



Historic England

SOUTH EAST OFFICE

Mr Richard Hart  
Gravesham Borough Council  
Civic Centre  
Windmill Street  
Gravesend  
DA12 1AU

Direct Dial: 01483 252035

Our ref: P00434583

11 April 2017

Dear Mr Hart

**T&CP (Development Management Procedure) (England) Order 2015  
& Planning (Listed Buildings & Conservation Areas) Regulations 1990**

**GURU NANAK DARBAR GURDWARA CLARENCE PLACE GRAVESEND KENT  
DA12 1LD**

**Application No. 20140550**

Thank you for your letter of 21 March 2017 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

**Historic England Advice**

This application proposes demolition of the former Congregational Church in the Windmill Hill Conservation Area, Gravesend, and its replacement with 19 flats. We commented on this application in a letter of 14 October 2014 (when we were English Heritage). The application has since been amended in details that do not change the application fundamentally, so we therefore recommend that you continue to treat our previous letter as our current advice on this application.

However, I have read the Summary Report on this application for your Council's Regulatory Board meeting of 12 April and would like to take this opportunity to clarify some points that appear to us to have the potential to be misinterpreted. This is particularly important given that your Council's acceptance of demolition of this building in 2009 was subject to a successful legal challenge which argued that the decision was contrary to local and national policy.

Whilst it is correct to say that Historic England has not objected to the current application and that the existing building is not listed (Summary of Reasons for Recommendation), these are not in our view the key heritage considerations in this case and could be interpreted as downplaying the heritage value of the existing building and the rigorous steps required by your Council to determine this application within policy.



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Our decision not to object in this case should not be treated as tacit support for the scheme, but rather that we have deferred to your Council to make its own decision on the application in accordance with local and national policies and guidance for the historic environment. The building is not listed, but it is nonetheless part of a conservation area, itself a designated heritage asset, and, as your Council's Conservation Area Appraisal confirms, it is a part that makes a positive contribution. We are concerned that your report appears to dismiss that significance too lightly and implies, perhaps unintentionally, that the building is not worthy of being preserved. Your reference to NPPF 132 appears to us to go too far in its interpretation that harm to such an unlisted building is individually less important than loss of a listed example.

We nonetheless agree with your report that loss of the existing building would result in harm to the conservation area, a designated heritage asset. We are also inclined to agree with you that the harm is not substantial. However, you will know that substantial harm is a very high test and is only likely to occur in exceptional circumstances. The vast majority of harm to the historic environment will therefore not reach that substantial threshold and should not be treated as inconsequential if it does not.

The NPPF is clear that 'great weight' always needs to be given to the conservation of designated heritage assets regardless of the level of harm involved, and that 'clear and convincing justification will need to be given for any harm or loss (para 132). The Barnwell Manor Court of Appeal judgement provides an important reminder that where harm does not reach the very high threshold of 'substantial harm' this should not be interpreted as a 'less than substantial objection to the grant of planning permission'.

You refer in paragraph 6.19 to an appeal decision in Mendip District where the Inspector in that case determined that the less than substantial harm to the significance of the conservation area was outweighed by the public benefits of providing new housing. It is right that harm and public benefits need to be weighed in such cases in accordance either with para 133 or 134 of the NPPF, but the implication of your report is that the Inspectorate has concluded that less than substantial harm will always be outweighed by the public benefits of new housing. What you do not say is that there is a wide spectrum of harm possible within the 'less than substantial' bracket and that in this case the harm is towards the high end of that spectrum (whereas it may have been less at Mendip) and therefore that the bar for public benefits needs accordingly to be set high. There are also many appeal decisions which conclude that the provision of housing does not automatically outweigh harm to the historic environment. The High Court's judicial review of Sevenoaks District Council's decision in the case of Forge Field, Penshurst is particularly strong on this point (Case Nos. CO/735/2013 & CO/16932/2013).

In addition to giving great weight required by the NPPF to the preservation of designated heritage assets, you should also be aware of the statutory duty in S72(1) of the Planning (LB & CAs) Act 1990 requiring that special attention shall be paid to the



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desirability of preserving or enhancing the character or appearance of that area. This is mentioned in your paper, but it is a point that other LPAs have recently failed to give appropriate consideration, and so your Council will need to demonstrate that it has understood and appropriately applied the duty if it does not want to risk further challenge.

**Recommendation**

Historic England has concerns regarding the application on heritage grounds and we request that the points of clarification made in this letter are conveyed to your Regulatory Committee so that the decision it makes on this application is appropriately balanced and in accordance with national and local policy and guidance on the historic environment. We think any decision would as a result be less vulnerable to judicial review.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

Yours sincerely

**Tom Foxall**

Inspector of Historic Buildings and Areas

E-mail: [tom.foxall@HistoricEngland.org.uk](mailto:tom.foxall@HistoricEngland.org.uk)



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