

COMMITTEE DATE: 09/12/2015

APPLICATION No. **15/01990/MNR** APPLICATION DATE: 11/08/2015

ED: **CANTON**

APP: TYPE: Full Planning Permission

APPLICANT: Re Assure

LOCATION: NEXT UNITS 5A AND 5B, CAPITAL RETAIL PARK,
LECKWITH ROAD, CANTON, CARDIFF, CF11 8EG

PROPOSAL: REAR EXTENSION TO EXISTING RETAIL STORE.

RECOMMENDATION 1 : That, subject to relevant parties entering into a binding legal agreement with the Council under the provisions of **SECTION 106** of the Town and Country Planning Act 1990, within 6 months of the date of this Resolution unless otherwise agreed by the Council in writing, in respect of matters detailed in paragraph 8.29 of this report, and subject to relevant parties signing any necessary deed of variation of the Unilateral Undertaking dated 9th November 2011 as detailed in paragraph 8.29 of this report, planning permission be **GRANTED** subject to the following conditions:

1. C01 Statutory Time Limit
2. Not more than 2049 sq. m (Net Sales) floorspace in unit 5a/5b, as extended by this permission, may be used for the sale and display of men's, women's and children's fashion and sports clothing and footwear provided that the remaining floorspace is used for the sale and display of DIY products, paint and wallpaper, garden supplies, furniture, carpets and other floor coverings, homewares, electrical goods and gas appliances, computers, office equipment and supplies, pet products and accessories and motor accessories.
Reason: In order to ensure that changes to the format and scale of the development would not compromise the retail strategy of the development plan and/or government planning guidance by introducing the sale of too large a proportion of goods that ought to be sold in town or district centres.
3. Proposed details of appropriate gas protection measures to ensure the safe and inoffensive dispersal or management of gases and to prevent lateral migration of gases into or from land surrounding the application site shall be submitted to and approved in writing to the local planning authority. All required gas protection measures shall be installed and appropriately verified before occupation of any part of the development which has been permitted and the approved protection measures shall be retained and maintained until such time as the local planning authority agrees in writing that the measures are no longer required.
Reason: To ensure that the safety of future occupiers is not prejudiced, in accordance with policy 10 of the Cardiff Local Plan and policy 2.63 of

the deposit Cardiff Unitary Development Plan.

4. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop, and no further development shall take place unless otherwise agreed in writing until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the LPA within 2 weeks of the discovery of any unsuspected contamination.
Reason: To ensure that any unacceptable risks from land contamination to the future users of the land , neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy 2.63 of the deposit Cardiff Unitary Development Plan.
5. Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation to be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes. Subject to approval of the above, verification sampling of the material received at the development site is required to verify that the imported aggregate is free from contamination and shall be undertaken in accordance with a scheme agreed in writing by the Local Planning Authority.
Reason: To ensure that the safety of future occupiers is not prejudiced, in accordance with policy 10 of the Cardiff Local Plan and policy 2.63 of the deposit Cardiff Unitary Development Plan.
6. Any site won material including soils, aggregates, recycled materials shall be assessed for chemical or other potential contaminants in accordance with a sampling scheme which shall be submitted to and approved in writing by the Local Planning Authority in advance of the reuse of site won materials. Only material which meets site specific target values approved by the Local Planning Authority shall be reused.
Reason: To ensure that the safety of future occupiers is not prejudiced, in accordance with policy 10 of the Cardiff Local Plan and policy 2.63 of the deposit Cardiff Unitary Development Plan.

7. The development shall be carried out in accordance with the following approved plans and documents:
- A-PL-102A PROPOSED SITE PLAN
 - A-PL-104 SMYTHS NEW FIRE ESCAPE
 - A-PL-200B PROPOSED ELEVATIONS
 - A-PL-201B PROPOSED ELEVATIONS
 - A-PL-300C EXISTING & PROPOSED SECTIONS
 - A-PL-301A PROPOSED SECTION
 - E6067-EXT-01 REV P1 EXISTING EXTERNAL SERVICES LAYOUT
 - E6067-EXT-02 REV P1 EXTERNAL LIGHTING SERVICES
 - A-PL-103A LOCATION PLAN
 - A-PL-101 REV B PROPOSED 2ND FLOOR & ROOF PLANS
 - A-PL-100 REV D PROPOSED GROUND & MEZZ PLAN
- Email dated 24/11/2015 from Pip Cole containing proposed floorspace figures.
- Reason: For the avoidance of doubt as to the extent of the permission.

RECOMMENDATION 2 : The contamination assessments and the effects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for

- (i) determining the extent and effects of such constraints and;
- (ii) ensuring that any imported materials (including, topsoils, subsoils, aggregates and recycled or manufactured aggregates / soils) are chemically suitable for the proposed end use. Under no circumstances should controlled waste be imported. It is an offence under section 33 of the environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site:
 - Unprocessed / unsorted demolition wastes.
 - Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
 - Japanese Knotweed stems, leaves and rhizome infested soils. In addition to section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed; and
- (iii) the safe development and secure occupancy of the site rests with the developer.

Proposals for areas of possible land instability should take due account of the physical and chemical constraints and may include action on land reclamation or other remedial action to enable beneficial use of unstable land.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land can be considered free from contamination.

RECOMMENDATION 3 : To protect the amenities of occupiers of other premises in the vicinity attention is drawn to the provisions of Section 60 of the Control of Pollution Act 1974 in relation to the control of noise from demolition and construction activities. Further to this the applicant is advised that no noise audible outside the site boundary adjacent to the curtilage of residential property shall be created by construction activities in respect of the implementation of this consent outside the hours of 0800-1800 hours Mondays to Fridays and 0800 - 1300 hours on Saturdays or at any time on Sunday or public holidays. The applicant is also advised to seek approval for any proposed piling operations.

RECOMMENDATION 4: The applicant is advised that the café mentioned in the retail assessment accompanying this application must remain ancillary to the primary use of the unit for retail purposes within class A1 of the Town and Country Planning (Use Classes) Order 1987 (or any Order amending or revoking and re-enacting that Order).

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 The application seeks planning permission for an extension to the rear of Unit 5 (occupied by Next), extending the store back into the rear service area. The extension will be finished in vertically laid composite cladding and brickwork to match the existing building and will extend approximately 28m from the existing rear elevation, 4.5m beyond an existing extension to the rear of the adjoining unit (unit 6). The extension will be the full width of the unit (around 39.5m) and where it joins the existing building it will be 3.5m taller (around 13.7m tall, reducing to 12.3m at the rear).
- 1.2 Next currently provides 3,492 sq.m of gross internal floorspace (1,873 sq.m at ground floor level and 1,619 sq.m on a mezzanine). The sales area totals 2,492 sq.m, split between clothing (969 sq.m), homewares (1,413 sq.m) and café (110 sq.m).
- 1.3 The proposed extension will extend the ground and mezzanine floors as well as providing a second floor area, and will result in a total sales area of 4,313 sq.m, split as follows:
Women's clothing – 931 sq.m;
Men's clothing – 579 sq.m;
Children's clothing – 539 sq.m;
Homewares – 2,068 sq.m;
Café – 196 sq.m.
In total, the additional gross internal area will be 3,172 sq.m and additional net retail sales area will be 1,822 sq.m - almost half of the additional space, including the new second floor, being given to non-sales.

2. **DESCRIPTION OF SITE**

- 2.1 The site comprises units 5a and 5b and includes part of the service yard which serves the retail park. The rear of unit 6, to the south east, has been extended into the service yard by around 24m and there is an enclosed plant yard for unit 4 (Marks and Spencer) adjacent to the north west. The rear elevations of industrial properties on Hadfield Road face the site from the south west.
- 2.2 Unit 5A/5B is a retail unit located within a group of 9 units (plus a supermarket and retail warehouse) on the Capital Retail Park, to the south of the Cardiff City Stadium. The unit has been occupied by Next since 2011 and had previously been vacant since the retail park was constructed in 2008.

3. **SITE HISTORY**

- 3.1 02/02679/R - Outline Planning Permission for Construction Of All Seater Stadium, Athletics Stadium, Foodstore And Bulky Goods Retail And Associated Buildings; Health And Fitness Club, Hotel, A3 Restaurant, Petrol Filling Station And Sports Pitches (All Weather And Grass) - All With Associated Car Parking, Landscaping And Highway Works.
- 3.2 04/01075/W - Amendment to Condition 39 of Planning Consent Ref 02/2679/R to allow for a wider range of goods to be sold on the consented retail scheme.
- 3.3 04/2689W - Modification Of Condition 39 Of Consent 02/2679/R As Modified By Consent 04/1075w To Allow In A Single Unit Of Up To 3252 Sq.m Up To 20% Of Floor Space To Be Used For The Sale Of Men's, Women's And Children's Clothing.
- 3.4 04/2690W - Modification Of Condition 39 Of Consent 02/2679/R As Modified By Consent 04/1075/W To Allow The Floorspace Devoted To Sports Clothing, Sports Wear (Including Sports Footwear) And Sporting Equipment To Be Increased From 3716 Sq.m To 4645 Sq.m.
- 3.5 04/2693W - Modification Of Condition 39 Of Consent 02/2679r As Amended By Consent 04/1075w That Floor Space Not Used As A Food Store May Be Used For Bulky Goods.
- 3.6 06/423/W - Modification Of Condition 39 Of Planning Consent Ref. 02/2679/R As Amended By Consents 04/1075w, 04/2689w, 04/2690w And 04/2693w To Alter The Floorspace Restrictions In Respect Of The Foodstore And Petrol Filling Station.
- 3.7 06/427/W - Partial Reserved Matters Application Pursuant To Consent Ref. 02/2679 For The Erection Of Non-Food Retail Units.
- 3.8 06/1664W - Modification of Condition 39 of Planning Consent Ref 02/02679/W to Allow Ancillary Food Sales in One Unit and In Floorspace Of Up to 744 sq.m.
- 3.9 06/1667W - Reserved Matters (For Part of Site- Retail Excluding Food Store)

and Health and Fitness Pursuant To Outline Consent Reference 02/2679/W

- 3.10 08/00192 - Minor amendments to plans approved under 06/1667/W and listed in condition 1 of consent to elevations and design
- 3.11 11/00932/DCO – Variation of condition 39 of 02/02679/R to allow occupation by Next for the sale of furniture, furnishings and homewares and men's, women's and children's clothing and footwear.
- 3.12 11/00931/DCO – Development of garden centre at rear of existing retail unit comprising part conservatory and part enclosed open area along with associated changes to approved service area and rear service doors.
- 3.13 11/02150/DCO - External alterations including new shopfront, plant compound and canopy.
- 3.14 12/00804/DCO - Variation of condition 39 of 02/02679/R to allow use of one unit for sale and display of men's and women's fashion clothing, shoes and accessories.
- 3.15 13/01448/DCO - Variation of condition 39 of 02/02679/R to enable a wider range of goods to be sold from a single unit of 4460 sq.m gross internal area.

4. **POLICY FRAMEWORK**

- 4.1 The application site is within an out-of-centre location in terms of retail policy.
- 4.2 *South Glamorgan (Cardiff Area) Replacement Structure Plan:*
R4 – Out of centre retail development will only be permitted where the proposal
 - i) cannot be accommodated on suitable alternative sites within or adjoining existing or planned centres;
 - ii) does not undermine the viability, vitality and attractiveness of existing and committed retail floorspace in existing or planned centres;
 - iii) does not undermine the viability of proposed urban regeneration schemes;
 - iv) is well served by public transport and is easily accessible for people wishing to travel other than by car; and
 - v) conforms with other development plan policies.
- 4.3 *Cardiff Local Plan:*
 - 10 (Contaminated or Unstable Land);
 - 11 (Design and Aesthetic Quality);
 - 17 (Parking and Servicing Facilities);
 - 18 (Provision for Cyclists);
 - 20 (Provision for Special Needs Groups);
 - 50 (Retail Development) – Proposals for retail development at locations other than [defined centres] will only be permitted if:
 - i) the proposal cannot be satisfactorily accommodated within or adjoining an existing or planned centre; and
 - ii) there is no need to preserve the site for its existing or allocated use, assessed against relevant policies of the plan; and
 - iii) the proposal is not within the countryside or urban fringe; and
 - iv) the proposal would not cause or contribute unacceptable harm to the vitality and viability of existing or planned

centres, or threaten strategies aimed at sustaining and enhancing such centres; and v) the proposal would not cause or contribute unacceptable harm to approved urban regeneration schemes; and vi) resultant traffic flows, travel patterns, energy use and other emissions would be minimised; and vii) the proposal would be well located by reference to public transport and for those wishing to travel other than by car; and viii) car parking provision and servicing facilities are adequate; and ix) the proposal is acceptable in terms of scale, design and amenity considerations.

4.4 *Deposit Cardiff Unitary Development Plan –*

2.20 (Good Design);

2.34 (Retail Development);

2.57 (Access, Circulation and Parking Requirements);

2.63 (Contaminated and Unstable Land);

2.74 (Provision for Waste Management Facilities in Development).

4.5 *Supplementary Planning Guidance - Access, Circulation and Parking Standards (January 2010)*

4.6 *Planning Policy Wales Edition 7 (July 2014) :*

4.4.3: Planning policies and proposals should (inter alia)

- Locate developments so as to minimise the demand for travel, especially by private car
- Minimise risks relating to unstable land, contaminated land and flooding
- Facilitate sustainable building standards
- Promote access to employment, shopping, education, health, community facilities and green space
- Promote employment opportunities
- Encourage diversity in the local economy

4.11.9: Visual appearance, scale and relationship to surroundings and context are material planning considerations.

4.11.11: Local planning authorities and developers should consider the issue of accessibility for all.

4.11.12: Local Authorities are under a legal obligation to consider the need to prevent and reduce crime and disorder in all decisions that they take.

7.1.3 The planning system should support economic and employment growth alongside social and environmental considerations within the context of sustainable development.

7.6.1 Local planning authorities should adopt a positive and constructive approach to applications for economic development. In determining applications for economic land uses authorities should take account of the likely economic benefits of the development based on robust evidence. In assessing these benefits, key factors include:

- the numbers and types of jobs expected to be created or retained on the site;
- whether and how far the development will help redress economic disadvantage or support regeneration priorities, for example by enhancing employment opportunities or upgrading the environment;
- a consideration of the contribution to wider spatial strategies, for example for the growth or regeneration of certain areas.

10.3.1 When determining a planning application for retail, leisure or other uses best located in a town centre, including redevelopment, extensions or the variation of conditions, local planning authorities should take into account (inter alia):

- compatibility with any community strategy or up-to-date development plan strategy;
- need for the development/extension, unless the proposal is for a site within a defined centre or one allocated in an up-to-date development plan;
- the sequential approach to site selection;
- impact on existing centres.

10.3.3 Where need is a consideration, precedence should be accorded to establishing quantitative need. It will be for the decision-maker to determine and justify the weight to be given to any qualitative assessment. Regeneration and additional employment benefits are not considered qualitative need factors in retail policy terms, though they may be material considerations in making a decision on a planning application.

10.3.4: Developers should be able to demonstrate that all potential town centre options, and then edge of centre options, have been thoroughly assessed using the sequential approach before out-of-centre sites are considered for key town centre uses.

10.3.11: gives guidance on controlling subsequent changes to out-of-centre retail developments. Conditions should be used to prevent the development being subdivided into a larger number of smaller shops, to limit the range of goods sold or to restrict the amount of floorspace.

13.7.1: planning decisions should take into account the potential hazard that contamination presents to the development, occupants and the local environment, and the results of specialist investigation and assessment by the developer to determine contamination and identify remedial measures.

13.7.2: where significant contamination issues arise, the local planning authority will require evidence of a detailed investigation and risk assessment prior to determination of the application. Planning permission may be granted subject to conditions specifying necessary remedial measures or may be refused if contamination cannot be overcome satisfactorily.

4.7 *Technical Advice Note 4 – Retailing and Town Centres (1996).*

5. **INTERNAL CONSULTEE RESPONSES**

5.1 *Transportation:* The submitted TS concludes that the proposed extension to the 'Next' store will not attract a significant volume of new traffic, but rather that the existing customer dwell time will increase as a result. This is accepted by officers, together with the surveys and examination of the use of the existing car park. I am also satisfied that servicing can be accommodated as per the submitted 'Autotrack' analysis for the extended store as has been included within this document. On the basis of the above, I can therefore confirm that I would have no objection to the application.

5.2 *Drainage:* No comments received.

5.3 *Pollution Control (Noise & Air):* Standard informative note on construction site

noise.

- 5.4 *Pollution Control (Contaminated Land)*: Should there be any site won recycled material, or materials imported as part of the construction of the development, then it must be demonstrated that they are suitable for the end use. This is to prevent the introduction or recycling of materials containing chemical or other potential contaminants which may give rise to potential risks to human health and the environment for the proposed end use.
- 5.5 The planning permission for the development of the Capital Retail Park required significant gas protection measures to be installed in all the retail units at the development. As such any extension to these units, as is being proposed by this application, must be afforded the same protection measures and therefore a non- standard ground gas protection condition is requested.
- 5.6 Conditions and informative statements are also requested relating to unforeseen contamination, imported and site won materials and contaminated/unstable land.
- 5.7 *Waste Strategy & Minimisation Officer*: An extension to the existing retail store may lead to an increase in the volume of waste produced. This should either be reflected in an increase in refuse storage capacity or an increase in the frequency of refuse collections. Identified refuse storage must be retained for future use.

6. **EXTERNAL CONSULTEES RESPONSES**

None.

7. **REPRESENTATIONS**

- 7.1 The application has been advertised by neighbour notification. No comments have been received.

8. **ANALYSIS**

- 8.1 The application seeks planning permission for the development of an extension to the rear of Unit 5, extending the store back into the rear service area which will align the rear of the store more closely with the adjoining unit. The design and materials of the extension are acceptable and will match the existing development, and the increased height of the extension above the existing roof line will not be noticeable from the front of the building as it will begin at the existing rear building line. The rear is not readily visible from a public viewpoint.
- 8.2 The main consideration with regard to this application is the impact of the additional retail floorspace and whether it accords with current planning policy relating to retail development. The original planning permission for the retail park (outline application 02/02679/R for the construction of an all-seater stadium, athletics stadium, food store and bulky goods retail and associated buildings etc.) was granted subject to a condition (39) which restricted the total

retail floorspace to no more than 40,757 sq.m gross with restrictions on the range of goods. Condition 39 has been amended several times, most recently by planning permission 13/01448/DCO and states:

The permission relates to a maximum gross retail (Class A1) and warehouse club (sui generis) floorspace of 40,876 sq. m. gross external area comprising:

- A. Not more than 40,876 sq. m. gross floorspace which cannot be used for purposes other than the sale of home improvement DIY products, plumbing and hardware, timber and tooling product, paint and wallpaper, garden supplies, coverings, soft furnishings, homewares, electrical goods, gas supplies, computers, office equipment and supplies, pet products and accessories, motor parts and bicycles and accessories and shall not be used for any other purpose including Class A1 of the Town and Country Planning (Use Classes) Order 1987 or any other revoking, amending or re-enacting that Order with or without modifications. None of this floorspace shall be subdivided to form units of less than 929 sq. m.*
- B. A single food store not exceeding 9,941 sq. m. gross external floorspace with a maximum of 6,641 sq. m net sales area which shall only be used for the sale of convenience goods, except that a maximum of 2,700 sq. m. of net sales area may be used for the sale of non-convenience goods of which no more than 930 sq. m. shall be used for the sale of clothing, and for no other purposes including those set out in Class A1 of the Town and Country Planning (Use Classes) Order 1987. (For the avoidance of doubt 'convenience food goods shall be taken to mean food (including pet food), drink, tobacco, household cleaning materials and paper products, newspapers and magazines). None of the floorspace shall be subdivided to form more than one separate unit except for 744 sq. m. which may be used for the ancillary sale of convenience goods from a single, separate, non food unit.*
- C. Not more than 6,969 sq. m. (GEA) may be used for the sale of toys, games and play equipment, baby care products, baby food, maternity wear, children's clothing and footwear. Floorspace devoted to the products (medicines, cleansing and pharmaceuticals), baby food, children's clothing and footwear and maternity wear shall only be display and retailed on an ancillary basis and shall not occupy more than 20% of 465 sq. m. in any unit whichever is less. None of this floorspace shall be subdivided to form more than 4 separate units.*
- D. No more than 3,252 sq. m. gross external floorspace shall be used for the sale of sport clothing, sportswear (inc. footwear) and sporting equipment.*
- E. Not more than 1114.8 sq. m, net floorspace in a single unit of 3176 sq. m gross external area may be used for the sale and display of men's, women's and children's fashion and sports clothing and footwear provided that the remaining floorspace is used for the sale and display of DIY products, print and wallpaper, garden supplies. Furniture, carpets and other floor coverings, homewares, electrical goods and gas appliances, computers, office equipment and supplies, pet products and accessories and motor accessories. In the event that the applicant requires a single unit to be use in part for the sale and display of men's, women's and children's fashion and sports clothing and footwear then the maximum net floorspace used for the*

sale and display of men's, women's and children's fashion and sports clothing and footwear will be reduced in a pro-rata basis and the remaining floorspace shall be used for the sale of DIY products, plumbing and hardware, timber and tooling products, paint and wallpaper, garden supplies, furniture, carpets and other floor coverings, homewares, electrical goods and gas appliances, computers, office supplies, pet products and accessories and motor accessories.

- F. A single unit of up to 1933 square metres (20,807 square feet) Gross External Area of 5% of the total permitted retail and warehouse club floorspace may be used exclusively for the sale and display of men's and/or women's fashion clothing, footwear and fashion accessories;*
- G. Except that a single unit of 4460 sq.m Gross Internal Area may be used for the retailing of the following goods (including goods which are seasonal for and ancillary to the goods listed below):*
 - a) Clothing, footwear and fashion accessories;*
 - b) Do-it-yourself goods;*
 - c) Household goods, namely furniture, pictures, homewares, carpets and other floor coverings, major household appliances, textiles and soft furnishings;*
 - d) Recreation goods, namely radio, television, computers, television hire (not excluding licences and repairs), sports goods, toys, games, camping equipment and other recreation goods, bicycles and books;*
 - e) Horticultural goods, garden equipment and plants; and*
 - f) Other goods, namely cards and stationary, cosmetics, toiletries, beauty and hygiene products, pharmaceutical products and medical equipment, toilet articles and perfumery, jewellery, silverware, watches and clocks. And up to 744 sq.m Net Sales Area of the same single retail unit may be used for the sale of convenience goods.*
- H. Not more than 90 sq.m (GEA) may be used as a kiosk associated with the petrol filling station.*

(For the avoidance of doubt, Convenience Goods shall mean food, non-alcoholic beverages, alcoholic drink, tobacco, non-durable household goods, newspapers and magazines. Net Sales Area shall mean the sales area within the building (comprising all internal areas accessible to the customer) but excluding checkouts, lobbies and customer toilets. Gross Internal Area shall mean the gross internal area ascertained in accordance with the Code of Measuring Practice of the Royal Institute of Chartered Surveyors (Sixth Edition).

- 8.3 Alongside the above variation of condition a separate full application ref 11/00931 was submitted for the development of a 929 sq.m garden centre to the rear of Unit 5, of which 465 sq.m was covered and 465 sq.m external space. This was approved in November 2011 but has not been implemented.
- 8.4 The increase in floorspace which results from the planning consents for the garden centre and mezzanine extension are acknowledged in the schedule attached to the Unilateral Undertaking which was entered into when consents for the garden centre and mezzanine (variation of floorspace limit) were issued. This schedule identifies Units 5a and 5b as having a maximum floorspace

(GEA) of 4,645 sq.m. A deed of variation to this Undertaking will be required as part of this proposal, as the total floorspace (GEA) of units 5a/5b will now be 6,997 sq.m.

8.5 To summarise the floorspace issue –

The original outline consent (02/02679/R) was for **40,757 sq.m** of retail (A1) floorspace.

The Costco warehouse is a “sui generis” use (not class A1 retail) and has been developed under a separate full consent. The floorspace within that permission is limited to 12,893 sq.m. Costco have subsequently gained planning consent for a small amount of A1 retail in respect of their opticians. Costco has been implemented through a combination of these consents, not the outline permission.

The food store (Asda) is limited in area to 9941 sq.m. This has not been fully built out. Approximately 8304 sq.m have been developed.

The floorspace on the rest of the retail park (i.e. excluding Asda and Costco) is not only controlled by the limit set by the condition on the outline consent but also by a Unilateral Undertaking, which was needed in order to provide further controls over floorspace changes when planning consents ref 11/00931 and 11/00932 were granted (i.e. the consents which allowed Next to sell fashion and sports clothing as well as homewares, to extend the premises at the rear to accommodate a garden centre and to add a mezzanine floor).

This UU includes a schedule of the maximum retail floor space permitted on the site (excluding Asda and Costco, which are in different ownership) including the proposed garden centre and mezzanine, the total being **20,690 sq.m** Gross External Area. The schedule apportions 4645 sq.m to the Next store (which includes the 929sq.m garden centre and the 119sq.m second floor mezzanine).

The UU will need to be amended if the proposed extension is approved. Neither the garden centre nor the 2nd floor mezzanine would be capable of being implemented if the proposed extension is built. The Schedule of retail floorspace will therefore include 6997 sq.m GEA for Next (units 5a and 5b) rather than 4,645 sq.m. The maximum retail floorspace on the site (excluding Asda and Costco) will therefore be **23,042 sq.m**.

If the 9941 sq.m permitted for the Asda store is added to this figure, the total retail floorspace of the retail park will be 32,983 sq.m (i.e. it will be below the 40,757 sq.m set by the original outline consent). If only the developed Asda floorspace is added, this figure falls to **31,346 sq.m**.

If Costco were to be added to this figure, the total floorspace would be 44,239 sq.m (i.e. 3,482 sq.m, or 8.5%, more than was originally approved); however, Costco is a “sui generis” warehouse club, not an A1 retail use, developed under a separate planning permission, therefore it is acceptable to discount its floorspace from the total retail floorspace figure for the retail park.

Therefore, the original A1 retail floorspace figure for the retail park as granted by outline consent 02/02679/R will not be increased as a result of this development.

8.6 Retail Policy

The application site is within an out-of-centre location in terms of retail policy. Planning Policy Wales Edition 7 (July 2014) is clear that planning applications for retail extensions in out-of-centre locations should be assessed against the following tests:-

- (i). compatibility with a Community or up-to-date Development Plan Strategy;
- (ii). consideration of need;
- (iii). the sequential approach to site selection; and
- (IV). the impact on existing centres.

8.7 Policy 50 of the Local Plan and Policy R4 of the South Glamorgan (Cardiff Area) Replacement Structure Plan provide the development plan policy framework. These policies are specifically designed to ensure that development is not permitted that would undermine the vitality and viability of the city centre and other centres protected by the development plan.

8.8 Agents for the applicants have provided a retail statement in support of the application which addresses the need for the proposal, the sequential approach to site selection and the impact of the proposal on centres with development plan status.

8.9 Quantitative Need

In accordance with national planning policy a quantitative need assessment for the proposal has been undertaken by the agent and their conclusions are as follows:

The additional floorspace will have a reduced sales density compared to the existing sales floorspace, indicative of the fact that the additional floorspace is intended to provide a qualitative improvement to the store rather than just more sales space for additional products. While there may be some modest increase in the retail offer/product lines, a significant proportion of the increase in floorspace is intended to facilitate an internal reorganisation of the shop floor to provide a more spacious and comfortable shopping environment.

8.10 The retail statement estimates that the proposed development will increase the turnover of the store by £3.3m. The total growth in expenditure between 2016 and 2021 is forecast to be £885.5m. Since the increase in turnover that is expected to result from the proposed development is £3.3m, it can be seen that it will equate to just less than one weeks growth over the period 2016 and 2021 and therefore demonstrates that the turnover of the proposed extension can be more than adequately supported by the forecast increase in expenditure. Quantitative capacity equates to quantitative need, and the proposed

development can therefore be considered to be acceptable in relation to the needs test.

8.11 Qualitative Need

The retail statement also addresses the qualitative need for the proposal and concludes the following:

Qualitative need is a material consideration and in some cases it has been held by Planning Inspectors to justify permission for a new development even in the absence of a clear quantitative need. A qualitative need is identified for the proposal in that it is intended to address overtrading, congestion and overcrowding of the existing store and will improve the quality of the existing provision. At present the circulation space within the store is quite confined and the wider circulation space will be of particular benefit to those in wheelchairs or with pushchairs.

- 8.12 Such qualitative improvements mean that the sales density of the extended floorspace is lower than the existing floorspace, as a significant proportion of the additional floorspace is intended to provide a more spacious shopping environment.

8.13 Sequential Approach

The sequential approach adopted by the agents has assessed sites within the city centre and the nearby district centres of Cowbridge Road East and Penarth Road/Clare Road. EJ Hales were instructed by the applicant to advise on the availability of sites. The schedule reviews the available units of upwards of 3,500 sq. m to reflect the size of the unit space proposed and the existing unit and concludes that there are none suitable and available to accommodate the Next store.

- 8.14 Notwithstanding the lack of any suitable units within the district centre, the applicant considered that such a location would not be an appropriate location for the Next given its scale and function. In terms of the defined hierarchy of centres, the only location that would be appropriate would be the city centre. However, Next already operate a store within the city centre and their out of centre store is complimentary to this, catering for different shopping patterns. The retail statement concludes that there are no sequentially preferable sites that are suitable, available and viable to support the proposed development.

8.15 Retail Impact

The proposed development/extension is expected to generate an additional £3.3m of comparison goods turnover, which will be drawn from a variety of sources both within Cardiff and elsewhere. Next anticipate that 25% (£0.82m) will involve the transfer of trade from their other stores in the city centre and at Talbot Green. The remaining turnover will come from other shops in the city centre, shops in district centres; out of centre stores and centres outside of Cardiff.

- 8.16 The largest trade draw is expected to be from other out-of-centre stores, which include retail warehouses and large food stores with a comparison good offer, including other stores on Capital Retail Park, Culverhouse Cross, Cardiff Gate Retail Park; stores along Newport Road and at Cardiff Bay.
- 8.17 The estimated trade draw from the city centre is £0.69m. Based on a city centre turnover of £1191.9m in 2016, the £0.69m trade diversion results in an impact of -0.06% which is effectively de minimis. Just over half of this trade draw will be from Next's own store on Queen Street with the remainder of the trade diversion spread over a number of stores such that none are expected to suffer any significant impacts.
- 8.18 The £0.17m trade draw from the other district centres will be spread over a number of centres such that no centre will suffer significant impact. £0.49m is expected to come from centres outside Cardiff which again will be diffused over a large number of centres and as such none can be expected to suffer any significant impact.
- 8.19 Given that the application site is located on the western side of Cardiff, with easy access to the M4, 14% (£0.46m) of the proposal's turnover is expected to be taken from the Next store on the Talbot Green Retail Park.
- 8.20 In respect of retail impact the retail statement concludes that the proposal will not result in any significant adverse impact on the vitality or viability of the city centre or any of the district and local centres and therefore satisfies this impact policy test.

8.21 Retail Policy Conclusions

It is considered that the retail statement has adequately demonstrated that the proposal satisfies the standard retail tests of need, sequential test and impact (in isolation), and therefore a refusal of planning permission on this basis alone cannot be justified.

- 8.22 However, the Council has operated a policy of maintaining a balance between the city centre and designated district and local centres and out of centre retail parks since the adoption of the Local Plan in 1996 and has sought to control the amount, size and nature of out of centre retailing in order to sustain and enhance the vitality, viability and attractiveness of the city centre, district and local centres. This retail strategy is set out in Objective 5 of the Local Plan. This control has been achieved through the imposition of conditions to control the scale and nature of out-of-centre retail parks by restricting the amount of floorspace of units, preventing the sub-division of units and restricting the goods that can be sold at the retail parks to those that are bulky in nature. Such is the case at Capital Retail Park which has a retail floorspace limit of 40,876 sq.m imposed by Condition 39 (A). The sale of non bulky comparison goods has been permitted at the retail park where they are ancillary in nature to the retailing of bulky goods, either within individual units, or in the context of the retail park as a whole and exercised through a relaxation of conditions within

individual units. Such relaxation of conditions to widen the range of goods that can be sold from the retail park were granted in recognition of the unique and special circumstances specific to Capital Retail Park which is the largest retail park in Cardiff. The Council accepted a quantum of retail floorspace in this location to enable the provision of a new stadium and Capital Retail Park has evolved as part of a major regeneration scheme to enable the provision of a new football stadium and recreational facilities which have been hugely successful in terms of urban regeneration and the creation of employment opportunities. This is not replicated at any other out of centre location in Cardiff and as such the principle of this product range has already been established at this location.

- 8.23 Planning permission has previously been granted (ref 11/00931/DCO) for a 929 sq.m garden centre and for a variation of Condition 39 (11/00930/DCO) to increase the maximum outline of the retail floorspace by 119 sq.m to enable the creation of further mezzanine floorspace and the occupation by Next for the sale of furniture, furnishings, homewares, men's women's and children's fashion and sport clothing and footwear. As part of that application proposal, the applicant offered to enter into a unilateral undertaking which significantly increased the Council's future control over the retail development of the site and without which planning permission would not have been granted and included a 1394 sq.m reduction in the amount of floorspace permitted for the sale of sports clothing and footwear, more than three times the increase in clothing and footwear floorspace proposed, and gave up the potential retail permission within Unit 8 which operated as a casino on a flexible permission.
- 8.24 It could be argued that discounting the garden centre floorspace could be used to justify the 655 sq. m net homewares element of the proposal, given that this use remains within the remit of bulky goods which are akin to an out of centre retail park. Furthermore the café element of 196 sq. m can be considered an acceptable ancillary use. However, this fails to address the remaining majority of the extended floorspace proposed by this application.
- 8.25 The proposal would result in an increase of 3444 sq. m (gross) to the overall retail floorspace of the park, and lead to the intensification of the sale of 'town centre' goods being sold from an out-of-centre retail park. This would increase the attractiveness of the retail park as a retail destination and could create a precedent for further increases in the floorspace limit of the retail park for the sale of town centre goods, the cumulative impact of which would be to the detriment of the vitality and viability of existing centres.
- 8.26 Some retail policy concerns remain in relation to the proposal, as the application proposes further non-bulky high street goods floorspace in an out of centre location, although it must be acknowledged that in terms of assessing the proposal in relation to government policy as set out in Planning Policy Wales (Edition 7) July 2014, the retail tests of need and the sequential test against which the development proposals must be assessed make it difficult in this instance to justify a refusal of permission of this application. Although the impact of this individual proposal on designated centres is not shown to be significantly adverse in isolation, the cumulative impact of the proposal in

addition to more recent developments at Capital Retail Park make the impact potentially more significant. Concerns are further raised in relation to the impact of setting a precedent, creating pressure for future non-bulky goods in an out of centre retail location. The significance of this is only likely to become apparent over time. Taking these factors into consideration, it becomes apparent for the need to set out mitigation measures.

- 8.27 Without mitigation, the wider, improved retail offer proposed together with the offer that can already be sold from the existing unit without further planning permission has the potential to adversely impact on designated centres. This impact would be more acutely felt in those centres that are already experiencing economic, social and environmental challenges.
- 8.28 In conclusion it is considered that appropriate mitigation measures could help address the broader retail policy concerns in relation to cumulative impact, in this instance. In accordance with the guidance contained in PPW and Welsh Office Circular 13/97 Planning Obligations; paragraph 9.3.7 of the City of Cardiff Local Plan and the District Centre Strategy (approved April 2012) there is a requirement for developer contributions to ensure the impact on nearby district centres is mitigated. The Grangetown District Centre Improvement Area is located close to the retail park and improvement works are required to sustain the vitality and viability of this centre.
- 8.29 If the application is to be approved, mitigation measures against the potential cumulative adverse impact of the development should therefore be sought and include:
- A revision of the Unilateral Undertaking to reflect the grant of this planning permission
 - A financial contribution of **£77,000** towards the Grangetown District Centre Improvement Area
 - A commitment by Next to continue trading from their existing city centre store and floorspace for not less than 5 years from the opening date of the extension
 - A restriction on the amount of floorspace in the store devoted to the sale of men's, women's and children's clothing and footwear to a maximum 2049 sq.m (net) in a single unit of 6997sq.m gross external area.
- 8.30 A further issue to be considered is the potential increase in traffic associated with the development. Transportation officers have concluded that the Transport Statement submitted with the application demonstrates that the proposed extension to the 'Next' store will not attract a significant volume of new traffic and that the existing car park and servicing facilities are able to accommodate the proposed development. Therefore highways and transportation issues do not constitute grounds for refusal of the application.
- 8.31 For the reasons set out above it is not considered that the proposal would result in an unacceptable impact on any defined development plan centre or threaten the integrity of the Council's retail strategy, provided mitigation works are funded that will enhance the attractiveness of the Grangetown District Centre

Improvement Area, nor would it result in an unacceptable impact on the parking provision at the retail park or adversely affect the surrounding highway network. It is therefore recommended that the application be approved, subject to the above conditions and the signing of the appropriate legal obligations.

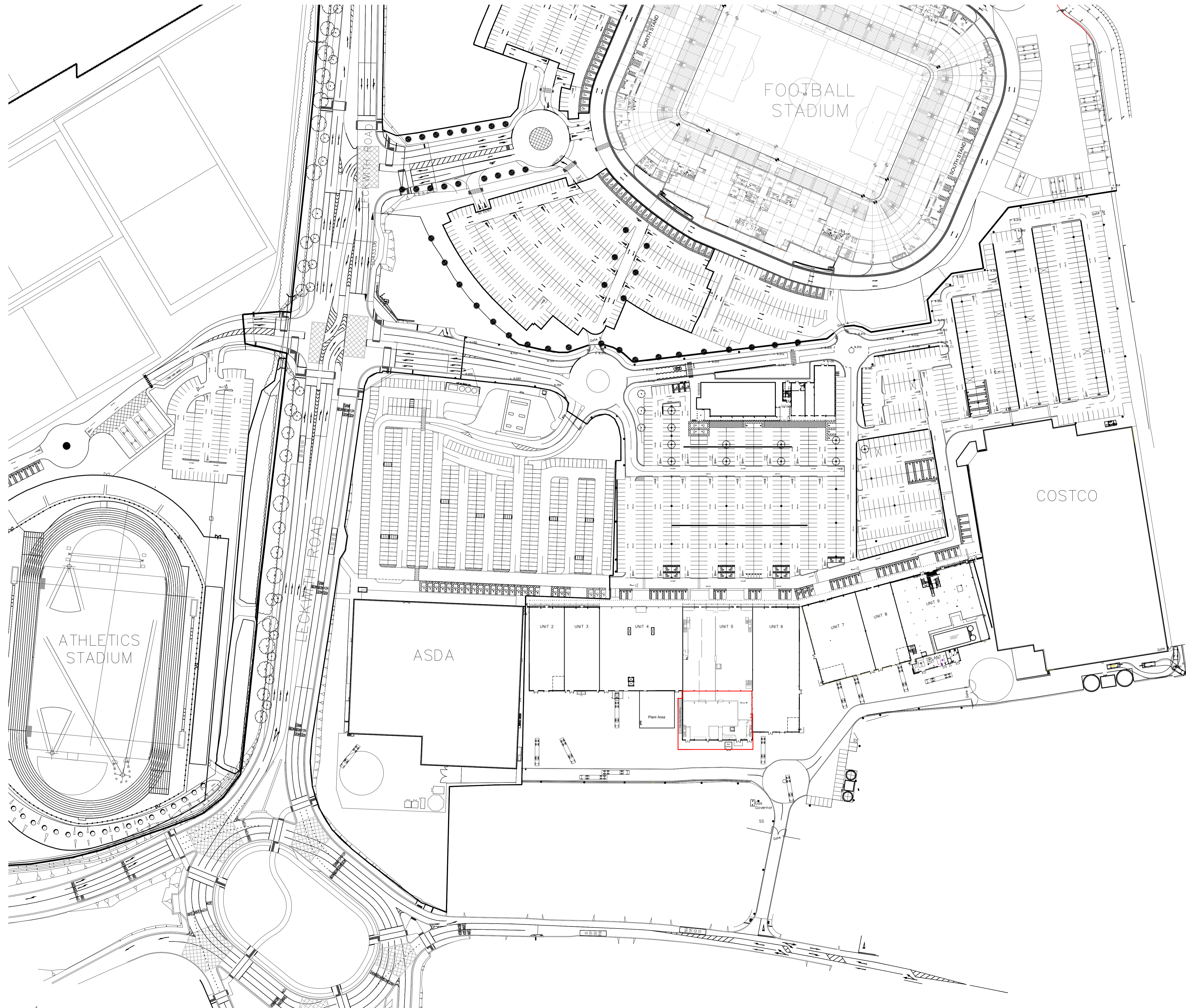
9. **OTHER CONSIDERATIONS**

9.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

9.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The Council's duty under the above Act has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.



█ PROPOSED NEW WORK

Rev	Date	Check	Description
A	17/07/2015	GJ	ISSUED FOR PLANNING
-		GJ	FIRST ISSUE

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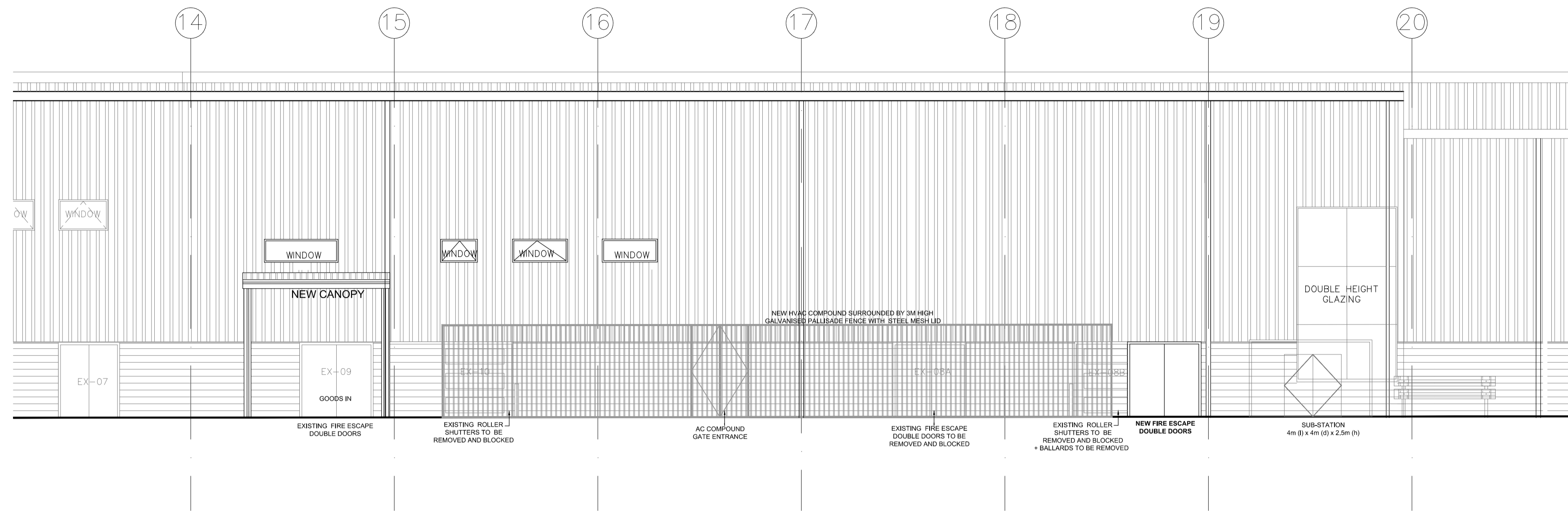
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Project
Extension to Unit 5
Capital Retail Park, Leckwith
Aberdeen Asset Management plc
Title
Proposed Site Plan

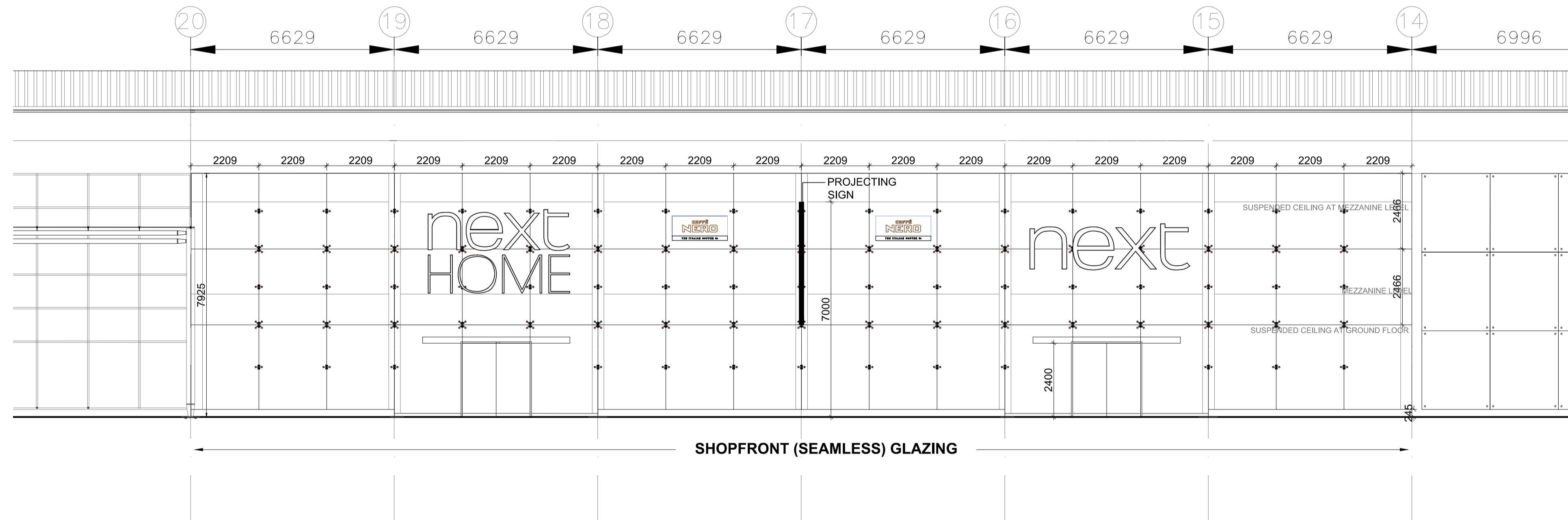
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Existing Rear Elevation



Existing Front Elevation

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London Cardiff Munich

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Title
Existing Unit 5 Elevations

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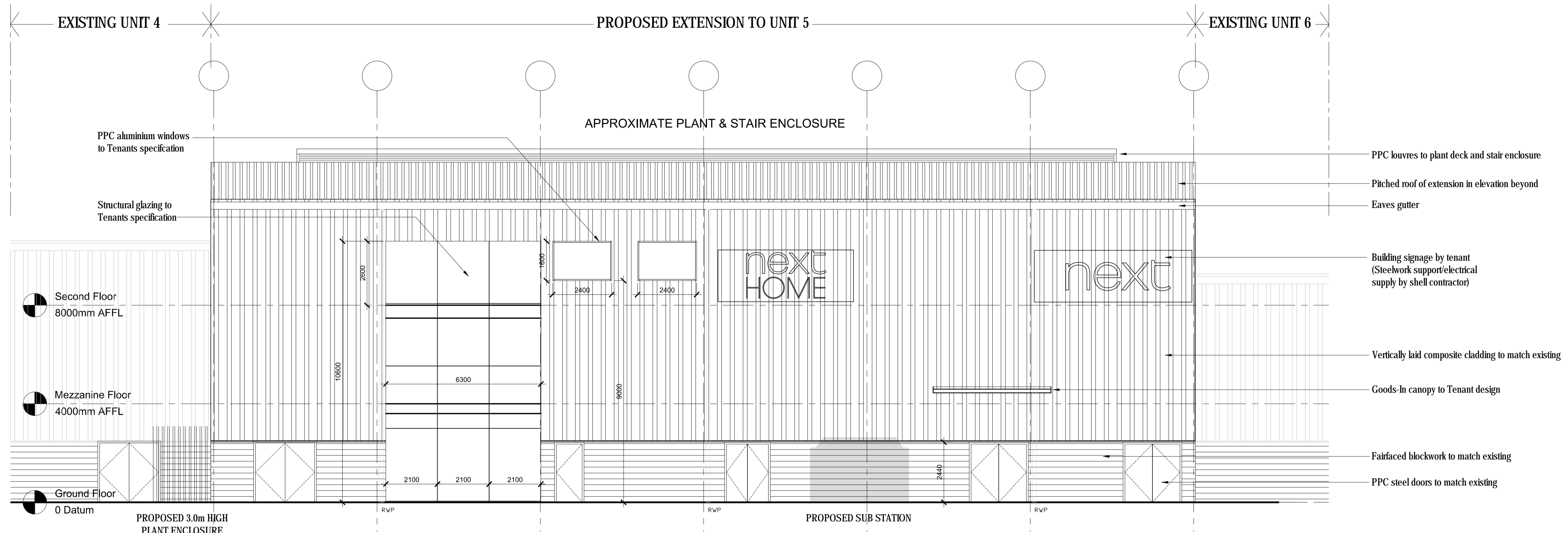
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 Capital Retail Park, Leckwith
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Title
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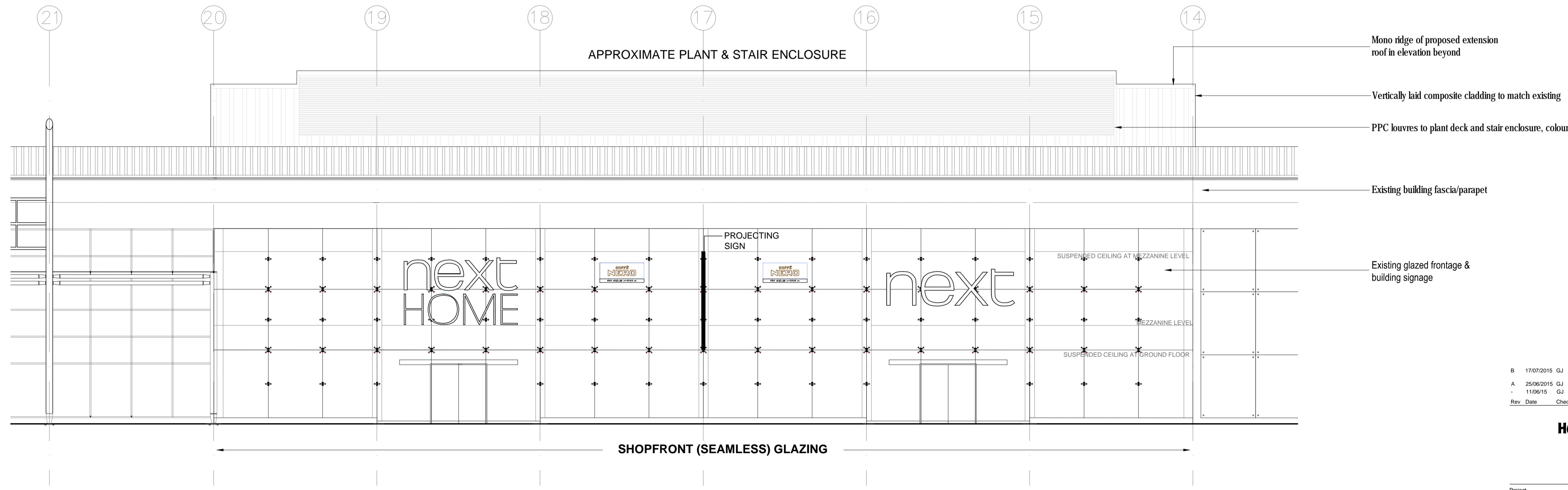
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Proposed Rear Elevation



Proposed Front Elevation

Rev	Date	Check	Description
B	17/07/2015	GJ	ISSUED FOR PLANNING
A	25/06/2015	GJ	NEXT INDICATIVE FRONT ELEVATION OMITTED AND UPDATED TO REFLECT AS-BUILT.
-	11/06/15	GJ	FIRST ISSUE

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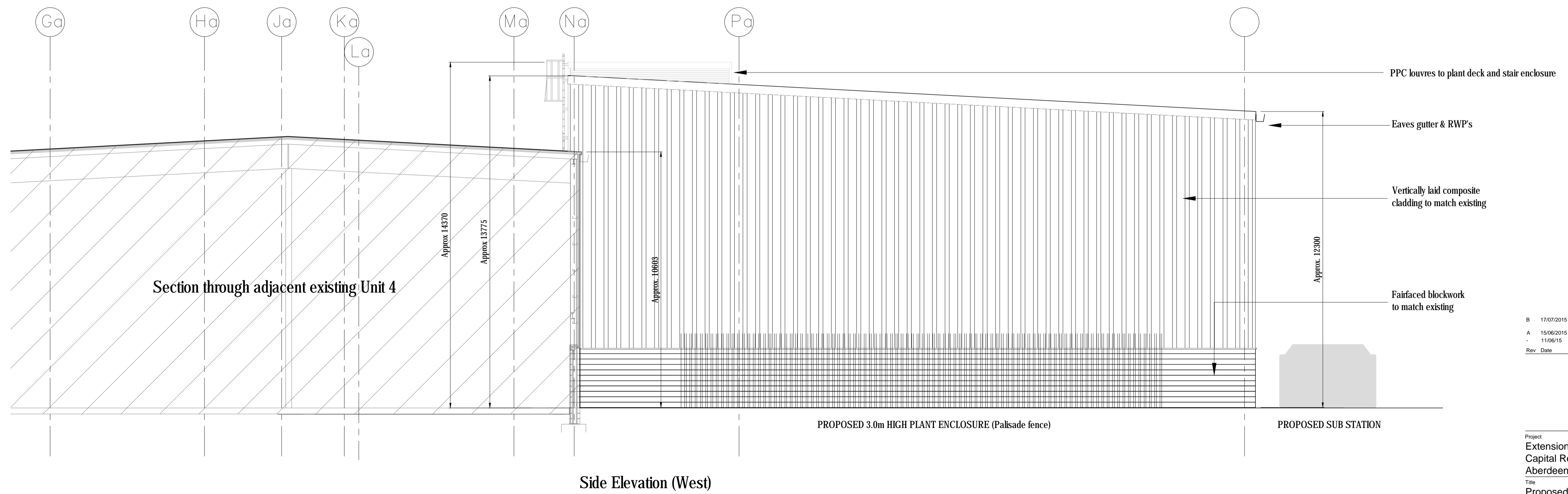
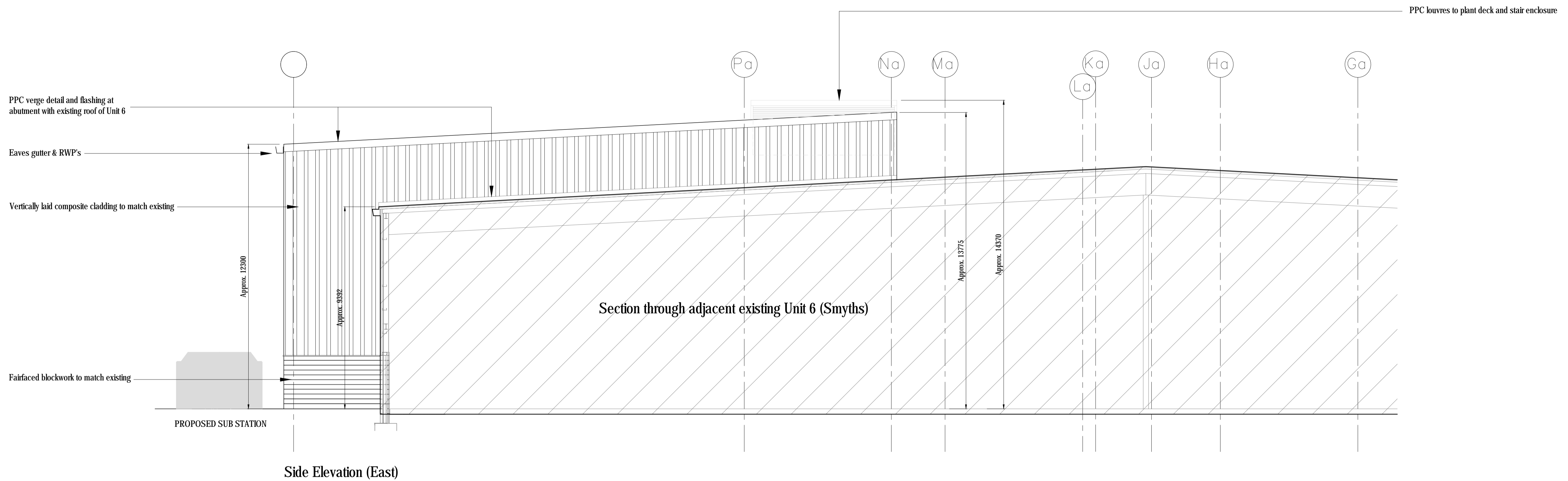
Project
Extension to Unit 5
Capital Retail Park, Leckwith
Aberdeen Asset Management PLC
Title
Proposed Elevations - Sheet 1 of 2

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B	17/07/2015	GJ	ISSUED FOR PLANNING
A	15/06/2015	GJ	WEST ELEVATION ADDED
-	11/06/15	GJ	FIRST ISSUE
Rev	Date	Check	Description

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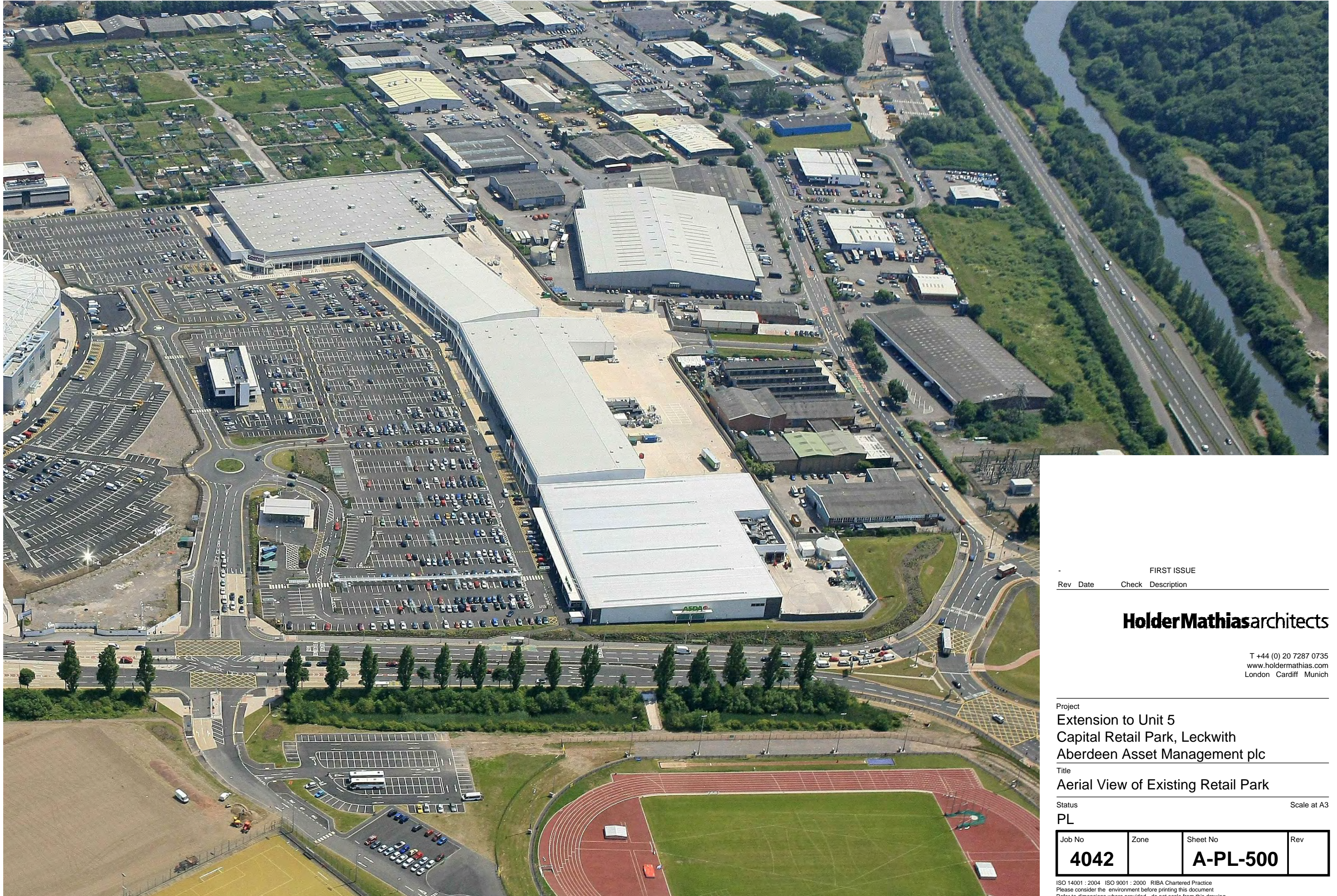
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Title
Proposed Elevations - Sheet 2 of 2

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Project
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Title
Aerial View of Existing Retail Park

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