

Date of Meeting	24 th October 2013
Application Number	13/00719/FUL
Site Address	St Mary the Virgin Church, New Park Street, Devizes SN10 1DS
Proposal	Proposed new cloister and ancillary accommodation to support the existing church building along with associated rebuilding of a boundary wall (resubmission of E/2012/1477/FUL)
Applicant	St John's & St Mary's PCC
Town/Parish Council	DEVIZES
Grid Ref	400599 161609
Type of application	Full Planning
Case Officer	Karen Guest

Reason for the application being considered by Committee

The application has been called to committee at the request of the division member, Cllr. Sue Evans.

1. Purpose of Report

To consider the recommendation that the application be refused.

2. Report Summary

The main issues to consider are as follows:

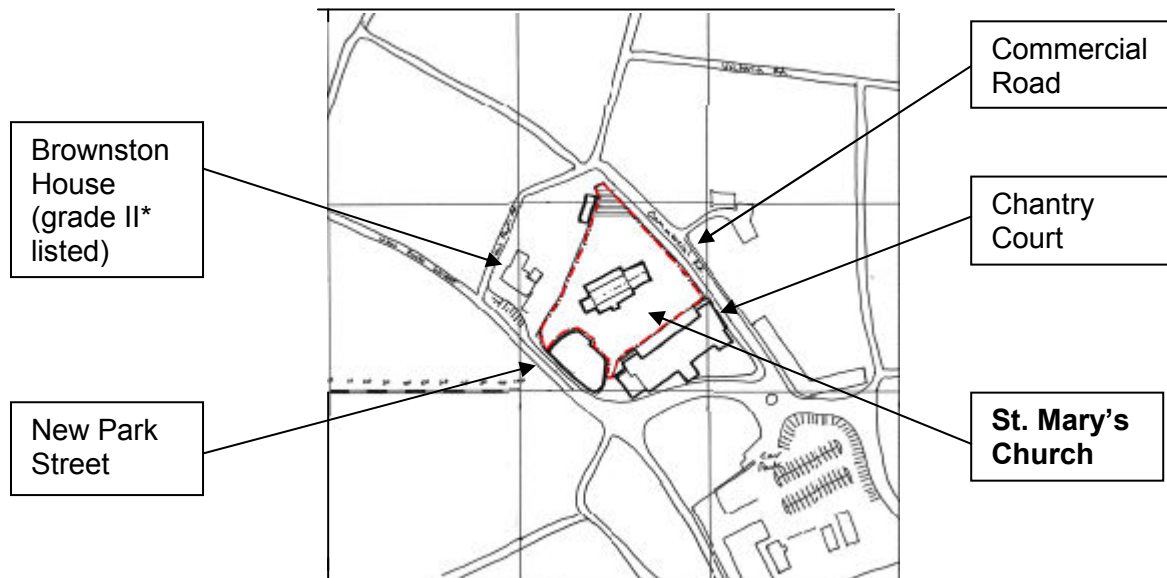
- Whether the proposal would cause harm to the grade I listed building and its setting and to nearby heritage assets.
- Whether any harm to the listed building and its setting would be outweighed by the public benefits of the scheme.
- Whether the proposal would have a detrimental impact on the character and appearance of the Devizes Conservation Area.
- Whether the proposal would harm the roots of protected trees.
- Whether there would be any harm to buried archaeology.
- Whether any harm would be caused to neighbour amenity.
- If there would be adequate parking for the proposed development.

3. Site Description

St. Mary's Church is a grade I listed building in the centre of Devizes. It lies at the eastern end of New Park Street, on the north side of the road and close to the roundabout. The site is bounded to the north by Commercial Road, to the east by the Chantry Court retirement flats, to the west by residential and commercial properties and to the south by New Park Street. It is enclosed by a churchyard containing a number of mature trees which are protected as they are located within a conservation area. There is no vehicular access to the site.

St Mary's is one of two churches of Norman origin in Devizes. It was founded to serve the town which grew up to support the castle (as opposed to St. John's which served the castle garrison itself). Whilst of Norman origin, much of the church other than the chancel was rebuilt in C15. The fact that the church is included on the List at Grade I means that it is amongst the most important of buildings within the country (only 2.5% of all listed buildings in the country are Grade 1 and only 4 in Devizes).

The site is located in a sensitive historic context, within the Devizes Conservation Area and the immediate setting of a number of key listed buildings, including the Grade II* listed Brownston House to the west.



Location Plan

4. Planning History

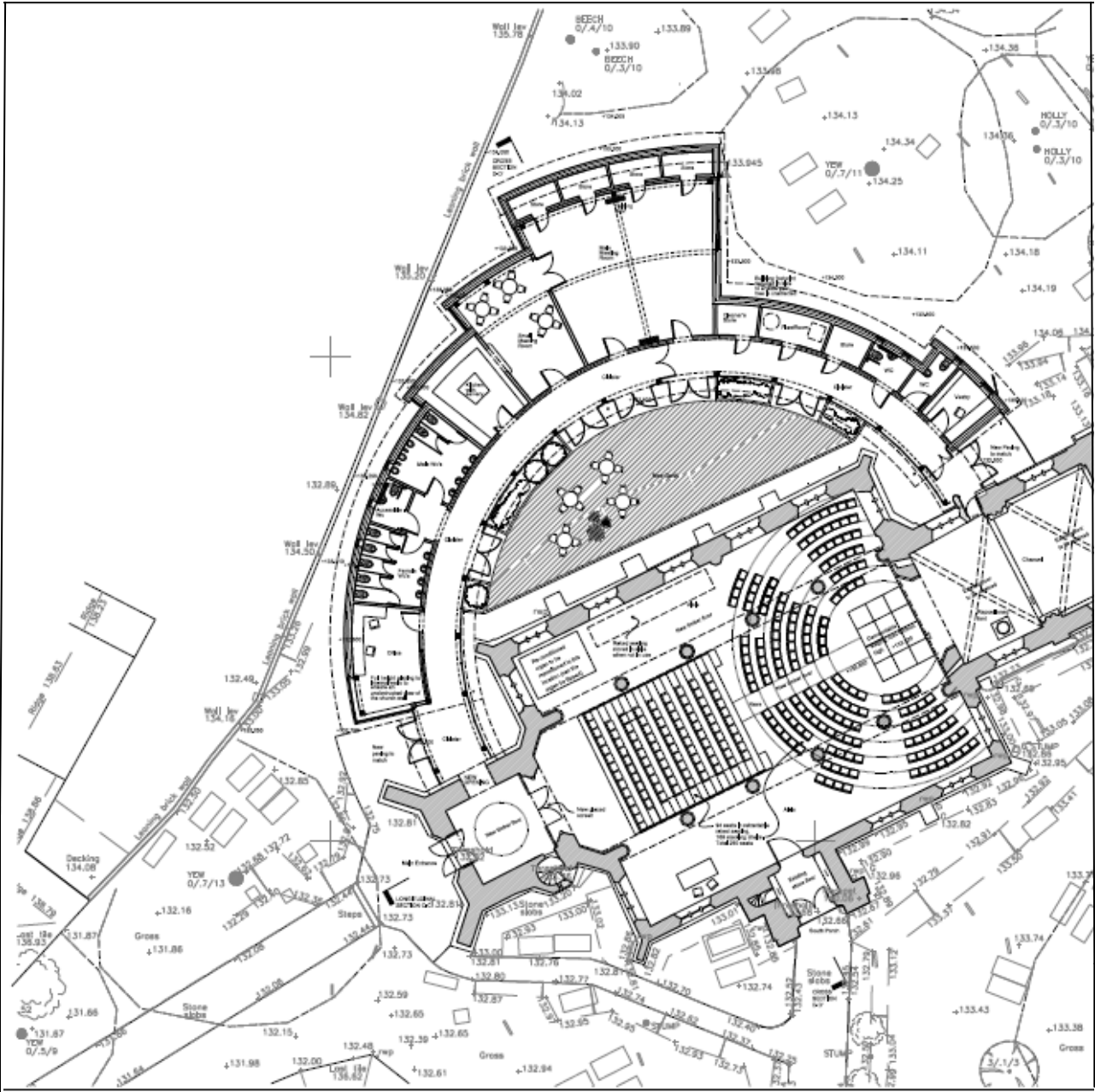
E/2012/1477/FUL – an application for a similar scheme was withdrawn in March 2013.

5. The Proposal

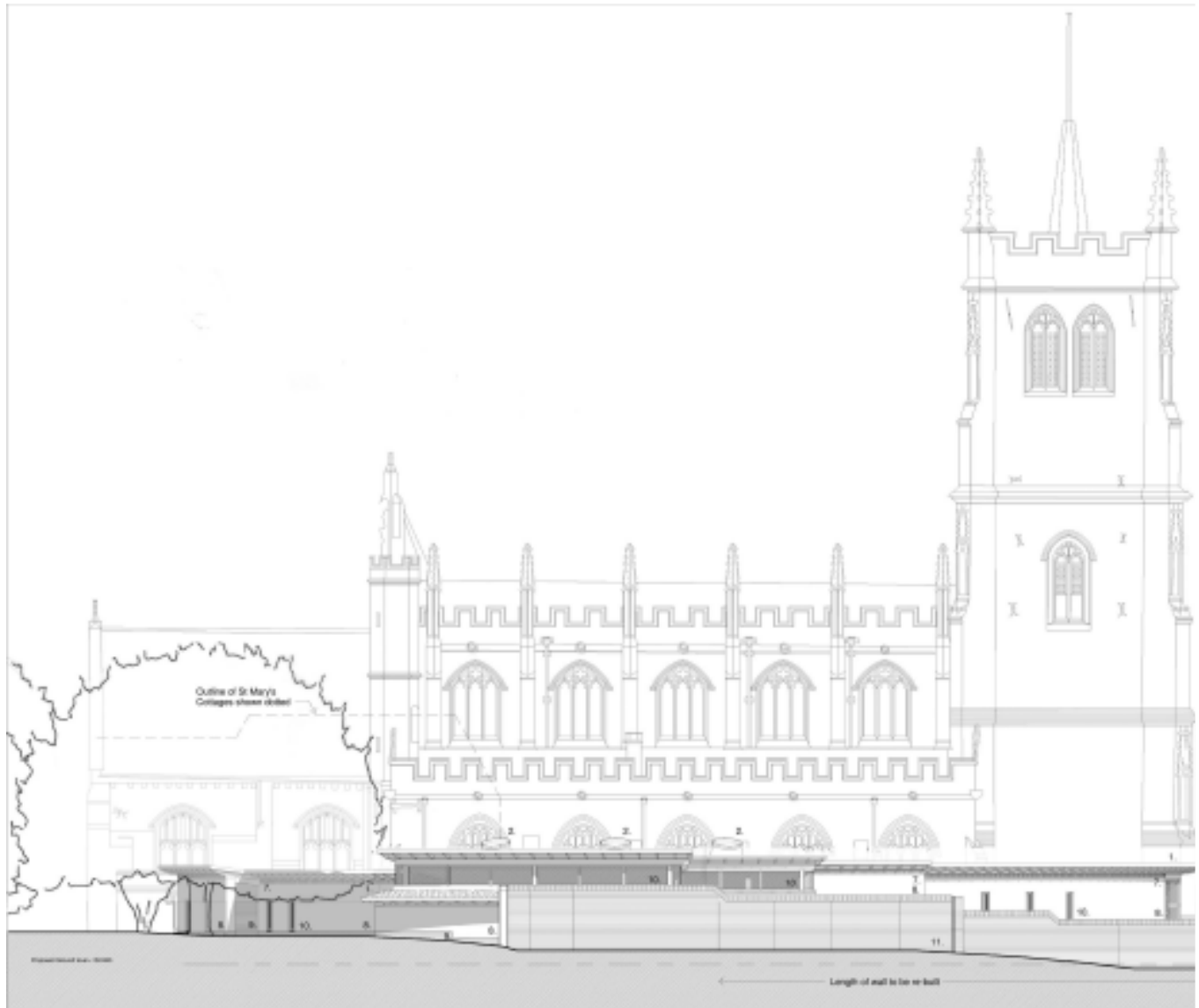
The current application is the re-submission of an earlier scheme (ref. E/2012/1477/FUL) which was withdrawn. The proposal is to construct a semi-circular extension to the west side of the church to provide an office, two meeting rooms, kitchen, toilet facilities, stores, a plant room and a vestry. The footprint of the extension would cover a large portion of the existing churchyard. The applicant states in the submitted design and access statement that the design concept is a modern interpretation of the historic idea of a cloister enclosing a 'garth (grassy quadrangle)'. The cloister itself would be used as a public space for hanging art or for photographic exhibitions. The new external courtyard would be accessed from the cloister and would be hard landscaped with stone paving and setts. Proposed materials would include oak, sedum and through coloured render. It is proposed that a section of the curtilage listed wall on the western boundary of the churchyard would be rebuilt. The submitted archaeological evaluation indicates the need for the excavation and re-interment of an estimated 850 articulated burials in order to facilitate the development.

A number of changes to the withdrawn scheme are now proposed, albeit the original design concept remains unchanged. These are as follows:

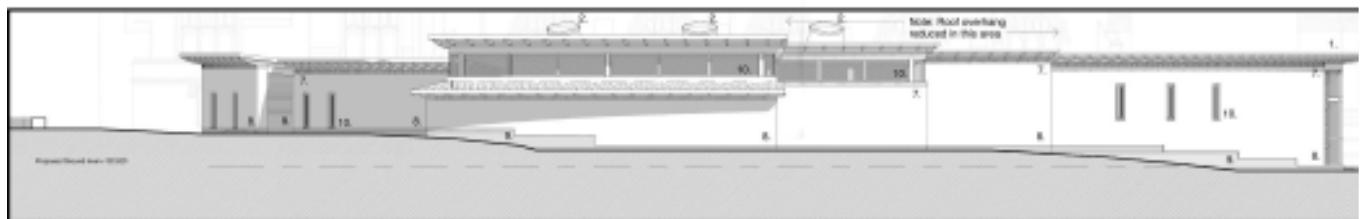
- The footprint has been altered slightly in response to the concerns raised by the Council's Arboricultural Officer regarding encroachment into the root protection area of the nearby yew tree.
- The proximity of the proposed extension to the adjacent boundary wall has been acknowledged and the rebuilding of a section of this wall is now proposed.
- A larger area of glazing has been incorporated in areas adjacent to the entrance and access to the tower.
- A through colour render would now be used instead of the white painted brick previously proposed.



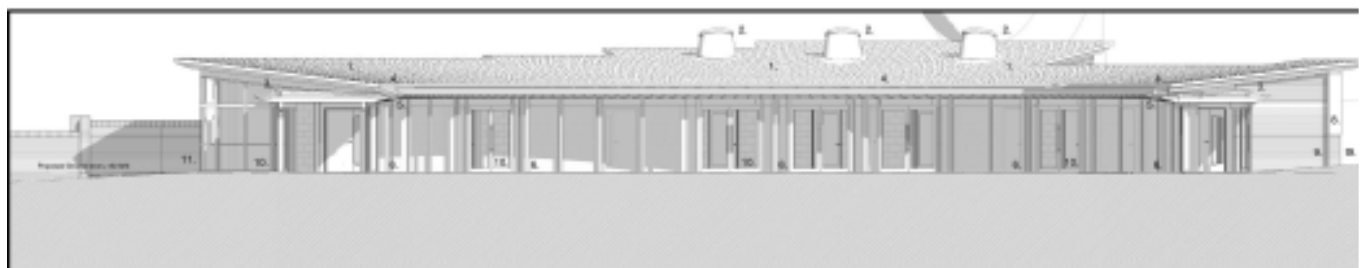
Block Plan



NORTH WEST ELEVATION with CONTEXT



NORTH WEST ELEVATION without BOUNDARY WALL

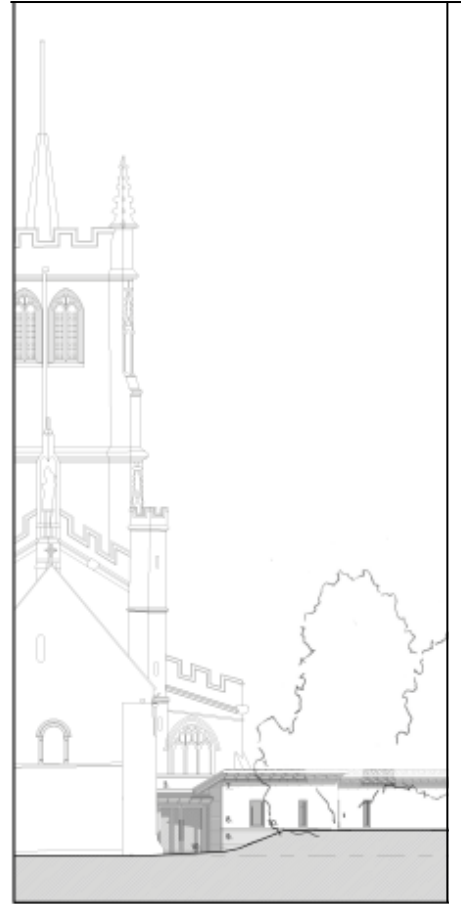


SOUTH EAST ELEVATION

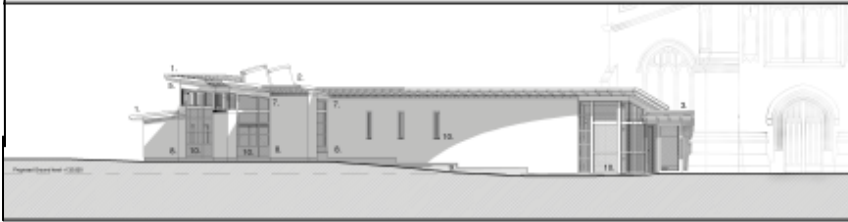
North-West and South-East Elevations



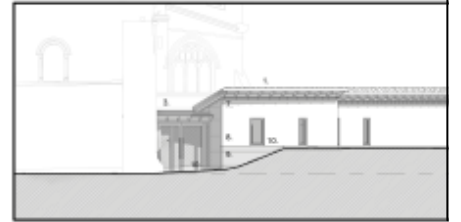
SOUTH WEST ELEVATION with CONTEXT



NORTH EAST ELEVATION with CONTEXT

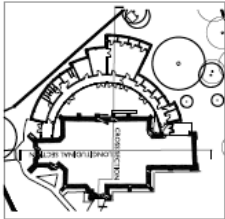


SOUTH WEST ELEVATION without BOUNDARY WALL or TREES

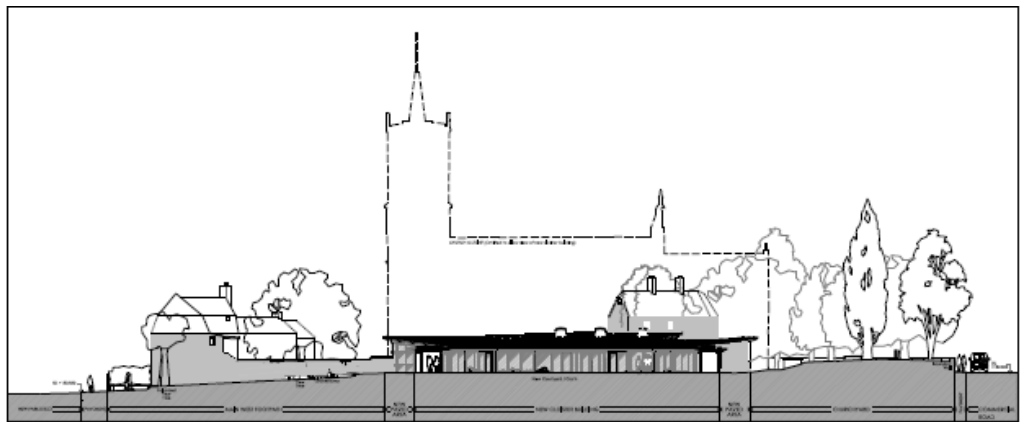
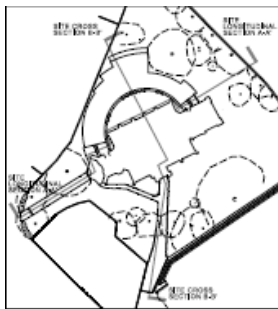
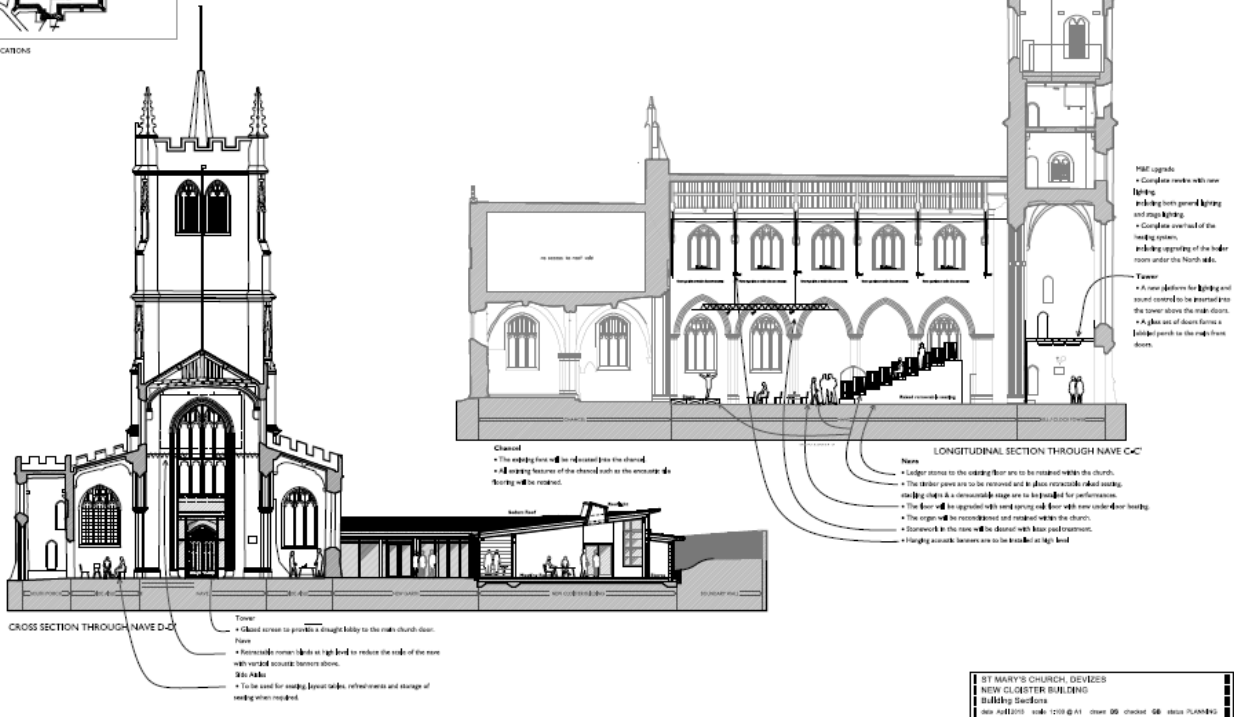


NORTH EAST ELEVATION without TREES

South-West and North-East Elevations



SECTION LOCATIONS



Sections

The application has been accompanied by supporting documentation including, inter alia, a Statement of Significance, a Statement of Need, a Historic Building Assessment, a business plan, an archaeological evaluation, a summary report on the consultation exercise undertaken and the consultation questionnaire.

It is evident from the submitted details that the church itself would be used as an events space, with a continuing use for worship fulfilling a secondary role (St John's Church would fulfil the main worship role for the two churches). This would fall within the same use class as the church (ie. D1 non-residential institutions) and therefore would not involve a change of use for which planning permission would be required.

Reference is also made in the supporting literature to proposed works within the main body of the church. These do not require the benefit of listed building consent as the building is intended to remain in use for worship and is therefore currently covered by the provisions of the Ecclesiastical Exemption Order 2010. Instead, the Church's own regulatory regime (faculty legislation - which is required to give equivalent consideration to conservation issues as does the secular listed building consent regime) applies and will run alongside the secular planning process. Although listed building consent is not required, the impact on the listed building and its setting and on other heritage assets is still a material consideration in respect of this planning application.

The applicant has provided a response to the Conservation Officer's comments. These are available for viewing on the Council's website but the main points can be summarised as follows:

- The 'ongoing maintenance funding' is not secured and will cease with the cessation of church services. The monies released will then go to the Alms House Branch of the Poor Lands Charity.
- The Council's Arboricultural Officer is happy with the amended plans in respect of impact on the nearby yew tree.
- The roughcast through colour lime render is a traditional finish used extensively in Wiltshire buildings from the 16th century onwards. The addition of a Bath stone dust into the render mix will give the render a warm colour which will blend well with the cut Ashlar stone walls of the church. The choice of sedum for the roof finish is designed to respond sensitively to the churchyard setting. The addition of sedum onto a roofing membrane will greatly increase its life. The proposed lead and zinc detail (for the edge flashings, gutters and the roof to the glazed link) will respond appropriately to the church.
- The solution to route a section of the drainage underneath the church takes into account that the existing floor will be lifted and replaced as part of the internal upgrading works. Non-intrusive surveys have been carried out within the church, which have established that there are a number of sleeper walls beneath the floor forming a void. The drainage pipes can therefore be located in this zone.
- The difficulty of access during construction has been recognised and a highly regarded local building company has been consulted. The new cloister will not add substantially to the maintenance costs of the facility as it is designed to modern standard of insulation and energy efficiency.
- A number of alternative uses for St. Mary's have been considered and rejected ranging from commercial storage (road access inadequate) to providing a new worship space for another parish in the town (rejected by the congregation).

6. Planning Policy

Kennet Local Plan 2011:

PD1 – Development and Design

Wiltshire Core Strategy Pre-Submission Document 2012:

CP57 - Ensuring high quality design and place shaping

CP58 - Ensuring the conservation of the historic environment

In due course the Wiltshire Core Strategy (WCS) will replace the Kennet Local Plan as the statutory local plan for the East Wiltshire area. The Wiltshire Core Strategy Pre-Submission Document went out to public consultation in February 2012 and the WCS was presented for examination in July 2012. The inspector's report is awaited and the WCS is not expected to be adopted until late 2013/early 2014. The policies in the WCS do not, therefore, yet carry full weight when making planning decisions.

National Planning Policy Framework (NPPF) 2012:

Introduction

Section 7 - Requiring Good Design

Section 12 – Conserving and Enhancing the Historic Environment

The Planning (Listed Buildings Conservation Areas) Act 1990: Section 16.

PPS 5 Planning for the Historic Environment: Historic Environment Planning Practice Guide

English Heritage document - New Work in Historic Places of Worship, 2012

Devizes Conservation Area Statement, September 2005

7. Consultations

Devizes Town Council: Positively give its support to the proposal, as it believes that the scheme will enhance the town's artistic facilities and keep one of the town's most important buildings in public use for this and future generations. It also states that careful consideration has been given to the design of the new cloister and believes that the right balance to preserve the church's history whilst delivering a contemporary and flexible extension has been achieved.

English Heritage: Objects to the application. Advises that whilst the endeavours by the congregation and community to increase the use of the church is fully commended, it is not possible to support the current scheme due to the substantial harm it will have on the significance of the church and its tower, its surroundings and on the conservation area. It is further considered that there is not a strong enough case for the public benefits envisaged from this scheme outweighing this harm. It is therefore considered that this proposal does not meet the tests of paragraph 133 of the NPPF.

Wiltshire Council Conservation Officer: Objects to the application. Advises that current government policy requires that the Local Planning Authority makes an informed assessment, weighing the impact on the special interest of the affected heritage assets against the public benefits which will result. Considers that the project represents a significant intervention which, both in terms of direct impact on the fabric and character of the church and in terms of the impact of the development within its setting, will harm the special interest of the building. Is unable to conclude objectively from the information provided that these proposals represent the 'optimum viable use' of the building and that the harm which will be caused is outweighed by the public benefits. As a result, the application cannot be considered to meet the requirements set out in legislation, government policy and guidance.

Wiltshire Council Arboricultural Officer: Considers that the amended scheme adequately addresses the previously raised concerns regarding potential damage to the mature yew's rooting system although details of how service routes could be constructed within the vicinity of any tree's root protection area without causing damage will be required. Remains concerned that the proposal would result in the loss of an important green space in town and an overall setting for the yew tree.

Wiltshire Council Archaeologist: No objection subject to a condition requiring the submission of a written programme of archaeological investigation (including on-site and off-site work) before the commencement of development on site; and the completion of these works in accordance with the approved details.

Wiltshire Council Ecologist: The comments made on the previous application at this site are still valid ie. that the trees should have a root protection area (RPA) provided during the construction process to

ensure that their integrity and function for biodiversity is not compromised and that any exterior lighting is angled downwards and not allowed to shine directly onto the canopy of any trees. This will ensure that foraging routes for bats and small mammals are not adversely affected.

Wiltshire Council Highways Officer: No objection.

8. Publicity

The application has been publicised by way of a site notice, press notice and letters to owners/occupiers of adjacent properties.

Two letters of representation have been received, one in support and one objecting to the proposal. The letter of objection makes the following key points:

- There are concerns regarding the proximity of the proposed building to the neighbouring property (48 New Park Street) and its height.
- It has not been possible to achieve a distance of 1 metre from the boundary wall.
- The application does not include a section between the proposed building and 48 New Park Street.
- The proposed re-building of the boundary wall is welcomed.
- The loss of the existing open space between 48 New Park Street and St Mary's Church and the close proximity of the wall and roof of the proposals (rising to approximately 3.6 metres above the ground level of my property within 500mm of the boundary wall), will have a detrimental effect on the setting of 48 New Park Street, which is a Grade II listed building. It is requested that this loss is taken into consideration when weighing up the benefits provided by the proposed new use for St Mary's Church.

The letter of support makes the following comments:

- I must declare an interest in that I am a Trustee of the St Mary's Development Trust, but it is an indication of the level of my enthusiasm that in the middle of a very busy period in my life, I feel it is important to be active in this enterprise.
- St. Mary's is a very beautiful church with excellent acoustics. It has an interior and ambience that encourages excellence of performance and our plans seek to maximise this beauty and use without interfering with the clean lines of the architecture. Thus with the pews removed we have a versatile space for arts use, theatre, dance, music unique in the area.
- In order to service this there must be up-to-date facilities for both artists and audience and the cloister, tucking neatly into the elbow of the church, answers this elegantly and with style, adding to the attraction of the building. As a professional performer myself, I know how important it is to have services of a practical and comfortable nature, and allied with the 'wow' factor of the original building the word will soon spread that this is a new venue of great interest.
- At present, many people in Devizes are not even aware of the church, standing there neglected and hidden behind what can only be called the ugly buildings of the sheltered housing. Opening up the entrance towards the market will heighten the profile of the church whilst in no way hindering what remains of its lovely aspect. It is part of our heritage in the town, and it would be criminal if we allowed the building to decline through lack of use.
- On the other hand, this imaginative plan would open up a performance space of a size not available in the area at present and its attractiveness is likely to put it on the list of visiting national companies in the arts which will only serve to attract more people to visit the town, thus providing more business for local restaurants and other services. At the same time, access to such an attractive performance venue can be a great incentive for local companies and add to the communal feeling of pride in belonging and taking part in such events.

9. Planning Considerations

9.1 Impact on Listed Building, its Setting and Nearby Heritage Assets Versus Public Benefit

9.1.1 Policy context

The most up-to-date planning policy is contained within the National Planning Policy Framework (NPPF) 2012. A number of paragraphs in the NPPF are considered to be relevant to this application. Paragraph 129 requires local planning authorities to identify and assess the significance of any heritage asset that may be affected by a proposal and states that this includes development affecting the setting of a heritage asset. Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Paragraph 133 states that where a proposed development would lead to substantial harm, local planning authorities should refuse consent unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm or loss or all of the following apply – the nature of the heritage asset itself prevents all reasonable uses of the site; no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; conservation by grant funding or some form of charitable or public ownership is not possible; and the harm or loss is outweighed by the benefit of bringing the site back into use.

Paragraph 9 of the NPPF advises that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment. Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Section 16 of The Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty of the Council to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interests which it possesses.

Policy PD1 of the Kennet Local Plan requires a high standard of design, with specific regard given to, inter alia, scale, height and massing; relationship to townscape and landscape context; and relationship to historic features.

Emerging policy is contained in Core Policies 57 and 58 of the Wiltshire Core Strategy Pre-Submission Document, Feb 2012. These policies now carry some weight as the Core Strategy has been through an Examination in Public, although full weight can only be given once the Inspector's report is received and the Strategy adopted. Notwithstanding this, Core Policies 57 and 58 continue the themes of Policy PD1 in the Kennet Local Plan and the NPPF, requiring proposals to be sympathetic to conserving historic buildings, to respond positively to existing townscape in terms of building layout, height, mass, scale, design, materials etc and to conserve areas of heritage significance, including the character, setting and cultural significance of designated and non-designated heritage assets.

The saved PPS 5 Planning for the Historic Environment: Historic Environment Planning Practice Guide provides useful guidance on assessing the significance of a heritage asset. It further emphasises the need for a new building to be designed to respect setting by virtue of its scale, proportion, height, massing, alignment and use of materials.

9.1.2 Scale/Amount

The proposed extension would create a large footprint filling much of the area on the western side of the church right up to the boundary wall and close to the churchyard trees. It would therefore amount to an 'overdevelopment' of the site. Whilst the proposed development would not be unduly prominent from the southern approach and the visual impact would be limited from the south-west entrance, from the north and from within the churchyard itself the new structure would dominate views of this side of the church. In fact, the views of the north aisle would be lost except from within the proposed extension itself.

The church tower makes a strong visual statement and is visually prominent. It is a particularly dominant part of the church when viewed from the gates at the west entrance. It is considered that the proposed extension would impact on the tower, resulting in a discordant juxtaposition and therefore a reduction in its dominant presence.

Overall, it is considered that the proposal would have a substantial impact on the church itself and its presently spacious setting.

The proposed extension would come close to the western site boundary and the grade II and grade II* listed buildings beyond, but the main impact on the setting of listed buildings is on the church itself.

9.1.3 Siting/Form

It is noted that the Statement of Significance identifies that the existing church is “essentially a building of a single period, on a regular symmetrical plan”. Whilst the curved form has the potential to appear as an attractive and interesting structure in its own right, there are concerns that the substantial low level plan has no precedent in the existing building and would appear as an alien feature in this context, disrupting the regular symmetrical form and architecture of the building. Current guidance (English Heritage - New uses for places of worship, 2012) places greater emphasis on making sure that proposed extensions harmonise with the existing building, suggesting that the “forms, roof pitches and volumes traditionally presented by aisles, transepts, vestries and porches provide an established vocabulary for extending such buildings which would allow an addition to form a harmonious composition with the host building and consequently appear as a natural development from the building.” In this case, the proposed extension is self-consciously different from the existing building. Whilst in some circumstances this may be an appropriate response, on this occasion, taking into account the scale of the proposed extension, there is a risk that it would dominate some aspects of the church, detracting from the intentional pre-eminence and status of this key building.

The impact of the proposal is increased as a result of the chosen built form which encloses a large open courtyard area and exacerbates the apparent bulk of the extension. From outside viewpoints, this would give the impression of more accommodation being provided than is actually proposed. The pleasantness and practical usability of this courtyard space is also questioned as the building’s aspect means that the space will be constantly within the shade of the church and risks being damp and underused on all but the hottest of summer evenings. Left-over spaces with poor accessibility, created adjacent to the tower and to the north-east of the north aisle, risk becoming unattractive areas.

9.1.4 Design/Materials

Minor changes have been made to the design of the proposed extension in response to the concerns previously raised by officers. The proposed materials have been amended from painted brick to a lime render which represents an improvement. Furthermore, a larger area of glazing has been incorporated in areas adjacent to the entrance and access to the tower which would allow a lighter link and improved continuing visibility of the tower’s fabric. Whilst these design changes are welcomed, officers are concerned about the long-term quality of appearance of the proposed render and sedum roofed structure in this sensitive historic context. Furthermore, there is no precedent in the area for sedum roofs and consequently, this may well appear as a discordant feature in this historic setting.

Guidance in respect of proposed additions to churches, set out in English Heritage’s document ‘New work in historic places of worship’, 2012, states that “We recommend that materials should harmonise with those of the existing building. In many cases this will mean matching materials, although where a close match cannot be achieved, a complementary material or finish may be appropriate. Materials should be durable and of high quality and display a high level of workmanship and detail.” It is considered that the proposed choice of materials would conflict with this advice.

9.1.5 Public Benefit

Current conservation policy set out in the NPPF requires that proposals which would harm the significance of a heritage asset (either via direct alteration or via development within their setting) should be justified and that the harm should be weighed against any potential public benefit. A considerable

area of concern with regard to the proposal lies with its justification and with the sufficiency of the information provided to allow the required assessments to be made. It is acknowledged that the Design and Access Statement has been expanded in support of the current application. However, the amendment concentrates on the argument that, in the applicants' opinion, the impact on the setting of the church will be limited. However, little additional information has been produced in relation to the objective assessment of justification and need.

A number of letters of support from potential new users have been submitted, however, there remains no objective analysis or audit of these which would provide a reliable indicator of the need within Devizes for such a project. Few appear to relate to a new need within the town which is currently not catered for at all. It is also unclear what duration or frequency of use any of the supporting organisations would be likely to generate, nor is there any assessment as to how well the facilities which are now proposed (for example stage size, storage facilities etc.) would meet the detailed needs of these potential users.

No additional information has been provided with regard to the early development of the project and the various options which have been considered and included or discounted. The information starts at the point at which two possible options were tabled – the current project and an alternative of a drop-in centre. There is no evidence that any other options, which might include more limited or low-key proposals, have been considered or why (if they have been) they have been discounted as inappropriate or unfeasible/unviable.

It is possible that other potential options for supporting an enhanced continuing use of the church and more meaningful public access have been correctly discounted for reasons of feasibility or viability and, similarly, it is possible that there may be a genuine 'long term and sustainable' public need in Devizes for such a facility, however, it is not considered that an objective case has been made which would outweigh the harm that would be caused to the church, its setting and surrounding heritage assets.

Current government guidance requires that the Local Planning Authority make an informed assessment, weighing the impact on the special interest of the affected heritage assets against the public benefits which will result. Officers consider that the proposal represents a significant intervention which would harm the special interest of the building. It is also considered difficult to conclude objectively from the information provided that these proposals represent the 'optimum viable use' of the building and that the harm which would be caused is outweighed by the public benefits.

9.2 Impact on character and appearance of Devizes Conservation Area

St. Mary's Church is set back from the principal streets within its green churchyard setting. Important views of the church and churchyard are obtained from Commercial Road. The tower in particular forms an important streetscene feature, above the surrounding frontage buildings. There are also key views from the south and south-western gateways. The churchyard itself is notable as one of few green spaces within the historic core of the town – a view confirmed in the Devizes Conservation Area Statement (p.25).

The proposed extension would take up most of the width of the churchyard on the western side of the church. The applicant contends that views from the main vantage point ie. Commercial Road, would be limited due to the presence of the existing tree canopies. Officers disagree with this contention. Commercial Road is set down at a lower level than the churchyard so clear views are possible underneath the tree canopies. The proposed extension would therefore result in the construction of a large built form in an important gap between existing buildings which provides a pleasant green space and a setting for the visually important trees on the site. It is therefore considered that the proposal would have a detrimental impact on the character and appearance of this part of the Devizes Conservation Area.

9.3 Impact on protected trees

The revised scheme proposes an amendment to the footprint of the building so that it would now be outside of the root protection area of nearby trees and in particular the visually important yew. It is therefore considered that no harm would be caused to the roots of trees although in the event that the application is approved contrary to the officer's recommendation, conditions would be necessary

requiring details of service runs and the erection of protective fencing during the construction period.

9.4 Impact on buried archaeology

An archaeological evaluation has been carried out within the churchyard to inform the likely impact of the proposal on buried archaeological remains, in particular the likely number and date of burials. The evaluation established burials of nineteenth to early twentieth century date within the 'cemetery soil' but no other archaeological or building remains were revealed. Consequently, the Council's Archaeologist has raised no objection to the proposal subject to a condition requiring the submission and approval of a written programme of archaeological investigation. It is recommended that such a condition is imposed should members decide to grant planning permission for the proposed development.

9.5 Impact on ecology

It is not considered that the proposed development would cause any harm to protected species such as bats provided that the trees are protected during the construction phase and any exterior lighting is angled downwards and not allowed to shine directly onto the canopy of any trees, to ensure that foraging routes for bats and small mammals are not affected. This could be ensured by way of condition in the event that planning permission is granted.

9.6 Impact on neighbour amenity

The proposed extension would be located close to the boundary with the adjacent property, no. 48 New Park Street and at a higher level. However, the positioning of the buildings and the separation distances involved are such that there would be no harm caused to neighbour amenity eg. overlooking or overbearing impact.

9.7 Parking implications

The church occupies a town centre location with plenty of public parking in the vicinity. It is therefore not considered that the proposal would give rise to any parking implications over and above those associated with the existing use.

10. Conclusion

Officers are mindful of the need to promote the continuing use of this grade I listed building and strongly support proposals which will facilitate both more diverse uses and greater public access in order to secure the long term future of the building. However, the Council is also required by law to balance the impact of such proposals and the needs of the community against any harm which would result to the fabric, character and setting of the heritage assets and the Devizes Conservation Area. Notwithstanding the improvements to the design and materials, from a built conservation perspective it is not possible to conclude that the proposal constitutes either the optimum viable use of the building or that the public benefit which would result is sufficient to outweigh the harm to this Grade 1 listed building which would be caused.

RECOMMENDATION

That planning permission be **REFUSED** for the following reasons:

- 1 The extension, by reason of its scale and size, siting, form, design and materials/detailing, would cause substantial harm to the grade I listed building and its setting, to the character and appearance of this part of the Devizes Conservation Area. No evidence has been provided to adequately demonstrate that the proposal represents the optimum viable use for the building or that there is an overwhelming local need for the facilities such that the public benefit of providing them would outweigh the substantial harm that would be caused to the heritage assets. The proposal would therefore be contrary to Policy PD1 of the Kennet Local Plan, Policies CP57 and CP58 of the Wiltshire Core Strategy Pre-Submission Document 2012, the Introduction and Sections 7 & 12 of the National Planning Policy Framework (NPPF) 2012 and guidance contained in the Devizes Conservation Area Statement.