

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE
13 December 2016

Agenda Item	6.1
Report No	PLS 067/16

16/04020/FUL: Eastgate Unit Trust
Eastgate Shopping Centre, 11 Eastgate, Inverness

Report by Area Planning Manager – South/Major Developments

SUMMARY

Description: Alterations and extension to form rooftop restaurant/bar and provision of ground floor kiosks

Recommendation: GRANT

Ward: 15 – Inverness Central

Development category: Local

Pre-determination hearing: Not required

Reason referred to Committee: Manager's discretion

1. PROPOSED DEVELOPMENT

- 1.1 The proposed development is for alterations to part of the existing flat roof of the shopping centre to form an enclosed rooftop restaurant/bar; an extension to form the associated stairwell/lift access from the ground floor and a single storey ground floor extension of the Millburn Road frontage to form kiosks within the shopping centre.
- 1.2 The development is part of a package of proposals submitted in recent months by the applicant which included an extension to the Falcon Square façade of the shopping centre to form four restaurants; an extension to the Filling Station restaurant onto Falcon Square; and the change of use of 1 Falconer Building (currently occupied by Laura Ashley) to a restaurant.
- 1.3 The applicant has engaged in informal pre-application discussions with officers in relation to the proposals.
- 1.4 A Design and Access Statement has been submitted in support of the application.
- 1.5 **Variations:** No variations have been made to the proposal since submission.

2. SITE DESCRIPTION

- 2.1 The site forms part of the roof of the existing shopping centre and also part of the paved area fronting onto Millburn Road. The north-eastern boundary is defined by the Eastgate Shopping Centre. To the north-west lies Inverness Railway Station. To the south-west is the two storey listed building currently occupied by Pizza Express and Laura Ashley. To the south of the site is Falcon Square bounded by Academy Street and Millburn Road.
- 2.2 The existing shopping centre is a large multi-storey buff coloured stone clad building with a conical glazed entrance feature on the southern corner of the centre and extending the full height of the building.

3. PLANNING HISTORY

- 3.1 02.03.15 - Planning permission granted for extension to existing shopping centre outwards into Falcon Square at ground level and first floor to accommodate retail and restaurants, combined with redevelopment/expansion of second floor storage and plant to accommodate 8 screen cinema and change of use of two existing class 1 retail to class 3 restaurants (14/01463/FUL).
- 3.2 02.04.15 - Planning permission granted for change of use of 2 x existing retail units to restaurant use with external seating areas plus formation of new fire escape tower with external rooftop plant deck (15/00949/FUL).
- 3.3 27.09.16 - Planning permission granted (subject to developer contribution towards streetscape improvements) to extend the Falcon Square façade of Eastgate Shopping Centre to provide 4 restaurants with outside seating areas subject to developer contributions towards streetscape improvements for (16/02797/FUL).

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Schedule 3 Development and Unknown Neighbour. Expired 07.10.16
- Representation deadline : 07.10.16
- Timeous representations : None
- Late representations : None
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

- 5.1 **Transport Planning:** No objection subject to footway widths shown on proposed plans being maintained.
- 5.2 **Historic Environment Team:** No objection.
- 5.3 **Environmental Health:** No objection subject to appropriate conditions relating to noise, ventilation and waste disposal.
- 5.4 **Crown and City Centre Community Council:** No objection.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

28	Sustainable Design
29	Design Quality and Place-Making
40	Retail Development
56	Travel
57	Natural, Built and Cultural Heritage
65	Waste Water Treatment
66	Surface Water Drainage
70	Waste Management Facilities

6.2 Inner Moray Firth Local Development Plan

1	Promoting and Protecting City and Town Centres
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7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Not applicable.

7.2 Highland Council Supplementary Planning Policy Guidance

Inverness City Centre Development Brief
Developer Contributions
Sustainable Design Guide
Managing Waste in New Developments
Open Space
Trees, Woodlands and Development
Public Art Strategy

7.3 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy
Creating Places
PAN 59 Improving Town Centres
PAN 65 Planning and Open Space

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 Development Plan Policy Assessment

8.3.1 The proposal relates to development that will generate further footfall and add to the vibrancy and vitality of the city centre and is therefore an appropriate location in principle subject to assessment against key development criteria.

8.3.2 Class 3 uses (restaurants, cafes etc) are recognised as compatible city and town centre uses which complement the core retail activity and as stated in Scottish Planning Policy contribute towards a mix of uses which support town centres in terms of their vibrancy, vitality and viability throughout the day and into the evening. The broad principle of development is therefore acceptable in terms of Policy 1 of the Inner Moray Firth Local Development Plan and Policy 40 of the Highland-wide Local Development Plan.

8.3.3 The key determining issues in assessing this application are therefore whether the proposals are acceptable in relation to the remaining development plan policies referred to in Section 6 and any other material considerations. In particular whether the design of the proposed extensions and alterations are compatible with Policies 28 and 29 of the HwLDP.

8.4 Material Considerations

Design

8.4.1 The applicant intends to implement the proposal in two distinct phases. The first phase involves the extension of part of the ground floor of the shopping centre onto Millburn Road to enable the formation of four kiosks. This elevation onto Millburn Road features four glazed openings with a band of stone cladding above that differentiates the ground floor from the upper floor of the shopping centre.

- 8.4.2 The kiosks will extend out from this elevation approximately 2.7 metres onto the existing pavement. It will feature a flat roof and a stone clad wall with materials to match the existing building. A number of double glazed panels of similar proportions to those shown on the upper level will be installed on this elevation. A light grey coloured metal cladding will be installed as a band at the top of the extension which wraps around the conical glazed entrance tower to tie in with the metal cladding that will also feature on the new restaurants. Signage will be applied to the cladding subject to any subsequent approval that may be required under the advertisement regulations.
- 8.4.3 The second and most significant phase of the proposals will be works to facilitate the construction of the rooftop restaurant/bar. This involves constructing a large glazed flat roofed structure across the entire length of roof overlooking Falcon Square. The existing entrance tower will require to be increased in height, essentially raising the height of the existing pillars that support the entrance tower roof structure and lifting it approximately 1.8 metres in height.
- 8.4.4 Adjoining the tower on the Millburn Road elevation will be the stairwell block which will extend up from the temporary kiosk 1 to the same height as the extended pillars supporting the entrance tower roof structure. Set back from the roofline of the main shopping centre will be toilets to serve the restaurant/bar and a store. This element of the proposal will feature metal clad panelling for the external walls.
- 8.4.5 The proposals feature a palette of materials which will either replicate existing finishes or introduce new elements that will complement existing. The scale, mass and design of the proposals is considered to be acceptable demonstrating appropriate siting and good quality design in keeping with the established character of the shopping centre.

Access

- 8.4.6 Access to the rooftop restaurant/bar will be via the existing ground floor access to the shopping centre although it will be separated from the mall.
- 8.4.7 Whilst the extension onto Millburn Road will reduce the width of the footway, it will remain of sufficient width (3.8 metres at its narrowest point) to facilitate its shared use as a footway and cycle path and will therefore have no adverse impact in terms of accessibility to this important route to and from the city centre.

8.5 Other Considerations – not material

Not applicable.

8.6 Matters to be secured by Section 75 Agreement

Not applicable.

9. CONCLUSION

- 9.1 The proposal will generate further footfall and add to the vibrancy and vitality of the city centre as well as enhancing facilities available to shoppers within the mall. In addition, the design of the proposed extensions is in keeping with local character and will integrate fully with the scale, mass and form of the existing shopping centre.
- 9.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. RECOMMENDATION

Action required before decision issued N

Notification to Scottish Ministers N

Notification to Historic Scotland N

Conclusion of Section 75 Agreement N

Revocation of previous permission N

Subject to the above, it is recommended that planning permission be **Granted** subject to the following conditions and reasons / notes to applicant.

1. No development shall commence until a construction noise assessment has been submitted to and approved in writing by the Planning Authority. The noise assessment shall be carried out in accordance with BS 5228-1:2009 "Code of practice for noise and vibration control on construction and open sites – Part 1: Noise". Details of mitigation measures shall be provided with the assessment, including proposed constructions hours. Thereafter the development shall proceed in accordance with the approved noise assessment.

Reason: In order to safeguard the amenity of neighbouring properties and occupants.

2. All plant, machinery and equipment (including ventilation, air-conditioning, heating and refrigeration services or similar; fans, ducting and external openings etc) associated with this development and the four new restaurants shall be so installed, maintained and operated such that either of the following standards are met: -

- I. any accumulated operating noise must not exceed NR 25 when measured or calculated within the bedroom of any noise-sensitive premises with windows open for ventilation purposes.

OR

- II. the accumulative noise Rating level must not exceed the Background noise level by more than 5dB(A) including any characteristics penalty. Terms and

measurements to be in accordance with BS 4142: 2014 Methods for Rating Industrial & Commercial Sound.

For the purposes of this condition, “noise-sensitive premises” includes, but is not necessarily limited to, any building, structure or other development the lawful use of which a) falls within Classes 7 (Hotels & Hostels), 8 (Residential Institutions) or 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), or b) is as a flat or static residential caravan.

Reason: In order to safeguard the amenity of neighbouring properties and occupants.

3. Full details of the proposed kitchen extraction ventilation system designed to ensure the effective removal and dispersal of cooking odours from the rooftop restaurant/bar shall be submitted to and approved in writing by the Planning Authority. Thereafter the approved ventilation system shall be installed and fully operational prior to the restaurant/bar being first brought into use and shall be retained in use thereafter.

Reason: In order to safeguard the amenity of neighbouring properties and occupants.

4. No development shall commence until full details of a suitable and sufficient off street storage area for refuse containers associated with the Class 3 use of the units has been submitted to and approved in writing by the Planning Authority. Thereafter all refuse and recyclable materials associated with the Class 3 use shall be stored within the approved area. No refuse or recycling material shall be stored or placed for collection on the public highway or pavement, except on day of collection.

Reason: To ensure the adequate provision of refuse storage facilities in the interests of amenity.

5. A detailed specification for all proposed external materials and finishes (including trade names and samples where necessary) shall be submitted to, and approved in writing by, the Planning Authority prior to installation. Thereafter, development and work shall progress in accordance with these approved details.

Reason: To ensure that the development is sensitive to, and compatible with, its context and local architectural styles.

6. No plant, machinery or equipment shall be installed on the roof of the extension.

Reason: In the interests of amenity.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMITS

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Signature: Nicola Drummond
Designation: Area Planning Manager – South/Major Developments
Author: John Kelly
Background Papers: Documents referred to in report and in case file.

Relevant Plans:

Plan 1 – Location Plan TP03_002

Plan 2 – Site Plan TP03_003

Plan 3 – Proposed Lower Mall Level Plan TP03_040

Plan 4 – Proposed Roof Bar/Restaurant Plan TP03_042

Plan 5 – Proposed Elevation A TP03_050

Plan 6 – Proposed Elevation B TP03_051

Plan 7 – Proposed Elevation C TP03_052

Plan 8 – Proposed Elevation D TP03_053

Visual 1

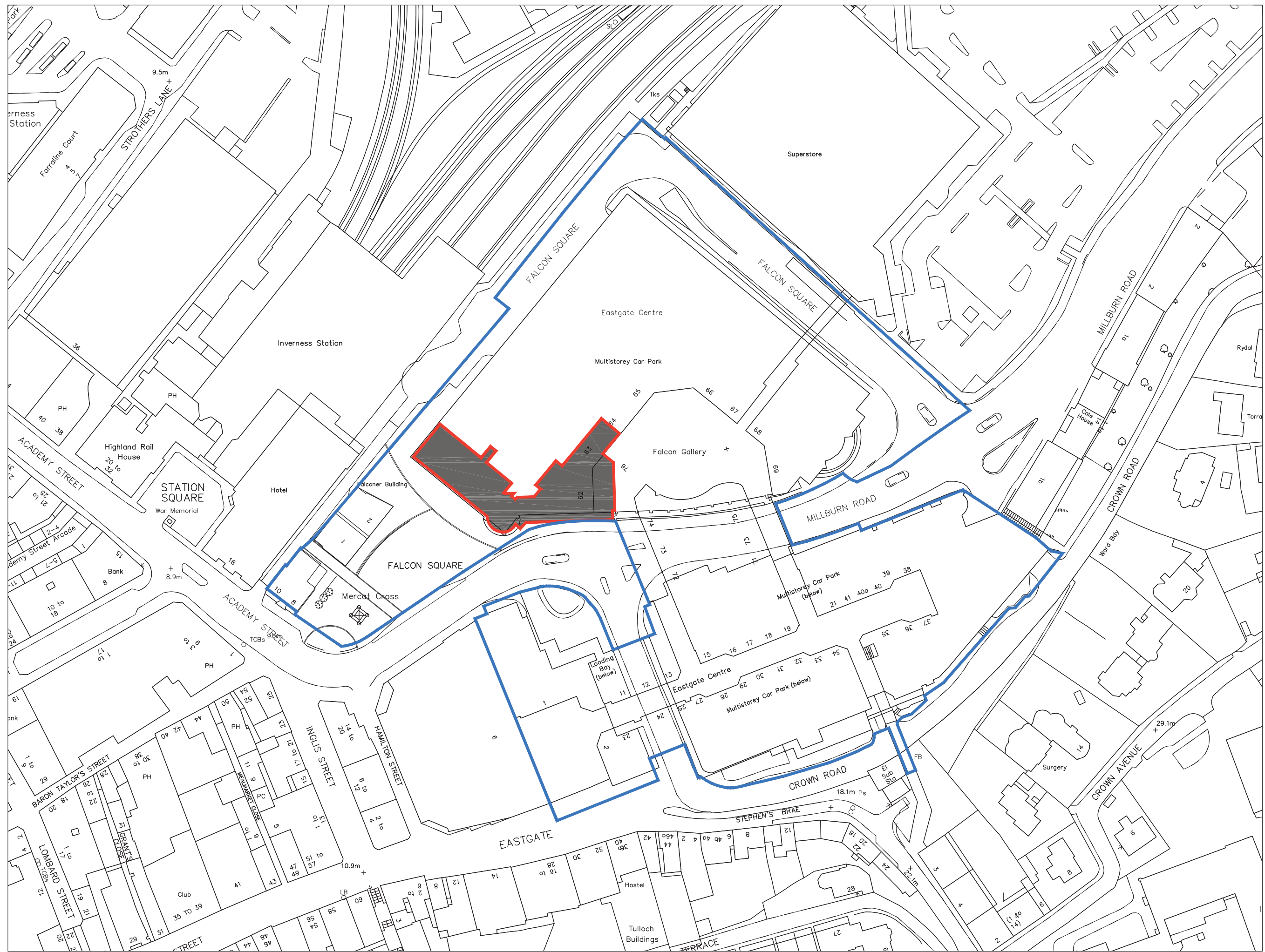
Visual 2

Visual 3

Visual 4

KEY

- SITE BOUNDARY**
- OWNERSHIP BOUNDARY**
- EXTENSION AREA**



1. LOCATION PLAN 1:1250

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Drawing Title
LOCATION PLAN

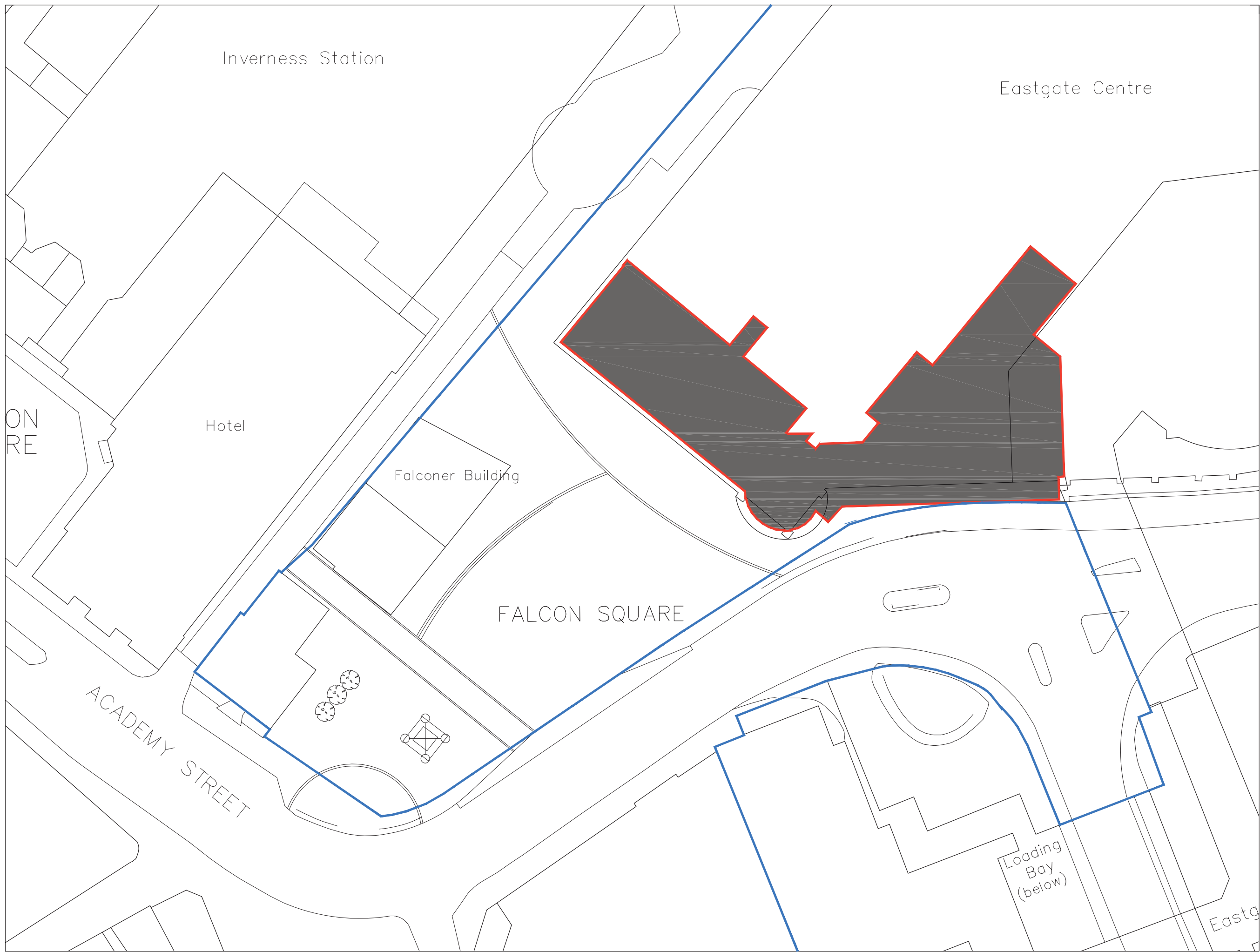
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KEY

- SITE BOUNDARY**
- OWNERSHIP BOUNDARY**
- EXTENSION AREA**



1. SITE PLAN 1:500

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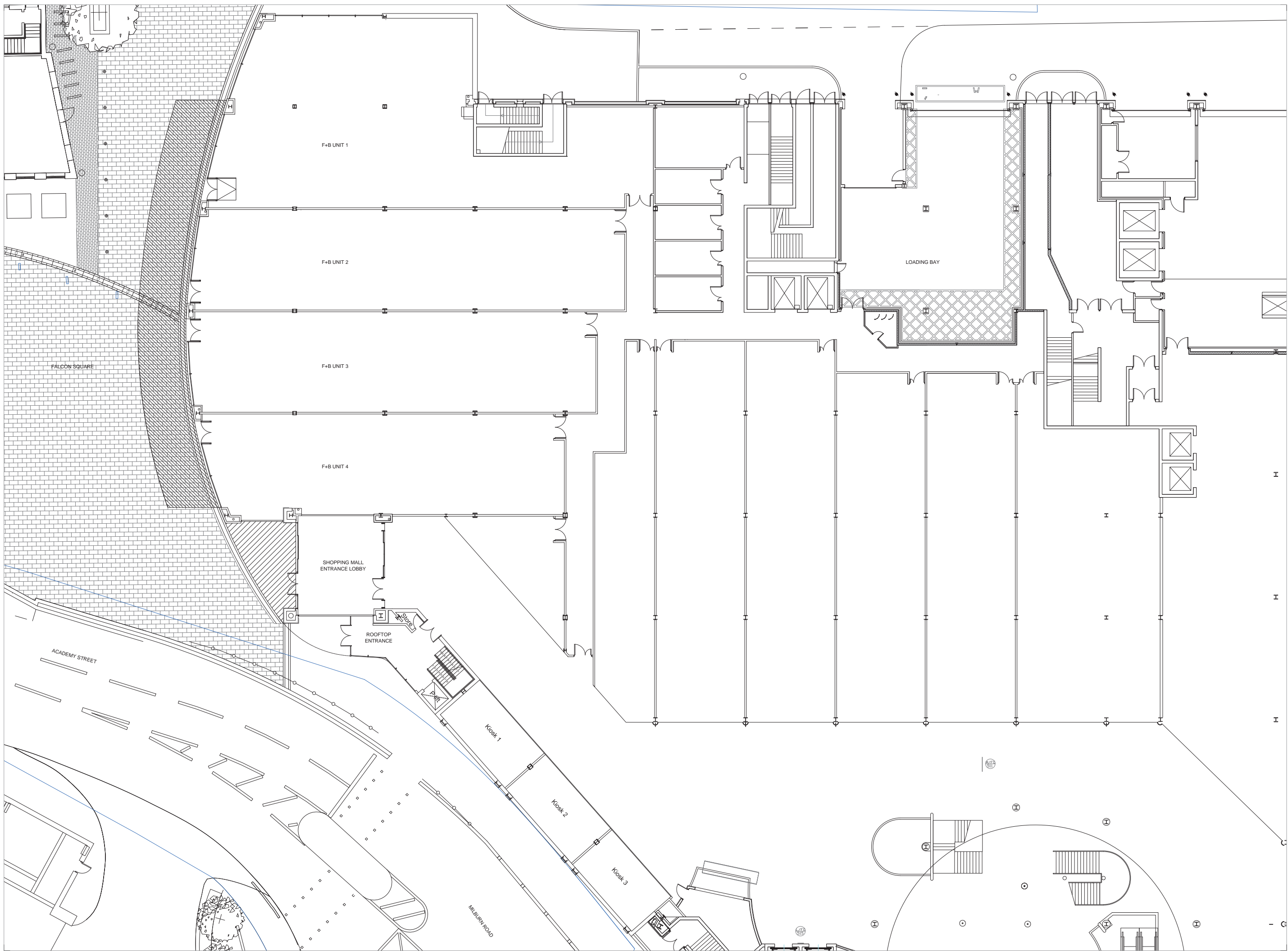
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SITE PLAN

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 - Hurd Rolland Partnership as built drawing: AB005REV4
 - Malcolm Hollis Survey Drawing: 50937-F-R REV A



1. PROPOSED LOWER MALL LEVEL PLAN

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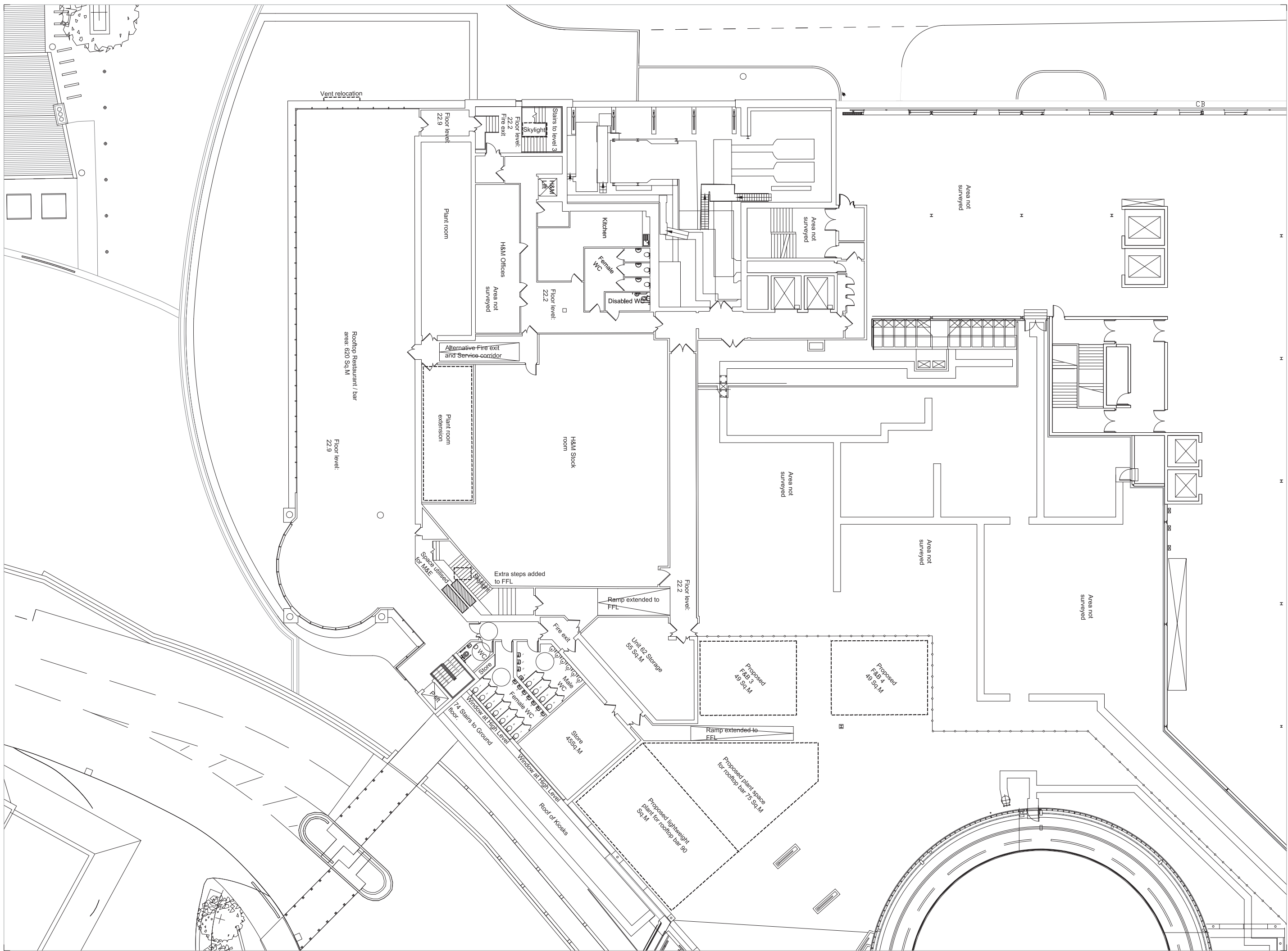
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**ROOFTOP RESTAURANT / BAR
 PROPOSED LOWER MALL LEVEL
 PLAN**

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 - Hurd Rolland Partnership as built drawing:
 AB005REV4
 - Malcolm Hollis Survey Drawing:
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1. PROPOSED ROOFTOP RESTAURANT / BAR LEVEL PLAN

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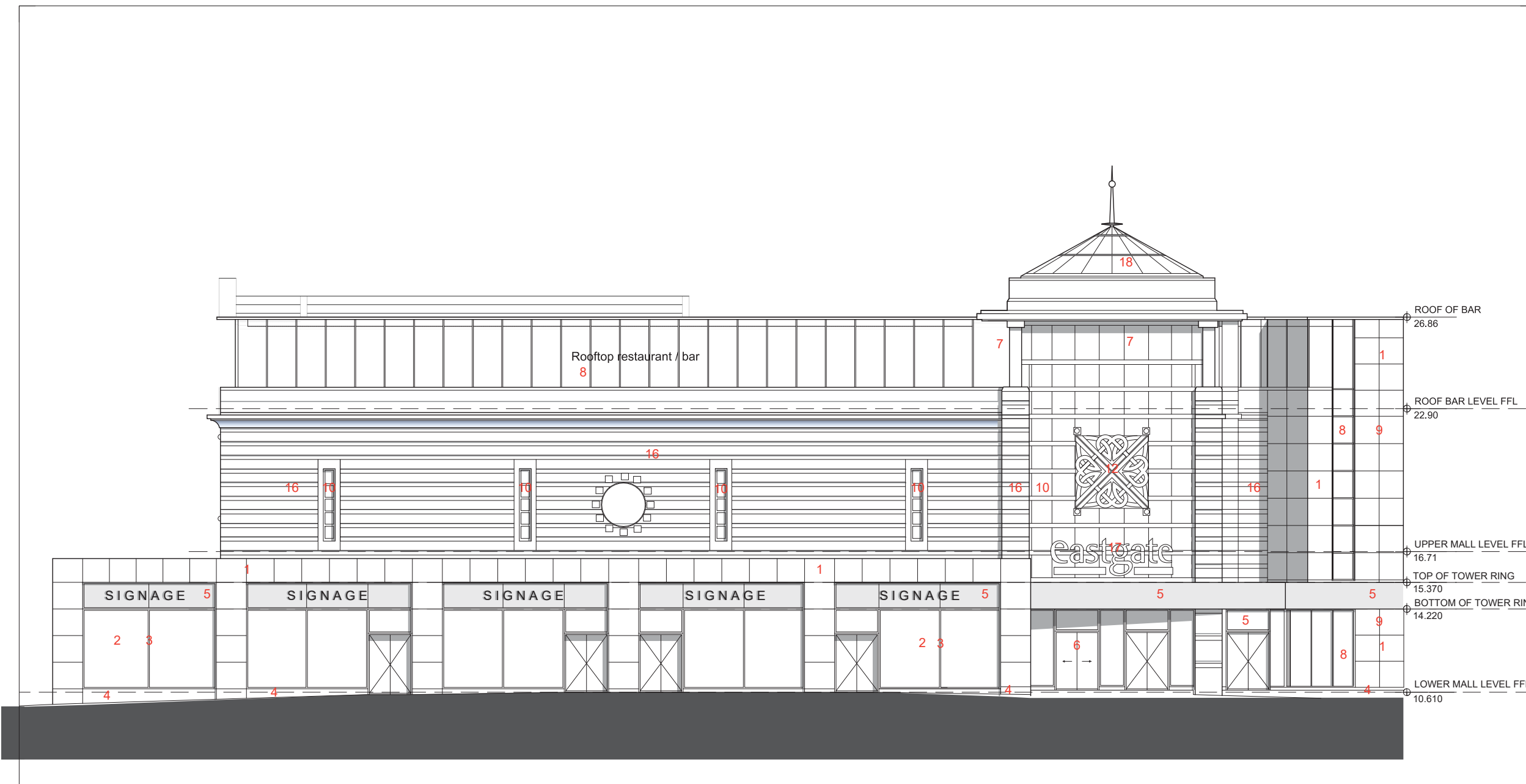
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 PROPOSED ROOFTOP BAR LEVEL
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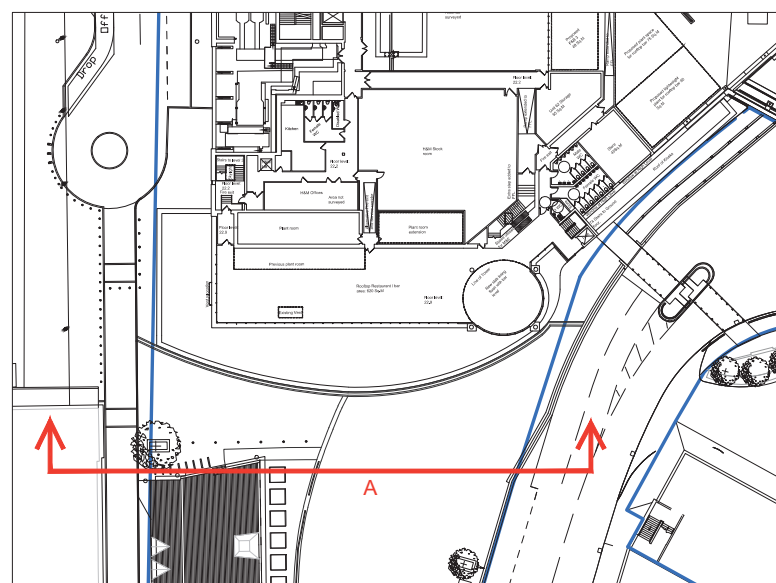
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 - Malcolm Hollis survey drawing: 50937-T-01-REVA
 - Malcolm Hollis survey drawing: 50937-F-R-REVA



1. PROPOSED ELEVATION A 1:100



KEY PLAN 1:500



KEY

Proposed building:

- 1. Natural stone cladding to match existing
- 2. Single glazed panels
- 3. Stick system glazing
- 4. Light Grey metal cladding to upstand
- 5. Light grey metal cladding with mounting for signage.
- 6.1 no. Automatic Sliding Door and 1 no. Manual Opening door. Single glazed with metal frame.
- 7. Metal cladding panel
- 8. Double glazed panel
- 9. Signage attached to clashach stone cladding

Existing buildings:

- 10. Opaque Glazed Panels
- 11. Pressed metal roof panels
- 12. Existing signage
- 13. Single glazed windows with grey metal frames
- 14. Grey composite cladding
- 15. Grey louvre screen
- 16. Natural Stone Cladding
- 17. Reposition existing signage and mount on brackets.
- 18. Reposition Top of tower.
- 19. Means of Escape Doors

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Drawing Title

**ROOFTOP RESTAURANT / BAR
 PROPOSED ELEVATION A**

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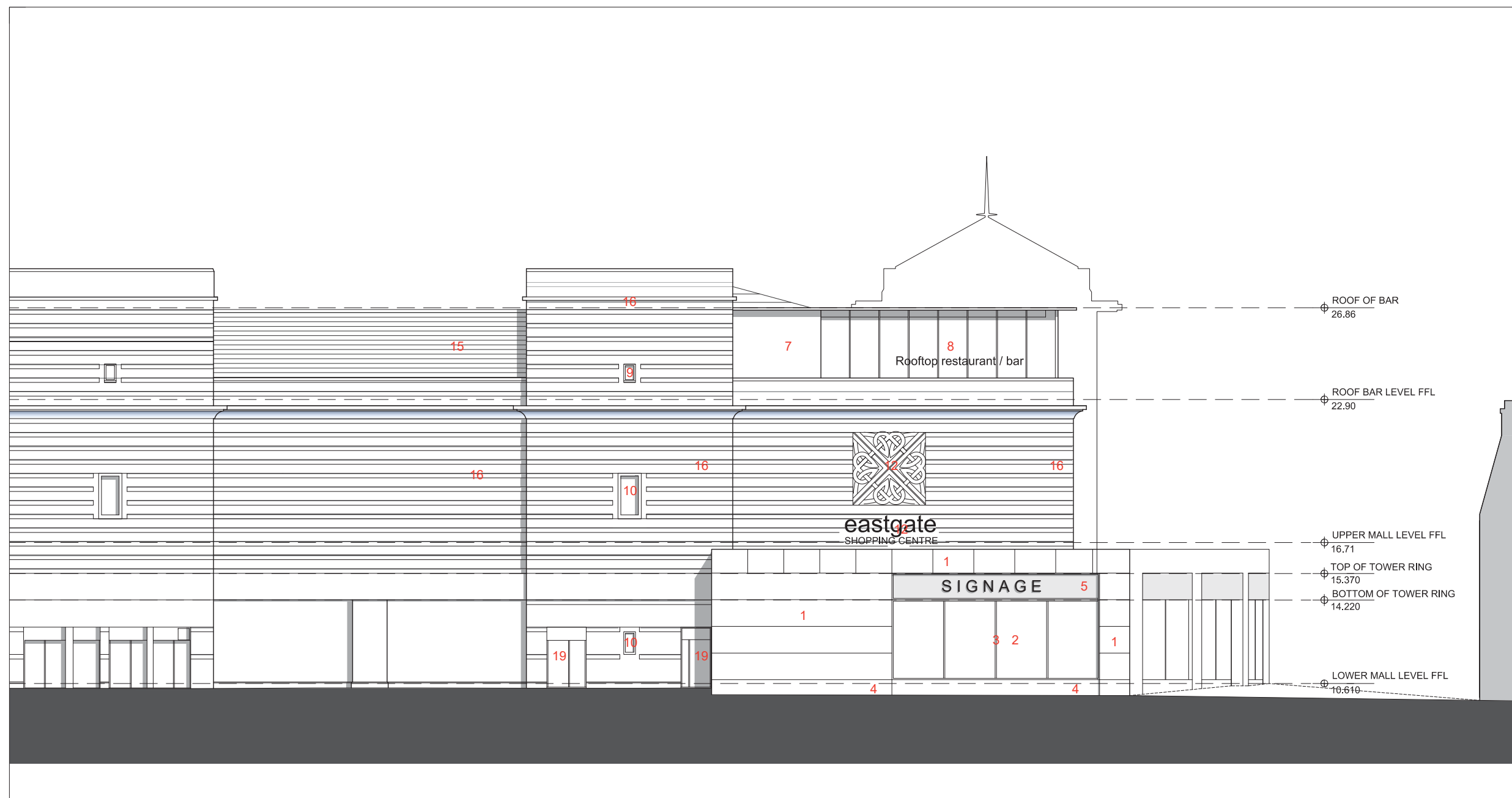
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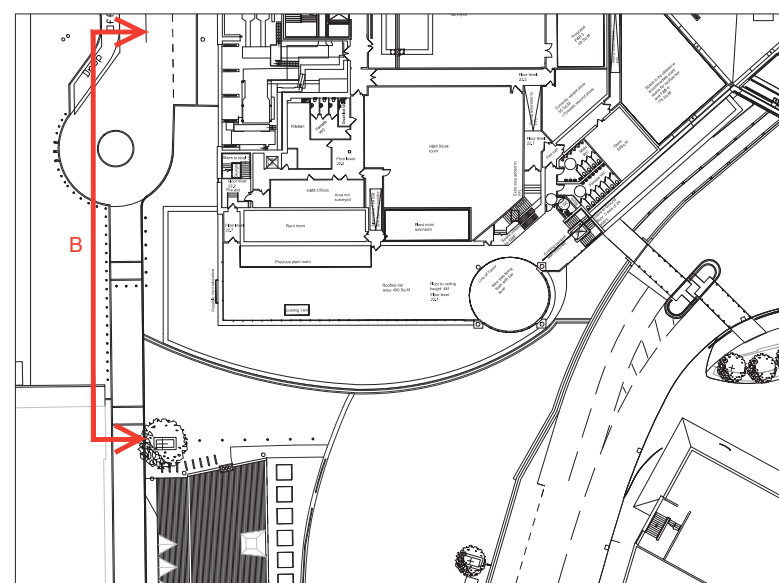
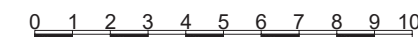
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 - Malcolm Hollis survey drawing: 50937-T-01-REVA
 - Malcolm Hollis survey drawing: 50937-F-R-REVA



1. PROPOSED ELEVATION B



KEY PLAN 1:500

KEY

Proposed building:

- 1. Natural stone cladding to match existing
- 2. Single glazed panels
- 3. Stick system glazing
- 4. Light Grey metal cladding to upstand
- 5. Light grey metal cladding with mounting for signage.
- 6.1 no. Automatic Sliding Door and 1 no. Manual Opening door. Single glazed with metal frame.
- 7. Metal cladding panel
- 8. Double glazed panel
- 9. Signage attached to clashach stone cladding

Existing buildings:

- 10. Opaque Glazed Panels
- 11. Pressed metal roof panels
- 12. Existing signage
- 13. Single glazed windows with grey metal frames
- 14. Grey composite cladding
- 15. Grey louvre screen
- 16. Natural Stone Cladding
- 17. Reposition existing signage and mount on brackets.
- 18. Reposition Top of tower.
- 19. Means of Escape Doors

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Drawing Title

**ROOFTOP RESTAURANT / BAR
 PROPOSED ELEVATION B**

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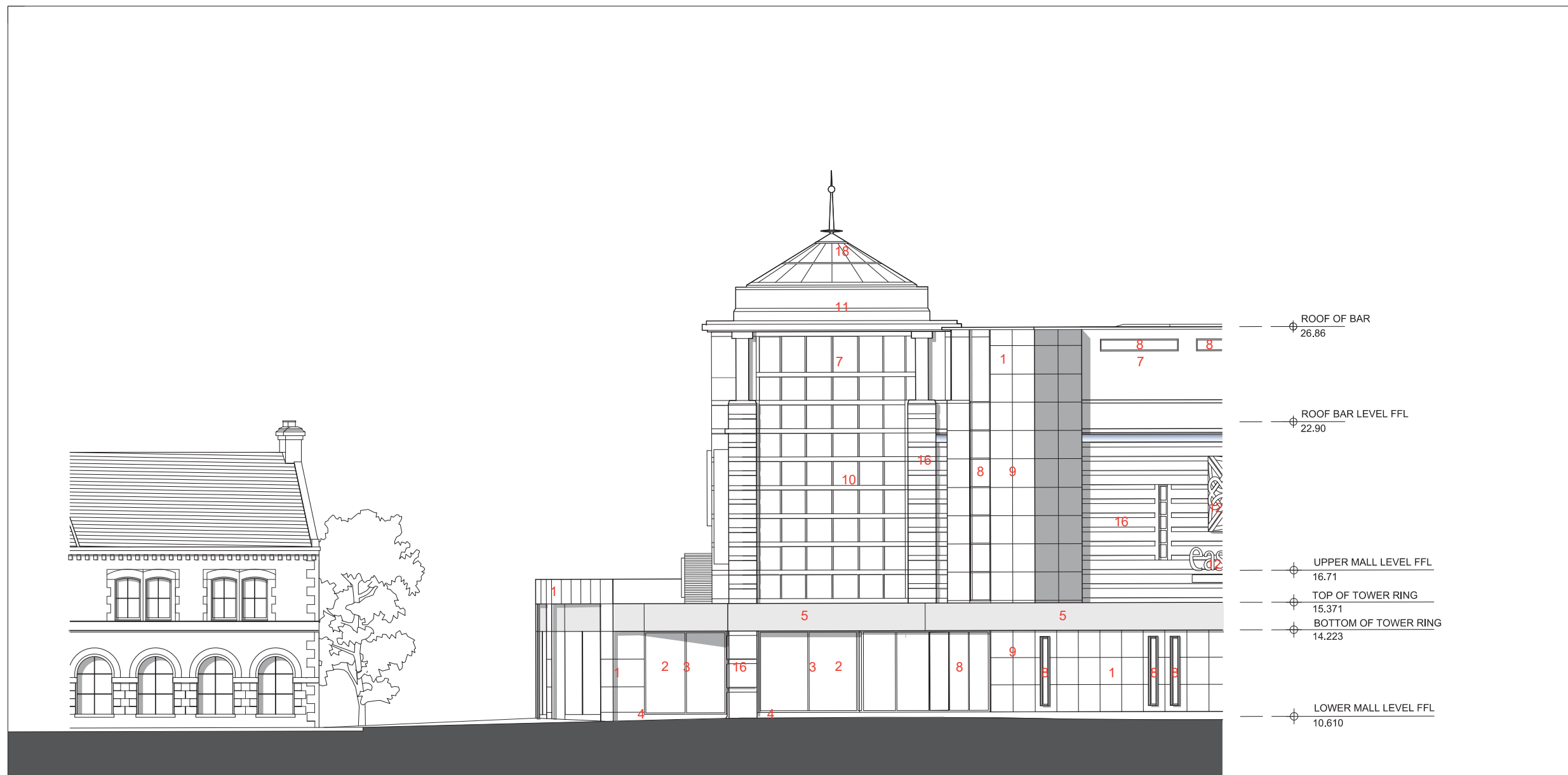
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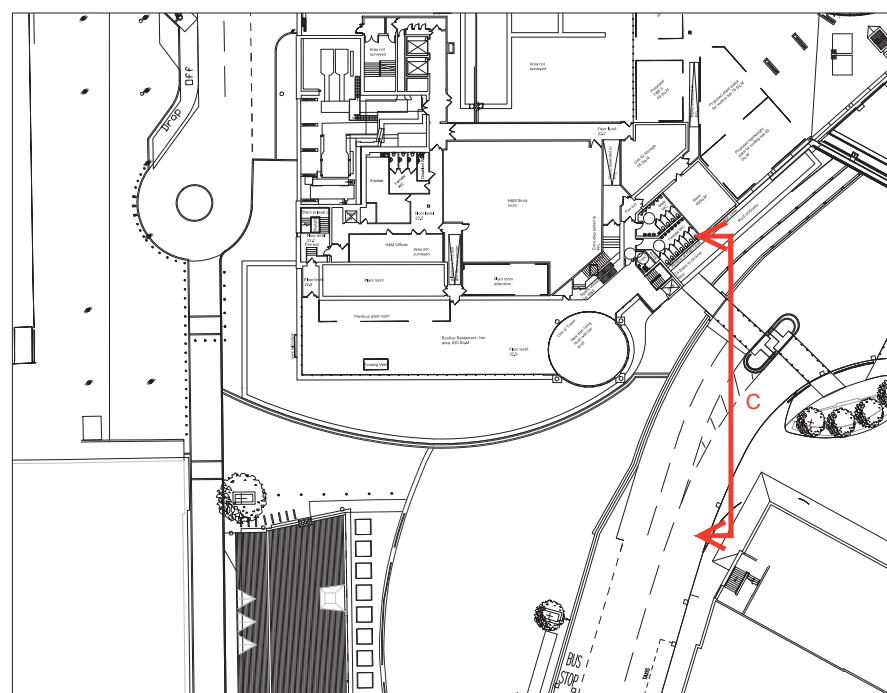
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 - Malcolm Hollis survey drawing: 50937-T-01-REVA
 - Malcolm Hollis survey drawing: 50937-F-R-REVA



1. PROPOSED ELEVATION C



KEY PLAN



KEY

Proposed building:

- 1. Natural stone cladding to match existing
- 2. Single glazed panels
- 3. Stick system glazing
- 4. Light Grey metal cladding to upstand
- 5. Light grey metal cladding with mounting for signage.
- 6.1 no. Automatic Sliding Door and 1 no. Manual Opening door. Single glazed with metal frame.
- 7. Metal cladding panel
- 8. Double glazed panel
- 9. Signage attached to clashach stone cladding

Existing buildings:

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- 11. Pressed metal roof panels
- 12. Existing signage
- 13. Single glazed windows with grey metal frames
- 14. Grey composite cladding
- 15. Grey louvre screen
- 16. Natural Stone Cladding
- 17. Reposition existing signage and mount on brackets.
- 18. Reposition Top of tower.
- 19. Means of Escape Doors

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Drawing Title

**ROOFTOP RESTAURANT / BAR
 PROPOSED ELEVATION C**

Status

**TOWN PLANNING
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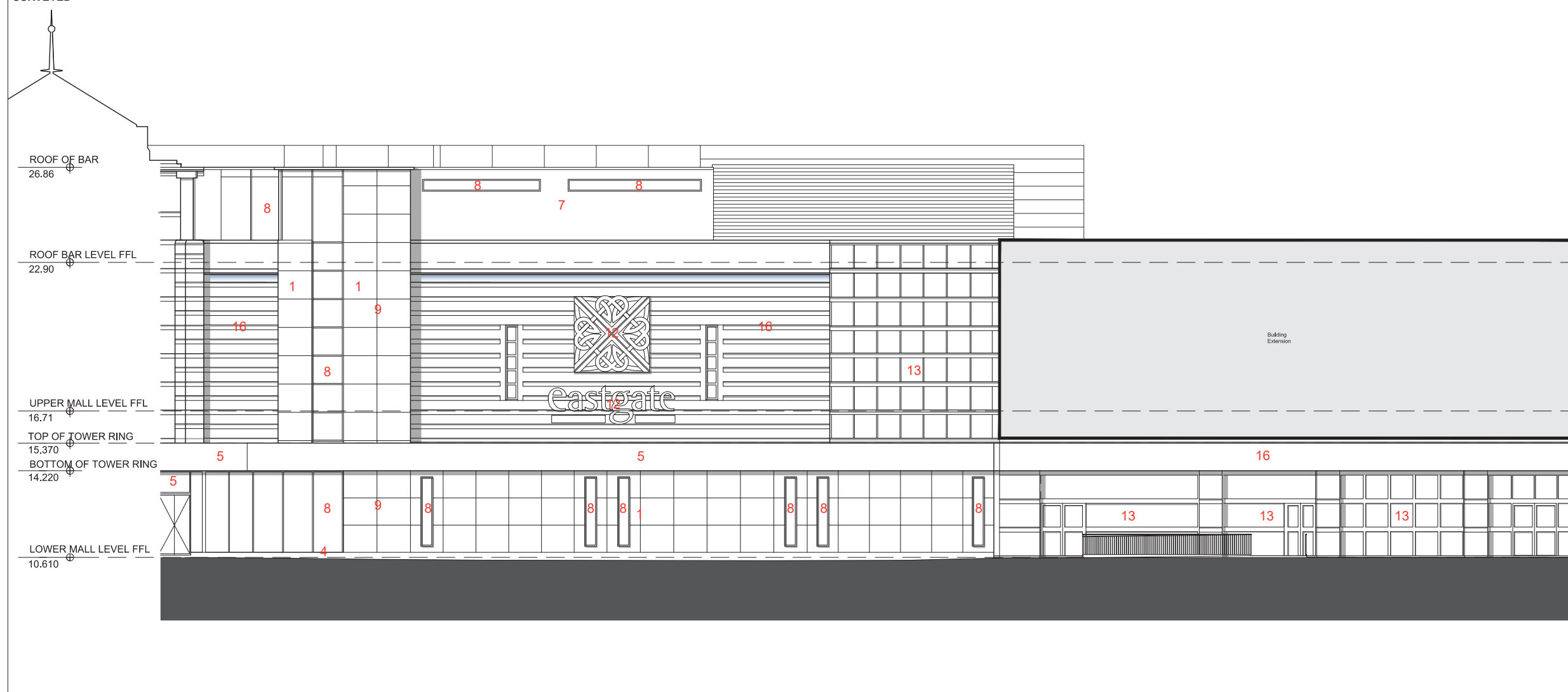
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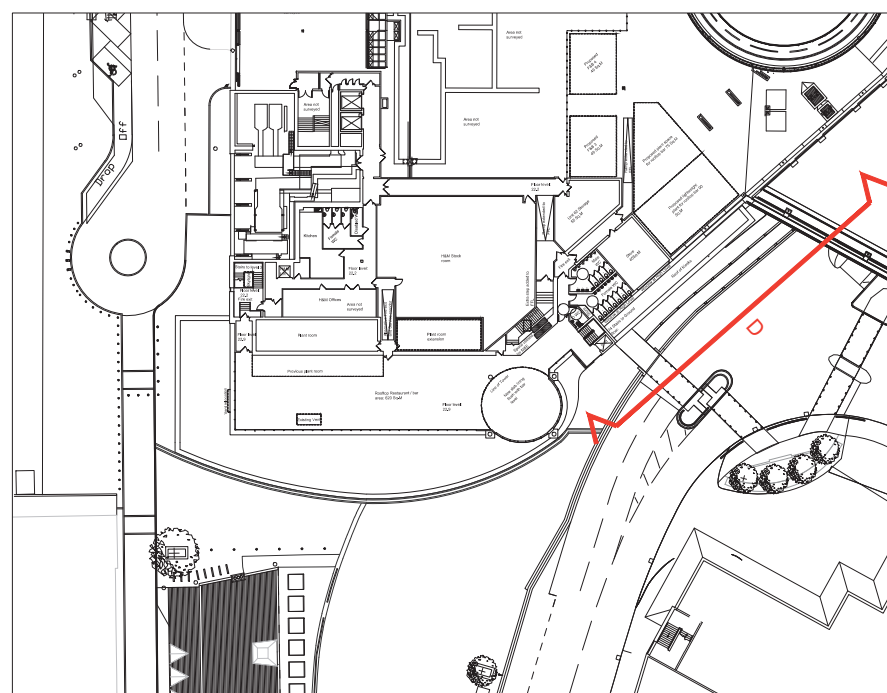
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INDICATIVE TOWER LOCATION, UNTIL SURVEYED



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 Drawing based on:
 - Malcolm Hollis survey drawing: 50937-E-01-REVA
 - Malcolm Hollis survey drawing: 50937-T-01-REVA
 - Malcolm Hollis survey drawing: 50937-F-R-REVA

1. PROPOSED ELEVATION D



KEY PLAN



KEY

Proposed building:

- 1. Natural stone cladding to match existing
- 2. Single glazed panels
- 3. Stick system glazing
- 4. Light Grey metal cladding to upstand
- 5. Light grey metal cladding with mounting for signage.
- 6.1 no. Automatic Sliding Door and 1 no. Manual Opening door. Single glazed with metal frame.
- 7. Metal cladding panel
- 8. Double glazed panel
- 9. Signage attached to clashach stone cladding

Existing buildings:

- 10. Opaque Glazed Panels
- 11. Pressed metal roof panels
- 12. Existing signage
- 13. Single glazed windows with grey metal frames
- 14. Grey composite cladding
- 15. Grey louvre screen
- 16. Natural Stone Cladding
- 17. Reposition existing signage and mount on brackets.
- 18. Reposition Top of tower.
- 19. Means of Escape Doors

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Project

**EASTGATE SHOPPING CENTRE
 INVERNESS
 IV2 3PP**

Drawing Title

**ROOFTOP RESTAURANT / BAR
 PROPOSED ELEVATION D**

Status

**TOWN PLANNING
 FOR EASTGATE SHOPPING
 CENTRE, ROOFTOP**

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	A1	1:100	RS

	Date	Checked
	03/08/16	PS

Project no.	Drawing no.	Revision
122	TP03_053	00



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Project
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 INVERNESS
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Drawing Title
**ROOFTOP RESTAURANT / BAR
 PROPOSED VISUAL 1**

Status
**TOWN PLANNING
 FOR EASTGATE SHOPPING
 CENTRE, ROOFTOP**

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Project
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Drawing Title
**ROOFTOP RESTAURANT / BAR
PROPOSED VISUAL 2**

Status
**TOWN PLANNING
FOR EASTGATE SHOPPING
CENTRE, ROOFTOP**

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Project
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INVERNESS
IV2 3PP**

Drawing Title
**ROOFTOP RESTAURANT / BAR
PROPOSED VISUAL 3**

Status
**TOWN PLANNING
FOR EASTGATE SHOPPING
CENTRE, ROOFTOP**

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Project
**EASTGATE SHOPPING CENTRE
 INVERNESS
 IV2 3PP**

Drawing Title
**ROOFTOP RESTAURANT / BAR
 PROPOSED VISUAL 4**

Status
**TOWN PLANNING
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 CENTRE, ROOFTOP**

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	Date 04/08/16		Checked PS
Project no. 122	Drawing no. TP03_073		Revision 00