

Recommendation Report for Planning Permission

REF NO: LY/1/21/PL

LOCATION: St Mary Magdalene's Church
Church Lane
Lyminster
BN17 7QH

PROPOSAL: Proposed new Klargesters below ground cesspool for existing Church WC facilities. This application may affect the setting of a listed building, may affect the character & appearance of the Lyminster Conservation Area & is in CIL Zone 3 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal is for an 18,000L Klargesters below ground cesspool for the existing church WC facilities to the land adjacent to the church for St Mary Magdalene Church.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	Approx 1m high flint adjacent to site enclosing the church yard.
SITE CHARACTERISTICS	The site is a small triangular section of land (56m sq.m) located between the churchyard boundary wall and the farmyard/ access track. The area is laid to soil with patches of grass and stored loose material for use on the farm.
CHARACTER OF LOCALITY	The site is rural in nature and is located adjacent to the church and alongside the farmyard track of Church Farm north of modern agricultural barns.

RELEVANT SITE HISTORY

LY/13/05/	Extension to provide accessible wc, kitchenette & storage facilities.	ApproveConditionally 30-08-05
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REPRESENTATIONS

Lyminster Parish Council - Support

1 Support

How can a below ground cesspit possibly affect the look of Lyminster church?

Conservation Area Advisory Panel - No Objection

There will be no harm to the character or appearance of the conservation area.

The Heritage Statement gives sound reasons why there should be no connection to the main drainage system. However, given the likely archaeological sensitivity of the location it is assumed that the County Archaeologist will need to be consulted. Perhaps details of the route and depth of the trench are required to assess potential effects on the existing church boundary wall.

COMMENTS ON REPRESENTATIONS RECEIVED:

There is no reason that the church wall should be impacted. An archaeological watching brief condition has been imposed following consultation with the council's archaeologist.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No Comment

Conservation Officer - No Objection

Archaeologist - No Objection. Condition requested

Drainage Engineer - No Objection. Records indicate there is a public foul sewer outside of Pauls House on Church Lane.

COMMENTS ON CONSULTATION RESPONSES:

- comments noted. Requested conditions have been imposed.

POLICY CONTEXT

Designation applicable to site:

Grade 1 Listed Building

Outside Built Up Area Boundary

Conservation Area

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

CSP1	C SP1 Countryside
HERDM1	HER DM1 Listed Buildings
HERSP1	HER SP1 The Historic Environment
HERDM3	HER DM3 Conservation Areas
HERDM6	HER DM6 Sites of Archaeological Interest
ENVDM5	ENV DM5 Development and biodiversity

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Lyminster does not have a Neighbourhood Plan.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that there would be no adverse impact on the visual amenities or character of the area.

LISTED/CA

Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

"In considering whether to grant Listed Building Consent for any works, the Local Planning Authority shall 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."

Where the building is located in a Conservation Area, Section 71(1) of the Act states:

In the exercise, with respect to any buildings or other land in a Conservation Area of any powers (under the Planning Acts), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The proposal is considered to comply with these criteria in that it is not considered to materially affect the character or the setting of the Grade II Listed Building or the character of the Conservation Area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are/are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

BACKGROUND

The proposal seeks to replace the existing outdated composting WC installed in 2007 and in recent years parts have been consistently breaking and disintegrating and replacement parts are becoming much more difficult to obtain. Therefore in order for the church to provide reliable and sanitary facilities to its congregation they need to replace the composting WC for a standard WC that connects to either mains drainage or a Klargestar cesspool.

PRINCIPLE

The site is located in the countryside, but is sensitively located below ground level and cannot be located

elsewhere. The proposal would be compliant with policy CSP1 in that it is compliant with other policies in the Plan .

Policy D DM1 of the Arun Local Plan requires new developments to respond positively to the identified characteristics of a particular site to create developments which respect local characteristics.

This design approach has been directly influenced by the character and form of the surrounding historic buildings and has been sensitively designed to minimise the visual impact of the development.

IMPACT ON HERITAGE ASSETS

The works are justified on the basis that there are current problems with the composting WC which are set out in the agent's heritage statement. The impact of the composting WC on the Church use when it floods is a health hazard and impacts on the worship, outreach and community use of the church.

The Parish now have a growing congregation of families and young children that meets twice a month on Sunday morning. There is a vision to have a mid-week social event for parents and children but this can't be done because of the lack of a proper, flushing WC. The church do not have the use of a local hall or other facilities that they can use for alternative functions and therefore all events have to take place in church.

In addition there is a desire to use the church more for the local community, as there is not a village hall at Lyminster. They have a specially created social area at the back of the church but again, people are reluctant to come as there is no proper WC and the off-putting odour from the composting WC towards the back of the church.

The layout of the proposal has been determined by the close proximity of the church WC facilities and the availability of neighbouring farmland. The location sits close to the church boundary wall minimising the necessary trenching of a foul waste pipe through the archaeologically significant graveyard as well as being within close proximity to an access track for emptying and maintenance.

The site is within the Lyminster Conservation Area and given the type, scale and sensitive design of the proposal it is not considered to cause harm to the character and appearance of the conservation area. Therefore it is considered that the proposal accords with policies HER SP1 and HER DM3 of the Local Plan.

The relevant Local Plan policy for assessment of the impact on the setting of the Conservation Area is policy HER DM3 which states that in order to preserve and enhance the character and appearance of the Conservation Area planning permission will normally be granted for proposals within or affecting the setting of a conservation Area provided that (a) new buildings and structures acknowledge the character or their special layout, (e) it retains historically significant boundaries and (f) that proposals do not harm important views into, or out of or within the Conservation Area.

Policy HER SP1 requires Conservation Areas to be given the highest level of protection and to be conserved and enhanced in a manner appropriate to their significance and development that is likely to prejudice their setting should be refused.

The development is underground and the external appearance of the proposal will be returned to soil and grass seeded with a simple man-hole cover for emptying and maintenance. The grass seeded soil will help to conceal the man-hole as well as encourage local wildlife. The proposal is therefore acceptable in terms of its impact on the character of the Conservation Area which is preserved.

The relevant Local Plan policy for assessment of the impact on the setting of adjacent Listed Buildings is policy HER DM1 which states that proposals affecting statutory Listed Buildings will be required to (e)

protect and where possible enhance the setting of the building. Given its sensitive underground proposal it would not harm the setting of the listed church and is considered compliant with policies HER SP1 and HER DM1 of the Arun Local Plan.

In accordance with paragraph 189 of the NPPF, a detailed Heritage Statement has been prepared which assesses the impact the development has on the setting of the Listed Building. Para.190 of the NPPF states that Local Planning Authorities should take account of any necessary expertise, the Conservation officer has been consulted and he has no objection.

The proposal has taken account of the policy objectives set out in paragraph 192 of the NPPF by ensuring the significance of the heritage assets that may be affected by the application proposals are not affected. The conservation of the designated Heritage Assets has been given great weight In accordance with paragraph 193 of the NPPF. The proposals have sought to minimise and mitigate the impact of the proposals on the significance of the designated Heritage Assets and make a positive contribution to local character by maintaining the setting of the heritage assets as required by para192(c) of the NPPF which states Local Planning Authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness.

RESIDENTIAL AMENITY

There are not considered to be any adverse impacts on the amenities of local residents. The general improvement in providing a more sanitary WC facilities will improve the community amenity.

BIODIVERSITY

The existing Biodiversity will not be impacted by the development. The proposal seeks to reinstate the existing triangular site to soil but will be seeded to provide a rich meadow grass area improving the biodiversity opportunity. The proposed development will not impact the Berwick Swans habitat within the Arun Valley Impact Risk Zones. The proposal is therefore compliant with policy ENV DM5 of Arun Local Plan.

CONCLUSION

The proposal constitutes sustainable development by bringing about a significant improvement in the quality and use of the existing toilet facilities allowing more of the community and wider public to enjoy the church.

The application is recommended for approval subject to the following conditions

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

CIL DETAILS

This application is not CIL Liable.

RECOMMENDATION**APPROVE CONDITIONALLY**

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby approved shall be carried out in accordance with the following approved plans:
Location and Block Plan 514-PL100/02
Location of Cesspool 514-SK100/01 RevA
Single Neck Cesspool / Silage Tank DS0963P - 2.6 CP - SL

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan.
- 3 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.
- 4 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.