

# Report to Planning Committee

**15 September 2021**

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| <b>Application Reference</b>   | DC/19/63045   |
| <b>Application Received</b>    | 18 April 2019   |
| <b>Application Description</b> | Proposed erection of a multi-storey car park (sui generis) and a mixed-use building of between 6 and 9 storeys to include 201 dwellings (Use Class C3) and commercial floorspace (flexible within Use Classes A1 (shops), A2 (financial and professional), A3 (restaurants), A4 (drinking establishments), A5 (hot food takeaways ), D2 (assembly and leisure) or mix thereof), office (Use Class B1) plus associated amenity space and demolition of existing buildings. |
| <b>Application Address</b>     | PJ House, London Street, Smethwick  |
| <b>Applicant</b>               | Metropolitan Holdings (Birmingham) Ltd  |
| <b>Ward</b>                    | Soho and Victoria   |
| <b>Contact Officer</b>         | Carl Mercer<br>carl_mercer@sandwell.gov.uk  |

## 1 Recommendations

1.1 That planning permission be refused on the following grounds:






- (i) The application proposes excessive and unjustified levels of parking, contrary to the sustainable travel objectives of paragraph 124 of the NPPF and TRAN2 of the BCCS. In addition, SAD TRAN 3 sets maximum standards for parking which this development considerably exceeds. Furthermore, supporting information fails to adequately demonstrate that the impact on the surrounding highway network would not be severe with regard to safe and effective movement within the highway network for all users; contrary to the provisions of paragraphs 110 and 111 of the NPPF and TRAN2 of the BCCS. The proposal would therefore be an unsustainable development, would encourage the use of the car and would give rise to congestion and resultant unacceptable impacts on highway safety, and a loss of amenity, without commensurate mitigation.

## 2 Reasons for Recommendations

- 2.1 It is noted that the proposal would be of a high-quality design, provide much-needed housing and the commercial floorspace would broadly be acceptable within the context of the Development Plan. However, these merits would not outweigh the concerns raised over the excessive amount of parking provision proposed, for which there is no demonstrable need or justification and would encourage the use of the car, contrary to the sustainable travel objectives of national and local planning policies. Furthermore, the submitted Transport Assessment has not been agreed by the council and, considering traffic modelling associated with land allocations in the surrounding area, I am not convinced that the residual cumulative impacts of the development on the surrounding road network would not be severe in the terms of the NPPF, or that the scheme would be acceptable in terms of highway safety. The development therefore fails when the Development Plan is read as a whole.



### 3 How does this deliver objectives of the Corporate Plan?

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|  | Strong resilient communities - The redevelopment of this site would offer new retail and commercial floor space.   |
|  | Quality homes in thriving neighbourhoods – The scheme would assist with meeting the council's housing targets and provides good quality homes.                                 |
|  | A strong and inclusive economy - The redevelopment would provide opportunities for local employment and apprenticeships during construction phase and/or within the workplace. |

### 4 Context

- 4.1 The application is being reported to your Planning Committee because of the major nature of the proposal.
- 4.2 The application was previously considered at the committee meeting on 11 May 2021 but was deferred 'pending further discussions relating to a sustainable parking provision', as stated in the minutes of the May meeting. Progress subsequent to the May meeting is detailed from paragraph 13.16 of this report.
- 4.3 To assist members with site context, a link to Google Maps is provided below:

[PJ House, London Street, Smethwick](#)

### 5 Key Considerations

- 5.1 The site is allocated for employment uses in the Development Plan.
- 5.2 The material planning considerations which are relevant to this application are:-

Government policy (NPPF);  
Proposals in the Development Plan;  
Impact on residential amenity;  
Public visual amenity;



Design, layout and appearance;  
Access, highway safety, parking and servicing;  
Traffic generation and sustainable travel;  
Contamination by a previous use;  
Noise and disturbance from the scheme;  
Disturbance from smells;  
Archaeology;  
Flood risk;  
Planning gain; and  
Planning balance.

## **6. The Application Site**

- 6.1 The application site is 0.8ha in size, rectangular in shape, and bounded by Grove Lane to the southwest, London Street to the southeast and Cranford Street to the northeast. The site is currently occupied by a commercial vehicle sales/hire business, with associated single and two storey buildings and extensive hard standing areas.
- 6.2 The character of the surrounding area is mixed, and although industrial premises are still evident within the site vicinity, a housing development lies opposite the site across Cranford Street. The Midland Metropolitan University Hospital (MMUH) site is situated on the other side of London Street.

## **7. Planning History**

- 7.1 There is no relevant planning history for the site; however, the MMUH planning permission (DC/15/58384) is referred to throughout the report. The pending non-material amendment application (NMA) for the MMUH (NMA/21/00039) is also referred to.

## **8. Application Details**

- 8.1 The applicant proposes to clear the site to make way for a 1,323 space multi-storey car park and a mixed-use building of between six and nine storeys, to include 201 dwellings and flexible commercial floorspace





(retail, restaurant, drinking establishment, hot food takeaway, gym and office use) plus associated amenity space.

- 8.2 The proposal consists of a seven-storey block on the corner of London Street and Cranford Street (reducing to five storeys and then increasing to six again along Cranford Street), with flexible commercial/business units at ground floor and apartments above (a mix of studio, one and two bed units). The multi-storey car park element would be situated on the corner of Grove Lane and London Street and would be accessed from London Street. The car park would provide a total of 1,323 spaces over 10 floors (being nine storeys in height), of which 107 would be electric vehicle charging and 94 would be disabled bays. Spaces would be allocated for the apartments (one space per unit, which would total 201) and commercial uses (41 spaces for a commercial floor area of 1,240sqm). This leaves a total of 1,081 'standard' spaces which would not be allocated to uses within the development site (the agent has stated this figure to be a total of 880, by discounting the proposed provision of 107 EVC and 94 disabled bays). These remaining spaces are proposed for the use of hospital staff and visitors to address an alleged shortfall in standard spaces at the hospital.
- 8.3 In respect of its appearance, the development would incorporate a spiral ramp to the southwest side of the building fronting Grove Lane, and the predominant external materials would be brickwork, dark grey cladding and steelwork to provide a contemporary industrial appearance. Refuse, cycle storage and servicing would be provided within the building at ground floor level.
- 8.4 Please note that from 1 September 2020, A1 (shops), A2 (financial and professional), A3 (restaurants), D2 (assembly and leisure) and B1 (business – offices) all fall under the Class E use class. A4 (drinking establishments) and A5 (hot food takeaways) are now sui generis uses.



## 9. Publicity

9.1 The application was publicised by neighbour notification letter and by site and press notice, without public response. Given the time that has passed since its submission, the application has recently been re-publicised by site notice, inviting the public to make representations to this Planning Committee.

### 9.2 Comments from the NHS Trust

Two comments were originally received from Sandwell and West Birmingham NHS Trust. The first is from the trust's estate manager and sets out an objection to the multi-storey car park element of the development. The objection states that there is no established need for further parking for the hospital site, over and above that which is being provided as part of that development. Furthermore, the objection states that any additional traffic encouraged by the provision of the proposed car park may impact on the safe and efficient functioning of the new hospital, as well as undermine sustainable travel initiatives, which would work against the hospital Travel Plan.

9.3 Subsequent to the above objection, a letter has also been received from the trust's chief executive, which states, after discussions with the applicant, that the trust is largely supportive of the scheme. It is stated that the car park element raises no concerns in principle, would be complementary to the provision made by the hospital and would not undermine the sustainable transport principles established by the hospital.

9.4 In updating the trust's position, the project director for the MMUH forwarded a third correspondence to the council in May this year stating that the MMUH '*... was as a predominantly acute/inpatient facility, with the majority of outpatient activity remaining at our existing sites at Sandwell General Hospital and City Hospital in their future reconfigurations. Our car parking planning reflected these configurations*



*with a relatively low requirement for patient and visitor parking at MMUH. Over the last 18 months and in parallel with the emergence of the Covid-19 pandemic our activity planning has evolved leading to a reduction in the already small amount of outpatient activity at MMUH, and a corresponding increase in inpatient/acute activity. This has led to a reduction in the peak demand for car parking at MMUH and our detailed modelling provides reassurance that we can accommodate the expected requirements within our design. We do not recognise the shortfall... and as such we do not envisage demand for further off-site car parking provision.'*

- 9.5 Further to the correspondence of the project director, a non-material amendment application submitted by the NHS Trust for the MMUH site is currently pending consideration. The NMA proposes further plant at the site and is accompanied by a technical note for car parking which supports the loss of 48 staff car parking spaces to accommodate the new plant. The technical note provides the most current 'independent "bottom up" assessment of peak car parking numbers required solely for new hospital activities', stating that 'there is expected to be a reduction in the demand for car parking spaces at the site', largely due to the near elimination of outpatient services from the MMUH site (predominantly, car parking for community based nurses). The note states that, even by reducing the staff car parking by 48 spaces, parking provision at the site will exceed demand by 67 spaces due to revised hospital activities. Whilst the information accompanying the NMA submission has not been replied upon to form the basis of the recommendation for the London Street development, it supports the argument made later in this report that no further car parking provision is required for the MMUH site.

## 9.6 **Counsel advice**

The applicant has also forwarded counsel advice in response to the first committee report draft which criticises the draft for reasons including (the accompanying paragraph is provided in response):



- i) It does not reach a clear conclusion upon whether the proposal is or is not development plan compliant when the plan is read as whole (2.1 and 13.14);
- ii) The transport issue is not dealt with fairly - namely, the difference between what was assessed in the MMUH TA and what was actually appraised, i.e. a difference of 185 spaces; IHT Best Practice Guidance; the MMUH's own estimate of need in the Bidder's Bid; and the demands generated by visiting NHS staff which are not included in the TA (10.14 – 10.16);
- iii) The reasoning behind testing for 1,000 trips and rejection of the applicant's proposed testing of 500 trips assigned to the MSCP (10.11 – 10.12);
- iv) No evidence of any realistic prospect of severe residual impact on the highway (which would conflict with paragraph 110(a) and (c) and paragraph 111 of the NPPF) (10.17 – 10.19);
- v) SAD TRAN 3 is relied upon, yet it is out of step with national guidance, yet no mention is made of this (12.21); and
- vi) The planning balance does not weigh up the multiple benefits of the proposal (13.14).

## 10. Consultee responses

### 10.1 Planning Policy

No overall objection; however, it is stated that there is no firm evidence that there will be insufficient car parking provision for the hospital site to justify the car park element. The site forms part of a wider area that is allocated for employment uses in the SADD Policies Map, the Smethwick AAP and Grove Lane SPD. The proposal therefore constitutes a departure from the Development Plan and regard would have to be given to the guidance contained in BCCS policy EMP3. This policy aims to safeguard employment areas for uses falling within the



former B1 use class, with the intention that these areas will be protected from redevelopment for non-employment uses.

10.2 As the site is not allocated for residential development the proposal is classed as a housing windfall site under SAD policy H2. However, as the site is previously developed brownfield land the proposed development would meet the guidance contained in the policy. In my opinion, whilst the development is largely residential led, it would not provide cause for concern in respect of its departure from the employment land use allocated in the Development Plan. The development proposes commercial uses at ground floor which would be broadly in line with the allocation (albeit flexible – which can be controlled by condition) and the residential element of the development would be largely compatible with existing and proposed land uses within the site vicinity.

10.3 Whilst the retail offer initially raised concern from a policy perspective, the applicant has reduced this amount, and there are no issues from a policy perspective with a retail provision of 210sqm. This is broadly in line with the requirements for out of centre retail development, as set out in policy CEN6.

#### 10.4 **Transportation Planning and Highways (combined response)**

Objection to the multi-storey car park element. It is indisputable that the car park is proposed on this site due to the proximity of the adjacent hospital site. The hospital has continuously been referred to in successive transportation technical notes submitted on behalf of the applicant to justify the car parking element of the proposed development. The council's position, from a transportation planning and highway authority perspective, is that there is no under-provision of parking at the hospital site; provision which was agreed as part of the hospital's Transport Assessment and the Travel Plan (both documents dated June 2015). Indeed, these documents sought to reduce car-dependant trips, in agreement between the NHS Trust and the council, and the amount of car parking proposed by this new development, aimed at hospital visitors and staff, actively undermines this principle.

10.5 The hospital TA reviewed the likely parking demand based on the NHS business case for the acute hospital, (not through simple TRICS comparison, which does not take local conditions into consideration).





The council agreed the TA at the time and is satisfied that the level of parking being provided would accommodate the generated demand for the hospital, particularly as the staff will be shift based and visitor hours will not be limited; therefore, diluting the demand throughout the day and not at peaks. The junctions around the site were also tested on these assumptions.

- 10.6 Furthermore, the applicant makes comparison with parking provision for other hospitals to justify the need of the multi-storey car park. However, the MMUH is a specialist, acute A&E facility so is not analogous with Sandwell General, City or Queen Elizabeth, as such hospitals are general hospitals that offer extra and longer term medical care services than those proposed at MMUH. For example, in comparison to the QE, MMUH will have fewer beds and provide high quality sustainable care to the local population, with the greater proportion of patients attending for acute care. A lot of other services such as the Urgent Care Centre (open seven days a week - treating over 35,000 people), a major outpatient centre, paediatric consultation in key specialties, chemotherapy unit for cancer care, major imaging services, the Birmingham and Midland Eye Centre (BMEC) will stay at Sandwell and City hospitals and would not be provided at MMUH. Therefore, Transportation and Highways do not consider the QE Hospital and MMUH to be like-for-like hospitals for which comparisons and justifications for the number of visitors and associated parking can be made.
- 10.7 The applicant's fundamental argument is that the car park would not in itself be a traffic generator and the trips to the car park would already be on the highway network. The applicant supports this argument with an assumption that the hospital TA would not adequately meet the parking demand of the hospital. However, the council maintain that the hospital TA is robust and still relevant, and evidence provided in supporting documentation at the time suggested that its parking provision was fully provided for. As the hospital is not yet operational, the working assumption is that the above is correct as there is no evidence to the contrary. Admittedly, a discharge of conditions application to provide EV points/car sharing spaces showed a reduced car park number for the hospital by 185 spaces, but still, the majority of generated traffic would be catered for, and the amount of additional car parking proposed by the applicant of 1,081 spaces would far exceed any perceived deficit on this basis.





- 10.8 Additionally, Highways are acutely aware of the possibility that some visitors and staff may choose to park on surrounding streets to avoid paying for parking. Hence, to mitigate this, the hospital consent included a condition that traffic regulation orders would be reviewed and changed around the hospital site to stop fly parking; whether that be double yellows, double reds on Grove Lane (A Road), limited waiting or the provision of residential parking permits, should they be required.
- 10.9 It is worthy of note that there are no significant concerns raised over the new trips associated with the residential and commercial elements of the scheme. However, due to what the council consider to be the robustness of the initial documentation provided by the NHS Trust regarding hospital parking provision, any further proposed provision must be viewed by the council as new trips on the network, and this additional traffic to the proposed car park, passing through the local network, should be tested.
- 10.10 Whilst both Transportation Planning and Highways respectively maintain their objection to the amount of proposed car parking, they are of the opinion that the entire development should be modelled and adequately assessed in accordance with standard practices, and commensurate mitigation be put forward for the resultant scenario, if the applicant is fully committed to disproving their concerns. The applicant maintains that modelling trips associated with circa 1,000 parking spaces is unrealistic as 'the MSCP cannot be recognised as a sole origin or destination trip generator and therefore it would not generate any additional trips on the network'.
- 10.11 In an attempt to accommodate the council's stance, the applicant has provided further information in respect of traffic modelling and mitigation, based on 500 trips representing, the applicant claims, a robust position (it equates to 1,850 apartments or 51,124 m<sup>2</sup> of B1 use). This work, instructed on behalf of the applicant, revealed that all junctions could operate satisfactorily, albeit with potential mitigation being required in some instances. However, the council maintains that the trip rates associated with the commercial, residential and the multi-storey car park element of the development should be assessed together and not independent of one another, so that the collective impact may be determined. With regards to the council's request for testing 1,000 trips,



given that neither Transportation Planning nor Highways accept that there is an under provision of car parking for the MMUH site, the council is not requesting that 1,000 plus trips be modelled, rather trips associated with circa 1,000 parking spaces. The justification for this being that in providing more car parking for patients and visitors to the hospital site, it would lead to increased vehicles on the network by encouraging the use of the car to travel to the area and would therefore be at odds with national and local planning policies aimed at promoting sustainable travel.

- 10.12 The council maintains that the trip rates associated with the commercial, residential and multi-storey car park element of the development should be modelled together and not separately. The justification being that all the spaces surplus to the proposal's own need would generate new trips on the network, on the basis that all provision for the hospital is provided for within its site area. The applicant has used the trip rates for office development for the car park modelling, which the council argues is not comparable to that of vehicle movements associated with those of a large multi-storey car park. The council requires the impact of 251 spaces (using residential trip rates), 41 spaces (using commercial trip rates), and 1,031 spaces for the multi-storey car park to be assessed together to be assured of the impact on the highway network. The vehicle trip rate to be used for the multi-storey car park can only be agreed once the ultimate destination of the 'person trips' associated with these vehicles has been identified and then the total accumulation profile throughout the day to the multi-storey car park has been provided. This should then be modelled to test capacity along the adjacent highway network and junctions previously identified accounting for a total of 1,323 parking spaces as proposed by the whole development. However, this stage has not been reached as the applicant continues to argue that the ultimate destination for the multi-storey car park is the hospital and Transportation Planning and Highways object to the alleged under-provision in hospital parking to be used as justification for the MMUH as the ultimate destination.
- 10.13 At the time of writing the report a stalemate has occurred as the methodology required by the council in respect of the impact on highway capacity is not accepted by the applicant. Notwithstanding the lack of agreement over the modelling methodology, the principle of a



development that proposes parking provision far exceeding its own requirement, and which actively undermines the sustainable transport principles of a major neighbouring development, cannot be supported by the council.

10.14 I note the point raised in the counsel advice that the transport matters have not been dealt with fairly. The counsel advice refers to the discharge of conditions for the MMUH associated with the provision of electric vehicle charge points and the provision of car sharing parking spaces. This includes the provision of 1,250 staff parking spaces, 393 patient/visitor car parking spaces and 52 motorbike spaces, which equates to 1,695 parking spaces. However, 44 of these spaces are car share parking bays and would therefore not be allowed to be occupied by single occupancy car users. It is therefore assumed that the provision of car share bays, will reduce parking demand by 44 parking spaces based on a minimum of two people who would have otherwise occupied two parking spaces, occupying a single car share parking space. Had no car sharing spaces been provided, there would be a total of  $1695 + 88$  ( $44 \times 2$  as a result of no car sharing bays) = 1783 parking spaces. This may be a shortfall of one parking space from the maximum parking demand of 1,784 spaces, as shown in the predicted parking accumulation profile within the MMUH Transport Assessment (June 2015); however, this figure already included an allowance of an additional 110 parking spaces to represent demand from observed on-street parking. In addition, there is a requirement to adjust the ratio of visitor/patient to staff spaces if required and, Level O has been arranged such that the division between the two areas can be physically adjusted. As committed by the NHS Trust, the use of the car park and its capacity will be monitored over time and adjustments made to find the optimum split of spaces. It is also possible to close the ramp between Level O and Level 1 and open up the entire Level O parking to visitors if this is required by weekly monitoring. This will therefore overcome 'the likely variations in demand that will occur on a daily, weekly and monthly and yearly basis that will impact and influence the demand for parking at the site' the applicant refers to.

10.15 The applicant uses IHT Best Practice Guidance – this appears to be with reference to a document entitled 'Parking Strategies & Management'. This document predates the council's The Preparation of Transport Assessments and Travel Plans SPD 2006 and is not local or national



planning policy. Given that the council has agreed the MMUH TA and TP, the best practice guidance carries little weight. The council is not re-assessing the MMUH documentation as part of this planning application.

- 10.16 Questions have also been raised over the MMUH's own estimate of need in the Bidder's Bid. The applicant states that the MMUH TA refers to the bidder's brief, which identifies a requirement for 1,828 spaces for the MMUH site, therefore the provision of 1,643 spaces is 11% less than the required provision identified by the hospital itself. Transportation Planning has clarified in response to the applicant that the predicted parking accumulation profile within the MMUH TA (June 2015) shows that the maximum parking demand for MMUH is likely to be 1,784 spaces, of which 1,455 are staff and 329 are patient/visitor spaces, occurring during the 9am-10am period on weekdays. This includes an allowance of 110 vehicles to represent demand from observed on-street parking. The 1,455 staff parking spaces also include a 5% (69 spaces) provision to cater for community-based nurses that will commute between sites. In order that there could be further insurance towards sufficient parking being provided on-site, the NHS Trust incorporated a total parking provision requirement of 1,828 within the bidder's brief, comprising 1,455 staff and 373 visitor spaces. Therefore, the parking analysis shows that there is a slight overprovision of 44 parking spaces in car parking compared against estimated demand (1828 - 1,784 spaces = 44 spaces).
- 10.17 In respect of its evidence base for concerns over severe residual impact on the highway, as part of its duties as highway authority, the council regularly monitors traffic movement, congestion levels and tests highway improvement schemes to ensure the expeditious movement of traffic on this section of the highway network around the proposed development site. To this end, in January 2019 traffic modelling for a proposed junction improvement scheme designed by SMBC took place in order to unlock housing development sites within the Smethwick area and within proximity of the MMUH. A follow-on study was commissioned in November 2019, looking at a series of options for road improvement schemes in the A457 Grove Lane area. The study area centred around the B4135 Cranford Street and A457 Grove Lane corridors and was designed to support aspirations to deliver phased residential and mixed-use development on the Grove Lane Housing Zone Area. For modelling work as part of this study to be representative of a 2019 base year, a





new traffic data collection exercise and surveys were undertaken on behalf of the council. Consequently, the council's consultant has developed a 2019 base VISSIM model including 12 junctions, centred around the new MMUH site and consists of an approximate 2.2km section of the A457 corridor and 1.6km section of the B4315 corridor. The data collection exercise was undertaken in November 2019 in which classified turning counts were undertaken at ten junctions, queue length surveys undertaken at three junctions and automatic traffic counts undertake at six locations. TomTom travel time information for November 2019 has also been obtained. Network calibration and validation has been carried out in accordance with TAG Unit M3.1, Highway Assignment.

- 10.18 To support the options appraisal, the consultants have developed a traffic modelling evidence base including VISSIM micro-simulation and LinSig junction models. Following the successful calibration and validation of the AM interpeak and PM 2019 base models to a good standard in accordance with TAG Unit M3.1, a 2026 forecast year assessment was undertaken. The forecasting approach was based primarily on growth from the higher tier PRISM strategic transport model for the West Midlands, from which local area cordons were obtained. Residential development for the potential development plots in the Grove Lane housing zone area were also factored into the matrix development approach.
- 10.19 The study showed that in 2026, junctions and approaching arms would be operating at overcapacity during the AM peak, inter-peak and PM peak without significant improvements and investment to the highway infrastructure. Therefore, with the knowledge of this work, the council has legitimate concerns that additional traffic associated with a 1,323 space car park is likely to cause severe congestion, unless the applicant can demonstrate otherwise through an agreed transport assessment and travel plan.
- 10.20 In summarising and emphasising the main principles of the transport matters:
- i) The alleged shortfall of 185 parking spaces at the MMUH due to the approval of EV points/car sharing spaces is insignificant and does



not provide sufficient weight to the applicant's argument that additional car parking is required;

- ii) The principles of the MMUH's approved Transport Assessment and Travel Plan remain robust and relevant. Importantly, the circumstances underlying the approved TA and TP principles of the MMUH have not changed;
- iii) The council's request for the modelling of trips associated with circa 1,000 parking spaces is justified;
- iv) Concerns over probable severe congestion on the surrounding highway network are credible, given the evidence of cumulative impact compiled on behalf of the council for potential housing sites in the area; and
- v) The car parking element blatantly undermines the ideals of sustainable development.

## 10.21 Urban Design

No objection. The officer initially raised concerns in respect of the general scale and massing of the development, which was addressed by submission of amended plans showing a reduction in height of the building around all aspects of the site. The corner feature profile at the London/Cranford Street junction was reduced by two storeys and the general proportions of the building along Cranford Street would now achieve a 1:1 height ratio towards the recently constructed residential development opposite. Along London Street the storey height of the building would share a better height/ratio relationship to the rear of the hospital building and its interface along Grove Lane. The amendments also increase the amount of roof garden communal green terraces at various storey heights along London and Cranford Street, and improve the general access and circulation for pedestrians from the car park areas into the main building.





## 10.22 Public Health (Air Quality)

No objection subject to conditions. A detailed air quality assessment dated March 2019 and reissued in September 2019 seeks to address concerns. It is noted that the revised design, separating the parking from the residential area, should prevent vehicle fumes affecting the residential properties. Conditions relating to the provision of EVC bays, the adoption of measures included in the low emission strategy of the air quality assessment and dust mitigation measures should be included in any consent.

## 10.23 Public Health (Contaminated Land)

Standard contamination conditions recommended (desktop study to assess risk, remediation measures and confirmation of implementation of said measures).

## 10.24 Public Health (Air Pollution and Noise)

No objection subject to conditions relating to ventilation/odour control (in the event that food uses are implemented), and a further noise survey to assess the impact of siren noise on residents, together with appropriate mitigation.

## 10.25 West Midlands Police

No objection. Suggested design measures have been considered from an urban design perspective.

## 10.26 Lead Local Flood Authority

No objection subject to conditions ensuring compliance with the submitted Drainage Statement and submission and approval of a detailed surface water drainage scheme for the site.

## 10.27 Canal and River Trust

No objection.



## 10.28 Severn Trent

No objection subject to conditions.

### 11. National Planning Policy

11.1 Section 9 of the National Planning Policy Framework requires all developments that generate significant amounts of movement to be required to provide a travel plan, and the application should be supported by a transport statement/transport assessment.

11.2 Paragraphs 107 and 108 discuss maximum parking standards.

11.3 Paragraph 110(a) and (c) state that, in assessing applications, it should be ensured that:

- *'appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;'* and

- *'any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'*

11.4 Paragraph 111 states: *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*

11.5 Paragraph 124 states that planning policies and decisions, inter alia, should *'promote sustainable travel modes that limit future car use'*.

11.6 In general terms, the NPPF's presumption in favour of sustainable development is relevant.

11.7 Additionally, national planning policy guidance (NPPG) expects that transport assessments and travel plans promote sustainable travel, lessen traffic generation and impact, reduce the need for new development to increase existing road capacity and reduce carbon impacts. None of the NPPG ideals are applicable to the proposal.



## 12. Local Planning Policy

12.1 The following policies of the council's Development Plan are relevant:-

CSP4: Place Making  
DEL1: Infrastructure Provision  
HOU1: Delivering Sustainable Housing Growth  
HOU2: Housing Density, Type and Accessibility  
HOU3: Delivering Affordable Housing  
EMP3: Local Quality Employment Areas  
EMP5: Improving Access to the Labour Market  
CEN6: Meeting Local Needs for Shopping and Services  
CEN7: Controlling Out-of-Centre Development  
TRAN2: Managing Transport Impacts of New Developments  
TRAN4: Creating Coherent Networks for Cycling and for Walking  
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  
SAD H2: Housing Windfalls  
SAD H3: Affordable Housing  
SAD HE 5: Archaeology & Development Proposals  
SAD EMP 1: Employment Land Development Sites  
SAD EMP 2: Training and Recruitment  
SAD EMP 4: Relationship between Industry and Sensitive Uses  
SAD TRAN 3: Car Parking  
SAD EOS 9: Urban Design Principles  
SAD DM 5: The Borough's Gateways

- Smethwick Area Action Plan (AAP) - Local Policy Sme4
- Grove Lane Masterplan Supplementary Planning Document (SPD)

12.2 In respect of CSP4 the design of the development would adhere to the essence of the policy by providing, in part, a vibrant scheme, defined by a distinct design character.



- 12.3 All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area (DEL1). The applicant is willing to make a financial contribution where justified to mitigate the impact that the development would have on the local network, as outlined in the most recently submitted technical note. The council is of the opinion that the mitigation of said impact cannot be adequately assessed based on the information submitted.
- 12.4 Whilst land is identified and allocated in the Development Plan to meet the borough's sustainable housing growth, under policy HOU1 additional housing capacity will also be sought elsewhere through planning permissions on suitable sites. As such this proposal would assist in providing much needed housing within the borough.
- 12.5 The proposal meets the requirements of policy HOU2 in that it proposes a range of types and sizes of accommodation which would be accessible by sustainable transport to residential services. The proposal would also achieve high quality design with minimal amenity impact.
- 12.6 In respect of policies HOU3 and SAD H3, as long as the scheme remains as purely 'Build to Rent', then the provision of 20% affordable private rent is in accordance with the guidance in the NPPF and NPPG. This can be ensured by section 106 agreement.
- 12.7 As discussed under policy comments above, policy EMP3 aims to safeguard employment areas for such uses. The proposal raises no appreciable concerns in this regard.
- 12.8 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.
- 12.9 The reduced retail offer would be acceptable to meet a very local need, compliant with policy CEN6.
- 12.10 The reduction in retail floor space has negated the need to meet requirements of policy CEN7. Increases in the commercial floor areas



proposed may be controlled by condition to ensure adherence to policies CEN6 and CEN7.

- 12.11 TRAN2 sets out development principles and stresses the importance of maximising accessibility by a choice of sustainable modes of transport at all developments. The policy definitively states that planning permission will not be granted for development proposals that are likely to have significant transport implications. To increase the number of parking spaces to serve the hospital as proposed by the development (or future development in the immediate area, as the applicant has suggested) would result in significant overprovision of parking spaces which would work against the hospital Travel Plan principles, and the objectives of national and local transport planning, by discouraging a switch from the private car to sustainable transport modes. Furthermore, the policy states that proposals should be in accordance with an agreed transport assessment and travel plan, for which the scope and agreement of basic assumptions should be set out early in the planning application process in accordance with the council's The Preparation of Transport Assessments and Travel Plans SPD 2006. Said scope and assumptions for the multi-storey car park have never been agreed by the council. Furthermore, the submitted TA and Travel Plan do not accord with the aspirations of NPPG.
- 12.12 Secure cycle parking provision (TRAN4) is shown on plan at ground floor for the use of residents and could accommodate 200 bicycles.
- 12.13 The site is situated in a wider area that is designated as an Area of Potential Archaeological Importance on the SADD Policy Map. Therefore, policy ENV2 and policy HE5 is applicable, as well as SADD policy HE5. The council would require archaeological information, derived from a desk based archaeological assessment. This is typically ensured by condition.
- 12.14 The proposal raises no significant concerns in respect of design, is compliant with ENV3 and SAD EOS 9 and would be appropriate in terms of its gateway location (SAD DM 5).
- 12.15 The LLFA and Severn Trent state that outstanding drainage matters can be addressed by condition (ENV5).





- 12.16 In respect of ENV7, the applicant has provided an energy assessment. The assessment affirms that the development would provide for 10% of its energy requirements from renewable sources through the use of photovoltaics and air source heat pumps, including identification of the areas for their location.
- 12.17 The applicant has shown electric vehicle charging points on plan and these would be ensured by condition in accordance with policy ENV8 and the Black Country Air Quality SPD.
- 12.18 The development site is not allocated for residential development in the SADD Policies Map and is therefore classed as a housing windfall site. Whilst policy SADD H2 would be applicable, the policy officer has confirmed that the proposal meets the guidance set out in the policy as the site is previously developed land that is suitable for residential development.
- 12.19 SAD EMP 4 requires that proposals which may adversely affect or be adversely affected by existing industry operating in appropriate locations will not be permitted unless the adverse effects can be reduced to an acceptable level. The applicant has submitted sufficient documentation to demonstrate that the proposal would be acceptable within the context of this policy, subject to appropriately worded conditions.
- 12.20 SAD TRAN 3 advises of a maximum limit on car parking for certain types of development and observes the interface between parking provision and travel choices, the quantity of road traffic and congestion. The development would be in conflict with this policy for providing additional car parking for a use outside of its site area (being a use for which parking is already accounted for) and has the potential to increase road traffic and congestion. The policy also requires that 'Proposals should address the road safety and amenity implications of the development' and that the 'level of provision both on a development site and provided elsewhere affects economic viability and operational efficiency', which is relevant to the car park element of this proposal.
- 12.21 SAD TRAN 3 is stated in the counsel advice as being, 'out of step' with national guidance. However, paragraphs 105 and 106 of the NPPF refer to the appropriateness of imposing a maximum parking standard and discuss such standards on a development specific basis, demonstrating





that SAD TRAN 3 is not as out of step as alleged, the policy effectively resonating with current, national policy in respect of the principle of applying maximum parking standards. The wording of SAD TRAN 3 also adopts a flexible approach, allowing maximum standards where the council sees fit. As a result, considering that the council does not accept the need for additional parking for the MMUH, the car parking proposed on site far exceeds the requirements for the residential and commercial uses proposed. Of particular relevance within SAD TRAN 3 is the requirement: 'for land uses not covered in these standards, the most stringent regional or local standards should apply.' In this case it is not considered unreasonable for a land use such as a multi-storey car park to be accompanied by an agreed transport assessment and travel plan to justify its need.

### **13 Material Considerations**

13.1 National and local planning policy considerations have been referred to above in sections 11 and 12. With regards to the other material considerations, these are highlighted below:

#### **13.2 Impact on residential amenity**

It is considered that the impact of the proposal on light, outlook and privacy would most affect the closest two storey dwellings on the corner of Cranford Street and Arthur Keen Drive. However, the impact would not be significant enough to warrant refusal of the application these grounds, especially as an acceptable building height to street width ratio would be respected from the side elevation of the proposed building, to the dwellings which front Cranford Street.

#### **13.3 Noise nuisance**

There would be no appreciable impact on the amenity of the surrounding area which could not be addressed by suitable conditions.

#### **13.4 Public visual amenity**

The amended scheme would provide a landmark building, which would not be overly dominant and would complement the design of the hospital building.



### 13.5 Design, layout and appearance

The building would fluctuate in height along its Cranford Street frontage, as well as recess in part which would moderate its prominence in the streetscene. The London Street elevation would be characterised by a central stairwell block bookended by 'statement' corners; a seven-storey block indicating the main pedestrian access to the apartments on its Cranford Street corner, and a circular access ramp clad in vertical bronze strips providing a feature to the Grove Street corner. The design and appearance of the development is considered to be acceptable.

### 13.6 Access, highway safety, parking and servicing

On site access, safety, parking, refuse storage and servicing raise no appreciable concerns, and issues from the originally submitted scheme have been addressed with amended plans. However, the wider impact of the multi-storey car parking element on the highway network has not been proven to be acceptable.

### 13.7 Traffic generation and sustainable travel

As discussed above, traffic generation attributed to the car parking element is a significant concern.

### 13.8 Contamination by a previous use

Contamination conditions would be recommended, given the industrial history of the area.

### 13.9 Noise and disturbance from the scheme

No concerns raised which could not be addressed by condition.

### 13.10 Disturbance from smells

Potential for issues from proposed hot food takeaway uses could be addressed by condition.



### 13.11 Archaeology

Could be addressed by condition as indicated above.

### 13.12 Flood risk

No issues, subject to condition.

### 13.13 Planning gain

The delivery of affordable housing would be ensured by section 106 agreement. The development is CIL liable.

### 13.14 Planning balance

I have fully considered the merits of the proposal, of which it is acknowledged there are several (including the regeneration of the site and the provision of housing and commercial space). However, when considering the development as a whole, and taking account of the issues of the likely adverse impacts of the car park element on the surrounding highway network, and the incompatibility between, first, the very significant amount of parking proposed, in excess of what is satisfactorily evidenced and justified to be needed and, second, transportation and sustainability related development plan policy and also relevant national planning policy, conflicts arise with policies TRAN2 and SAD TRAN 3, and paragraphs 110, 111 and 124 of the NPPF. I conclude that the application should be refused, when exercising the statutory test under section 38(6) of the Planning and Compulsory Purchase Act 2004.

13.15 For the above reasons, the development is not considered to be in accordance with the Development Plan, when read as a whole, and material considerations do not indicate that planning permission should be granted.

### 13.16 Other matters – unilateral undertaking

Following the deferral of the application at May committee, the applicant has engaged further with council officers, but no meaningful reduction in proposed car parking has been put forward and the reasons for refusal



stand. In response, the applicant has submitted a unilateral undertaking for consideration.

- 13.17 A unilateral undertaking is a planning obligation. Obligations can be delivered via a planning agreement entered into under section 106 of the Town and Country Planning Act 1990 by a person with an interest in the land and the local planning authority; or via a unilateral undertaking entered into by a person with an interest in the land without the local planning authority. Planning obligations run with the land, are legally binding and enforceable. A unilateral undertaking cannot bind the local planning authority because they are not party to it.
- 13.18 The applicant's undertaking essentially proposes three items. Firstly, it would restrict the use of the car park to the ground to sixth floor inclusive in the first instance. It provides for monitoring of the local parking situation to be carried out before and after the hospital opens. The council would be provided the opportunity to select a transport consultant from a list provided to them to establish the parameters of this modelling. The consultants would be independent of applicant, the hospital and the council. Only if the tests outlined in the undertaking are met would the remaining floors of parking be opened for use. Secondly, the undertaking is intended to provide a financial contribution to the identified transport mitigation works and, thirdly, secure the proposed affordable housing.
- 13.19 The NPPF confirms that planning obligations should only be sought to mitigate the effects of unacceptable development therefore making it acceptable. The Framework in paragraph 57 and CIL Regulation 122 (2) set out three 'tests' for seeking planning obligations. They must be necessary to make the development acceptable in planning terms, be directly related to the development and fairly and reasonably related in scale and kind to the development.
- 13.20 In regard to the 'phased' opening of the car park, the council maintains that, based on the agreed MMUH Transport Assessment and Travel Plan, car parking for the hospital is accounted for. The council therefore sees no need for further car parking. Indeed, if the intent of the phased opening is to overcome concerns over the unjustified levels of car parking with the potential for harm to the highway network, it does not address the matter of the amount of car parking proposed being contrary



to sustainable travel objectives. The phased opening of the car park would not make the development acceptable in planning terms with regards to paragraph 124 of the NPPF, and importantly, if car parking is significantly overprovided adjacent to the site, this would discourage the behavioural switch from private vehicle use to more sustainable modes of transport.

- 13.21 Acknowledging the contributions in respect of highway works, as the TA for the development has not been agreed and the methodology in respect of the impact of the car park has not been accepted by the council, the council is unable to agree that the proposed mitigation would address the impact of the development on the local highway network. Therefore, it is considered that the council is not in a position to state that the highway works would make the development acceptable in planning terms. The contributions are effectively based on the assumptions of the applicant, with no agreement or approved evidence base from the council, that the highway works would mitigate against the highway impacts of the development.
- 13.22 With regards to affordable housing, a unilateral undertaking only relates to contributions to the council. A development usually requires the involvement of both parties which cannot take place here as the council is not party to the undertaking. I believe the affordable housing could not be delivered to the satisfaction of the council under this undertaking. For example, the council would want to secure that the affordable housing is sold or leased to a registered provider which is named on the council's approved list, provide a date when the units need to be sold/leased by, ensure that the affordable housing units are occupied by persons from our nomination list, that the tenure of the units is acceptable to the council and that there is a cascade clause that requires the developer to show the council evidence that they have tried to sell/lease units to an RP before a commuted sum is necessary. A s106 is the preferred option to effectively ensure affordable housing.
- 13.23 Therefore, with regards to the three tests, whilst the undertaking is directly related to the development, it has not been demonstrated to be necessary to make the development acceptable nor evidenced to be reasonably related to it in scale and kind for the reasons given above.





## 14 Alternative Options

14.1 Approval of the application is an option if there are material planning reasons for doing so.

## 15 Implications

|                              |   |
|------------------------------|---|
| <b>Resources:</b>            | 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. |
| <b>Legal and Governance:</b> | This application is submitted under the Town and Country Planning Act 1990.   |
| <b>Risk:</b>                 | None.   |
| <b>Equality:</b>             | There are no equality issues arising from this proposal and therefore an equality impact assessment has not been carried out.                                     |
| <b>Health and Wellbeing:</b> | The development proposes leisure and commercial opportunities.  |
| <b>Social Value</b>          | New homes to meet a full range of housing needs in attractive neighbourhoods and close to key transport routes.   |

## 16. Appendices

Site Plan

Context Plan

Proposed Ground Floor Plan - 02-DR-001 Rev D

Proposed 1<sup>st</sup> Floor Plan - 02-DR-002 Rev C

Proposed 2<sup>nd</sup> to 5<sup>th</sup> Floors Plan - 02-DR-003 Rev B

Proposed 6<sup>th</sup> Floor Plan - 02-DR-004 Rev C

Proposed 7th Floor Plan - 02-DR-005 Rev C

Proposed 8th Floor Plan - 02-DR-006 Rev C

Proposed 9th Floor Plan - 02-DR-007 Rev C

Proposed Elevations - 02-DR-008 Rev B

Proposed Sections 1 of 2 - 02-DR-009 Rev C

Proposed Sections 2 of 2 - 02-DR-010 Rev B

Proposed Apartment Plans - 02-DR-011 Rev C

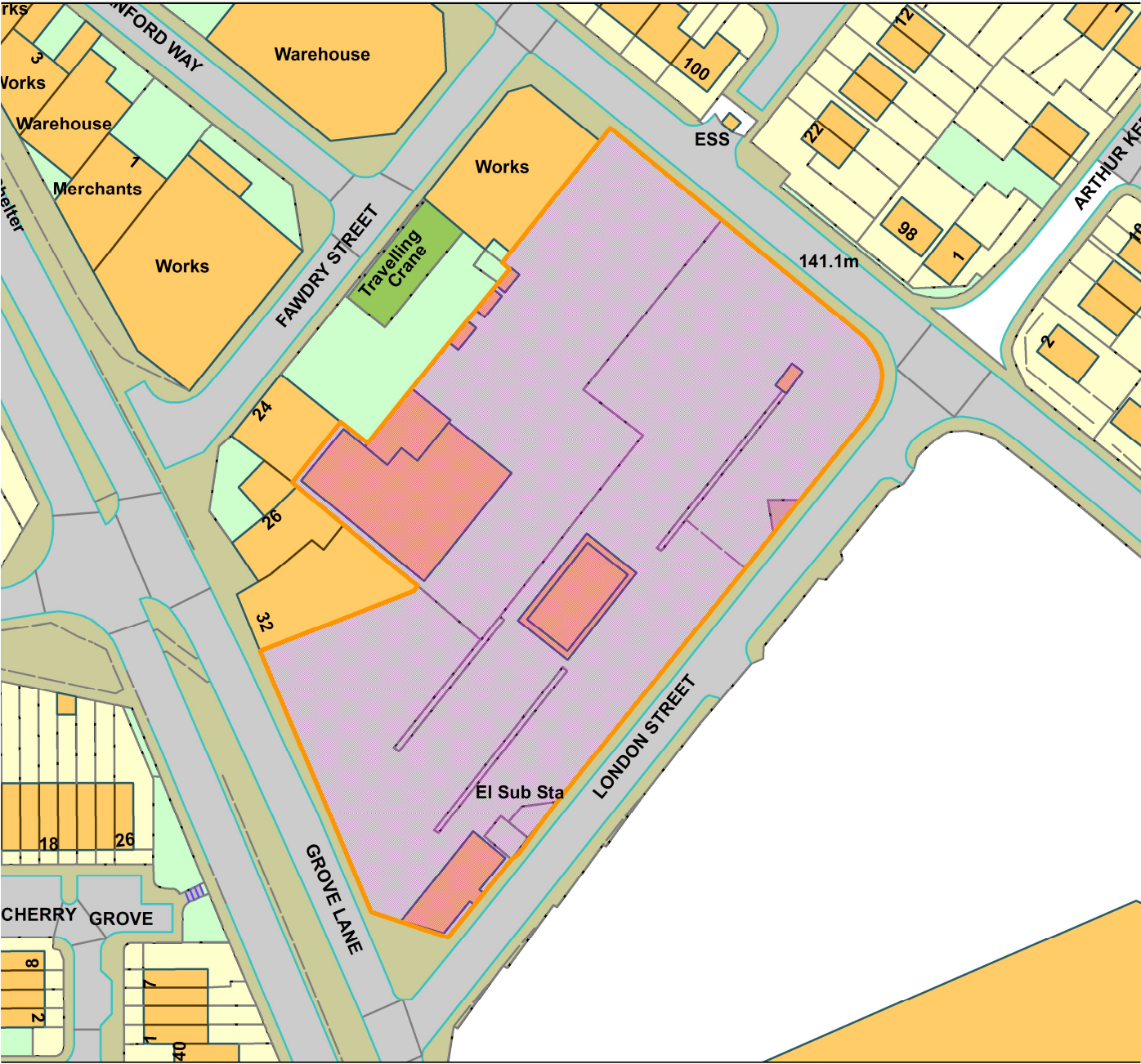
Bay Study - 02-DR-012 Rev B

Proposed Street Scene Elevations - 02-DR-013 Rev B





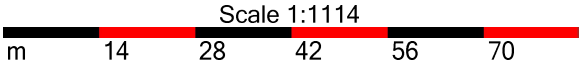
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PJ House, London Street, Smethwick



Legend

Sc

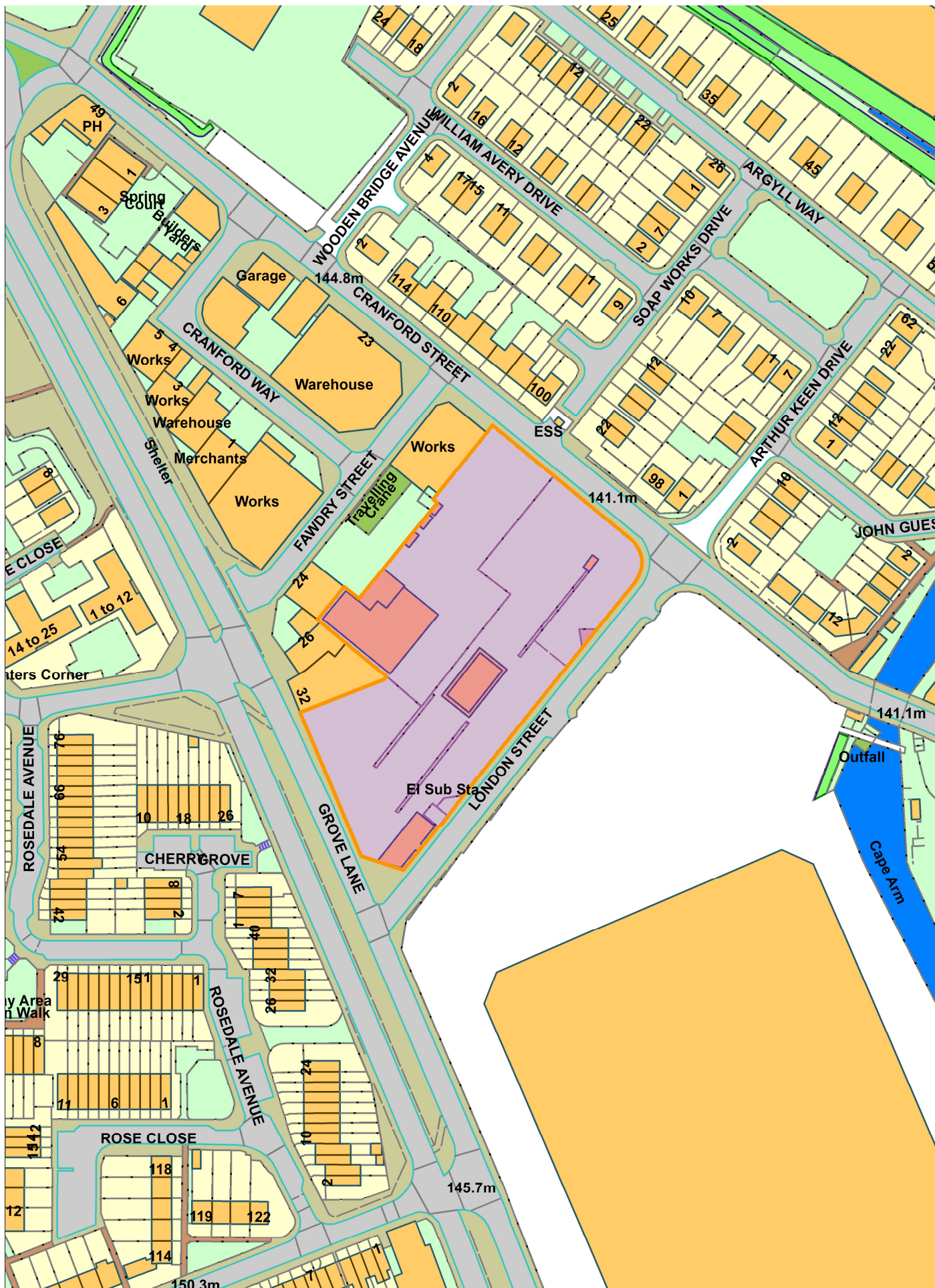
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| Department    | Not Set        |
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| Date          | 25 August 2021 |
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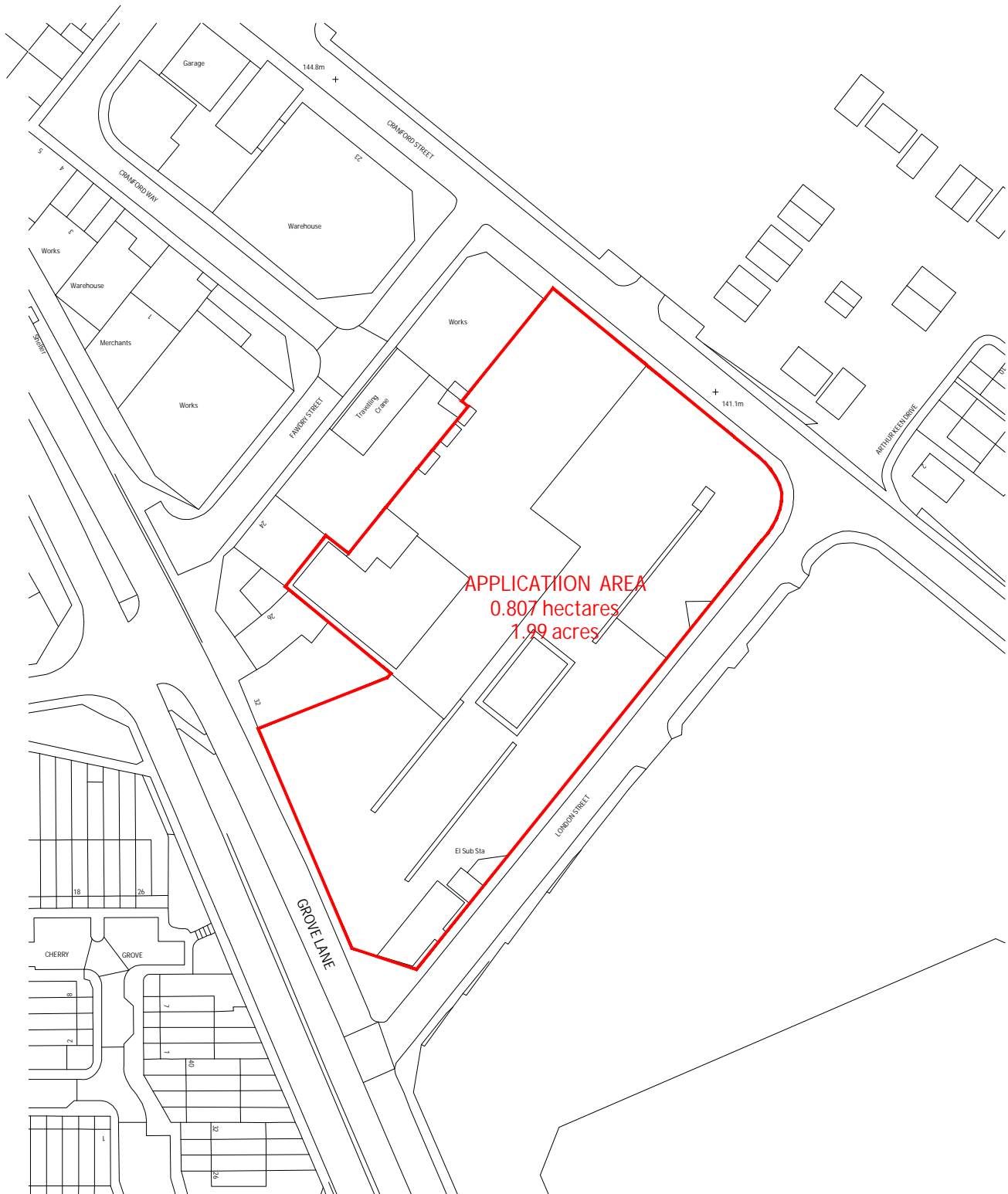






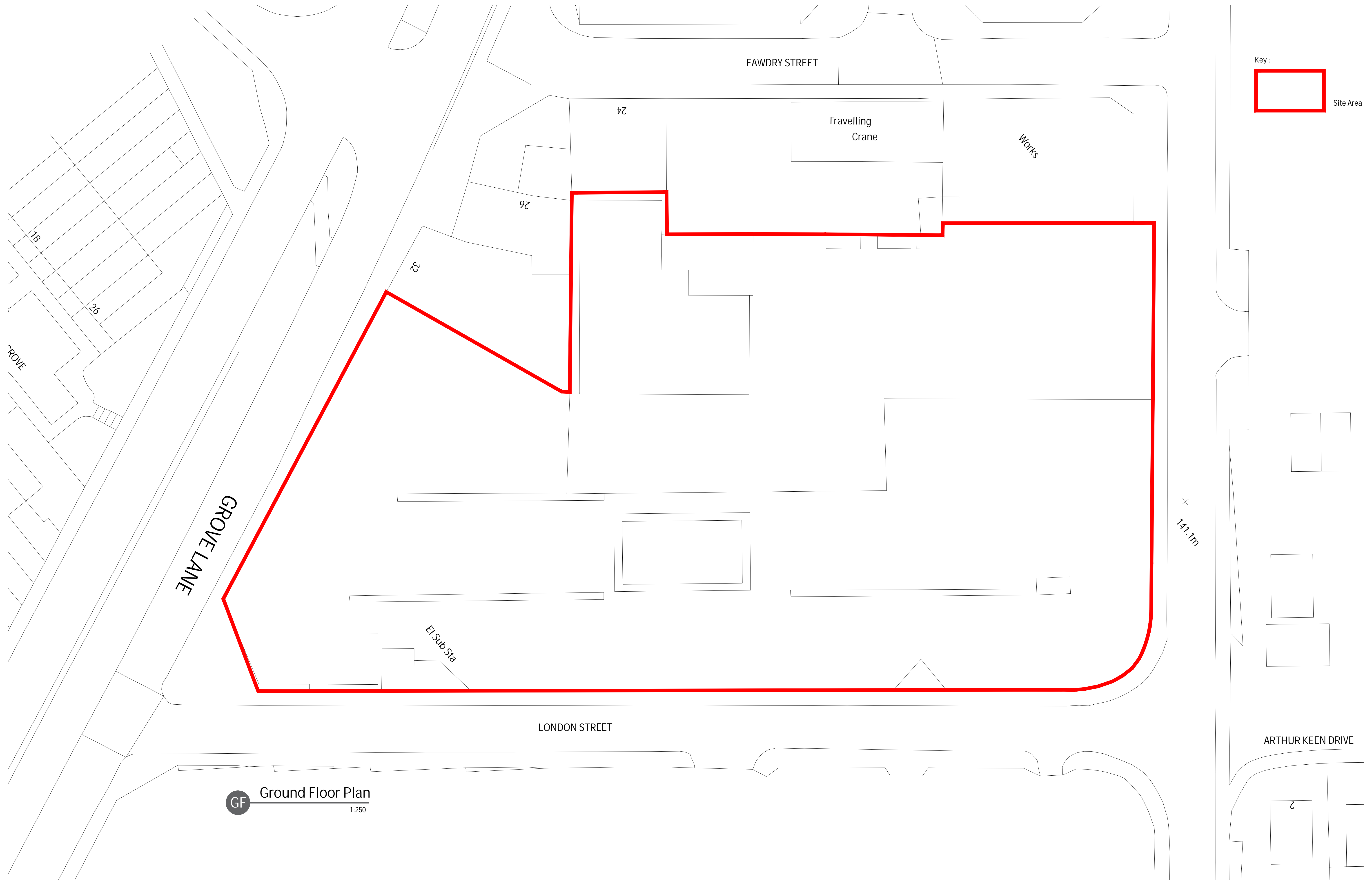
3D View from corner of London St & Grove Lane



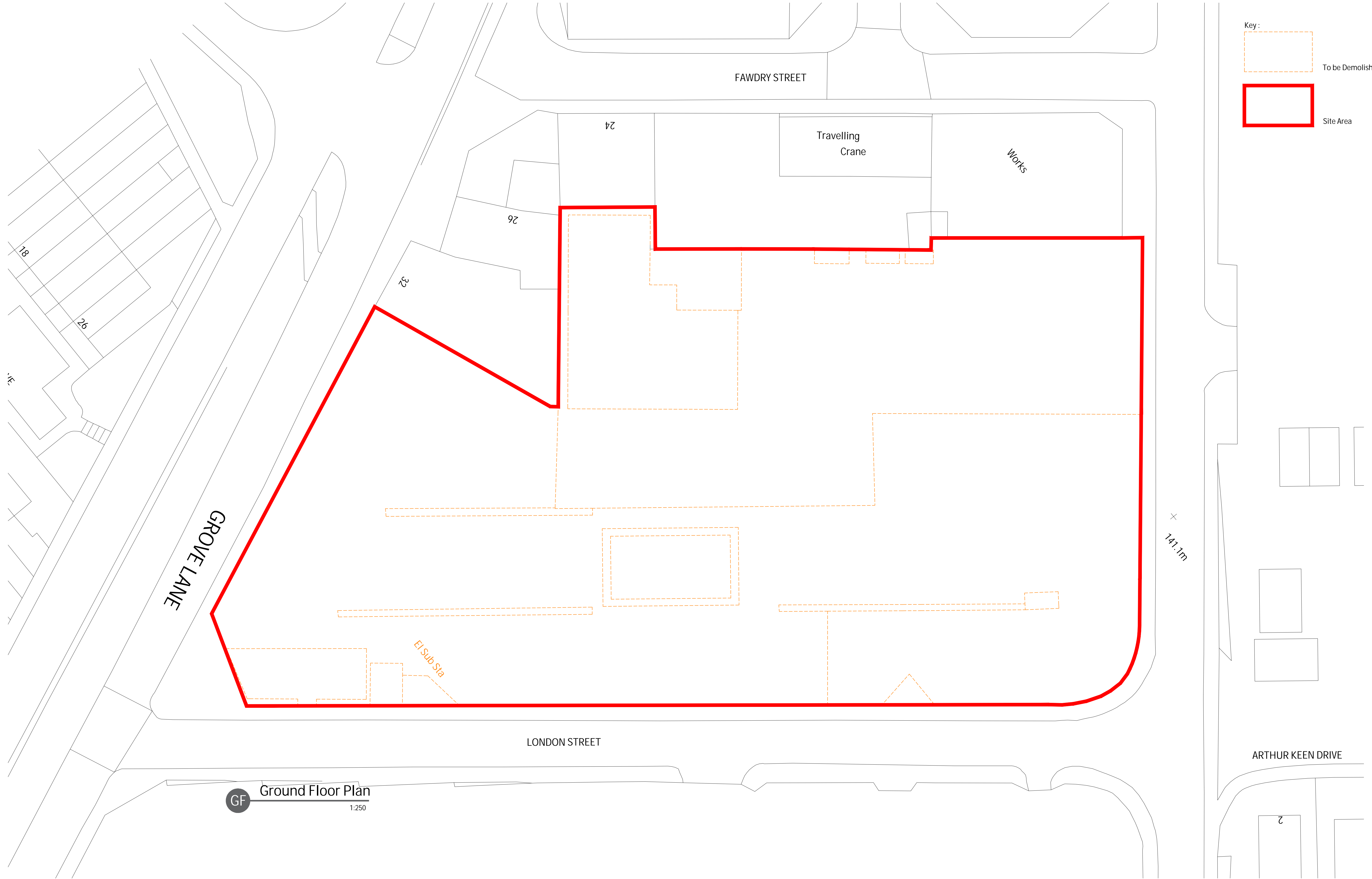


# LP Location Plan

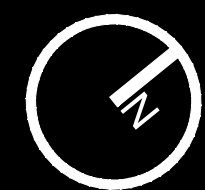
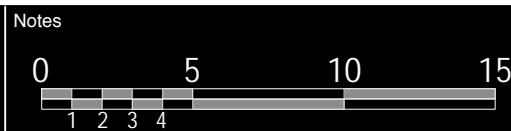
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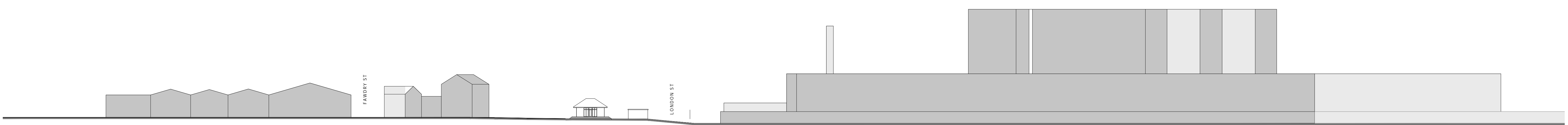
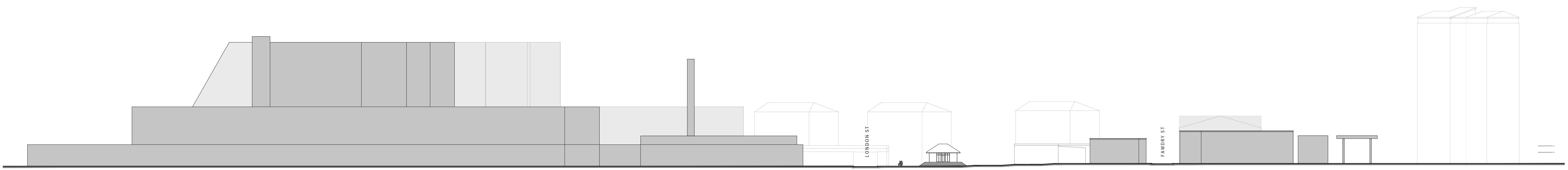
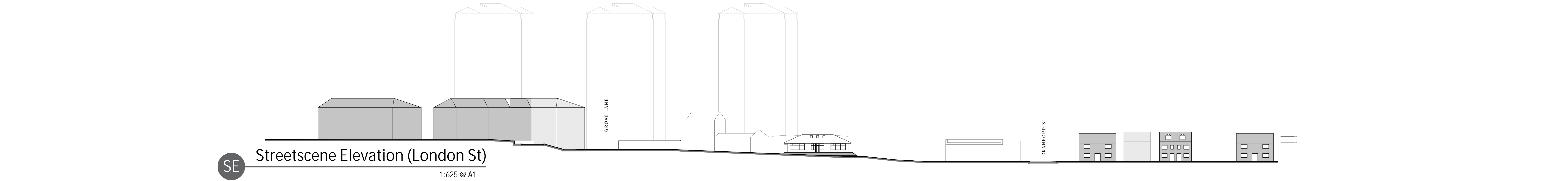
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1:250

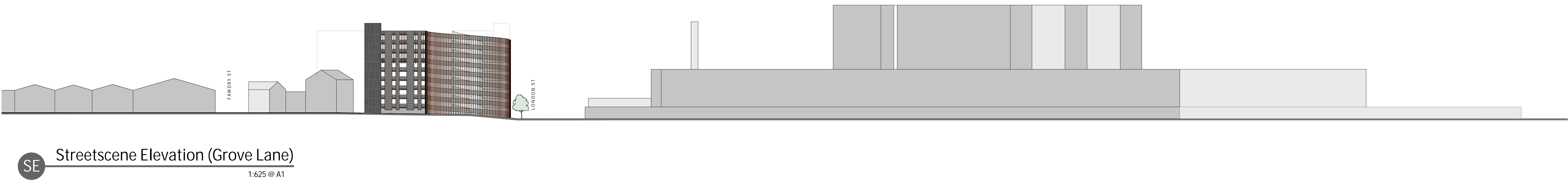
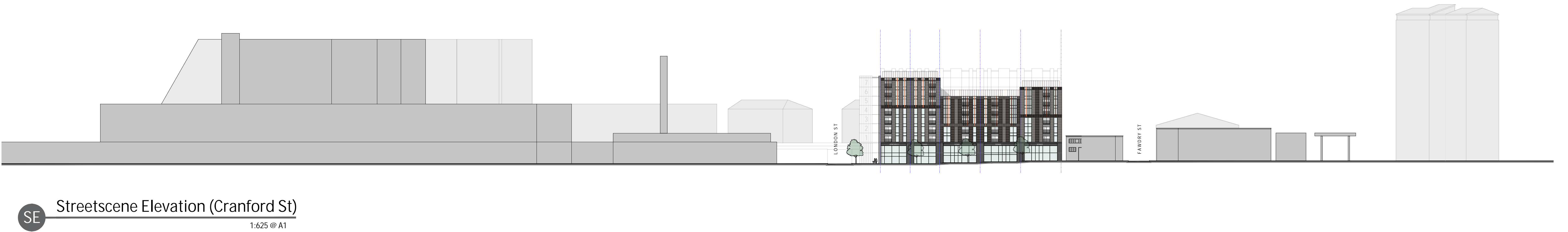


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| Drawing Title: | Proposed Demolition Plan                     | Job Number: | 18-005    | Drawing Number: | 03-DR-002        |
|                |  |             | Revision: | -               |                  |

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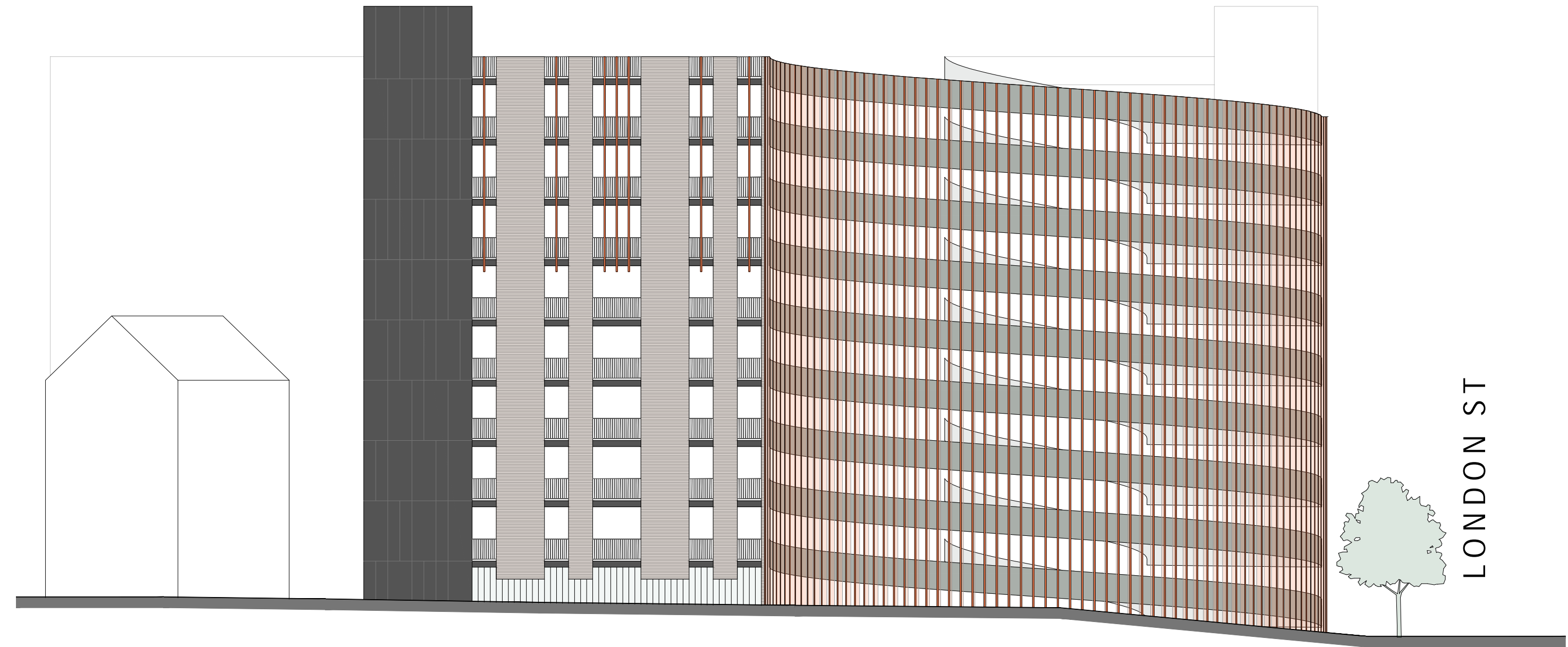








E1 Cranford St Elevation  
1:200 @ A1



E2 Grove Lane Elevation  
1:200 @ A1



E3 London Street Elevation  
1:200 @ A1





SA Section A  
1:200 @ A1

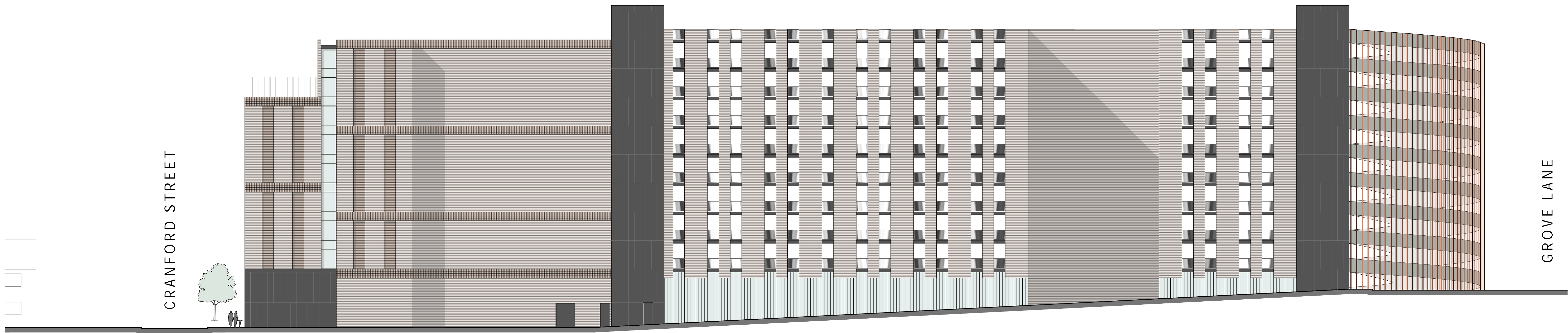


SB Section B  
1:200 @ A1



SC Section C  
1:200 @ A1





RE

Rear Elevation

1:200 @ A1



SD

Section D

1:200 @ A1

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Notes



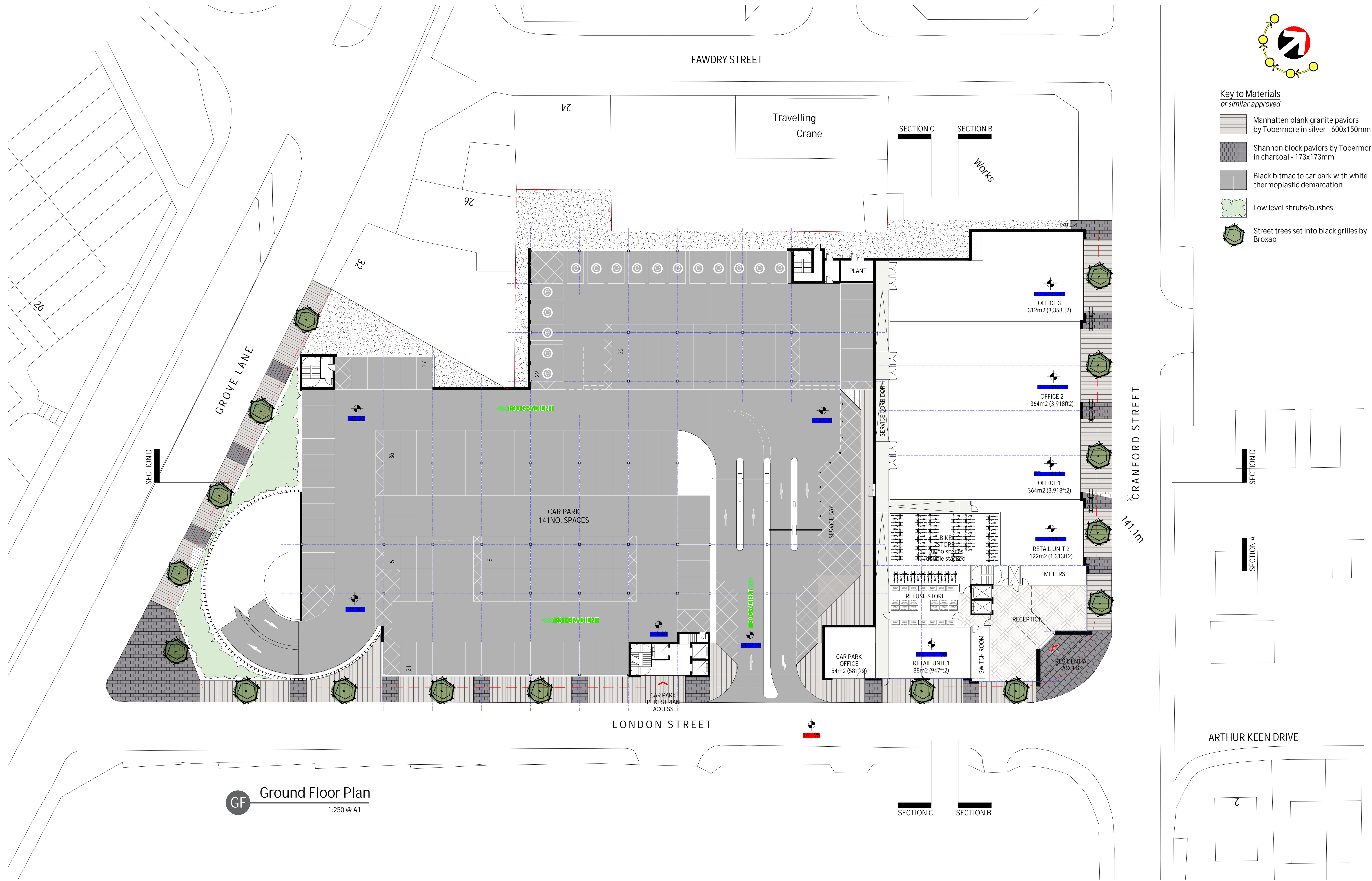
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Location:  
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Drawing Title:  
Proposed Sections 2 of 2

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Job Number:  
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Drawing Number:  
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Revision:  
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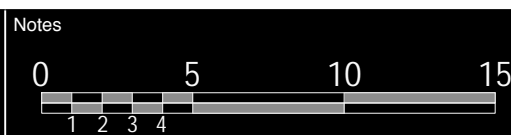
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GF Ground Floor Plan  
1:250 @ A1



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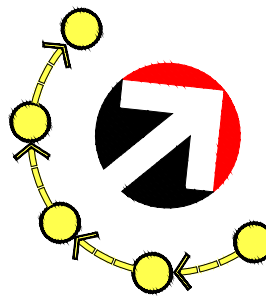
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Job Number:  
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Drawing Number:  
02-DR-001  
Revision:  
D

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FAWDRY STREET

Travelling  
Crane

SECTION C

SECTION B

Works

SECTION D

SECTION D

SECTION A

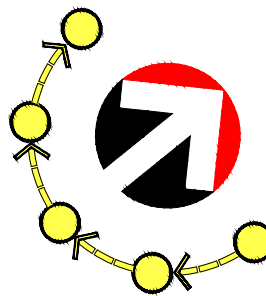
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ARTHUR KEEN DRIVE

1F First Floor Plan  
1:250 @ A1

SECTION C

SECTION B



FAWDRY STREET

Travelling  
Crane

SECTION C

SECTION B

Works

SECTION D

SECTION D

SECTION A

141.1m

ARTHUR KEEN DRIVE

2/5

2nd-5th Floor Plan

1:250 @ A1

Notes



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Project Title:

New Mixed Use Scheme & Multi-Storey Car Park

Status:

Concept

Location:

London St - SMETHWICK

Scale:

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Date:

27.11.2018

Drawing Title:

Proposed 2nd-5th Floor Plan

Job Number:

18-005

Drawing Number:

02-DR-003

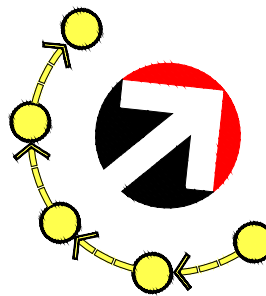
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FAWDRY STREET

Travelling  
Crane

SECTION C

SECTION B

Works

SECTION D

SECTION D

SECTION A

141.1m

ARTHUR KEEN DRIVE

6F

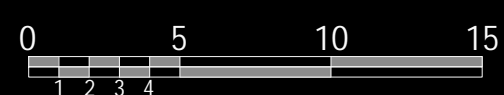
6th Floor Plan

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SECTION C

SECTION B

Notes



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New Mixed Use Scheme & Multi-Storey Car Park

Status:

Concept

Location:

London St - SMETHWICK

Scale:

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Date:

27.11.2018

Drawing Title:

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Job Number:

18-005

Drawing Number:

02-DR-004

Revision:

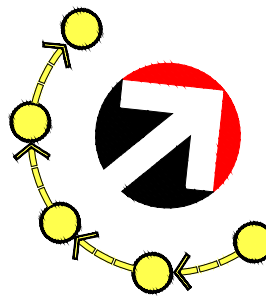
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FAWDRY STREET

Travelling  
Crane

SECTION C

SECTION B

Works

SECTION D

SECTION D

SECTION A

141.1m

ARTHUR KEEN DRIVE

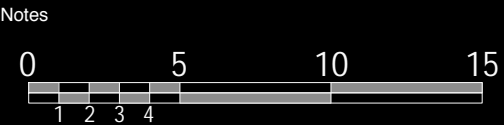
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7th Floor Plan

1:250 @ A1

SECTION C

SECTION B



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New Mixed Use Scheme & Multi-Storey Car Park

Location:  
London St - SMETHWICK

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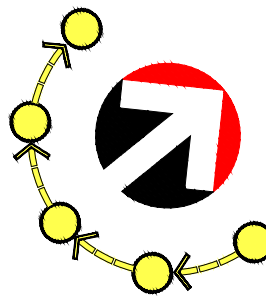
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Revision:  
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FAWDRY STREET

Travelling  
Crane

SECTION C

SECTION B

Works

SECTION D

SECTION D

SECTION A

141.1m

ARTHUR KEEN DRIVE

8F

8th Floor Plan

1:250 @ A1

SECTION C

SECTION B

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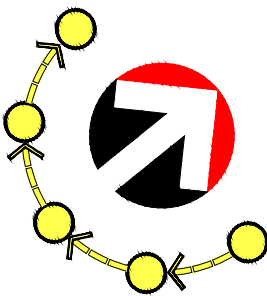
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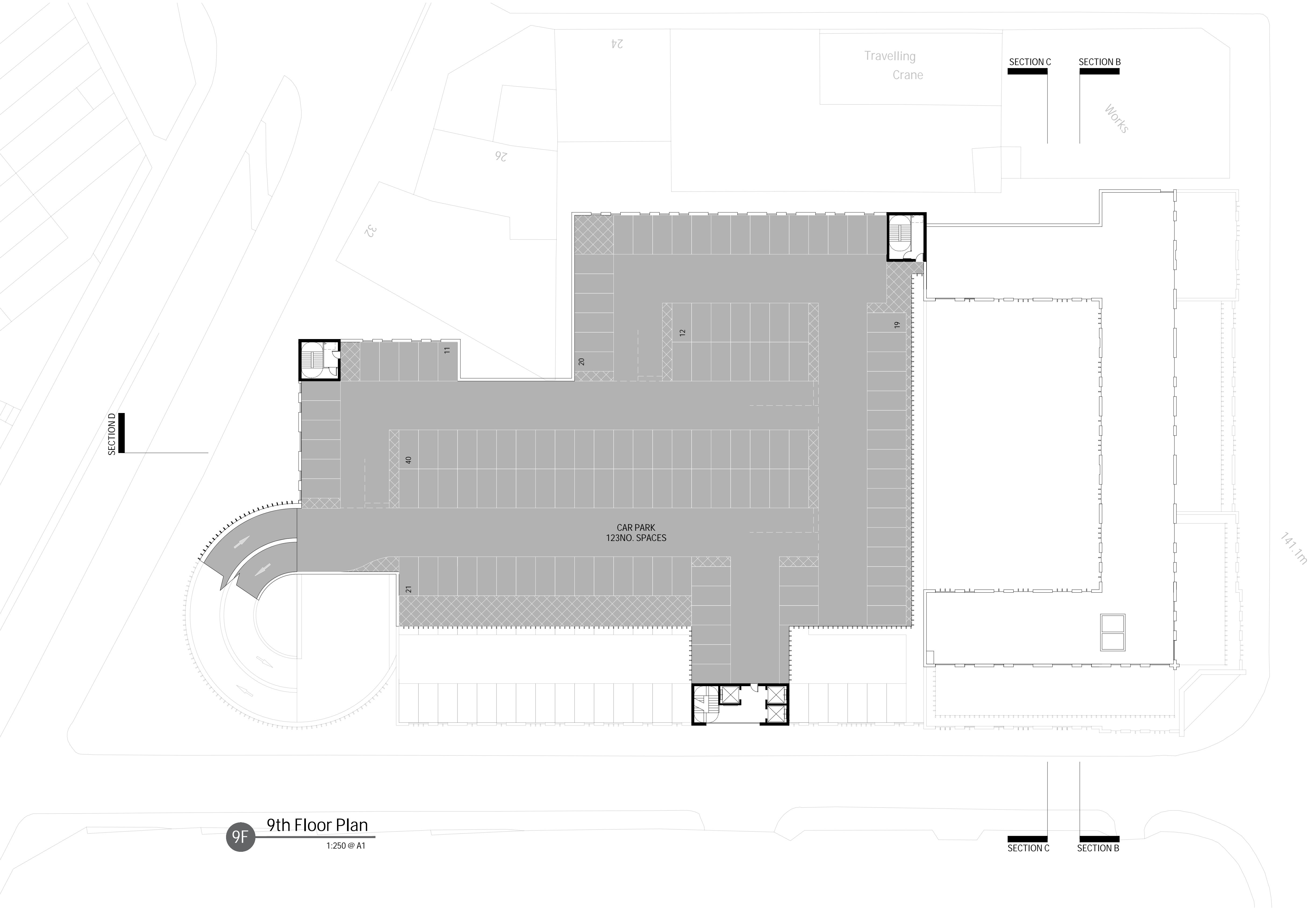
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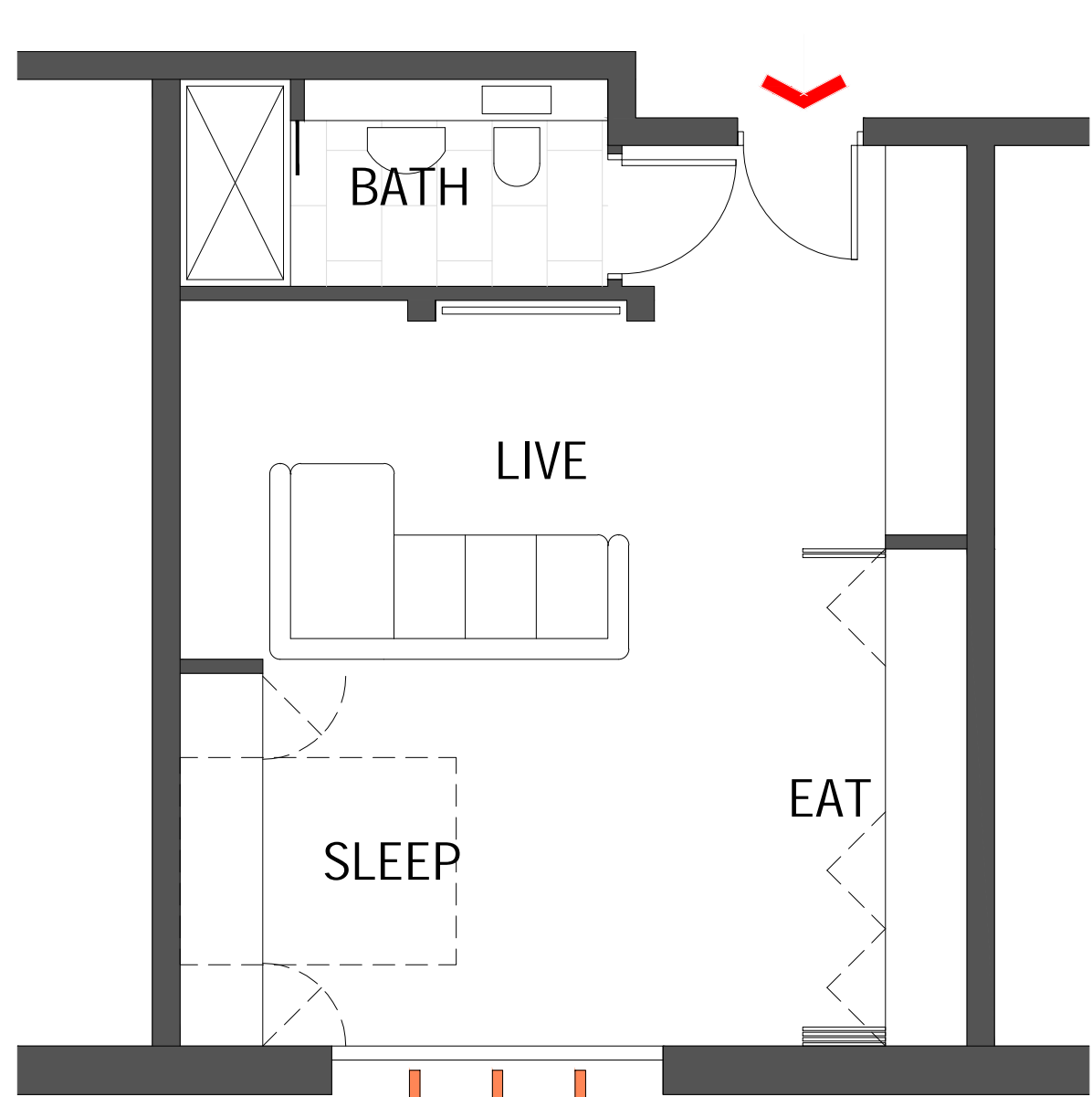


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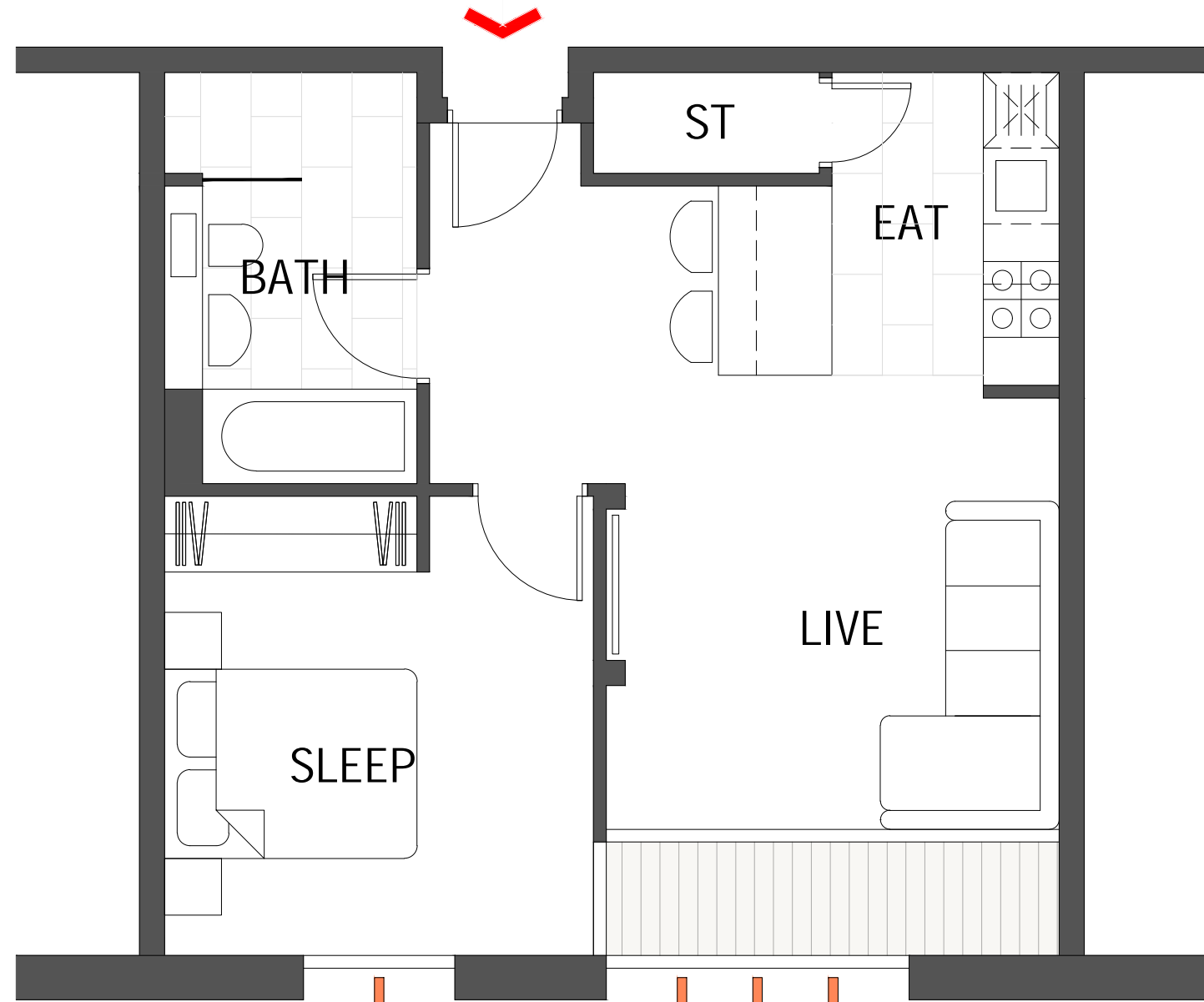


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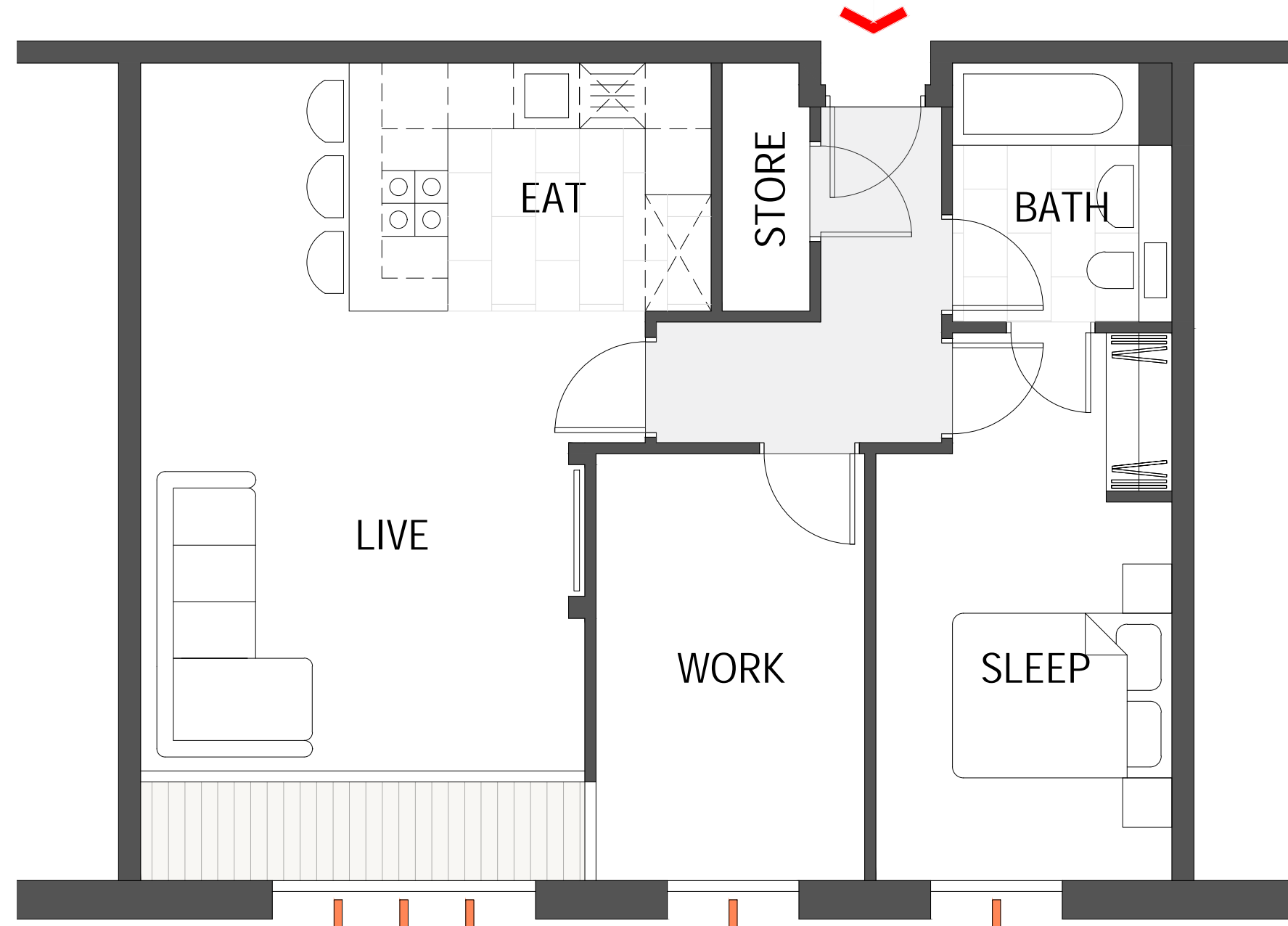




ST Studio Plan - 39m2 (420ft2)  
1:50 @ A1



1A 1B/2P Apartment A - 50m2 (538ft2)  
1:50 @ A1



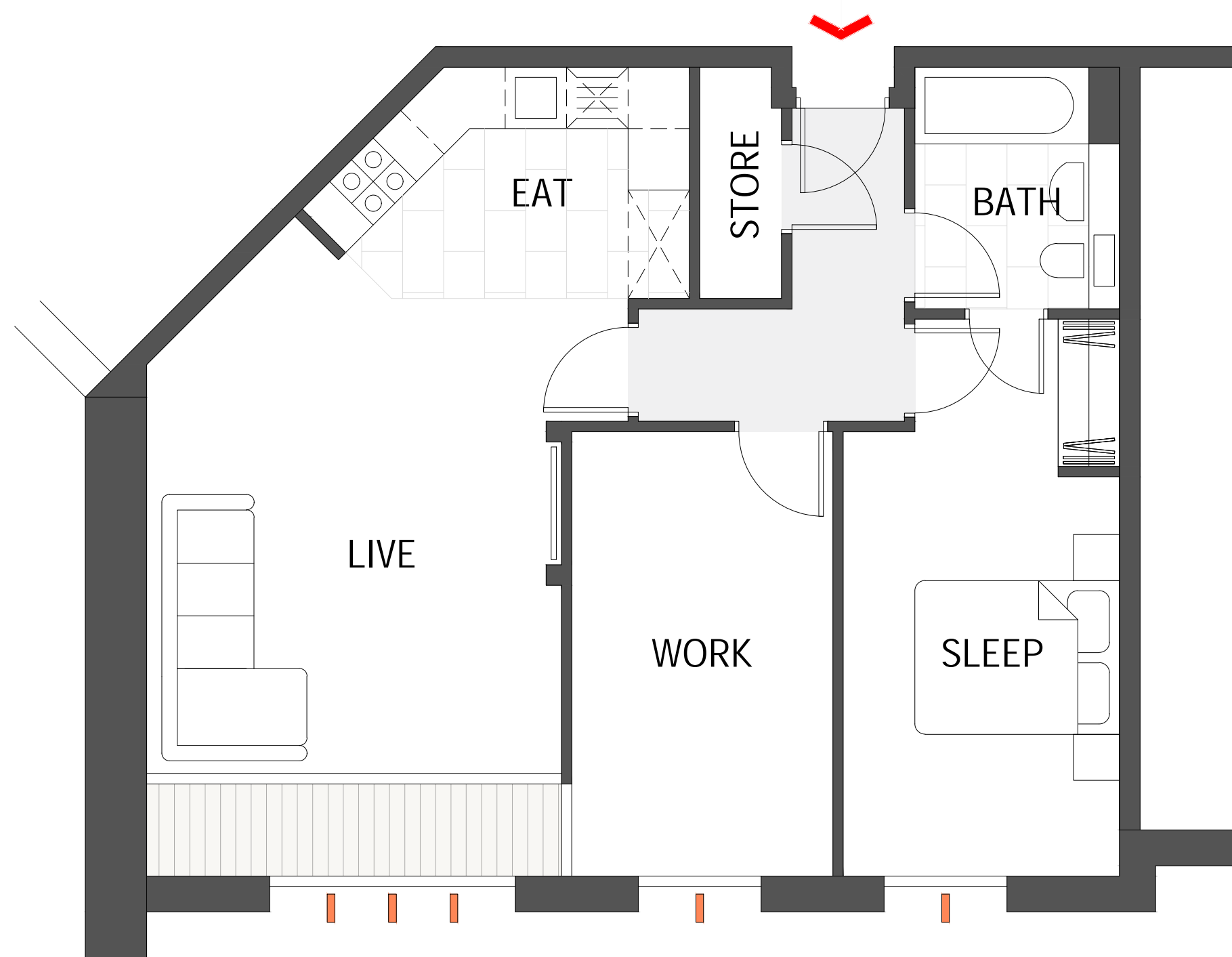
2A 2B/3P Apartment A - 70m2 (753ft2)  
1:50 @ A1

Schedule Of Accommodation

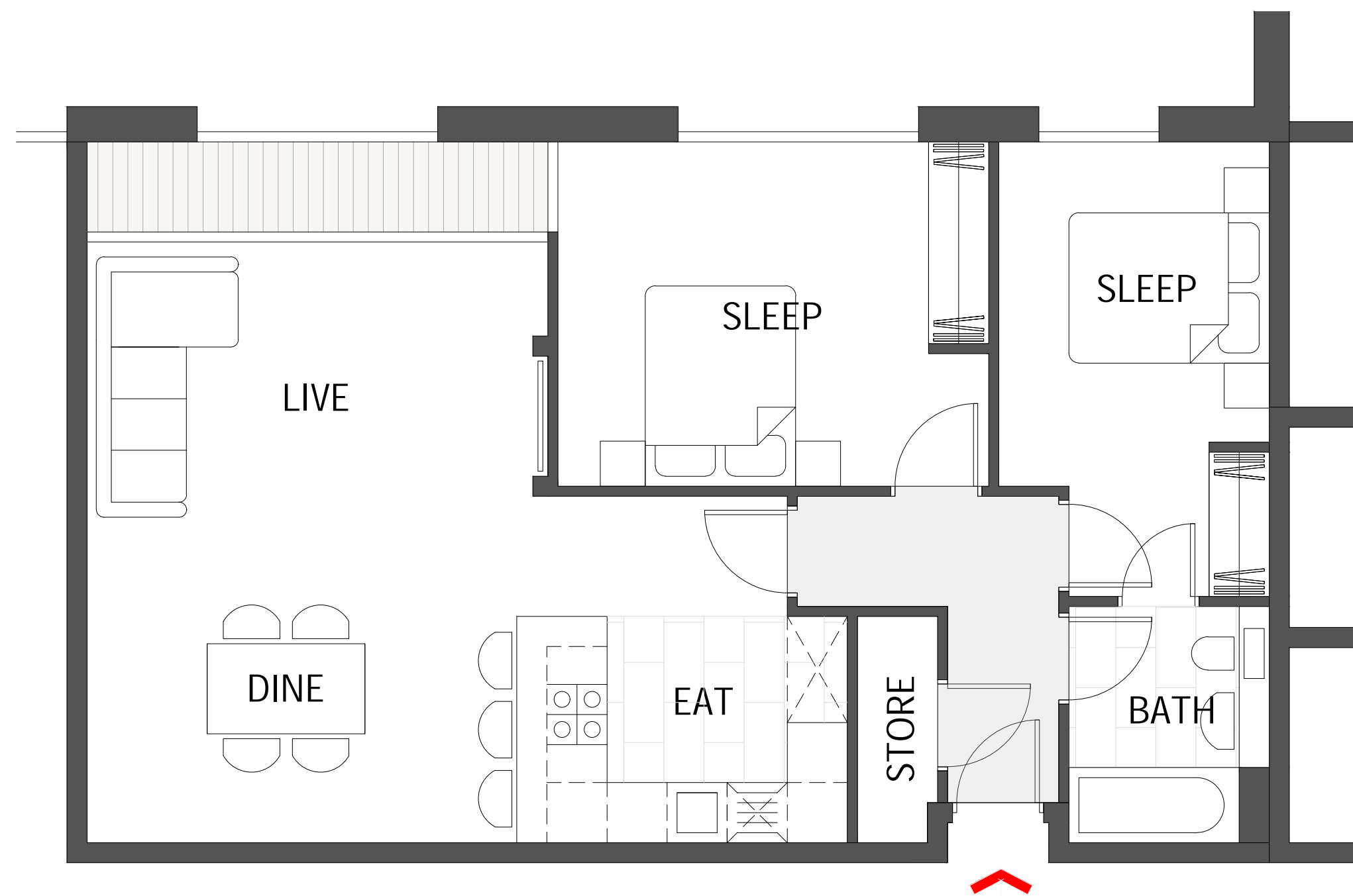
| Floor | Apartments (No.) |    |    |    |    |    |
|-------|------------------|----|----|----|----|----|
|       | 1A               | 1B | 2A | 2B | 2C | St |
| 1     | 14               | 2  | 3  | 2  | 1  | 5  |
| 2     | 16               | 2  | 3  | 2  | -  | 5  |
| 3     | 16               | 2  | 3  | 2  | -  | 5  |
| 4     | 16               | 2  | 3  | 2  | -  | 5  |
| 5     | 16               | 2  | 3  | 2  | -  | 5  |
| 6     | 14               | 2  | 3  | 2  | -  | 3  |
| 7     | 13               | 2  | 3  | 2  | -  | 2  |
| 8     | 10               | 2  | 2  | -  | -  | 2  |
| Total | 115              | 16 | 23 | 14 | 1  | 32 |



1B 1B/2P Apartment B - 50m2 (538ft2)  
1:50 @ A1

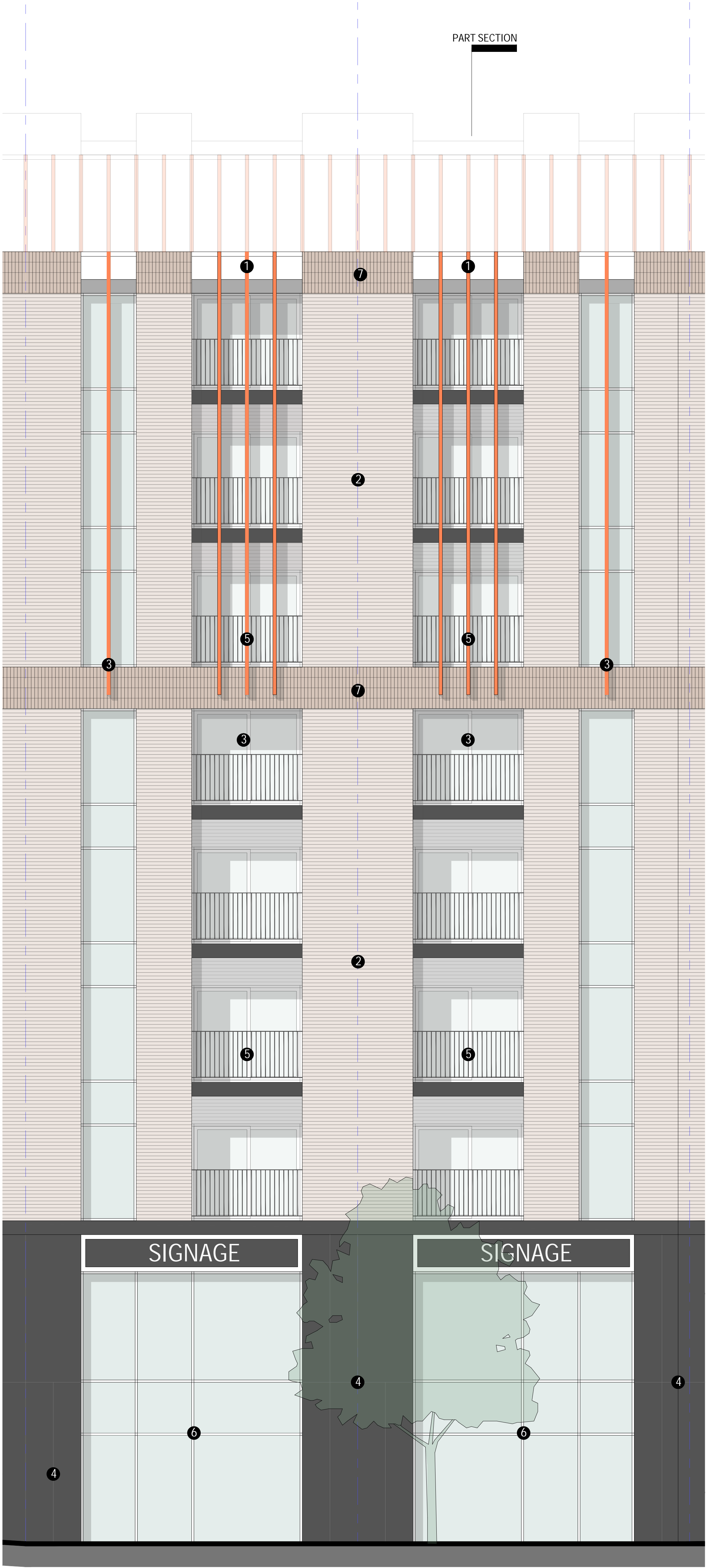


2B 2B/3P Apartment B - 71m2 (764ft2)  
1:50 @ A1

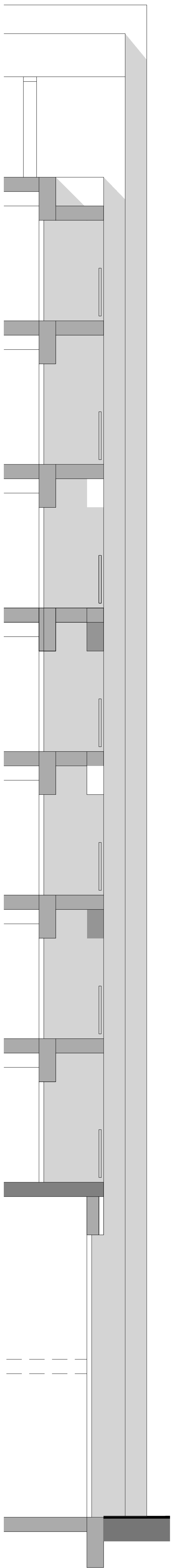


2C 2B/4P Apartment C - 82m2 (883ft2)  
1:50 @ A1





**E** Detailed Part Elevation  
1:50 @ A1



**S** Part Section  
1:50 @ A1



**1** Coreten fins



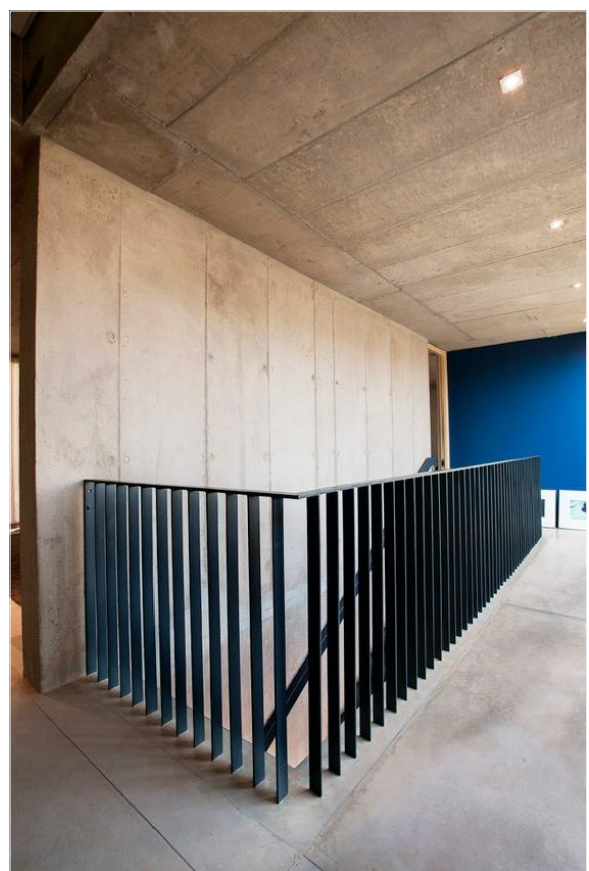
**3** Grey aluminium windows



**4** Grey/black cladding



**1** **2** Coreten fins and red rustic brickwork



**5** Black mild steel balustrade



**6** Grey aluminium shopfront glazing



**7** Brick soldier course detail



F

CONCEPT VISUALS

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PROJECT

London Street -SMETHWICK

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PRIVATE AND CONFIDENTIAL

# DESIGN APPROACH

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CONCEPT VISUALS





## DESIGN APPROACH

### CONCEPT VISUALS



Image 1 - Main Entrance





Image 2 - Ramped Elevation





Image 3 - Cranford Street





Image 4 - Aerial View of recessed terrace



