# North Hertfordshire District Council
## Building Conservation comments

**File Ref:** 18/01388/FP
**Date:** 17/08/2018
**Planning Officer:** HL
**Address:** St Marys Church, Church Road, Kings Walden, Hertfordshire
**Subject:** Retention of existing timber shed (containing a disabled persons earth toilet) and associated timber fence enclosure.

St Mary's Church is grade I listed and according to the list entry is:

*"C12-C13 origin, early C13 nave arcades, **late C14 W tower**, C15 clearstorey, early C17 brick NE Hale family mortuary chapel now the vestry. Restored 1868 by Eden Nesfield when in partnership with Norman Shaw, with new S porch, refacing of nave, chancel and aisles, and part rebuilding of chancel and aisles……Flint rubble with coursed knapped flint facing and deep ashlar parapets to all except tower and vestry, with stone dressings. **Tower has remains of plaster facing**… A village church of square ended chancel, N vestry, 3-bays nave, aisles, S porch, and **large W tower**….. The **massive W tower** is of 3 stages marked by chamfered stone bands, stepped corner buttresses, projecting polygonal stair turret at SE carried higher than the parapet, C14 2-lights bell-opening on each face with quartrefoil in pointed head, small single-light window to middle stage, 2-lights C14 W window, and pointed W door with old oak door…."*





The key issue here is to consider the impact of the proposal upon the setting of this grade I listed building.

At para 194 of the NPPF it states that:

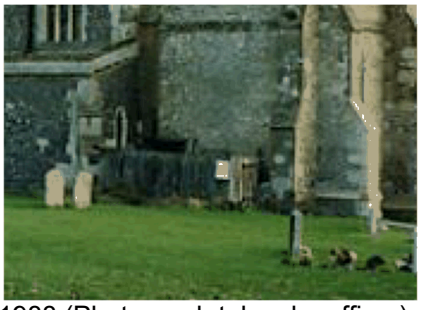
"*Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require **clear and convincing justification**…."*

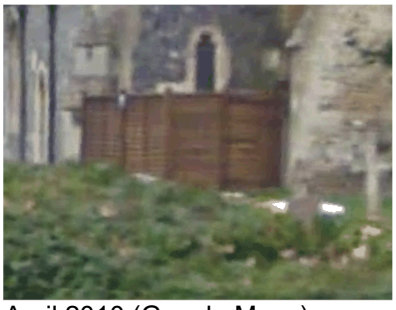
Whilst at para 196 it states:

*"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this **harm should be weighed against the public benefits** of the proposal including, where appropriate, securing its optimum viable use."*

In my opinion, a convincing justification has not been provided (i.e. no commentary provided of alternative locations, alternative designs or alternative materials) for the earth closet and the shed floor plan does not adequately show that the earth toilet is wheelchair accessible (i.e. manoeuvrability and no ramps provided). It is also understood that the enclosure also seeks to screen a relatively recent boiler installation but this point is not made as part of the justification for this scheme.

It is acknowledged that a fenced enclosure existed in this location in 1988 (see left hand image below) and what presumably is the same fence appears on the Google Maps image in April 2010. This enclosure does not appear to have the benefit of planning permission but has existed for over 30 years.


1988 (Photograph taken by officer)


April 2010 (Google Maps)

The new enclosure projects further away from the base of the tower, presumably to accommodate the shed?

Setting is defined in the National Planning Policy Framework (NPPF) as *"The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of the asset, may affect the ability to appreciate that significance or may be neutral."* (Annexe 2: Glossary, NPPF).

The setting itself is not designated. Every heritage asset, whether designated or not, has a setting. Its importance, and therefore the degree of protection it is offered in planning decisions, depends entirely on the contribution it makes to the significance of the heritage asset or its appreciation.

Historic England has produced guidance entitled *'The Setting of Heritage Assets - Historic Environment Good Practice Advice in Planning Note 3 (Second Edition)'* which was published in December 2017 within which it outlines 4 steps for dealing with the setting of heritage assets.

**Step 1: Identify which heritage assets and their settings are affected**

*In this particular case, I am considering the setting of the grade I listed church.*

**Step 2: Assess the degree to which these settings and views make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated**



*The ecclesiastical use of this site is well-established and the building is situated (as one might expect) within a churchyard setting and it is this open 'landscape' within which exists a significant number of headstones, which enables the building's size and form to be fully appreciated on what is a relatively exposed historic site. In my opinion, the approach from the lych-gate (erected 14th August 1894) is a key part of this experience as the path leading up to the church is focused upon the 'massive west tower'. With paragraph 30 of the HE guidance in mind, it is therefore the characteristics of the site and the building itself which means that 'the view allows that significance to be appreciated'.*

**Step 3: Assess the effects of the proposed development, whether beneficial or harmful, on the significance or on the ability to appreciate it**

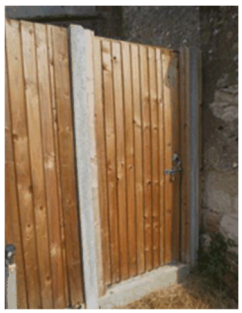
*The development is described by the applicant as follows (see extract below)*

> The timber shed is located behind a historic fence ( which was replaced a couple of years ago like for like) and is for the use of disabled persons visiting the church.
>
> Only the very top of the shed is visible above the fence line
>
> The shed / WC is accessed via an existing lockable gate in the existing fence
>
> It is housing a specialist earth closet purchased from Canada for the use of parishioners and is fitted with disabled person hand rails

*Whilst the earth toilet will serve a public benefit and help to sustain the present use of the church building, the shed and fencing installation is conspicuous and insensitive in terms of the building's significance. Although the installation has a temporariness and reversibility, whereby it could be removed without harming the heritage asset, this is unlikely to be removed unless a more permanent (and acceptable) solution were to be found in due course. The facility will assist with maintaining a sustainable use for this building but it is unclear as to whether this facility is fully wheelchair accessible (DDA compliant), considering the size of the shed and the fact that there is a concrete step threshold to the enclosure followed by a timber step threshold into the 'shed' itself? Ultimately, the question is whether the functionality of this facility outweighs the perceived harm to the setting of a heritage asset of the very highest category?*

**Step 4: Explore ways to maximise enhancement and avoid or minimise harm**

*Due to this being a retrospective application any opportunity to consider the proposal in light of para 37 of HE's guidance i.e. 'Maximum advantage can be secured if any effects on the significance of a heritage asset arising from development likely to affect its setting are considered from the project's inception…..' has not been realised. It is noted that a small brick outbuilding exists close to the lych-gate i.e. close to the road. It is assumed that this is either vacant or used to store grounds maintenance equipment, however, if this were capable of adaptation to a WC and perhaps any equipment subsequently stored in a garden shed alongside then this may enable the existing structures to be removed with perhaps a more modest, lower screen (if one at all) placed in front of the boiler/tank.*





**Recommendation**
By reason of the following, there would be a reasonably sound case for raising an **OBJECTION**:

1. A clear and convincing justification has not been provided (i.e. consideration of alternative locations/designs/materials), thus, this proposal fails to satisfy the aims of paragraph 194 of the Revised National Planning Policy Framework; and

2. The height and materials used in the construction of the vertical boarded and concrete post enclosure when also considered alongside the ‘shed’ with its felt roof and containing the earth toilet, the appearance of these structures and importantly, their position immediately on the north side of the ‘massive west tower’, will result in these structures being located in a highly prominent position when approaching the church from the lych-gate to the north. As such, these structures are considered to have an adverse impact upon the setting of this grade I listed building, thereby, occasioning harm to its significance. The proposal will, therefore, fail to satisfy Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Section 16 of the NPPF.

It is disappointing that the applicant did not engage in pre-application discussion. Having said that, Historic England has issued a ‘non-intervention’ letter and has subsequently reiterated via email that it will not be raising an objection. It is understood that a decision by the DAC on the faculty application will follow **after** the LPA has determined this application and the Parish Council has not, as yet, responded.

There is an identified harm and a convincing justification for the implemented scheme has not, in my opinion, been provided. The fact that i) a means of enclosure has existed for over 30 years (albeit not so large and perhaps not with concrete support posts or gravel boards) and ii) the facility would make an important contribution to maintaining a sustainable use for this grade I listed building, are significant considerations and this is very much an ‘on balance’ decision. Ultimately, the decision will rest on whether the public benefit outweighs the less than substantial harm and a more convincing justification would have helped in this regard. If the application is refused then we need to be mindful that we do not have the support of Historic England.

**Mark Simmons**
**Senior Conservation Officer**