

Parish: Kirkby Fleetham With Fencote

Ward: Morton-on-Swale

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22/00924/FUL

Committee Date : 04 August 2022

Officer dealing : Ms Janeske Delport

Target Date: 5 July 2022

Date of extension of time (if agreed):

Proposed Residential Conversion of Existing Church Premises, Construction of Energy Hub Outbuilding, New Site Access, Car Parking, Turning, Site Boundary Works and Amenity Areas.

At: St Andrews Church Todd Lane Great Fencote North Yorkshire

For: Mr Ian Shipley.

The matter is brought to Planning Committee owing to the level of public interest.

1.0 Site, Context and Proposal

- 1.1 The application site is located on the western edge of Great Fencote village at the corner of Fleetham Lane and Todd Lane. The site comprises a church building surrounded by a graveyard which comprise tombstones, lawned grass, trees and shrubs. The site is bounded by a low-level stone wall on all sides with an additional timber fence on the northern boundary. Pedestrian access is available at the junction from Todd Lane.
- 1.2 The site is not located within a conservation area and the building is not listed. However, the church building is classified as a non-designated heritage asset due to its age, aesthetic value, townscape value and historic association. This property dates back to the 1840's.
- 1.3 According to the Planning Statement the church was formally closed for worship on 1st October 2019 and has been vacant and unused ever since. The existing church and site owners, the Diocese of Leeds and the Church Commissioners for England placed the site up for sale in 2021, and the applicant for this planning application has secured an option agreement and purchase of the premises, subject to planning approval. A decision was taken by the Parish to close the church for public worship in 2019 and to focus its resources on managing the heritage asset of St Marys Church which is a Grade II listed building within the village of Kirkby Fleetham. It is understood the loss of a place of worship has been subject to local consultation. The closure process was subject to initial informal consultation and local public meetings, and then a period of formal statutory consultation. The submitted details state no representations against the closure of St Andrew's Church were received.
- 1.4 The applicant seeks planning permission for a change of use from D1 to C3 to form a dwelling, which would include the following works:
 - Conversion of church building to a three bedroom dwelling with roof accommodation. The existing entrance to the building would be closed off with a new entrance proposed on the north side of the building. Conservation style roof lights are proposed in both roof slopes as well as replacement slimline double glazed windows in the north and south elevations. The two large

stained glass windows in the gable ends will be retained and refurbished and placed within the slimline double glazed windows. The remainder of the building would stay unaltered except for some internal alterations and maintenance works.

- Construction of an outbuilding approximately 8m x 5m in extent to be utilised as a sunroom, storage area, energy hub, vehicle charging point and bin storage area. The proposed outbuilding would be constructed with lightweight materials with a no-dig foundation solution by making use of a raft base structure. Use of materials will be secured with a planning condition. The energy hub roof will house both photovoltaic panels and evacuated tube solar thermal technology to generate electricity and domestic hot water required for the dwelling. In addition to the ASHP along with internal power and lighting the battery storage will also support PHEV (Plug-In Hybrid Electrical Vehicle) charging points mounted to the exterior of the plant room, on the eastern elevation, for vehicle charging.
- New vehicle access is proposed on the south-east boundary of the site along Fleetham Lane. The access gate would be set back from the highway by approximately 5 metres. A new drive is proposed along the eastern boundary to the rear of the church building where parking would be provided adjacent to the proposed outbuilding. Two additional parking spaces are proposed along the eastern boundary wall.
- The existing pedestrian access at the junction would be closed off and relocated to the western boundary of the site.

2.0 Relevant Planning History

2.2 None relevant.

3.0 Relevant Planning Policies

3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

Local Plan Policy S1: Sustainable Development Principles
Local Plan Policy IC4: Community Facilities
Local Plan Policy E1: Design
Local Plan Policy E5: Development Affecting Heritage Assets
Local Plan Policy E2: Amenity
Local Plan Policy E3: The Natural Environment
Local Plan Policy IC2: Transport and Accessibility
Local Plan Policy RM3: Surface Water and Drainage Management
National Planning Policy Framework

4.0 Consultations

- 4.1 Parish Council – After discussing the planning application the Councillors unanimously agreed to object to the plans until the Council and local community have been consulted and provided with further information from which to make a more informed decision. The Councillors are concerned that the local community has not been consulted by the Diocese over the plans and removal of headstones as promised.
- Councillors have raised concerns over access plans. The initial concern is related to road safety issues, due to the driveway position being too close to the junction with poor visibility from oncoming traffic via Todd Lane. Vehicles are travelling into and through the Village of Great Fencote too fast. This can be evidenced by the most recent speed survey, conducted by Highways on 11-17 March 2022. The summary of the survey records that 32.3% of vehicle flow was travelling in excess of 30 mph. Should planning consent be ultimately granted, then Councillors would like to see a condition that site access is developed in the first phase of construction to enable construction and private vehicles to be removed away from the junction at the earliest opportunity.
- 4.2 Highways North Yorkshire – No objection subject to conditions
- 4.3 Yorkshire Water Services Ltd – No objection subject to condition
- 4.4 Neighbours – A total of 27 observations were received with 26 people objecting and 1 person supporting the application.

The two main objections were: (i) the access visibility which is dangerous and (ii) disturbance to graves and gravestones. The following points have been summarised:

- The proposed access to the site is not safe due to the dangerous turn and the speed at which cars drive past the site
- Misleading information within the planning application relating to the total number of headstones and lack of information relating to the relocation thereof
- The sunroom and energy hub seems unnecessary and was not part of the original consultation by the diocese in 2018
- Lack of public consultation by the Diocese
- In 2018 in previous public consultation the Diocese referred to the foot print of the building only to be converted and not the relocation of the headstones without the human remains are disrespectful
- Limitations to public access to the graves
- No mention of environmental impact of the development on fauna and flora
- The potential installation of these memorial windows as internal windows in the wall of a WC is highly inappropriate.
- The loss of several large yew trees will be a loss to the environment and biodiversity of the village

One letter of support was received which states the following:

- It would be great to see this historic building converted into a house and preserved before the building fabric declines through lack of use. The access drive and equipment building are the standards required for modern energy efficiency. The proposed re-use of existing window panels within modern sealed unit double glazing shows how far the applicants want to go to keep the look and heritage of the church.

5.0 Analysis

5.1 The main issues to consider are:

- principle of development
- design and the impact on the heritage asset and the character and appearance of the surrounding area
- impact on neighbouring amenity
- access, parking and impact on highways safety
- landscaping and ecology
- drainage
- concerns from residents

Principle of development

5.2 Local Plan Policy S1 (Sustainable Development Principles) advised that the Council will seek to ensure that development makes a positive contribution towards the sustainability of communities, enhances the environment and adapts to and mitigates the impact of climate change. This will be achieved by:

- Meeting development needs through sustainable development that supports existing communities, making effective and efficient use of land, supporting social cohesion, minimising the need to travel and promoting sustainable modes of travel;
- Protecting and enhancing the high quality natural and historic environment whilst facilitating development in a way that respects and strengthens the distinctive character of the landscape and the form and setting of settlements;
- Ensuring that development takes available opportunities to improve local environmental conditions, such as air and water quality, seeks the reuse of suitable previously developed and underused land and buildings, and reclaimed materials.

5.3 Local Plan Policy IC4: Community Facilities advises that:

A proposal that would result in the loss of premises or land currently or last in community use will not be supported unless it can be demonstrated that:

- a. prior to the commencement of development a satisfactory replacement facility will be provided in a suitably accessible location for the catchment area or the community served;
- b. the existing use is no longer financially or operationally viable and there is no reasonable prospect of securing a viable satisfactory alternative community use;
- c. the continued use of the site for community purposes would conflict with other planning policies; or

d. the loss of the community facility is integral to a strategic proposal to improve community services within the locality.

5.4 According to information submitted the building was a chapel of ease in the parish of Kirkby Fleetham with Langton on Swale and Scruton. The same congregation alternated between this building and the parish church, the Grade II listed St Mary's at Kirkby Fleetham. The Parish wished to concentrate their resources on one building and decided to retain the more historic of the two. According to the Planning Statement submitted the church was closed for regular public worship on 1st October 2019 after extensive public consultation took place and no objections were received. The existing use of the church building as a place of worship was no longer financially or operationally viable due to the small congregation and limited funds. A satisfactory replacement facility is available to the residents of Great Fencote at St Marys. This alternative community facility which is only 2 miles away is considered to be in a suitably accessible location for the community it served and is considered to be an acceptable loss of community facility. The proposed conversion of the church to a dwelling unit would make effective and efficient use of land, protect and enhance the high quality natural and historic environment whilst facilitating development in a way that respects and strengthens the distinctive character of the landscape. The conversion seeks the reuse of previously developed and underused land and buildings which would preserve the non-designated heritage asset. Therefore, the principle of development is supported subject to the scheme complying with other Local Plan Policies.

Design and the impact on the heritage asset and the character and appearance of the surrounding area

5.5 Local Plan Policy E1 states that:

- all development should be of high quality and should integrate successfully with its surroundings in terms of form and function.
- all development should promote high quality design and that proposals will be supported where it responds positively to its context, respects and contributes positively to the local character in terms of form, scale, layout, height, density, visual appearance, visual relationships, views and vistas, the use of materials and landscaping.
- a proposal will be supported where it makes efficient use of the site consistent with achieving a high quality design particularly in relation to public realm, open space, green corridors and layout, and the protection of local character and amenity.

5.6 Local Plan Policy E5 states that:

Proposals which would remove, harm or undermine the significance of a non-designated heritage asset will be permitted only where a balanced judgement has been undertaken and the scale of any harm or loss to the significance of the heritage asset is justified. The NPPF advises that impacts on non-designated heritage matters should be considered in the Planning Balance.

5.7 The church building is located at the junction of Fleetham Lane and Todd Lane in a prominent location within Great Fencote. The church building is classified as a non-designated heritage asset and should therefore be preserved for future generations. The proposed church conversion has been

designed in a sympathetic way to not harm or undermine the significance of the non-designated heritage asset. The external appearance of the building would be retained with a few small alterations which are not considered to be a dominant feature or to be visually intrusive. The church conversion would respond positively to its context and would contribute positively to the local character by reusing a disused building and the conversion would prevent the building from being at risk of decay. The proposed outbuilding would be constructed behind the church building and would be screened from public views. The use of materials for the outbuilding would be agreed post approval to prevent any harm to the character of the area. It is considered that the proposal would preserve the significance of the heritage asset and would not harm the character or appearance of the heritage asset or the surrounding area in accordance with Local Plan Policies E1 and E5.

Impact on neighbouring amenities

- 5.8 Local Plan Policy E2 (Amenity) states that all proposals should maintain a high standard of amenity for all users and occupiers, including future occupants and existing occupants and users of neighbouring land and buildings, in particular those in residential use. All proposals should ensure adequate availability of daylight and sunlight and should not result in significant overshadowing and the need for artificial light. Physical relationships arising from the design and separation of buildings should not be oppressive or overbearing and would not result in overlooking causing loss of privacy. Adequate and convenient external amenity space should be provided.
- 5.9 The scheme for the conversion of the church building to a dwelling would not have an adverse impact on neighbouring occupiers due to the fact that there would be no change in the current fenestration of the building which would not alter the level of overlooking that there currently is. The conversion would be on the exact same footprint and would not result in being overbearing or result in overshadowing. The proposed outbuilding would be developed to the rear of the church building adjacent to the northern boundary of the site. The sunroom and patio doors would face the graveyard to the west and no windows are proposed in the north elevation. The building would maintain an adequate separation distance with the neighbouring dwelling directly north and would not result in adverse harm in terms of overlooking, being overbearing or causing loss of light and is therefore in accordance with Local Plan Policy E2.

Access, parking and impact on highways safety

- 5.10 Policy IC2 (Transport and Accessibility) advised that proposals will only be supported where it can demonstrate that appropriate parking provision is incorporated taking account of:
- highway safety and access to, from and in the vicinity of the site,
 - the needs of potential occupiers, users and visitors, now and in the future
 - opportunities for shared provision, where locations and patterns of use allow

- 5.11 A new vehicle access, approximately 3.5 metres wide, is proposed at the junction off Fleetham Lane. The scheme includes a new driveway and makes provision for 4 off street parking spaces. Objections relating to visibility and highway safety concerns are noted. However, the Local Highways Authority has been consulted and has no objection to the new access subject to conditions. It is therefore considered that the proposal would not have an adverse impact on highway safety and accords with Local Plan Policy IC2.

Landscaping and ecology

- 5.12 Local Plan E3 (The Natural Environment) advises that:
All development will be expected to demonstrate the delivery of a net gain for biodiversity. A proposal that may harm a designated site of importance for nature conservation (SINC), local geological site, or a non-designated site or feature of biodiversity interest, will only be supported where:
- significant harm to biodiversity resulting from the development has been avoided (through locating on an alternative site with less harmful impact), adequately mitigated, or, as a last resort, compensated for; and
 - they demonstrate proportionate long-term maintenance arrangements to ensure that biodiversity net gain will be resilient to future pressures from further development or climate change; and
 - they clearly demonstrate that there is an overriding public need for the proposal which outweighs the need to safeguard biodiversity with no satisfactory alternative site with less or no harmful impacts;
 - they have, as their principal objective, the aim to protect, restore, conserve or enhance biodiversity or geodiversity and deliver a net gain for such objectives which accord with all other relevant policies.
- 5.13 The scheme includes the removal of some trees and shrubs to accommodate the new access, driveway and parking areas. The need for a new access to the site which is required for the scheme to move forward which would in turn preserve a non-heritage asset outweighs the minor loss of biodiversity along the northern boundary of the site. As indicated on the proposed layout Plan the scheme includes some additional planting along the boundary of the site which is considered to adequately mitigate any loss to biodiversity. Details of a landscaping plan would be secured by condition and also enforce long term maintenance. It is therefore considered that the scheme accords with Local Plan Policy E3.

Drainage

- 5.14 According to the Planning Statement surface water would be disposed of by means of a soakaway and mains sewer and foul sewage would be disposed of by means of mains sewer.

Concerns from residents

- 5.15 The planning department has been made aware of local resident's concerns about the removal of graves and headstones, within the application site and appreciates that the nature of this part of the application is a sensitive matter which has caused many residents great concern.
- 5.16 Officers have looked further into this matter in order to consider what weight should be given to this factor in the consideration of the application. It is understood that the sale of the church and matters relating to the relocation of

the headstones is covered by Section 78, Schedule 6 of the Mission and Pastoral Measure 2011. Given that there is a robust legal process in place, outside of the Planning process, which deals with burials and tombstones and which is overseen by the Minister of Justice the Local Planning Authority has taken the view that the issue is appropriately overseen by these statutory processes and is not a matter for the Planning Authority to consider in detail. Any further representations should be made directly to the Diocese which is handling the legislative procedure of the relocation of the headstones. In the view of officers, the matter, whilst a material consideration is not a determining matter for the reasons set out above and as such should be given limited weight in the determination of the application.

Planning Balance

- 5.17 The proposed church conversion and new outbuilding is considered to preserve the non-designated heritage asset by reusing disused buildings which would prevent the building from being at risk of decay. An alternative community facility is available close by and is accessible to the congregation of Great Fencote. The proposed development is not considered to have an adverse impact on neighbouring amenity or highway safety. The proposals accord with Local Plan Policies and are therefore recommended for approval.

6.0 Recommendation

- 6.1 That subject to any outstanding consultations the application be **GRANTED** subject to the following condition(s)

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered 21050-21-PL1; ; 2121050-22-PL1; 21050-23-PL1; 21050-24-PL1; 21050-25-PL1; received by Hambleton District Council on 12/04/2022; unless otherwise approved in writing by the Local Planning Authority.
3. The site access should be developed in the first phase of construction to enable construction and private vehicles to be removed away from the junction at the earliest opportunity.
4. No above ground construction work shall be undertaken until details of the materials to be used in the construction of the external surfaces of the development have been submitted in writing to the Local Planning Authority for approval and samples have been made available on the application site for inspection (and the Local Planning Authority have been advised that the materials are on site) and the materials have been approved in writing by the Local Planning Authority. The development shall be constructed of the approved materials in accordance with the approved method.

5. All new, repaired or replaced areas of hard surfacing shall be formed using porous materials or provision shall be made to direct run-off water from the hard surface to an area that allows the water to drain away naturally within the curtilage of the property.

6. Notwithstanding the provisions of any Town and Country Planning General or Special Development Order, for the time being in force relating to 'permitted development', no enlargement, improvement or other alteration shall be carried out to the dwelling or building nor shall any structure be erected within or on the boundary of the curtilage of the dwelling hereby approved without express permission on an application made under Part III of the Town and Country Planning Act 1990.

7. Notwithstanding the provisions of any Town and Country Planning General or Special Permitted Development Order for the time being in force relating to 'permitted development' no structure, fence, gate or wall shall be erected within or on the boundary of the domestic curtilage area hereby approved.

8. No building works including excavation, breaking up of existing concrete or tarmac areas, demolition works, piling operations, external construction works in general shall be carried out except between 0700 hours and 2100 hours Monday to Friday, 0700 hours to 1700 hours Saturday and there shall be no such work on Sunday or on any public holidays.

9. The construction of the development hereby approved shall not be commenced until details of the foul sewage and surface water disposal facilities have been submitted to and approved in writing by the Local Planning Authority. These details are required prior to the construction because they could otherwise be compromised and in order to minimise the risk of abortive work being undertaken.

10. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority

11. The crossing of the highway verge and/or footway must be constructed in accordance with the approved details and/or Standard Detail number E50 and the following requirements.

- o Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
- o Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway must be constructed and maintained thereafter to prevent such discharges. The final surfacing of any private access must not contain any loose material that is capable of being drawn on to the existing or proposed public highway.
- o Measures to enable vehicles to enter and leave the site in a forward gear.

12. Notwithstanding any valid planning permission for works to amend the existing highway, you are advised that a separate licence will be required from North Yorkshire County Council as the Local Highway Authority in order to allow any works in the existing public highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council as the Local Highway Authority, is available to download from the County Council's web site:

https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Specification_for_housing__ind_est_roads__street_works_2nd_edition.pdf . The Local Highway Authority will also be pleased to provide the detailed constructional specifications referred to in this condition.

13. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.

14. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

15. No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works: 1. details of any temporary construction access to the site including measures for removal following completion of construction works; 2. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway; 3. the parking of contractors' site operatives and visitor's vehicles; 4. areas for storage of plant and materials used in constructing the development clear of the highway; 5. details of site working hours; 6. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

16. Above ground construction of dwellings shall not be commenced until a detailed landscaping scheme indicating the type height, species and location of all new trees and shrubs has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied after the end of the first planting and seeding seasons following the approval of the landscaping scheme, unless those

elements of the approved scheme situated within the curtilage of that dwelling have been implemented. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species.

The reasons for the above conditions are:-

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Local Plan Policies S1 and E1.
3. In the interests of highway safety and the convenience of all highway users.
4. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Local Plan Policies S1 and E1.
5. To reduce the volume and rate of surface water that drains to sewers and watercourses and thereby not worsen the potential for flooding and pollution in accordance with Local Plan policies RM1 and RM2.
6. To control the extension or alteration of the development in the interests of the appearance of the site and the amenities of residential property nearby in accordance with Local Plan Policies S1, E1 and E2.
7. To control the extension or alteration of the development in the interests of the appearance of the site and the amenities of residential property nearby in accordance with Local Plan Policies S1, E1 and E2.
8. In order to protect the amenities of residential property in the locality.
9. In the interest of satisfactory drainage and to avoid pollution of the water environment in accordance Local Plan policies RM1, RM2, RM3 and RM5.
10. In order to protect the local aquatic environment and Yorkshire Water infrastructure and to ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network
11. To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users.

12. In the interests of highway safety
13. In the interests of highway safety
14. To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.
15. In the interest of public safety and amenity
16. In order to help assimilate the development within the rural landscape.