on public transport services, in the form of an electronic 'Real Time Information Display' shall be provided to the satisfaction of the Local Planning Authority prior to the opening of the development.

31. The development shall not be occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority, including details of a Travel Plan Co-ordinator, Staff Travel Survey, Car Parking Management, Walking and Cycling initiatives, Publicity and Marketing, Set targets and monitoring and to join Company Travel Wise in Dudley together with a timetable for the implementation of each such element. The Travel Plan shall be implemented in accordance with the details approved by the local planning authority and remain operational for the life of the development.

32. All redundant dropped kerbs in the area of the Highway Works on the development shall be removed and replaced with full height kerbs and the adjacent Highway made good.

33. Prior to first occupation or first use of any of the development all redundant street furniture within the development shall be removed and the Highway made good.

34. No development shall commence until details of a scheme of works to identify, quantify and map onto a plan to be agreed in writing by the local planning authority of the location and condition of existing pink granite road kerbs. The plan shall identify a method of extraction and careful handling to avoid damage, cleaning and safe storage and a method of reuse within the application site public realm scheme; and any pink granite road kerbs not required as part of the public realm works within

the public highway ownership shall then be transported at the developers cost to a Council approved Safe Storage within the Dudley Borough unless otherwise agreed in writing by the local planning authority.

35. The applicant shall provide a package of highway measures which have been agreed with the Local Planning Authority and all necessary consents, licenses, permits or agreements have been completed or obtained in respect of such measures. The package of measures shall include Traffic Regulation Orders to secure:-
1. Revoke existing limited waiting TRO on New Mill Street.
 2. Introduce No Waiting or Loading At Any Time TRO on New Mill Street from its junction with Flood Street to the junction with King Street.
 3. Revoke existing limited waiting TRO on Flood Street.
 4. Introduce No Waiting or Loading At Any Time TRO on Flood Street from its junction with King Street to the junction of Flood Street & Dudley Southern By-pass.
 5. Introduce Prohibition of Driving TRO at the junction of Flood Street & Oakeywell Street.
 6. Revoke existing Limited Waiting TRO's on both King Street Passage and The Minories.
 7. The new section of Oakeywell Street will need to be covered by a No Waiting or No Loading At Any Time TRO.
- The development shall not be occupied until all such measures have been substantially completed in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

36. coal authority condition

37. No buildings or other permanent structures constructed pursuant to a planning permission (other than the Planning Permission) or pursuant to article 3 of the Town and Country Planning (General Permitted Development) Order 1995 will be sited in a manner that would prevent the possible future siting of the designated Rapid Transit Corridor.

38. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA), ref: 110759 FRA, Rev 1.5, dated 31/10/12 and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the 1 in 1, 30 and 100 year critical storms to greenfield equivalents
2. Finished floor levels are set in accordance with the approved Flood Risk Assessment (FRA)

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

39. No development shall commence until a scheme showing full details of attenuated surface water on site to the 1 in 100 year flood event standard plus an allowance of 20% for climate change has been submitted to the local planning authority. The

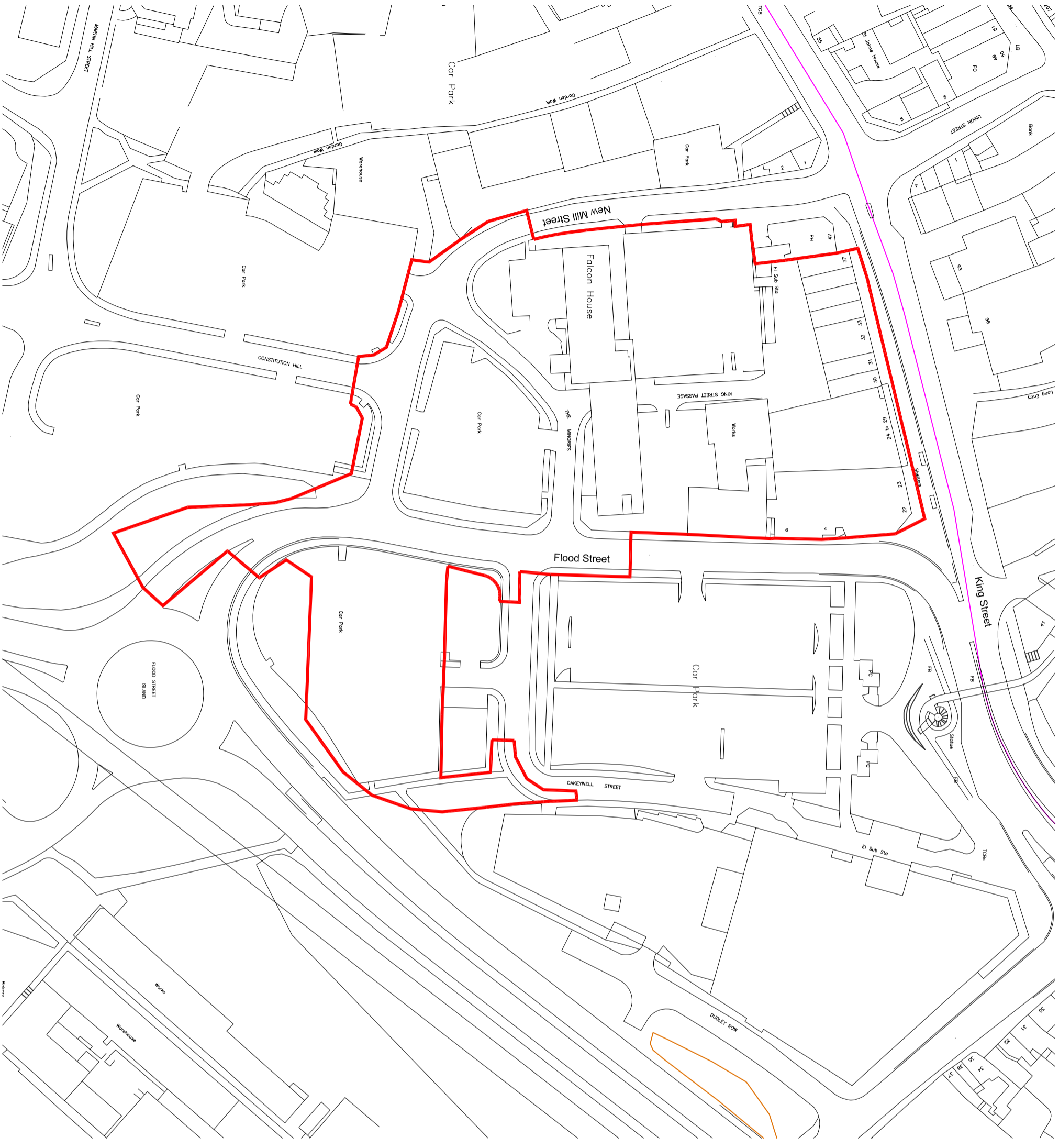
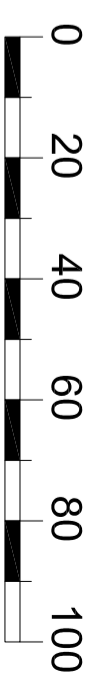
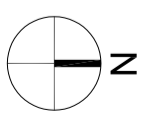
detailed drainage scheme proposed should provide a sustainable drainage strategy to include SUDS elements with attenuation, storage and treatment capacities incorporated.

40. Development shall not commence on the relevant phase excluding demolition until a low emissions strategy for mitigating the air quality impacts of the development is submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before occupation of the relevant phase unless otherwise agreed in writing by the local planning authority. The measures in the agreed scheme shall be maintained throughout the life of the development.
41. Work shall not begin on the demolition and construction of the development until a method statement for the control of dust and emissions arising from the demolition and construction of the development has been submitted to and approved by the local planning authority. All works which form part of the scheme shall be implemented throughout the construction and demolition phase of the development.
42. Prior to its installation, details of the CHP boiler(s) shall be submitted to and approved in writing by the Local planning authority. Such details shall include: an air quality assessment addressing the impacts of nitrogen dioxide and PM10 emitted by the boiler on relevant local receptors, and, as necessary, a scheme for protecting local receptors from the effects of such emissions; the height of the chimney serving the boiler, including its scale, materials and any housing. The boiler shall be installed in accordance with the approved details prior to the occupation of the development and shall be retained as such thereafter.

Contractors are not to scale dimensions from this drawing

Key:

 Application Boundary



Rev/Comment:	Shrn:	Date:

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Client: Commercial Estates Group
Project: Retail Development Dudley
Description: Site Location Plan

Status: Planning
Scale: 1:1250@A3 EG
Job number: 28849
Drawing number: 02-01
Date: 06.06.12
Revision:

Site Location Plan

Scale 1:1250@A3

Contractors are not to scale dimensions from this drawing

Key:

- Application Boundary
- Traffic Signal Visibility Line

Visibility Splay

- a Store Entrance
- b Potential Kiosk Units
- c Main Store
- d Mezzanine Level Plant

BASEMENT PARKING PROVISION: 264 spaces

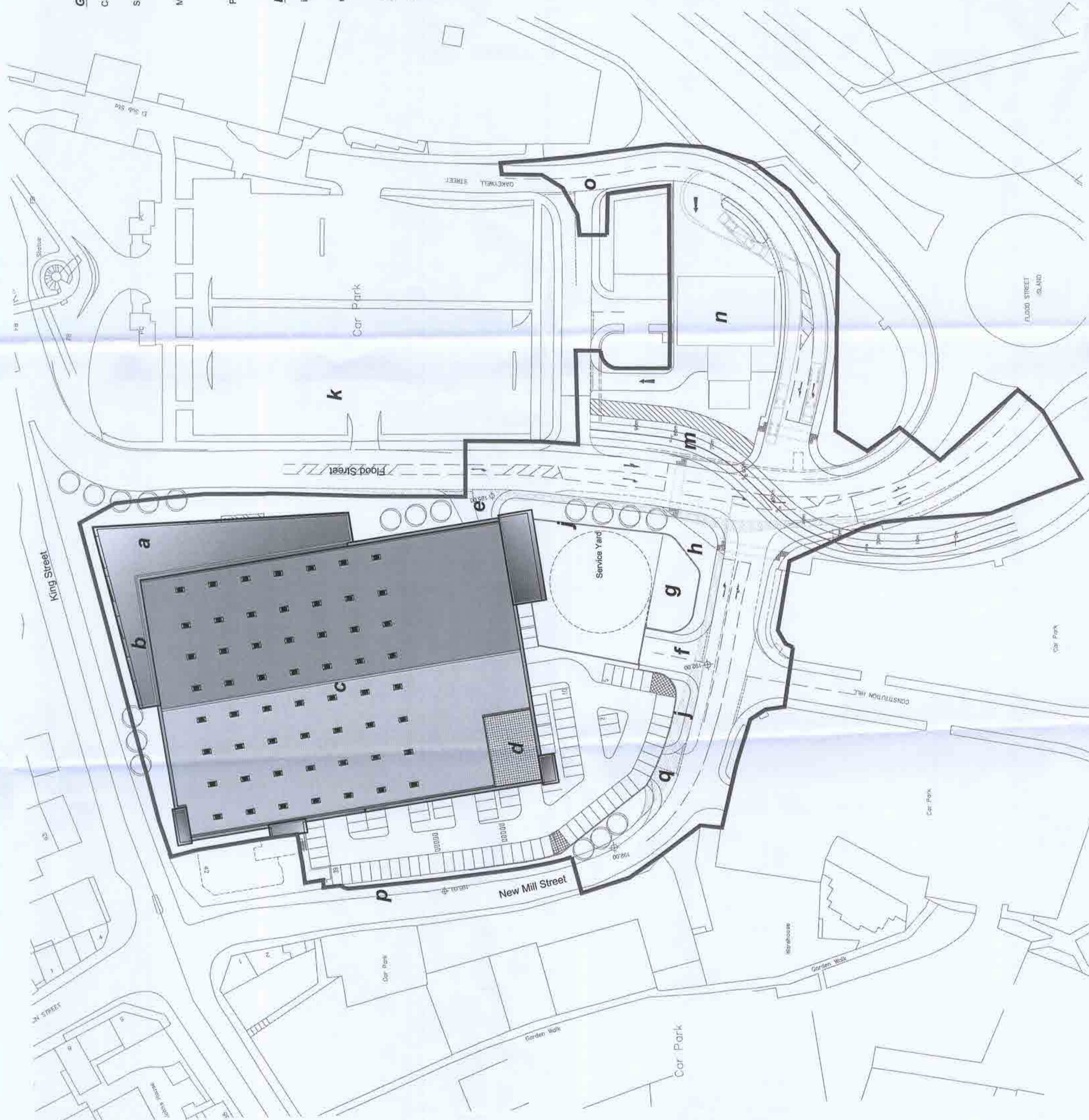
- including: Disabled: 18 spaces
- Parent and Child: 12 spaces
- not including: Motorcycle Parking: 4 spaces
- Bicycle Parking: 36 spaces

LOWER LEVEL PARKING PROVISION: 129 spaces

- including: Disabled: 9 spaces

GROSS INTERNAL AREA : 8178 sq.m.

Car Park Level	Lobby:	475
	Service Core/stairs:	191
	Lobby:	656
	Service Core/stairs:	191
Sales Level	Lobby:	191
	Service Core/stairs:	6267
	Sales:	6679
Mezz/Entrance Level	Lobby:	94
	Concessions:	194
	Cafe/terrace:	452
	Stairs:	775
	Kiosk:	68



NOTE:

Refer to Landscape Architects drawings for landscaping proposal, tree survey and tree retention/planting strategy.



A	Car park layout applied to accommodate vision splay	BP	23.11.12
B	Building plan submitted to local planning authority for approval	BM	26.07.13
C	PFS positions and access roads approved as per planning permission	BM	26.02.15
D	Final site boundary amended to include revised PFS and roads	BM	24.02.15
E	Drawing revised in accordance with Mouchras updated drawings	BM	07.03.15

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Client: Commercial Estates Group
Project: Retail Development
Dudley
Description: Proposed Site Plan

AMENDED PLAN
Planning
Scale: 1:500@A1
Drawing number: 28849
Date: 02-03
Revision: E
Date: 06.06.12
Project: Dudley
Revision: E
Original file: 050606 @ A1 Copyright Broadway Malayan Limited

Proposed Site Plan Scale 1:500@A1
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07.03.2015 10:27:40

Contractors are not to scale dimensions from this drawing

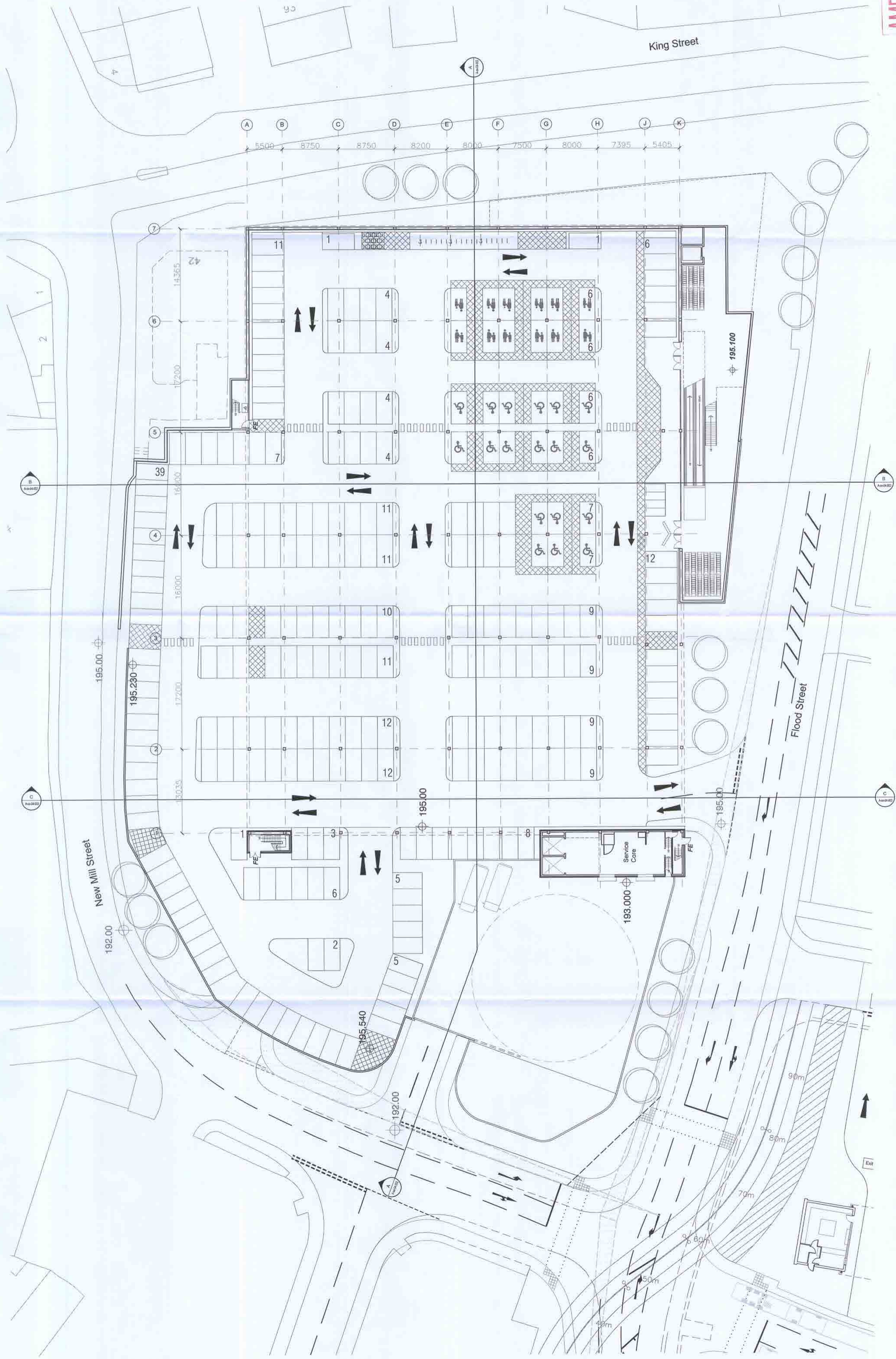
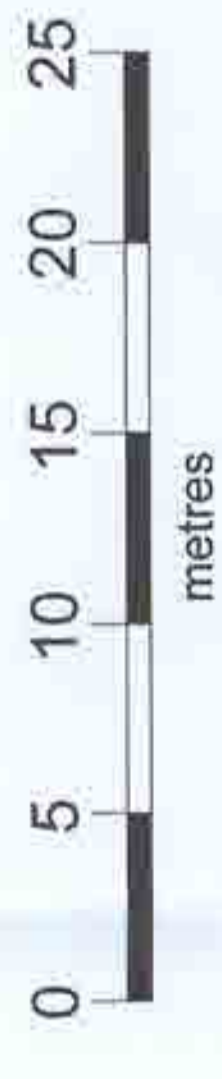
A	Carpark layout updated to incorporate vision splays from car park entrance	12.11.11
B	Building plan updated, layout and fire escape doors updated	26.01.12
C	PFS position and access revised as per discussions and drawings checked	26.02.12
D	Accessed to site in accordance with Macaulay's landscape drawings	05.03.12
Rev/Comment		Drawn

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Client: Commercial Estates Group
 Project: Retail Development
 Location: Dudley
 Description: Proposed Parking Level Plan

Planning
 Scale: 1:200@A0 EG
 Drawing number: 28849-03-01
 Revision: D
 Date: 06.06.12
 Drawn: EG
 Checked: EG
 Approved: EG
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AMENDED PLAN



Proposed Parking Level Plan Scale 1:200@A0