

REPORT TO PLANNING COMMITTEE

4 November 2020

Application Reference	DC/20/64517
Application Received	23 July 2020
Application Description	Proposed demolition of existing entrance, sub- division of existing retail unit (Class A1) together with external alterations, new shop frontage and cladding, mezzanine floor in Unit 1, creation of ancillary external garden centre area for Unit 2, construction of extension to form new unit for assembly and leisure use (Class D2), and construction of a standalone cafe/drive-thru restaurant, with associated landscaping and alterations to existing car park and internal vehicle circulation.
Application Address	Former Toys R Us, Wolverhampton Road, Oldbury B69 4RJ
Applicant	New Street LLP
Ward	Langley
Contribution towards Vision 2030:	X în P
Contact Officer(s)	Carl Mercer 0121 569 4048 carl_mercer@sandwell.gov.uk

RECOMMENDATION

That planning permission is granted subject to the approval of Full Council and conditions relating to:-

- (i) External materials;
- (ii) Cycling provision;
- (iii) Electric vehicle charging provision;
- (iv) Drainage;
- (v) Landscaping;
- (vi) Contamination;
- (vii) Coal mining legacy;
- (viii) Details of fixed plant;
- (ix) Details of extraction and filtration equipment;

- (x) Lighting scheme;
- (xi) Construction method statement; and
- (xii) Employment and skills plan.

1. BACKGROUND

- 1.1 This application is being reported to your Planning Committee because the proposal constitutes a departure from the Development Plan.
- 1.2 To assist members with site context, a link to Google Maps is provided below:

Former Toys R Us, Wolverhampton Road, Oldbury

2. SUMMARY OF KEY CONSIDERATIONS

- 2.1 The site is allocated as 'Potential High Quality Employment Land'.
- 2.2 The material planning considerations which are relevant to this application are:-

Government policy (NPPF);

Proposals in the Development Plan;

Planning history;

Design, appearance and materials;

Access, highway safety, parking and servicing;

Traffic generation;

Contamination by a previous use;

Land instability;

Noise and disturbance from the scheme;

Flood risk; and,

Planning balance.

3. THE APPLICATION SITE

- 3.1 The site is situated to the south of Birchley Island and is bounded to the east by Wolverhampton Road, with Birchfield Lane to the west.
- 3.2 The site consists of a large, vacant retail unit and associated car park and a McDonald's restaurant and drive through.
- 3.3. The character of the immediate area is predominantly commercial.

4. PLANNING HISTORY

4.1 Relevant planning applications are as follows:-

DC/20830	Development of class 1 non - food retail stores and associated car parking and servicing facilities	Refused 22/12/1986
DC/21514	Development of class 1 non-food retail stores and associated car parking and servicing facilities	Approved (outline) 29/07/1987
DC/21555	Development of Class 1 non-food retail store and associated car parking and servicing facility	Approved 29/7/1987
DC/31959	Erection of a freestanding restaurant with drive thru facility & ancillary car parking	Approved 05/03/1996
DC/98/34134	Erection of non-food retail store - Use Class A1 (Outline permission)	Withdrawn 23/08/1999
DC/05/43832	Extension to existing Toys R Us store	Approved 23/05/2005
DC/08/50241	Proposed additional mezzanine floorspace for storage and office space	Approved 12/12/2008

5. APPLICATION DETAILS

- 5.1 The application was submitted prior to the changes to the Use Classes Order, and as the legislation dictates, references to Use Classes are as prior to 1 September 2020.
- 5.2 The applicant proposes to demolish the existing entrance, sub-divide the existing retail unit into two, together with external alterations and provide a new shop frontage and cladding. A mezzanine floor is also proposed in Unit 1, as well as the creation of ancillary external garden centre area for Unit 2. An extension to the existing unit is also proposed to create a third unit for assembly and leisure use (Class D2). Finally, the applicant also proposes to construct a standalone cafe/drive-thru restaurant, with associated landscaping and alterations to existing car park and internal vehicle circulation.
- 5.2 With regards to the assembly and leisure use, the applicant cannot yet confirm what the end use would be, but it will most likely be a gym, for which 24-hour access would be required

6. PUBLICITY

6.1 The application has been publicised by neighbour notification letter, site and press notice, without response.

7. STATUTORY CONSULTATION

- 7.1 **Planning and Transportation Policy** After consideration of the Transport Statement and subsequent documentation and clarification, Planning and Transportation Policy have no objection to the proposals.
- 7.2 **Highways** The highway authority has reviewed the submitted documentation in conjunction with Planning and Transportation and have no significant concerns in regard to the impact of the proposals on the surrounding highway network.
- 7.3 **Public Health (Air Quality)** No comment, but the applicant has shown electric vehicle charging points on plan and these can be ensured by condition; this being acceptable mitigation on air quality grounds for a development of this type and scale.
- 7.4 **Public Health (Contaminated Land)** The submitted Ground Investigation Report states that hydrocarbon contamination is likely to be present, which would require some remediation. The applicant should submit a validation report in due course to demonstrate the compliance of the proposed works, which can be ensured by condition.
- 7.5 **Public Heath (Air Pollution and Noise)** No overall objection, subject to conditions relating to ventilation/odour control equipment details for the drive through restaurant, details of fixed plant, a lighting scheme and a construction method statement. Due to the proximity of an adjacent hotel, clarification has been sought over the end use of the D2 unit. This has been provided to Public Health (a possible 24 hour gym use), but I do not anticipate significant objection, other than conditions regarding possible mitigation (these would only be applied if reasonable on the applicant, given the context of the surrounding area).
- 7.6 **West Midlands Police** No objection.
- 7.7 **The Canal and River Trust** As the proposals would not affect the canal boundary and the applicant would retain screening along this boundary, the proposed development would not have a significant impact on the canal. The majority of the concerns raised within the CRT's response are dealt with within the submission package.
- 7.8 **Urban Design** No objection.

- 7.9 **Lead Local Flood Authority** Have requested clarification and amendments to the Flood Risk Assessment and Drainage Strategy. Whilst further documentation has been received, some issues remain. However, no overall objection has been received. I am of the opinion that these matters can be addressed by appropriately worded conditions, but at the time of writing this report the applicant is seeking to resolve these matters with the LLFA.
- 7.10 **The Coal Authority** No objection subject to a suitably worded condition to secure the undertaking of the mitigatory measures identified in the submitted Report on Ground Investigations.
- 7.11 **Severn Trent** No objection subject to condition relating to foul and surface water flows.

8. GOVERNMENT GUIDANCE/NATIONAL PLANNING POLICY

- 8.1 National Planning Policy Framework promotes sustainable development but states that that local circumstances should be taken into account to reflect the character, needs and opportunities for each area.
- 8.2 Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
- 8.3 The applicant has submitted sequential and impact tests to address these national policy matters, and this will be discussed further below.

9. LOCAL PLANNING POLICY

9.1 The following polices of the Council's Development Plan are relevant:-

EMP2: Actual and Potential High Quality Employment Areas

EMP5: Improving Access to the Labour Market

CEN7: Controlling Out-of-Centre Development

TRAN2: Managing Transport Impacts of New Development TRAN4: Creating Coherent Networks for Cycling and Walking

ENV3: Design Quality

ENV5: Flood Risk, Sustainable Drainage System and Urban Heat Island

Effect

ENV7: Renewable Energy

ENV8: Air Quality

SAD EMP 2: Training and Recruitment

SAD DM 5: The Borough's Gateways SAD EOS 9: Urban Design Principles

- 9.2 The proposed development is a departure from the Development Plan which allocates the site as Potential High Quality Employment Land, under BCCS EMP2 'Actual and Potential High Quality Employment Areas'. However, the site was granted consent for retail use in 1987. As the site has an established retail use, resisting further development of the existing retail use, or the leisure/restaurant uses for that matter, would not be credible grounds for refusal under this policy; particularly as employment is unlikely to come forward imminently on this site.
- 9.3 With regard to Policy EMP5 and SAD EMP2, a condition would ensure that job and local job and apprenticeship opportunities would result from the development.
- 9.4 With regards to CEN7, the proposal is required to undertake a sequential test and an impact test under the revised NPPF. The Sequential Test provided, has concluded that there is not a more sequentially preferable site for the proposed development within a reasonable search area that is suitable and available to accommodate the proposal. Whilst there remains no justification for the omission of the motorway network from the sequential test area, the policy officer does not object to the proposal and states that the sequential and impact tests have been partly passed. The Impact Test shows that there would not be a significant adverse effect on the surrounding centres from the proposed development in terms of the vitality and viability of those centres. This is partly because those adjacent centres do not have gyms or garden centres that would be impacted by the proposed development.
- 9.5 In respect of TRAN2, Highways and Transportation Planning have no objection to the proposal.
- 9.6 Cycling parking provision (TRAN4) is shown on plan and further detail can be requested via condition.
- 9.7 The proposal raises no significant concerns in respect of design and is compliant with ENV3 and SAD EOS9 and is appropriate in terms of its gateway location (DM5).
- 9.8 The LLFA raise no significant concerns (ENV5), and, outstanding matters can be addressed by condition.
- 9.9 The applicant has submitted a 'Renewable and Sustainability' report in compliance with ENV7 and the Council's policy officer raises no concerns with regards to its content.

9.10 In respect of air quality (ENV8), the applicant has shown electric vehicle charging points on plan and these would be ensured by condition.

10. MATERIAL CONSIDERATIONS

- 10.1 The material considerations relating to Government Policy (NPPF) and proposals within the Development Plan have been referred to above in Sections 8 and 9. With regards to the other considerations these are highlighted below:
- 10.2 Planning history The larger unit is an established retail use, which was not restricted to non-food retail by condition. The planning history of the site reveals a background of applications for retail and restaurant use, and it appears unlikely to me that the site would now come forward to realise its current land allocation for employment use.
- 10.3 Design, appearance and materials The design of the proposals would be akin to other units within the site area and evident in other examples surrounding Birchley Island, such as the Dunelm store. The extensions would enhance the former Toys R Us unit and uplift its appearance on this prominent gateway site. Furthermore, amended plans have been received which address the Council's Urban Design officer's concerns in relation to pedestrian links across the site. Consideration has also been given to the landscaping scheme, which would further serve to enhance the site.
- 10.4 Access, highway safety, parking and servicing Highways are comfortable with the content of the Transport Statement and proposed layout plans. No appreciable impact on highway safety is anticipated.
- 10.5 **Traffic generation** As above.
- 10.6 **Contamination by a previous use** No significant issues. A Validation Report would be required prior to occupation of the use(s).
- 10.7 Land instability The Coal Authority have no objection subject to a condition; therefore, land stability concerns can be overcome.
- 10.8 **Noise and disturbance from the scheme** Given the broadly commercial context of the surrounding area, no appreciable issues are expected to arise, subject to suitably worded conditions.
- 10.9 Flood risk As stated above, on review of the LLFA comments, I am of the opinion that flood risk would not be a significant issue; but conditions should be imposed in order to request further details to ally matters raised by the LLFA.

10.10 **Planning balance** – Whilst the retail and leisure proposals would be more ideally located in a centre, the development proposed would meet certain other Development Plan objectives (see 12.1).

11. IMPLICATIONS FOR SANDWELL'S VISION

- 11.1 The proposal supports Ambitions 3, 8 and 10 of the Sandwell Vision 2030:-
- 11.2 Ambition 3 Our workforce and young people are skilled and talented, geared up to respond to changing business needs and to win rewarding jobs in a growing economy.
- 11.3 Ambition 8 Our distinctive towns and neighbourhoods are successful centres of community life, leisure and entertainment where people increasingly choose to bring up their families.
- 11.5 Ambition 10 Sandwell has a national reputation for getting things done, where all local partners are focussed on what really matters in people's lives and communities.

12. CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

12.1 Although the retail and leisure investment proposed would be more ideally located in a centre, there does not appear to be a realistic prospect of securing this. The development proposed would meet certain other Development Plan objectives, such as those for renewable energy, job creation, reuse of previously developed land, bringing vacant land back into beneficial use, securing investment in the Borough and adding to the range of facilities in the local area.

13. STRATEGIC RESOURCE IMPLICATIONS

13.1 When a planning application is refused the applicant has a right of appeal to the Planning Inspectorate, and they can make a claim for costs against the Council.

14. LEGAL AND GOVERNANCE CONSIDERATIONS

14.1 This application is submitted under the Town and Country Planning Act 1990.

15. EQUALITY IMPACT ASSESSMENT

15.1 There are no equality issues arising from this proposal and therefore an equality impact assessment has not been carried out.

16. DATA PROTECTION IMPACT ASSESSMENT

16.1 The planning application and accompanying documentation is a public document.

17. CRIME AND DISORDER AND RISK ASSESSMENT

17.1 There are no crime and disorder issues with this application.

18. SUSTAINABILITY OF PROPOSALS

18.1 Refer to the National Planning Policy Framework (8), Development Plan policies (9) and material considerations (10).

19. HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

19.1 Refer to the summary of the report (12.1).

20. IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

20.1 There would be no impact.

21. APPENDICES:

Site Plan

Context Plan

PA-02

PA-03

PA-04

PA-05

PA-06 A

PA-07

PA-08

PA-09

PA-10

PA-11

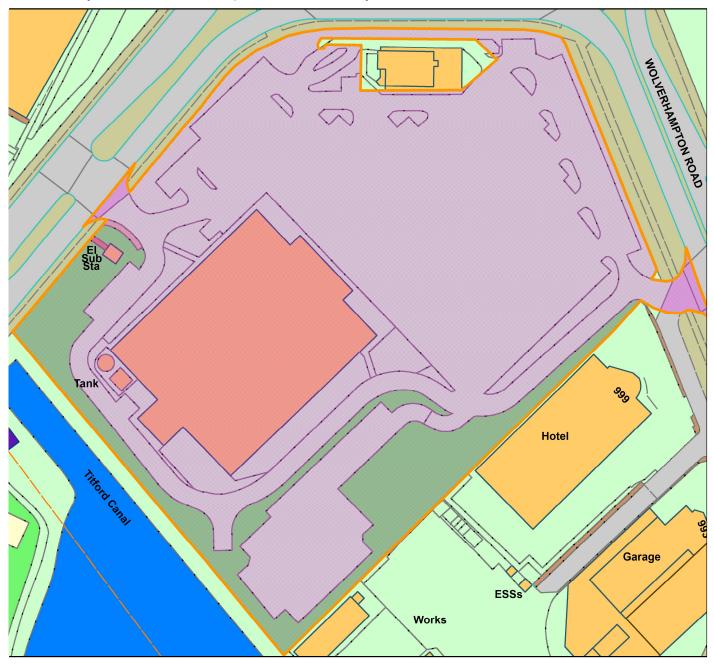
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PA-13

PA-15



DC/20/64517 Former Toys R Us, Wolverhampton Road, Oldbury

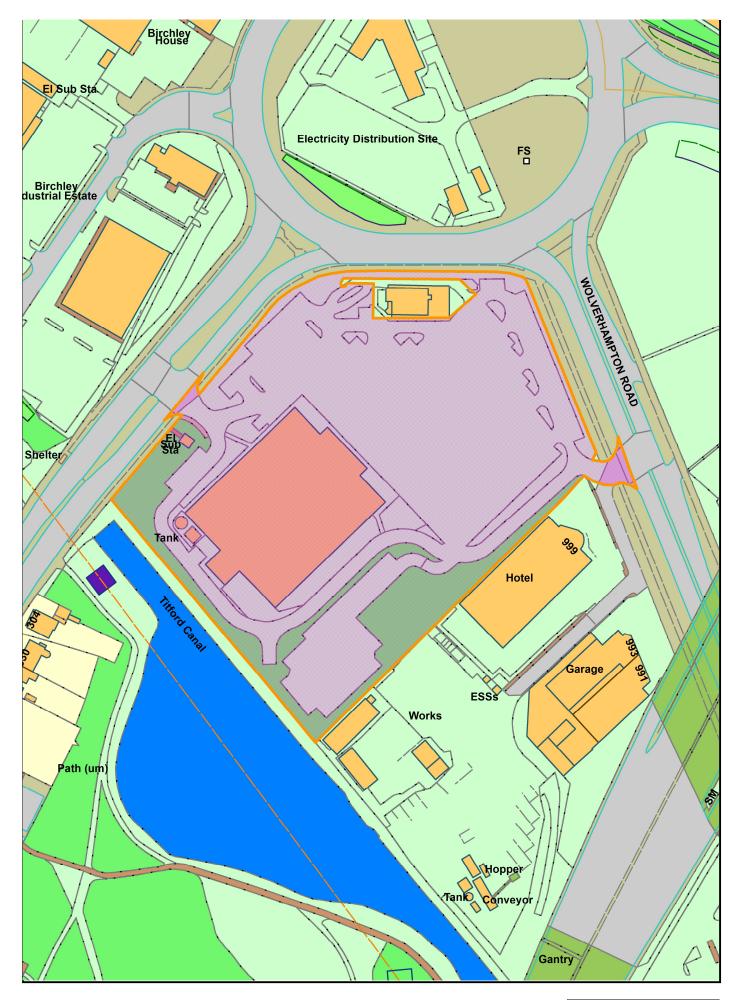


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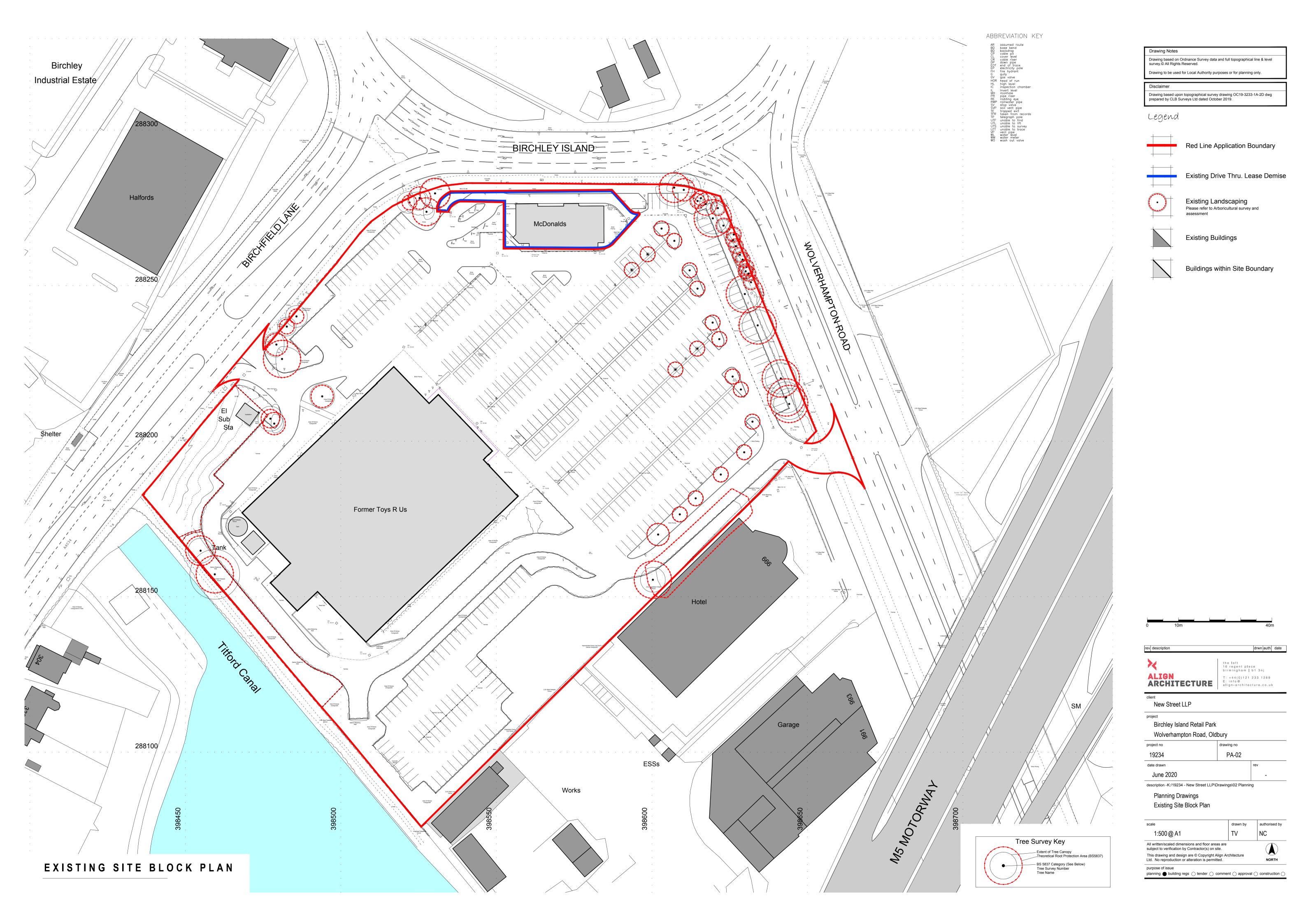
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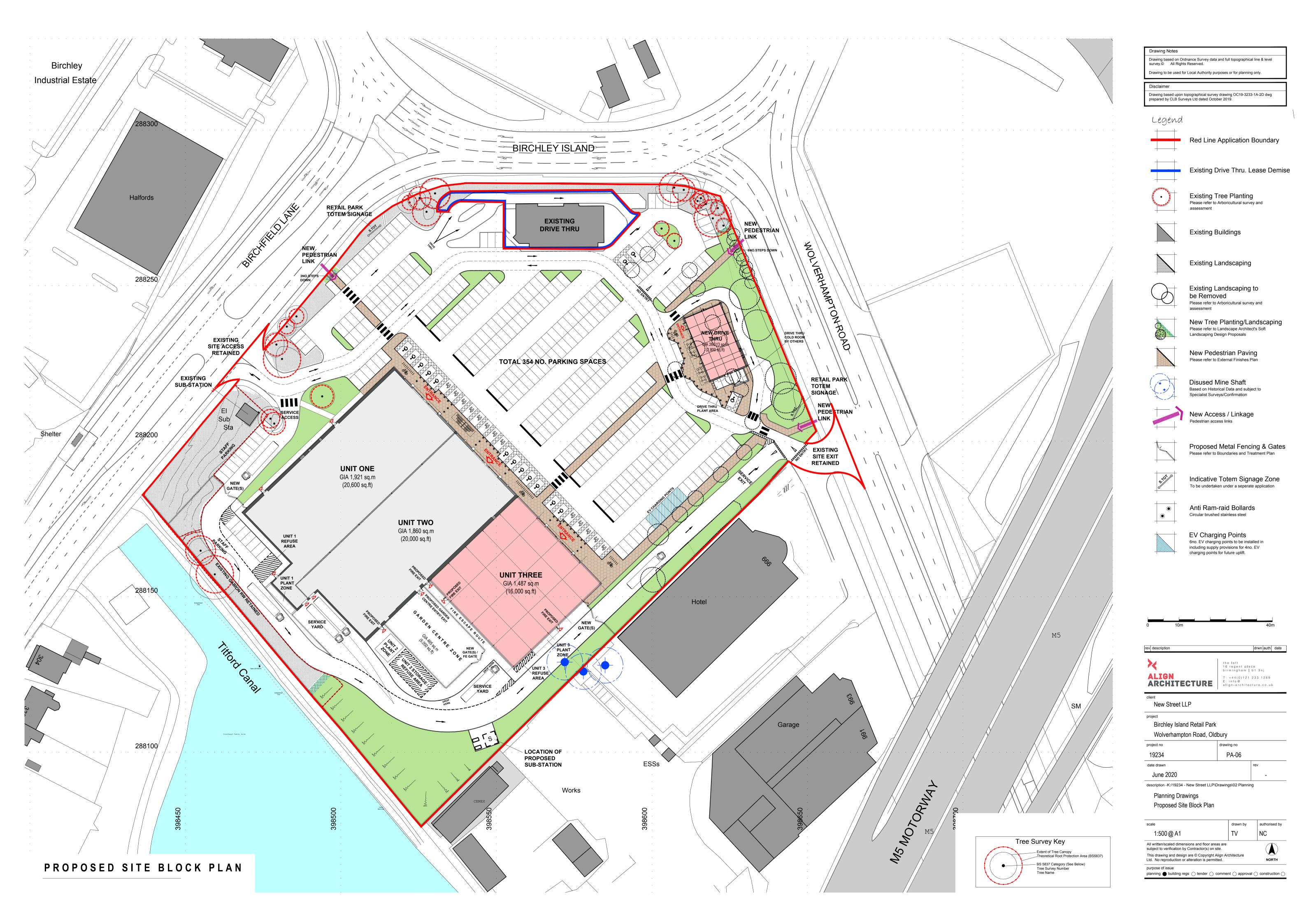
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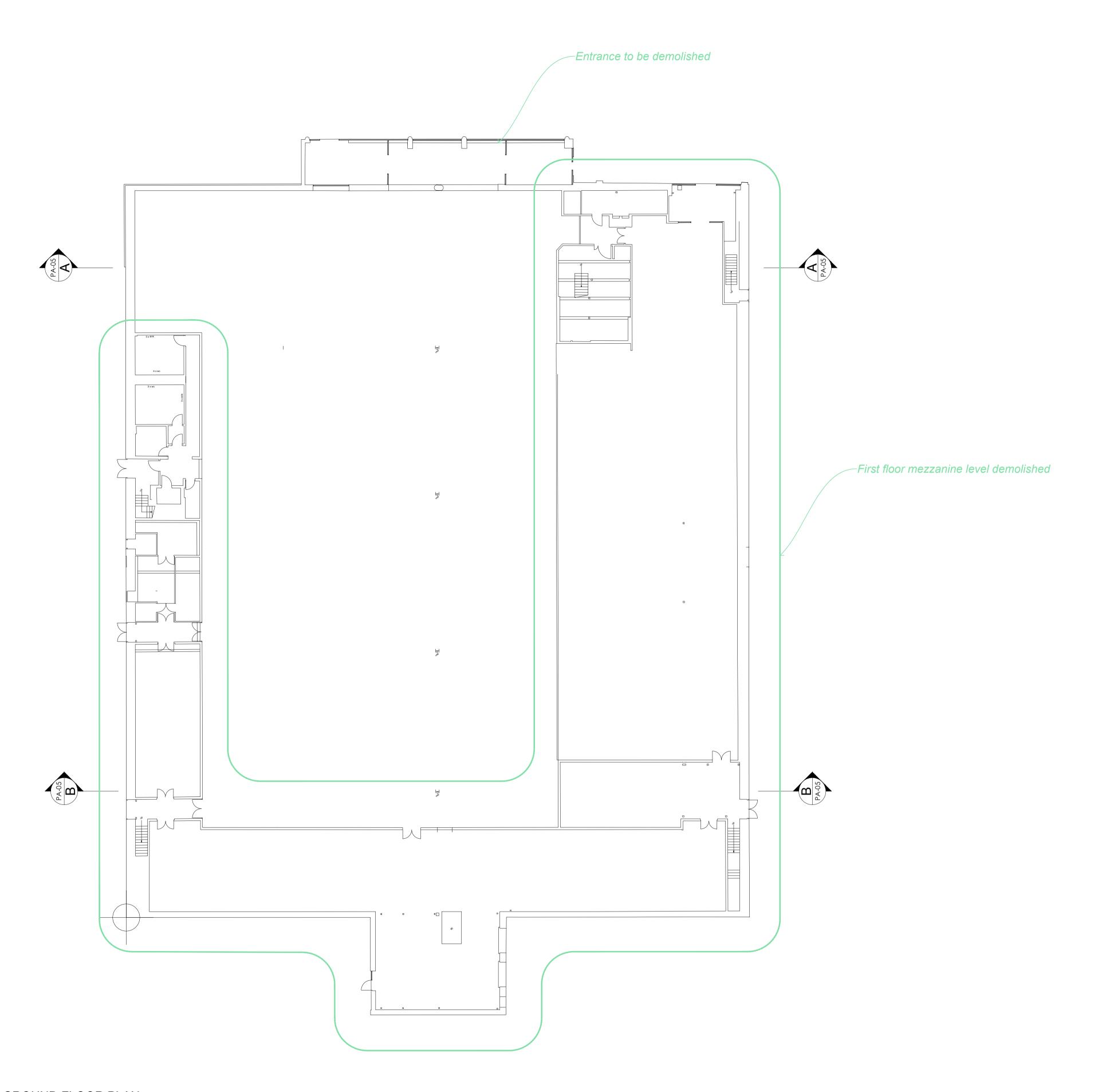
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GROUND FLOOR PLAN scale 1:200

EXISTING UNIT FLOOR PLANS

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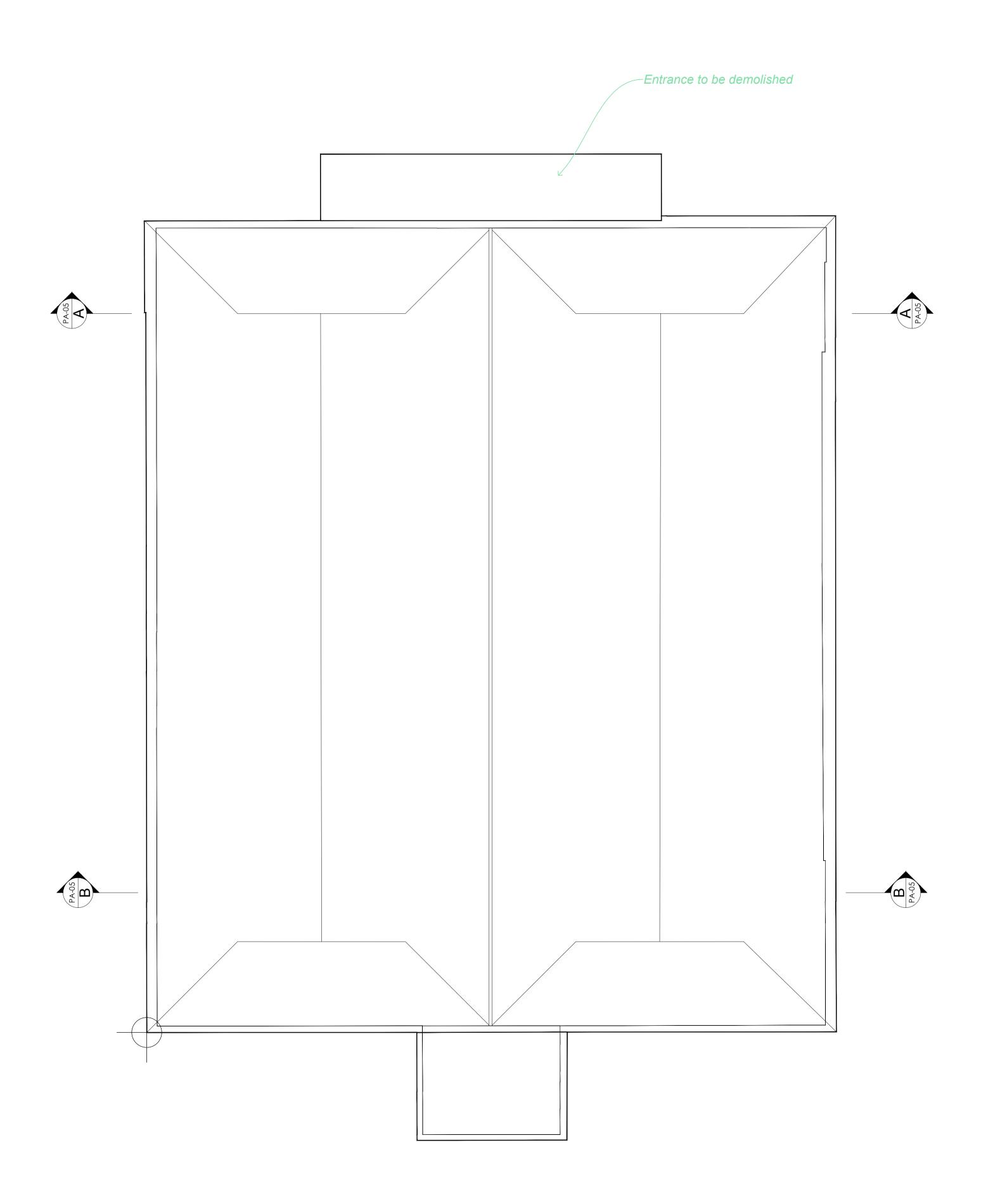
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Existing Unit Floor Plans

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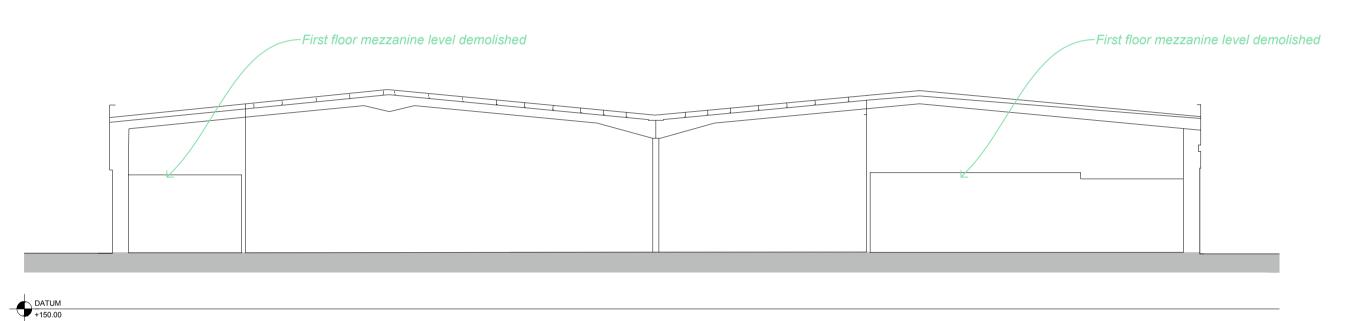
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First floor mezzanine level demolished

SECTION A-A scale 1:200



SECTION B-B scale 1:200



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Existing Unit Roof Plan and Sections

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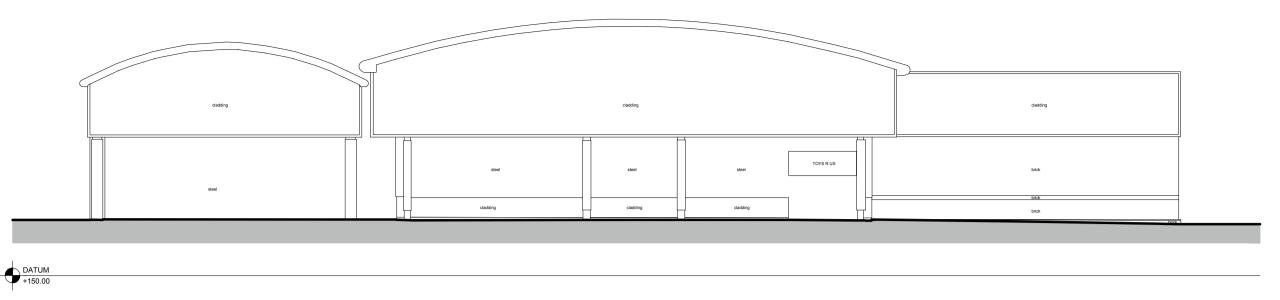
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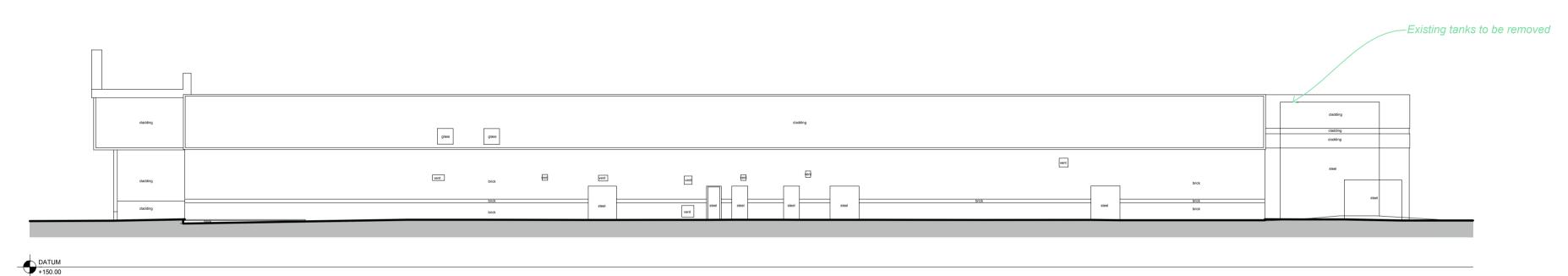
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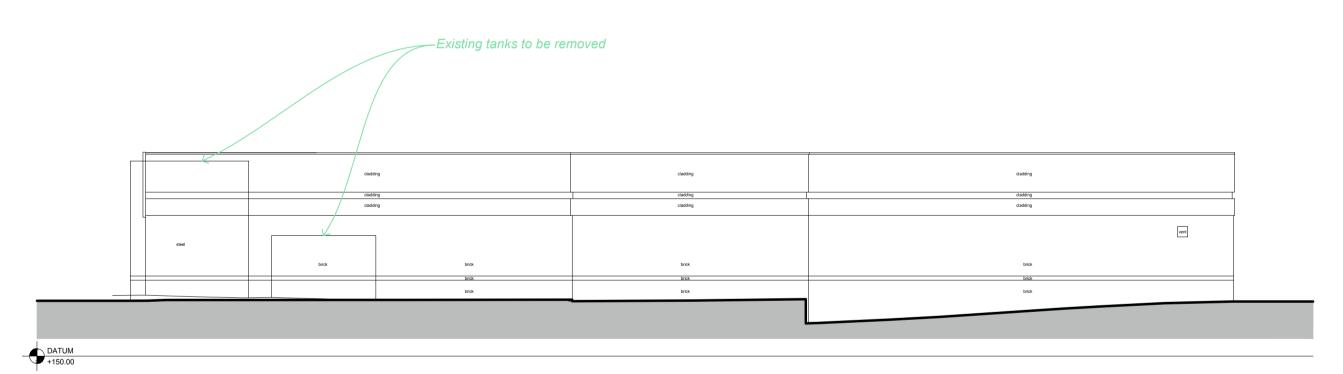
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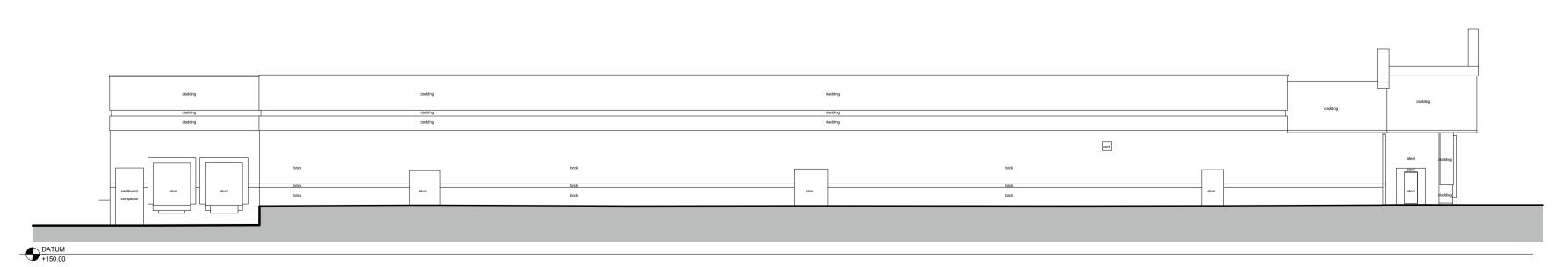
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EXISTING SIDE ELEVATION - NORTH WEST - B scale 1:200

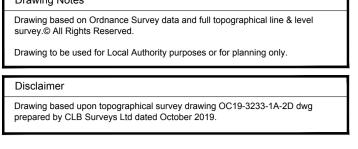


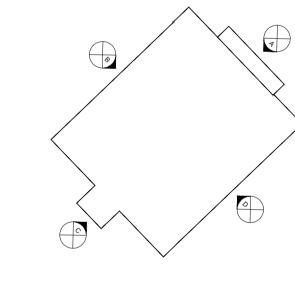
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EXISTING SIDE ELEVATION - SOUTH EAST - D scale 1:200

EXISTING UNIT ELEVATIONS





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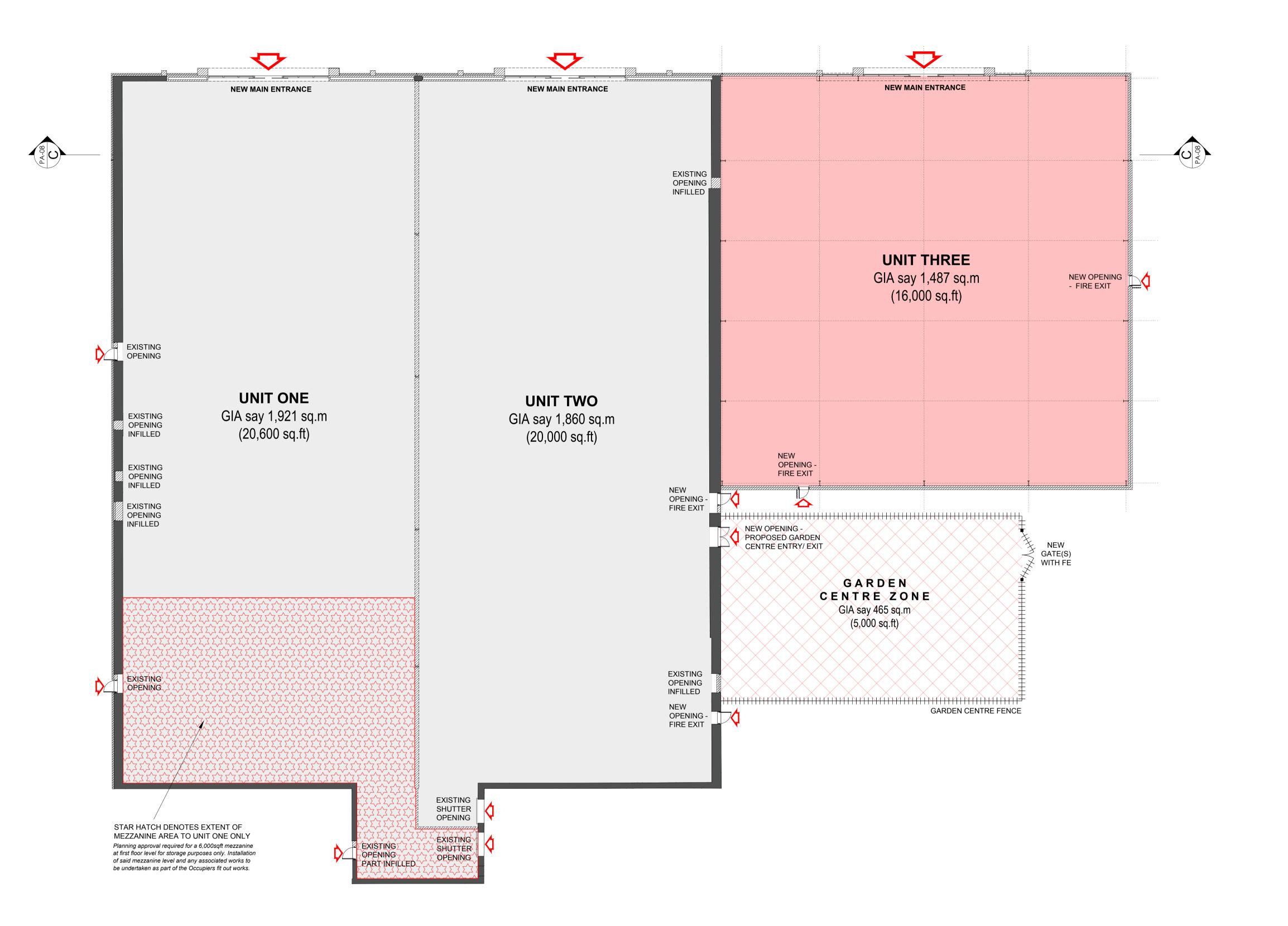


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PROPOSED UNIT FLOOR PLANS

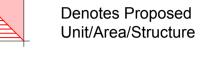
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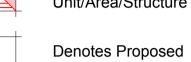
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Denotes Existing Unit/Area/Structure







Occupier Mezzanine Area



Denotes Proposed Outdoor Garden Centre Area/Enclosure





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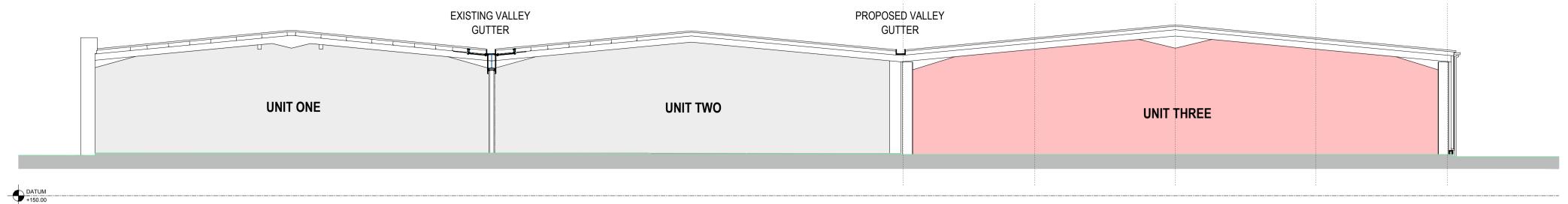
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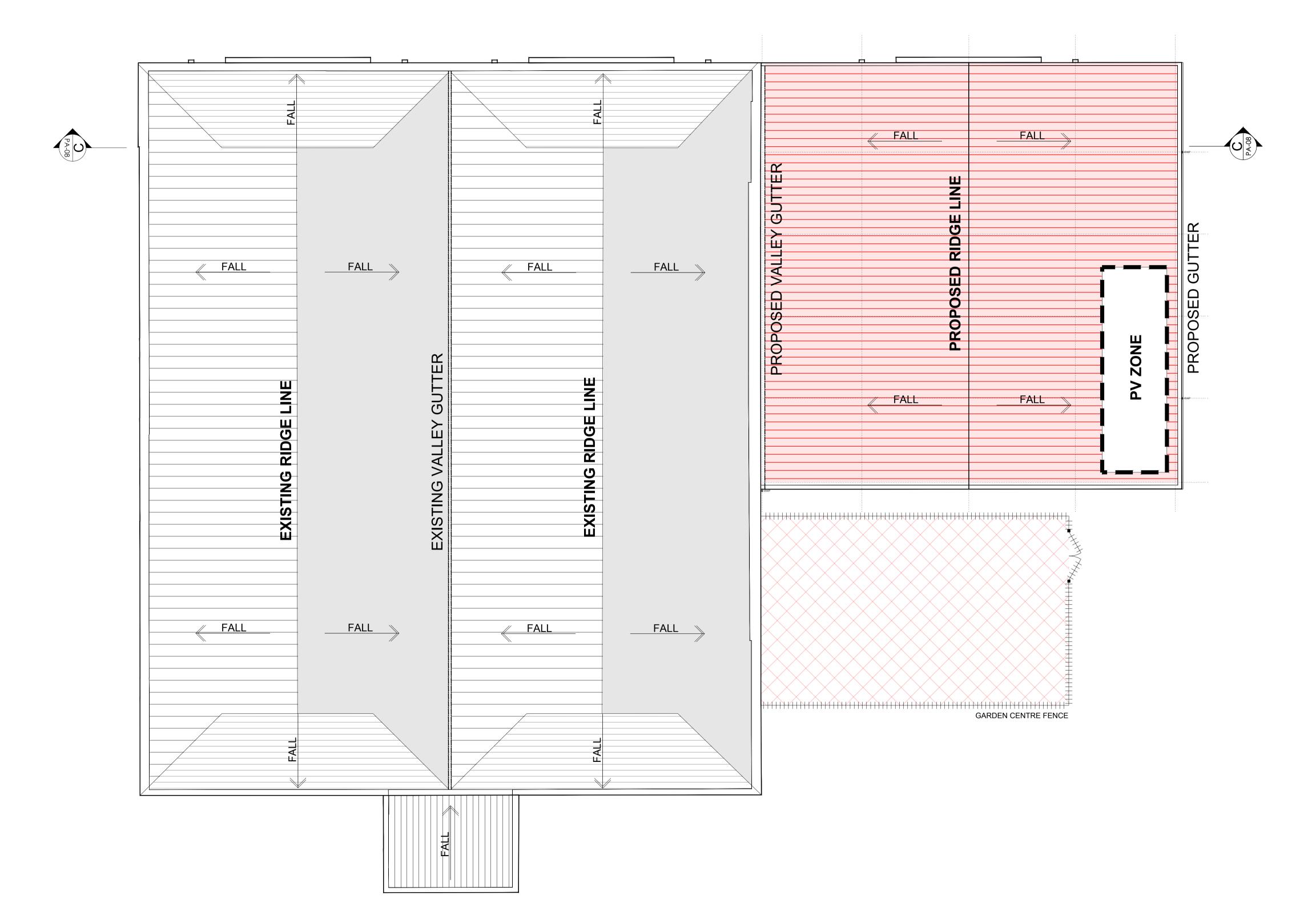
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SECTION C-C scale 1:200



PROPOSED UNIT ROOF PLAN AND SECTION

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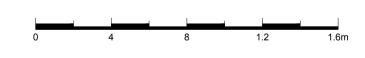
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Denotes Proposed Occupier Mezzanine Area



Denotes Proposed Outdoor Garden Centre Area/Enclosure





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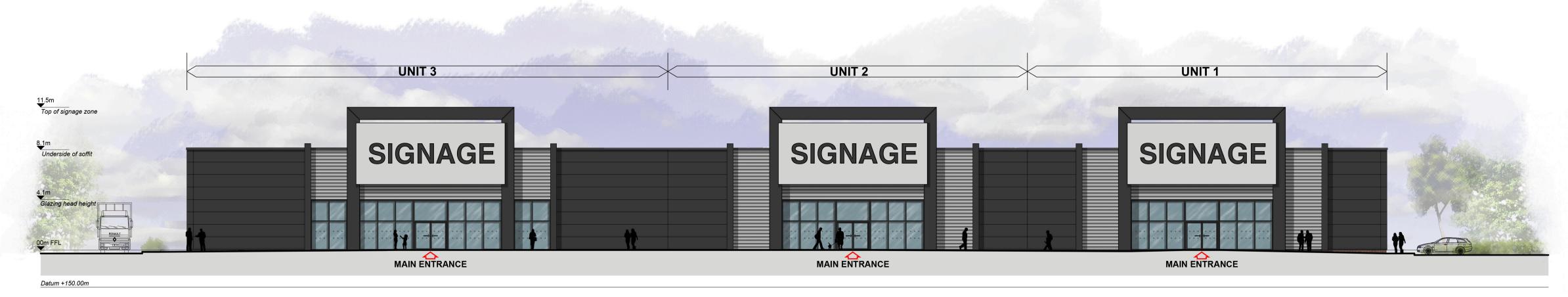
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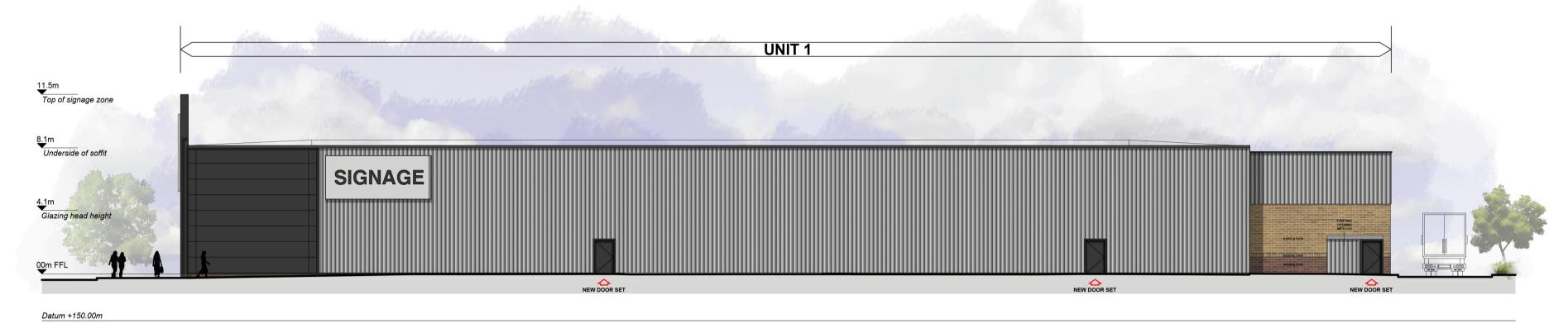
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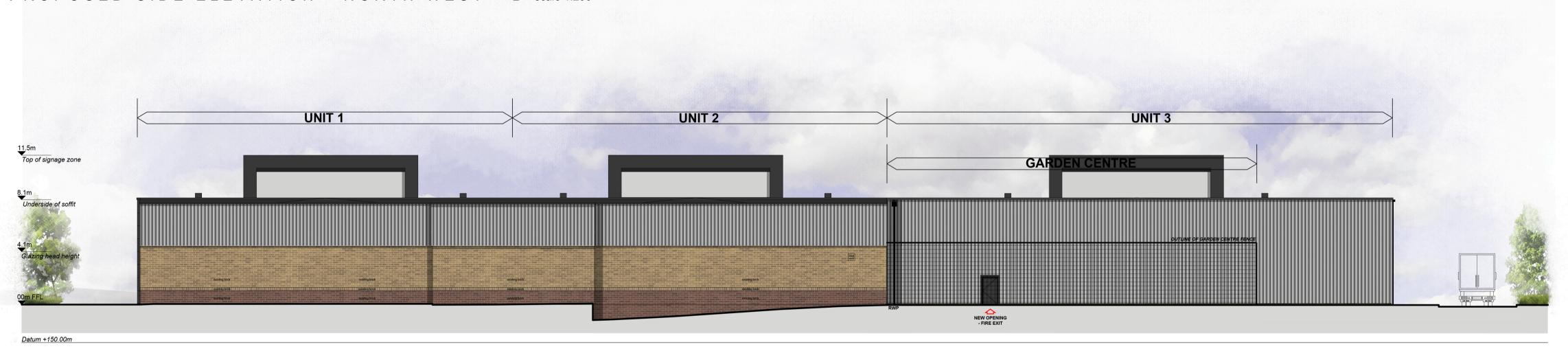
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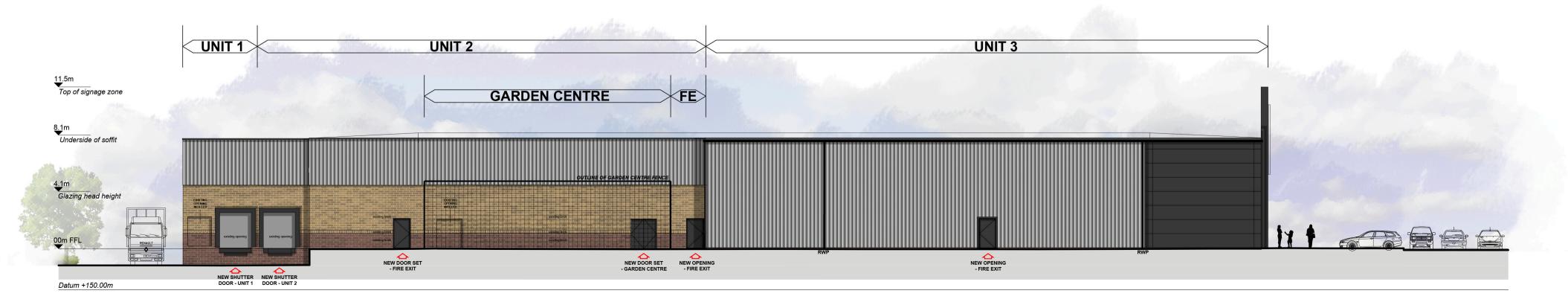
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PROPOSED REAR ELEVATION - SOUTH WEST - C scale 1:200



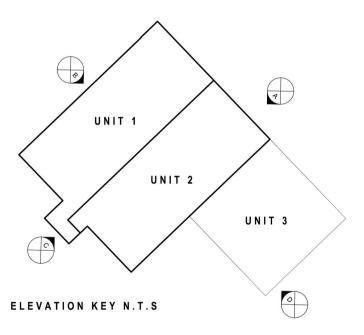
PROPOSED SIDE ELEVATION - SOUTH EAST - D scale 1:200 PROPOSED UNIT ELEVATIONS

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Proposed Materials







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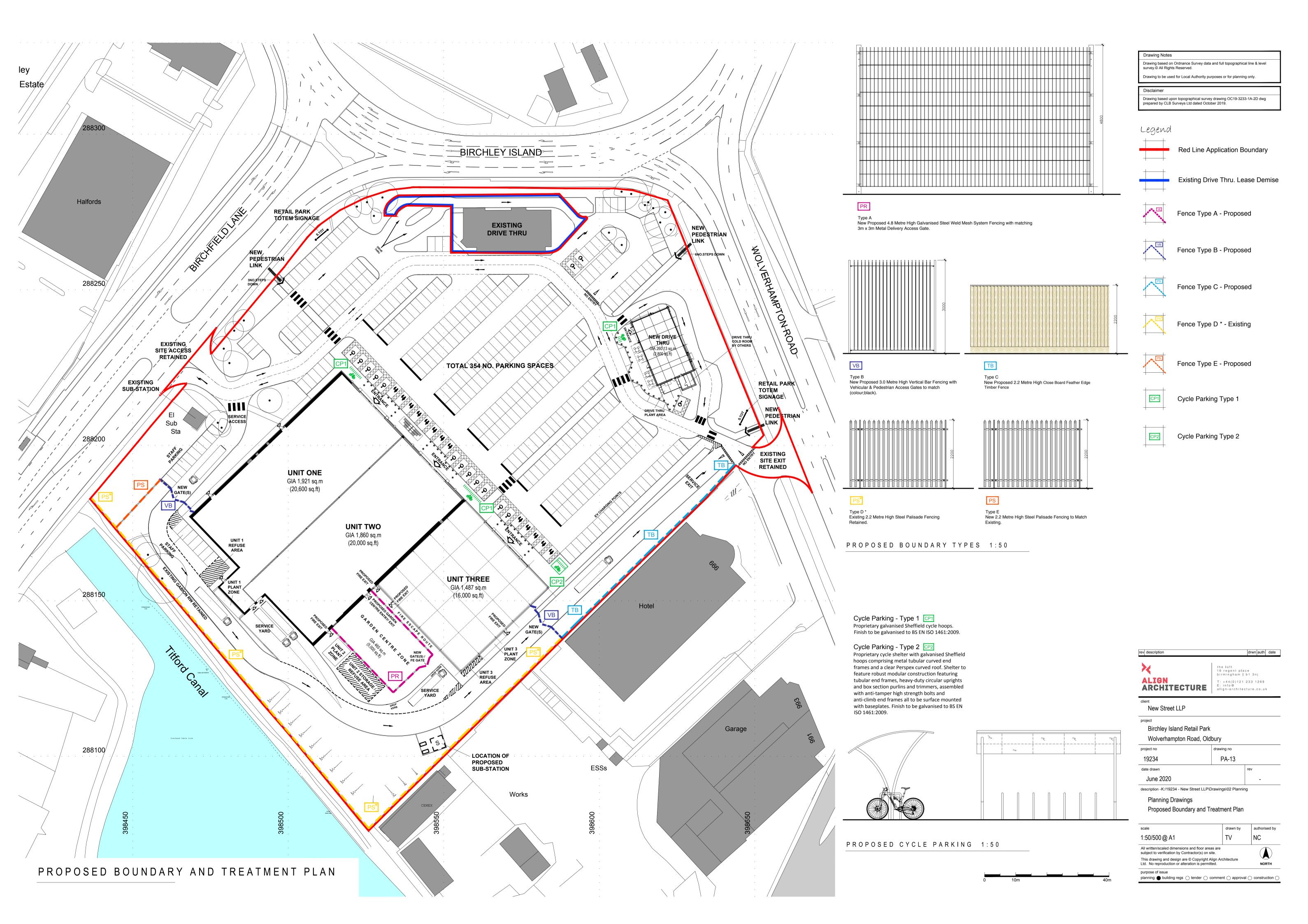
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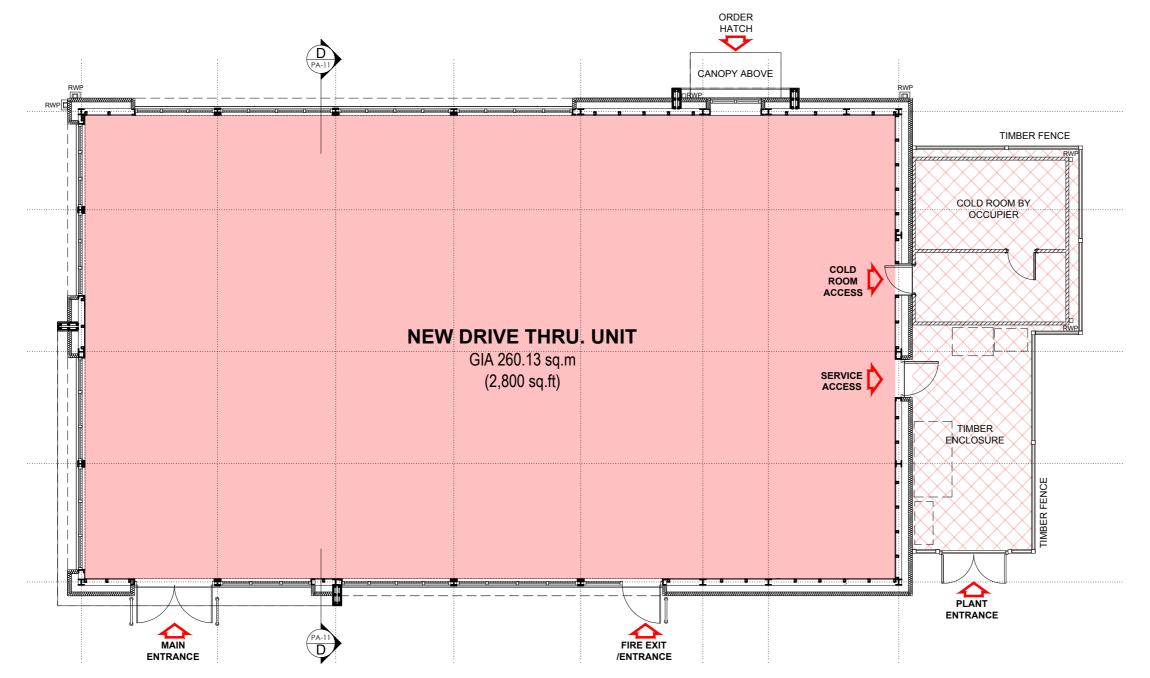
Planning Drawings

Proposed Unit Elevations

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PROPOSED GROUND FLOOR PLAN scale 1:200

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Planning Drawings

Proposed Drive Thru. Unit Floor Plans

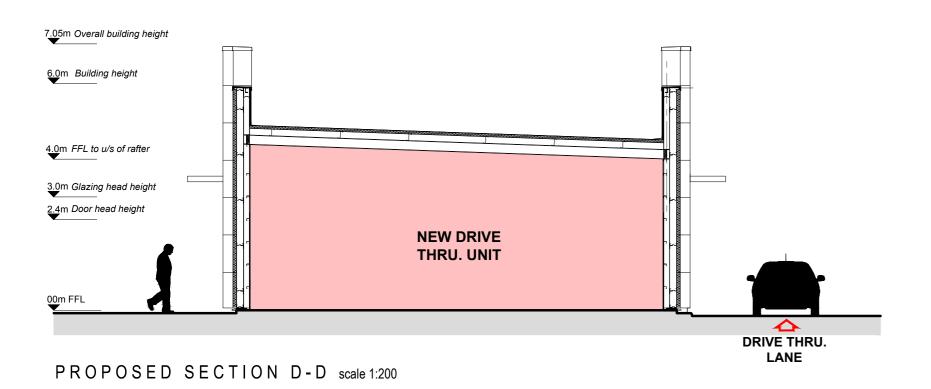
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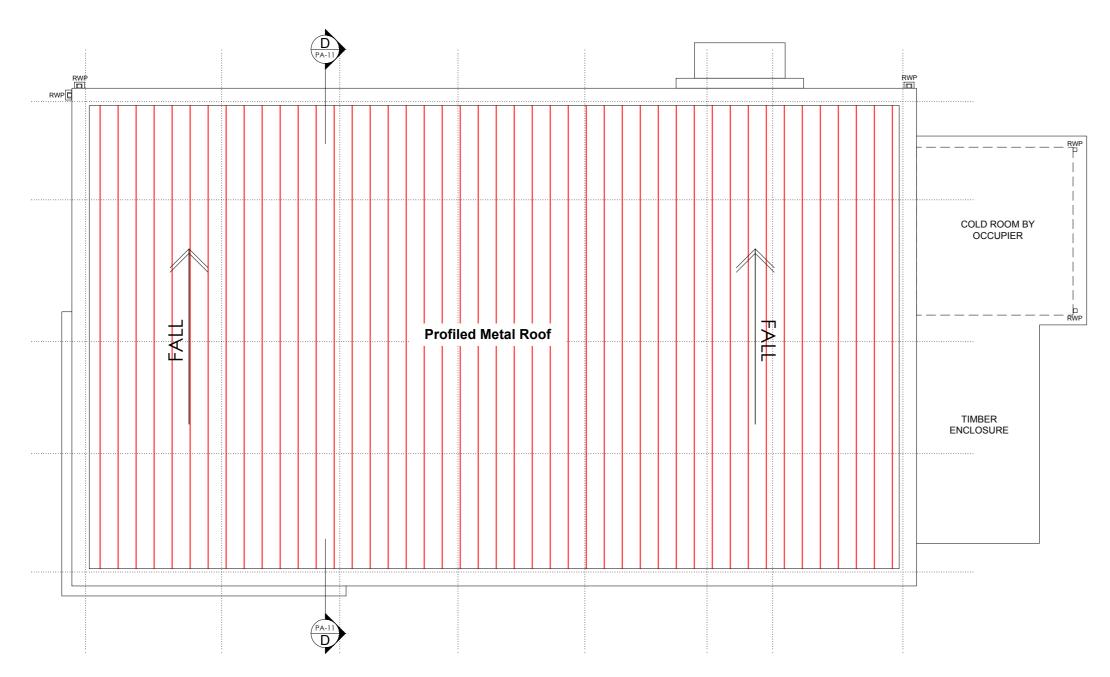
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PROPOSED ROOF PLAN scale 1:200

PROPOSED DRIVE THRU. ROOF PLAN & SECTION

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Denotes Proposed Outdoor Occupier Plant Area/Enclosure



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Planning Drawings

Proposed Drive Thru. Unit Roof Plan & Section

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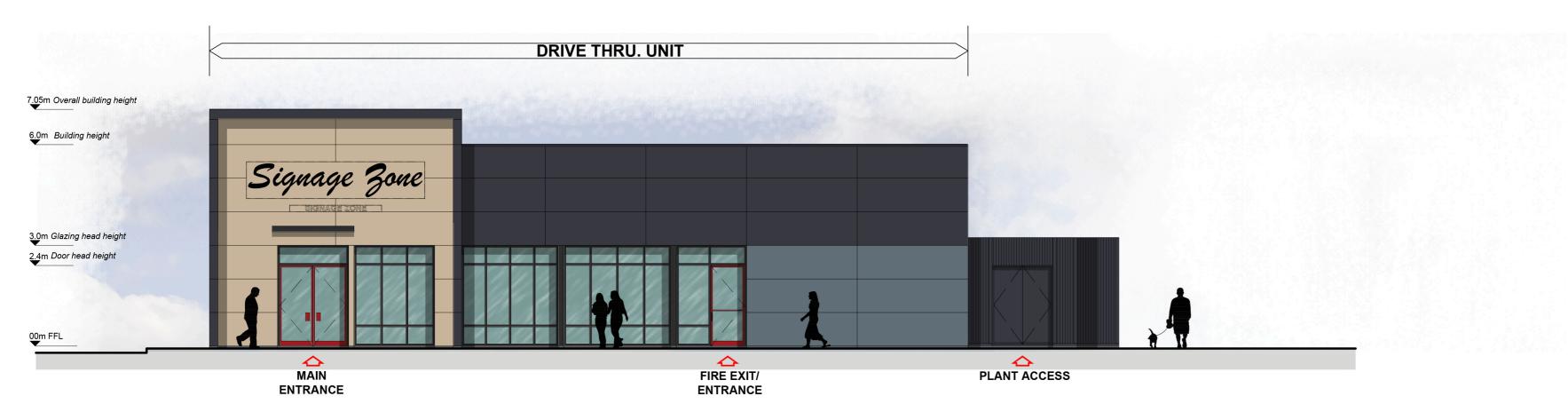
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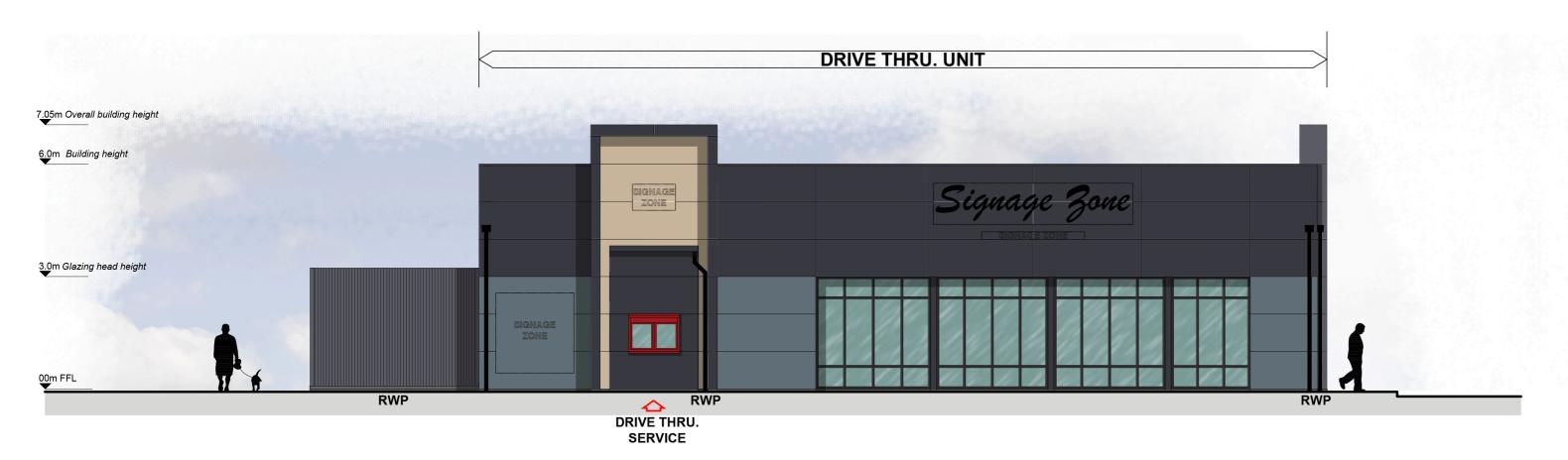


PROPOSED FRONT ELEVATION - NORTH EAST scale 1:200



PROPOSED SIDE ELEVATION - SOUTH EAST scale 1:200

PROPOSED REAR ELEVATION - SOUTH WEST scale 1:200



PROPOSED SIDE ELEVATION - NORTH WEST scale 1:200

PROPOSED ELEVATIONS

Drawing Notes

Drawing based on Ordnance Survey data and full topographical line & level

Drawing to be used for Local Authority purposes or for planning only.

Drawing based upon topographical survey drawing OC19-3233-1A-2D dwg prepared by CLB Surveys Ltd dated October 2019.

Proposed Materials





CLADDING Mirco-rib Composite Cladding Panels Colour: Black

CLADDING Mirco-rib Composite Cladding Panels Colour: Grey

Mirco-rib Composite Cladding Panels Colour: Cream

OTHER

Glazing: Black Main Entrance Doors, Secondary Exit/Entrance & Drive Thru Window RAL 9005

Soffits & Fascias: Colour-coated steel Downpipes and RAL 9005

Plant Area: Timber Fencing Colour: Grey

Note

All signage and advertisements applications to be undertaken by the Occupier under a separate Local Authority application.



rev description drwn auth date



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New Street LLP

Birchley Island Retail Park Wolverhampton Road, Oldbury

19234 PA-12 June 2020

description -K:/19234 - New Street LLP\Drawings\02 Planning

Planning Drawings

Proposed Drive Thru. Unit Elevations

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NORTH







ILLUSTRATIVE IMAGES

Drawing Notes

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rev description drwn auth date

ALIGN ARCHITECTURE

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ent

New Street LLP

project

Birchley Island Retail Park

Wolverhampton Road, Oldbury

19234 PA-15

date drawn

June 2020

description -K:/19234 - New Street LLP\Drawings\02 Planning

Planning Drawings
Illustrative Images

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