

## SOUTH NORTHAMPTONSHIRE COUNCIL – DELEGATED REPORT

### Application for Planning Permission

<b>Application No.</b>	S/2019/0326/FUL	<b>Case Officer:</b>	William Anstey
<b>Statutory Expiry Date:</b>	12 April 2019	<b>Consultation Expiry Date:</b>	Consults date: 14 March 2019
<b>Site:</b>	St Guthlacs Church Passenham Road Passenham MK19 6DH		
<b>Proposal:</b>	Erection of shed.		

### RECOMMENDATION

**Approve, subject to the conditions and reasons set out on the attached decision notice**

### APPLICATION SITE

The application site comprises the Church of St Guthlacs and its churchyard within the hamlet of Passenham. The church lies in the centre of the site along an east-west axis with graves principally to the north and south of the church. The churchyard is enclosed by stone walls and is reasonably level. There are a number of trees and shrubs within and around the churchyard. Residential properties exist to the north and south of the site with paddocks to the east beyond the Passenham Road and a river to the west beyond the garden of The Manor House.

### CONSTRAINTS

- The site lies within the curtilage of the Grade I listed Church of St Guthlacs
- Within the churchyard is a Grade II listed headstone and two Grade II listed chest tombs
- The walls to the northern and western boundaries of the churchyard are Grade II listed as part of the neighbouring Manor House
- The site lies within Passenham Conservation Area
- The site lies within an area of archaeological interest
- The site lies within 2km of two Local Wildlife Sites
- The site lies within 1km of Passenham Quarry

### PROPOSAL

The application seeks consent to erect a 7ft by 5ft timber shed to be painted Somerset green with a mineral felt roof. The applicant has advised that the shed is required for storage purposes, primarily chairs, due to changes proposed internally to the church. The shed will be sited to the south west of the church, adjacent to the western boundary wall.

### RELEVANT PLANNING HISTORY

- S/2016/0769/TCA - Reduce crown of one chestnut tree by 30%. Reduce west stem of one lime tree by 8 metres. Raise crown of second lime tree by 3 metres. Raise crown of one yew tree by 1.5-2.5 metres - No Objections
- S/2012/0137/TCA - Pollard 23 no. Willow Trees - No Objections

### PRE-APPLICATION ADVICE

Pre-application advice has not been sought in connection with the current proposal.

## KEY ISSUES

- Principle of development
- Impact on character and appearance of site and surrounding area
- Impact on heritage assets including archaeological assets
- Impact on residential amenity
- Impact on protected species

## RELEVANT PLANNING POLICIES

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

### The Development Plan

SOUTH NORTHAMPTONSHIRE LOCAL PLAN (SNLP): G3, EV1, EV2, EV9, EV10, EV12, EV13, EV24, RC3

WEST NORTHAMPTONSHIRE JOINT CORE STRATEGY (JCS): Policies SA, S1, BN2, BN5, R2

DRAFT SOUTH NORTHAMPTONSHIRE PART 2 LOCAL PLAN (Part 2 LP): The draft South Northamptonshire Part 2 Local Plan was submitted to the Planning Inspectorate for Examination on 22nd January 2019. An inspector has been appointed and the examination is due to be held during the two weeks commencing 10<sup>th</sup> and 17<sup>th</sup> June 2019. In accordance with Paragraph 48 of the National Planning Policy Framework (NPPF) the Council may now give weight to relevant policies in the draft Plan according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

As the Plan was submitted prior to 24th January 2019, in accordance with Paragraph 214 of the NPPF consistency should be tested against the previous Framework published in March 2012. The following draft Policies are considered relevant:

Policies SS1; SS2; SDP1; INF2; HE1; HE5; HE6; NE5

### Material Considerations

NATIONAL PLANNING POLICY FRAMEWORK (NPPF): Section 2 (Achieving sustainable development); Section 4 (Decision making); Section 8 (Promoting healthy and safe communities); Section 11 (Making effective use of land); Section 12 (Achieving well-designed places); Section 14 (Meeting the challenge of climate change, flooding and coastal change); Section 15 (Conserving and enhancing the natural environment); Section 16 (Conserving and enhancing the historic environment)

PLANNING PRACTICE GUIDANCE (PPG): Design; Use of Planning Conditions

SOUTH NORTHAMPTONSHIRE COUNCIL SPG: Light Pollution; Nature Conservation; Planning out Crime

VILLAGE DESIGN STATEMENT: Passenham Village Design Statement

SNC DESIGN GUIDE: Chapter 7 (Agricultural and Rural Development)

PASSENHAM CONSERVATION AREA APPRAISAL AND MANAGEMENT PLAN

COUNCIL CORPORATE PRIORITIES: South Northamptonshire Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is "Protected, Green & Clean", is a place which supports "Thriving Communities & Wellbeing", and is a District of "Opportunity & Growth". All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) delivery innovative and effective housing schemes; and (9) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals on a case by case basis.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

#### CONSULTATION RESPONSES

OLD STRATFORD PARISH COUNCIL: No response received

HISTORIC ENGLAND: Do not wish to offer any comments. Suggest seeking views of specialist conservation and archaeological advisers.

SNC CONSERVATION: St Guthlacs church is a Grade I listed building, proposals should seek to sustain and enhance its significance, which includes its setting; where harm is proposed that should be weighed against the public benefit. The building's significance lies primarily in its age, its architectural style in particular its unusual wagon roof, its construction using local materials, and memorial of Sir Roger Banastre. Its setting which is fairly limited to the churchyard and street scene makes a limited contribution towards overall significance.

It is proposed to erect a shed in the north corner of the churchyard. Any addition into the churchyard will alter the setting of the church however the shed is modest in size and to be painted to blend into the churchyard, given the limited impact setting has on overall significance the shed is not considered to harm significance.

I note however that no information has been supplied within the application as to what the shed will be sat on. If the ground is to be levelled and slabs laid on the levelled ground then that should be acceptable however if a concrete slab is to be

installed then it is likely some ground investigation will be necessary prior to this work commencing.

*NCC ARCHAEOLOGY: First response:* It is unclear from the submitted documents whether any groundworks are required for the shed. This information should be requested from the applicants. Given the site's location within a churchyard there is the potential for human remains to be present but unless any excavations are proposed this should not present a problem.

You should ensure that you have sufficient information on the proposals, as if any excavations are required they will need to be monitored and this would require your standard archaeological conditions.

*Second response:* Further to my previous comments on the above application, I have received clarification from Jennie Dott that there will be no excavation. Therefore I have no issues with the proposals, and no archaeological condition will be required.

### REPRESENTATIONS

None received.

### APPRAISAL

#### Principle of Development:

The proposal is to erect a small timber shed to provide ancillary storage for the church. This will assist with the operation of the church as a religious and community centre. The development plan is typically resistive of new development in restraint villages, such as Passenham, however is supportive of modest community facilities. As such Officers consider the principle of development to be acceptable.

#### Impact on character and appearance of site and surrounding area

The proposed shed is a modest structure set to the western edge of the site furthest from the highway. Views of the shed will be possible from the highway but will be partially filtered by vegetation, particularly in the summer months. When the shed is visible Officers consider that its modest form and the use of a dark green finish will ensure it blends into the background and should not therefore harm the character and appearance of the area.

When standing within the churchyard the shed will be partially screened from view by the large adjacent shrub, which is proposed for retention. Where it is visible it will appear as a small ancillary structure rather than a strident feature in the churchyard. By virtue of its functional appearance it would not be a positive addition to the site but neither will it, in Officers opinion, be harmful given its sensible siting in a corner of the churchyard and sensitive scale and finishes.

#### Impact on Listed Building/Con Area and/or its setting:

Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the duty of Local Planning Authorities (when considering whether to grant planning permission for development which affects a listed building or its setting) to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the duty of Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The Conservation Officer has not raised any objection to the proposal and having visited the site and considered the impact on the adjacent listed buildings and the Conservation Area, Officers have no reason to reach a different view. It is therefore considered that the proposal will not harm the setting of the surrounding listed buildings or harm the Conservation Area.

With regard to archaeological assets, the county Archaeologist had raised concern over whether installation of the shed would necessitate any excavation. The applicant has confirmed that the shed will either be set on concrete slabs or a shuttered concrete base laid on top of the soil (subject to vegetation clearance). On this basis the County Archaeologist has confirmed that she has no concerns and that no archaeological investigations will be required.

### Impact on Protected Species

The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion
- affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

Following on from the above, the Government's Planning Practice Guidance states that an ecological survey will be necessary in advance of a planning application, if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate. It also advises that ecological surveys should **only be required where clearly justified, for example if there is a reasonable likelihood of a protected species being present.**

The site consists of a well-managed churchyard with low level shrubs and trees set within a predominantly grassed space. The proposal does not require the felling of any trees or demolition of any buildings. Having considered Natural England's Standing Advice it is considered that the wider site has potential to provide habitats for protected species, however given the nature of the proposal it is not considered that it is likely to harm any protected species. An informative reminding the applicant of their duty to protected species will be added to the permission.

### CIL LIABILITY

The proposal does not create any new residential or retail floor space and therefore attracts a nil CIL charge.

### CONCLUSION

The proposal therefore accords with the relevant policies of the adopted Local Plan and the JCS and the material considerations listed above and gives due regard to the Council's Corporate Priorities.

### HUMAN RIGHTS ACT

The Human Rights Act 1998 ("HRA") sets out fundamental freedoms which have been laid out by the European Convention on Human Rights ("ECHR") In making any decisions, South Northamptonshire Council ("the Council") should have due regard to and take into account any implications that may arise under the HRA. As a public authority, it is unlawful for the Council to act in a manner which is incompatible with the ECHR.

The rights under the ECHR which the Council views as being the most likely to affect planning matters are: Article 6 (the right to a fair trial); Article 8 (right to respect for private and family life); Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (protection of property).

#### **Article 6**

Officers consider that the applicant has been given the right to a fair and public hearing under its established planning process, and, therefore, has not acted outside of Article 6. The Council recognises that there are others whose rights to a fair trial (such as third party objectors) might be affected.

Officers have considered these matters and have resolved that, whilst there are potential rights in play, these will not be affected by the application due to the application being publicised by way of neighbour letters, a site notice and a notice in the local press giving affected third parties the opportunity to comment on the application and their views taken into account when considering the application. In this case there have been no objections raised. Furthermore should a third party be concerned about the way the application was decided they could complain to the Local Government Ombudsman or if they question the lawfulness of a decision can appeal to the Courts for Judicial Review of the application.

#### **Article 8 and Article 1 of the First Protocol**

Officers have considered the duties under both Article 8 and Article 1 of the First Protocol and have resolved that the application does respect the private and family life of neighbours and does not fail to protect the neighbours' property.

### DUTY UNDER THE EQUALITIES ACT 2010

S149 of the Equality Act 2010 ("EA") sets out what is known as the Public Sector Equality Duty ("PSED"). Under the PSED, the Council, as a public authority, must have due regard to the need to, among other things, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who so not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender

reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.

Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application.

Case Officer Signature	William Anstey
Date	10 April 2019

Authorising Officer signature	Alex Keen
Date	10 April 2019