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Your ref: 3/2019/0446

Our ref:

Date: 18th July 2019

FAO A Dowd

Dear Mr Macholc,

Planning Application 3/2019/0446:

Construction of garage with parking for 5 vehicles to be used by Chapel House and Nos 1 and 2 Chapel School, installation of automatic gates, external lighting and CCTV; construction of a garden summer house, greenhouse and patio area. 2 Chapel School, St Nicholas Avenue, Sabden BB7 9HR

The above application involves development within the grounds of a former Methodist chapel, which appears to have been dedicated as a burial ground. The heritage statement which accompanies the application gives a brief history of the site and it would appear that the proposed garage block is sited partially within the footprint of the 1879 chapel. Despite this, no purely archaeological response appears to be required by the proposals.

It is notable, however, that the heritage statement and plans state that two areas of the former grounds are 'consecrated as a graveyard', but there is no information showing that burials only occurred in these two areas. The whole of the plot is annotated as 'B.G. (i.e. Burial Ground)' on the OS 1:2,500 map of 1893 (sheet Lancashire 55.08) and as 'Graveyard' on modern OS mapping. There are no obvious limits set to burials within the plot on these or other mapping available to me. Whilst it seems probable that the applicants' mapping is correct, it would seem sensible for the council to request that the applicants confirm in writing that there are no known burials outside of those two areas and, if available, that they back this up with a copy of the burials plan or other appropriate evidence.

Whilst unusual in Methodist circles, the evidence above should also cover the possibility of burial(s) within the footprint of the now-demolished chapel if at all possible.

If this confirmation cannot be obtained or is incomplete or inconclusive, then it must be suspected that the groundworks required for the proposed new garage have the

potential to disturb buried remains here. As such a full foundation design with a dimensioned plan and sections minimising this potential should be supplied by the applicants (note the garage base design noted in the heritage statement does not appear to accompany the application documents). It should not be assumed that any human remains will be deeply buried, as it is not unusual for such remains to be disturbed and redeposited at fairly shallow depths as part of normal graveyard activities.

The proposed patio area does not appear to be marked on the supplied site plan as proposed, but in the heritage statement it notes that it will be "...*adjacent to the right hand side gable elevation*". It is not obviously stated which building this gable belongs to and to avoid doubt it is recommended that its location and extent are clearly marked on a plan. It may also be appropriate for a detailed foundation design or section drawing to be provided for this construction, if it is like the garage block within an area of potential burials.

The proposed greenhouse and summer house are likely to stand directly on the ground surface without any foundations and if this can be confirmed then no detailed foundation design would be required for them.

If human remains are encountered during any part of the development, then their disturbance or removal (even to re-bury them) is likely to be an offence under the Burial Act 1857 unless a licence under section 25 of the Act has been obtained. Such a licence can be issued by the Home Office but this will require a formal application.

It should also be noted that the word 'consecrated' used several times in the application can have specific implications in law. Where a burial ground is consecrated according to the rites of the Church of England, then a specific ruling must be made under the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 by an appropriate Bishop removing the legal constraints of that consecration for any development (except the construction or enlargement of a church or other place of worship) to be legal there. This applies to all areas within the bounds of the consecrated site, regardless of whether some, all or none of it has actually been used for burials and applies whether or not planning permission is required and/or has been granted.

This legal provision may not apply to this particular site, as it appears to come under the aegis of the Methodist Church who do not formally 'consecrate' burial grounds (the heritage statement also says that the burial ground is 'deconsecrated' but such a term is not valid in church law). Again it would be appropriate for this issue to be raised with the applicants. You or they may wish to discuss the application and its potential legal ramifications with the Methodist Church's Conservation Officer, Joanne Balmforth who can be contacted on 0161 235 6739. I have made her aware of the application and she or another representative of the Methodist Church may make a direct representation to you.

Where a former graveyard is not legally 'consecrated' then the Disused Burials Grounds Act 1884 and the Disused Burials Grounds (Amendment) Act of 1981 also make it illegal for any development (again except the construction or enlargement of a church) to occur there. The definition of such a disused burial ground is drawn particularly widely. Sensibly there are provisions which negate this however. These include sections 239

and 240 of the Town and Country Planning Act 1990 which appear to allow development within a disused burial ground covered by the Acts as long as appropriate planning consent is obtained. This would seem to remove any 'permitted development' within such a burial ground. It should be noted, however, that under these sections it also appears that the disused burial ground should be considered as 'Open Space' rather than a curtilage or other type of site and the planning application determined appropriately.

I hope that the above is useful to you.

Yours sincerely

Peter Iles

Planning Officer (Archaeology)