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Item No: 7.1

Application: 232564

Applicant: Alison Fogg

Agent: Katarina Santic

Proposal: Reposition of 23no gravestones, minor realignment of boundary wall and new lighting (Amended Description)

Location: Holy Trinity Church, Trinity Square, Trinity Street, Colchester

Ward: Castle

Officer: Chris Harden

Recommendation: **Grant Listed Building Consent**

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Mark Goacher who raises the following concerns:
“Significant concerns raised by residents about the applications to open up the graveyard to the public and move headstones. Concerns that this alters the settings of a heritage building and could lead to increased anti-social behaviour around one of Colchester's oldest buildings: littering and urination in particular. The opening up of the church door and its location could lead to it becoming a stopping off point for users of the night time economy to relieve themselves. The moving of gravestones amounts to a change in the setting of the building and raises ethical concerns about the encouraging of the public to eat, drink and throw litter onto people's graves. Concerns that this shows a casual disrespect and that this lowers to cultural tone of the area. Also significant concerns about the loss of wild flora and fauna to a planned and manicured garden.”

2.0 Synopsis

- 2.1 This is the Listed Building application associated with the tandem Planning Application 232565. The key issues for consideration on this Listed Building application are thus the impact upon the character and fabric of any Listed structures affected by the works which would include the boundary fencing/walling, lighting on the Church and the impact upon the gravestones. Other wider planning issues are considered under the planning application.
- 2.2 The application is subsequently recommended for Approval. It is considered that the proposal has achieved an appropriate balance between protecting the character and fabric of the Church and protecting features within the churchyard and on the boundary whilst enhancing the public realm and increasing public accessibility to the site. The Holy Trinity Church and the churchyard/square are part of the Town Deal projects funded by central government by way of the Levelling Up Fund. The Council is working in partnership with a local charity to restore and adapt Holy Trinity Church for their use as a community hub.
- 2.3 The churchyard works are intended to enhance the public realm including in association with the use of the church. Conditions will be applied to ensure the works are sympathetic to the Heritage Assets. The proposal is therefore considered to comply with policies within with the National Planning Policy Framework and Section 16 (2) LB & Con Areas Act as it preserves the character of Listed features and that any less than substantial harm is outweighed by the public benefits of the scheme.

3.0 Site Description and Context

- 3.1 The site lies within the Conservation Area and comprises the former Holy Trinity Church and its graveyard. The former church is a Grade 1 Listed Building. Holy Trinity was made redundant in 1956 and was briefly a museum and later, an arts centre and café.

4.0 Description of the Proposal

4.1 The proposal is for the minor realignment of boundary wall and railings and reposition of 23no gravestones. There will be additional footpaths, hard surfacing, additional gates and removal of some railings and new lighting. The footpaths and hard surfacing would not be deemed as part of the Listed Building application as such.

4.2 In terms of the detail of the scheme relating to works to listed structures (principally curtilage not independently listed), the following is proposed:

- The existing railings are repainted and the stone coping and brick walls repaired.
- Minimise any relocation of gravestones
- At the front of the church, the railing line is proposed to be pulled back
- A new entrance from the churchyard is proposed on the north and a further new entrance at the south facing the library.
- An indicative lighting scheme has been put forward.

4.3 A set of proposals for the refurbishment and re-use of Holy Trinity is being developed in collaboration with a charity organisation who will use the Church as their community hub, having recently secured additional funding by the National Heritage Lottery.

4.4 In support of the application the agent has made the following comments:

“The aim of the project is to make the churchyard a public garden in the heart of the city, as a place for people to relax, meet friends, eat lunch, and enjoy a moment of calm. The design approach is light-touch, changing as little as possible while making the churchyard accessible and usable for all.

Both Holy Trinity Church and the churchyard/square are part of the Town Deal projects funded by central government. The Council is working in partnership with a local charity to restore and adapt Holy Trinity Church for their use as a community hub. The public realm design is intended to create a coherent scheme that works for both general public, and the users and management of the church itself.”

4.5 Submitted with the application are the following documents relevant to the Listed Building application::

- Heritage, Design and Access statement.
- Indicative lighting scheme.

4.4 There is an associated planning application 232565.

5.0 Land Use Allocation

5.1 Graveyard.

6.0 Relevant Planning History

6.1 211240

Listed Building Application to paint a permanent art mural on the external side of the church graveyard wall.

Refuse - 09/07/2021

190039

Installation of drinking water fountain. Drinking water fountain to be installed on adjacent wall of Holy Trinity Church & utilise existing water & drainage services in Church. Drinking water fountain is of stainless steel construction, 900mm high x 3

Withdrawn - 06/02/2019

190038

Installation of drinking water fountain. Drinking water fountain to be installed on adjacent wall of Holy Trinity Church & utilise existing water & drainage services in Church. Drinking water fountain is of stainless steel construction, 900mm high x 3

Withdrawn - 06/02/2019

161259

Advertisement Consent

GO4 Market / Cafe, Holy Trinity Church

Interpretation panel mounted on churchyard railings containing general historical information and logos. Tactile and braille elements are also included. Situated near Grade I Listed former church building.

Approve Conditional - 05/08/2016

131135

Proposed Advertising banners, menu boards at designated points on exterior railings surrounding the property.

110030

Change of use from former museum to a cafe with occasional music events and church services, addition of gate and railings to prevent access into tower. Refurbishment of kitchen and WC f

Approve Conditional - 23/03/2011

110031

Youth Culture Limited

Listed building application for change of use from former museum to A cafe with occasional music events and church services. General refurbishment and decoration to main church hall, addition of gate and railings to prevent access into tower. Refurb

Conditional - 23/03/2011

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. As this is a Listed Building application, the Local Plan policies will not be applicable as Listed Building works are not relevant but are relevant to the Planning Application.

8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

8.2 **Essex Police** have made the following points (precised):

Suggested condition:

30.1.24

“Prior to the occupation, hereby permitted discussions shall be entered into with Essex Police relating to detailed design and layout (specifically access and egress, boundary delineation, lighting provision and CCTV capability), management practices and operational policing considerations. Details of design to align to Secure by Design and crime prevention through environmental design concepts. Details of which shall be submitted to and approved in writing by the Local Planning Authority in consultation with Essex Police. Thereafter the development shall be implemented in accordance with the approved details.”

Indicative lighting plan.

“The Essex Police Designing Out Crime team thank you for submitting the indicative lighting design for planning application 232565 - Holy Trinity Church and surrounding grounds.

We acknowledge that the proposals provide the scope and ambition of the lighting provision, however, before we can fully assess the uniformity and effectiveness of the lighting, we would require sight of the Lighting Impact Assessment and LUX levels demonstrating compliance to BS5489-1:2020

Please be aware, generically from a Designing out Crime perspective we would not advocate bollard lighting and therefore once the LUX levels have been determined, we would welcome a discussion to ensure the balance between ecology and security is garnered.

We look forward to working with you.”

Other comments received from the Police regarding security and anti-social behaviour are covered in detail in the Planning Application Committee report.

8.3 Historic England states (Précised):

Historic England Advice :Significance of Holy Trinity Church

Holy Trinity is particularly interesting for its fine pre-Conquest west tower, probably built mid 11th century; largely in Roman brick, in three stage with a pyramidal tiled roof. The west doorway has a triangular head and the windows are round-headed.

The tower was built on to an earlier Church of circa 1000, of which only the west wall remains. The rest of the building is largely 14th and 15th century and was much restored in 1886.

The former Church is listed at grade I in recognition of its outstanding architectural and historic interest.

The proposals and their impact on Holy Trinity Church

Approval is sought for minor realignment of the boundary wall and railings and repositioning of 23 gravestones.

Historic England were closely involved with the development of the proposals from the outset at Pre-application stage.

The scheme in its formally submitted form comprises repainting the existing railings and repairing the stone coping and brick walls; re-siting of the line of the railings at the front of the church further back to create a more welcoming and open entrance to the Church as well as additional seating in the public realm; liaising with Beth Chatto Gardens to enhance the planting and installing gravel paths, together with provision of bench seating, which will enable the greenery and planting of the churchyard to dominate.

Policy considerations for these proposals

The National Planning Policy Framework identifies that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations (paragraph 189).

Holy Trinity Church is one of only 2.5% of listed buildings nationwide that are listed at grade I and is therefore of considerable importance.

Paragraph 197 of the NPPF states that when determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets.

Paragraph 199 also 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 (and the more important the asset, the greater the weight should be), irrespective of the level of harm.

Finally, Paragraph 200 states that any harm to, or loss of significance of a designated heritage asset should require clear and convincing justification.

Paragraph 202 of the NPPF notes that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the scheme.

Setting is then defined in the Framework as 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset and may affect the ability to appreciate that significance or may be neutral.'

Historic England's position

Having considered the documentation submitted with the application, including the 'Heritage, Design and Access Statement' produced by Hat Projects, we are supportive of the proposals in their revised form.

Initially four options were put forward and our feedback was that a minimal intervention approach, which would maintain the green and peaceful 'oasis' atmosphere in the busy City Centre, would be the most contextually appropriate in this sensitive location.

We are satisfied that the Breedon gravel 1.5m wide path that would connect the entrances/emergency exits from the church; together with 1.2m wide secondary paths around the churchyard would not form overly dominant, visually intrusive features within the immediate setting of the Church. The paths at the widths proposed would be a proportionate response to providing accessibility for all.

We are also of the view that the repointing, cleaning and repair of the boundary wall copings and repair and repainting of the railings would greatly enhance the setting of the grade I listed Church and the churchyard itself.

Recommendation

Historic England supports the application on heritage grounds and considers that the proposals meet the requirements of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

You should also bear in mind section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan

should also be borne in mind, unless material considerations indicate otherwise.

8.4 Conservation Officer states:

The former Holy Trinity Church is listed at Grade I (NHLE List Entry Number 1169575). Grade I listed buildings are of exceptional interest and only 2.5% of listed buildings are Grade I. The site was first listed on 25 February 1950 and its list entry describes it as follows: *“Particularly interesting for its fine pre-Conquest west tower, probably built mid C11, largely in Roman brick, 3 stages, pyramidal tiled roof; the west doorway has a triangular head and the windows are round-headed. This tower was built on to an earlier Church of circa 1000, of which only the west wall remains. The rest of the building is largely C14 and C15, much restored in 1886. There is an interesting monument - a mural alabaster monument to William Gilbert 1544-1603 famous for his researches into electricity.”*

1.2 A detailed description of the building is included in the “Inventory of the Historical Monuments in Essex, Volume 3, North East” of the Royal Commission on Historical Monuments of England, published in 1922. According to the account of the site’s development, the Vestry was added to the east side of the Church when Holy Trinity was restored and extended with the North Aisle and North Chapel in the second half of the Nineteenth Century.

1.3 Holy Trinity was made redundant in 1956 and was briefly a museum and later, an arts centre and café. At present, it is vacant and not accessible to the public. Despite its vacant status, the historic site makes a very positive contribution to the Conservation Area. It is a green space between the busy commercial zones of Lion Walk Shopping Centre and Culver Street that contributes positively to the area by virtue of the aesthetic qualities of the historic church and the tranquil character of the churchyard.

2.0_Scope Of Works: Summary

2.1 The present application relates to the churchyard and proposes the repair of the existing railings and brick walls, the partial removal and partial realignment of railings on the Holy Trinity Street frontage, two new gates ,relocation of 23 gravestones, footpaths, hardstanding and planting with seating and lighting.

3.0_Relevant Statutory Duties

3.1 Local Plan Policy ENV1 and DM16 reflect the statutory obligations as set out in Section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving a listed building or its setting and the desirability of preserving or enhancing the character or appearance of Conservation Areas. In a similar vein, the National Planning Policy Framework (2021) gives great weight to the conservation of designated heritage assets, noting that the more important the asset, the greater the weight should be. This is irrespective of the level of harm (Par.199) . Any harm to the significance of designated heritage assets from their alteration (or from development within their setting) should also require clear and convincing justification (Par.200) . Where this harm is identified as

less than substantial, the Framework instructs that this harm should be weighed against the public benefits of the proposal (Par.202). This planning balance is also prescribed in Policy DM16.

4.0 Analysis of Impact Upon Heritage

4.1 The proposal was developed as part of the Town Deal which secured government funding for a range of initiatives to support economic growth, connectivity and quality of life in Colchester City. A set of proposals for the refurbishment and re-use of Holy Trinity is being developed in collaboration with a charity organisation who will use the Church as their community hub, having recently secured additional funding by the National Heritage Lottery.

4.2 The submitted set of proposals for the churchyard was finalised over consultation with the Council, the public and other stakeholders. Initially, four options that ranged from minimum interventions to the churchyard and its enclosure to fully removing the wall and railings to create a public square were put forward. The selected version balances those aspirations by preserving most of the existing wall and railings, combine new paths, seating areas and refreshed planting for the churchyard and modify the Holy Trinity Street enclosure to create a small "piazza" before the south porch/ entrance to the Church.

4.3 The proposals include the repair and refurbishment of the retained boundary wall and railings which would secure an improvement to the setting of the Church and the appearance of the Conservation Area. The two new gates would provide welcome connections, to Pelham Lane to the west and the Library to the East. The landscaping, including the addition of accessible footpaths and seating areas, aims to make the churchyard an accessible and usable public space while preserving its character of a green enclosure within the busy urban environment.

4.4 The scheme has given rise to concerns regarding its potential to facilitate antisocial behaviour and vandalism. At present, the robust railings and lack of public access have minimised these risks but have also restricted the public engagement with the heritage asset. Public access to historic sites entails risks to their safety but these can be minimised with the proper risk and threat assessment to inform site-specific measures for the protection of the site. This process has started with consultation with Essex Police but the engagement should continue, to produce a finalised set of appropriate measures.

4.5 In conclusion, the application is part of wider initiative for Colchester City Centre that uses heritage as a vehicle for economic and social growth. Being prepared in tandem with the scheme for the adaptive reuse of the church, the projects seek to secure improvements to the setting of the Grade I listed Church, restore access to the historic churchyard, facilitate its enjoyment and promote the public engagement with the historic Church. The anticipated benefits for the historic site would also reflect positively on the Conservation Area and enhance its vitality and viability. Appropriate planning conditions should be used to minimise the risk of potential adverse effects (such as the security risks) and ensure that the scheme is delivered to the highest standards, as appropriate for the Grade I listed site. Subject to the use of such conditions, there are no objections to the application on heritage grounds.

Recommended conditions:

Z00- Railings & Walls Repairs

Prior to the commencement of the repairs to the railings, coping stones and brick walls hereby approved, a Method Statement and Specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

ZMD – Re-pointing

No works to re-point the external brickwork shall be undertaken until:

a) Details of the extent of re-pointing have been submitted to and approved in writing by the Local Planning Authority; and

b) A sample panel not less than 1 metre square to show the proposed mortar composition and colour, and the method of pointing, has been prepared on site, inspected and approved in writing by the Local Planning Authority.

The sample panel shall be photographed (or otherwise identified for comparison as work proceeds) prior to works commencing and the works shall thereafter be carried out to match the approved sample.

Z00- Gravestones repair/cleaning

No works to clean and repair any monuments (headstones, ledger slabs and tomb chests) shall be undertaken until a Method Statement and Specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

Area.

ZME – Sample Panel

Prior to any new bricks being laid, a sample panel of all new facing brickwork shall be constructed on site showing the proposed brick types, colours and textures, face bond and pointing, mortar mix and finish profile and shall be made available for inspection by the Local

Planning Authority and the materials and methods demonstrated in the sample panel shall have been approved, in writing, by the Local Planning Authority.

The approved sample panel shall then be retained on site until the work is completed and all brickwork shall be constructed in all respects in accordance with the approved details.

Z00- Details of new railings and gates

Prior to the installation of new railings and gates hereby approved, their details shall be submitted to and approved, in writing, by the Local Planning Authority.

The submitted details shall show the railings and gates, together with the associated new wall sections and steps, in elevation and horizontal/vertical sections at scales between 1:20 and 1:1, as appropriate

The works shall thereafter be carried out in accordance with the approved details.

- Z00- Specifications and samples of all new materials
- Z00- Details of new furniture and equipment
- Z00- Details of landscape scheme, including drainage strategy
- Z00- Details of lighting scheme
- Z00- Details of security measures
- Z00- Management/ maintenance plan

8.5 Urban Design officer states (précised):

General Comments

The primary considerations for this application relate to Heritage matters, which are more appropriately addressed by the relevant specialist. In more general place making terms, the increased use and access to this 'landmark' space within the City Centre is welcomed. However, it would be preferable to see the use of the churchyard more closely related, and contributing to the long term viability of the heritage asset it contains. As a stand alone space and place the success of this scheme will be reliant on achieving the right degree of accessibility and permeability, that accommodate a level of use that allows the space to feel inviting and safe.

Additional comments made about opening of access points and to have regard to anti-social behaviours potential, bench positioning and sizes and lighting detail.

8.6 Archaeologist states:

Having examined the submitted plans and documents, I can confirm that the proposed development will not result in material harm to the significance of below-ground archaeological remains. Therefore, there will be no requirement for any archaeological investigation in this case.

I note that the applicant has been in liaison with Historic England during the preparation of this scheme, and that HE are supportive of the proposals. I also note that the applicant has submitted a survey of the existing gravestones, and I have added a copy of this report to the Colchester Historic Environment Record.

8.7 Other comments have been received from the Highway Authority, and the Contaminated Land Officer and these are detailed in the Planning Committee report as they would not be applicable to Listed Building considerations.

8.8 Colchester Civic Society:

The Colchester Civic Society wish to object to the proposed changes to the Holy Trinity Church graveyard.

These are described as a minor realignment of the boundary wall and railings as well as the repositioning of twenty three of the gravestones but our members do regard these changes as quite considerable alterations to the quiet dignity of this oasis. We remain unconvinced of the need for these overall, quite dramatic

changes to this private space. This place of natural peace amidst the busy public thoroughfares of the City centre.

Extra gateways will be created, the original gates will be opened providing a total of six pathways will be laid where once were gravestones and benches and rubbish bins introduced into this hallowed ground. Not least a power point will provided for the benefit of adjacent market stalls.

The tranquillity of this private space will be destroyed and lost for the benefit of those we fear most to encourage into this most important place. This is the heart of our visitor attraction in the City centre and we wish it to remain that which we have always most valued.

This is a space that calls for gently sensitive maintenance so that it remains a calm and natural place .Indeed it is this one of the virtues that attracts the new tenant ,Community 360 as safe place for their clients with socialising issues.

As soon as it is opened up for public use, those virtues will be lost for the pleasure of drinking of all kinds ,food consumption and busy with children . Come night time we are particularly concerned by potential for unwanted activity around the Saxon Tower. The Police recognise the probability of this area becoming misused and suggest the lighting and surveillance cameras as a necessity . Bollards are to be introduced to the new open area to prevent vehicular entry and parking.

And we ask why ? Why are we to lose the ancient street line ? Why are we to permit the movement and indeed removal of the ancient gravestones of our Colchester forebears ? Graves will be marked by a stranger's stone and we ask why ?

This is an ancient graveyard ,hallowed ground for those who lived nearby and worshiped at the church and yet we wish to transform it into an extension of Lion Walk's social use. We are now concerned for the residents of the Square and nearby who will learn to appreciate the current graveyard for what it is rather than the probable magnet for unsavoury behaviour .

We seem blind to the problems that closed the other City Centre graveyards of St Mary-at -the Walls ,St Martins ,St Peter's and the ongoing social issues at St Botolph's Priory. We do not wish to see this space become abused in future. Perhaps we could suggest that any removed railings are stored against any future need.

8.9 Environmental Protection state:

Should permission be granted Environmental Protection wish to make the following comments:-

The lighting should as low level as practicable to minimise light spill offsite, glare and skyglow. We therefore recommend the following condition:

ZGR - *Light Pollution for Minor Development*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the current ILP Guidance Note For The Reduction of Obtrusive Light for zone E3 SUBURBAN (medium district brightness – well inhabited rural areas, small town centres, suburban locations).

9.0 Parish Council Response

9.1 Non Parished

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

9 letters of objection have been received which make the following points:

- Support 100% Cllr Goacher's concerns.
- Proposals might be laudable but naivety of HAT and council planners involved is astonishing. Instead of being "peaceful oasis-like public garden for people to relax, eat lunch and meet friends", it will be monopolised by takeaway customers who will show little respect for graveyard.
- Will be free outdoor seating and tables for burger and sandwich bars and street drinkers.
- Kids will be jumping across graves. Relocation of grave headstones are disrespectful to Colcestrians of previous generations and will change the appearance of the churchyard in the Conservation Area.
- Urinal by doorway.
- Inviting Anti Social Behaviour, vandalism and litter. Who will deal with it?
- Plan ignores the reasons why the railings were put there in the first place: to protect the place against anti – social behaviour.
- Already enough of a choice for people to sit and eat.
- Don't let Holy Trinity church be disrespected.
- Will invite disrespectful behaviour in the surrounds of an ancient church.
- Already a calm and tranquil place.
- Will disturb and drive out the wildlife that nest and live in this space.
- Railings and walls, including Ha Ha walls, have been used around graveyards to keep animals out to respect the dead for almost ever. It is the enclosure that defines the character of most church yards and importantly the realm beyond the churchyard.
- Low wall and the railings have defined the Holy Trinity Churchyard for many years and also the character of the Streets that surround them.
- Streets are the settings to many historic buildings including listed ones. Must consider harm proposal may have on the Conservation area as a whole.
- Historic strongly defined line of the street generated by the walls and railings of the church yard should be maintained and not be allowed to be broken.
- Railings were removed as part of war effort and when returned delineate where human remains are and strengthen the definition of the public space around the churchyard, thus defining character of Conservation Area.

- Will increase cost of maintenance as one knows public access means increased rubbish and wear and tear.
- Removal of churchyard railings is in breach of the Council's Statutory Duty to protect the character of the Conservation Area.
- Contrary to the "Colchester City Council (City Centre) Public Space Protection Order 2023".
- Contrary to the Council's policies of promoting and protecting biodiversity and wildlife habitats.
- Scheme has potential for some public benefit but may not comply with enhancing Conservation Area.
- Combination of the risk of antisocial behaviour, the realigning of the ancient, perimeter and removal and repositioning of over 20 gravestones amounts to a degree of harm - potentially substantial - that is not outweighed by the purported potential public benefit.
- Removal not realignment of railings.

11.0 Parking Provision

11.1 None

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development does not raise any issues of discrimination; the site is accessible by a number of modes of transport (cycle, wheelchair, foot). See Highways/Access section of report.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

14.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

15.0 Planning Obligations

15.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

16.0 Report

Principle:

16.1 In terms of the principle, the key issues for this Listed Building application relate to the impact upon the character and fabric of the Listed elements of the site, including the Church, walls and railings and the gravestones. All other planning issues are covered in the associated planning application committee ref:232565. The statutory duty for the decision maker in deciding whether to grant listed building consent is set out in s.16(2) of the Planning (Listed Buildings & Conservation Areas) Act 1990 which states:

“In considering whether to grant listed building consent for any works the local planning authority or SoS 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.”

Impact upon character and fabric of Listed Building, churchyard features and boundary features.

- 16.3 Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.
- 16.5 Paragraph 206 of the NPPF (2021) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraphs 207, 208 and 209 deal with substantial harm and less than substantial harm respectively. Where less than substantial harm is caused to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 16.6 In this case the proposal is considered acceptable having regard to its impact upon the character and fabric of the Listed Church and upon the fabric of the churchyard. The scheme has been progressed following negotiation with the Council’s Conservation Officer and with Historic England, neither of which have objections to the proposal subject to the application of detailed conditions.
- 16.7 As confirmed by the Council’s Conservation Officer, the submitted proposal for the churchyard was finalised over consultation with the Council, the public and other stakeholders. There were initially four options put forward and the selected scheme is considered to represent an appropriate balance between preserving and enhancing the public realm and accessibility and use of an open space in the heart of the City Centre whilst preserving the character and of the Listed Church and churchyard features. The proposal would preserve the vast majority of the existing wall and railings.
- 16.8 The scheme would have the benefit of including the repair and refurbishment of the retained boundary wall and railings and this would secure an improvement to the setting of the Church and the appearance of the Conservation Area. It is considered the new gates would provide beneficial connections to Pelham Lane to the west and the Library to the East.
- 16.9 Historic England has also confirmed it is in support of the proposal, confirming that the minimal intervention approach as put forward is the most appropriate. Historic England also agrees that the repointing, cleaning and repair of the boundary wall copings and repair and repainting of the railings would greatly enhance the setting of the grade I listed Church and the churchyard itself. No objections have been raised by the Conservation Officer or Historic England to the repositioning of gravestones which need to be moved to allow the access paths. It is not considered the repositioning significantly affects the

historic value of the gravestones or affects the setting of the Church or historic character to a significant degree and that any less than substantial harm is outweighed by the public benefits of the scheme.

- 16.10 It would appear that some of the gravestones may well not be in their original locations; for example those that are close to a drain adjacent to the East wall of the Church. The majority are to be moved a short distance only. The comments made by objectors about the possible disrespecting of the occupiers of the graves has been given careful consideration but this would not be a planning reason or Listed Building issue to object to the scheme, particularly as the repositioning would not be far from their existing locations and that some gravestones may not be in their original locations. On balance their repositioning is considered acceptable in this respect given the public benefits of the scheme.
- 16.11 With regard to the lighting scheme put forward, this is purely illustrative and a condition will be applied to control precise details. It is considered a scheme similar to that put forward is likely to be acceptable although Historic England's comments are awaited on lighting and any received will be reported to the Committee. Any lighting scheme will need to ensure the character of the Church is preserved.
- 16.12 In conclusion, it is considered that the Listed Building works respect the character and fabric of the Listed elements on the site and are supported by the Council's Conservation Officer and Historic England (subject to lighting details) and it is considered that any less than substantial harm is outweighed by the significant public benefits of enhancing the public realm, including improved public access.
- 16.13 It is considered that, subject to appropriate conditions, the anticipated benefits for the historic site would reflect positively on the Conservation Area and enhance its vitality and viability, adding public benefits. The planning conditions can ensure that the scheme is delivered to the highest standards, as appropriate for the Grade I listed site. Subject to the use of such conditions, there are thus no objections to the application on heritage grounds.
- 16.14 Overall it is therefore considered that the proposal would not be contrary to the requirements of the NPPF in particular paras 204, 206-209. The proposal would also be in conformity with the statutory duty set out in s.16(2) of the Planning (Listed Buildings & Conservation Areas) Act 1990.

17.0 Planning Balance and Conclusion

- 17.1 In conclusion, it is considered that the listed building proposals have achieved an appropriate balance between protecting the character and fabric of the listed building elements of the site and that any less than substantial harm is outweighed by the significant public benefits of the proposal. These benefits include enhancing the public realm and increasing public accessibility to the site. Conditions will be applied to ensure the works are sympathetic to the Listed Heritage Assets. The Listed Building application is therefore considered to comply with section 16(2) of the Planning (Listed Buildings Conservation Areas) Act 1990 and with the National Planning Policy Framework.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is to:

Grant Listed Building Consent subject to the following conditions:

1. ZAA - Time Limit for LBCs

The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAM – Accord with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing :169.TS_HAT.PL_P01, P02, P03, AIA with plans, Rec'd 13.11.24, Indicative Lighting Plan P05 Rec'd 9.1.24, P10 Rec'd 15.1.24.

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

3. ZAA – Lighting Design

Prior to first occupation of the site for the development hereby and notwithstanding the submitted details permitted precise details shall be submitted to and agreed in writing by the Local Planning Authority of the following:

(i) all lighting provision (including LUX levels) and any CCTV provided on listed structures.

The development shall be implemented in accordance with the approved details.

Reason: In order to preserve the character and fabric of listed structures.

4. Z00- Railings & Walls Repairs

Prior to the commencement of the repairs to the railings, coping stones and brick walls hereby approved, a Method Statement and Specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

Reason: In order to preserve the character and fabric of listed structures.

5. ZMD – Re-pointing

No works to re-point the external brickwork shall be undertaken until:

a) Details of the extent of re-pointing have been submitted to and approved in writing by the Local Planning Authority; and

b) A sample panel not less than 1 metre square to show the proposed mortar composition and colour, and the method of pointing, has been prepared on site, inspected and approved in writing by the Local Planning Authority.

The sample panel shall be photographed (or otherwise identified for comparison as work proceeds) prior to works commencing and the works shall thereafter be carried out to match the approved sample.

Reason: In order to preserve the character and fabric of listed structures.

6. Z00- Gravestones repair/cleaning

No works to clean and repair any monuments (headstones, ledger slabs and tomb chests) shall be undertaken until a Method Statement and Specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

Reason: In order to preserve the character and fabric of listed structures.

7. ZME – Sample Panel

Prior to any new bricks being laid, a sample panel of all new facing brickwork shall be constructed on site showing the proposed brick types, colours and textures, face bond and pointing, mortar mix and finish profile and shall be made available for inspection by the Local Planning Authority and the materials and methods demonstrated in the sample panel shall have been approved, in writing, by the Local Planning Authority. The approved sample panel shall then be retained on site until the work is completed and all brickwork shall be constructed in all respects in accordance with the approved details.

Reason: In order to preserve the character and fabric of listed structures.

8. Z00- Details of new railings and gates

Prior to the installation of new railings and gates hereby approved, their details shall be submitted to and approved, in writing, by the Local Planning Authority. The submitted details shall show the railings and gates, together with the associated new wall sections and steps, in elevation and horizontal/vertical sections at scales between 1:20 and 1:1, as appropriate

The works shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the listed structures.

9. Z00- Development Details:

Prior to first occupation of the development hereby permitted and notwithstanding the submitted details precise details of the following shall be submitted to and agreed in writing by the Local Planning Authority:

- (i) Specifications and samples of all new materials

Reason: In order to preserve the character and fabric of listed structures.

19.1 Informatives

19.1 The following informatives are also recommended

Informative 13: PLEASE NOTE that a Listed Building Consent will be required for any of the following minor works associated to the development hereby approved where they affect the existing fabric of the building in their installation, including fixing alarm systems or video security and lighting equipment.

ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence**

the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

ZTB - Informative on Any Application With a Site Notice

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester City Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.