

PLANNING STATEMENT

Certificate of Lawfulness of Proposed Works to a Listed Building for: Replacement of slate roof covering with concrete tile roof covering

Site address: 27 Church Street, Heckmondwike, WF16 0AX

Client: Garlands Residential Care Home Ltd

Date: September 2025

Revision: 0

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DipTRP MRTPI



OS map published 1942

HPD

Heritage Planning Design Ltd

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1.0 INTRODUCTION & BACKGROUND

This statement has been prepared on behalf of Garlands Residential Care Home Ltd (the Applicant) in support of a Certificate of Lawfulness of Proposed Works to a Listed Building for:

“Replacement of slate roof covering with concrete tile roof covering”

27 Church Street is a former vicarage¹ that is historically associated with the Church of St James, which is located a short distance to the east. The church was grade II listed 13 January 1984 and its list description (entry no. [1300258](#)) is as follows:

Commissioners' church in Early English style. 1830-1 by Peter Atkinson (Jnr.). New chancel and Lady Chapel added 1905. Dressed stone with ashlar dressings and buttresses. Slate roof. West tower with broach spire. 7-bay buttressed nave, 2 bay chancel and 3-bay later chancel. Steeply pitched south porch with similar baptistry to north. Plain lancets to nave and chancel. Paired arched windows to later chancel. 5-light untraceried, stained glass east window. 2-tier square tower with clasping and angle buttresses. Heavily moulded doorway on south side. West lancet window. Clock to 3 elevations. Bell chamber has triple group of arched, louvred openings to each elevation. Hexagonal, stone broach spire, ribbed and with gargoyles.

Interior: Plain aisleless nave. Heavily moulded arch to original chancel on clustered colonnettes, with very steeply pointed flanking arches. New chancel has well carved organ case to left with 4 carved angels. To right is Lady Chapel with stained glass of 1907 and 1912, and well carved parclose screen. Colourful reredos with well carved panelling to each side and

carved canopied figures of St Paul and St Aidan. To rear of nave is 1st World War Memorial of carved oak panels.

The purpose of the application is to ascertain if the building is listed and if the proposed works require listed building consent or not. It has been preceded by some correspondence between the Applicant and Conservation Officer (Sheena Campbell). In an email of 20 May 2025 the Conservation Officer Advised:

Garlands at 27 Church Street is Listed by virtue of being within the curtilage of the Church adjacent.

Alteration of the roof from blue slate to Marley Concrete tiles would alter the significance, character and appearance of the building so would need Listed Building Consent. It is unlikely to be granted consent. It would be preferred to retain the original slates and if they need re-roofing to obtain matching replacements for the 25% which might be broken or damaged.

If you wish to re-roof using the original materials and a few extra to match then it would not need Listed Building Consent or Planning permission.

However, HPD respectfully disagrees with this opinion for the reasons set out below.

¹ Here on in referred to as a vicarage for simplicity

2.0 LEGISLATION

Legislation

Section 1 (5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) states:

“In this Act “listed building” means a building which is for the time being included in a list compiled or approved by the Secretary of State under this section; and for the purposes of this Act—

(a) any object or structure fixed to the building;

(b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948, shall be treated as part of the building”.

The term "curtilage" is not defined by the Act. However, some clarity is provided by case law, the interpretation of which is assisted by Historic England who have published *Listed Buildings and Curtilage - Historic England Advice Note 10* (2018) (HEAN 10)². A further Advice Note (updated 2019) is also provided by the Institute of Historic Building Conservation (IHBC).

HEAN 10 states:

“The courts have said that there are three key factors to be taken into account in assessing whether a structure or object is within the curtilage of a listed building:

- *the physical layout of the listed building and the structure;*
- *their ownership, both historically and at the date of listing; and*
- *the use or function of the relevant buildings, again both historically and at the date of listing (these tests were first proposed in the Attorney-General ex rel. Sutcliffe and Others v. Calderdale BC, 1982, as accepted by Debenhams plc v. Westminster CC, 1987)” (p. 1).*

To assist with consideration of the above tests in sections 4 and 5, the physical context of the site is first illustrated below in section 3.

² Available [here](#)

3.0 PHYSICAL CONTEXT

Figure 1: Current photograph including boundary wall

Comments

This is a recent photograph taken in September 2025. It shows the existing stone boundary wall, fences and trees that provide clear physical, functional and visual separation between the residential curtilage of the vicarage and the churchyard.



Figure 2: Photograph including boundary wall in 1980s

Comments

This is a copy of a photograph that the Applicant has on their wall. It is undated but is believed to date to the mid or late 1980s. The new vicarage (bottom left of photo) was completed in September 1983.

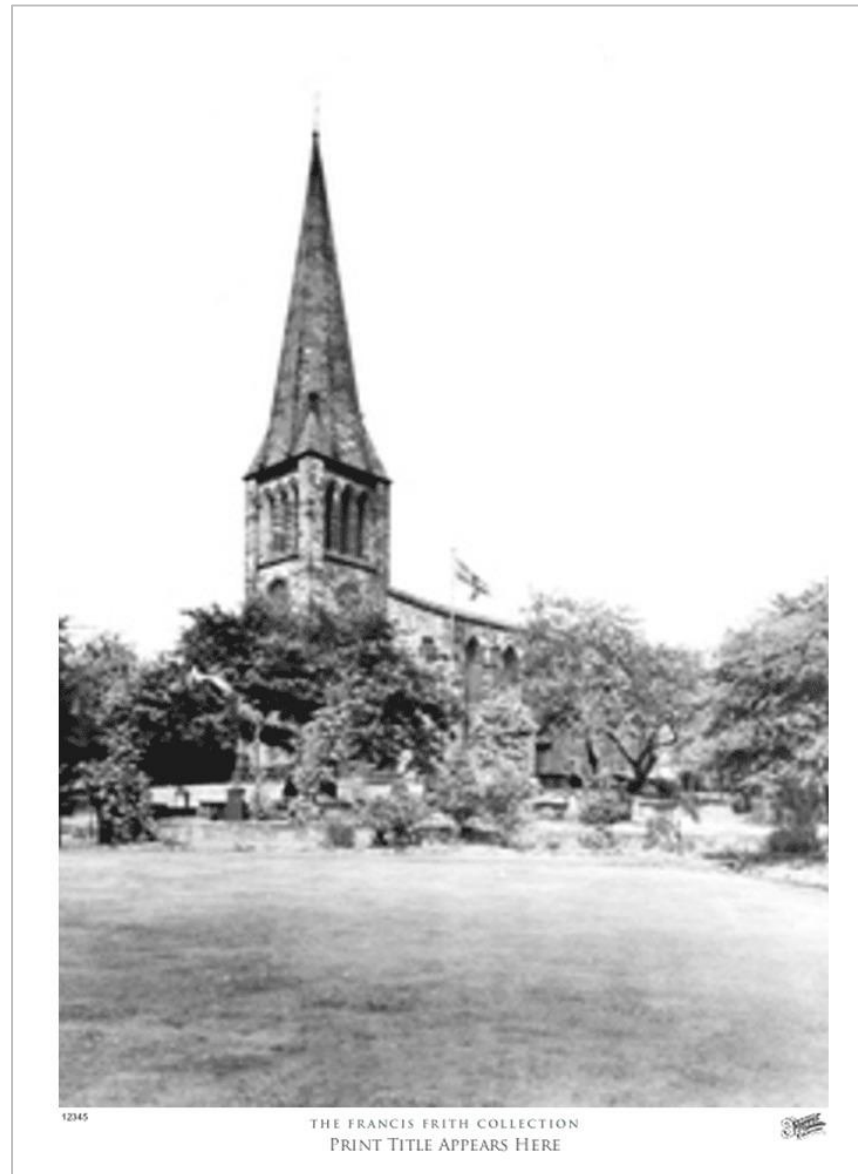
It shows the existing stone boundary wall, fence and trees that provide clear physical, functional and visual separation between the residential curtilage of the vicarage and the churchyard.



Figure 3: Photograph including boundary wall circa 1955

Comments

This photograph has been provided by the Francis Firth Collection and is dated circa 1955. It is taken from the garden of the vicarage in a north-east direction towards the church. It shows the existing stone boundary wall and trees that provide clear physical, functional and visual separation between the residential curtilage of the vicarage and the churchyard.



© The Francis Firth Collection – reproduced with permission

Figure 4: Current OS map

Comments

This current OS map is provided here to assist with interpretation of other maps and photographs.



Figure 5: Historic OS Town Plan published in 1890 at 1:500 (NTS)

Comments

This is the most detailed historic map seen by HPD. It indicates that in 1890 the existing stone boundary wall and planting provided clear physical, functional and visual separation between the residential curtilage of the vicarage and the churchyard.



3.0 ASSESSMENT

The tests established by case law are each discussed below.

Physical Layout

Physical layout and separation is typically the most heavily weighted of the tests established by case law. In *Burford v SSCLG* [2017] EWHC 1493 (Admin)³, it was held to be open to the Inspector to find that the land in question was not within the curtilage of another building, even though it was in common ownership and used for incidental purposes, drawing upon case law established by *Dyer v Dorset County Council* [1989] 1 Q.B. 346 and reiterated by *Lowe v Secretary of State* [2003] EWHC 537 (Admin).

The *Burford* judgement includes a useful summary of the case law concerning the definition of “curtilage” at paragraphs 32 - 37, which at paragraph 37 ends with:

In Lowe v Secretary of State [2003] EWHC 537 (Admin), Sir Richard Tucker reviewed the relevant authorities and commented:

“21. Of the authorities cited to me, I derive most assistance from the decision of the Court of Appeal in Dyer v Dorset CC.... The expression ‘curtilage’ is a question of fact and degree. It connotes a building or piece of land attached to a dwelling house and forming one enclosure with it. It is not restricted in size, but it must fairly be described as being part of the enclosure of the house to which it refers.

Historically and at the time of listing, the vicarage had a curtilage that was clearly defined by substantial stone boundary walls (see figures 1 to 5). These are existing and include a wall that separates the vicarage

³ Available [here](#)

and its gardens from the church and churchyard. A clear and deliberate effort has been made to physically distinguish and separate the vicarage from the church.

In HPD’s judgement the grounds of the vicarage cannot be fairly described as being attached to the church and forming one enclosure with it. Consequently, the vicarage should not be regarded as being within the curtilage of the church, even if they were in the same ownership at the time of listing, and the vicarage were regarded as being ancillary to the church.

As a Court of Appeal judgement, which has since been reviewed favourably by the High Court on a number of occasions, the *Dyer* judgement carries considerable weight.

Ownership

The Applicant’s Land Registry title plan (no. WYK319307) refers to:

A Conveyance of the land in this title dated 6 July 1984 made between (1) The Reverend Richard Weller (Incumbent) (2) Church Commissioners for England and (3) Neil Greenhalgh and Kay Francis Greenhalgh (Purchases)

This therefore strongly indicates that the vicarage was sold just over six months after the church was listed. Both properties are therefore believed to have been within the same ownership when the church was listed on 13 January 1984. However, this is typically the least heavily weighted of the tests established by case law.

Use and Function

The two properties are/ were related but functionally separate:

- the church is a place of worship set within a churchyard, which would normally be publicly accessible; and
- the vicarage would have historically been the private residence of the Vicar, set within domestic gardens, which would not be publicly accessible without invitation.

HPD is not aware of case law specifically relating to places of worship and associated dwellings. However, there are similarities with farmhouses and associated agricultural buildings, for which there is case law, most notably *R (on the application of Egerton) v Taunton Deane Borough Council* [2008] EWHC 2752 (Admin).

In this case, the High Court ruled that farm buildings were not ancillary to a farmhouse. The judgement states:

“...In 1984 Mill Barn and the Old Granary were not being used for purposes that were ancillary to the use of the farmhouse as a dwelling house; they were being used for the purposes of the general farming enterprise which was being carried on at Jews Farm. They, and the agricultural buildings to the west, were being used for agricultural purposes.”

This judgment therefore clearly and deliberately confirms that farm buildings are not automatically ancillary to an adjacent farmhouse, even if occupation and ownership are the same. This is reflected by HEAN 10 that states:

“In the ‘Jews Farmhouse’ case [R v Taunton Deane Borough Council, 2008] the High Court decided that a barn in farm

business use was not within the curtilage of the listed farmhouse nearby. The physical separation was a factor, and so was the fact that the barn was being used purely for farm business purposes, in contrast to the principally domestic nature of the farmhouse, even though business administration was conducted in the farmhouse too”.

This same reasoning can be logically applied to a vicarage and a church. Although clearly related, the use and function of the two buildings and their grounds were historically distinct. In HPD’s judgment the vicarage was not strictly ancillary to the church, and they appear to have always been two separate planning units.

Furthermore, on 26 August 1983, *The Guardian and Herald*⁴ reported:

“WORK on the new £50,000 Vicarage in Heckmondwike is expected to be completed within the next three weeks.

The Vicar, the Rev. Richard M. Weller, hopes to move in at the end of September...

Mr Weller concluded: “The old Vicarage will be put on the market for sale when the new one is complete. But there will be restrictions as to what use it can be put...”

It is therefore known that the vicarage was not the residence of the Vicar at the time of listing on 13 January 1984 and it is highly likely that it was vacant and for sale. It is therefore believed there was a weak, if any, functional relationship between the vicarage and church at the time of listing.

⁴ Copy attached at appendix 1

5.0 CONCLUSION

In HPD's judgement the grounds of the vicarage cannot be fairly described as being attached to the church and forming one enclosure with it due to a long-standing and separating stone boundary wall that is supplemented by planting. Furthermore, although related, the use and function of the two buildings and their grounds are materially different, clearly distinguishable, and they appear to have always been two separate planning units. The vicarage is not considered to have been strictly ancillary to the church and was not occupied by the Vicar at the time of listing. The fact that the two properties were in the same ownership at the time of listing carries limited weight and is insufficient to outweigh other factors.

In arriving at the above conclusion, regard has been had to legislation, case law and guidance, including the hypothetical example provided at section 2.1 of HEAN 10. In this example, Historic England advise:

"In this case, in our view, the physical separation of the unlisted farm buildings from the listed farmhouse when combined with the distinction between the mostly domestic nature of the farmhouse and the business-related function of the barn and stable block are likely to mean that they would be considered to be outside its curtilage".

The vicarage is not therefore part of the listed church and listed building consent cannot therefore be required for the proposed works. It is respectfully requested that a certificate is issued accordingly.

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APPENDIX 1 – EXTRACT FROM THE GUARDIAN AND HERALD

PLEASE NOTE: THIS ARTICLE IS DATED FRIDAY AUGUST 26. THE YEAR IS CUT OFF THE ARTICLE BUT ONLY THE YEAR 1983 FITS WITH OTHER KNOWN DATES, INCLUDING PLANNING APPLICATION DATES AND THE DATE VICARAGE WAS SOLD. CRUCIALLY, THE 26 OF AUGUST 1983 WAS ALSO A FRIDAY (26 AUGUST 1982 WAS A THURSDAY AND 26 AUGUST 1984 A SUNDAY).

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New Vicarage in grounds of old

WORK on the new £50,000 Vicarage in Heckmondwike is expected to be completed within the next three weeks.

The Vicar, the Rev. Richard M. Weller, hopes to move in at the end of September, and then the building will be officially opened said Mr Weller. He added that it would probably be blessed by the Bishop of Wakefield, the Rt Rev Colin James.

Building started on the Vicarage during the early part of last year, although Mr Weller said work did not begin as soon as planned because it took much longer than had been

thought for Kirklees Council to give the go-ahead. "It happened before I came to Heckmondwike, but I think there was a change in the exact position of where the Vicarage was going to be, though it is still in the grounds of the present Vicarage.

He added that Council experts were involved, and discussions lasted quite a long time.

SMALL & MODERN

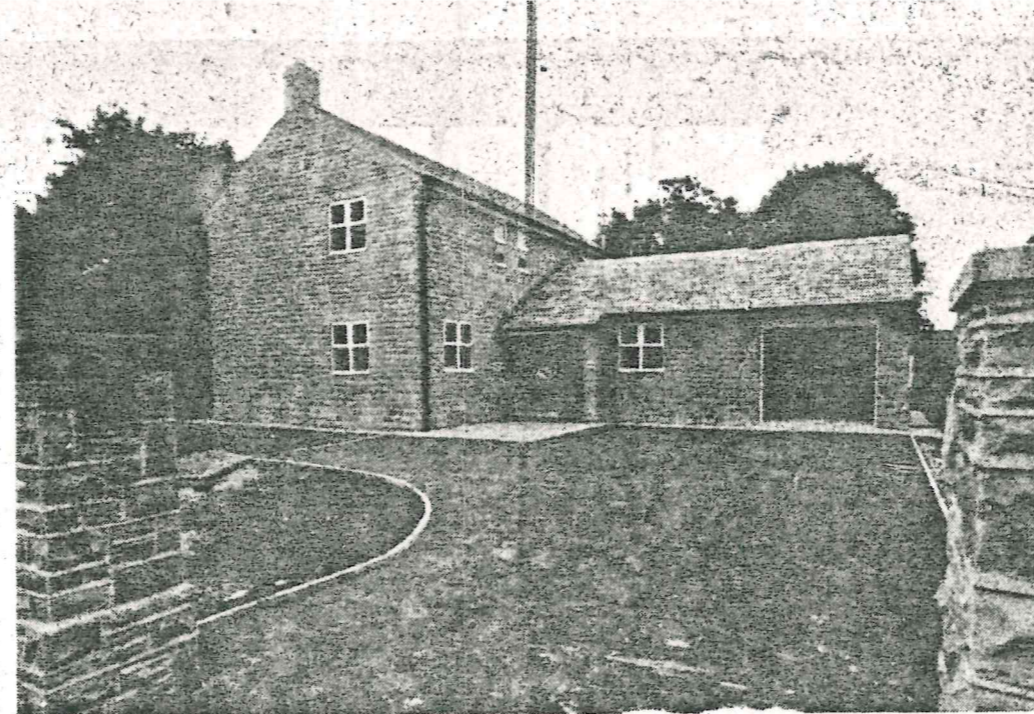
Describing the new Vicarage, the Vicar commented that it is much smaller and more modern than the present one, which was built in 1831 and with six bedrooms is larger than

an average farmhouse.

"It is the policy of church commissioners to try to have Vicarages, as far as possible, of roughly the same size in each parish so as vicars move from one to another they are not involved in tremendous expense for furnishings", said Mr Weller.

The new Vicarage at Heckmondwike has four bedrooms, one of which is to be available for visitors. There is a modern central heating system and the house incorporates a garage. The present building has a separate stable block for the garage.

Said Mr Weller: "It is



The new £50,000 vicarage at Heckmondwike.

designed so that people calling on the Vicar don't disturb the domestic side of the house. The hall on one side leads to the Vicar's office and on the other side is a door which leads to the family part of the house.

"It is designed to be as economical and modern as possible. For instance, the window frames are plastic covered timber so they don't need painting".

Mr Weller concluded: "The old Vicarage will be

put on the market for sale when the new one is complete. But there will be restrictions as to what use it can be put. It will be for domestic use, and not I think to carry on business or trade"

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