

GLOUCESTER CITY COUNCIL

COMMITTEE	:	PLANNING
DATE	:	5TH DECEMBER 2017
ADDRESS/LOCATION	:	133 BRISTOL ROAD, GLOUCESTER
APPLICATION NO. & WARD	:	17/01134/FUL MORELAND
EXPIRY DATE	:	1ST DECEMBER 2017
APPLICANT	:	MR JAMES HARRIS
PROPOSAL	:	CHANGE OF USE FROM USE CLASS D1 (NON-RESIDENTIAL INSTITUTION) TO USE CLASS D2 (ASSEMBLY AND LEISURE) TO OPEN A FITNESS CLUB, AND INSTALLATION OF EXTERNAL PLANT TO REAR ELEVATION (FOLLOWING REFUSED APPLICATION REF. 17/00196/COU - AMENDED HOURS OF OPENING PROPOSED)
REPORT BY	:	ANNA PENN
NO. OF APPENDICES /OBJECTIONS	:	1. SITE LOCATION PLAN 2. PROPOSED LAYOUT PLAN

SITE DESCRIPTION AND PROPOSAL

1.0 Site description

- 1.1 The application site is in a built-up and accessible part of the city. Nearby uses include shops, restaurants and housing (seven houses adjoin the application site). The site is roughly 1,164 square metres (or 0.12 of a hectare) in area, the site consists of a single-storey building and a car park. The building occupies 760 square metres (or 65%) of site. According to the application documents, the building has been vacant since the latter half of 2016, but most recently functioned as a construction-training centre (Use Class D1).
- 1.2 It is located about one mile outside the Primary Shopping Area. It is not in one of the district or local centres (the nearest local centre is in Seymour Road, at the eastern end of Linden Road). No heritage assets are on, next to, or especially near the site. The site is in Flood Zones 1 and 2, but is not the subject of any other local or statutory designation or constraint on development.

2.0 Proposal

- 2.1 Members will recall that a previous application for a 24 hour gym at this site was refused permission by the Committee in August this year on the grounds that the proposed 24 hour use would be likely to harm the amenities of residents of neighbouring properties due to noise and disturbance. An appeal has recently been lodged. This is a revised application where the only material change is that the proposed hours have been reduced from 24 hours to 0600 – 2300 hours, seven days a week.
- 2.2 This is an application for full planning permission to use the application site as a private gymnasium (a D2 (assembly and leisure) use) and to install air-conditioning (AC) units on the building's rear (south-eastern) elevation. The proposed AC units would be (roughly) 1.0 metre wide, 1.5 metres tall and 40 centimetres deep. A two metre- high timber fence, erected chiefly for noise-reduction purposes, would enclose them.
- 2.3 The proposed gym would operate between the hours of 0600 – 2300 hours seven days a week. It would be staffed between 9 a.m. and 9 p.m. during the week and between 10 a.m. and 5 p.m. at the weekend. According to the application documents, the proposed gym would create up to eight full-time jobs (or the equivalent in part-time jobs). The existing 14- space car park, along with five new stands for bicycles, would be available to members. Apart from the AC units and the associated fence, the building's exterior would not change as a result of this proposal.

<u>RELEVANT PLANNING HISTORY</u>			
Application Number	Proposal	Decision	Decision Date
06/01144/COU	Change the use of building to retail sales of beds and furniture (Class A1).	refuse	22.11.2006
13/00584/FUL	Change of use from tile sales place to training centre (Class D1).	grant	06.09.2013
17/00196/COU	(i) Change of use of land and building from non-residential institution (use class D1) to 24-hour gym (use class D2) and (ii) installation of external air-conditioning units on rear elevation of building	Refuse Appeal in progress	03.08.2017

3.0 PLANNING POLICIES

3.1 National Guidance

National Planning Policy Framework and Planning Practice Guidance

3.2 Statutory Development Plan

The statutory Development Plan for Gloucester remains the partially saved 1983 City of Gloucester Local Plan ("1983 Local Plan"). Paragraph 215 of the National Planning

Policy Framework ("NPPF") states that '...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.'

3.3 The 1983 Local Plan is more than thirty years old and, according to the Inspector who dealt with an appeal relating to the Peel Centre, St. Ann Way (13/00559/FUL), '...its sheer ages suggests it must be out of date...' (par. 11 of the Inspector's report). Therefore it is considered that the 1983 Local Plan is out-of-date and superseded by later planning policy including the NPPF.

3.4 Emerging Development Plan

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (Adoption Version November 2017).

3.5 The City Council is currently working on a new Development Plan that will replace the 1983 Local Plan. The new Development Plan will comprise the Joint Core Strategy for Gloucester, Cheltenham and Tewkesbury ("JCS") and Gloucester City Plan ("City Plan"). On adoption, the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and Gloucester City Plan will provide a revised planning policy framework for the Council. In the interim period, in accordance with paragraph 216 of the NPPF, weight can be attached to relevant policies in the emerging plans according to:

- The degree of preparation of the emerging plan;
- The extent to which there are unresolved objections to relevant policies; and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the National Planning Policy Framework.

3.6 The JCS Inspector's report was received in October 2017 and concluded that, subject to the main modifications and an immediate partial review, the JCS is sound and legally compliant. Therefore, in accordance with Paragraph 216 of the NPPF, it is considered that the JCS policies can be given very significant weight.

3.7 Relevant policies from the JCS (Adoption Version) include:

- SD2: Retail and City/Town Centres;
- SD4: Design Requirements;
- SD14: Health and Environmental Quality;
- INF1 – Transport Network;
- INF2 – Flood Risk Management.

4.0 CONSULTATIONS

4.1 Environmental Health Officer: (previous comments apply) "No objection, but recommends that planning permission, if granted, carry conditions about mechanical plant and external lighting."

4.2 Drainage Officer: "The flood risk assessment for this application is the same as that which I approved under application 17/00196/COU, and remains appropriate here. I have no further comment and do not recommend any drainage or flood risk related conditions."

- 4.3 Highways Officer: "The proposed Change of Use from D1 (non-residential institution) to D2 (assembly and leisure) for a Gym operating between 6am - 11pm, 7 days a week is only 735 sqm with on site parking for 14 cars and on street parking available. The existing access to the car park is via Linden Road a class 4 highway subject to a 20 mph speed limit, Linden Road is restricted by a no entry, no through road just past the terrace of houses with street lighting and pedestrian footways. On street car parking is restricted within the vicinity of the site, although some car parking spaces are available on Linden Road, Lysons Ave and Cecil Road which is within a 200m radius which is within the desired comfortable walking distance recommended by the IHT providing for journeys on foot guidance table 3.2, however not all members will arrive by car as the proposed development is located in a sustainable location with good links to public transport facilities. The proposed gym would provide employment for up to 8 members of staff, including a full time manager. The gym will be staffed between the hours of 9am and 9pm during the week and between the hours of 10am and 5pm on weekends.
- 4.4 After reviewing the TRIC's data base, the trip generation for the existing D1 use (Training Centre) is more intensive than the proposed D2 use (Gym), The TRIC's data also displayed a peak parking accumulation on the site at a peak hour between 1800-1900 which displayed that 7 vehicles to be park on the site, therefore the proposed parking allocation for 14 vehicles is considered more than acceptable. The usage data from the submitted Planning Statement also indicates that use is spread throughout the day, with a peak time in the after work hours between 4:00 and 6:00pm, this is also considered comparable data, therefore the number of trips from a suitable access onto a class 4 highway would not be regarded as significant and the residual cumulative impacts of the development would not be regarded as severe contrary to Paragraph 32 of the NPPF.
- 4.5 No highway objection subject a condition requiring the provision of parking and turning.

5.0 PUBLICITY AND REPRESENTATIONS

5.1 8 letters/emails of objection have been received and are summarised below:

- The proposed gym would affect the prospects of other gyms already in the area;
- This part of Gloucester does not need another gym;
- The proposed gym would create or exacerbate congestion and parking problems in surrounding streets;
- The applicant has not relocated the proposed AC units in line with local residents' wishes.

6.0 OFFICER OPINION

6.1 Main issues

The main issues in this assessment are:

- Principle of development;
- Planning history as a material consideration;
- Visual impact;
- Living environment;
- Highways; and
- Flood risk.

6.2 Principle of development

The proposed gymnasium would constitute a 'less vulnerable' use on the border of 'low probability' and 'medium probability' flood zones. It would reuse a vacant site on previously developed land in a built-up and accessible part of the city. Thus, it would create economic activity and the equivalent of eight full-time jobs in close proximity to the Central Area, in accordance with one of the 2002 plan's 'key development priorities'.

The NPPF identifies 'leisure' uses and 'health and fitness centres' as 'main town centre uses'. It is, therefore, reasonable to regard the proposed gymnasium as such a use. The NPPF's glossary makes it clear that 'references to town centres or centres apply to city centres, town centres, district centres and local centres but exclude small parades of shops of purely neighbourhood significance'.

The JCS policies map identifies the city centre boundary and primary shopping area boundaries, and primary frontages and secondary frontages and the application site is outside of the city centre boundary. Policy SD2 of the Adoption version of JCS provides that proposals for town centre uses such as leisure outside of the City Centre boundary should be assessed in accordance with the sequential test as set out in the NPPF.

According to the application documents, many of the gym's members would live or work in the local area. The building, though quite large in a predominantly residential setting, has less floor space (710 square metres) than do many city-centre gyms. In other words, the proposed development is in proportion to the suburban/edge-of-centre location.

The application is supported by a sequential assessment (SA) that considers the availability of suitable sites within one kilometre of 133 Bristol Road. This search radius includes sites within the defined City Centre boundary and also the nearest local centre, in Seymour Road.

The SA suggests that every unit is unsuitable for some or all of the following reasons:

- another gym already operates in the area;
- the cost of adapting a listed building would be too great;
- the proposed use requires an accessible and visible ground-floor unit;
- the unit lacks a car park;
- the unit would not meet the company's floor-loading or ceiling-height requirements;
- the landlord believed that the gym would disturb the occupants of adjacent units;
- the landlord chose another tenant;
- the local residential population is too small;
- the local area is too quiet;
- the unit is not next to a road.

The SA concludes that no other sites are available within a reasonable distance of the application site. On this basis, it has been demonstrated that there are no other sequentially preferable sites available within either the defined city centre or the nearest local centre. Accordingly, the site is considered appropriate for a small scale leisure use.

The proposed floor space seems well suited to an 'edge of centre' location, and a gym of this size is unlikely to compete directly with larger gyms in the city centre, or with those in the city's district centres, the nearest of which are in Quedgeley and

Abbeymead. I conclude that the principle of development accords with the broad aims of the 2002 plan, the emerging JCS (policy SD2 in particular) and the NPPF. Before making a recommendation, however, I must consider whether other material considerations – amongst which are the NPPF and the other policies of the local plans – weigh against or in favour of the proposal.

6.3 Planning history as a material consideration

Planning records indicate that the site functioned as a plumbing centre for some time. In November 2006, the council refused an application for permission to use the site as a shop selling beds and furniture. In September 2013, the council approved an application (13/00584/FUL) for permission to use the site as a training centre (D1 use). There was no restriction on the proposed hours of operation.

The previous application for a gym was refused for the following reasons:

The proposed change of use, due to the 24 hour opening that is proposed, would be likely to harm the amenities of residents of neighbouring properties due to noise and disturbance. The application therefore conflicts with Policies FRP.10, FRP.11 and BE.21 of the City of Gloucester Second Deposit Local Plan 2002, Policy SD.15 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy Main Modifications 2017 and Paragraphs 17, 120 and 123 of the NPPF.

Clearly Members were concerned about the potential impact of a 24 hour gym on adjoining residential occupiers. This current application has been submitted with reduced hours of operation in order to address these concerns.

6.4 Visual impact

The building's rear elevation already has an industrial look about it, and the adjacent car park, secured by large metal gates, only deepens this impression. The external AC units and the associated timber fence – the only proposed changes to the building's exterior – would face the car park, and so would not have a material effect on the character and appearance of the site or the Linden Road streetscape. With this in mind, I conclude that the proposal complies with policy BE.7 of the 2002 plan and policy SD4 of the Adoption Version of the JCS.

6.5 Living environment

The application site adjoins one house (5 Linden Road) and six back gardens (those of 4, 6, 8, 10, 12 and 14 Lysons Avenue). Within 20 metres of the site are eleven other houses. The main issue is the extent to which the proposed use might affect neighbours in their homes and gardens.

The proposal has the potential to affect residents of Lysons Avenue and Linden Road. These roads join Bristol Road, a busy route through the city, but consist mainly of houses. However, the proposal would not be the only non-residential use in the area. Next to the application site is the Shanghai Restaurant, which appears to stay open until 11 p.m. most days. A Tesco Express on Bristol Road, situated between Lysons Avenue and Frampton Avenue, also opens till 11 p.m. most days. At 150 Bristol Road, a kebab shop – an established use that did not receive planning permission – appears to remain open in the early hours of the morning.

In summary, whilst the application site is near a busy road and a restaurant, residents do not live against a constant backdrop of round-the-clock noise and activity. A 24-hour gym, operating next to or near 15 houses, was previously considered by Members to have a material change in the local living environment. Concern was expressed about noise generated through amplified music, exercise equipment, exercise classes, members' comings and goings, and so forth. The revised hours of

opening as now proposed will reflect those of the adjoining restaurant and nearby retail unit.

It is pertinent that the council's environmental-health officer does not object to the proposal. Crucially, he believes that the external AC units, controlled by a condition, would maintain an acceptable living environment for neighbours. Specifically, the noise created by the AC units, considered against the existing background noise of roads and the Shanghai Restaurant, would fall within an acceptable range of levels.

The applicant is willing to accept a condition limiting the car park's opening times. The car park would be closed and locked at ten p.m. each evening. It would not reopen before seven a.m. on weekdays, or before ten a.m. on Saturdays, Sundays, and public holidays (including bank holidays). This arrangement would require car-using members to park elsewhere. They would almost certainly try to park in Bristol Road (several parking bays are available between sections of double yellow lines), Linden Road or Lysons Avenue. Whilst members could park their cars near houses, the parking would be dispersed, not concentrated in the car park next to people's back gardens. Also, the entrance to the gym would be on Bristol Road, away from people's houses. I therefore conclude that gym-related activity, scattered across at least three streets, would be comparable to ordinary comings and goings.

As regards privacy, members of the gym might have clear views of neighbours' houses from the car park. Even so, the proposal would not materially change the situation. People visiting the previous use(s) would have had the same views, and could have them again were a lawful use to resume.

As to light pollution, a condition is recommended to control the number, extent and intensity of external lights. Whilst car headlights are beyond the reach of a condition, the brick wall that stands between the car park and the houses would act as a screen, limiting their effect on neighbours.

With the above in mind, I conclude that the proposed development would maintain an acceptable living environment for neighbours, in accordance with policy BE.21 of the 2002 plan and policy SD14 of the Adoption Version of the JCS.

6.6 Highways

The proposed gym would retain the existing entrance and the 14-space car park. Some unrestricted parking spaces are available in Linden Road and other nearby streets. Five stands for bicycles would be available in the car park. The Highway Authority (HA) does not object to the proposal. It does not, for instance, suggest that the proposal would exacerbate or create parking problems in the area. Rather, the HA recommends that planning permission, if granted, carry a condition about parking and manoeuvring arrangements. I conclude that the proposal complies with policy TR.31 of the 2002 plan and policy INF1 of the Adoption Version JCS.

6.7 Flood risk

This application, which seeks permission for a change of use and alterations to a building's exterior, does not have to pass the flood-related sequential test. The council's drainage officer neither objects to the proposal nor requests that planning permission, if granted, carry a condition. I conclude that the proposal complies with policy FRP.1a of the 2002 plan, policy INF2 of the Adoption Version JCS, and paragraph 103 of the NPPF.

7.0 Human Rights Act

7.1 In making this recommendation, the council has given full consideration to all aspects of the Human Rights Act 1998 in relation to the applicant and/or the occupiers of any affected properties. In particular, regard has been had to Article 8 of the ECHR (respect for private and family life, home and correspondence) and the requirement to ensure that any interference with the right in this Article is both in accordance with the law and proportionate. A balance needs to be drawn between the right to develop land in accordance with planning permission and the rights under Article 8 of adjacent occupiers. On assessing the issues raised by the application, no particular matters, other than those referred to in this report, warrant any different action from that recommended.

8.0 CONCLUSION

8.1 The use of previously developed land in an accessible and sustainable location accords with local and national policy. Furthermore, it has been demonstrated that there are no sequentially preferable sites within the boundary of the city centre as defined in the Adoption Version of the JCS. The proposal meets flood-safety requirements for a site in Flood Zone 2.

8.2 The key issue for consideration is whether the proposed change to the opening hours, from a 24 hour use to a use operating 0600 – 2300 hours, seven days a week would have an acceptable impact upon the amenities currently enjoyed by occupiers of neighbouring dwellings. For the reasons outlined above, I consider that the proposal would have an acceptable impact and therefore, subject to conditions, it is recommended that planning permission be granted.

9.0 RECOMMENDATIONS OF THE GROWTH AND DELIVERY MANAGER

GRANT

Condition 1

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Condition 2

The development hereby permitted shall be carried out in accordance with the details included in the application form, the planning statement and drawing entitled 'Proposed Layout' dated 20/06/2017.

Condition 3

The car park shall be closed and locked at 22:00 each evening. It shall not reopen before 07:00 on weekdays, or before 10:00 on Saturdays, Sundays and public holidays (including bank holidays).

Reason

To protect the living environment for neighbours, in accordance with policy BE.21 of the Second Stage Deposit City of Gloucester Local Plan (2002) and Policy SD.14 of the Adoption Version of the JCS November 2017.

Condition 4

The premises shall be used as a private gymnasium and for no other purpose (including any other purpose in Class D2 of the schedule to the Town and Country Planning (Use Classes)

Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason

The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity in accordance with policy BE.21 of the Second Stage Deposit City of Gloucester Local Plan (2002) and Policy SD.14 Adoption Version of the JCS November 2017.

Condition 5

Prior to the first use of the gymnasium hereby approved, the external air-condition units (along with the noise-reducing timber fence enclosing them) shall be designed, built and installed on the building's rear (south-eastern) elevation in accordance with the acoustic report (ref. RP01-17412) and the approved plan entitled 'Proposed layout' (20.06.2017). The units shall at all times be maintained in accordance with the approved report and the approved plan.

Reason

To protect the living environment for neighbours, in accordance with policy BE.21 of the Second Stage Deposit City of Gloucester Local Plan (2002) and Policy SD.14 Adoption Version of the JCS November 2017.

Condition 6

No music (whether live or recorded) that is audible outside the premises or within adjoining buildings shall be played or performed at any time.

Reason

To protect the living environment for neighbours, in accordance with policy BE.21 of the Second Stage Deposit City of Gloucester Local Plan (2002) and Policy SD.14 Adoption Version of the JCS November 2017.

Condition 7

No external lighting shall be installed until a scheme of external lighting within the application site has been submitted to, and approved in writing by, the Local Planning Authority. The details shall include the lighting fixtures, their location on the site/on the buildings, the extent of illumination and glare. The scheme is also to include details on how the impact of how floodlights (if any) and external lighting will be minimised. The approved lighting scheme shall be implemented prior to the commencement of the use of the development and maintained for the duration of the use of the site unless otherwise agreed in writing by the Local Planning Authority.

Reason

To protect the living environment for neighbours, in accordance with policy BE.21 of the Second Stage Deposit City of Gloucester Local Plan (2002) and Policy SD.14 Adoption Version of the JCS November 2017.

Condition 8

Before the development hereby authorised is brought into use, the car parking and manoeuvring facilities shall be completed in all respects in accordance with the submitted details and shall be similarly maintained thereafter for that purpose.

Reason

To enable vehicles to enter and leave the highway in forward gear in the interests of highway safety, in accordance with Policy INF.1 Adoption Version of JCS November 2017.

Condition 9

The car park shall be used only as a storage area for bins and as a parking area for cars, motorcycles and bicycles.

Reason

To protect the living environment for neighbours, in accordance with policy BE.21 of the Second Stage Deposit City of Gloucester Local Plan (2002) and Policy SD.14 Adoption Version of the JCS November 2017.

Condition 10

Except when people are entering or leaving the building, the building's windows and doors shall be shut at all times.

Reason

To protect the living environment for neighbours, in accordance with policy BE.21 of the Second Stage Deposit City of Gloucester Local Plan (2002) and Policy SD.14 Adoption Version of the JCS November 2017.

Condition 11

The use hereby permitted shall not be open to customers outside the hours of 06:00-23:00.

Reason

To protect the living environment for neighbours, in accordance with policy BE.21 of the Second Stage Deposit City of Gloucester Local Plan (2002) and Policy SD.14 Adoption Version of the JCS November 2017.

Decision:

Notes:

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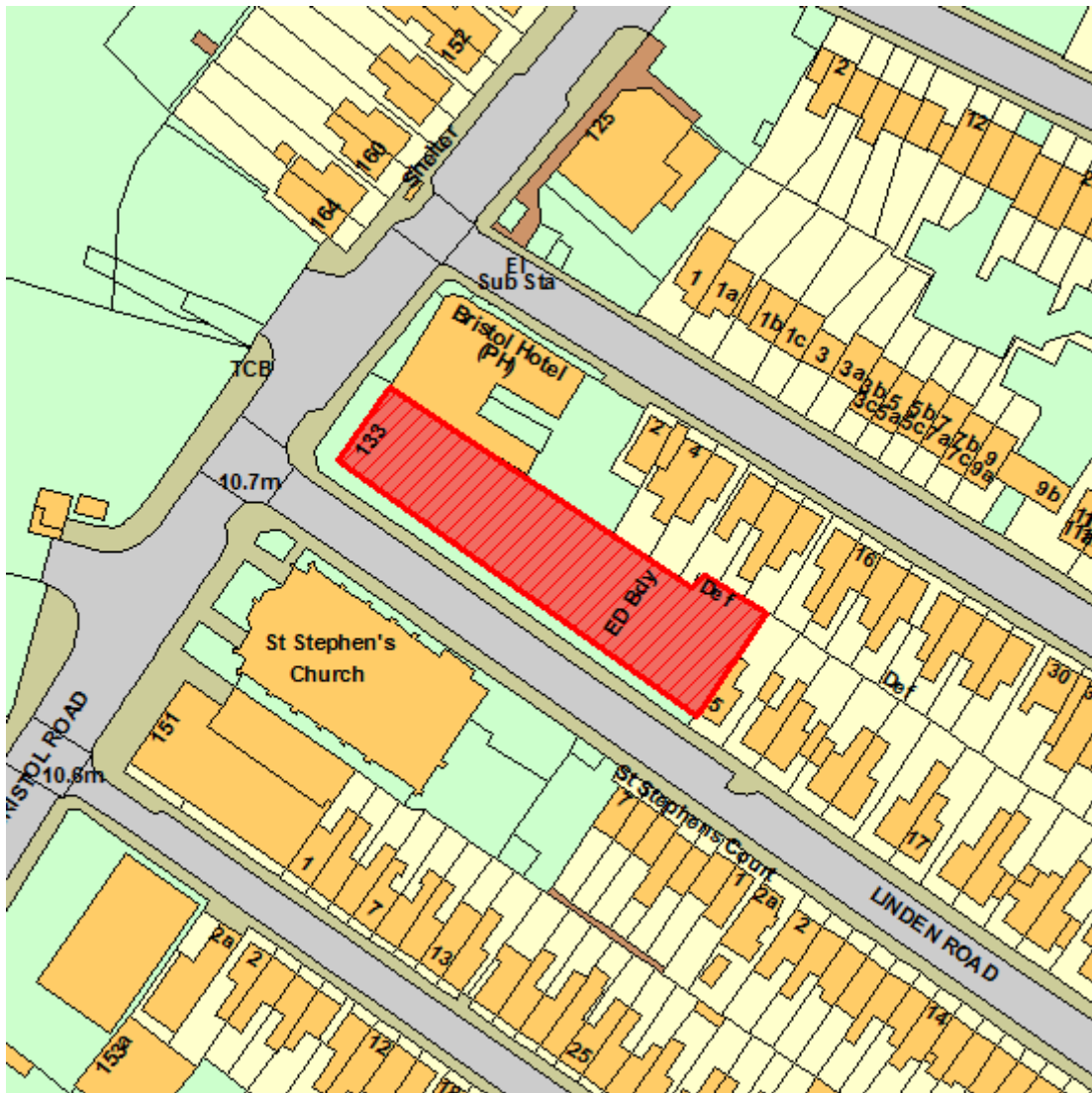
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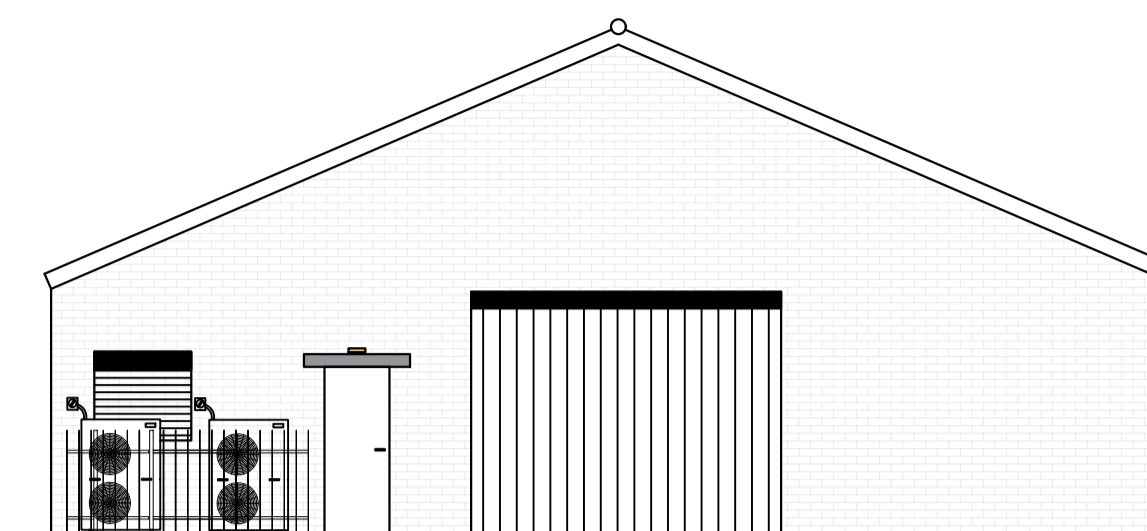
Person to contact: Anna Penn
(Tel: 01452 396732)

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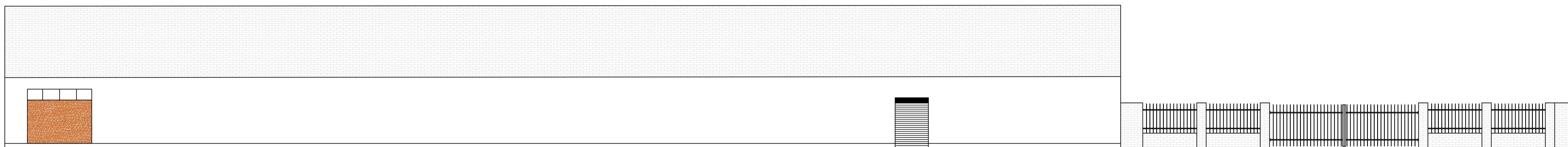
133 Bristol Road
Gloucester
GL1 5SS

Planning Committee 05.12.2017



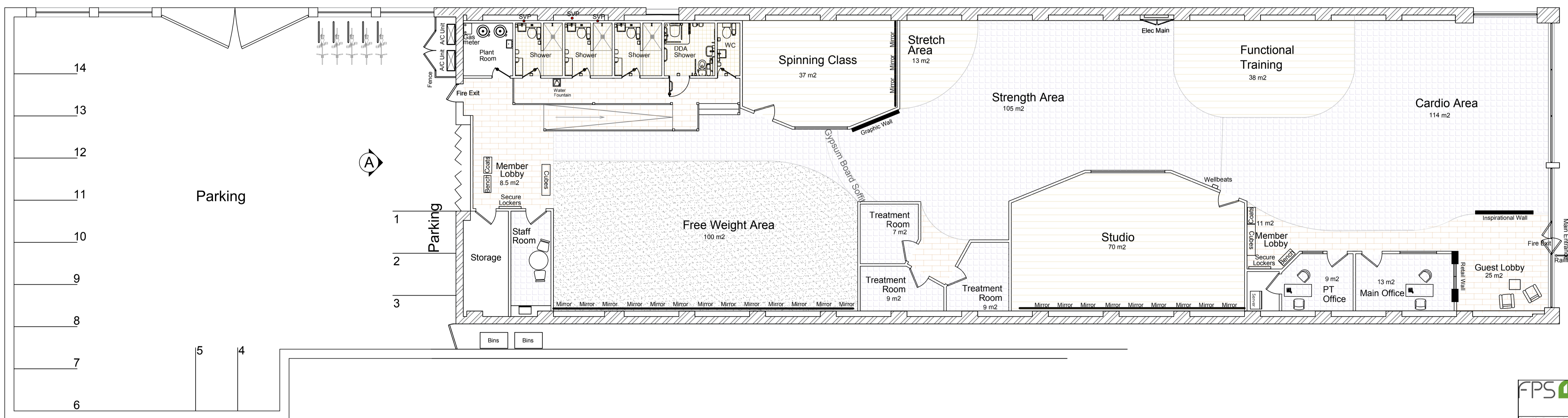


Elevation A



Elevation B

B



All dimensions to be checked on site by the contractor and such dimensions to be his responsibility.



FPS FRANCHISE PROPERTY SERVICES
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Revision	Date

Client	Drawn By	Checked By	Date
Gloucester	M. Shirvani		20/06/2017
Sheet Title	Contractor	Drawing Number	Scale
Proposed layout			1:100 @ A1