

Application Report

Planning, Housing and Health
North Devon Council
Lynton House, Commercial Road,
Barnstaple, EX31 1DG



Application No: 78283
Application Type: Full Application
Application Expiry: 11 October 2024
Extension of Time Expiry: 11 October 2024
Publicity Expiry: 26 September 2024
Parish/Ward: SWIMBRIDGE/LANDKEY
Location: Watergate
High Street
Swimbridge
Devon

Proposal: Internal and external alterations to create a level access including Installation of a lift, creation of a ground floor accessible wc and a new doorway

Agent: David Wilson Partnership

Applicant: David Netherway

Planning Case Officer: Miss D. Martin

Departure: N

EIA Development:

EIA Conclusion: Development is outside the scope of the Regulations.

Decision Level/Reason for Report to Committee (If Applicable): Committee – Agent is a District Councillor

Site Description

Watergate is located in the centre of Swimbridge to the east of St James Church which is a Grade II listed building.

The site is located within the historic core of the Swimbridge Conservation Area.

Watergate, previously known as 'The Old School Rooms', is Grade II listed and is owned by the Diocese as part of the church grounds. It is an attractive 2-storey building comprising mostly painted render exterior with natural slate roof and timber windows and doors. There are elements of stone walls with yellow cap stones on the access to the building. Towards the main access external floors comprise cobbles and stone flagstones and tarmac.

The building is used for a pre-school at ground floor and a meeting room at second floor.

Recommendation

Approved

Legal Agreement Required: No

Planning History

Lynton House, Commercial Road, Barnstaple EX31 1DG | www.northdevon.gov.uk

Reference Number	Proposal	Decision	Decision Date
28786	LISTED BUILDING APPLICATION IN RESPECT OF INSTALLATION OF GAS CENTRAL HEATING at SWIMBRIDGE PRE-SCHOOL, LOWER OLD SCHOOL ROOMS, WATERGATE, , SWIMBRIDGE, BARNSTAPLE, EX320PR	LB (EXECUTION WORKS) APPROVAL	7 April 2000
71625	Listed Building Application for external works to achieve level access & installation of roof light together with internal alterations at The Old School Rooms High Street Swimbridge Barnstaple Devon EX32 0PR	Not Required	28 July 2020
71623	External works to achieve level access & installation of roof light at The Old School Rooms High Street Swimbridge Barnstaple Devon EX32 0PR	Approved	23 September 2020
78301	Listed building consent for internal and external alterations to create a level access including Installation of a lift, creation of a ground floor accessible wc, a new doorway, rooflight and solar panels at Watergate High Street Swimbridge Devon	Withdrawn Invalid	22 February 2024

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 45 metres in height.	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 91.4m	Within constraint
Conservation Area: 38 Swimbridge Adopted 01/09/2012;	Within constraint
Landscape Character is: 1D Estate wooded ridges and hilltops	Within constraint

Constraint / Local Plan Policy	Distance (Metres)
Listed Building Adjacent: 2492.0 EH Ref 1107640 Church of St James, Swimbridge	12.7
Listed Building Adjacent: 2508.0 EH Ref 1317155 Village Hall (now the Old School Room), Swimbridge	Within constraint
Listed Building Curtilage (Adjacent to)	Within constraint
Listed Building Curtilage (within)	Within constraint
Listed Building: 2508.0 EH Ref 1317155 Village Hall (now the Old School Room), Swimbridge	Within constraint
USRN: 27501336 Road Class:R Ownership: Highway Authority	1.94
USRN: 27501376 Road Class:R Ownership: Highway Authority	Within constraint
USRN: 27506274 Road Class:YFP Ownership: Highway Authority	13.2
USRN: 27507146 Road Class:R Ownership: Highway Authority	12.92
Within adopted Development Boundary: Swimbridge Development Boundary ST07	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Flood Zone 2	Within constraint
Within Flood Zone 3	Within constraint
Within:, SSSI 5KM Buffer in North Devon,consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
Listed Building Grade: 2	
Conservation Area: SWIMBRIDGE	
DM01 - Amenity Considerations DM04 - Design Principles DM05 - Highways DM06 - Parking Provision DM07 - Historic Environment DM08 - Biodiversity and Geodiversity ST02 - Mitigating Climate Change ST04 - Improving the Quality of Development ST15 - Conserving Heritage Assets ST14 - Enhancing Environmental Assets ST22 – Community Services and Facilities	

Consultees

Name	Comment
Councillor G Lane	No response received
Reply Received	
Councillor M Haworth-Booth	No response received

Name	Comment
Reply Received	
Heritage & Conservation Officer Reply Received 10 September 2024	This application is the same proposal as that contained in application 71623, which was consented in 2020. As with that application, I do not consider that the proposal will cause harm to the significance of the heritage asset. The building is grade II listed, but as it is a church property it is dealt with through the ecclesiastical exemption procedure, therefore LBC does not need to be granted by the LPA.
Swimbridge Parish Council Reply Received	No response received

Neighbours / Interested Parties

Comments	No Objection	Object	Petition	No. Signatures
0.0	0.0	0.0	0.0	0.0

No representations received.

Considerations

Proposal Description

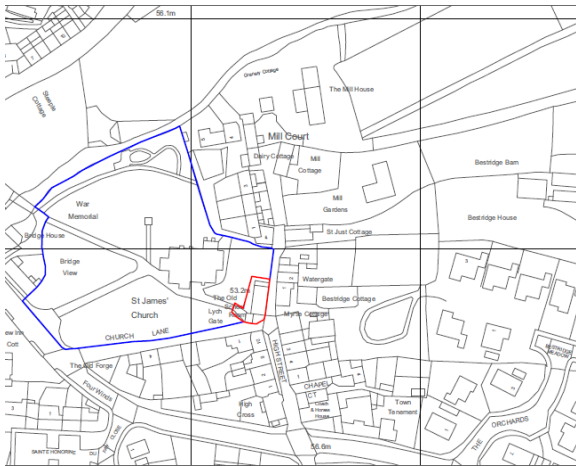
This application seeks detailed planning permission for internal and external alterations to create a level access including Installation of a lift, creation of a ground floor accessible wc and a new doorway.

In this case, because the building is within the original grounds of the church, it has ecclesiastical exemption therefore the Diocese should deal with the matter, rather than through an LBC application.

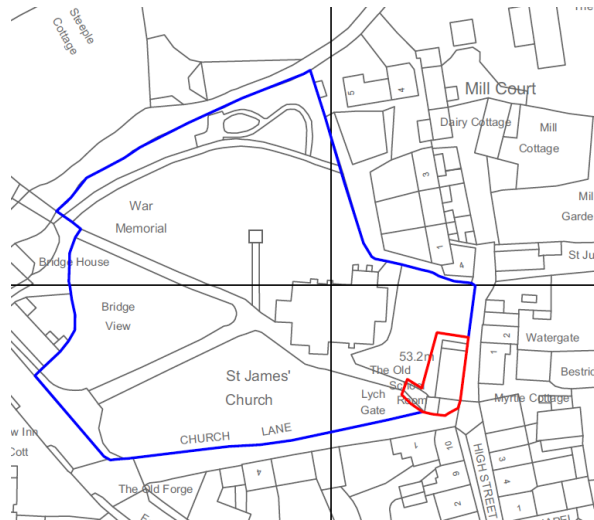
The works that require planning permission are:

- Levelling the ramped access to reduce the degree of the slope.
- The removal of a section of external stone wall measuring approx. 82cm wide to allow improved access to the west elevation.
- The introduction of a timber door in the west elevation for disabled access
- The introduction of a larger WC with disabled access
- The introduction of a lift to provide access to the first floor meeting room.
- Re roofing the existing roof with natural slate and the introduction of new insulation to replace old.

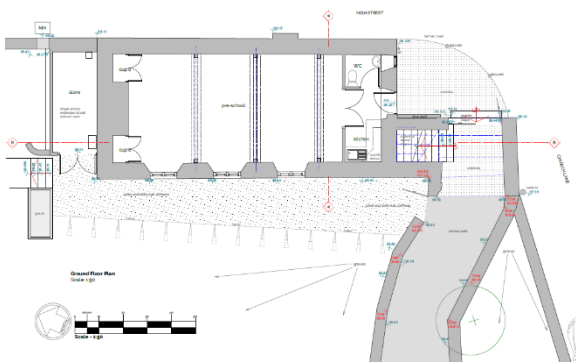
These works are needed to comply with the Equalities Act requirements, and to provide improvements to access to ensure that the widest group of users can use both the Church and the Old School Room.



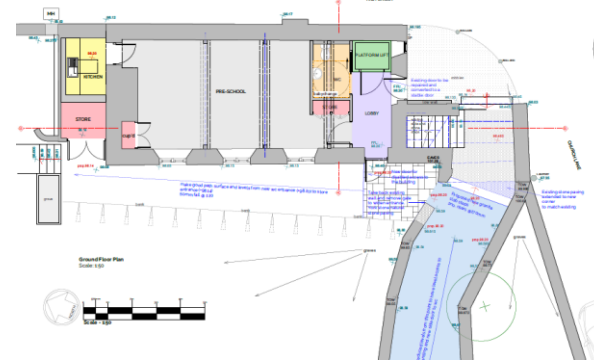
Location Plan



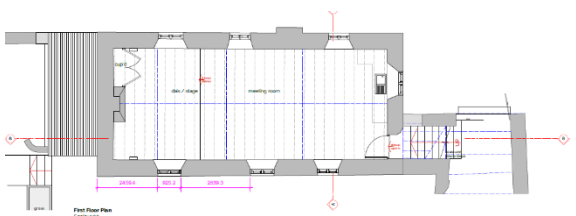
Block Plan



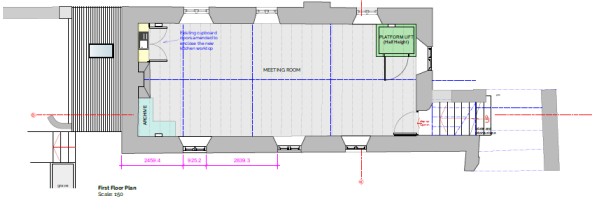
Ground Floor Existing



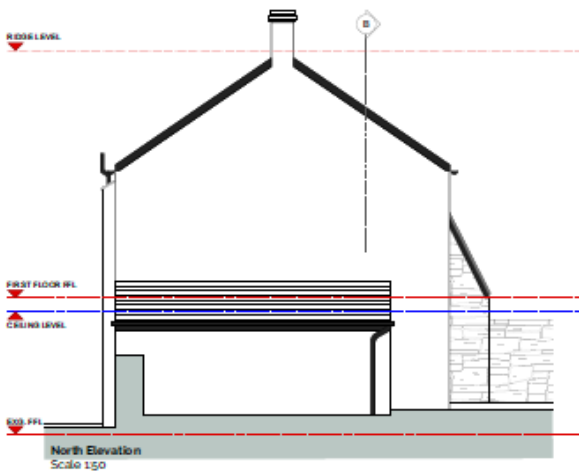
Ground Floor Proposed



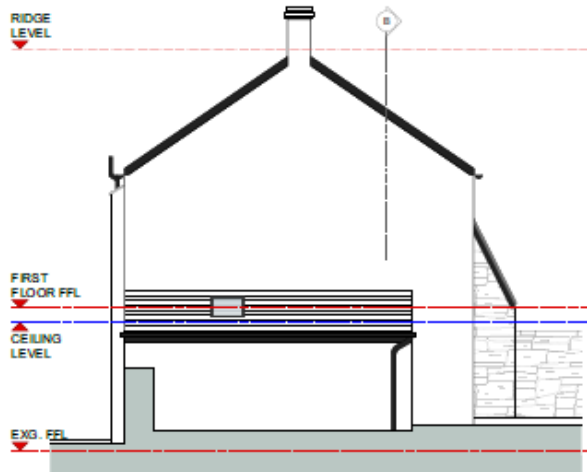
First Floor Existing



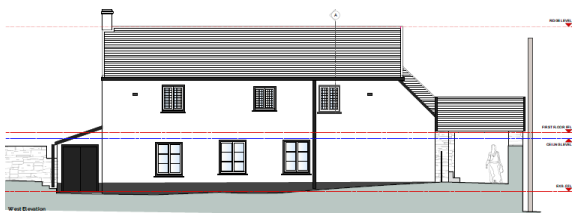
First Floor Proposed



North Elevation Existing



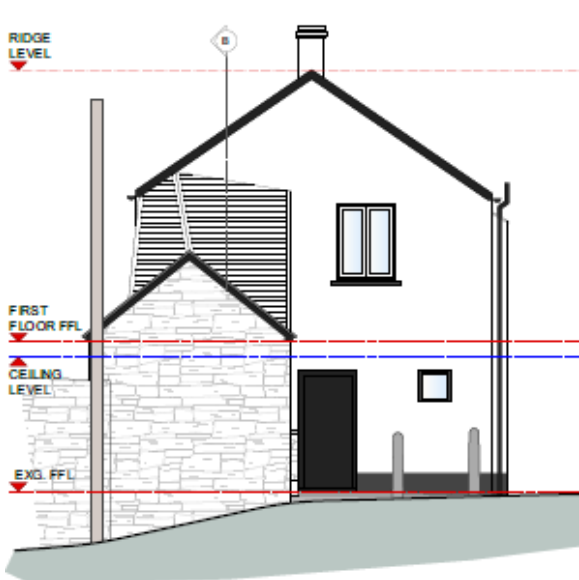
North Elevation Proposed



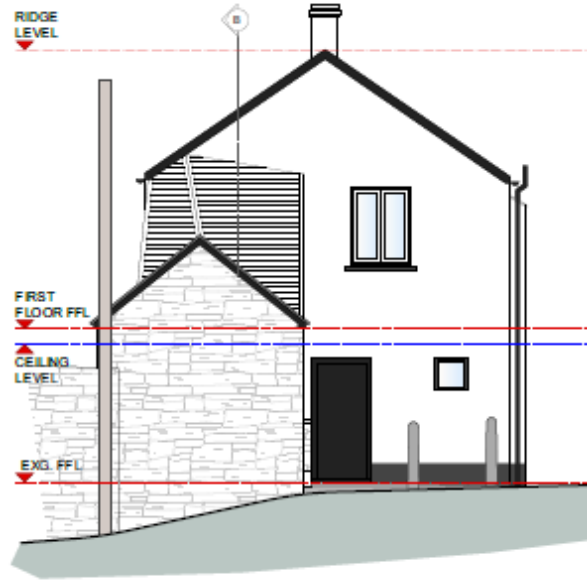
West Elevation Existing



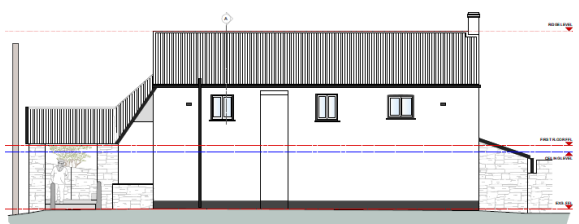
West Elevation Proposed



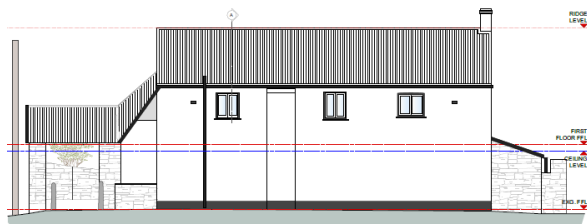
South Elevation Existing



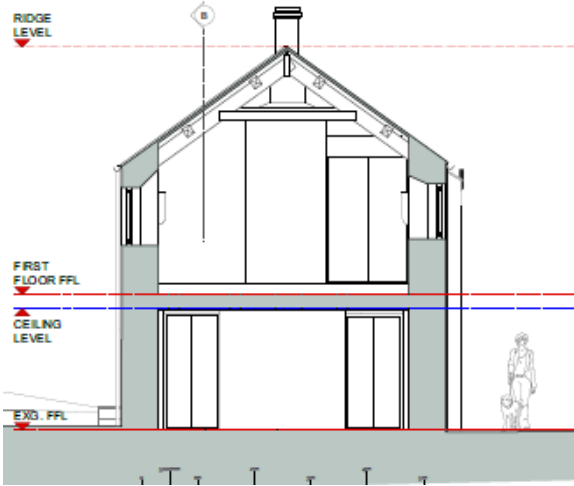
South Elevation Proposed



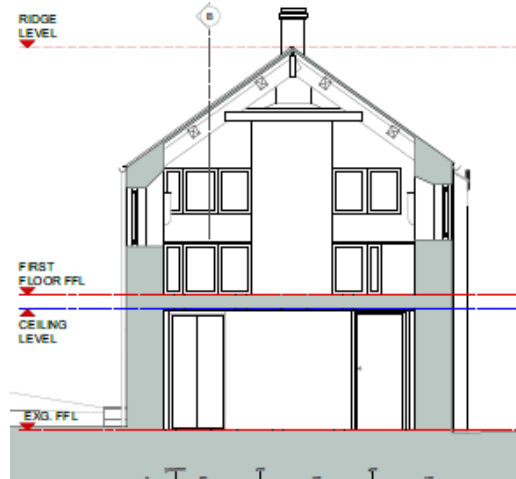
East Elevation Existing



East Elevation Proposed



Section A-A Existing



Section A-A Proposed



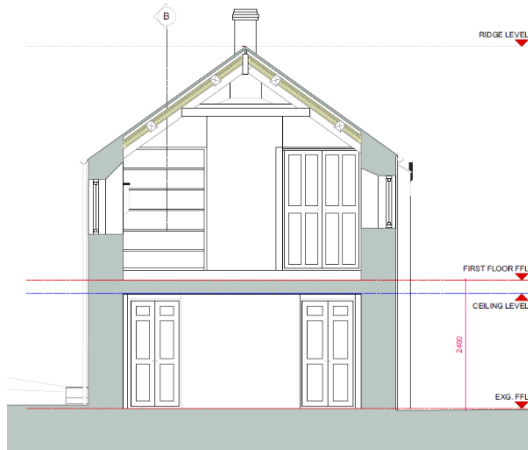
Section B-B Existing



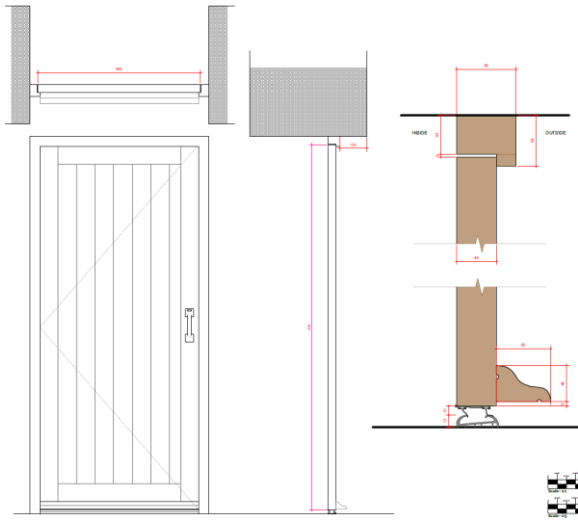
Section B-B Proposed



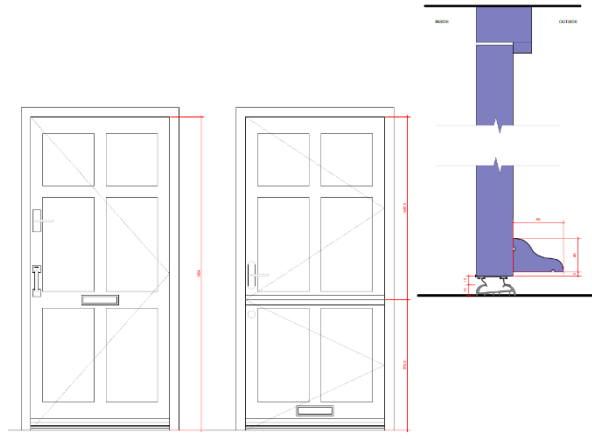
Elevation A Existing



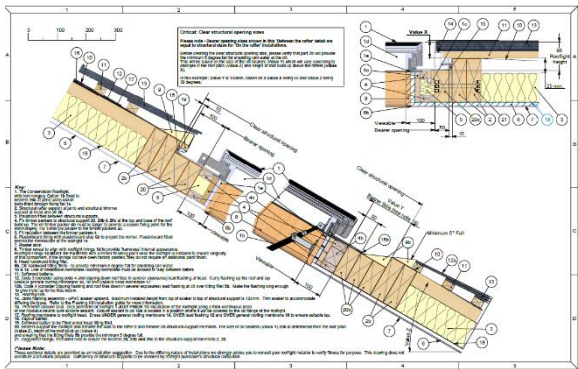
Elevation A Proposed



Proposed Timber External Door



Proposed Timber Door Adaptation



Proposed Roof Light Detail



End Elevation



End Elevation



End Elevation



Internal Staircase



End Elevation



End Elevation



Internal Roof Felt and Batten



End Elevation



Side Elevation



Internal Roof Space



Internal Room

Planning Considerations Summary

- Principle of development
- Design and Impact on Heritage Assets
- Amenity
- Ecology
- Flood risk and drainage
- Highways and parking

Planning Considerations

In the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for this area includes the Devon Waste Plan and North Devon and Torridge Local Plan. The relevant Policies are detailed above.

Section 16 of the Listed Building Act, in considering whether to grant listed building consent for any works the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

In considering to grant planning permission which affects a listed building or its setting the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses in accordance with Section 66 of the Listed Building Act.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states a general duty of a Local Planning Authority as respects conservation areas in exercise of planning functions. In the exercise, with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The National Planning Policy Framework (NPPF) is a material consideration.

Principle of Development

The building is used for a pre-school at ground floor and a meeting room at second floor, which is a community asset.

The proposed works will be mainly focused on internal layout alterations that will improve access to the building.

Policy ST22 (Community Services and Facilities)

(1) Development of new, or extensions or improvements to existing community facilities that meet the needs of local communities will be supported within or adjoining defined settlements and Rural Settlements where:

(a) It does not harm the character of the area and the amenities of the surrounding uses;

(b) It is well related to public transport infrastructure, where possible, and is accessible by walking or cycling; and

(c) It can be accessed without generating unacceptable levels of traffic on the local road network and / or reducing highway safety

The improvements to the building will enable better access to an existing community facility, for all users of the building, providing improvements to the WC facilities and access to the first floor meeting rooms. The proposals will enlarge access points and provide ease of movement within the building for disabled persons using the building.

Therefore, in principle, the proposal accords with Policy ST22 of the North Devon & Torridge Local Plan.

Design and impact on Heritage Asset

Policy **DM04** of the Local Plan (Design Principles) encourages good design and ensures that development proposals should be appropriate and sympathetic to setting in terms of scale, density, massing, height, layout appearance, fenestration, materials and relationship to buildings and landscape features in the local neighbourhood; reinforce the key characteristics and special qualities of the area in which the development is proposed; and contributes positively to local distinctiveness, historic environment and sense of place.

Policy **DM07** (Historic Environment) of the NDTLP states all proposals affecting heritage assets should be accompanied by sufficient information, in the form of a Heritage Statement, to enable the impact of the proposal on the significance of the heritage asset and its setting to be properly assessed. As part of such an assessment, consideration should be given, in

order of preference, for avoiding any harm, providing enhancement, then minimising and mitigating any harm.

Policy **ST15** (Conserving Heritage Assets) of the NDTLP states great weight will be given to the desirability of preserving and enhancing northern Devon's historic environment by: conserving the historic dimension of the landscape; conserving cultural, built, historic and archaeological features of national and local importance and their settings, including those that are not formally designated; identifying and protecting locally important buildings that contribute to the area's local character and identity; and increasing opportunities for access, education and appreciation of all aspects of northern Devon's historic environment, for all sections of the community.

The proposed works are to achieve barrier free access to the first floor community meeting room by installing a lift, creating a ground floor accessible wc and a new doorway to the west elevation with adjustments in the external works to achieve level access. The lift and wc are accommodated by moving the Pre School kitchen to the North of the building into the existing single storey extension with a new conservation roof light.

The only external change to the exterior of the building is a new doorway on the west elevation which is a disability access into the building.

There are no changes in scale and/or massing of the building.

Heritage and Conservation Officer Comments:

"This application is the same proposal as that contained in application 71623, which was consented in 2020. As with that application, I do not consider that the proposal will cause harm to the significance of the heritage asset. The building is grade II listed, but as it is a church property it is dealt with through the ecclesiastical exemption procedure, therefore LBC does not need to be granted by the LPA."

The proposal accords with policies DM04, DM07, and ST15 of the North Devon & Torridge Local Plan.

Amenity

Policy **DM01** of the Local Plan (Amenity Considerations) states that development will be supported where: (a) it would not significantly harm the amenities of any neighbouring occupiers or uses; and (b) the intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.

The proposed improvements will not result in any adverse effect on neighbouring properties along Church Lane, in terms of privacy, daylight or overbearing impacts over the existing situation.

The roof light faces towards the church and will have no effect on neighbouring properties.

The proposal complies with policies DM01 of the North Devon & Torridge Local Plan.

Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (Habitat Regulations 2019).

Policy **DM08** (Biodiversity and Geodiversity) of the NDTLP requires development should conserve, protect and, where possible, enhance biodiversity and geodiversity interests and soils commensurate with their status and giving appropriate weight to their importance.

Policy **ST14** (Enhancing Environmental Assets) of the NDTLP aims to protect and enhance northern Devon's natural environment by ensuring that development contributes to providing a net gain in biodiversity where possible.

The proposal involves works to the roof which requires an assessment of protected species.

A wildlife statement has been submitted which shows that the existing slate roof is visible from inside the first floor of the building, whereby there are no obvious areas for protected species to inhabit.

The wildlife report details that 'externally the eaves and verge appear very tightly sealed and unable to form habitat for bats or wildlife'.

To ensure a net biodiversity gain in habitat provision, a condition is included that a bat box be included on the south or western elevation of the building.

A preliminary ecological appraisal has also been submitted and they suggested that works to the roof and exterior crevices should not be carried out during bird nesting season (1st march – 31st August) which can be added to the conditions.

In conclusion, the proposal complies with policies DM08, ST14 and the statutory duties of the LPA.

Flood Risk and Drainage

Policy **ST02** of the local plan (Mitigating Climate Change) states development will be expected to make a positive contribution towards the social, economic and environmental sustainability of northern Devon and its communities while minimising its environmental footprint by: (a) reducing greenhouse gas emissions by locating development appropriately and achieving high standards of design; (b) conserving and enhancing the natural, built and historic environment through the prudent use of key resources including land, buildings and energy, whilst protecting and enhancing the area's biodiversity, geodiversity, landscape, coastline, air, water, archaeology and culture.

This proposal is located within Flood Zone 1 which means it has a low probability of flooding also the works do not result in significant alterations or additional impacts in respect of surface water run off therefore no flood risk and drainage concerns are raised.

Highways and Parking

Policy **DM05** of the Local Plan (Highways) states that: (1) All development must ensure safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians, and (2) All development shall protect and enhance existing public rights of way, footways, cycle ways and bridleways and facilitate improvements to existing or provide new connections to these routes where practical to do so.

Policy **DM06** of the Local Plan (Parking Provision) states that development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs, having regard to the: (a) accessibility and sustainability of the site; (b) availability of public transport; (c) provision of safe walking and cycling routes; and (d) specific scale, type and mix of development. Proposals must also encourage the use of sustainable modes of transport through careful design, layout and integration to the existing built form.

The proposal will not alter the nature or frequency of traffic attracted to the site over the existing situation. The proposal does not result in severe impact on the local highway network nor on existing parking/drop off/pick up points within Church Lane therefore, complies with policies DM05 and DM06 of the North Devon & Torridge Local Plan.

Conclusion

The application is considered to accord with the adopted development plan. Approval of the application is therefore recommended subject to the imposition of planning conditions.

Human Rights Act 1998

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Recommendation

Approved

Legal Agreement Required: No

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason:

The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The works hereby permitted shall be carried out in accordance with the following approved plans/details:

1344 01 01P2 Location Plan received on the 08/02/24

1344 02 02P2 Proposed Floor Plans received on the 08/02/24

1344 03 02P3 Proposed Elevations And Sections received on the 30/09/24

1344 04 02P2 Proposed Room Elevation received on the 08/02/24

1344 10 01P2 Proposed Timber Door Details received on the 08/02/24

1344 10 04P2 Proposed Timber Door Adaptation received on the 08/02/24

CR-CRSF-FKB Window Section Details received on the 08/02/24

('the approved plans').

Reason:

To ensure the works are carried out in accordance with the approved plans in the interests of the heritage asset.

3. The development hereby approved shall be constructed in accordance with the following schedule of external finishing materials:

External Door - Painted Timber

Roof Covering - Natural Slate

Internal walls - Stud Walls

Floors - Vinyl Flooring and Carpet

Ceilings - Plasterboard cut between trusses to detail

Internal Doors - Timber

Reason:

In the interests of the appearance of the development and locality in accordance with Policy DM04 of the North Devon and Torridge Local Plan.

4. The development shall be carried out in accordance with the Avoidance, Compensation and Enhancement as detailed in the Final Bat Survey Report by Orbis Ecology which that was received on the 5th August 2024.

Reason:

To safeguard protected species and their habitats and to achieve biodiversity net gains in accordance with Policies ST14 and DM08 of the North Devon and Torridge Local Plan, natural environment objectives of the National Planning Policy Framework at Chapter 15, and to meet the statutory duties of the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).

Informatives

1. This decision does not give or convey any form of consent to any other works other than those specified in the submitted and approved drawings / schedule of works or the alteration or removal of any fixtures or fittings which may require separate specific listed building consent. If any other such works are intended the applicant is advised to contact the Local Planning Authority for advice before commencing these on site.
2. Bats and bat roosts are protected by law under Schedule 5 of the Wildlife & Countryside Act 1981 [as amended], Schedule 2 of the Conservation [Natural Habitats, &c] Regulations 1994, the Countryside Rights Of Way Act 2000, and the Conservation of Species and Habitats Regulations 2017. It is an offence to recklessly or deliberately kill, injure or capture [take] bats, recklessly or deliberately disturb bats, damage, destroy or obstruct access to bat roosts. For further advice contact the Bat Helpline 0345 1300 228.
3. It is an offence under section 1 of the Wildlife and Countryside Act 1981 (as amended) to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built. It is strongly recommended that any buildings or land where consent for work has been granted are checked for nesting birds prior to any work being undertaken. Where inspection is obscured i.e. Hedgerows, Ivy and in trees of dense foliage it is advised that work is scheduled for outside the nesting season i.e. not undertaken between March and August (inclusive). For further advice please contact the RSPB Southwest Regional Office 01392 432691.
4. The submitted drawings have been numbered as set out in condition 2. Please refer to the planning application tracker on the District Council's website to view the drawings and their allocated numbers, <http://planning.northdevon.gov.uk/search.asp>
5. BIODIVERSITY NET GAIN

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be North Devon District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
 - 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
 - i) the application for planning permission was made before 2 April 2024;
 - ii) planning permission is granted which has effect before 2 April 2024; or
 - iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).
 - 4.2 Development below the de minimis threshold, meaning development which:
 - i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
 - ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).
 - 4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.
 - 4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).
 - 4.5 Self and Custom Build Development, meaning development which:
 - i) consists of no more than 9 dwellings;
 - ii) is carried out on a site which has an area no larger than 0.5 hectares; and

iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.6 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* "original planning permission means the permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions

6. Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.