

Officer Report

Application No.	25/1824/FH
Site Address	St Marys Church, The Square, Elham, CT4 6TT
Officer Name	Lizzy Nash
Proposal	Dismantle a section of flint wall, rebuild using reclaimed flints from the dismantled wall with soldier brick course and point with natural hydraulic lime mortar to include buttresses either side of the 12m section of wall.

Recommendation

Report Number	RD-439160
Recommended Decision	Recommended to be Approve with Conditions
Recommendation Date	16 January 2026

Report

Site

The application site comprises the Grade I listed Church of St Mary the virgin and its graveyard. The site is surrounded by a brick and flint wall as section of which is subject of this application, these walls are of varying heights but have a consistent appearance featuring a heading brick with flint walls below. The church itself is located opposite 'The Square' to the east of the village and sits within Elham Conservation Area.

Relevant Site History

24/0598/FH - Dismantle a section of flint wall, rebuild using reclaimed flints from the dismantled wall with soldier brick course and point with natural hydraulic lime mortar – Approve with Conditions

24/0636/FH – Listed Building consent to dismantle a section of flint wall, rebuild using reclaimed flints from the dismantled wall with soldier brick course and point with natural hydraulic lime mortar – Approved

20/1210/FH - Section 73 for variation of condition 3 (approved plans) for planning application

Y18/1571/FH (Erection of an extension and new glazed entrance doors together with ramped access, all to south porch, including relocation of one headstone) to allow the Rigden tomb headstone to remain in place and to include the installation of a bronze plaque depicting the wording of the partially obscured Rigden tomb. – Approved with Conditions

Y18/1571/FH - Erection of an extension and new glazed entrance doors together with ramped access, all to south porch, including relocation of one headstone. – Approved with Conditions

Proposal

The application seeks permission for the dismantling and re-building of a 12.5 meter section of the existing flint wall and its re-building using the reclaimed flint and brick with the addition of two

buttresses to the southern side of the wall. The buttresses are proposed to support the re-built wall to improve its longevity.

The demolition of the original wall has already taken place and, as such, the application is submitted partly on a retrospective basis.

Consultation Responses

Consultation responses are available in full on the planning file.

Elham Parish Council – No Comment.

Representations

No representations have been received.

Relevant Policies

Places and Policies Local Plan (PPLP):
HB1 and HB8

NPPF and NPPG

Paragraph 11, 48, 131, 135, 187, 212, 213 and 214.

Paragraphs 212–214 of the NPPF require consideration of the impact on the significance of heritage assets. Where harm is identified, it must be classified as either “substantial” or “less than substantial,” with great weight given to the conservation of designated heritage assets regardless of the degree of harm. Any harm or loss must be clearly and convincingly justified. Where less than substantial harm is identified, it must be weighed against the public benefits of the proposal, including any heritage benefits.

The Planning (Listed Building and Conservation Area) Act 1990:

Section 66 (listed) – requires special regard to be had to the desirability of preserving the Listed Building or its setting or any special architectural or historic features it possesses.

72 (Conservation Areas) – requires that special attention be given to the desirability of preserving or enhancing the character or appearance of conservation areas.

Appraisal

Background

This application is an alternative to the works approved under the 2024 application (24/0598/FH) for the re-building of the existing wall. This granted permission for the demolition and re-build of the wall to include additional concrete foundations to ensure improve the stability and safety of the wall. From a site visit these works are currently underway.

Design and Appearance and impact on Listed Building and Conservation Area

The section of wall to be replaced was in a poor state of repair and the proposed rebuild with added stabilisation from the addition of two buttresses, would ensure that the boundary wall can be retained. The replacement wall would utilise the existing materials with the buttresses being finished to match the existing wall. Given that the wall would re-use the exiting materials and would not increase in height the replacement of the wall is considered to be acceptable. The proposed buttresses are relatively large additions that are not present within the rest of the boundary wall but

given their location to the south of the existing wall within the garden of Yew Tree Cottage they would not be widely visible and therefore the proposal would result in less than substantial harm to the appearance of the wall. To ensure that any additional materials and mortar mix required for the buttresses would match the re-used flint and brick wall, it is appropriate to place a condition on the application requiring the submission of additional details.

The wall forms the site boundary of the Grade I Listed Church of Mary the Virgin, the church is a prominent building within the Elham Conservation Area and contributes significantly to the character and historic significance of the area. The building itself derives its significance from this historical and national architectural importance.

As outlined above, the proposal would not be widely visible from outside the rear garden of Yew Tree Cottage. With the use of matching materials, the development is considered to be in keeping with the wider character and appearance of the area and would preserve the overall appearance of the Conservation Area.

Given that the wall forms the boundary of the Grade I Listed Church of Mary the Virgin, the impact of the works on its significance must also be assessed. The alterations are limited to a 12-metre section of the wall that is not prominently visible beyond the private amenity space of the neighbouring dwelling. However, as buttresses of this scale and form are not typical features of the existing wall, the proposal would affect the setting of the listed building. Despite this, the use of matching materials and the height of the original wall ensure that the addition appears consistent with the existing fabric. As a result, the level of harm to the setting of the listed building is considered to be less than substantial. The public benefit of preventing further deterioration of the wall, and mitigating potential safety risks to neighbouring properties, outweighs the harm identified.

In light of the above the proposal is considered to be an addition that although resulting in less than substantial harm to the character and appearance of the Listed Building is outweighed by public benefit, it would also preserve the appearance of the wider Conservation Area in line within HB1 and HB8 of the PPLP.

Residential Amenity

The section of wall to be re-built forms the northern boundary of Yew Tree Cottage and the two buttresses would be located within a portion of the neighbouring dwellings rear garden. The northern boundary is separated from the dwelling by approximately 30m and therefore would not result in an increase in overshadowing or loss of light to the amenity of the occupants of Yew Tree Cottage.

Similarly, the dwelling to the west of the site Church Cottage is separated by approximately 13m from the replacement wall and the proposal would not result in harm to the amenity of the occupants of this dwelling.

Archaeology and SSSI Impact Risk Zone

The site is within both an Archaeological notification area and SSSI impact risk zone, however due to the minor scale of the development mitigation measures are not required.

Other Matters

The wall forms the boundary of the Church of St Marys of the Virgin, which is covered by an ecclesiastical exemption meaning that the works subject of this application do not require Listed Building Consent. The consent for the work is the responsibility of the Diocese under the provisions of the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) (England) Order 2010.

The Ecclesiastical Exemption (Listed Buildings and Conservation Areas) England Order 2010 makes it clear that the expression extends to church buildings (and applies to works to all places of worship owned by recognised religious bodies, which have their own satisfactory systems of building control in place), their contents and anything fixed thereto as well as to anything situated within the curtilage of a church building. Where the exemption applies the practical effect is that listed building consent is not required for the alteration or extension of a listed ecclesiastical building of any denomination provided that the building is used for ecclesiastical purposes both before and after the works. In this case, the church is used for ecclesiastical purposes as existing and will continue to do so after the works have been completed.

Human Rights

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

Public Sector Equality Duty

In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

Duty to cooperate

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service and, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance the application was acceptable as submitted.

Recommendation

Considering the above, the proposal is considered a sustainable development that complies with the Places and Policies Local Plan and the NPPF and is recommended for approval subject to conditions.

Recommended Conditions (3)

1

The development hereby permitted shall not be carried out except in complete accordance with the following drawings and documents:

H335-4 Facade and Boundary Wall Detail to Retaining Wall (Received: 13/01/2025)

H335-3 Structural Detail to Retaining Wall (Received: 13/01/2025)

H335-5 Buttreassing to retaining wall (Received: 27/10/2025)

Proposed Buttress Details (Received: 27/10/2025)

H335-2 Location Plan with boundary wall (Received: 27/10/2025)

Proposed Block Plan (Received: 27/10/2025)

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of Places and Policies Local Plan.

2

Notwithstanding the details contained within the application, no works to buttresses beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

3

No works above the construction of foundations shall take place to the buttresses until details of the mortar pointing material and pointing techniques shall be submitted to and agreed in writing by the Local Planning Authority. The works shall proceed wholly in accordance with the approved details.

Reason: In the interest of the historic significance the Listed Building

