

Town and Country Planning Act 1990

S78 Planning Appeal

Grounds and Statement

To: The Planning Inspectorate

LPA: West Oxfordshire District Council

Proposal: Proposed Change of Use of Class F1 Church
to Class C3 Dwelling and Associated Works

Appellant: West Oxfordshire Methodist Circuit

Agent: Sean V Silk MRTPI, Planning Consultant

Blake Morgan Planning Department

Date: February 2023

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1 INTRODUCTION AND BACKGROUND

- 1.1 The West Oxfordshire Methodist Circuit ("the Appellant") has instructed Sean V Silk MRTPI of the Blake Morgan Planning Department ("the Agent") to consider the planning issues associated with the proposed conversion of its Use Class F1 Grade II Listed church located at Wroslyn Road, Freeland, Oxfordshire, OX29 8AQ ("the Building") to form a single Use Class C3 dwelling and associated works ("the Proposal"). This follows the decision by the West Oxfordshire District Council ("the Council") to refuse to grant Planning Permission ("PP") and Listed Building Consent ("LBC") for the Proposal.
- 1.2 Following detailed review of the case and the Refusal Reasons ("RRs") cited by the Council the Appellant instructed the Agent to prepare and submit an appeal to the Planning Inspectorate ("PINS") against these decisions, under s78 of the Town and Country Planning Act 1990 (as Amended) ("the 1990 Act").
- 1.3 It is to this appeal which this Appeal Statement relates. It sets out the case background under Section 2, followed by Section 3 that details relevant planning policy considerations of relevance. Section 4 then discusses the area of concern/dispute, with Section 5 providing a planning balance, summary and conclusions. Section 6 then provides a Document List.
- 1.4 To assist the Appeal there are various documents provided. These are as set out in the Document List provided and should be read alongside this Appeal Statement, in particular the Applicant's Planning Statement, Design and Access Statement ("DAS") and Heritage Statement. These are contained within Document MC05.

2 CASE BACKGROUND AND HISTORY

- 2.1 The Building which is the subject of the Proposal is a Grade II Listed Building. The Building used to be a Methodist Church but closed in and has been vacant since 2017 due to insufficient attendance by the congregation.
- 2.2 Detailed background of the Building and its Listing is provided in the Heritage Statement. However, what is a useful starting point for this Appeal Statement is, following closure, repeated attempts by the Freeland Parish Council ("the Parish Council") to have the former Church identified and listed as an Asset of Community Value (ACV") under the Localism Act 2011. This is discussed below, followed then by the planning history.

ACV History

- 2.3 Following closure of the Church, the Parish Council applied to have the building listed as an ACV (Council Reference ACVR9). In response to this submission, the Appellant responded on 20th October 2017, reproduced below.

"In case comments made previously are not held for a re-nomination, I set out below those comments: (1) The property has been under the ownership of the Methodist Church since it was built in 1805, being used for Methodist worship throughout that time. Church membership has diminished substantially over the last twenty to thirty years, and there has been a distinct lack of support from the local community, with the result that the (almost entirely) elderly membership has had no option but to ask the Witney and Faringdon Circuit to obtain permission to cease worship and close the building; (2) Bearing in mind that the building is Grade II Listed, there will be continuing repair and upkeep costs which the small membership would have found it impossible to maintain; (3) It is certainly the intention of the Managing Trustees to have the property put on the market for sale before an empty building is subjected to the ravages of the winter season.

Whilst we understand the implications of the Localism Act 2011, it is wondered how some of the suggestions for its use can possibly further the social wellbeing or interests of the local community during the next five years, bearing in mind the costs that would need to be incurred by that community. It really seems that it is in the interests of all that this listed building is disposed of as quickly as possible."

- 2.4 The Appellant's submissions went on to provide some additional points, again reproduced below:

"(1) Regarding item 3 above, it is realised that, whilst the Circuit still intends to sell the Freeland Methodist Church property, it will not now be realistic to start marketing until the new year.

(2) Referring to the form completed by Freeland Parish Council, Section 3 states that "Freeland Methodist Church has been used as a place of worship for the Methodist community and meeting room for village organisations". The sole purpose of the church building has always been as a place of Christian worship for the people called Methodist and as a base for Christian outreach. The use of the premises by village (and other) organisations has always been of a secondary nature if not included in the main purpose of its existence. In later years, there have been lettings agreed by the church council to help towards the costs of maintenance of the property. With the demolition of the Village Hall next door and during the building of the new much enhanced Hall, there was a hiatus of lettings from organisations which usually hired the Village Hall. However, this was never one of the main purposes of the raison d'etre of the church property, and church meetings would usually take priority. It does seem somewhat strange that the new Village Hall was not made large enough to accommodate the various organisations of the village, and one might assume that cost may have been a problem. Have things changed so much? (also Section 4.2). It appears that a number of organisations which continued to let the church property may have done so in the light of the level of charges for use of the Village Hall.

(3) Regarding the attachment to Section 4.5

- there are currently no "local Methodist Church Trustees", as the managing trustees are presently the members of the Witney and Faringdon Methodist Circuit Meeting, and have been since Easter 2017;

- whilst we would not object to community ownership, we would point out that, although the Church may be in the heart of the "old village", it is nearly at the far end of a very long current village, and whilst being opposite the Garden Centre and the Public House, it could be difficult to see that there would be much of a passing trade;

- the requirements of the Grade II Listing and the general upkeep and repair costs of such an old building cannot be underestimated, and care needs to be taken in the budgeting and risk analysis requirements for such a property."

2.5 Given the above and following consideration of the submission against the requirements of the Localism Act 2011, the Council issued a decision that explained the situation and advised that the application had been unsuccessful. The letter and associated decision report are attached as MC Freeland Appeal ACV1 Decision and Letter.

2.6 In spite of this and with no changes in circumstances whatsoever, the Parish Council made two further submissions seeking to have the Building listed as an ACV across 2018 (Council References ACVR11 and ACVR12). Both of these further submissions were unsuccessful. The decisions and letters for both are also provided as documents for this Appeal, References MC Freeland ACV2 Decision, MC Freeland ACV2 Letter, MC Freeland ACV3 Decision and MC Freeland ACV3 Letter.



Planning History

2.7 A planning application seeking PP to change the use of the church to a dwelling was submitted on 5th November 2018, validated and assigned Council Reference 18/03423/FUL. This was subsequently written up by the Council's Case Officer in an Officer Report ("OR") dated 16th April 2019 which is provided within Document MC05. The OR recommended that the planning application be approved and granted PP, concluding at paragraph 5.31 that

"...officers have assessed the application against the development plan, in particular Policy E5, being satisfactorily addressed, and as such the provision of a new dwelling in Freeland utilising a previously developed site would be consistent with the overall strategy and housing related policies of the Local Plan. Your officers therefore recommend that this application be approved in accordance with policies E5, OS2, H2, EH9, EH10, EH11 and T4 of the adopted West Oxfordshire Local Plan..."

2.8 However, the Council's Planning Committee refused to accept the advice of its professional planning officers on 19th April 2019 and, three weeks later, issued a Refusal Notice dated 8th May 2019 which is also provided within Document MC05. The Refusal Reasons ("RRs") are reproduced below:

"RR1. The proposed change of use of Freeland Methodist Church to a residential dwelling would result in the loss of a valued community facility and would, by reason of the failure to demonstrate suitable, viable, alternative provision within walking distance, be considered contrary to Local Plan Policies E5, OS2, H2 and paragraph 83(d) and Section 8 of the NPPF."

RR2. The conversion of the Freeland Methodist Church to a C3 residential dwelling would, by reason of the lack of detailed design drawings, fail to demonstrate that the conversion is able to conserve or enhance the special architectural or historic interest of the fabric of the Grade II listed building and would not harm its significance and as such is contrary to Policies EH9 and EH11 and Section 16 of the NPPF."

- 2.9 The Appellant commissioned specialist heritage and viability consultants to consider the RRs. Following this work, the Proposal was amended and resubmitted. This resubmission was assigned Council Reference 22/02377/FUL and 22/02378/LBC (see Document MC01). These were refused PP and LBC on 16th November 2022. Whilst the Decision Notices are provided within Document MC03, the RR for the planning application is reproduced below in full:

"The loss of the community facility would directly conflict with policy E5 of the Local Plan 2031 as it has not been sufficiently demonstrated that the property is incapable of being made viable or adapted to retain a viable service or facility including as a community run enterprise, particularly in light of the extant planning permission on the site. Further, by reason of its design, the proposed development is not in keeping with the character of the Listed Building. The public benefit of one additional dwelling towards the Council's 5-year housing land supply is considered to be limited and would not outweigh the less than substantial harm identified. The development also provides an inadequate amount of private amenity space for the future occupants. The proposal is therefore considered contrary to Policies OS2, OS4, H2, E5, EH9 and EH11 of the West Oxfordshire Local Plan 2031, the relevant provisions of the NPPF, in particular paragraph 202, and the West Oxfordshire Design Guide."

- 2.10 The RR for the LBC Application stated that:

"The proposed scheme by reason of its design is not in keeping with the character of the Listed Building and the conversion of the building to residential is not considered to represent its optimal viable use. The public benefit of providing a single dwellinghouse is limited and is not considered to outweigh the less than substantial harm identified. The proposal is therefore considered contrary to relevant sections of the NPPF and Section 16(2) of the Planning (Listed Building and Conservation Areas) Act 1990."

- 2.11 Alongside and intertwined are two planning applications granting PP to a local community group to convert the Church to a shop, café and/or non-residential institution, namely:

18/00018/FUL approved on 22nd February 2018; and 22/01956/FUL approved on 1st September 2022.

- 2.12 Finally, it is relevant to note that a planning application relating to an adjacent site has been submitted to the Council, validated on 13 January 2023 (Council Reference 22/03356/FUL). This planning application seeks PP to construct 80 Class C3 residential dwellings, as well as providing buildings and space for community uses such as a community shop and café. This planning application is due to be determined in April 2023.

3 RELEVANT POLICY CONSIDERATIONS

- 3.1 In considering any development, redevelopment or re-use of land, regard must be had to local and national planning policies of relevance.

LOCAL PLANNING POLICY

- 3.2 Local planning policy principally comprises the West Oxfordshire Local Plan 2031 ("the Local Plan"). A number of Local Plan policies are of relevance to the Proposal, as summarised below.
- 3.3 Policy OS2 'Locating Development in the Right Places' advises that the villages such as Freeland are "*...suitable for limited development which respects the village character and local distinctiveness and would help to maintain the vitality of these communities...*"
- 3.4 Policy OS4 'High Quality Design' requires new development to respect the historic, architectural and landscape character of the locality, contribute to local distinctiveness and, where possible, enhance the character and quality of the surroundings. This includes improving the quality of the public realm, as well as conserving or enhancing buildings and features of historic, architectural and environmental significance.
- 3.5 Policy H2 'Delivery of New Homes' permits new dwellings in and adjoining villages such as Freeland on previously developed land ("PDL").
- 3.6 Policy E5 'Local Services and Community Facilities' states that proposals for loss of community facilities and services will be supported where it can be shown that "*...appropriate alternative provision of at least equivalent suitability and accessibility, particularly by foot, will remain...*"
- 3.7 Policy EH9 'Historic Environment' encourages proposals to avoid adverse impacts and, where possible, enhance the significance of the heritage asset. Unavoidable and justified adverse impacts are to be "*...minimised and suitably mitigated...*"
- 3.8 Policy EH11 'Listed Buildings' advises that proposals to alter or change the use of a Listed Building must show that the special architectural or historic interest of the building's fabric, detailed features, appearance or character and setting is preserved or enhanced. The proposal must also seek to "*...respect the building's historic curtilage or context or its value within a group and/or its setting, including its historic landscape or townscape context...*" Finally, the proposal should seek to "*...retain the special interest that justifies its designation through appropriate design that is sympathetic both to the Listed Building and its setting...*"

NATIONAL POLICY CONTEXT

- 3.9 National planning policy is provided by the National Planning Policy Framework ("NPPF"). Key points of relevance contained within this document are:
- 3.9.1 Sustainable development is to be at the heart of all development, with a presumption in favour of sustainable development;
 - 3.9.2 A social objective for planning, to "...support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations..." alongside creating or maintaining "...accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being...";
 - 3.9.3 Planning policies and decisions should "...promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively..." (paragraph 120);
 - 3.9.4 The need to provide social facilities and services that communities need and to guard against the "...unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs..." (paragraph 93);
 - 3.9.5 In terms of heritage, it is important for policies to facilitate managing and conserving heritage assets (paragraph 189), with proposals required to provide sufficient information to understand the significance of the asset and impact of the proposal (paragraph 194). Assets should be put to viable uses (paragraph 197) and great weight is to be given to conservation (paragraph 199), with paragraph 202 guiding that where there is less than substantial harm this should be balanced against the public benefits, including "...securing its optimum viable use..."
- 3.10 The Local Plan policies cited by the Council in the RRs have been discussed, along with drawing out the relevant sections of the NPPF. Key to these and to the case is whether conversion of the former church to a dwelling is acceptable in policy terms and, if so, whether the detail of the conversion/adaption is acceptable given that the Building is Grade II Listed. These areas of dispute/concern are discussed below in Section 4.

4 AREAS OF CONCERN DISCUSSED

- 4.1 At the heart of this case for the Council is whether, as a former Church, the Building is an existing community facility and, if so, whether its loss is acceptable under Local Plan Policy E5, alongside re-use as a dwelling under Local Plan Policy H2. Then, consideration is required to whether the detailed conversion/adaption is acceptable in terms of design-related Local Plan Policies OS2 and OS4 and heritage-related Local Plan Policies EH9 and EH11.
- 4.2 It is taken as common ground that the extent of dispute is confined to the Council's view that: first, using a former church as a dwelling constitutes an unacceptable loss of an existing community facility, in principal reliance on Local Plan Policy E5; second, use as a dwelling is inappropriate, in reference to Local Plan Policy H2; third, the detail of the conversation proposed is unacceptable, in design terms, in reference to Local Plan Policies OS2 and OS4; and fourth, the conversion is unacceptable in heritage terms, in reference to Local Plan Policies EH9 and EH11. These four areas are discussed below in turn. The right is reserved to expand upon this following receipt and review of the Council's Appeal Statement.

Former Church Loss

- 4.3 The Council's RR refers to Local Plan Policy E5. As this is central to the Council's case it is worth reproducing this policy verbatim:

"The Council will support the development and retention of local services and community facilities to meet local needs and to promote social wellbeing, interests, interaction and healthy inclusive communities. Development proposals that would result in the loss of community facilities and services will only be supported where it can be clearly shown that: (1) appropriate alternative provision of at least equivalent suitability and accessibility, particularly by foot, will remain; and (2) in the case of pubs, shop and other commercially run services and facilities, the existing use is no longer viable and is incapable of being made viable or adapted to retain a viable service or facility including as a community run enterprise."

- 4.4 Reference is also made to the Council having regard to whether a site or facility is registered as an ACV.
- 4.5 Across paragraphs 5.13 – 5.23 of the Council 2019 OR into the previous, materially similar proposal, the Case Officer walks us through the application of Local Plan Policy E5. The 2019 OR is provided as a supporting document to this Appeal Statement so this is not repeated here. However, what is worth noting is the concluding comment at paragraph 5.21 in relation to local resident objections that "...Taking Policy E5 in the round, there would be

no reason in planning terms to refuse the application on this basis..." The concluding remark at paragraph 5.23 as it relates to the application of Local Plan Policy E5 is also worth noting, stating that *"With the criteria of Local Plan Policy E5 being satisfactorily addressed, the provision of a new dwelling in Freeland utilising a previously developed site would be consistent with the overall strategy and housing related policies of the Local Plan."*

- 4.6 The Council's Planning Committee did not accept this professional planning advice from the Council's officers and refused to grant PP as recommended to them, citing as a RR that the Proposal *"...would result in the loss of a valued community facility and would, by reason of the failure to demonstrate suitable, viable, alternative provision within walking distance..."*
- 4.7 The Council expanded on this in the 2022 RR for the resubmission, stating that *"... The loss of the community facility would directly conflict with policy E5 of the Local Plan 2031 as it has not been sufficiently demonstrated that the property is incapable of being made viable or adapted to retain a viable service or facility including as a community run enterprise, particularly in light of the extant planning permission on the site."*
- 4.8 This followed an assessment provided by the Council's Case Officer in the 2022 OR dated 16th November 2022. The 2022 OR is provided in full as an Appeal Document (see Document MC06) and is therefore not reproduced here in full. However, the salient points in relation to applying Local Plan Policy E5 are discussed below.
- 4.9 First is to note agreement that alternative provision is available:

"...There are a number of other Methodist churches in the area including at Witney, North Leigh, Long Hanborough, Combe, Bladon and Woodstock. The nearest one is Long Hanborough which is around 2.4km on foot (using the public right of way that connects Freeland and Long Hanborough) and around 3km along main roads. Paragraph 6.5 of the planning statement submitted as part of the application notes that St Mary the Virgin which is located within the village of Freeland is part of the Hanborough/Freeland Benefice. This Benefice is an agreement that any denomination can worship within the churches within Benefice. Further, the closest Methodist church is located in Long Hanborough (1.8miles away by car) and whilst officers accept that not everyone will be able to access this alternative church by non-car modes of transport, it is reasonable to suggest that a proportion of people will be able to and thus It is considered the first criteria of Policy E5 to be met..."
(Author's emphasis)

- 4.10 The Council's Case Officer goes on to note that the new Freeland Village Hall, opened in 2011, is adjacent to the Site to the north and that this is of equivalent suitability (Author's

emphasis). This can accommodate 100 people seated, has a large kitchen and provides toilets. This lies opposite the Yeoman Café which opens every Friday morning in the Oxfordshire Yeoman.

- 4.11 It is perhaps worth noting here that the congregation or local population using the Building for its intended, lawful use as a place of worship was extremely limited, who have either now passed away or have settled and become involved elsewhere, specifically to the Long Hanborough Methodist Church. Indeed, the Appellant notes for us that three of the former senior members of the Freeland Methodist Church active in running the Church all live in Long Hanborough and all four members of the former North Leigh Methodist Church are members of Long Hanborough Methodist Church.
- 4.12 The Council's Case Officer confirms therefore that there are alternative facilities that are available, suitable and accessible, meeting the first part of Local Plan Policy E5. This is whether or not the current planning application for 80 houses and including community facilities on nearby land is approved.
- 4.13 The second part of Local Plan Policy E5 refers to the loss of pubs, shops and other commercially run services and facilities. This is not applicable in this case, as not only has the former place of worship lawful use ceased and the Building been vacant since 2017, it was not and is not a pub, shop or any other commercially run enterprise. The Council's Case Officer attempts to argue that this irrefutable truth still means that viability must be considered. This is apparently simply because there is a PP granted to a community group for use of the Building as a shop and café and there being "...a desire locally to see the church used as some form of 'community hub'..." Wouldn't the world be a wonderful place if all desires can be met without any justification, permission or ability to secure.
- 4.14 The Building is not available and nor will it ever be for such a use. Indeed, this is acknowledged by the Council's Case Officer who confirms that "...strictly speaking Policy E5 refers to the 'existing use'..." but then goes on to state a belief that it is correct to consider that "...the extant planning permission for a shop and café is a material factor that officers believe should be considered in the decision on this application and holds weight within the planning balance..." Later in the Case Officer's assessment, irrespective of the Applicant's submissions, the 2022 OR states that "...the extant permission...[holds]...significant weight within the planning balance..." (Author's emphasis).
- 4.15 This is simply not a fair reporting of the existing situation. Applying any weight, let alone significant weight to a PP granted to a third party community group for a community use in a building that they don't, can't and won't ever own or have access to, without any consent from

or consultation with the Owner, is simply incorrect. Any weight applied to this PP should be negligible if any weight is to be applied at all.

4.16 Nonetheless and without prejudice to the correct position that the second part of Local Plan Policy E5 is wholly inapplicable in this case, the Applicant submitted, on a confidential basis, A Viability Report. A copy of this can be made available to the Planning Inspectorate if this would be helpful albeit noting the Author's view that this is wholly unnecessary as this part of Policy E5 is not applicable or triggered.

4.17 The Viability Report submitted confirms robustly that the Building cannot be adapted to retain a viable community facility or service and thus meeting the requirements of Local Plan Policy E5 in any event.

4.18 Finally, it should be noted that Local Plan Policy E5 refers to considering the importance of an existing facility to the local community, particularly in meeting day-to-day needs. This Building has not met any day-to-day needs since 2017 and even before then only met the worship needs of a very small handful of the congregation whose day-to-day worship needs have since been and continue to be met by the various accessible facilities elsewhere, particularly the Long Hanborough Methodist Church.

4.19 Rather, the Council Case Officer's summary views in the 2022 OR state that

"...Whilst the building has not been used as a church for a number of years, there is clearly a local appetite for it to be reinstated in some form of community use. This is reflected in the recent application and permission for a shop/café and local community use granted in September 2022. In light of the above, for the requirements of Policy E5 to be satisfied, the applicant must demonstrate that existing suitable provision will remain in the locality and that there is no prospect of the recent permission being implemented...the Council needs to be completely satisfied that there is no prospect of the church being used for the alternative community use that a number of local people would clearly prefer to see and for which planning permission exists. No information has been submitted in regards to advertisement of the site with the extant permission and therefore the proposal fails to meet the 2nd criterion of policy E5..."

4.20 The Appeal Inspector is invited to consider this differing position between the 2022 OR and compare this to the position taken by the Council's Case Officer in the 2019 OR, three years prior, the position taken by the Applicant's Agent and professional planning consultancy and the Appellant's Agent as set out in this Appeal Statement. Simply put, even the 2022 OR confirms that the first part of Local Plan Policy E5 is met (alongside questioning this

applicability given that the use is not existing) and that the second part of Local Plan Policy is not applicable as the Building is not a pub, shop or commercially run enterprise. This is the view of the previous Council Case Officer, the Applicant's Agent and the Appellant's Agent collectively of the view that Local Plan Policy E5 is wholly met.

Provision of a Dwelling

- 4.21 The Council's RR refers to Local Plan Policy H2. However, in determining a materially similar proposal in 2018, the Council's Case Officer noted the requirement for windfall provision (2019 OR, paragraph 5.9). This should be supported subject to the satisfactory meeting of Policy E5. The 2019 OR then confirmed, at paragraph 5.23, *"...With the criteria of Local Plan Policy E5 being satisfactorily addressed, the provision of a new dwelling in Freeland utilising a previously developed site would be consistent with the overall strategy and housing related policies of the Local Plan..."*
- 4.22 The Council's Committee in 2019 did not accept the professional advice given, although the 2019 RR was silent on the provision of a dwelling and Local Plan Policy H2, other than in reliance of reference to it within Local Plan Policy E5.
- 4.23 By the time the resubmission was considered in 2022, again to convert a vacant building on PDL to a dwelling, the Council's Case Officer and Planning Policy colleague both confirm that provision of a dwelling, especially where no 5-year land supply exists, is a material consideration, with weight given in the planning balance. However, the weight is in the Officers' view low given that it is only one dwelling. This led to the 2022 RR stating that the Council's position was now that *"...The public benefit of one additional dwelling towards the Council's 5-year housing land supply is considered to be limited and would not outweigh the less than substantial harm identified..."*
- 4.24 It is accepted that one dwelling is not an amount that will materially assist with helping the Council address its housing land shortfall. However, it is refuted that the *"...less than substantial harm..."* is greater than and outweighing this on the assessment in the 2022 OR. Where is this balance provided and what is the harm identified? Given what is set out above, this harm can presumably only relate to either harm to resident amenity or to the Grade II Listed Building. These are discussed below in turn.

Acceptability of Detailed Conversion Proposed in Design Terms

- 4.25 Referring to the 2022 RR, the Council does not believe that the Proposal is acceptable in terms of design, citing Local Plan Policies OS2 and OS4 in the RR. However, in determining the 2018 submission the Case Officer reported that conversion would comply with *"...the*

general principles set out in OS2 and any other relevant policies..." (2019 OR, both paragraphs 5.7 and 5.9).

- 4.26 In spite of the professional advice provided, the Council's Committee cited within the 2019 RR that "...*The conversion of the Freeland Methodist Church to a C3 residential dwelling would, by reason of the lack of detailed design drawings, fail to demonstrate that the conversion is able to conserve or enhance the special architectural or historic interest of the fabric of the Grade II listed building and would not harm its significance...*" This RR does not raise any concern whatsoever on the proposed design, limited only to potential impact in the context of being a Grade II Listed Building. This concern is dealt with in the following sub-section.
- 4.27 However, the 2022 RR, wholly outside of the case history, inserted a further, new concern, stating that "...*The development also provides an inadequate amount of private amenity space for the future occupants...*" The 2022 Proposal is materially identical to the 2018 Proposal and both provide an identical provision for outside space. There has been no change in planning policy of relevance to this matter. Indeed, the professional opinion of the Case Officer looking at the 2018 proposal stated that the amenity space being provided "...*is considered to be adequate and consistent with other properties nearby...*" (2019 OR, paragraph 5.30).
- 4.28 A few years later, in considering the 2022 Proposal, the Council's Case Officer opined that "...*There are...concerns with the private amenity space available for the resulting property. The proposed 3-bedroom property would have a substandard and inadequate level of private amenity space for property of this size which would be to the detriment of the future occupants of the property...*"
- 4.29 As is clear from visiting the Building, there is ample outside space available for the parking of vehicles and/or provision of amenity space, far more than is available to many of the properties nearby within Freeland.
- 4.30 The Appeal Inspector is therefore asked to consider this element of the RR to note the land available and the lack of any material changes in circumstance or to planning policy changes over the period from 2019 to the present day. If the Appeal Inspector is persuaded by the 2022 OR comment that alleges "...*change to a residential property will result in this character being eroded by the residential paraphernalia which will undoubtedly follow its conversion...*" then a standard condition can be imposed upon any PP, removing permitted development rights and requiring prior approval for any such items.
- 4.31 The 2022 Proposal complies fully with Local Plan Policies OS2 and OS4.

Acceptability of Detailed Conversion Proposed in Heritage Terms

- 4.32 The Council does not believe that the Proposal is acceptable in terms of heritage impact, citing Local Plan Policies EH9 and EH11 in both the 2019 RR and 2022 RRs, the first citing that "...*The conversion of the Freeland Methodist Church to a C3 residential dwelling would, by reason of the lack of detailed design drawings, fail to demonstrate that the conversion is able to conserve or enhance the special architectural or historic interest of the fabric of the Grade II listed building and would not harm its significance...*" The latter simply states that "...*The proposed scheme by reason of its design is not in keeping with the character of the Listed Building...*"
- 4.33 Detailed designs were provided as part of the 2022 resubmission, prepared by architects and experts in heritage conservation. The Heritage Statement submitted as part of the planning application is provided as an Appeal Document and is not therefore reproduced here. However, it is worth noting that the Assessment of Significance at 4.3 of the Heritage Statement advised that the significance of the Building derives from its form and external appearance (as the internal fittings have been removed) helping to discern its former historic use. The Heritage Statement goes on to confirm an approach taken that will "...*successfully conserve its character and significance while having a beneficial impact on its surroundings within the village...*" At 4.4 the Heritage Statement concludes by stating that "...*alteration can be accommodated with minimal impact on the significance of the former Methodist Church...*" with the last paragraph advising that the Proposal supports the most viable future use of the Building, with modest changes having a negligible impact on the significance of the Building.
- 4.34 The Council planning officers, though, for the 2022 Proposal, did not consider that the design or the revised design would be acceptable for the Grade II Listed Building and is a now matter for the Appeal Inspector. It is worth noting that the professional officer view on this matter in considering the materially similar 2018 proposal was that there would be no harm, and that its conversion to residential use "...*will not inherently result in a lesser quality of conservation or enhancement of the Church...*" (2019 OR, paragraph 5.27).
- 4.35 The 2022 OR, on a scheme materially similar to that proposed in 2018, confirmed that the Council's Conservation Officer completed a site visit and was "...*largely happy with the proposals...*" There were a few concerns raised, limited only to slimline double glazing being proposed in a new window as those retained were single glazed and replacement of doors on the east elevation with French doors not considered in keeping with the character of the Building. The Council's Conservation Officer also asked that additional information be required in relation to floor and roof insulation. The Council's Case Officer then went beyond these comments from the Council's Conservation Officer to opine that "...*The building's*

design and character is derived from its original use as a church facility, the proposal to change to a residential property will result in this character being eroded by the residential paraphilia which will undoubtedly follow its conversion..."

- 4.36 Taken together, the 2022 OR boldly stretches again to go on to state that "...Given that the continued use as community building of some sort has not been fully explored and the design concerns, Officers therefore consider that the proposal is contrary to OS2, OS4, EH9 and EH11 in that it fails to preserve the character of the existing building..."
- 4.37 This Appeal Statement and the Application document have demonstrated that there is no failure to preserve the character of this Grade II Listed Building. Rather, bringing this into beneficial use will secure and safeguard its future, with specific detailing of window glazing and doors the subject of a condition requiring details to be agreed prior to development commencing. This means that the 2022 Proposal complies fully with Local Plan Policies EH9 and EH11.
- 4.38 Taken together, the 2022 Proposal the subject of this appeal, complies fully with Local Plan Policies E5, H2, OS2, OS4, EH9 and EH11, as well as being fully in accordance with the various thrusts and themes contained within the NPPF. The 2022 Proposal will also safeguard and secure the future of this Grade II Listed Building and provide a new dwelling towards the Council's housing supply. The 2022 Proposal should therefore be granted PP and LBC albeit with conditions imposed as discussed.

5 PLANNING BALANCE, SUMMARY AND CONCLUSIONS

- 5.1 Following closure of the Church in 2017 the Appellant has sought, as required by the Charity Commissioners, to realise the optimum value from the sale of this superfluous real estate. Professional advice received dictated that a Class C3 dwellinghouse use should be sought and that there was no other commercial, viable use in this location, confirmed later by a robust Viability Report.
- 5.2 In 2019, contrary to the professional advice received from the Case Officer, the Council's Planning Committee made the decision to refuse to grant PP for such a change of use. The RRs issued three weeks after the Committee: mis-applied Local Plan Policy E5 and, by association, Local Plan Policy H2; created unjustified amenity and design concerns under Local Plan Policies OS2 and OS4; and failed to give regard and substantial material weight to bringing the Building, Grade II Listed, into beneficial use in balancing and outweighing any minimal 'less than substantial harm' to a heritage asset, citing Local Plan Policies EH9 and EH11.
- 5.3 Given the nature of the Appellant, instructions were issued to seek to address concerns raised, whether justified or otherwise, preferring to seek to obtain PP at the local level. The Proposal was therefore updated and supplemented by additional supporting work, particularly in relation to the work necessary to the heritage asset but also submitting, confidentially, a Viability Report, alongside detail on alternative community facilities accessible by the residents of Freeland. The resubmission made in November 2022 was though materially similar to the 2018 Proposal.
- 5.4 Setting aside for a minute the Appellant's position that the Proposal accords fully with the Development Plan, the Council's Case Officer in the 2022 OR started well, confirming that *"...There are material considerations which indicate that the application should be decided otherwise in respect of the development plan. As we cannot demonstrate evidence of a 5-year supply of deliverable housing sites the relevant development plan policies for the supply of housing are out-of-date and that is a material consideration that can justify a departure from the plan and the grant of planning permission. Where policies for the supply of housing are out of date, para.11d) of the NPPF requires a presumption in favour of sustainable development and that planning permission be granted..."*
- 5.5 The Council's Case Officer then went on to state that guidance contained in the NPPF *"...that protect areas or assets of particular importance provides a clear reason for refusing the development proposed..."* and that *"...any adverse impacts of doing so would significantly and demonstrably outweigh the benefits..."* From this selective position the Council's Case

Officer reached the conclusion that "...In this case, the provision of one additional dwelling in this location will only offer a very limited benefit to the 5-year housing land supply. The public benefit of this single dwelling house is not considered to outweigh the less than substantial harm to the heritage asset or the loss of the community facility..."

- 5.6 The 2022 OR therefore concludes by saying that the only benefit is one dwelling and this benefit is outweighed by harm to the heritage asset.
- 5.7 The difficulty with the Case Officer's planning balance is that it starts with the premise that the Proposal is contrary in some way to the Local Plan policies which it is not. As such, the 5-year land supply situation simply adds further weight to the presumption in favour of approving the Proposal set out in the NPPF. Summarising the policy position and correct application of the planning balance:
- 5.7.1 All professionals involved accept that the Proposal complies with and meets the first and principal part of Local Plan Policy E5, even assuming that a former, historic use constitutes an existing use, as well as noting the merit in providing a new dwelling, particularly where a 5-year land supply cannot be demonstrated, albeit with differing levels of weight applied;
- 5.7.2 Only the 2022 Case Officer and Council Committee held in 2019 believe that the second part of Local Plan Policy E5 'bites' which it clearly does not as the Building is not and never has been a pub, shop or commercially run enterprise;
- 5.7.3 Even if the second part of Local Plan Policy E5 is taken as applicable, which the Appellant does not accept, the Applicant demonstrated robustly that: worship needs of the very small number of Church members is addressed by other place of worship, particularly Long Hanborough Methodist Church; there are alternative community facilities available and easily accessible; that a 'community hub' and/or café/shop type use would not be viable, available or suitable in this location. This position has further supported by the three unsuccessful attempts by the Parish Council to have the Building registered as an ACV.
- 5.7.4 Amenity- and design-related Local Plan Policies SO2 and SO4 seem to be relied upon simply because of the 2022 Case Officer's foreseen problem at some point in the future with residential "paraphernalia", something that can be the subject of a condition removing permitted development rights;
- 5.7.5 Application of heritage-related Local Plan Policies EH9 and EH11 and the NPPF mis-applies the assessment of 'less than substantial harm', failing to properly take account and apply substantial weight to the public benefit of bringing a Grade II Listed Building back into beneficial use, safeguarding and securing its future, with minor queries raised in relation to a door type and using double-glazing in one new



window by the Council's Conservation Officer capable of being addressed by condition; and

5.7.6 Identifying other benefits such as: generation of trade and employment for local businesses during the construction phase; bringing new life into a vacant structure that sits within a rural village settlement; and providing the optimum return to the Appellant, not only satisfying Charity Commission obligations but also providing funds to be spent on other facilities and services within the Circuit and wider District.

5.8 Taken together, the Appeal Inspector is asked to give considerable weight to the views of planning professionals guiding on this, including the Council's Case Officer for the 2018 Proposal in the 2019 OR, the Applicant's planning consultants, architects and heritage experts, and now the Appellant's Agent and planning consultant. This should then be balanced with the views of the Council's Case Officer expressed in the 2022 OR seeking to justify delegated refusal, based upon an unsubstantiated and unjustified alleged harm to the Building and a "desire" of local residents to keep the Building, refused as an ACV three times, for an unjustified, unviable, un-costed, unfunded and unimplementable shop/café, simply because a third party has been granted PP by the very authority seeking to resist its use as a dwelling.

5.9 The Appeal Inspector is asked to find in favour of the Appellant and to allow the Appeal, granting PP (with PDR removal condition if deemed necessary) and LBC (with a condition required prior approval of window and door detailing prior to commencement).

MC01	Planning Application Form
MC02	Site Ownership Certificate (see embedded within WOMC01)
MC03	LPA Refusal Notices - 22/02377/FUL & 22/02378/LBC
MC04	Site Location Plan (Drawing Reference: 264/101)
MC05	<p>Application Plans, Drawings and Documents –</p> <ul style="list-style-type: none"> a. Design and Access Statement b. 264/106 Existing Section AA c. 264/105 Existing Elevations d. 264/103 Existing Ground Floor Plan e. 264/104 Existing Attic and Roof Plans f. 264/102 Existing Site Block Plan g. 264/206 Proposed Section AA and Section BB Elevation h. 264/203 Proposed Ground Floor Plan i. 264/204 Proposed First Floor and Roof Plans j. 264/207 Proposed External Wall Elevation k. 264/205 Proposed Elevations l. Ecology Report (August 2021) m. Drainage Report n. Pollution Consultation o. Heritage Statement (July 2022) p. Planning Statement (August 2022) q. Applicant Covering Letter (24 October 2022) r. LBC Conservation Officer Consultation (2 November 2022) s. Planning Policy Consultation Response (10 November 2022)
MC06	<p>Additional Plans, Drawings and Documents Seen by LPA –</p> <ul style="list-style-type: none"> a. Officer's Report on previous application 18/03423/FUL b. Committee Report on 18/03423/FUL c. Refusal Notice for 18/03423/FUL d. Officer's Report (16 November 2022) e. Viability Report (July 2022) - available to PINS if requested, noting it being a commercially sensitive document released confidentially only to WODC Officers f. ACV Decisions and Letters (ACVR9, ACVR11 and ACVR12)