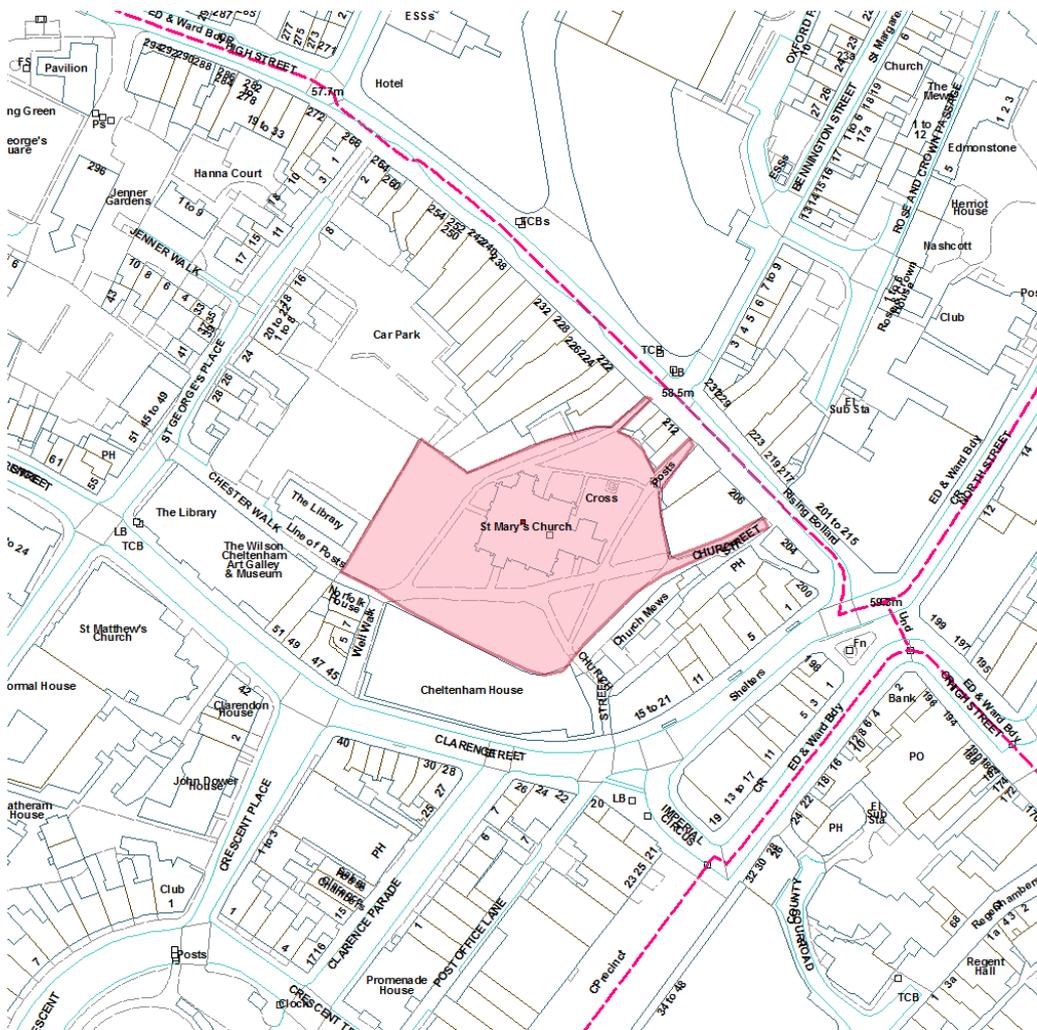


<b>APPLICATION NO:</b> 21/02019/FUL	<b>OFFICER:</b> Michelle Payne
<b>DATE REGISTERED:</b> 8th September 2021	<b>DATE OF EXPIRY:</b> 3rd November 2021 (extension of time agreed until 20th December 2021)
<b>DATE VALIDATED:</b> 8th September 2021	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Lansdown	<b>PARISH:</b>
<b>APPLICANT:</b>	Cheltenham Borough Council
<b>AGENT:</b>	Ares Landscape Architects
<b>LOCATION:</b>	St Marys Church, Well Walk, Cheltenham
<b>PROPOSAL:</b>	Various external works within the grounds of Cheltenham Minster (St Mary's) to include improvements to the paving and connection pathways; improvements to the lighting; restoration of historic artefacts; improved vehicular access; provision of formal seating areas; and enhancements to biodiversity

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site comprises the churchyard of Cheltenham Minster (formerly St. Mary's Parish Church). The Minster itself is a Grade I listed building of mid-C12 origins, with later alterations and additions; it is Cheltenham's only surviving medieval building. Lamp posts, tombstones and headstones, the churchyard wall piers and railings to the east, and churchyard cross are all Grade II listed; with the cross also being a scheduled monument.
- 1.2 Other prominent listed buildings within the immediate vicinity include the grade II listed Library, Art Gallery and Museum, and Norfolk House. The site falls wholly within the Old Town Character Area of the Central Conservation Area.
- 1.3 Whilst located within the town centre, the site is relatively tucked away. Many of the buildings surrounding the site are 3-4 storeys in height, and the vast majority turn their backs on the Minster, with the exception of the restaurant located on the corner of Well walk.
- 1.4 The Cheltenham Central Conservation Area: Old Town Character Area Appraisal and Management Plan notes "*a combination of al-fresco drinking in the churchyard; evidence of graffiti and unattractive rear facades of buildings backing onto the churchyard contribute to providing the church with a poor setting*". Whilst this assessment was made in 2007 it is still true today.
- 1.5 In 2020, planning permission was granted for the construction of a 'Mixed Use Innovation Hub' on an adjacent parcel of land, to the rear (north) of Cheltenham's Children's Library. The application proposed a modular construction building to provide state of the art workspace for the cyber tech, digital and creative sectors, a Growth Hub to support business development, an event space and café comprising flexible workspaces, a 300-person capacity performance arena, and community and education spaces. It forms part of a wider urban rejuvenation scheme, The Minster Exchange.
- 1.6 This application is now seeking planning permission for various external works within the grounds of the Minster to include improvements to the paving and connection pathways; improvements to the lighting; restoration of historic artefacts; improved access arrangements; provision of formal seating areas; and enhancements to biodiversity.
- 1.7 The proposals have been amended during the course of the application in response to a number of concerns raised by Conservation, Historic England, and the Civic Society; the revisions are addressed in the report below.
- 1.8 In addition to drawings, the application has been accompanied by the following documents:
  - Historic Environment Record (HER) - Area Summary Report
  - Churchyard Monument Condition Report
  - Archaeological Desk-Based Assessment
  - Natural Capital Assessment
  - Bat Dusk Emergence/Activity Transect Survey Report
  - Preliminary Ecological Appraisal
- 1.9 The application is before the planning committee as Cheltenham Borough Council is the applicant.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport Safeguarding over 45m  
Business Improvement District  
Conservation Area

Core Commercial Area  
Listed Buildings  
Principal Urban Area  
Residents Association  
Smoke Control Order

**Relevant Planning History:**

**CBL0857/00**

**GRANT**

**28th August 1986**

St Marys Parish Churchyard - Remove lighting columns in dangerous structural condition to renovate and to re-erect in same location

### **3. POLICIES AND GUIDANCE**

**National Planning Policy Framework 2021 (NPPF)**

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 8 Promoting healthy and safe communities

Section 12 Achieving well-designed places

Section 14 Meeting the challenge of climate change, flooding and coastal change

Section 15 Conserving and enhancing the natural environment

Section 16 Conserving and enhancing the historic environment

**Adopted Cheltenham Plan 2020 (CP) Policies**

D1 Design

HE2 National and Local Archaeological Remains of Importance

SL1 Safe and Sustainable Living

GI2 Protection and replacement of trees

GI3 Trees and Development

**Adopted Joint Core Strategy 2017 (JCS) Policies**

SD3 Sustainable Design and Construction

SD4 Design Requirements

SD8 Historic Environment

SD9 Biodiversity and Geodiversity

SD14 Health and Environmental Quality

INF1 Transport Network

INF3 Green Infrastructure

**Supplementary Planning Guidance/Documents**

Old Town Character Area Appraisal and Management Plan (2007)

### **4. CONSULTATION RESPONSES**

**Historic England**

***24th September 2021***

Thank you for your letter of 8 September 2021 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

**Significance of Designated Heritage Assets**

The application site is within the setting of Cheltenham Minster and within the Central Cheltenham Conservation Area (Old Town Character Area). St Mary's, more commonly referred to as Cheltenham Minster, is the town's only surviving medieval building. It likely dates from the mid-12th century, and as the list description asserts, the architectural design-interest arrives largely from the high-quality Decorated tracery which, in some cases, fills an exceptionally high proportion of the windows. The spire is a notable Gothic feature which contrasts strikingly with the predominance of the surrounding Regency architecture.

The churchyard, defined tightly by the encircling (predominantly) four-storey terraced blocks, is a somewhat unexpected space of tranquillity within the busy town centre, and associated (individually designated) assets create a distinctly characterful enclave. It is important to note that, whilst not necessarily under Historic England's jurisdiction, the churchyard contains several 'dragon and onion' lamp posts, tombstones and headstones, the churchyard wall piers and railings to the east, and a churchyard cross, all listed at Grade II (the latter being simultaneously scheduled). There are further Grade II buildings surrounding the site, in particular, the library, museum and art gallery, and Norfolk House. The council's Conservation Officer will need to assess any impact to the setting of these Grade II assets.

The Minster is designated as Grade I, and as such is in the top 2.5% of listed buildings. Therefore, greater weight should be given to its conservation. The National Planning Policy Framework (NPPF) defines 'conservation' as 'the process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance'.

The Cheltenham Borough Council Conservation Area Appraisal and Management Plan 2007, identifies 'St Mary's churchyard as an important space within the town centre...with a sense of enclosure and is a potentially tranquil space.' It also acknowledges that 'a combination of al-fresco drinking in the churchyard; evidence of graffiti and unattractive rear facades of buildings backing onto the churchyard contribute to providing the church with a poor setting.' Indeed, Action OT13 of the Management Plan 'aims to enhance the area through proposals including maintaining existing through routes and desire lines and enhancing points of entry; encouraging interaction with the surrounding properties; encouraging increased public use; improving and enhancing the setting of the Church and strengthening the current identities of the Church and Churchyard.'

#### Summary of proposals

The proposed landscape works to the church yard would seek to deliver improved pedestrian links to the surrounding main thoroughfares, address the approved Innovation Hub on the site of the adjacent Chester Walk car park and to provide a series of public spaces that would aim to increase dwell time within the church yard and encourage a range of activities. This would be through a series of hard landscaped areas with associated seating, lighting and new areas of planting and walkways.

#### Impact of the Proposed Development

The proposed contemporary approach to landscaping of a historic churchyard will result in a change to its character and significance, as part of the setting of the Grade I Minster Church. However, we acknowledge the problems associated with the location of the Minster, surrounded by later development, compromising its setting and the opportunities of providing space where the significance of the Church can be better experienced and appreciated.

Regarding other heritage assets within the church yard, we advise that where there are opportunities for repair, this would benefit the historic environment and its significance, as part of this project. We have been made aware that the Scheduled cross has recently suffered from graffiti damage, for example. Where there are opportunities to repair monuments, historic lamps, gate piers and chest tombs, many of which are separately listed, these should feature within the proposals.

The proposed landscaping works are divided into three areas with a general approach to upgrading the existing paths with resin-bonded gravel. This will deliver an improved appearance over the existing tired tarmac.

The principal area of work is to the west of the Church and will provide a transition between the approved new development on the car park, when constructed. This will provide a focal area, which has potential for a positive and engaging public space. We do have some

concerns over the proposed palette of materials, as the appearance and longevity of artificial paviers, for example, will diminish the quality of the space, particularly in the medium to long term. We therefore suggest that, as the budget is limited, these areas of work are prioritised, and more befitting natural materials used. Proposals such as the stone stacks would have limited benefits to the space and perhaps the budget for this could be redirected towards higher quality finishes and materials elsewhere?

An archaeological desk-based assessment has already been carried out, which will inform the sensitivities within the site. We understand that all works proposed have been designed on a light-touch basis with minimum ground disturbance. However, as the site is not Scheduled (apart the cross on the north side) we would defer advice on archaeological impacts to your archaeological specialist.

#### Planning Legislation & Policy Context

Central to our consultation advice is the requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990 in Section 66(1) for the local authority to "have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses".

Section 72 of the act refers to the council's need to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in the exercise of their duties.

When considering the current proposals, in line with Para 194 of the NPPF, the significance of the asset's setting requires consideration. Para 199 states that in considering the impact of proposed development on significance great weight should be given to the asset's conservation and that the more important the asset the greater the weight should be. Para 200 goes on to say that clear and convincing justification is needed if there is loss or harm.

#### Historic England's Position

We are supportive of the principal aims of the project and would hope that by improving the landscaping of the church yard and providing new spaces, this would increase footfall and dwell time within this under-valued historic space, better revealing its heritage significance.

We are concerned however, that the budget allocated to this project is maybe being spread too thinly and we would wish to see clear benefits of repairs to historic fabric of heritage assets within the area.

#### Recommendation

Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 199, 200 and 206 of the NPPF. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess, section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

#### ***2nd November 2021 – revised comments***

Thank you for your letter of 18 October 2021 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

### Historic England Advice

Following our letter of the 23rd September 2021, the applicant has responded to the various points and queries that we raised. In general terms, we are happy that further consideration and explanations have been made which have, on the whole, allayed our concerns over the proposals.

We understand that at the time of the application submission, the applicant was not in receipt of the conservation report on the heritage assets within the churchyard. This has now highlighted those that require more urgent repairs and form part of the proposals, including the cleaning of graffiti from the Scheduled Cross base. This represents a significant heritage benefit to be delivered as part of the scheme.

We previously advised that the principal area of work is to the west of the Church will provide a key public space and that further thought should be given to materials proposed for this. We are pleased that further thought has been given to using natural materials for this key space, which will provide a cohesive and more positive response to the setting of the Minster. Similarly, the removal of the proposed stone stacks will allow for more of the budget to be spent where it will have the greatest benefit.

Subject to details of the repair schedule for key heritage assets within the church yard and materials for use in the overall landscaping scheme, we are now in a position to support the application.

### Recommendation

Historic England has no objection to the application on heritage grounds. We consider that the application meets the requirements of the NPPF, in particular paragraph numbers 199 and 200. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

## **CBC Heritage and Conservation**

***25th October 2021***

It is important to consider the policy context in which the proposal needs to be determined. The cornerstone of heritage legislation is the Planning (Listed buildings and Conservation Area) Act 1990 and a core principle of the National Planning Policy Framework 2019 (NPPF) is heritage assets be conserved in a manner appropriate to their significance. Chapter 16, paragraphs 199-208 set out how potential impacts on heritage assets need be considered. This assessment takes account of the relevant considerations in these paragraphs, including paragraph 197 of the NPPF, which requires the significance of heritage assets to be sustained and enhanced and paragraph 199, which requires great weight be given to the asset's conservation.

The site is comprised of Cheltenham Minster, its churchyard and the pedestrian alleyway that access the churchyard from the High Street. The site has an enclosed character, being located inside the perimeter block formed by the High Street, Clarence Street and St. George's Place, with the rear elevations of buildings being prominently visible from within the site. The site has a peaceful, verdant quality but has suffered from neglect.

There are numerous heritage assets within the site and immediately adjacent to it. Within the site heritage assets include: Cheltenham Minster a grade I listed building; x5 Dragon and Onion lamp posts all grade II listed; a number of tomb chests and headstones all grade II listed; churchyard cross a scheduled monument; churchyard wall, piers and railings east of Cheltenham Minster which are grade II listed. Adjacent to the site the heritage assets include: Cheltenham House and attached Theme and Variations sculpture which is grade II listed; 5, 7 and 8 Norfolk House, Well Walk all grade II listed; the workshop located on Church Mews to the south-east of the site on Church Street a grade II listed building; nos. 210 to 216 (evens) High Street whose rear elevations abut the site are grade II listed; and no. 228 High Street whose rear elevation abuts the site is grade II listed. The site and its context are therefore highly sensitive in heritage terms.

Generally the proposed hard and soft landscaping works are considered acceptable and an enhancement to the appearance of the churchyard, which is in a notable poor state of repair. However, there is a concern over the proposed mural to the rear of Cheltenham House. As previously noted Cheltenham House and attached Theme and Variations sculpture are grade II listed. Cheltenham House and the attached Theme and Variations sculpture were recently listed in October 2019 and there may be some ambiguity over the extent of listing, which shall be addressed here.

The extent of listing could be considered slightly confusing. The identifying map within the list description indicates a blue line along the front elevation of Cheltenham House facing Clarence Street only. However, the text within the list description does not state the listing solely relates to the front elevation and it makes brief reference to the side elevation facing Well Walk and rear elevation facing Cheltenham Minster and its churchyard, reference is also made to the building internally.

Specifically in relation to the above, the list description states, "the building forms a strong landmark in a town centre rich in the Classical architectural style. Its outline, details and materials form a group with historic neighbouring buildings on Clarence Street and Well Walk, and it forms a strong visual counterpoint to the medieval Minster Church of St Mary (Grade I) and its churchyard, to its immediate rear." This indicates all elevations have been considered during the listing process, although it is acknowledged the front elevation is of higher significance.

The list description also states, "The building was extensively refurbished in 2015-2019 when the shop fronts and interiors were largely replaced. The interiors have also been replaced throughout the building, except for the staircases." This indicates the internal spaces are also covered by the listing but are of little to no significance given they have been altered.

It is also notable it is not specifically stated within the text of the list description only the front elevation that is listed.

The list description is therefore considered to indicate the listing of Cheltenham House is not limited to the front elevation but includes the whole building. This is highlighted here to avoid ambiguity.

The rear Cheltenham House has a simplified neoclassical appearance, loosely echoing the front elevation, which is described in its list description as a balance of solid traditionalism given a more dynamic classicism and sense of movement by its gentle curve allied with its elegant sculptural centrepiece. Notably Cheltenham House emulates the Regency buildings within its context, through its scale, architectural detailing, fenestration pattern and materials.

Of relevance to the proposed works, materials used to construct Regency properties within Cheltenham are ashlar or more commonly stucco in imitation of ashlar used on the facades of the front elevations, with stucco and brick typical with ashlar stone used on higher status buildings used on the facades of the rear elevations. Cheltenham House replicates this

materiality on the front elevation through the use of ashlar and to the rear elevation through the use of brick on the ground floor and ashlar to the upper storeys to the rear. The ashlar used to reflect the buildings high status and to provide a higher quality material to the façade facing onto Cheltenham Minster and its churchyard.

It is however acknowledged the rear elevation is not the principle reason for the listing, this being the front elevation and the Theme and Variations sculpture. As such the rear elevation is considered to have a low significance but it is important to note this should not be treated as insignificant. The National Planning Policy framework requires the starting point in terms of consideration of impact of works on heritage assets is to give great weight to their preservation.

With regards to the proposed mural to the rear of Cheltenham House, a listed building consent application has not been submitted for the works and little information regarding the works is contained within the planning application regarding the extent of its height, width, materials and appearance. It is therefore considered there is insufficient information clarifying the proposed works, which in itself raises concerns.

Notwithstanding the lack of a listed building consent application and the lack of clarity over the proposed works within the planning application, concern is raised over the principle of the proposed mural in this location.

Firstly, a concern is raised over the alteration of the appearance of the rear of Cheltenham House, a grade II listed building and its impact on the setting of the heritage assets noted above, notably including Cheltenham Minster, a grade I listed building and its churchyard, which contains several grade II listed structures and a scheduled monument.

Regarding Cheltenham House, part of its significance is considered to be the hierarchy of detailing and materials, i.e. a formal, decorative front elevation with informal, much simpler detailing to the rear elevation. A conscious reference to the hierarchy found on Regency properties. The flaw in considering this location as suitable for a mural is it being perceived as a blank canvas when in fact it was the design intention for it to be simpler and therefore expressive of the hierarchical status of the elevations.

The proposed mural would also detract from the setting of neighbouring listed buildings, which includes the grade I listed Cheltenham Minster, urban art appearing visually brash and incongruous with the peaceful, contemplative setting of the churchyard. Regardless of the quality of any mural itself, it is considered the principle of a mural in this location is inappropriate.

Secondly, it is considered the introduction of modern non-breathable paint on the brick and ashlar would undermine the breathability of these materials resulting in vapour becoming trapped and damage to the fabric.

A proposed mural in this location would not be considered to sustain and enhance the special interest of listed building and the setting of neighbouring listed buildings, therefore causing harm to their special interest. While sympathetic to the issue of improving the condition of the churchyard, this does not justify harm. As a result of the above concerns it is considered the proposed mural should be removed from the proposed works.

The x4 condition reports show repairs works to the heritage assets within the churchyard. It should be noted some of these works may require Faculty consent, benefiting from ecclesiastical exception and not require listed building consent. It is advised an informative stating contact with the Dioceses is advised.

Provided the application is amended to remove the proposed mural the rear of Cheltenham House, no objection is raised to the proposed works. If any amended application is to be

granted it is considered conditions requiring further details of materials (written specification and samples), lighting, bollards and any associated equipment be attached to the consent. The above informative is also advised.

### **Architects Panel**

**19th October 2021**

Design Concept - The panel welcomed this application which is seen as an excellent opportunity to enhance an important area of public open space in need of refurbishment.

Design Detail - The proposed landscaping plans and details for improving the overall quality of this important churchyard are well designed.

Recommendation - Support.

### **Cheltenham Civic Society**

**1st October 2021**

SUPPORT in principle but a lot of concerns.

The Civic Society Planning Forum support this scheme in principle, Cheltenham Civic Society having contributed significantly to the consultation process so far. A different consultant to the one carrying out the earlier consultation has been used to draw up this design, and they have missed many of issues which were raised in that first consultation.

There is a real opportunity to permanently change this area of the town for good, but it requires brave decision making. If money were no object, the council could think big and create a large open landscape setting linked to the High Street. This would be mutually advantageous to the Minster and to the High Street shopping experience.

This proposal fundamentally ignores the heritage significance of the site. This would not happen to any other Grade I listed building. The tomb survey is good. The setting of a Grade I listed building must be handled with great care, and there are significant historical constraints on new interventions. Why then does the designer insist that these new interventions should be 'contemporary and standout'? This is neither best practice nor desirable.

#### Paths

Key access and egress routes seem to have been omitted from the scheme. More should be made of existing desire lines when planning the paths. If there is a need for the P7 path in the south, implement it now rather than wait for it to be retrodden and undermine the scheme. Why are 'Tobermore Mayflair flags' being used? How does this (alongside the contrasting proposed Cotswold stone gabions) reflect the context and setting?

We are pleased to see that the raised metal grating walkway is to be omitted. It is far too industrial and inappropriate to the setting.

#### Street Art

The Civic Society Planning Forum strongly objects to the plans for 'painted art'/ street art on the back of Cheltenham House. Parts of Cheltenham House are now Grade II listed. The earlier consultation specifically warned against inappropriate street art in this setting, as required by NPPF para 199. We were therefore surprised to see it included in this application.

#### Gabion Seating

The gabion seating is hideous and does not relate in any way to the Grade I Minster, contrary to NPPF para 199. The desire to introduce biodiversity seems to have magically usurped this requirement. Who wants bees and wasps buzzing around their heads when having a sandwich, lunch or coffee, especially children?

Using gabions as bases for seats in this location would attract litter, with cigarette butts, chewing gum and nitrous oxide capsules being dropped into the cages holding the seat slats and difficult to remove. Litter is not conducive to positive behaviour, and people feeling safe and choosing to spend time in the area.

### Lighting

The lighting plan makes no reference to the two sets of Grade II listed Dragon and Onion lamp posts. Would this be an opportunity to bring all five together for added impact, perhaps in a line along the main footpath to gain impact and add interest?

The plan inadequately lights the dark areas that hide ASB. The use of low voltage uplighters along the wall on the eastern edge could bring this structure to life and obviate dead spots, for example.

Is the lighting in the two NW alleys sufficient? Perhaps better to place a line of uplighters to expose features and reduce wayleave costs?

There are lots of 'future works' earmarked. Why not get it done now, especially in areas known to attract/ harbour ASB?

There are large areas of darkness to the west and south of the site that should be addressed. The plan cannot rely on passive lighting from overlooking buildings.

The proposed uplighting would need to be checked that it was not disturbing bats and other wildlife or causing necessary light pollution

### Anti-social behaviour and safety

We very much welcome reuse of stone paving and improved lighting to deter anti-social behaviour (ASB) but it doesn't go far enough.

The focus must be on attractive and safe pedestrian friendly routes, otherwise this will remain a place to avoid for most people. You cannot feel confident having to walk past a group of people who might be drinking and drug taking in the proposed circular area.

Flowerbeds and seats will not reduce the intimidating atmosphere. Ongoing management: enforcement, maintenance, keeping the area litter and graffiti free are important for making the area feel safe and somewhere people want to spend time. Is there a strategy and budget set aside for this?

Have the police been consulted on these plans, and if so, what are their recommendations for designing out ASB? Or has other expert advice been sought?

### Planting and biodiversity

Wildflower planting will struggle to establish in the shaded locations. Bottles, takeaway rubbish, and drug paraphernalia is likely to collect in the vegetation. Meadow planting looks good in large swathes in Pittville Park and other parks but is not appropriate here.

Well managed perennial planting would be an asset. There are good examples at Gloucester Cathedral and Hereford Cathedral. We would like an assurance that there is a maintenance plan and in place.

Biodiversity is a good theme but we need to be realistic about what can be achieved here. This is a primarily a historic heritage setting not a showcase for gimmicky biodiversity habitats (see our comments about the gabion seating and 'habitat friendly' litter bins). Historic buildings, mature trees and perennials provide habitats for wildlife. There are many measures which could provide additional wildlife habitats without shouting about it, or detracting from the heritage setting.

The bat survey was good.

### Bins

There needs to be a plan in place for managing the multiple commercial refuse bins which litter the entrances to the Churchyard. These bins negatively impact on the appearance of the area as well as obscuring views along the alley ways. The report mentions 'Develop strategy for commercial bins, as the periphery of the site is often local businesses 'back of house'.' This is critical, yet no further mention is made of the bins and how to manage them. Commercial waste bins are a key issue for Cheltenham Civic Society. It was identified in the street audit of 2018 and has featured in our conversations with Cheltenham Borough Council during this consultation, and with the Townscape Manager and the Chief Exec. Despite all that, CBC has failed to address this critical issue in these plans. To what extent have the local businesses been involved in these plans?

The provision of litter bins within the Churchyard is of course essential but the appearance of the 'habitat friendly litter bins' is inappropriate for this setting.

### Conclusion

This plan should have been the focus of a further round of consultation rather than going straight into the planning process. We appreciate there may be time pressure due to funding streams, but it is important to get any intervention at this significant site right.

We would have liked more information about the involvement and engagement of the neighbouring businesses - both commercial and non-commercial. We would also have liked more information about the plans and budget for ongoing maintenance.

## **GCC Highways Development Management**

***6th October 2021***

Gloucestershire County Council, the Highway Authority acting in its role as Statutory Consultee has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Highways Development Management Manager on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure) (England) Order, 2015 has no objection.

The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted the Highway Authority concludes that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained.

The Highway Authority therefore submits a response of no objection.

## **CBC Trees Officer**

***28th September 2021***

A method statement should be submitted prior to determination detailing hand-digging of existing paths and construction of new pathways, to show how to avoid damaging the roots of existing trees.

It's not considered necessary to erect fencing in line with BS5837 as such damage is not anticipated, however compaction avoidance ground protection should be used. This should be detailed in tree protection plan to BS5837, and within the method statement.

The proposed tree works should not significantly affect the amenity of the retained trees, and the removal of the two lesser quality limes will improve light levels within the grounds.

Please submit tree pit details for the new trees (three cork oaks) to include robust wire cage protection.

P5 on the key to the landscape plan appears to be a grating/drain. If this is the case, its installation should also be described within the method statement to avoid damaging any roots greater than 25mm (this falls with the root protection area of two mature limes).

The landscape plan includes several wavy red lines - please can the function / meaning of this be clarified.

**26th November 2021 – revised comments**

The tree pit details are sufficient and it is understood that these may be subject to further archaeological constraints that arise during excavation. The tree protection plan is also sufficient.

However, the method statement is lacking some detail as to how roots will be treated if encountered during excavation / construction. The method statement should refer more specifically to section 7.2.

A site meeting should be held before commencing works within root protection areas. The meeting should be attended by the site manager and at least one Trees Officer.

**Gloucestershire Centre for Environmental Records**

**23rd September 2021**

Report in documents tab

**GCC Archaeology**

**29th September 2021**

Thank you for consulting the archaeology department on this application. The county Historic Environment Record informs that the proposed development contains the site of Grade I listed Cheltenham Minster and its associated grounds occupied since at least the 12th century but also the possible site of an earlier Saxon monasterium or minster and medieval Benedictine Priory. The site contains several nationally important heritage assets dating to the medieval and post-medieval periods including a 14/15th century stone cross. A Desk Based Assessment has been submitted with the application which provides more detailed background (Oxford Archaeology 2021). Due to the high archaeological potential, particularly for burials relating to the medieval and post-medieval period and into the modern era, the scheme has been designed to minimise belowground impact but some aspects of the scheme will require groundworks that may impact archaeological remains. The DBA assesses potential impacts from the proposed pathways, seating, public spaces, landscaping and associated utilities and lighting.

In consideration of the potential for archaeological remains to be impacted by the proposed works whilst recognising and the limited belowground impact from the proposals I consider it appropriate to include a condition for archaeological monitoring for elements where there will be a belowground impact and details can be discussed with this department following further design detail.

To facilitate the archaeological work I recommend that a condition based on model condition 55 from Appendix A of Circular 11/95 is attached to any planning permission which may be given for this development, ie;

'No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority'.

Reason: It is important to agree a programme of archaeological work in advance of the commencement of development, so as to make provision for the investigation and recording of any archaeological remains that may be destroyed by ground works required for the

scheme. The archaeological programme will advance understanding of any heritage assets which will be lost, in accordance with paragraph 205 of the National Planning Policy Framework

I have no further observations.

## **CBC Environmental Health**

**29th September 2021**

Thank you for the consultation. I have considered the application from an environmental health perspective, and have no adverse comment to make.

## **5. PUBLICITY AND REPRESENTATIONS**

5.1 Letters of notification were sent to 114 properties surrounding the site. In addition, site notices were posted at the various entrances to the site, and an advert was published in the Gloucestershire Echo.

5.2 Two representations have been received in response to the publicity; one objection and one general comment. The comments have been copied in full to Members, but are summarised below:

Objection:

- The changes are not necessary; why alter the peaceful grounds of the oldest Grade 1 listed building in town
- At present the site is a relatively peaceful haven for squirrels who will lose their home if trees are chopped down

General comment:

- There look to be some significant positives to the scheme
- The scheme appears to provide a safe east to west cycling corridor but provides additional opportunities

## **6. OFFICER COMMENTS**

### **6.1 Determining issues**

6.1.1 The key issue when determining this application relates to design and impact on the historic environment, including the grade I listed Minster. Other considerations include amenity; trees and landscaping; access; and biodiversity.

### **6.2 Design and impact on the historic environment**

6.2.1 JCS policies SD3 and SD4 set out the design requirements for new development proposals. These policies seek to ensure that development proposals are designed and constructed so as to maximise the principles of sustainability, and to ensure that all new development responds positively to, and respects the character of, the site and its surroundings. The policies are supported by CP policy D1 and are consistent with the general design advice set out within Section 12 of the NPPF.

6.2.2 In addition, JCS policy SD8 requires both designated and undesignated heritage assets and their settings to be conserved and enhanced as appropriate to their significance, and is consistent with paragraph 192 of the NPPF that advises that in determining planning applications, local planning authorities should take into account:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

6.2.3 Furthermore, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting. Section 72(1) of the same Act also requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area wherein development is proposed.

6.2.4 As previously noted, there are a number of listed buildings in proximity to the application site, most notably the Grade I listed Minster, and the proposed development will undoubtedly impact on the setting of these buildings. The Minster, being Grade I listed, is in the top 2.5% of listed buildings, and therefore greater weight should be given to its conservation.

6.2.5 From a Heritage perspective, the proposals have been fully assessed by Historic England (HE) and the Council's Senior Conservation Officer (CO); and their comments can be read in full at Section 4 above.

6.2.6 In their initial response, HE were generally supportive of the principal aims of the project, acknowledging the problems currently associated with the location of the Minster, surrounded by later developments that compromise its setting. They also acknowledge that the improved landscaping within the church yard would *"increase footfall and dwell time within this under-valued historic space, better revealing its heritage significance."* They further recognise that the works to provide an improved transition between the church yard and the approved new development on the car park, when constructed, *"will provide a focal area, which has potential for a positive and engaging public space."*

6.2.7 However, HE did raise some concerns over the proposed palette of materials, suggesting the use of *"more befitting natural materials"*.

6.2.8 In response to the initial comments, the applicant provided additional clarification on a number of the points raised, and HE subsequently confirmed that their concerns over the proposals were now *"on the whole, allayed"*. Acknowledging that the more urgent repairs now highlighted, such as including the cleaning of graffiti from the base of the Scheduled Cross, *"represents a significant heritage benefit to be delivered as part of the scheme."*

6.2.9 HE go on to state that they *"are pleased that further thought has been given to using natural materials for this key space, which will provide a cohesive and more positive response to the setting of the Minster"*. They conclude that they consider the application now meets the requirements of the NPPF and they no longer object on heritage grounds.

6.2.10 Additionally, whilst not providing formal comments on the latest revisions, which include sandstone monolith benches for the main circular seating area, HE have agreed that the changes are very positive.

6.2.11 The one area of concern raised by the CO, namely the proposed mural to the rear of Cheltenham House, has also been addressed in the revisions; with this element now omitted from the scheme. In respect of the other works, the CO states that *"Generally the proposed hard and soft landscaping works are considered acceptable and an enhancement to the appearance of the churchyard, which is in a notable poor state of repair."*

6.2.12 Overall therefore, whilst the proposed works would undoubtedly result in a change to the character and significance of this historic churchyard, as part of the setting of the Grade I listed Minster, it is considered that the proposed development will make a positive contribution.

6.2.13 From an archaeological perspective, paragraph 194 of the NPPF advises that where a development site has the potential to include heritage assets with archaeological interest, developers should be required to submit an appropriate desk-based assessment and, where necessary, a field evaluation. Additionally, CP policy HE2 seeks to ensure that important archaeological remains are preserved in situ, where possible.

6.2.14 In this regard, the application has been reviewed by the County Archaeologist (CA). The CA, whilst acknowledging that the application is accompanied by a Desk Based Assessment and that the scheme has been designed to minimise belowground impact, advises that some aspects of the scheme would require groundworks that may impact archaeological remains; they therefore recommend a condition for archaeological monitoring.

### 6.3 Wildlife and biodiversity

6.3.1 JCS policy SD9 seeks to ensure that all development, wherever possible, makes a positive contribution to biodiversity and geodiversity, and that important habitats and species are protected. Where harm to biodiversity is unavoidable, mitigation measures should be incorporated into the design of the development. The policy reflects the advice set out within the NPPF at paragraph 180.

6.3.2 The application has been accompanied by a Preliminary Ecological Appraisal (PEA) that comprised a Phase I habitat survey and protected species survey assessment. The application was further supplemented by a Bat Dusk Emergence/Activity Transect Survey Report (BS).

6.3.3 The PEA identified that *“There are no protected habitats on Site that need consideration in relation to this development”* but that a number of protected species need to be considered, namely, bats, birds and hedgehogs; the PEA goes on to suggest opportunities for enhancements, and a condition is recommended to secure these.

6.3.4 The BS identified that one species of bat was present on site, the common pipistrelle, but that no bats were recorded emerging from the Minster building. The bats recorded on site indicate that they are likely to be roosting nearby; however, the location of the roost could not be determined.

6.3.5 The BS makes a number of recommendations to include that the church (especially the western gable end) and medium/large trees are not illuminated due to their potential to be used for roosting, and the lines of trees to the west and east should also not be illuminated to avoid disturbing foraging/commuting bats. The BS also recommends that existing lighting should be modified, and that any proposed lighting should be designed sensitively to minimise light spill and potential impacts on bats in accordance with best practice.

6.3.6 In this regard, the application has been accompanied by a Lighting Scheme which the applicant confirms has been designed to produce an even light level across the site, diminishing the current harsh dark areas, whilst meeting the recommendations of the PEA and BS.

6.3.7 The objection received in respect of the potential impacts on squirrels within the churchyard have been duly noted; however, grey squirrels are not afforded any protection. In any case, the limited extent of works proposed to trees is unlikely to have any significant impact on the squirrel population.

## 6.4 Trees and landscaping

6.4.1 Adopted CP policies GI2 and GI3 advise that the retention of existing trees; the planting of new trees; and measures adequate to ensure the protection of trees during construction works may be required in conjunction with development. This advice is reiterated in adopted JCS policy INF3.

6.4.2 The application proposes works to a number of trees within the site, to include the removal of some trees. New trees are also proposed as part of the landscaping scheme. The trees on site are managed by the Council's Trees Officer (TO) and as such their agreement to the works have been sought. In reviewing the application initially, some additional detail was requested to include a tree protection plan and method statement to show how the works would be carried out without damaging the roots of existing trees. Tree pit details for the new trees together with cage protection was also requested.

6.4.3 That said, overall, the TO commented that "The proposed tree works should not significantly affect the amenity of the retained trees, and the removal of the two lesser quality limes will improve light levels within the grounds."

6.4.4 The tree pit detail and tree protection plan subsequently submitted by the applicant have been reviewed by the TO and found to be acceptable.

## 6.5 Other considerations

### *Amenity*

6.5.1 Officers are satisfied that the proposals would not cause any harm from an amenity perspective but rather provide an improvement to local amenity. The application has been reviewed by the Environmental Health Team who raise no concerns. The proposals are therefore in accordance with CP policy SL1 and JCS policy SD14.

### *Civic Society comments*

6.5.2 The Civic Society (CS), whilst supporting the application in principle, raise a number of concerns, and their comments can be read in full at Section 4. The CS suggest that "*This proposal fundamentally ignores the heritage significance of the site*" and query the acceptability of the contemporary design approach taken.

6.5.3 The applicant has responded to the concerns; highlighting that:

- the proposals have carefully considered the numerous graves that lie within the churchyard and have been strictly guided by archaeological surveys and recommendations; and the area to the south of the site has been identified as appropriate for a new footpath
- the use of concrete flag paving has been omitted from the proposals
- using the real wall of Cheltenham house for a mural has since been ruled out and has been omitted from the proposals
- they acknowledge the comments with regard to the design of the stone faced gabion seats and the potential issue of litter being trapped within the mesh openings but, with the correct detailing, voids and gaps can be avoided
- they are now proposing to use a solid sandstone 'monolith' seating unit around the circle paving area, and using the sandstone faced habitat units to the back, in an amphitheatre type arrangement.
- the low level lighting scheme has been designed to produce an even light level across the site, diminishing the current harsh dark areas, whilst in accordance with the recommendations of both an ecological and bat survey undertaken

for the project. The proposals do not rely on passive lighting from overlooking buildings

- the Grade II listed Dragon and Onion lamp posts will remain in situ but they are currently exploring opportunities with Gloucestershire County Council to restore those in the poorest of conditions and redress the lighting balance that currently contributes to the significant disparities in light and dark across the site
- improved seating, lighting and paths in the gardens and the new Minster Exchange building will increase footfall through the area generating natural passive surveillance; the police have been consulted and there are plans to improve sight lines to maximise the effectiveness of the CCTV camera
- planting proposals would include a mix of annuals and perennials; the detailed species mix will be designed to suit the shady, damp conditions
- they are working closely with the Council's green spaces development team, neighbourhood team and cleansing teams to ensure that the site would have a suitable maintenance plan in place
- stakeholder engagement with local businesses in relation to commercial bin usage and storage issues in the area is still ongoing, and the Council continues to explore options
- existing litter bins in the Minster churchyard are no longer fit for purpose and need to be replaced by suitable facilities to accommodate the fact that this site is frequently used by people dining on takeaway food

### *Cycling*

6.5.4 As previously noted at paragraph 5.2, one representation received in response to the consultation exercise highlighted some opportunities to provide improvements for cyclists. In response, the applicant has confirmed that:

- bollards will prevent motor vehicular access to the Minster Gardens, whilst permitting all types of cycle and mobility scooter to gain access from all access points; at the southern gate, the bollard would be offset to achieve a clear opening of 1.5m and an additional bollard will be integrated into the western access point at Well Walk
- the southern path will remain at the existing width due to the numerous graves that lie within the churchyard
- cycle parking provision has been provided for those using the Minster Exchange building. The presence of graves places historical constraints on new interventions within the grounds of the Minster. There are currently three racks next to the Children's library and the Council is looking at how best to increase provision in the area

### *Public Sector Equalities Duty (PSED)*

6.5.5 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have "due regard" to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

6.5.6 Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have "regard to" and remove OR minimise disadvantage and in considering the merits of

this planning application the planning authority has taken into consideration the requirements of the PSED.

6.5.7 In the context of the above PSED duties, this proposal is considered to be acceptable.

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1 With all of the above in mind, the proposals as revised are considered to be in accordance with relevant local and national planning policy. Whilst the works would undoubtedly result in a change to the character and significance of the historic churchyard, as part of the setting of the Grade I listed Minster, it is considered that they would make a positive contribution. The works are supported by Historic England and the Council's Senior Conservation Officer.
- 7.2 As such, the recommendation is to grant planning permission subject to a schedule of conditions which will be set out in an update to Members prior to the committee meeting.