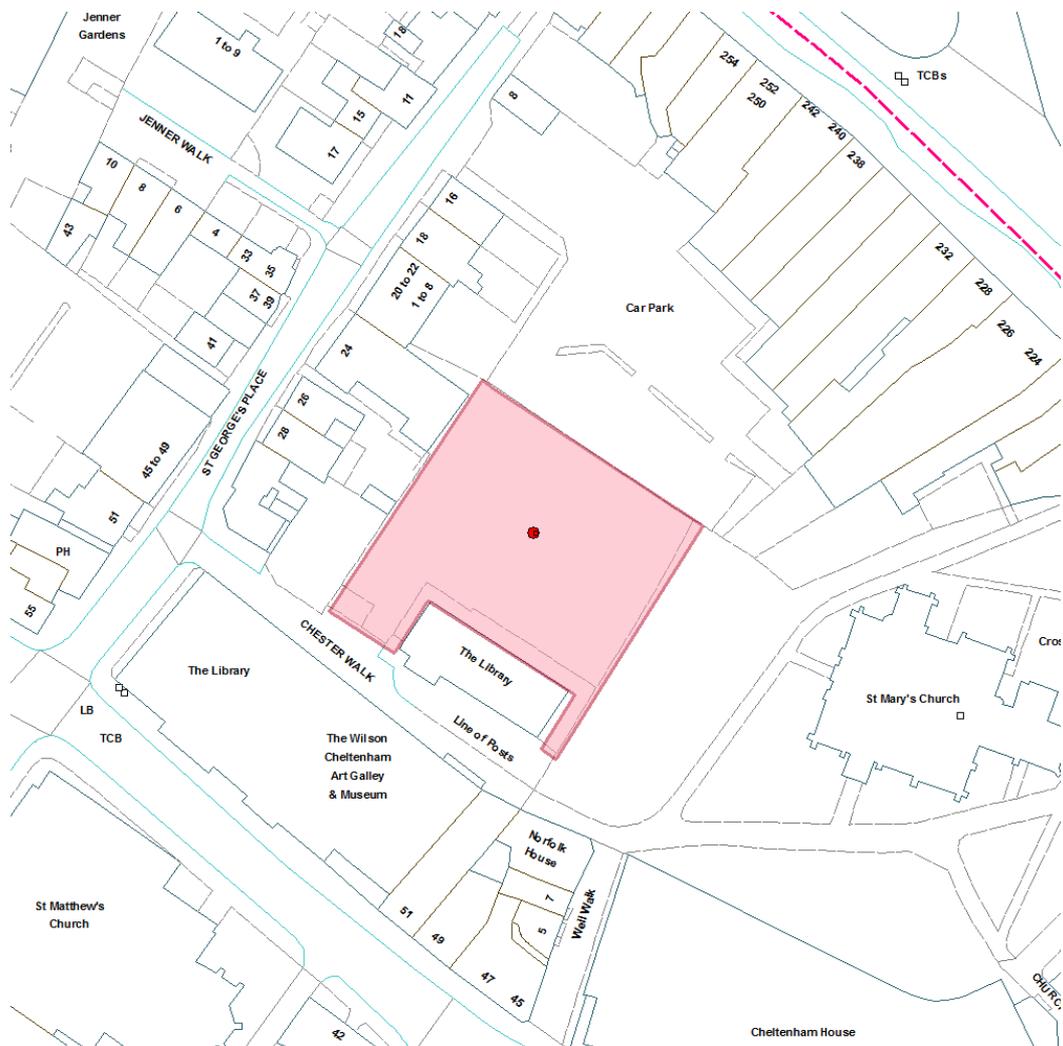


<b>APPLICATION NO:</b> 21/02567/CONDIT	<b>OFFICER:</b> Michelle Payne
<b>DATE REGISTERED:</b> 18th November 2021	<b>DATE OF EXPIRY:</b> 17th February 2022 (extension of time agreed until 20th May 2022)
<b>DATE VALIDATED:</b> 18th November 2021	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Lansdown	<b>PARISH:</b>
<b>APPLICANT:</b>	Workshop Group
<b>AGENT:</b>	Edge design Workshop
<b>LOCATION:</b>	Car Park Chester Walk Cheltenham
<b>PROPOSAL:</b>	Variation of condition 2 (approved plans) on planning permission ref. 20/00552/FUL, under Section 73 of the Town and Country Planning Act 1990, to update the block plan and ground floor plan to accommodate a new substation in the north west corner of the site; and to allow for a number of internal and external alterations to the building, including additional/altered windows and doors

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is relatively tucked away, located to the rear (north) of Cheltenham's Children's Library, with flatted residential properties to west, and a car park to the north with commercial properties on the High Street beyond. Vehicular access to the site is provided via Chester Walk, with pedestrian access more widely available via a number of footpaths.
- 1.2 To the east, the site adjoins the churchyard of Cheltenham Minster (St. Mary's). The Minster is a grade I listed building of mid-C12 origins, with later alterations and additions; it is Cheltenham's only surviving medieval building and is set approximately 30m from the application site. Other prominent listed buildings within the immediate vicinity include the grade II listed Library, Art Gallery and Museum, and Norfolk House; additionally there are some grade II listed lamp posts and tombs within the churchyard, whilst the standing cross is a scheduled monument. The site falls wholly within the Old Town Character Area of the Central Conservation Area.
- 1.3 Some members will recall that planning permission was granted in August 2020 for the construction of a 'Mixed Use Innovation Hub for the town centre' comprising flexible workspaces including a GFirst LEP 'Growth Hub' centre, a 300-person capacity performance arena, and community and education spaces. This approved scheme proposed a low carbon modular construction.
- 1.4 It was a revised scheme following the earlier grant of planning permission in June 2019 for a similar scheme that was to be largely created using recycled shipping containers.
- 1.5 This application is now seeking to vary condition 2 (approved plans) on planning permission ref. 20/00552/FUL, under Section 73 of the Town and Country Planning Act 1990, to update the block plan and ground floor plan to accommodate a new substation in the north west corner of the site (as required by Western Power Distribution); and to allow for a number of internal and external alterations to the building, including additional/altered windows and doors. The application also seeks to provide additional design detail to address conditions of the original permission.
- 1.6 The Planning Statement that accompanies the application sets out that:

*the minor amendments to the revised layout provides a more efficient design for access as well as overcoming the unforeseen requirement for the substation. We believe the revised still retains much of the approved scheme but has created a better building that is more refined in design aesthetically as well as thoroughly thought through in its principles of access and delivery.*
- 1.7 The additional Supporting Statement submitted during the course of the application provides further explanation for the changes, stating:

*The alterations to the fenestration were made following an assessment of the sustainability credentials of the project. Additional windows have been added to the north elevation however there is no detrimental impact on the neighbouring properties. All other windows were enlarged to increase daylight and reduce the need for artificial lighting.*
- 1.8 The application is at committee for reasons of transparency given the Council's interest in the land/development.
- 1.9 Works are now well underway on site and therefore this application is, in part, retrospective.
- 1.10 Members will visit the site on planning view.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Airport Safeguarding over 45m  
Business Improvement District  
Conservation Area  
Core Commercial Area  
Principal Urban Area  
Residents Association  
Smoke Control Order

### Relevant Planning History:

<b>19/00204/FUL</b>	<b>PERMIT</b>	<b>21st June 2019</b>
Proposed Mixed Use Innovation Hub for the town centre		
<b>20/00552/FUL</b>	<b>PERMIT</b>	<b>21st August 2020</b>
Proposed Mixed Use Innovation Hub for the town centre (revised scheme following grant of planning permission ref. 19/00204/FUL)		
<b>21/01609/DISCON</b>	<b>DISCHARGED</b>	<b>27th October 2021</b>
Discharge of conditions 3 (Construction Method Statement) and 4 (Operational Management Plan) of planning permission ref. 20/00552/FUL		

## 3. POLICIES AND GUIDANCE

### National Planning Policy Framework 2021 (NPPF)

Section 2 Achieving sustainable development  
Section 4 Decision-making  
Section 6 Building a strong, competitive economy  
Section 11 Making effective use of land  
Section 12 Achieving well-designed places  
Section 16 Conserving and enhancing the historic environment

### Adopted Cheltenham Plan (CP) Policies

D1 Design  
HE2 National and Local Archaeological Remains of Importance  
SL1 Safe and Sustainable Living  
GI3 Trees and Development

### Adopted Joint Core Strategy (JCS) Policies

SD1 Employment - Except Retail Development  
SD3 Sustainable Design and Construction  
SD4 Design Requirements  
SD8 Historic Environment  
SD14 Health and Environmental Quality  
INF1 Transport Network

### Supplementary Planning Guidance/Documents

Old Town Character Area Appraisal and Management Plan (2007)

## 4. CONSULTATION RESPONSES

### **GCC Highways Development Management**

*3rd February 2022*

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 justification for this decision is provided below.

This application seeks to vary condition 2 of planning permission reference 20/00552/FUL, to update the plans to accommodate a new substation in the north west corner of the application site.

The original plans showed this area of the site would be used as a waste and recycling collection area, and the revision would replace this with a substation, with gates which would be adjacent to the highway. This would necessitate the gates to open out onto Chester Walk. Ordinarily, the Highway Authority requires any gates to be set back from the edge of the highway, however in this instance given that Chester Walk is not a through route for vehicles the operation of any gates is unlikely to result in any harm to highway safety by way of blocking the through flow of traffic. Furthermore, it would be expected that the substation would not require the regular opening of these gates on a daily basis. As such the Highway Authority would not wish to object to the application.

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.

### **Historic England**

*8th February 2022*

Thank you for your letter of 4 February 2022 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

### **County Archaeology**

*9th December 2021*

Thank you for consulting the archaeology department on this application. Our previous comment on application 20/00552/FUL advised on the archaeological potential within the proposed development site and recommended that an assessment of the archaeological implications should be provided. I cannot see that this information was provided and the scheme was subsequently permitted. I am therefore unclear whether some aspects of the proposed design changes have the potential to impact on belowground archaeological remains such as the proposed foul drainage (significant remains considered to lie at approx. 0.95m in depth).

I recommend that an archaeological Watching Brief is maintained on any new design details that have the potential to impact archaeological remains. 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 to make on this application.

#### **Environmental Health**

*31st January 2022*

No adverse comments.

#### **Heritage and Conservation**

*17th January 2022*

No observations.

## **5. PUBLICITY AND REPRESENTATIONS**

- 5.1 Letters of notification were sent out to 25 neighbouring properties on receipt of the application. In addition, site notices were posted adjacent to the site, and an advert published in the Gloucestershire Echo. Additional consultation was carried out following an amendment to the description of development, and on receipt of revised/additional information.
- 5.2 Two representations have been received in response to the publicity, raising concerns over height of the building; the windows that have been installed in the west elevation; and the proposed cladding. The comments have been circulated in full to members.

## **6. OFFICER COMMENTS**

- 6.1 Planning Practice Guidance (Paragraph: 001 Reference ID: 17a-001-20140306) acknowledges that *“New issues may arise after planning permission has been granted, which require modification of the approved proposals”* and that where less substantial changes are proposed, an application seeking a minor material amendment may be submitted under Section 73 of the Town and Country Planning Act 1990. If granted, a section 73 application results in a new, independent planning permission which sits alongside the original permission.
- 6.2 As such, the only consideration when determining this application is the acceptability of the proposed changes as an amendment to the approved scheme in terms of design, impact on the historic environment, and neighbouring amenity. The general principle of development has been firmly established through the previous granting of planning permission. This report should therefore be read in conjunction with the officer reports which accompany those applications (appended to this report).

### *Design*

- 6.3 Overall, from a design perspective, officers are satisfied that the building now proposed is not substantially different from that originally approved. It is acknowledged that the appearance of the building will be altered somewhat as a result of the proposed external revisions but the general scale and massing of the building, and its footprint within the site is very similar to that previously approved.
- 6.4 Additionally, the external facing and roofing materials now proposed are not too dissimilar from those originally proposed. The building was always intended to be clad in metal trapezoidal cladding; with the event space clad in insulated polycarbonate cladding to give

it its own distinct identity. Similarly, a uniform colour finish (off white) was proposed for the external cladding; albeit the subtle pops of colour (green) in the framing for the glazing, external stair etc. have now been omitted. As such, officers are confident that the building will continue to represent an interesting and contemporary piece of architecture in this sensitive location.

- 6.5 The need to incorporate the new substation has resulted in the need to relocate refuse and cycle storage facilities within the site; but sufficient capacity can still be achieved. In addition, some parking spaces have been lost but provision will still be made for two disabled parking spaces with electric car charging points. The changes have been reviewed by the County Highways Development Management Team who raise no objection.

#### *Impact on the historic environment*

- 6.6 Historic England and the Conservation Officer have not offered any comments on the revised proposals; Historic England advising that any additional impact on the setting of the Minster is not sufficient for them to comment on, whilst acknowledging the marginal reduction in height, which they support.
- 6.7 Officers are therefore satisfied that the revised proposals will not result in any significant harm to the setting of the Minster, or wider conservation area, but will continue to make a positive contribution; particularly in conjunction with the recently approved enhancements to the Minster grounds.

#### *Amenity*

- 6.8 Concerns have been raised by a neighbouring resident in relation to the windows on the west elevation and these have been duly noted; however, the glazing in this elevation was not identified as being obscurely glazed in the previously approved scheme. That said, some of the upper floor windows in this elevation were annotated to be fixed. It is therefore considered reasonable and necessary to impose a condition to require the upper floor windows in this elevation to be non-opening.
- 6.9 The additional windows to the north elevation will overlook the adjacent car park and do not pose any significant amenity concerns.
- 6.10 The Environmental Health Team have reviewed the amended proposals and, having sought additional clarification in relation to the sound insulation for the performance space, raise no objection.

#### *Other considerations*

- 6.11 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to the Public Sector Equalities Duty (PSED). 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.
- 6.12 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.
- 6.13 In the context of the above PSED duties, this proposal is considered to be acceptable.

## 7. CONCLUSION AND RECOMMENDATION

- 7.1 Overall, officers are satisfied that the revised scheme is not substantially different from that originally approved; and the proposed changes will not result in any significant additional harm to the historic environment, or neighbouring amenity.
- 7.2 The recommendation therefore is to grant planning permission subject to the following schedule of conditions which reflects those previously imposed but has been updated where necessary.

## 8. CONDITIONS

- 1 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 The Operational Management Plan previously approved under application ref. 21/01609/DISCON shall be strictly adhered to at all times.

Reason: To safeguard the amenities of adjacent residential and/or other noise sensitive properties, having regard to policy SL1 of the Cheltenham Plan (2020) and policy SD14 of the Joint Core Strategy (2017).

- 3 Notwithstanding the approved plans, and the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order), the upper floor windows to the west elevation shall at all times be non-opening.

Reason: To safeguard the amenities of adjacent properties, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 4 Prior to their installation, technical details of all flues, ducting, extract system, filters etc. and their continuing operation shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of adjacent properties, having regard to policy SL1 of the Cheltenham Plan (2020) and policy SD14 of the Joint Core Strategy (2017).

- 5 Prior to first beneficial use of the development, refuse and recycling storage facilities shall be provided in accordance with the approved plans. Such areas shall not be used for any purpose other than the storage of refuse and recycling and shall remain free of obstruction for such use at all times. All refuse and recycling shall be stored in appropriate containers in the refuse and recycling storage facility unless awaiting collection.

Reason: In the interests of sustainable waste management and recycling, having regard to Policy W36 of the Gloucestershire Waste Local Plan.

- 6 Prior to first beneficial use of the development, vehicular parking and turning facilities shall be provided in accordance with the approved plans. Such areas shall not be used for any purpose other than the parking and turning of vehicles and shall remain free of obstruction for such use at all times. The car parking spaces shall be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Reason: To ensure the adequate provision of car parking within the site and to promote sustainable travel, having regard to policy INF1 of the Joint Core Strategy (2017), and paragraphs 110 and 112 of the National Planning Policy Framework (2021).

- 7 Prior to first beneficial use of the development, secure and covered cycle storage facilities shall be provided in accordance with the approved plans. The cycle storage shall thereafter be retained available for such use in accordance with the approved plans at all times.

Reason: To give priority to cycle movements by ensuring the adequate provision and availability of cycle parking, to promote cycle use and to ensure that appropriate opportunities for sustainable transport modes have been taken up, having regard to policy INF1 of the Joint Core Strategy (2017) and paragraphs 110 and 112 of the National Planning Policy Framework (2021).

- 8 Prior to first beneficial use of the development, a detailed Lighting Scheme, including predicted light levels at neighbouring residential properties, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of adjacent properties, having regard to policy SL1 of the Cheltenham Plan (2020) and policy SD14 of the Joint Core Strategy (2017).

- 9 Prior to first beneficial use of the non-Class E floorspace, the proposed opening hours for the non-Class E floorspace shall be submitted to and approved in writing by the Local Planning Authority. The non-Class E floorspace shall thereafter only be open to customers between the agreed hours.

Reason: To safeguard the amenities of the area, having regard to policy SL1 of the Cheltenham Plan (2020) and policy SD14 of the Joint Core Strategy (2017).

- 10 Prior to the installation of any advertisements on the development hereby approved, a detailed Advertisement Strategy shall be submitted to and approved in writing by the Local Planning Authority. All advertisements shall thereafter be implemented in accordance with the agreed strategy.

Reason: To ensure that the development is sensitive to its surroundings, having regard to policies D2 and HE3 of the Cheltenham Plan (2020) and policies SD4 and SD8 of the Joint Core Strategy (2017).

## **INFORMATIVES**

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.

- 2 The upgrade works to the access on Chester Walk require alteration to the existing highway network and must be undertaken by the Highway Authority or its appointed agents. An Agreement under Section 278 of the Highways Act 1980 will be required. The Local Highway Area office will need to be contacted prior to commencement of work on the access.
- 3 It is strongly recommended that leaf guards for the guttering and down pipes be installed, so as to reduce levels of tree-related inconvenience experienced by future occupiers of the building.

