

Committee	PLANNING COMMITTEE A	
Report Title	ST MILDRED'S CHURCH AND HALL, ST MILDRED'S ROAD, SE12 0RA	
Ward	GROVE PARK	
Contributors	GEORGIA MCBIRNEY	
Class	PART 1	14 NOVEMBER 2019

<u>Reg. Nos.</u>	(A) DC/19/112087
<u>Application dated</u>	30.04.2019 as revised 31.07.2019
<u>Applicant</u>	Howard Sharp and Partners LLP on behalf of the Ecclesiastical Parish of St Mildred's, Lee
<u>Proposal</u>	The demolition of church hall and construction of replacement part one/part two storey church hall and community space to the side and rear and entrance lobby to the front at St Mildred's Church, St Mildred's Road, SE12, together with 27 parking spaces, 3 motorcycle spaces, cycle storage and associated works.
<u>Background Papers</u>	(1) Case File LE/634/B/TP (2) Local Development Framework Documents (3) The London Plan
<u>Designation</u>	PTAL 3, Local Open Space Deficiency, Grove Park Neighbourhood Forum
<u>Screening</u>	N/A

## 1 SUMMARY

- 1 This report sets out Officer's recommendation for the above proposal. The report has been brought before the members for a decision as the application was called-in by a Ward Councillor.

## 2 SITE AND CONTEXT

### *SITE DESCRIPTION AND CURRENT USE*

- 2 St Mildred's Church lies on the southern side of St Mildred's Road. The church is set back from the South Circular, surrounded by a number of mature trees.
- 3 The church is a Gothic Revival building of historic and architectural value. The hall occupies the south of the site and the Vicarage fronts Helder Grove. The hall building is

a single storey building with a footprint of 260m<sup>2</sup> and dates from the 1960s. The hall is linked to the church by a single storey covered access. There are currently 20 marked car parking spaces located on the site with vehicular access from Helder Grove.

### **CHARACTER OF AREA**

- 4 The surrounding area is predominately residential, characterised by terraced, semi-detached, detached and flatted developments. Kendall House is a neighbouring flatted development which is situated adjacent to the eastern boundary of the application site.

### **HERITAGE/ARCHAEOLOGY**

- 5 The Church is not statutorily listed, nor is it in a Conservation Area.
- 6 St Mildred's has been identified through the Development Management Process as a non-designated heritage asset and has been added to the list of buildings to be added to the Council's local list. Permission has been granted for consultation to be undertaken to add new buildings to the local list. Consultation is due to begin at the beginning of November (at the time of writing). Subject to the outcome of the consultation, and the Mayor and Cabinets decision, adoption will take place in 2020. It should be noted that the Council's local list has not been revised since 2014.
- 7 St Mildred's Church is considered to be a non-designated heritage asset of significance for the following reasons:

#### 8 *Historic Interest*

- A generally well preserved and good example of a suburban church from the late Victorian period
- Relation to significant stained glass artist Wilhemina Geddes, whose large and intricate post war stained glass is found within the church.

#### 9 *Architectural Interest*

- Gothic Revival (or Decorated Gothic style) building in a Latin Cross form of assured architectural quality with unusual and striking form elements, particularly the small east bell turret and upper room above the organ vestry. Clerestory with decorative hexafoils and three-pointed arrangement to the elevations.
- High quality original materials and detailing, both externally and internally. The church is built from Kentish ragstone with yellow Bath stone quoins to vulnerable corners and sloping tops to the buttresses. Window sills frames and tracery, and decorative courses on the elevation are finely detailed. Roof slopes in deep red clay tiles (now aged to a dark red/brown). These materials are all of architectural interest.
- High streetscape value. The church sits well back from the major South Circular road, with its tall nave standing above later neighbouring development and set within a well-planted green garden. This and the tall tree canopy provides a high quality historic contribution to the local townscape as a landmarker that is visible in long and short views. The building dominates the plot through the substantial nave massing. As a historic C19 building within an area developed largely in the C20, and one for which the area has evolved around. The street in which it is situated is also named after the church.

### **TRANSPORT**

- 10 The church is situated on the South Circular and has a PTAL rating of 3 based out of 0 to 6B.
- 11 The application site is not in a Controlled Parking Zone.

### 3 RELEVANT PLANNING HISTORY

- 12 **DC/19/111791:** Temporary planning permission for the siting of 2 double-decker buses for D1 use as well as a trailer to contain toilet facilities in the car park at St Mildred's Church and Hall, St Mildred's Road SE12. **Granted 04/06/2019**
- 13 **PRE/17/101141:** Replacement Church Hall. **Response issued 24/08/2017**
- 14 **PRE/14/001894:** The construction of a new two-storey church hall and single-storey linking extensions at St Mildred's Church, St Mildred's Road SE6 0RA. **Response issued 18/09/2014**

### 4 CURRENT PLANNING APPLICATION

#### 4.1 THE PROPOSALS

- 15 The current planning application is for the demolition of the existing C20 church hall, and the construction of a replacement part one/part two storey church hall and community space to the side and rear, and a separate entrance lobby to the front elevation of St Mildred's Church, St Mildred's Road SE12 together with 27 proposed parking spaces, 3 motorcycle spaces, cycle storage and associated works.
- 16 During the process of this application, Officers sought a revised scheme to reduce the scale of the proposed development. The proposal outlined below is the revised scheme; compared to the originally submitted scheme the footprint of the proposed development was reduced by 0.5m<sup>2</sup>.
- 17 The part one/two storey extension is proposed to the eastern side of the church. At ground floor level, the proposed extension would extend a maximum of 12.8m beyond the eastern elevation and would extend 15.7m beyond the southern elevation of the church. The proposed extension wraps around the church at ground floor level from the side to the rear. It would be set back 13.6m from St Mildred's Road, set in 1.3m from the eastern boundary, and would be set back 2.4m from the southern boundary. The lobby entrance would have a maximum height of 6.9m and the main part of the single storey extension would have a maximum height of 4.28m.
- 18 The two-storey element would be situated to the west of the site. The first floor element would have a maximum width of 19.4m and a maximum depth of 11.2m. It would be set back 41m from St Mildred's Road, set in 1.3m from the eastern boundary and set back 2.4m from the southern boundary. The two-storey element would have a maximum height of 7.15m.
- 19 The application form states that there are 28 car parking spaces but there are 20 marked car parking spaces in the car park fronting St Mildred's Road with grass buffer with trees and hedges along the eastern boundary with St Mildred's Road. The existing grassed area is proposed to be replaced with porous open grade tarmac to provide 15 car parking space and motorbike and scooter parking. The existing area of tarmac is proposed to be resurfaced with tarmac and provide 12 car parking spaces; of which three would be disabled.

- 20 A new pedestrian path is proposed to be created on the eastern side of the site of the site from St Mildred's Road leading up to the proposed extension.
- 21 Bicycle stand cycle parking is proposed along the northern and western elevations.
- 22 The extension would provide a total of 599m<sup>2</sup> of floor space; this is an increase of 339m<sup>2</sup> compared to the existing hall building.
- 23 The following accommodation would be provided within the proposed extension:

Ground Floor

Foyer	Lobby	Office	Store	Group Room	Disabled WC shower / changing	2 Unisex WC	5 Unisex WC	Kitchen	Meeting Room	Meeting Room
191m <sup>2</sup>	11m <sup>2</sup>	24m <sup>2</sup>	9m <sup>2</sup>	12m <sup>2</sup>	8m <sup>2</sup>	3.7m <sup>2</sup>	9.0m <sup>2</sup>	28m <sup>2</sup>	42m <sup>2</sup>	77m <sup>2</sup>

First Floor

Landing	Meeting Room	Meeting Room
20m <sup>2</sup>	29m <sup>2</sup>	39m <sup>2</sup>

- 24 The application also proposes works to the main church building. At ground floor level, the Vestry is proposed to become a 'link room', linking the church to the proposed extension and bulk storage is proposed inside the 'link-room'. At first floor level, the organ room is proposed to be converted to a meeting room and the floor level of this room is proposed to be lowered by 1.83m to create a second floor room above to provide a multi-purpose and storage room. These internal changes of use and operational works would not require planning permission or listed building consent.
- 25 A conservation style roof light is proposed on the eastern elevation to serve the newly created second floor room and a new tilt and turn window is proposed at first floor level. It is also proposed that the existing chimney on the northern elevation is to be rebuilt. On the southern elevation, it is proposed that PV panels are installed on the church roof.

Proposed Use

- 26 The submitted 'Management and Use' Document dated April 2019, details in Annex B that the Hall will be available for use from Monday to Saturday from 8am to 11pm, and on Sundays from 9am to 9pm. The planning agent confirmed by email that the applicants would be willing to accept restrictions on the hours of operation of the hall only. Annex A of this document also details the differences between the current and proposed uses. The additional proposed uses of the proposed hall are:

Sunday	Use of the hall for afternoon and social gatherings of up to 60 people.
Monday to Friday	Use of the hall in the daytime hours by local groups and the use of the hall in the afternoon and evening by groups of children/young people and adults
Saturday	Use of the hall during daytime hours by local groups, for children's parties, parties and other groups and the use of the hall for afternoon and evening and social gatherings of up to 80 to 100 people.

27 It should be noted that this application does not seek to amend or restrict the opening hours of the Church.

## 5 CONSULTATION

### 5.1 PRE-APPLICATION ENGAGEMENT

28 Paragraph 6.3 of the Planning Statement details that the applicants held two public exhibitions and held a separate meeting with representatives of the management of Kendall House, which is situated to the east of the application site. The Planning Statement does not detail the dates of exhibitions and meeting or whether the proposal presented was the scheme that has been submitted.

### 5.2 APPLICATION PUBLICITY

29 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors and the Grove Park Neighbourhood Forum on the 17<sup>th</sup> May 2019.

30 62 letters of support were received. It should be noted that a large number of the letters of support were from the congregation of the church and from users of the church hall. Officers also received letters of support from the Girl Guides based at the application site. These has not been formally registered as they have come from Children; however, the comments raised in these letters have been addressed by other letters of support which have been considered in this report.

#### 5.2.1 Support

Material planning consideration	Para where addressed
Positive community development	Section 8.1
Brighten up this section of the South Circular	Paras 67-77
Significant benefit to the local community and area	Section 8.1
The existing hall is in a state of disrepair	Para 56
Would provide a flexible and usable space	Section 8.1 and para 74

The proposal would increase opportunities for engaging with and offering services and support to local people	Section 8.1
Design will blend on with the existing building	Paras 67-77
Limited number of venues of this nature in the area and will be a great asset for the local community	Section 8.1

*Petition of support*

31 A petition of 2,092 signatures was received in support of the proposed development in September 2019. The petition was received after it was advised that the application would be recommended for refusal. Officers understand the signatories are primarily members of the congregation and their supporters, although members of the local community have also signed the petition. The petition was presented by the Planning Agent.

32 The petition requests that planning permission be granted and the cover letter states *'that where there are valid heritage considerations, planning law and policy require that in the context of a planning application concerning a building which is not listed or in a conservation area any such concerns must be balanced against other relevant planning considerations such as community benefit'*. Officers highlight that this assessment has been undertaken in the planning considerations and conclusion below.

33 The petition covering letter is **Appendix 1**.

### **5.3 INTERNAL CONSULTATION**

34 The following internal consultees were notified on the 17<sup>th</sup> May 2019

35 Highways: No comments received.

36 Trees: Comments are incorporated in the Planning Considerations section.

37 Urban Design: Comments are incorporated in the Planning Considerations section.

38 The following internal consultees were notified on the 18<sup>th</sup> June 2019.

39 Conservation: Objection is incorporated in the Planning Considerations section and attached as **Appendix 2**.

### **5.4 STATUTORY CONSULTATION**

40 The following Statutory Consultees were notified on the 17<sup>th</sup> May 2019.

41 Transport for London: No objection to the principle of the proposal but require the proposed car and cycle parking quantum to be amended to be in line with the draft London Plan.

### **5.5 NON STATUTORY CONSULTATION**

42 The following Non-Statutory Consultees were notified on the 18<sup>th</sup> June 2019:

43 The Victorian Society: Object to the proposal due to the needless harm to the significance of the non-designated heritage asset. The size of the extension and in the location of that proposed would cause significant harm to the special interest of the building. The Victorian Society advise that a replacement hall building could still be delivered without causing harm to the significance or character of the historic building.

44 The full text of the Victorian Society's representations are attached at **Appendix 3**.

## **6 Local Meeting**

45 The Statement of Community Involvement states that where an application is recommended for refusal of planning permission and is referred to a Council Planning Committee, members will be advised to a defer their decision (to allow for a local meeting) if they are minded to determine against the Officer's recommendation.

46 On this occasion, as no objections were received and as the refusal recommendation is on heritage grounds, Officers do not view it necessary to have a local meeting if members are minded to overturn the Officer's recommendation.

## **7 POLICY CONTEXT**

### **7.1 LEGISLATION**

47 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).

### **48 MATERIAL CONSIDERATIONS**

49 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

50 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

51 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to the test of reasonableness.

### **7.2 NATIONAL POLICY & GUIDANCE**

- National Planning Policy Framework 2019 (NPPF)
- National Planning Policy Guidance

### **7.3 DEVELOPMENT PLAN**

52 The Development Plan comprises:

- London Plan Consolidated With Alterations Since 2011 (March 2016) (LPP)

- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)

## 7.4 OTHER MATERIAL CONSIDERATIONS

- Draft London Plan (expect 2019): The Mayor of London published a draft London Plan on 29 November 2017 and minor modifications were published on 13 August. The Examination in Public commenced on 15 January 2019 and concluded on 22 May 2019. The Inspector's report was issued on 7 October 2019. The draft plan now has some limited weight as a material consideration when determining planning applications. The relevant draft policies are discussed within the report (DLPP)

## 8 PLANNING CONSIDERATIONS

53 The main issues are:

- Principle of Development
- Heritage and Design
- Impact on Adjoining Properties
- Transport
- Trees and Landscaping

### 8.1 PRINCIPLE OF DEVELOPMENT

- 54 The National Planning Policy Framework (NPPF) at Paragraph 11, states that there is a presumption in favour of sustainable development and that proposals should be approved without delay so long as they accord with the development plan.
- 55 Lewisham is defined as an Inner London borough in the London Plan. LPP 2.9 sets out the Mayor of London's vision for Inner London. This includes among other things sustaining and enhancing its recent economic and demographic growth; supporting and sustaining existing and new communities; addressing its unique concentrations of deprivation; ensuring the availability of appropriate workspaces for the area's changing economy; and improving quality of life and health.
- 56 Policy 19 of Core Strategy supports the enhancement of community facilities that meet existing need and function.
- 57 The existing hall was constructed in the 1960s and is not considered to be of any special interest in relation to the church building that would warrant its retention; therefore, Officers raise no objection to the proposed demolition of the existing church hall.
- 58 The principle of providing further community space is considered to be acceptable. The applicant's submission confirms they do not intend to increase the size of the primary worship space and the proposed increased floor space is to allow the current occupier to improve the quality of existing provision. While the operating hours are proposed to be amended, the proposal is not judged to represent an intensification of use. It should be noted that the D1 Use Class is not proposed to be amended as no change of use is proposed.

### 8.1.1 Principle of development conclusions

59 The proposed development is supportable in principle subject to the material considerations below.

## 8.2 HERITAGE and URBAN DESIGN

60 Good design is a key consideration in the planning process. Part 12 of the NPPF makes it clear that national government places great importance on the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute to making places better for people.

61 Paragraph 197 of the NPPF states that the effect of a proposal to the significance of a non-designated heritage asset should be taken into account in determining the application. In weighting applications that directly or indirectly affect non-designated assets, a balanced judgement is required, having regards to the scale of any harm, of loss, and the significance of the heritage asset.

62 The London Plan and Core Strategy design policies further reinforce the principle of the NPPF setting out a clear rationale for high quality urban design. Core Strategy 15 states that the Council will apply national and regional planning policy and guidance to ensure the highest quality design and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the potential of site, is sensitive to local context, and responds to local character.

63 In line with this, Core Strategy Policy 15 states that all new development, including alterations, should be of the highest quality of design, taking into account the local character and context.

64 DM Policy 30 carries through the principle of high quality design, which complements the existing typology. Under part 5, the policy also includes detailed design principles, which states that proposals should demonstrate the creation of a positive relationship to the existing townscape to preserve and/or create an urban form, which contributes to local distinctiveness such as plot widths, building features and uses, taking all available opportunities for enhancement.

65 DM Policy 31 relates to alterations to existing buildings and requires development to be of high, site specific, and sensitive design quality, and respect and/or compliment the form, setting, period, architectural characteristics, detailing of the original buildings including external features, such as chimneys and porches. It further states that high quality matching or complimentary materials should be used in relation to the context.

66 DM Policy 37 seeks to ensure that the value and significant of the borough's non-designated heritage assets are protected so that they may contribute to the richness of the borough's historic environment.

67 *Discussion*

68 The church is considered a non-designated heritage asset for the reasons set out in paragraphs 8 and 9 and Appendix 1. In planning terms, a heritage asset is a '*building, monument, site, place of landscape identified as having a degree of significance meriting consideration in planning decisions because of its heritage interest*'. Since the church is identified by the Council as a heritage asset, conservation concerns are material considerations in the assessment of this application.

69 The heritage value of St Mildred's Church must be weighed against other issues, namely the provision of a community space and the community benefit of this provision. As

outlined in principle of development section of this report, there is no objection to the demolition of the existing church hall and the principle of additional space is considered to be acceptable. Officers do not raise objection to the two-storey element of the proposed development, which sits on the footprint of the existing hall. The siting and scale of the proposed two-storey element is judged to have an acceptable impact on the character and appearance of St Mildred's Church.

- 70 However, there is significant concern regarding the proposed single storey development to the east end of the church, and how it obscures one of the most important and prominent architectural features of the church; the apse. Concerns also arise in relation to how the proposed single storey element relates to the east end of the church generally.
- 71 In the historic Gothic Revival conception of the building, the east end was the most liturgically significant part of the church since it housed the altar, the focus for worship. This was reflected in the architectural elaboration of this part through stained glass windows, a change of level, the altar, the internal direction of the nave, and internal decoration which all focus towards the eastern end of the church. Externally, this focus is announced through a distinct volume with a curved form delineated through attached buttresses and chapel and vestry either side. The view of these elements is integral to appreciating the function of the building and hierarchy of spaces.
- 72 The proposed single storey element of the proposed development would rearrange, obscure and ultimately absorb the eastern end of the church harming the significance, understanding and architectural quality and character of the building and its architectural impression to the local townscape.
- 73 The proposed single storey element, which would wrap around the eastern end of the church would also disrupt the historic form of the church and would clutter and obscure some of the principal architectural features. The proposed development would conceal the lower part of the buttresses. This makes them appear meaningless as structural elements, since it would no longer be apparent that they reach the ground and serve both a visual and structural supporting role to the apse of the wall.
- 74 The proposed extension is not considered distinguished, nor is it considered to relate architecturally to the historic building. The proposed materials, form and solid nature of the proposed development are considered to be insensitive which fail to respect the character and appearance of the host church and result in the proposed extension appearing as bulky and dominant addition to the eastern end of the church, particularly the single storey wrap-around element of the proposed development. The proposed windows, synthetic slate and brick all contrast the historic character of the church, which is acknowledged in the submitted Heritage Statement as being of special interest. The placement, material and form of the proposed development result in the single storey element appearing as visually incongruous and overly dominant with the site and to the church.
- 75 It should be noted that the floor plans show that the proposed single storey element, which is considered to cause harm, is largely used as foyer space. In the view of Conservation Officers, this space is not necessary for the development of the community hall and a community hall could be delivered in way that does not result in harm to this non-designated heritage asset.
- 76 Officers acknowledge that the applicant has reduced the scale of the extension during the course of the application. However, this reduction in floorspace of 0.5m<sup>2</sup> was insufficient to address the less than substantial harm to the non-designated asset.
- 77 The elevations onto St Mildred's Road are also of significance, the loss of the green buffer to the front of the building is also considered to harm the setting of the building

and the streetscape that is otherwise leafy and suburban in character. The loss of the green space is considered to have an urbanising character to the churchyard setting which has already been affected by the creation of the car park to the west of the building. Officers acknowledge that that the adjacent C20 residential block has eroded the setting and outlook of the church, but this is not justification for further loss and harm to a non-designated heritage asset, its setting, and to the local streetscene. The proposed works are therefore considered to result in harm to the significance and architectural character of the church, which is a highly prominent building within the local townscape.

78 Solar Panels are proposed to be added to the roof slope on the southern elevation of the church. Whilst Officers acknowledge that the proposed solar panels would not be visible from the street as they are situated to the rear of the site, the proposed solar panels are considered to be an incongruent addition which detract from the detailing, character and appearance of church. The proposed solar panels are therefore considered to result in less than substantial harm to the non-designated heritage asset. Officers do acknowledged that the level of harm would be lower than that of the proposed extension.

### **8.2.1 Heritage and Urban design conclusion**

79 For the reasons highlighted above, officers consider that the proposed development particularly the single storey element would lead to less than substantial harm to the non-designated heritage asset of St Mildred's Church. Whilst officers consider that harm to be less than substantial, the harm is considered to be high on the scale of less than substantial harm. Officers have acknowledged that a community space would be provided, however Officers consider that the benefits of an enlarged community space can be provided within the site without causing the level of harm that the current proposal would afford to a non-designated heritage asset.

## **8.3 TRANSPORT IMPACT**

80 The NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Plans and decisions should account of whether the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, safe and suitable access to the site can be achieved for all people. The NPPF clearly states in paragraph 109 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.

81 London Plan and Core Strategy Policies encourage sustainable transport modes whilst recognising the need for operational parking for commercial uses and disabled parking facilities. Car parking standards within the London Plan should be used as a basis for assessment. Priority should be given to enhancing pedestrian and cycle routes and promoting use of sustainable transport modes through a Travel Plan.

82 Considering the existing arrangement at the site and consultee comments, the proposed extension is not considered to have an unacceptable impact on the highway network or on highway safety that would warrant a refusal on this ground.

83 Whilst it is acknowledged that TfL have requested that car parking should accord with the Draft London Plan which states that car-free development should be a starting point for all development. Given the number of car parking spaces that already exist within the site and as the proposed development is an established use, the proposed number of car parking spaces is considered to be acceptable.

84 3 disabled car parking spaces are proposed. The Draft London Plan requires that 6% of car parking spaces are disabled bays; the proposed development complies with this. The

Draft London Plan also requires for 4% of car parking spaces to be enlarged bays to that they have the potential to be converted into disabled car parking bays. Considering the existing parking arrangements at the site, Officers consider the proposed car parking to be acceptable.

85 The provision of cycle parking on the site would have been welcomed on the site had the extension been acceptable. Cycle parking is required to be located in accessible locations, be covered and secure. 16 cycle parking stands are proposed. The number of proposed cycle parking spaces is acceptable; however, the proposed cycle parking is not covered and secure. If the proposal were otherwise acceptable, amendments would have been sought in regards to the type of cycle parking proposed.

86 If the proposal were otherwise acceptable, further details of the landscaped boundary between the enlarged car parking and footway along St Mildred's Road would have been requested as to ensure highway safety.

## **8.4 LIVING CONDITIONS OF NEIGHBOURS**

87 Paragraph 127 of the NPPF states that planning decisions should ensure that developments will function well and add to the overall quality of the area, not just in the short term but over the lifetime of the development. It also states that planning decisions should ensure that developments will create places, which promote high standards of amenity for existing and future users.

88 Core Strategy Policy 15 states that new development should be designed in a way that is sensitive to the local context. It must therefore be demonstrated that the proposed alterations are neighbourly and that significant harm will not arise with respect to overbearing impact, overshadowing, and loss of light, loss of outlook or general noise and disturbance.

### **8.4.1 Proposed Extension**

89 The proposed extension would be situated 1.3m from the eastern boundary; this is the shared boundary with Kendall House, St Mildred's Road. Kendall House is set in approximately 1m from the shared boundary. The site of Kendall House has an approximate depth of 60m and Kendall House is situated in the front 30m and the rear 20m is comprised of a grassed area, garages and store cupboards. The two-storey element of the proposed extension would be situated to the rear of the site and would be situated approximately 12m from the rear elevation of Kendall House. Given the siting of Kendall House within its site, with garages and store cupboards situated at rear, the height of the single storey element and setback of the proposed two-storey element, the proposed extension is not considered to result in an unacceptable impact on the amenities of Kendall House.

90 The proposed extension would be situated 2.48m from the southern elevation, which is the shared boundary with No. 1 Helder Grove; it is the side boundary of the garden of No. 1. The existing hall which is proposed to be demolished has a minimal setback from this boundary and has a maximum height of 5.13m along the southern boundary. Whilst it is acknowledged that the two-storey element would have a maximum height of 7.15m, due to the excavation at the site, the proposed two-storey element would extend 5.8m above the existing ground level. Given this, the proposed two-storey element of the extension is not considered to have an unacceptable impact on the amenities of No. 1 Helder Grove.

91 A single storey element of the proposed extension would be situated on the western boundary with The Vicarage, No. 1A Helder Grove and the two storey element would be situated a minimum of 3.7m from the shared boundary with the garden of the Vicarage. The site visit demonstrated that there are a number of mature trees in the garden of the

Vicarage close to the boundary with the Church and the rear elevation of the Vicarage is setback approximately 16m from the shared boundary. Given the separation distance and the height of the proposed extension, it is not considered to result in such an unacceptable impact on amenities of the Vicarage that would warrant a refusal on this ground. If the proposal were otherwise acceptable, it would have been conditioned that the window at first floor level facing the Vicarage is to be obscure glazed so as to reduce overlooking and loss of privacy.

#### **8.4.2 Proposed Opening Hours/ Operations**

92 The existing church and hall, which is proposed to be demolished, does not have any planning restrictions on hours of operation. The application form outlines that the proposed hours of operation of the hall are:

Monday to Friday	8am to 11pm
Saturday	9am to 11pm
Sunday and Bank Holidays	9am to 9pm

93 The planning agent confirmed that the applicants would accept the opening hours of the hall being restricted as per the proposed hours of operation. It should be noted that the opening hours do not extend to the church and it is proposed for the hours of operation of the church to remain unrestricted. Given that the hours of the church are currently unrestricted, the church has been operating since Victorian time, and as the operations of the church are not considered to result in an unacceptable impact on neighbouring amenity, the continuation of the un-restricted hours of the church is considered to be acceptable.

94 Given that the existing hours of operation of the hall are un-restricted, officers welcome the proposed hours of operation and these would have been secured by condition if the proposal were otherwise acceptable. In addition, details of sound proofing, a management plan, the use of amplified music/speech, external lighting, and maximum occupancy numbers would have been secured by condition if the proposal was otherwise acceptable as to reduce the noise and disturbance to nearby residents due to the proposed extension being closer to residential accommodation and the increased number of people that the hall could accommodate.

#### **8.4.3 Impact on neighbours conclusion**

95 The proposed part one/two storey hall is not considered to have an unacceptable impact in terms of being overbearing, result in overshadowing, loss of light or outlook.

96 If the proposal were otherwise acceptable, a number of details would have been secured by condition to limit the general noise and disturbance from the use and hours of operation of the proposed hall.

### **8.5 TREES AND LANDSCAPING**

97 St Mildred's Church has visually significant mature trees within its green frontage strip which contribute to the character of the road and amenity. Officers do acknowledge that the site is not subject to any TPO designations.

- 98 The proposed car parking on the existing green strip is considered to harm the green road frontage and has an urbanising impact on the character of the church. In addition to this, the proposed excavation to accommodate the proposed parking and kerb edge with hauching within the Root Protection Areas (RPAs) will have a detrimental impact on the frontage trees, particularly T5 London Plane but also T1, T2, T6, T7, T8, T9 and T19, as most roots are within the top 600mm of the ground. The submitted Arboricultural report indicates that roots will be cut to enable the proposed parking arrangements; root damage will cause a loss of the condition of the trees to the detriment of visual amenity and environmental benefits. This is not considered to be acceptable.
- 99 Excavation is proposed to be undertaken to accommodate the two storey element of the proposed extension. The diameter of T19 Oak has been estimated as it is an off-site tree and has not been plotted in accordance with BS 5836:2012 Trees in relation to design, demolition and construction recommendations. It is not known whether the oak roots are beneath the existing building. Therefore further information is required in relation to the extent of the roots of T19 oak in order to inform the proposed floor levels and foundations of the proposed building so as to ensure that the long term condition and retention of the tree. If the proposal was otherwise acceptable this information would have been sought.

## 9 EQUALITIES CONSIDERATIONS

- 100 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 101 In summary, the Council must, in the exercise of its function, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - advance equality of opportunity between people who share a protected characteristic and those who do not;
  - foster good relations between people who share a protected characteristic and persons who do not share it.
- 102 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 103 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

- 104 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- The essential guide to the public sector equality duty
  - Meeting the equality duty in policy and decision-making
  - Engagement and the equality duty
  - Equality objectives and the equality duty
  - Equality information and the equality duty
- 105 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>
- 106 The existing church hall is not currently wheelchair accessible nor does the existing church hall have any disabled toilets.
- 107 The proposed church hall would be wheelchair accessible and would accommodate disabled toilets. There is a potential impact on the equality given the facts; however, this can be mitigated as disabled toilets could be provided in the new church hall not where they are currently proposed and the Church is wheelchair accessible and there are disabled toilet facilities in the church.

## 10 HUMAN RIGHTS IMPLICATIONS

- 108 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including
- Article 8: Respect for your private and family life, home and correspondence
  - Article 9: Freedom of thought, conscience and religion
  - Protocol 1, Article 1: Right to peaceful enjoyment of your property
  - Protocol 1, Article 2: Right to education
- 109 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.
- 110 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention Rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore,

carefully consider the balance to be struck between individual rights and the wider public interest.

111 This application has the legitimate aim of providing a new a new church hall.

112 The rights potentially engaged by this application, include the applicants' right to the freedom to manifest their religion by providing, opening and maintaining places or buildings devoted to religious worship

113 However this has to be balanced against the application of town-planning laws and regulations which corresponds to the legitimate aim of protecting public order within the meaning of Article 9 of the Convention.

114 Article 9: Freedom of thought, conscience and religion are not considered to be unlawfully interfered, as a replacement church hall with improved disabled access can be provided by an amended design that would not result in the harm to the character and appearance of the church that would be caused by the present proposal .

## 11 CONCLUSION

- 115 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 116 Officers do not raise an objection to the demolition of the existing hall and nor do officers raise an objection to the principle of providing further community space at St Mildred's Church which is considered to be a non-designated heritage asset. Officers acknowledge that the proposed development is not considered to have an unacceptable impact on neighbouring amenity subject to conditions.
- 117 However, the proposed development, particularly the single storey element, is considered to result in harm to a non-designated heritage asset. Officers have carefully considered this harm to be high level but less than substantial harm and have weighed it against the benefits of the proposal. The officer recommendation makes a balanced judgement in accordance with Paragraph 197 of the NPPF having regard to the scale of any harm and the significance of the non-designated heritage asset.
- 118 The benefits include an improved quality of provision for the church and improved disability access to the hall. Officers have had regard for the considerable level of support for the proposal and the lack of objections from adjoining occupiers. However, officers consider the benefits could be achieved, and a replacement hall provided without the level of planning harm identified. There is no evidence before officers that the extension in its current form is required to ensure the continuation of the community use at the site and an alternative proposal could achieve a lower level of harm. Officers note a meaningful reduction in the floor plate of the extension requested at application stage was not delivered by the applicant.
- 119 Officers have also considered the medium value of the significance of St Mildred's Church. As the Conservation Officer's comments state, the church is of moderate significance overall, but of high significance in its own right as a non-designated heritage asset. Officers have also considered the high level of weight that the NPPF, the local plan and relevant planning case law place on the preservation of heritage assets.
- 120 Therefore, officers consider the benefits of the proposal are outweighed by the harm identified in this case.
- 121 The proposed development, by means of its bulk and scale, form, siting, materiality, and its relationship with the historic building is considered to be an incongruent and over dominant addition which results in harm to the character and appearance of the asset and wider townscape.
- 122 In addition, the proposed loss of the green strip and associated works to existing trees and to accommodate car parking, would lead to a demise of the trees (T1, T2, T5, T6, T7, T8, T9 and T19) in the foreseeable future due to root loss, as well as post development pressures, which in turn would detract from the setting and character of St Mildred's Church.

## 12 RECOMMENDATION

- 123 That the Committee resolve to **Refuse** planning permission for the following reasons:
- 1) The proposed development, particularly the single storey element, by means of its bulk and scale, form, siting and materiality is considered to be an incongruent and over-dominant addition, which results in harm to the character and appearance of St Mildred's Church and the wider townscape. The proposed development is therefore contrary to Para 127 of the NPPF (2019); Policy 7.8 'Heritage assets and

Archaeology' of the London Plan (2016); Core Strategy Policy 15 'High quality design for Lewisham' and Core Strategy Policy 16 'Conservation areas, heritage assets and the historic environment' of the Core Strategy (2011); and DM Policy 30 'Urban design and local character', DM Policy 31 'Alterations/extensions to existing buildings' and DM Policy 37 'Non-designated heritage assets including locally listed buildings, areas of special local character and assets of archaeological interest' of the Development Management Local Plan (2014).

- 2) The proposed loss of existing green strip and associated works to the existing trees and to accommodate car parking, would lead to a demise of the trees (T1, T2, T5, T6, T7, T8, T9 and T19) in the foreseeable future due to root loss, as well as post development pressures, which in turn would detract from the setting and character of St Mildred's Church, contrary to Core Strategy Policy 12 'Open Space and Environmental Assets' of the Core Strategy (2011) and DM Policy 25 'Landscaping and trees' and DM Policy 37 'Non-designated heritage assets including locally listed buildings, areas of special local character and assets of archaeological interest' of the Development Management Local Plan (2014).