
Appeal Decisions

Hearing held on 2 and 3 July 2018

Site visit made on 2 July 2018

by Helen Heward BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decisions date: 12th November 2018

Appeal A - Reference: APP/G2245/W/17/3189413

Land west of St Mary's Church, Kemsing, Sevenoaks, KENT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by the Parochial Church Council of St Mary's Kemsing with Woodlands and Rochester and Diocesan Society and Board of Finance
 - The application Ref: SE/17/0062/FUL dated 30 December 2016 was refused by notice dated 12 May 2017.
 - The development proposed is replacement of church hall by construction of hall with access through churchyard.
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Appeal B - Reference : APP/G2245/W/18/3199321

Land west of St Mary's Church, Kemsing, Sevenoaks, KENT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by the Parochial Church Council of St Mary's Kemsing with Woodlands and Rochester and Diocesan Society and Board of Finance.
 - The application Ref: SE/17/03877/FUL dated 08 August 2017 was refused by notice dated 8 February 2018.
 - The development proposed is a new vicarage with access through churchyard.
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Decisions

1. Appeal A is dismissed and Appeal B is dismissed.

Preliminary and Procedural Matters

2. One appeal proposes a church hall and the other a vicarage. Both would be served via an access through the churchyard and a number of the issues are interrelated. To avoid duplication some issues have been dealt with jointly.
 3. Applications for costs were made by the Parochial Church Council of St Mary's Kemsing with Woodlands and Rochester and Diocesan Society and Board of Finance against Seven Oaks District Council. They are the subject of a separate Decision.
 4. With the agreement of all at the hearing, the main parties were allowed to make written submissions on conditions after the hearing and the appellant was also allowed to submit their closing submissions in writing. Subsequent to the hearing the Government published the Revised National Planning Policy Framework, 2018 (Framework) and the main parties were consulted on this.
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5. Finally I allowed a further round of submissions from the man parties in relation to matters raised in the Council's post hearing conditions submission. I have taken into consideration all submissions made on these matters and the hearing for both appeals was closed in writing on the 2 November 2018.
6. The drawings that the Council determined the church hall application on included 245/H/P/4/02B and 245/H/P/4/03B. Revisions 245/H/P/4/02C and 245/H/P/4/03C were submitted with the appeal. For the vicarage the Council states that drawings 245/V/P/4/02A and 245/V/P/4/03A were not received as formal amendments to the application and advised the hearing that the application was determined on the basis of 245/V/P/4/03 and 245/V/P/4/04.
7. The revisions related largely to matters of detail and sought to resolve objections. At the hearing I afforded adjournments and heard representations on the amended plans. The Council responded that they were materially different, had not been subject to public consultation, and not all of the Council's professional witnesses were aware of the revisions. The Parish Council, and more than one interested party, advised the hearing that they had not previously seen the amended plans and objected to their submission at appeal.
8. Details can have impacts and consequential effects. There was a great deal of public interest and some of the concerns related to matters to which the amendments relate. Although the hearing was well attended I could not be certain that all those who had an interest in these matters were present. Inconsistency between drawings added confusion. In the circumstances I could not be certain that my acceptance of the amended plans would not be unfair to one or more interested parties. Therefore, I have determined both appeals upon the drawings that the Council determined the applications upon.

Main Issues

9. The previous church hall burned down in 2014. Planning permission¹ has been granted for a replacement of the same scale, design and position as that now proposed in this appeal. The Council raise no objection to the location, size or design of the hall the subject of this appeal. Having regard to the existing consent, nor do I. The Council's reasons for refusal are concerned with effects of access and parking, which are materially different to the approved scheme.
10. The vicarage would be served by the same access, albeit that some details are different. The reasons for refusal in this respect are the same for both cases.
11. The sites are within the Kemsing Conservation Area (CA). St Mary's Church is a Grade II* listed building. The appellant does not dispute the Council's opinion that the walls are curtilage listed. The parties agree that works to the walls are exempt from requiring listed building consent by Article 5 of the Ecclesiastical Exemption (Listed Building and Conservation Areas) (England) Order 2010.
12. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard should be had to the desirability of preserving the setting of listed buildings. Considerable weight and importance must be given to any harm caused to designated heritage assets in the planning balance. This includes any harm to the setting of a listed building. Section

¹ LPA ref SE/16/01398/FUL

- 72 (1) requires special attention be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
13. Paragraph 194 of the Framework advises that any harm to, or loss of, the significance of a designated heritage asset (from the alteration or destruction, or from development within its setting) should require clear and convincing justification. When considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
14. In both cases the main issues are the effects of the proposals upon:-
- i) the character and appearance of the local area, bearing in mind the special attention that should be paid to the desirability of preserving the setting of St Mary's and the extent to which they would preserve or enhance the character or appearance of the CA,
 - ii) trees,
 - iii) pedestrian safety for users of a public right of way, and
 - iv) whether the benefits of the proposals outweigh any harms.

Significance

St Mary's Church

15. The settlement formed on a spring line under a slope of the Downs. Edith, born in a local convent in 961, was the daughter of King Edgar. Edith refused the throne and was renowned for her life of devotion and canonised in 987. The shrine of St Edith in the churchyard and St Edith's Well in the village attracted Pilgrims travelling the Pilgrim's Way on higher ground just north of the village.
16. The wooden Saxon church was replaced with a flint rubble building in the 11th century. A timber 'Wedding Porch' was added in the 14th century. A leaflet about St Mary's advises that it has much of the original timberwork, including the oak outer door and that indentations are said to be made by the sticks of Pilgrim's knocking to gain admission to the church². Sir J G Jackson extensively reordered the church in the late 19th century when the north aisle was added.
17. St Mary's is a Grade II* listed building containing highly valued fabric relating to various phases of building and having played a central part in the history and life of the parish for centuries. The parties agree that St Mary's is of high evidential, historic and communal value and of high significance.

Churchyard and walls to the south and southwest of St Mary's

18. On the 1869 Ordnance Survey Map St Mary's appears to be situated somewhat apart from other built form and the village centre, and within a much smaller "graveyard" than the churchyard today. Paths can be seen between the Wedding Porch and boundaries.
19. Today the churchyard extends further south and west, including land which might not have had any prior direct association with St Mary's. The southern

² leaflet "Welcome to the Church of St Mary the Virgin Kemsing: A Guide for Visitors, Pilgrims Together"

boundary is now defined by a 'crinkle-crankle' wall dating from 1922. A straight wall with a Flemish Bond and clay tile coping dating from 1935 defines a boundary on the west side. The walls were gifted by Sir Mark Edimann Collet. These tall, attractive structures are valuable fabric relating to the history of the churchyard and afford a strong physical enclosure to two boundaries.

20. The whole of the churchyard to the front of St Mary's, including the extended area within the walls, reads as one. It provides a contemplative and spiritual space within the immediate setting of the church. There are views toward the church, including the Wedding Porch, from within the extended areas. It is a well-established principle that the setting of a heritage asset is not fixed and may change as the asset and its surroundings evolve.
21. The CA covers the core of the historic village and extends north to the Pilgrim's Way including St Mary's and the churchyard areas. As well as affording a tranquil green space within the CA, the walls and churchyard space retain a sense of separation between the church and commercial and domestic development in the village centre. Together the walls and extended churchyard make a high positive contribution to the setting and significance of the Church of St Mary's and the character and appearance of the CA.

Land west of St Mary's

22. Lacking any significant enclosure and with no easily apparent use, this area has an open verdant and unstructured character. It may be remnant land, but it has value as a space and undeveloped gap between St Mary's and the village.
23. Map 4 of the Conservation Area Character Appraisal identifies footpaths in the vicinity of this area as important. Footpath (SR91) runs between the village centre near St Edith's Well, directly alongside this area, through St Mary's churchyard and on to the Pilgrim's Way to the northeast. Another path (SR35) descends from the Pilgrim's Way to the village just west of the area, and a third path (SR725) along the southwest boundary links the two. Walking these paths I found that the area affords a semi-rural feeling to the setting of Mary's, with glimpses of the church spire of St Mary's on the approach.
24. The approved replacement church hall building, situated close to the churchyard, would have a limited impact upon the qualities of this space. This area might have been part of an area used as agriculture or pasture and there is little to say that it was ever intended to be a formal part of St Mary's. It is not part of the immediate or primary setting of the church or other listed buildings. Maps of the CA draw the eye to roads and important groupings of buildings along the road routes through the centre of the village. Even so, the land west of St Mary's makes a moderately high positive contribution to the setting and significance of St Mary's and the character and appearance of the CA.

Reasons

Character and Appearance

Access road

25. To enable access through the churchyard from Mary Burrows Garden a gap would be created at the end of the crinkle crankle wall where the two walls meet. There is a door opening into a store, but the proposed opening would be

- much wider and the two walls would no longer meet. The graveyard would no longer be visually contained on two sides and the opening would have a high adverse effect upon the sense of enclosure afforded by the walls.
26. In Appeal A - turning and limited parking would be provided adjacent to the church hall. Most visitors would park in the adjacent village car park. But each event could have delivery and disabled parking requirements. In Appeal B - the access would be used for all vehicular trips to the vicarage including meetings and domestic trips and deliveries.
 27. A section of wall would prevent sight of approaching vehicles for pedestrians walking west-east toward the western lych-gate on footpath SR91 (SR91). To improve pedestrian safety it would be lowered. In Appeal A a low pier with an ornate coping stone would be constructed at the end. The low section would be in stark contrast to the original wall. In Appeal B the scheme proposes curved coping tiles to match existing, a shorter section of low wall, and low end brick pier with a brick on edge detail. This would appear overly ornate.
 28. Matters to do with the design of finishing details such as coping stones could potentially be resolved by conditions. Nonetheless, the appellant acknowledges that the proposals would cause moderate harm to the fabric of the walls, and I conclude that the extent of the loss of fabric of the walls, in both schemes, would adversely reduce and weaken the enclosing effect of the walls.
 29. The vehicular access would run through the southern churchyard alongside the entire length of the western wall. The sight and sound of a vehicle on the access through the churchyard would be an intrusive, alien experience, at odds with the characteristics of this space. Vehicles could be seen and experienced by people approaching or leaving the Church, visiting the churchyard, or when passing through along the path. In a number of situations vehicles and people could interact closely.
 30. The number of vehicular trips through the churchyard might not be great but could be at any time. The access would be a single carriageway width. There could be conflicting vehicular movements and blockages. Visits and deliveries could not always be managed. They would be particularly intrusive at certain times, such as when persons were approaching, leaving or gathering outside of the Church, or in the churchyard, for a service or ceremony.
 31. Views of vehicles would be transitory and could be oblique or limited by vegetation. Nonetheless, vehicles moving within the churchyard to the front of St Mary's would be significantly at odds with, and harmful to, the tranquil qualities of the churchyard and its contribution to the setting and appreciation of St Mary's.
 32. Other cases are drawn to my attention. In particular I note that an opening in a wall and driveway through a churchyard was allowed at Pinchbeck³ and an access along one edge of the churchyard of a Grade I listed church at Odiham⁴. At Keswick⁵ a car park was found to have negligible impact on the setting of a Grade II listed Church. However, I have no way of knowing if these other cases are identical in all regards to the proposal before me. This limits the weight I attach to them.

³ LPA ref H14/1654/07

⁴ LPA ref HDC/16003

⁵ APP/Q9495/A/13/2206966

33. Historic England deemed the effects insignificant. There was once a raised bed construction of similar width along the route of the proposed road. A no dig construction with 'terram grassprotecta' would be low impact, has been accepted in other cases, and would be screened by a palisade fence. A slight change in levels could be dealt with by careful specification.
34. For both Appeal A and Appeal B I conclude that works to the churchyard walls would have a high adverse impact on the character and appearance of the churchyard, churchyard walls and locality. They would fail to preserve the fabric of curtilage listed walls, the setting and significance of St Mary's, a Grade II* listed building, and fail to conserve the character and appearance of the Kemsing CA.
35. The use of the proposed vehicular access through the churchyard would have a high adverse impact on the character and appearance of the churchyard and locality. Would fail to preserve the churchyard setting and significance of St Mary's, and fail to conserve the character and appearance of the CA.
36. The proposals would be contrary to the aims of Policy CS SP1 of the Sevenoaks District Core Strategy Development Plan Document, 2011 (CS) and Policy EN4 of the Sevenoaks District Council Allocations and Development Management Plan, 2015 (DMP), which seek to protect the District's heritage assets and their settings.

The vicarage

37. It is argued that the two proposals before me are interrelated and that the new vicarage is enabling development for the church hall. Accordingly both main parties addressed the impacts of the vicarage, and an attached associated office/parking building, assuming that the church hall would be constructed, and so have I.
38. At the hearing the Council's historic heritage witness advised that the Council has no objection to the scale and design of the proposed vicarage in itself and neither do I. I was also informed that the Council would not have objected to the vicarage sited as proposed, had the church hall not been permitted. Rather, they argued, the area west of St Mary's could only accommodate a single building; both schemes would create an overall amount of development that would impinge on the open space and detract from its semi-rural qualities.
39. Sat roughly between the church hall site to the east and The Keep to the southwest the vicarage would occupy the remaining open green space along SR91 between the village centre and St Mary's. The vicarage and office/parking building would be situated centrally within the site. Even with low hedgerows, chestnut and wire fencing and areas of meadow, the character and appearance would be of a large dwelling in private grounds.
40. The vicarage and church hall would both be seen in close views from SR91. An end elevation would be seen in close views from footpath SR725. In the views the area would appear fully occupied by active uses. Vehicles in the access, parking, and turning area would add an urbanising characteristic. A paddock and meadow would only partially mitigate. The design of the vicarage would be domestic and different from the individual design of the church hall. The office/parking building would sit between the two, turning its back on the hall.

41. There are dwellings in large gardens elsewhere within the CA. The Council does not object in principle to any change or development within the CA, or setting of St Mary's, and nor would I. It would be very hard to see the vicarage, hall and church in any one view. It would not be visible from the centre of the CA and would not affect the visual appearance of the CA as a whole. Historic England raised no objection. Intervening trees and vegetation, topographical changes and the church hall would combine to prevent views from the church.
42. Even so, the unstructured open space, semi-rural character and perception of a break or gap would all be lost by the amount of development across the area as a whole. This would be to the detriment of the experience of walking between the village centre and St Mary's.
43. The site is part of an open space identified under DMP Policy GI2 as GI 715. There are other open spaces close by including a very large playing field. Not all open spaces need be retained, this particular space may not be one of the highest valued types of open space under DMP Policy GI2 and development may have been allowed on other sites identified under this policy. However, paragraph 6.19 of the DMP advises that it relates to public and private spaces, and they do not have to function as recreational or active open space.
44. I am informed that the scheme has been modelled on the Penshurst campus. I do not know that site but note that case is different because there the Inspector found no loss of openness or harm to the setting of the church. In another case at Oxford⁶ the Inspector found no harm to the street scene and that, on balance, the appearance of that part of Cowley would benefit from the well-designed proposal. However, I am not persuaded that the proposals before me would look like a unified ecclesiastical grouping, or otherwise enhance or better reveal the significance of the Grade II* listed building.
45. I conclude that the harm to the wider setting of St Marys and the character and appearance of the CA would be high, and would be contrary to aims of Policies CS SP1, LO7, and DMP EN4 which include ensuring that development is of an appropriate scale and nature, responding to distinctive local characteristics and protect the District's heritage assets and their settings.
46. It would also be contrary to aims of DMP Policy GI2 which seeks to prevent the loss of open space unless a number of requirements are met and there are no significant adverse impacts on the character of the local environment.

Trees

47. The access would require a yew (T1) and cherry tree (T4) to be removed. T4 is very attractive in flower. Removal would be a loss but could be mitigated by a replacement tree elsewhere in the churchyard and should not take too many years to mature.
48. T1 is one of a group of three with closely joined canopies. Their canopies are partially glimpsed in views within the locality. Together with other trees they add to the well wooded character. Removal of T1 would have an impact upon the appearance of the remaining two trees and create a small gap. But the effect upon the character and appearance of the locality would be neutral.

⁶ T/APP/G3310/A/85/030451 & 038182/P3

49. For Appeal A the access and parking would wrap closely around the trunks of the two retained yews affecting a large amount of their root protection areas (RPA's). The combination of the removal of one tree from the group together with works within the RPA's could adversely affect the long term health and appearance of the remaining yew trees. The intrusion into the RPA's, and consequential potential harm, would be much less in Appeal B.
50. The Arboricultural Method Statement refers to BS5837:2012 (BS) paragraph 7.4.1 and specifies a no dig permeable construction. Advice in the BS⁷ also includes that the default position should be that structures are located outside of RPAs. Technical solutions might be available where there is an overriding justification for construction within the RPA.
51. From studying the drawings for Appeal B, and from my site visit observations, I am minded that if I were minded to allow one or both appeals, the effects to the RPA's of the retained trees could be mitigated for both schemes by attaching conditions requiring submission of further details. Replacement tree planting elsewhere could mitigate any loss to biodiversity. In which case the effect upon trees would be minimised and the effect upon biodiversity, tree coverage and the character and appearance of the locality would be neutral. There would be no conflict with requirements of policies SP1 and SP11 of the CS to take account of the distinctive local character of the area and ensure no net loss of biodiversity and this issue is not determinative in either appeal.

Effects of the proposed access upon pedestrian safety

52. The proposed access road would cross footpath SR91 which I observed to be well used and serves as a useful route for a number of purposes, including between a primary school and a large open space and play area. The possibility of small children using SR91 cannot be ruled out.
53. Most users would park in the village car park. The reduction in height of the wall for both proposals would provide drivers with a visibility splay to see pedestrians approaching from the west. Land west of the wall is not within the control of the appellant.
54. The environment of the churchyard would be likely to slow traffic. Signage could be installed to alert drivers to pedestrians. A combination of speed restraint measures and barriers could be used to prevent/slow vehicles proceeding across SR91. The access is partly intended for people with disabilities and the nature of any barriers and their operation would need careful consideration. Additional elements could potentially harm the character and appearance of the churchyard, the CA and the setting of St Mary's.
55. People could become familiar with the crossing and hazards in much the same way that they are familiar with parking and turning across SR91 where it emerges from the eastern side of the churchyard onto Church Lane. Several other places exist where vehicular accesses cross footpaths, including Church Lane. At the hearing the Rights Of Way Officer informed me of what she knew of these situations, but her knowledge of the background to those cases was limited, and I have assessed the proposals before me on their own merits.
56. I am not satisfied that the schemes that were determined by the Council demonstrate that satisfactory measures could be implemented to adequately

⁷ BS 5837:2012 Trees in relation to design, demolition and construction,

mitigate potential conflict with users of footpath SR91 and vehicular traffic. As such, the proposals are contrary to DMP Policy T1. However, from what I heard at the hearing and saw on my site visit, a solution could be found to these issues through further detailed design work, and if I was minded to allow these appeals could be dealt with by conditions. The post hearing submissions of both main parties strengthen my conclusion that this issue is not determinative in either appeal.

Benefits

57. The appellant cites many cases where the benefits have been found to outweigh harms and the parties agree that there may be economic and social benefits that could attract significant weight here.

Need for the church hall

58. Paragraphs 83 and 92 of the Framework seek to support a prosperous rural economy and to provide for the social, recreational and cultural facilities and services the community needs, including meeting places and places of worship to enhance the sustainability of communities and residential environments; guard against the unnecessary loss of valued facilities and services and ensure that established facilities and services are able to develop and modernise, and are retained for the benefit of the community. CS Policy LO7 supports such uses subject to the scale and character being appropriate to the area. The faith sector can support the community in many ways as well as spiritual and St Mary's is very active in supporting the community and many groups.
59. Evidence of use of the previous church hall indicates it was in use most mornings, afternoons and evenings. Over 200 people who were not attached to the Church made use of it. At the hearing I heard from users including Girl Guides. A Church Youth Worker told me delays in providing the hall was adversely impacting on users, including work with children. Other buildings and temporary solutions had not proved suitable and various groups are suffering. The Church Warden told me that the Church and church hall are a focal point for the community at large. Many other activities and services would benefit from the new hall. The value of voluntary work to the local community is presently estimated at 5½ full time jobs and £138,000pa, and the economic value of the meeting place for community uses is estimated to add another £50,000pa.
60. There would be social, economic, community and spiritual benefits and the church hall would support the work of the Church; thus indirectly helping to sustain and enhance the optimal use and significance of the Grade II* listed building. These benefits attract a high level of weight in favour of the church hall.

Vehicular access problems for the church hall

61. If vehicular access had to be gained via the village car park the hall would cost significantly more due to a restrictive covenant. The evidence indicates it would be approximately £230,000. There is less evidence regarding an additional sum in the region of £50,000 due to another party. That aside, the additional cost of the right of access through the car park would add substantially to the costs for the village hall and is a significant viability issue, and I attach significant weight to this too.

62. Parking spaces along the rear boundary of the village car park are close to the church hall site. At the hearing I was advised that there is no ransom issue regarding use of the pedestrian access from the village car park to reach the church hall site. It is expected that most able persons would park in this car park and reach the church hall through this access.
63. There was no vehicular access to the previous church hall. I was informed at the hearing that emergency vehicles attended the church hall fire from the village car park. There is little evidence to demonstrate that the relevant authorities have been approached to assess the merits and risks of allowing a new church hall on the same site without on-site parking and access for emergency services. Such approval might not normally be given, but given the proximity to the large village car park such a possibility cannot be ruled out.
64. At the times of my visits there were not many cars in the car park. It is quite large. There is sparse evidence to demonstrate the amount and frequency of use. I attach limited weight to arguments that parking in the village car park would be unavailable and access blocked.
65. The existence of an alternative permission is not a reason to refuse another and in any event I accept that there is a significant constraint to the implementation of the existing permission. Nonetheless, I am not satisfied that there is sufficient evidence to say that all other options with potentially less harmful impacts upon heritage assets have been fully explored.

Access for people with protected characteristics

66. The applications propose disabled parking for the church hall only. The approved scheme included one disabled space, one unallocated parking space and a turning area within the church hall site. The scheme before me proposes two disabled parking spaces and three unallocated spaces plus turning. But there is no doorway to the building on this side. Therefore, once parked the disabled drivers or occupants would have to return to the public path, SR91, to get around the building to the entrance into the building on the other side.
67. An existing disabled parking space in the northeast corner of the village car park appeared to me to be more or less as close and to offer an equally as convenient option as the proposed disabled parking spaces. That space might not always be available, but given its location I very much doubt that it would be used other than in connection with trips to the church hall or church. A third party writes to advise that they had no problems accessing the previous church hall with a wheel chair user by using this space.
68. I do not know all of the details of an accessibility issue at Pinchbeck, but from the evidence before me and my site visit observations, I am not persuaded that the proposed scheme before me is essential, or represents an improvement, for persons with protected characteristics under the Equalities Act 2010, and the Public Sector Equality Duty (PSED), Section 149(7), including age and disability.

Financial contribution from the new vicarage towards the church hall

69. The costs for the church hall range from £880,000-£990,000. At the hearing the architect advised that a recent re-costing exercise indicated that at 2018 prices it would be £843,000 plus roughly £50,000 for the costs of a churchyard access and works to the walls; giving a total project value of approximately

- £900,000. To fund it around £480,000-£520,000 has been raised. £50,000 is anticipated from grants and other funds and £50,000 from the sale of the Old Vicarage. £95,000 could be raised by the community and the balance of roughly £200,000-£220,000 could be met from the sale of land for the vicarage. There are various figures for some of these elements in the different submissions but from all the evidence, I do not doubt that the cost of the right of access through the car park would make the project financially unachievable.
70. A schedule of repairs for the Old Vicarage amounts to £161,000 at 2017 prices. There is no structural survey. The property is occupied in its present condition. It is difficult to assess the necessity of all of the repairs. At the hearing I was advised that the sale would yield a net receipt of roughly £850,000-£950,000 which was required to be primarily used to finance the new vicarage. But there is a lack of independent market evidence to verify the assumed valuations for the sale of the Old Vicarage, with and without the repairs.
71. For the new vicarage I was advised at the hearing that the build cost would be circa £550,000 (+≤£50,000 for the drive) for a Passivhaus specification. The appellant advised that similar single dwelling plots with planning permission in Kemsing sell for £600,000 but I have no way of knowing if this would reflect the specific location, plot size and site characteristics of the proposal before me. In any event, I was told that a plot value of £200,000-£240,000 had been agreed to reflect an assumed planning condition to restrict the vicarage to occupation as a Vicarage in perpetuity. But here again I find insufficient independent market evidence to verify these valuations.
72. Finally 50% of any residual profit from the sale of the Old Vicarage and construction of the new would be available; estimated at approximately £50,000-£100,000, but at the hearing I was informed that some of this would be earmarked for repairs to the roof of St Mary's.
73. The appellant argues that the projects are interrelated but there is no detailed financial appraisal for all aspects and some of the figures given were provisional. I find the evidence for the justification that the construction of the new parsonage is essential to release vital funding for the renewal of church/community facilities in the form of the church hall is not clear and convincing and the weight I attach to it is limited.

Need for a new vicarage

74. Paragraph 73 of the Framework includes that planning decisions should be responsive to local circumstances and support housing developments that reflect local needs. In this case the Benefice is two rural parishes. Kemsing is the main settlement. The Old Vicarage on the High Street belongs to the Rochester Diocese. This large five-bedroom Grade II listed building has accommodation on three floors, cellars, and a large private rear garden. I do not doubt that a basic stipend of £26,201pa would make it difficult to meet the costs of living there or that it is excessive for the needs of the Reverend.
75. I am informed that without an appropriate Parsonage the Reverend would not be made a Vicar and may leave. Other clergy might be hard to attract. A search for other suitable parsonage houses has been on-going for some years. Other properties in the Benefice have been considered. Some were too costly, others were in the wrong location, did not have the right sort of accommodation, or would not lend themselves to remodelling in accordance

- with standards for the construction of new parsonages in the Church Commissioners' 'Parsonages a Design Guide' (Green Guide). In other appeals Inspectors have attached weight to the Green Guide, the proposed vicarage would meet these standards, and the appellant would accept a condition restricting occupancy.
76. However, the Reverend has been living in a relatively modern detached house (Sunnybank Cottage) which the Archbishop licenced for the Reverend to live in, albeit that it has not been designated as a Parsonage House. On my visit I found Sunnybank Cottage to be quite centrally located within the village for serving the community, and a pleasant, close walking distance from St Mary's. I observed that the reception/living room and separate kitchen/diner are both independent rooms and large enough to accommodate social gatherings. The office is at the front of the house, close to the front door. I noted that it contained bookshelves and two workstations and was a reasonable size.
77. It would be difficult to meet with several people in that room and it was apparent that the access, hallway and toilets are not arranged in a segregated manner. This would be both inconvenient and a concern for the privacy and safety of the household and visitors and the accommodation is below the Green Guide standards. But the Green Guide is a guide for the construction of new parsonages and the introduction acknowledges that not every older house is unsuitable, and that an older house may be of modest size and capable of being improved or adapted.
78. Sunnybank Cottage is in the CA, there are adjacent properties, and there would be a need for parking for both domestic and non-domestic uses. It might not be possible to adapt/extend it to comply with the full Green Guide advisory standards for new parsonages. Even so, there is too little evidence to say that there is no scope for extending this property and that it is not capable of being improved or adapted. This differentiates it from Brede⁸ where the Inspector doubted that the existing property could meet the long-term needs of a Vicar.
79. I did not find it hard to find Sunnybank Cottage and many of the people attending the hearing had been to it, or knew of its location. Even if a person searching for the Reverend at the Church did not have access to the internet or phone, I doubt that they would have much difficulty finding it. This differentiates it from cases such as Ringwood⁹, where the Inspector found the Edwardian vicarage to be over a mile from the church and badly located and Disley¹⁰ where the Inspector found the existing house used by the appellant to be some way from the church and not easy to find.
80. In Penshurst¹¹ the Inspector recognised the desirability for the Church's ministry to be progressed by a minister living close to the church, and that for it not to be so would detract very significantly from the character of the conservation area. At the hearing I learned that in Kemsing the Reverend has served the Parish for roughly 10 years, during which time he has not only served the Church's ministry but has built up the congregation considerably and increased the number of services, and whilst residing at Sunnybank Cottage for several years. I am not persuaded that the character of the CA in

⁸ APP/U1430/A/10/2123345

⁹ T/APP/5235/A/80/06470 & 10064

¹⁰ T/APP/C0630/A/90/146663/P7 & 170975/P7

¹¹ APP/G2245/A/01/1073644

Kemsing has been adversely affected by the lack of a vicarage occupied by a vicar close to the Church in recent years. Nor is there much evidence to say that historically there was always a vicarage in close proximity to St Mary's.

81. Other appeal decisions have emphasised the special considerations given to Parsonage houses and that the efficient and effective functioning of the Church is in the public interest. In particular at Romsey¹² the Inspector found that proposals for a vicarage would inflict some harm and would not preserve or enhance the character of the conservation area but held that it was particularly desirable that a church, which exists as a witness of faith and to promote social responsibility, be enabled to operate efficiently and effectively. However, those cases are different because the Inspector was persuaded that the Church of England's capacity to operate efficiently and effectively at Romsey was dependent upon the erection of a new vicarage within the plot of the existing one and that no other solution was practicable or goes far enough to meet the existing requirements.
82. In Ringwood the Inspector held that the Church is an institution which is unique in nature and importance of the service it offers the community, its needs should weigh heavily in the case, and concluded that the public interest would be best served by permitting the erection of the parsonage house proposed. However, that case is noticeably different in that the Inspector found that the effects on the conservation area would not be objectionable enough to justify a refusal of permission and the case turned on a matter of neighbourliness.
83. Several other cases are put to me but I do not know if they are comparable to the appeal before me in all respects. Therefore I have assessed this issue on its own merits. The weight I attach to the need for the new vicarage in this case is limited.

Security

84. The previous church hall burnt down. There is a need to protect against arson, vandalism and anti-social behaviour at both the new hall and the church. The vicarage would enable closer supervision of buildings than at present. But there would be little intervisibility between the vicarage and church. At the hearing I was advised that it was necessary to limit overlooking of the church hall for other reasons including safeguarding and for privacy. Consequently the vicarage has been designed to largely turn its back on the church hall. There is little evidence of neglect decay or other threats to the heritage asset and little to say what other measures have been investigated. I attach limited weight to the new vicarage enabling a Vicar to oversee the buildings.

Maintaining the use of heritage assets

85. Paragraph 192 of the Framework includes advice that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

¹² APP/C1760/A/85/32740/P2 and 3 other linked decisions

86. In other cases, such as at Woodford Green¹³ Inspectors have found that the benefits can include helping maintain buildings in their intended use. At the hearing the appellant encouraged me to consider the proposals together, as forming one ecclesiastical campus with the Church. It was argued that the proposals would amount to a form of enabling development. I have already found that the church hall would help sustain the communal work of the Church in Kemsing, and help sustain St Mary's Church in its intended use and reinforce and enhance the communal and spiritual significance.
87. This would no doubt increase the likelihood of the upkeep of the heritage asset. However, aside from a reference to an unspecified sum of money being released from the sale of the Old Vicarage for unspecified works to the Church roof, there is little to describe how the proposals would directly contribute towards the viability or conservation of the heritage asset – that is the Church of St Mary's. And I find little evidence that the proposals would guarantee the maintenance of services at St Mary's or ensure that Parishes would not need to merge, beyond the foreseeable future. These factors limit the weight I attach to the argument that the proposals would secure the future conservation of the heritage asset.
88. At the hearing my attention was drawn to *Enabling Development and the Conservation of Significant Places*, by Historic England. The Policy set out, although not mandatory, advises that enabling development that would secure the future of a significant place, but contravene other policy objectives, should be unacceptable unless eight specified criteria are met. These include that it is demonstrated that the amount of development is the minimum necessary to secure the future of the place, and that its form minimises harm to other public interests. From my earlier findings I am not satisfied that these tests are met.

Other matters

89. The Reverend and Church Warden informed the hearing that the need now was for a much larger hall than that approved. That would require a new proposal and I have confined my considerations to what is before me.
90. There is nothing in the Framework to say that paragraph 11, the presumption in favour of sustainable development, does not apply to single dwellings where footnote 7 is relevant. However paragraph 73 recognises that the five-year supply can be measured against local housing need where strategic policies are more than five years old. The Council's latest monitoring report shows a 10.5 year supply of housing land. This supersedes appeal decisions relating to sites at Swanley and Edenbridge¹⁴ but the Council accept that this does not reflect the latest objectively assessed need. The new draft Local Plan was only at the public consultation stage and it is not the place of a s78 appeal to undertake the work of the local plan examination. In any event, whether or not there was a five-year supply, one dwelling would make very little difference.
91. At the hearing the Council's witnesses agreed that the sites are within the settlement confines for the village of Kemsing. CS Policy L08: The Countryside and Rural Economy L08 is within a section headed "The Countryside" and the first paragraph begins "Outside settlements". The site is within the Kent Downs

¹³ APP/W5780/E/09/2108932 & 2108228

¹⁴ APP/G2245/A/13/2197478 & 79 AND APP/G2245/A/13/2195874 & 75, APP/G2245/W/15/3135258 and APP/G2245/W/15/3130787

and High Weald Area of Outstanding Natural Beauty but I found insufficient evidence about the character of the landscape to judge the proposals in this regard. However, given my main conclusions these policies are not determinative in this case.

92. The proposals I am considering are not in the Green Belt. I attach little weight to the Sevenoaks District Local Plan 1998 provision for parsonages within villages too small to be excluded from the Green Belt and to appeal decisions for new vicarages in the Green Belt, such as at Betchworth¹⁵.
93. Other matters raised in letters against the proposal include concern about the fire retardant qualities of materials for the church hall and concerns about the effects of the road upon the occupiers of dwellings at Mary Burrows Garden.
94. The site is identified as a local wildlife site. The Council has considered the appellant's ecological appraisal report and the subsequent additional information. They are now satisfied and advised the hearing that the proposal would be acceptable, subject to a number of planning conditions, and I agree.

Overall balance and conclusions

95. Planning permission exists for a new church hall like that proposed in Appeal A but the vehicular access for the approved scheme is a significant impediment.
96. In both Appeal A and Appeal B works to the churchyard walls to create a new access would have a high adverse impact on the character and appearance of the churchyard, churchyard walls and locality. They would fail to preserve the fabric of curtilage listed walls, the setting and significance of St Mary's, a Grade II* listed building, and fail to conserve the character and appearance of the Kemsing CA. The use of the proposed vehicular access would have a high adverse impact on the character and appearance of the churchyard and locality. It would fail to preserve the setting and significance of St Mary's, a Grade II* listed building, and fail to conserve the character and appearance of the Kemsing CA. In Appeal B the vicarage would result in a high adverse effect on the character and appearance of the CA and the wider setting and significance of St Mary's. In both appeals the harms that would be caused would be less than substantial.
97. In Appeal A the church hall would support and serve the Church and many local organisations and services in the locality and contribute to maintaining the vitality of the community and the stated aim of CS Policy L07 to resist the loss of services and facilities in rural settlements. It would increase the likelihood of the upkeep of the heritage asset and help sustain the long term use of St Mary's in its intended use and contribute to sustaining and enhancing the significance of this Grade II* listed building. These public benefits attract a high level of weight in favour of the church hall.
98. The proposed access would provide a solution to a financial problem of vehicular access from the village car park. The potential of this obstacle to jeopardise provision of the hall is significant. However, there is insufficient evidence to say that all other options with potentially less harmful impacts to the heritage asset have been fully explored. I am not satisfied that a clear and convincing justification for the need for the new access has been put forward.

¹⁵ T/APP/C3620/A/93/225097/P5

99. With regard to duties to eliminate discrimination and promote equality of opportunity, I was not persuaded that those with a protected characteristic would be adversely affected by a decision not to allow the church hall appeal.
100. In Appeal B the vicarage would deliver one additional dwelling, enable closer supervision of the Church and church hall and together with the church hall would increase the likelihood of the upkeep of the heritage asset and sustaining the communal work of the Church in Kemsing. But financial evidence that the vicarage is essential to help finance the church hall is not clear and convincing and there is little evidence to say that it would secure the future of a resident minister for Kemsing or guarantee the maintenance of services at St Mary's beyond the foreseeable future. The benefits of the new vicarage attract a limited amount of weight in favour.
101. For Appeal A I conclude that, on balance, the high level of benefits do not outweigh the significant harms to the heritage asset arising from the proposed access road construction and use, and works to walls. In carrying out this balance I attach considerable importance and weight to the duties set out in section 66(1) & 72(1) of the Act.
102. For Appeal B I conclude that the limited benefits do not outweigh the significant harms to the heritage asset arising from the access road, works to walls and new vicarage. In carrying out this balance I attach considerable importance and weight to the duties set out in section 66(1) & 72(1) of the Act. Even if the supply of deliverable housing land was a great deal less than five years, the degree of harm that the proposed vicarage would cause, when assessed against the policies in the Framework as a whole, would significantly and demonstrably outweigh the modest contribution that one dwelling would make towards the provision of new housing and the other limited benefits of that scheme.
103. I found that matters to do with trees and potential conflict with users of footpath SR91 could be secured by way of condition. These matters are not determinative in either appeal.
104. For the reasons given, and having regard to all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

Helen Heward

PLANNING INSPECTOR

PARTICIPANTS AT THE HEARING

FOR THE APPELLANT

Dr Robert Wickham, Consultant to the Diocese of Rochester, chartered town planner and surveyor, MRTPI, FRICS

Reverend James Oakley, St Mary's Church Kemsing

Dr Philip Walker Lay Minister and Treasurer Kemsing Church

Geoff Marsh, Diocesan Secretary Diocese of Rochester

Chris Griffiths, LLB (hons) MA, IHBC, CGMS, Heritage Advisor

Clive Mayhew, Chartered Arboriculturist, BA (Hons) FArborA MICFor CEnv

Reverend Rachel Wilson Diocesan Disability Advisor (attended in part)

Roger Molyneux, RIBA, Chartered Architect

INTERESTED PERSONS

Deborah Goodhead, Youth and Children's Worker for St Mary's

Margaret Cuttill, member of congregation and Girl Guides lead

Trevor Mallinson St Mary's Church Warden

Fraser Clift, Kemsing Resident

Alan Waters, member of congregation

Douglas Bennett, resident and member of congregation

Tony Andrews, Kemsing Parish Council

FOR THE COUNCIL

Nicky Biddall, Kent County Council Public Rights of Way

Les Jones Arboriculturist and Landscape Sevenoaks District Council

Rebecca Lamb, Conservation Officer Sevenoaks District Council

Jim Speryn Principal Planning Officer Sevenoaks District Council

Emily Metcalf, Planning Officer Development Management

Councillor Simon Reay Sevenoaks District Councillor

Documents received at the hearing

- 1 A4 photocopy extract of Definitive Map showing public footpaths in the area
- 2 Statement from the Council regarding the need for listed building consent for works to the church walls.
- 3 (on the site visit) leaflet "Welcome to the Church of St Mary the Virgin Kemsing: A Guide for Visitors, Pilgrims Together"
- 4 Pamphlet: "Guide to St Mary the Virgin, Kemsing" published by the Parochial Church Council of St Mary's Church Kemsing, Kent
- 5 Copy of a local news letter 'Help Build a new church hall for Kemsing!'
- 6 Letter from Hillier Ecology Ltd dated 2 July 2018
- 7 Copy of Enabling Development and the Conservation of Significant Places, Historic England
- 8 Ordnance survey extracts showing the areas of Kemsing and Woodlands Parishes
- 9 Copies of the Council's Notification letters for the appeal and the venue.