

Church Commissioners

Mission, Pastoral and Church Property Committee

Mission and Pastoral Measure 2011

Land at the Closed Church Building of Canterbury St Margaret

**Parish of St Peter with St Alphege and St Margaret and St Mildred with St Mary
Castro, Canterbury**

(Diocese of Canterbury)

Note by Rex Andrew

Summary

- (i) Following the publication of a draft Pastoral (Church Buildings Disposal) Scheme providing for the sale of most of the former churchyard attached to the Grade II* closed church of Canterbury St Margaret to a developer (Setha Group) to be used as a public open space and for cultural and community purposes in conjunction with its residential, commercial and retail development of the adjoining site, we received **ten representations against, two in favour** and two of comment.
- (ii) The representors against strongly oppose the proposed sale of the churchyard which they say offers a quiet sanctuary within a busy city centre. There is a concern that the character of the churchyard will be lost once sold to a commercial developer, even if it is designated as public open space. Some also think this will result in the blurring of the boundaries of the churchyard and detach part of it from St Margaret's church, one of the most ancient in the city. There is also a suggestion that any disposal be on a leasehold basis to ensure the Church has better control over its future.
- (iii) The PCC supports the sale for an open community garden but would however not be content if it becomes a building development as that would have adverse pastoral implications. The Canterbury Diocesan Secretary, on behalf of the Canterbury Diocesan Board of Finance, fully supports the proposed sale.
- (iv) The Canterbury Diocesan Secretary, responding on behalf of the Bishop of Dover, explains that the proposed sale is subject to the provisions of the existing Open Spaces Act Agreement, with Canterbury City Council remaining responsible for its upkeep. As background he refers to the recent poor state of the churchyard, since rectified, and says that since the church was made redundant keeping the two entities attached has proved problematic as it has been difficult to find a user who would be interested both in leasing the church and in maintaining the churchyard. Detaching the two gives a better chance of both being kept to a high standard into the future. Sufficient safeguards would be in place to ensure that the land could not be used for any other use without the Church's prior consent, and that position would not be altered were the disposal to be on a leasehold basis instead.

The sifting group's decision

- (v) The case has been examined by the Committee's case sifting representatives who recommended that the matter should not be afforded a public hearing as they did not think the Committee was likely to gain significant additional information from hearing from the representors or diocesan representatives in person and did not think that fairness to the representors required there to be a public hearing.

Matters for the Committee

- (vi) In considering the representations, the Committee will need to have regard to the legislative requirement as to the suitability of what is being proposed. If the Committee considers the proposed use to be suitable in principle, it is still possible that the use might be unsuitable in the particular circumstances of its location or other factors relating to the impact of the use.
- Is the proposed freehold disposal of the former churchyard to be used as a public open space and for cultural and community purposes a "suitable" use within the meaning of the Mission and Pastoral Measure 2011?
 - Is the proposed use sustainable and is it likely to lead to the graveyard being better looked after in the long term?
 - Do the proposed restrictive covenants provide sufficient legal protection for the site? Would a leasehold disposal be a better option?
 - Will the proposals, taken as a whole, support the furtherance of the mission of the Church of England?
- (vii) The Committee is invited to consider the representations and the issues set out in this paper and, in the light of these, whether the draft Scheme should proceed.
- (viii) Attached are:
- Annex A: A copy of the draft Scheme, plan and accompanying Explanatory Note;
- Annex B: An overview plan that formed part of the planning application;
- Annex C: A map of the parish;
- Annex D: Photographs of the area;
- Annex E: A copy of the letter referring the representations to the Bishop of Dover together with a copy of the diocesan response by the Canterbury Diocesan Secretary on the Bishop's behalf;
- Annex R: Copies of the representations. No supplementary comments were received.

Introduction and background

1. St Margaret's church is located in the historic and retail centre of Canterbury. It is listed Grade II*. It was founded in the 12th century, though much of the present structure dates from the 15th century when it was developed as a perpendicular style three-aisle church with a stone and flint exterior. Around 1850 the interior was refurbished in the Victorian style, the pitched roofs added to the aisles and the chancel developed into the polygonal form that can be seen today by Sir Gilbert Scott.
2. In 1957 the church of St Margaret, Canterbury was formally closed and appropriated, with its churchyard, to use as an institute for the spiritual, recreational and social welfare of the deaf and the Diocese of Canterbury was empowered to hold the property for these purposes. By 1986, the use was no longer operative and by a Redundancy Scheme made in July 1986, the Diocese was empowered to lease the former church and annexed land for use as an archaeological and historical interpretation centre and, with regards to the annexed land, additionally for community purposes.
3. Under the above provision, the former church building of St Margaret's and all the annexed land had been leased as a Chaucer Exhibition Centre, known as Canterbury Tales. Following the closure of the Chaucer exhibitions and surrender of that lease in April 2020, the DBF re-let the former church building on a new commercial lease in 2021 to a new tenant who will retain the name 'Canterbury Tales' and use the building as a historical and educational attraction, with an emphasis on school groups. Works are currently being carried out in the building to set up the new venture.
4. The lease to Escapement Kent Ltd includes only a small part of the churchyard immediately adjacent to the St Margaret's building with the larger part, subject to the current draft Scheme, still being held by the DBF.
5. In 1960, responsibility for the care and maintenance of the closed churchyard was passed to Canterbury City Council ("the Council") under an Agreement made under the Open Spaces Act 1906 but it has not been consistently maintained by the Council for many decades.
6. Following an approach from SETHA Group, the developers of the adjacent former Nasons department store, the Diocese now proposed to sell this part of the land to it for the uses permitted by its planning application. This requires an amending Scheme to regularise the proposed use and to permit freehold sale.
7. The planning permission granted on 4 November 2022 (ref: CA/20/01679) involves the redevelopment of the former Nason's department store into a mixed-use development comprising residential, commercial and retail uses, and designates the former churchyard area as public space. The proposed sale to SETHA Group would be subject to the provisions of the Open Spaces Act Agreement with the Council remaining responsible for its upkeep.

8. The Diocese has retained an area of land at the west end of the former church building to ensure continued access and use of the west door as amenity land for the building so that users of the building have an area of outside space, and it has secured a new tenant for the building on this basis.
9. As St Margaret's church closed prior to the 1968 Pastoral Measure, there is no Church Buildings Report for the building. Also, there is no SAC advice pertaining to the proposed use of the churchyard as: (a) there is no church involved in the proposed disposal and (b) there are no structural alterations proposed to the churchyard.

Summary of the representations against

10. The representors strongly oppose the proposed sale of the churchyard to the developers. They say it is a beautiful, traditional city centre churchyard with many ancient graves and monuments and Yew trees, offering a quiet sanctuary within a busy city centre. Some express concern over the neglect of both it and the former church building since the departure of the last user.
11. Most are concerned that the character of the churchyard will be lost once it is in the control of a commercial developer, even if it is designated as public open space. They say that trees may be removed, the grass replaced by paving, and burials and memorials moved. Its biodiversity would be destroyed and its value as a secret garden attraction to tourists and visitors would be forfeited, particularly if there were to be flats overlooking it. Several refer to an article in the 1 – 7 June 2023 edition of the Kentish Gazette in which the developers are alleged to have said that the area would be deconsecrated and would remain publicly accessible "*but that the disruption of more of the memorials has not been ruled out*".
12. Some also think this will result in the blurring of the boundaries of the churchyard and detach part of it from St Margaret's church, one of the most ancient in the city, dating from circa the 12th century with its churchyard documented from at least 1477. They say this might limit how the church building might be used in future. One says those laid to rest on consecrated ground should never have their burials disturbed and another that such land should not be used for other purposes.
13. Some say that if a sale to the developer takes place, there must be a stipulation that the site should not be physically disturbed in any way and be forfeited immediately back to the Church by the owners if they should ever subsequently propose it for future "development".
14. Others suggest that a lease would be much better option than a freehold sale as then, with appropriate restrictive covenants in place, any change of use would remain under the control of the Commissioners and Diocese. They say it would also prevent the developer from building over any burials or altering the historic boundaries.
15. One suggests the land should be vested in the Churches Conservation Trust.

Summary of the representations in support

16. The PCC of St Peter with St Alphege and St Margaret and St Mildred with St Mary Castro, Canterbury supports the scheme to sell the churchyard for an open community garden. It would however not be content if this becomes a building development as suggested by local media as that would reflect badly upon the Parish.
17. The Canterbury Diocesan Secretary fully supports the proposed sale.

Comments

18. The Canterbury Society says that it is not opposed to the principle of the sale and wants to be supportive of the development as a whole but is fearful that if the ownership of this churchyard was to be transferred to the developers, there will be nothing to stop them altering the ancient boundaries, adjusting them to suit the development and altering the fundamental character of the place. It therefore asks that suitably worded restrictive covenants be put into any transfer documents to ensure that the welcomed new development pays respect to Canterbury's past and a blend of the ancient and modern can be enjoyed by all, for the longer term.
19. Cathy Sales likewise asks for similar caveats being in place on any sale so that the human remains on this former holy land will be properly protected.

Summary of the Diocesan response

20. The Venerable Stephen Taylor, the Canterbury Diocesan Secretary (“the Diocesan Secretary”), responding on behalf of the Bishop of Dover, explains the background to the proposed Scheme including the churchyard not being well maintained in recent years and locking it being the only way to stop the various criminal and anti-social activities that were otherwise taking place there.
21. He says that since the church was closed keeping the two entities attached has proved problematic and it has been difficult to find a user who would be interested both in leasing the church and in maintaining the churchyard. Detaching the two gives a better chance of both being cared for to a high standard into the future.
22. During this period to improve oversight of the churchyard the Council gave the keys to Canterbury Tales without the Diocese’s consent. Canterbury Tales tried to maintain the front part of the churchyard as part of their attraction, but with the back area being fenced off it became very overgrown.
23. When Canterbury Tales went into liquidation (in April 2020) the property was returned to the Diocese in a terrible state, with the Diocese having to address the state of the churchyard before the Council was made to re-engage in its obligations for its maintenance. The churchyard is now in good order and during the summers of 2022 and 2023 has been let to the Canterbury Shakespeare Festival.

24. The Diocesan Secretary says the current good state of the churchyard is only really guaranteed by either locking the gates or by private hire as above. Making the churchyard more accessible is desirable, but this can only be done by proper management so that the churchyard can be closed at night. Setha Group has the resources to manage the site and will be able to keep the property secure which the Council has been unable to do consistently.
25. On the question of why it is proposed to sell the churchyard to Setha Group rather than lease it, he explains that initially (in March 2020) there was a proposal to lease the property with the option to sell the freehold later, when/if planning was determined. The original site layout showed a small encroachment of part of a new building onto the churchyard; however, revisions to the proposals during the application process meant that all the churchyard land would be retained as open space.
26. Although, Setha Group's planning application was validated by the Council in August 2020, it was not approved until November 2022. The Diocesan Secretary explains that since receiving the objections to the proposed layout, Setha Group has undertaken to change its scheme so that the entirety of the space is to be public open space with the historic boundaries therefore being maintained.
27. On the advice of the Commissioners' Closed Churches Officer, it was put to Setha Group that it would be simpler and more straightforward to proceed straight to freehold disposal. The proposed lease was therefore never finalised or entered into.
28. With regards the suggestion that a leasehold disposal would give better protection to the churchyard over a freehold one, the Diocesan Secretary disagrees as either arrangement would still require appropriate restrictive covenants to be in place. He details the covenants to be imposed which he says address most of the concerns raised by some of the representors.
29. He says that the developers have indicated that there will be no disturbance of burials. The gravestones would remain in place save for those headstones that are currently leaning up against the Nason's southern wall, which are not in their original locations. As this wall is being changed Setha Group and the Diocese will agree detailed plans as to the appropriate relocation of these headstones against other walls and directions will be issued once agreed. The Diocese will also secure a Dispensing Order from the Ministry of Justice to prohibit the disturbance of human remains into the future.
30. Responding to the concerns about the loss of the character and biodiversity of this part of the churchyard should the proposed disposal proceed, he says that the churchyard is now in good order and from this basis the Council is in a better place to maintain it in the future. He encloses a photograph showing its condition in the summer of 2022, and says that this condition has been maintained since. In the Setha Group's scheme there are minimal alterations proposed. One improvement to accommodate the increase in footfall will be to change the existing tarmac path to a permeable path to improve the visual impact.

31. He says that as well as the Diocese's charitable obligations to manage its assets properly the Church has an additional obligation to continue to serve the wider community and show the gospel being lived out. Although the vicar of the parish in which St Margaret's is has been diligent in visiting the churchyard, especially when it had street sleepers in, it was an embarrassment to have the churchyard in such a state.
32. The Diocesan Secretary believes the Church, in proposing this sale, is taking a responsible decision in partnership with public and private sector providers, who between them have the resources to ensure that this churchyard lives to tell its stories to future generations.
33. Its geographic connection to St Margaret's church next door will be evident and the fact it will be managed by two separate organisations will not be noticed or relevant to most people. What will be seen is that both are visible, accessible, well maintained and used.
34. The Church, through the city centre parish and ecumenically through Churches Together in Canterbury is a trusted partner in the city and its mission is alive and well. Additionally, the Council has been in conversation with the Diocese regarding access to other parish churchyards for a pilgrim's route from St Martin's church to St Dunstan's church, using the Government's 'Levelling Up' funding. These constructive conversations have followed on from the Diocese's engagement around St Margaret's as both have the wellbeing of Canterbury at heart.

Guidance for the Committee

35. Section 75 of the Mission and Pastoral Measure 2011 addresses the operation and enforcement of covenants and it applies to both the Church Commissioners and the DBF. In this case, the DBF is the vendor, so they would be responsible for enforcing the covenants in the event of a breach. In this case the DBF would need to meet their own legal costs, as it is not covered by the Commissioners' provision for Bishops' legal fees.
36. Restrictive covenants apply to the land can potentially be discharged or modified over time as necessary.
37. The covenants in the Transfer to Setha Group are as follows:
 - Not at any time to obstruct or impede in any way the surface water drainage from the Retained Land through the Property;
 - Not to use the Property for any other purpose other than the Permitted Use. (which is the use set out in the draft Scheme);
 - Not to use the property for any illegal or immoral purpose or for any purpose which may be or become a nuisance annoyance or disturbance to the Transferor or which shall (in the opinion of at least two of the following: the bishop for the time being of the diocese in which the property is situated, the dean for the time being of the cathedral which is the seat of the bishop and the archdeacon for the time being of the archdeaconry in which the Property is situated) be offensive to the principles and practice of the Christian faith);
 - Not to disturb any human remains interred in the Property;

- Not to install any new Conduits on the Property without the prior written approval of the Transferor (such approval not to be unreasonably withheld);
- Not to damage any tombstone monument or memorial in the property nor, without the Transferor's prior written consent, to remove or disturb any such tombstone monument or memorial;
- Not to erect any permanent building or structure on the property without the prior written consent of the Transferor.

Issues

38. The Committee has to consider this decision within the context of the 'general duty' laid out in Section 1 of the Mission and Pastoral Measure 2011 – which places a duty on those carrying out functions under the Measure to “have due regard to the furtherance of the mission of the Church of England.” Mission is defined as “the whole mission of the Church of England, pastoral, evangelistic, social and ecumenical”.
39. The main issues for the Committee are:
- Is the proposed freehold disposal of the former churchyard to be used as a public open space and for cultural and community purposes a “suitable” use within the meaning of the Mission and Pastoral Measure 2011?
 - Is the proposed use sustainable and is it likely to lead to the graveyard being better looked after in the long term?
 - Do the proposed restrictive covenants provide sufficient legal protection for the site? Would a leasehold disposal be a better option?
 - Will the proposals, taken as a whole, support the furtherance of the mission of the Church of England?

Recommendation

40. The Committee is invited to consider the representations and the issues set out in this report and, in the light of these, whether the draft Scheme should proceed.

Rex Andrew

Church House
Great Smith Street
London SW1P 3AZ

20 September 2023

Draft

Pastoral (Church Buildings Disposal) Scheme

This Scheme is made by the Church Commissioners (“the Commissioners”) this day of 20.... under the Mission and Pastoral Measure 2011.

Background

By a Scheme of the Commissioners made under the Pastoral Measure 1983 and confirmed by Her Majesty in Council on the 25th day of July 1986 (“the 1986 Scheme”) the Canterbury Diocesan Board of Finance (“the Board”) was empowered to lease the closed church building (“the building”) of St Margaret, Canterbury in the Diocese of Canterbury for use as an archaeological and historical interpretation centre and for purposes ancillary thereto and the land annexed or belonging to the building was appropriated to like uses and for community purposes.

It is now desired to make new provision for the future of part of the land annexed or belonging to the building.

NOW, it is provided as follows:-

Future of part of the annexed land

1. The provisions of the 1986 Scheme so far as they relate to the aforesaid use of that part of the land annexed or belonging to the said building as is shown hatched on the annexed plan (“the hatched land”) are hereby revoked.
2. The hatched land shall be appropriated to use as a public open space and for cultural and community purposes and for purposes ancillary thereto together with the rights granted by Schedule 1 and subject to and with the benefit of the Existing Matters specified in Schedule 2.

Disposal

3. The Board is hereby empowered to sell the hatched land for any or all of the said uses together with the benefit of the rights granted by Schedule 1 and subject to and with the benefit of the Existing Matters specified in Schedule 2.

Coming into operation of this Scheme

4. This Scheme shall not come into operation until such date or dates as the Commissioners shall determine following the making of this Scheme and different provisions of the Scheme may be brought into operation on different dates and the Commissioners shall not be obliged to bring the Scheme or any part thereof into operation.

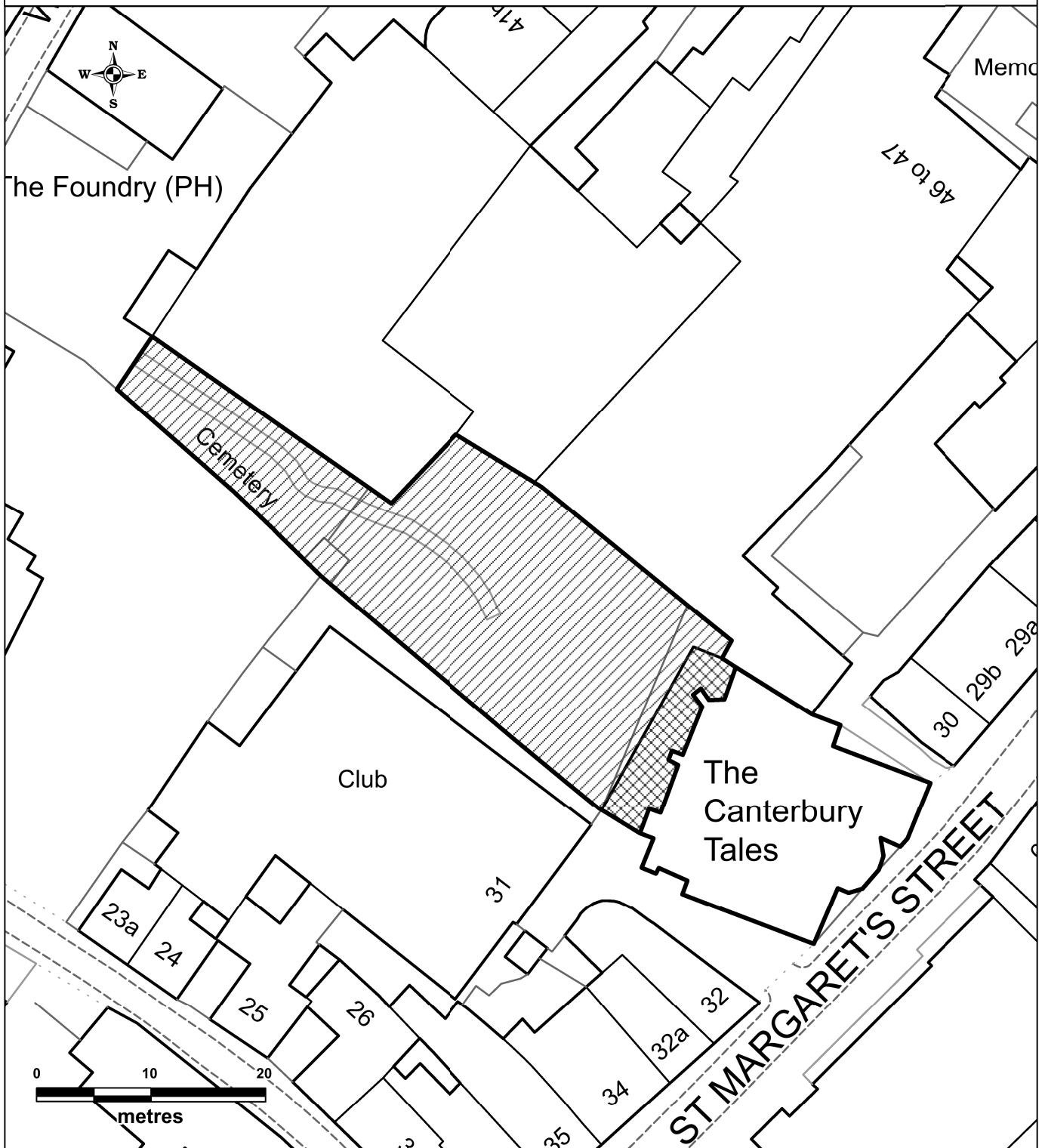
In witness of which this Scheme has been duly executed as a deed by the Church Commissioners.

Executed as a Deed by the Church Commissioners for England acting by two authorised signatories:

Signature of Authorised Signatory

Signature of Authorised Signatory

LAND AT FORMER CHURCH OF CANTERBURY ST MARGARET



Drawn by
godonnell

Scale
1:500

Date
03/04/2020

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File Pathname / Project / Drawing No.
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Schedule 1: Grant of Rights of Way

To enable the hatched land to be used for the purposes specified in the Scheme, the following rights shall vest in the Board for the benefit of the hatched land:-

- (i) a right of way with or without vehicles over and along the remaining part of the churchyard annexed or belonging to the building shown cross-hatched on the attached plan ("the cross-hatched land") subject to the Board's successors in title paying a fair and proper portion of the cost of keeping the same in good and substantial repair to the reasonable satisfaction of the body or person in whom the cross-hatched land is for the time being vested; and
- (ii) the right to the passage of water, soil, gas, electricity and telecommunication services (if any) through any drains, sewers, pipes, wires, cables and other conducting media ("the services") now laid or to be laid under, upon or above cross-hatched land; and
- (iii) the right (upon reasonable prior notice in writing to the body or person in whom the cross-hatched land is for the time being vested) to enter with or without vehicles, equipment and apparatus upon such parts of the cross-hatched land as may be necessary for the purpose of inspecting, repairing and maintaining the building and for the purpose of laying, connecting into, inspecting, repairing, maintaining or renewing the services subject to the person exercising such right causing as little damage as possible to the said cross-hatched land or any graves, tombstones, monuments and memorials therein, and subject to the Board's successors in title making good any damage so caused to the reasonable satisfaction of the body or person in whom the cross-hatched land is for the time being vested.

Schedule 2: Existing Matters

The rights, reservations covenants and stipulations contained or referred to in a Deed made under the Open Spaces Act 1906 dated the 24th day of March 1960 between the Reverend George William Loughborough of the first part and the Mayor Aldermen and Citizens of the City of Canterbury of the second part in so far as the same are still subsisting and are capable of taking effect.



EXPLANATORY NOTE

MISSION AND PASTORAL MEASURE 2011 DRAFT PASTORAL (CHURCH BUILDINGS DISPOSAL) SCHEME LAND AT CANTERBURY ST MARGARET DIOCESE OF CANTERBURY

This note accompanies a draft scheme under the Mission and Pastoral Measure 2011 which makes provision for the future of a closed church building and/or its churchyard land. The Church Commissioners provide this information so that individuals and interested parties can understand the background to the proposals, make a reasoned judgement on the merits of the draft scheme and, if they see fit, a reasoned expression of support or objection to it.

The Current Proposals

The Commissioners have agreed to publish a draft Pastoral (Church Buildings Disposal) Scheme providing for the sale of most of the former churchyard attached to the closed church of Canterbury St Margaret to be used as a public open space and for cultural and community purposes.

The former church building of St Margaret's is not included within these proposals.

Background

In 1957 the church of St Margaret, Canterbury was closed and appropriated, with its churchyard, to use as an institute for the spiritual, recreational and social welfare of the deaf and the Diocese of Canterbury was empowered to hold the property for these purposes. By 1986, the use was no longer operating and by a Redundancy Scheme confirmed by Order in Council on 25 July 1986, the Diocese were empowered to lease the former church and annexed land for use as an archaeological and historical interpretation centre and, with regards to the annexed land, additionally for community purposes. Following an approach from the developers of the adjacent former Nasons department store (Setha Group), the Diocese has leased most of the annexed land (shown hatched on the plan attached to the Scheme) principally as open space. It is now proposed to sell this part of the land to Setha Group for the uses permitted by the planning application referred to below. This requires an amending Scheme to regularise the proposed use and to permit freehold sale.

The Building

The church is located in the historic and retail centre of Canterbury. It is listed Grade II*. It was founded in the 12th century, though much of the present structure dates from the 15th century when it was developed as a perpendicular style three-aisle church with a stone and flint exterior. In 1791 the chancel and eastern end of the aisles were truncated to allow horse drawn coaches to swing into the gate of hotel opposite. Around 1850 the interior was refurbished in the Victorian style and the chancel developed into the polygonal form that can be seen today by Sir Gilbert Scott. It became redundant in 1942. The church has since been leased and operated by Canterbury Tales as a museum/tourist attraction.

Planning and Access

Setha Group have obtained planning permission for the redevelopment of the former Nason's department store into a mixed use development comprising residential, commercial and retail uses. This was granted on 4 November 2022 (ref: CA/20/01679). The approved plans show the former churchyard as public space.

Burials and the Churchyard

By an agreement made between the then Rector and Canterbury City Council on 24 May 1960 the responsibility for maintaining the churchyard (but not its ownership) was passed to the Council. This Agreement remains in place. The proposed use of the churchyard will not involve the disturbance of human remains and this will be prohibited by restrictive covenants. Some relocation of already displaced tombstones elsewhere in the churchyard is proposed.

The area of land shown cross-hatched on the plan attached to the draft Scheme is excluded from this proposal and retained for use with the former church building.

Correspondence

Further information about the proposals may be obtained from the Case Officer, Adrian Browning by e-mail at adrian.browning@churchofengland.org or telephone at 01722 438664.

Representations against or in support of the draft Scheme

Anyone may make a representation for or against any provision of the draft Scheme.

Representations should be sent to:

**Rex Andrew
Pastoral and Closed Churches, Church Commissioners
Church House
Great Smith Street
London SW1P 3AZ**

Or by e-mail to: rex.andrew@churchofengland.org

Any communication received after Monday 12 June 2023 cannot be treated as a representation.

If we receive representations against the draft Scheme, we will send all representations, both for and against, to the Bishop, whose view will be sought. Individual representors will then receive copies of our correspondence with the Bishop (including copies of all the representations) and they may comment further in writing to us in light of the diocesan response if they so wish.

If no representations against the Scheme are received the Commissioners shall make the Scheme and bring it into effect as provided for in the scheme and explained above.

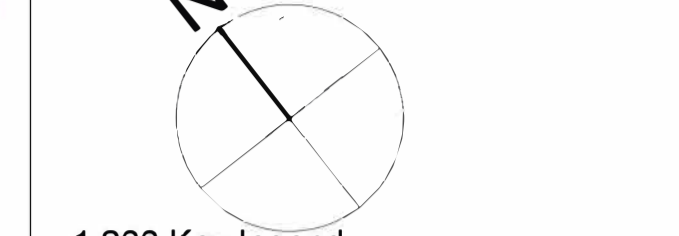
Information on the Mission and Pastoral Measure 2011 and its procedures can be found on the Church Commissioners' web-site at www.ccpastoral.org where there are also links to download copies of these notes and the draft scheme.

A M G Browning
9 May 2023



NOTES
 Do not scale from this drawing, except for planning purposes.
 Check all dimensions on site.
 Subject to survey.
 Subject to site inspection.
 Site boundary lines are indicative only.

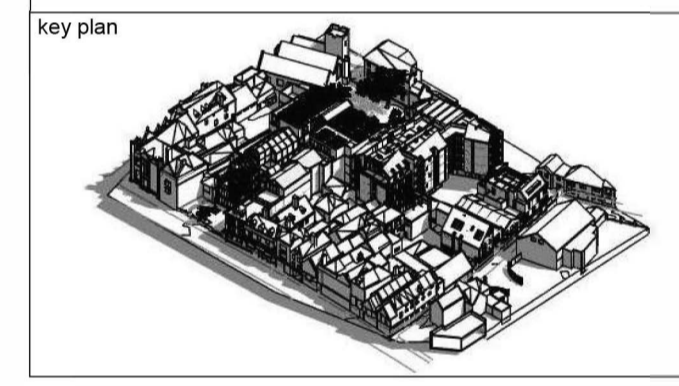
The proposals herein are a joint submission by CGL Architects and Clague Architects.
 CGL Architects have been responsible for producing and coordinating the masterplan for the whole site, as well as the design of the retail, commercial and serviced apartment proposals in the eastern part of the site, while Clague Architects have produced the residential and commercial proposals for the western elements.
 The planning application has been coordinated by CGL Architects.



- 1.200 Key legend**
- Class A1
 - Class A1/A3
 - Class A3
 - Class B1/D1
 - Class C1
 - Class C1/C3
 - Class E(a) E(c) E(d) E(e) E(f)
 - Class E(g)(l)
 - Services
- 1 The Foundry
 - 2 The Forge
 - 3 The Gable and Remnants of late Medieval fabric
 - 4 The Foresters' Hall
 - 5 N. 46 High Street

Rev	Date	By	Description
4	July 2022	PS	Amended annotation and added access to the Main Entrance Serviced Apartments
3	March 2022	GD	Waste Storage Tank Update
2	April 2021	NG	Water Treatment System
1	January 2021	GD	Green space updated

Revision Schedule



project
**Biggleston Yard
 Canterbury**

file
GA Plan - Ground Floor

sheet number	BIG-CGL-Z0-00-DR-A-PL1100		
drawing status	PLANNING		
contract no.	000	scale	1 : 200 @ A1
client ref	SETHA	date	16/04/20
drawn by	GD	checked by	SC
project no.	P16-247	drawing number	BIG-CGL-Z0-00-DR-A-PL1100
		originator-zone-level-type-role-number	
		revision	P4

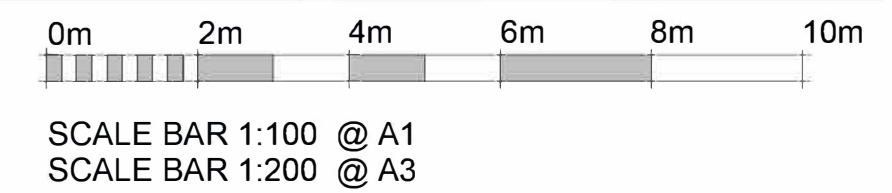
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CA

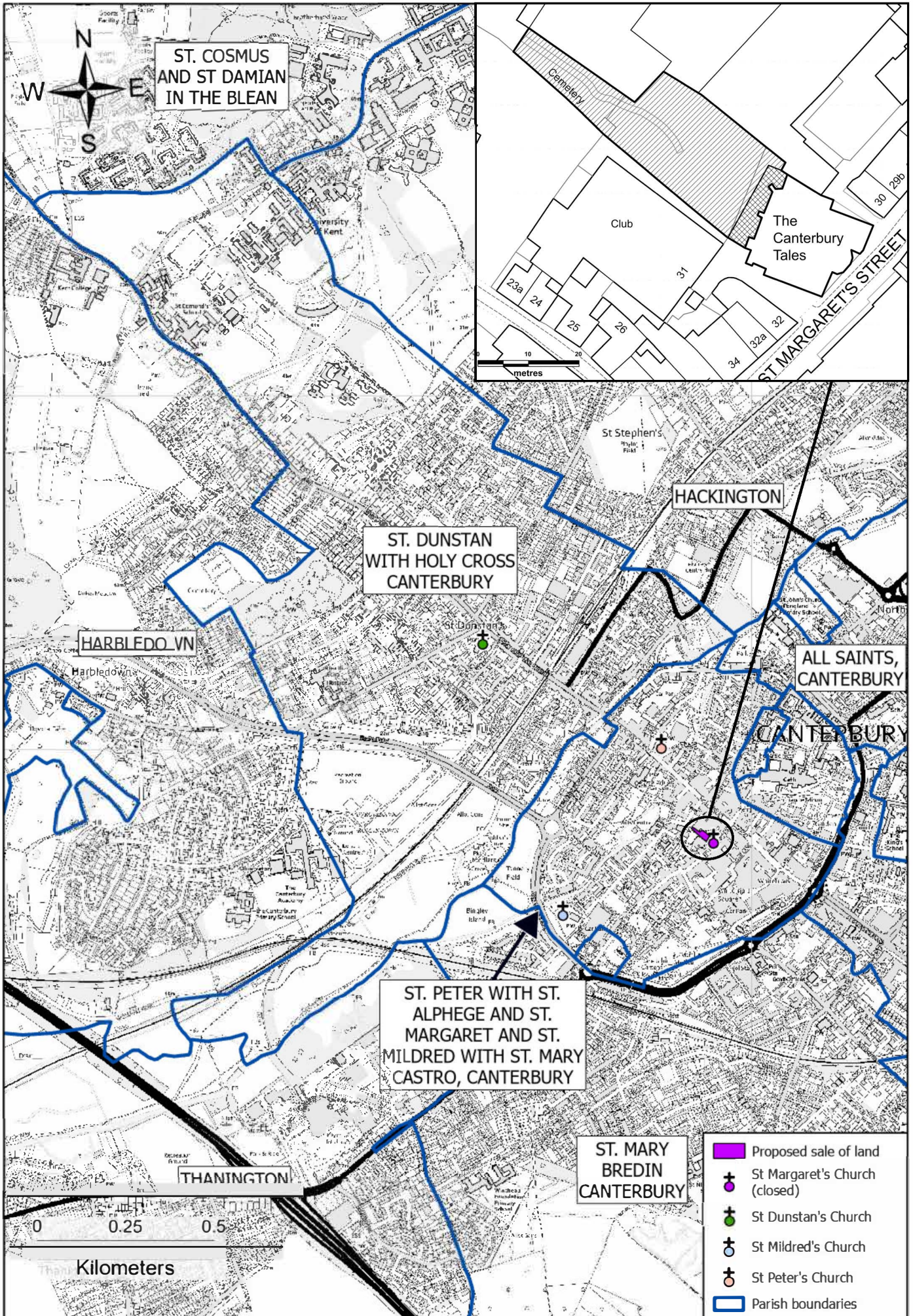
Child Graddon Lewis
 architects & designers

Studio 1
 155 Commercial Street
 Spitalfields
 London E1 6BJ

Clague Architects
 62 Burgate
 Canterbury
 Kent
 CT1 2BH

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**THE CHURCH
OF ENGLAND**

**CHURCH
COMMISSIONERS**

The Rt Rev the Bishop of Dover

Rex Andrew
Pastoral

By email only

Our ref: 6/42a/RA

1 August 2023

Dear Bishop

Mission and Pastoral Measure 2011
Land at the Closed Church Building of Canterbury St Margaret
Parish of St Peter with St Alphege and St Margaret and St Mildred with St Mary
Castro, Canterbury
Proposed Pastoral (Church Buildings Disposal) Scheme

Following the publication of the draft scheme providing for the sale of most of the former churchyard attached to the Grade II* closed church of Canterbury St Margaret to be used as a public open space and for cultural and community purposes we received **ten representations against, two in favour** and two of comment. All the representors are believed to have connections to Canterbury.

The background here is as follows: in 1957 the church of St Margaret, Canterbury was closed and appropriated, with its churchyard, to use as an institute for the spiritual, recreational, and social welfare of the deaf and the Diocese of Canterbury was empowered to hold the property for these purposes. By 1986, this use had ceased, and a Redundancy Scheme confirmed by Order in Council on 25 July 1986, empowered the DBF to lease the former church and annexed land for use as an archaeological and historical interpretation centre and, as regards the annexed land, additionally for community purposes.

Until April 2020, the former church building of St Margaret's and all the annexed land had been leased as a Chaucer Exhibition Centre. Following the closure of the Chaucer exhibitions and surrender of that lease the DBF re-let the former church building on a new commercial lease in 2021 to a new tenant which is about to re-open it as Canterbury Tales but also using it as an escape rooms attraction which will be linked to other historical buildings in the immediate area (*this may require a separate retrospective amendment of the 1986 Scheme widening the uses for which the building can be let*).

Concurrently the DBF received an approach from the developers of the adjacent former Nasons department store (Setha Group) to acquire most of the churchyard land attached to the former church to incorporate it into their proposed retail and residential development as open space land. The lease to Canterbury Tales therefore includes only a small part of the churchyard immediately adjacent to the St Margaret's building with the larger part, subject to the current draft Scheme, being held un-let by the DBF.

The Setha Group has already submitted a planning application affecting the churchyard, as part of its development of the Nasons site (46-47 High Street). Canterbury City Council has approved the application on 4 November 2022 under which use of the churchyard land would be designated as open space. The draft Scheme would amend the 1986 Scheme to allow the sale of this land to the Setha Group for the use designated in the planning permission.

The representations against the draft Scheme are from: Prof Paul Bennett; Clive Bowley; Canterbury Heritage Design Forum; Tracey Desso; June Hardcastle; Jacqueline Harding; Tony Haynes; Dr Sheila Sweetinburgh; Tim Tatton-Brown; and Carole Wells.

Those in favour are from the PCC of the affected parish and the Canterbury Diocesan Secretary.

The comments come from The Canterbury Society; and Cathy Sales.

Summary of the representations against

The representors strongly oppose the proposed sale of the churchyard to the developers. They say it is a beautiful, traditional city centre churchyard with many ancient graves and monuments and Yew trees offering a quiet sanctuary within a busy city centre. Some express concern over the neglect of both it and the former church building since the departure of the last user.

Most are concerned that the character of the churchyard will be lost once it is in the control of a commercial developer, even if it is designated as public open space. They say that trees may be removed, the grass replaced by paving, and burials and memorials moved. Its biodiversity would be destroyed and its value as a secret garden attraction to tourists and visitors would be forfeited, particularly if there were to be flats overlooking it. Several refer to an article in the 1 – 7 June 2023 edition of the Kentish Gazette in which the developers are alleged to have said that the area would be deconsecrated and would remain publicly accessible "*but that the disruption of more of the memorials has not been ruled out*".

Some also think this will result in the blurring of the boundaries of the churchyard and detach part of it from St Margaret's church, one of the most ancient in the city, dating from circa the 12th century and its churchyard documented from at least 1477. They say this might limit how the church building might be used in future. One says those laid to rest on consecrated ground should never have their burials disturbed and another that such land should not be used for other purposes.

Some say that if a sale to the developer take place, there must be a stipulation that the site should not be physically disturbed in any way and be forfeited immediately

back to the Church by the owners if they should ever subsequently propose it for future "development".

Others suggest that a lease would be much better option than a freehold sale as then, with appropriate restrictive covenants in place, any change of use would remain under the control of the Commissioners and Diocese. They say it would also prevent the developer from building over any burials or altering the historic boundaries.

One suggests the land should be vested in the Churches Conservation Trust.

Summary of the representations in support

The PCC of St Peter with St Alphege and St Margaret and St Mildred with St Mary Castro, Canterbury supports the scheme to sell the churchyard for an open community garden. It would however not be content if this becomes a building development as suggested by local media as that would reflect badly upon the Parish.

The Canterbury Diocesan Secretary fully supports the proposed sale.

Comments

The Canterbury Society says that it is not opposed to the principle of the sale and wants to be supportive of the development as a whole but is fearful that if the ownership of this churchyard was to be transferred to the developers, there will be nothing to stop them altering the ancient boundaries, adjusting them to suit the development and altering the fundamental character of the place. It therefore asks that suitably worded restrictive covenants be put into any transfer documents to ensure that the welcomed new development pays respect to Canterbury's past and a blend of the ancient and modern can be enjoyed by all, for the longer term.

Cathy Sales likewise asks for similar caveats being in place on any sale so that the human remains on this former holy land will be properly protected.

If you wish the Scheme to proceed as drafted notwithstanding the representations against, it will be necessary for our Mission, Pastoral and Church Property Committee to consider the matter. In that case, I should be grateful for your comments on the representations in general and on the following points: -

1. What were the main reasons for the proposal to recommend the sale of this land to Seta Group?
2. Why is it proposed to sell the land rather than to lease it? Given the various concerns raised in the representations, would you be prepared to agree to a long lease instead? Would Seta Group be likely to agree to this, and what effect would it have on the terms already agreed with them?
3. Please provide any more detailed information you have about the way in which the developers propose to lay out the land to be transferred to them. To what extent will the historic boundaries of the churchyard be

maintained?

4. Do you think that detaching this part of the churchyard from the former church and the remainder of the burial ground might have a detrimental effect on how they might be used in the future?
5. Do you expect that the developers will wish to disturb any burials in the subject land? Is it likely that they will wish to move some gravestones or memorials, and, if so, what directions would you expect to make for this?
6. Do you think the covenants which would be included in the proposed transfer of the land would meet the concerns of the representors?
7. Please comment on the representors' concerns about the loss of the character and biodiversity of this part of the churchyard if it becomes part of the Seta Group's development.
8. How do you believe the proposals will impact on the mission of the Church of England in this community?
9. Are there any other factors which the Commissioners should be aware of in their consideration of these representations?

The next meeting of the Mission, Pastoral and Church Property Committee at which this case could be considered is due to be held on 27 September. If the matter is to be considered at this meeting it would be helpful to receive your response by **Thursday 24th August**. This is to allow time for this letter and your reply to be sent to the representors, for them to make any further comments and, if necessary, for you to respond.

The Commissioners are required to consider the representations under the quasi-judicial process laid down by the Measure. A legal challenge may arise from the Commissioners' decision if, among other matters, it is based materially on incorrect information. Of necessity the Commissioners rely on others to provide information to assist their deliberations, and to this end I should be grateful for your help.

The Commissioners will decide on the basis of the written representations whether to hear oral representations or consider the case on the papers alone. The decision on whether to hold a hearing is one which will be taken by the Commissioners in the light of the particular circumstances of the case. We will confirm that decision in due course.

I am sending a copy of this letter to Canon Stephen Taylor, Sarah London and Nigel Collins at your Diocesan Office and to the Commissioners' Closed Churches Case Officer, Adrian Browning.

Yours sincerely

Rex Andrew



Diocese of Canterbury
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Rex Andrew
Pastoral
Church Commissioners
Church House,
Great Smith Street,
London
SW1P 3AZ

22nd August 2023

Dear Rex

**Land at the Closed Church Building of Canterbury St Margaret
Parish of St Peter with St Alphege and St Margaret and St Mildred with St Mary Castro,
Canterbury
Proposed Pastoral (Church Buildings Disposal) Scheme**

I refer to your letter dated 1st August 2023 addressed to the Bishop of Dover when you confirmed that the Church Commissioners had received several objections to the above scheme.

The Bishop is currently away and accordingly in my capacity as Diocesan Secretary I am responding on her behalf.

I fully understand the concerns and anxieties expressed by the complainants and in answering the questions I believe these concerns to be addressed.

1 What were the main reasons for the proposal to recommend the sale of this land to Setha Group?

St Margaret's churchyard has not been consistently maintained for many decades. In 1960, responsibility for its care and maintenance was passed to Canterbury City Council under an Agreement made under the Open Spaces Act 1906. St Margaret's church was vested in the DBF by the 1986 Redundancy Scheme for inclusion in the provisions of the lease of St Margaret's church to Canterbury Tales. The churchyard was not included in this lease.

In recent years the churchyard has not been well maintained, it has been subject to drug dealing, street sleeping and vandalism, locking the churchyard was the only way of stopping this. During this period to improve oversight of the churchyard the Council gave the keys to Canterbury Tales the Church without the Diocese's consent. They tried to maintain the front part of the Churchyard as they used it as part of their attraction, but the back area was fenced off with Chestnut fencing and became very overgrown.

Canterbury Tales went into liquidation and the property was returned to the Diocese. The gates were broken, and the churchyard was littered with needles, rubbish and detritus. The Diocese closed the Churchyard with temporary gates whilst the cast iron gates were repaired, and the Council re-engaged with their obligations for its maintenance and the Churchyard is now in good order. During the summers of 2022 and 2023 this has been let to the Canterbury Shakespeare Festival.

The current good state of the churchyard is only really guaranteed by either locking the gates or by private hire as above. We believe that making the churchyard more accessible is desirable, but this can only be done by proper management so that the Churchyard can be closed at night. Setha have the resources to manage the site and will be able to keep the property secure which the City Council has been unable to do.

The proposed sale to Setha is made subject to the provisions of the Open Spaces Act Agreement with Canterbury City Council remaining responsible for its upkeep.

Setha are the developers of the former Nasons Department store fronting Canterbury High Street and backing onto the churchyard. The churchyard gives access to St Margaret's Street which would give greater footfall and visibility of the churchyard and the church to the public. Setha's development of the store site had a small element of open space and Setha approached the Diocese with a view to incorporating the land into their planning application and ownership with a view to retaining it as open space.

2 Why is it proposed to sell the land rather than to lease it? Given the various concerns raised in the representations, would you be prepared to agree to a long lease instead? Would Setha Group be likely to agree to this, and what effect would it have on the terms already agreed with them?

It was initially a proposal to lease the property to Setha with the option to sell the freehold later, when/if planning was determined. This was in March 2020 and the Commissioners gave approval to a draft Scheme in July 2020. The original site layout showed a small encroachment of part of a new building onto the churchyard; however, revisions to the proposals during the application process mean that all of the churchyard will be retained as open space. Although, Setha's planning application was validated by the Council in August 2020, it was not approved until November 2022.

Due to this passage of time which covered the proposed option period and as the planning consent had now been given, on the advice of the Commissioners' Closed Churches Case Officer, it was put to Setha that it would be simpler and more straightforward to proceed straight to freehold disposal. The proposed lease was never finalised or entered into.

Our understanding is that a leasehold arrangement would give no better protection of the churchyard than the sale with restrictive covenants (see later for details of these).

3 Please provide any more detailed information you have about the way in which the developers propose to lay out the land to be transferred to them. To what extent will the historic boundaries of the churchyard be maintained?

Since receiving the objections to the proposed layout, Setha have undertaken to change their scheme so that the entirety of the space is to be public open space I enclose the plan submitted by Setha (BIG-CGL-ZO-00-DR-A-PL1100.pdf) which will be attached to the scheme. The historic boundaries will be maintained, and it will be all open public space.

4 Do you think that detaching this part of the churchyard from the former church and the remainder of the burial ground might have a detrimental effect on how they might be used in the future?

Since the church was made redundant keeping the two entities attached has proved problematic and it has been difficult to find a user who would be interested both in leasing the church and in maintaining the churchyard. Detaching the two gives a better chance of both being kept to a high standard of care of protection into the future. We have, however, now retained an area of land at the west end of the former church building to ensure continued access and use of the west door, as amenity land for the building and so that users of the building had an area of outside space. Properties in central Canterbury do not enjoy a great deal of outside space and we consider that retaining this portion of land is sufficient to ensure the ongoing viability of any future use for the building and we have secured a new tenant for the building on this basis.

5 Do you expect that the developers will wish to disturb any burials in the subject land? Is it likely that they will wish to move some gravestones or memorials, and, if so, what directions would you expect to make for this?

No. The developers have indicated that there will be no disturbance of human remains. With respect to the gravestones, these are to remain in place save for those headstones that are currently leaning up against the Nason's southern wall, which are not in their original locations. As this wall is being changed Setha and the Diocese will agree detailed plans as to the appropriate relocation of these headstones against other walls and directions will be issued once agreed. The Diocese will also secure a Dispensing Order from the Ministry of Justice to prohibit the disturbance of human remains into the future.

6 Do you think the covenants which would be included in the proposed transfer of the land would meet the concerns of the representors?

Yes. Most of their concerns will be met by the restrictive covenants proposed and Setha are content to proceed with the sale with them in place. These include covenants prohibiting:

- the disturbance of any human remains interred in the property;
- the installation of any new Conduits on the Property without the prior written approval of the Transferor (such approval not to be unreasonably withheld);
- damage to any tombstone monument or memorial in the property

Additionally, the Transferee will not be able without the Transferor's prior written consent remove or disturb any tombstone monument or memorial, and; the construction of any permanent building or structure on the property without the prior written consent of the Transferor will be prohibited Section 75 of the Mission and Pastoral Measure affords particular strength to these covenants.

We consider that these afford as sufficient protection to the property as would have been the case if they had been imposed in a long lease. In this way the understandable concerns of the objectors have been met

7 Please comment on the representors' concerns about the loss of the character and biodiversity of this part of the churchyard if it becomes part of the Setha Group's development.

The Churchyard is now in good order and from this basis the Council are in a better place to maintain this. The photograph enclosed, details its condition in the summer of 2022, and this condition has been maintained. In the Setha scheme there are minimal alterations proposed. One improvement to accommodate the increase in footfall will be to change the existing tarmac path to a permeable path with will improve the visual impact. Going forward the churchyards character will be maintained and with the ongoing care, will be improved.



8. How do you believe the proposals will impact on the mission of the Church of England this community?

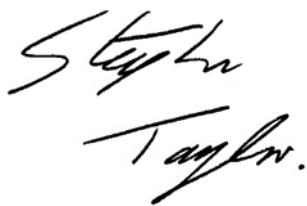
As well as our charitable obligations to manage our assets properly the church has an additional obligation to continue to serve the wider community and show the gospel to be lived out. Although the vicar of the parish in which St Margarets is, has been diligent in visiting the churchyard, especially when it had street sleepers in, it was an embarrassment to have a churchyard in such a state. We believe the church, in proposing this sale, is taking a responsible decision in partnership with public and private sector providers, who between them have the resources to ensure that this churchyard lives to tell its stories to future generations. Its geographic connection to St Margaret's church next door will be evident and the fact it will be managed by two separate organisations will not be noticed or relevant to most people. What will be seen is that both are visible, accessible, well maintained and used. The churches mission in the Canterbury City Centre continues to be expressed ecumenically through Church Together in Canterbury and through the city centre parish. This partnership proposal continues to ensure that the Church is a trusted partner in the city and the mission of the church in the city is alive and well.

9. Are there any other factors which the Commissioners should be aware of in their consideration of these representations?

Canterbury City Council have been in conversation with us regarding access to other parish churchyards for a pilgrim's route from St Martin's church to St Dunstan's church, using the government's 'Levelling Up' funding. These constructive conversations have followed on from our engagement around St Margaret's and we both have the wellbeing of Canterbury at heart.

I trust that this letter has been able to address the objectors concerns and if there are further questions, I would be happy to answer them.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stephen Taylor'.

Venerable Stephen Taylor MBE MA
Diocesan Secretary

Canterbury St Margaret - representations

All representations believed to be from those with connections to Canterbury

Against

1. Prof Paul Bennett MBE
2. Clive Bowley
3. Canterbury Heritage Design Forum
4. Tracey Dessoy
5. June Hardcastle
6. Jacqueline Harding
7. Tony Haynes
8. Dr Sheila Sweetinburgh
9. Tim Tatton-Brown
10. Carole Wells

For

1. PCC of St Peter with St Alphege and St Margaret and St Mildred with St Mary Castro, Canterbury
2. Canterbury Diocesan Secretary

Comments

1. The Canterbury Society
2. Cathy Sales

Against**Prof Paul Bennett MBE**

I have just been informed of the notice attached to the gate of St Margaret's churchyard and felt I should write to object to the sale of the historic churchyard by the Church Commissioners.

Even though the sale is for 'open space and community use', I oppose the **sale** of the churchyard, as it effectively detaches the cemetery from St Margaret's church. The two elements would be best kept together under the control of the Diocese/Church Commissioners but perhaps separately leased if that was felt necessary.

A brief history:

The church of St Margaret was one of the most significant of Canterbury's 22 Parish churches. Extant from at least 1155 as a two-cell church with tower under the patronage of St Augustine's Abbey, it was later extended with aisles and a Lady Chapel in the late 12th century. In 1271 the patronage of the church went to the Poor Priests' Hospital. The church was rebuilt in the later 14th century with new aisles and a chapel of St John the Baptist in the south aisle. The original southwest tower and door remained throughout the sequence of developments. The churchyard is first mentioned in 1477 but may have formed part of church land used for burial from an earlier period. The east end of the north aisle (the Lady Chapel) became the

Canterbury St Margaret - representations

Archdeacon's Court from 1580. The east end of the church was cut back in 1771 (part of the chancel and the and the chapel of St John) and rebuilt with present apse and south aisle in 1850 by G G Scott. The church became redundant after bomb damage in 1942 but re-opened as a church for the deaf in 1958. This closed in 1983. The church was leased until recently as a heritage centre focussed on pilgrimage to the city at the time of Chaucer.

The church contains some interesting and locally important memorials that require protection during the next phase of the life of St Margaret's church. Similarly, the cemetery contains a significant number of interesting memorials and a far greater number of burials that fill the present cemetery. Church fabric and memorials, and the cemetery, require protection in the long term as a single entity.

Although I would be happy to see the churchyard maintained and cared for as a public open space, as a Canterbury based archaeologist and a historian, I would be extremely saddened and worried to see the churchyard sold-off in this way. From my perspective, the churchyard and the church are best protected by being in the ownership of the Diocese/Church Commissioners and if necessary, leased to others separately for appropriate uses.

Clive Bowley

I refer to the public notice posted on the temporary gates to the St Margaret's Churchyard, and I wish to make a formal objection to the above draft scheme proposals for the sale of the churchyard to the developers of the adjacent proposed Nasons development (known as Biggleston's Yard).

I am a long-term resident of the city of Canterbury, residing here since before 1976. I have a keen interest in the history and heritage of the city. I also was the former Conservation Officer for the Canterbury City Council (from about 1980 until 2012) and have as a result, gained a deep understanding of the significance of the historic topography of Canterbury. It is a heritage without comparison, with the layout of the less damaged parts of the city, dating back to the C.11th and still surviving to this day.

St Margaret's Church is one of the most ancient in the city, dating from the C.12th and its churchyard documented from at least 1477. It is an ancient place and the boundaries of it today are exactly the same as shown on the 1874 the survey map of the city (*attached*).

The churchyard has survived through the centuries, resisting the commercial development that crowded in to surround it, especially in the 19th century. The adjacent Biggleston's foundry complex, (founded in 1835) crowded right up against the churchyard on its north-east side and the former foundry buildings, which still butt against it, are what is going to be redeveloped before too long.

Despite this, St Margaret's Churchyard is a beautiful, traditional city centre churchyard with many ancient grave monuments and Yew trees – a quiet and holy place, which was a sanctuary from the city centre. It is a pity that the place has been allowed to deteriorate since the departure of the Chaucer experience from the adjacent church building, some years back.

Canterbury St Margaret - representations

I note with concern from the article in the last weeks Kentish Gazette that the developers say that the area would be deconsecrated and would remain publicly accessible but that “*but that the disruption of more of the memorials has not been ruled out*”.

My fear is that if the ownership of this ancient churchyard was to be merged in with the new development - then there will then be nothing to stop the developers altering the ancient boundaries of the churchyard, adjusting them to suit the convenience of the development and altering the fundamental character of the place. It is highly likely that the area would be paved over, becoming nothing more than another functional urban space. Its special old English traditional character will inevitably be lost - the gravestones, grass and Yew trees all swept away to make a convenient and contemporary amenity space, overwhelmed by the new development.

There exists duties statutory duties to maintain and enhance the character of designated Conservation Areas. The existing churchyard is within the conservation area and is a fundamental part of its historic character and although there are promises of it being kept as a publicly accessible, open space, the change of ownership from the Church Commissioners to a commercial development company is bound to lead to a significant loss of character in this area.

In addition, the future of the adjacent and redundant St Margaret's Church building remains a cause for much concern. The building was for very many years used successfully as a heritage centre – an ‘experience centre’ explaining Chaucer's Canterbury Tales and it is only since this attraction closed has the churchyard become neglected and uncared for. The building itself remains empty and ‘At Risk’ with its future uncertain and the idea of detaching the churchyard from the church seems very unwise as it may further limit the potential for the future sympathetic reuse of the church. Premature disposal of the churchyard is therefore very likely to threaten the long-term existence of the church building itself.

Although I would be more than happy to see the churchyard maintained and properly cared for as a publicly accessible open space, there are many other ways of arranging leases and the responsibility for maintenance of the churchyard with others, without the church losing control of the churchyard in the way that would result from this proposal. The churchyard and the church and the wider heritage of the St Margaret's area are therefore best protected by churchyard remaining in the ownership of the Diocese and if necessary, leased to others for appropriate uses.

For the reasons above, I therefore wish to register a formal objection to the sale of the former churchyard to the developers of the adjacent Biggleston's yard complex.

Canterbury St Margaret - representations



Canterbury Heritage Design Forum

I am commenting on behalf of the Canterbury Heritage Design Forum (CHDF) in response to the notice for the proposed sale of this churchyard adjacent to the former Church building of Canterbury St Margaret.

CHDF is deeply concerned about this. St Margaret's Church is one of the most ancient in the city, dating from the 12th century and its churchyard documented from at least 1477. It is an ancient place and the boundaries of it today are exactly the same as shown on the 1874 OS survey map of the city (*see attached*) and the churchyard has survived the commercial development that crowded in to surround it in the 19th century, not least the Biggleston's foundry complex, the buildings of which still butt up against the churchyard on its north-east side.

It is a beautiful, traditional, city centre churchyard with many ancient grave monuments and Yew trees – a quiet and holy place, which is a sanctuary from the city centre, albeit rather neglected.

The developers (potential buyers) say in a recent local paper article (*copy attached*) that the area would be deconsecrated but would remain publicly accessible “*but that the disruption of more of the memorials has not been ruled out*”

The fear is that if the ownership of this ancient churchyard was to be merged in with the new development - then there will be nothing to stop the developers altering these ancient boundaries, adjusting them to suit the convenience of the development and altering the fundamental character of the place. No doubt the area would be paved over, becoming nothing more than another boring urban space. Its special old English traditional character will inevitably be lost. The gravestones, grass and Yew trees all swept away to make a convenient and contemporary amenity space, overwhelmed by the new development.

St George's churchyard was also sold off in the 1950s, the burials disinterred, and the place completely obliterated from the Canterbury townscape, with the place of it buried under the Clocktower shopping buildings. CHDF's fear is that the same could happen here. Even if the space is left open. It will inevitably be robbed of its historic significance, and the city will be the poorer because of it.

CHDF needs to make a strong objection to this scheme.

Yours sincerely
Amanda Sparkes
Minutes Secretary
Canterbury Heritage Design Forum

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HIDDEN GARDEN TO FORM PART OF NASONS SITE

Developers to buy 'secret' graveyard

by Ruth Cassidy
rcassidy@thekmgroupp.co.uk

A 'secret' graveyard hidden away down narrow medieval passageways is set to be sold to the firm behind a £26 million city centre redevelopment.

It has been agreed that St Margaret's churchyard in Canterbury will become part of the eye-catching project on the site of the former Nasons department store.

All tombs and burials will remain in the cemetery, and the church has assured no human remains will be disturbed despite the land becoming part of a complex that will include 65 new homes and a covered market hall.

Some of the historic headstones have already been moved to the ground's perimeter, but the disruption of more of the memorials has not been ruled out.

However, if the developer, Setha, wishes to make further changes to the graves it will be required to request specific permissions from the Church Commissioners.

The Church of England has begun the process of selling the land, which has been deconsecrated, by submitting a proposal



The graves in St Margaret's churchyard, Canterbury, date back almost 200 years

and allowing people to share their views on the matter.

In documents filed with the council on their now-approved Biggleston Yard proposal, Setha says: "With the incorporation of the deconsecrated churchyard of St Margaret's the site now offers a decent portion of open space which can be made publicly accessible, something which is generally quite a find within a tightly-packed medieval city such as Canterbury.

"We have developed the open-space design to enhance the setting of St Margaret's church and yard.

"The design proposals reflect the historic setting of the churchyard and the unique surroundings, to encourage users to spend time within the site and absorb the history and setting.

"The plans include the removal of random refuse bins, fencing and foliage and create a more open approach for the church to not only be visually appreciated from the churchyard but also its relationship with it."

The graveyard is attached to the Grade II-listed St Margaret's church, which was the home of *The Canterbury Tales* attraction from 1987 until its closure in 2020.

Two years ago the garden and burial ground was closed to the public after a spate of anti-social behaviour.

After it was discovered that the cast-iron churchyard gates, which are also listed, were damaged and could no longer be securely closed, a decision was made to shut off the area to prevent further anti-social behaviour.

Work has since been taking place to repair the 200-year-old hinges and decorative newel post.



A computer generated image of how the graveyard is expected to look once Biggleston Yard is complete

Now the hidden garden in the heart of the city is set to reopen to the public as it has been agreed for sale by the church to the development company.

But visitors to the historic quarter will not have to wait for the completion of Biggleston Yard, as it is expected the repairs will be complete and the graveyard reopened in the next six weeks.

The Nasons family department store closed in September 2018 and was followed by Debenhams opposite in January 2020, ripping the retail heart out of Canterbury.

The Nasons site is owned by London-based property investor and development company the Setha Group, which is working closely with award-winning architects Child Graddon Lewis and Clague.

It has rebranded it Biggleston Yard in recognition of the one-acre location's historical connections.

Architects previously claimed the development will be an exciting, new retail destination.

No timeframe has yet been given on when work will start or when the development is expected to be complete.

The Setha Group has been contacted for comment.

Canterbury St Margaret - representations

Tracey Desso

As a Canterbury resident, I am concerned to note the proposed sale of the above property to the developer of the Biggleston Yard complex.

It seems to me that the historical and spiritual significance of this medieval graveyard would be compromised were it to fall into the hands of private commercial interests. One might expect the Church to guard the spiritual interests of those individuals buried there and to honour their faith; no doubt they did not anticipate that, centuries later, the land would be deconsecrated and subsequently sold 'for use as a public open space and for cultural and community purposes'. There are arguably other spaces that might more appropriately be used to fulfil that purpose.

June Hardcastle

1st email

Please find my objection comments for consideration in the above change of use decision process.

I am fully aware that ecclesiastical policy and the law pave the way for approval of the development of a community space for St. Margaret's churchyard, Canterbury., but sorry, such a decision does not sit comfortably with me hence herewith my objections!

- 1) People buried there expected to remain for eternity in the churchyard. Their bodies may have turned to dust by now but their spirits live on in life eternal and I am not comfortable with the churchyard being turned into a community space for a developers twee money making scheme.
- 2) Canterbury has many open, public spaces and doesn't need more and certainly not at the expense of losing this historic churchyard
- 3) Canterbury's world Heritage status has already been challenged and whilst we in Fordwich try hard to revamp our ecclesiastical and Heritage past to protect the history of Fordwich and its connections to Canterbury, it's Cathedral and to St Augustine's Abbey, I am mortified you are even considering devastating this historical and archaeological treasure of St Margaret's churchyard.
- 4) Is not vesting the retired churchyard in the Churches' Conservation Trust not the best option for this gem's future?
- 5) No, thank you I do not wish to speak at any hearing but beseech you to think carefully before consigning this heritage treasure to the developer's money-making scheme.

God Bless you and help you make the right decision.

2nd email

Dear Rex,

Thank you for your comprehensive response to me. But what I am really wondering is “ is this procedure to form the diocesan response when the developer lodges a Canterbury City Council formal planning application or is it a decision that bypasses the normal planning process?”

Adrian Browning’s response

The proposed buyer of the churchyard has already submitted a planning application affecting the churchyard, as part of their development of the Nasons site (46-47 High Street). Canterbury City Council has approved the application and details may be found on the City Council website. The application reference is CA/20/01679 and was approved on 4 November 2022.

The process we are operating under the Mission and Pastoral Measure is entirely separate to the planning process and approval under both is required before the matter can proceed.

Jacqueline Harding

No consecrated land should ever be built on.

Tony Haynes

I am writing to express my concern that the Church Commissioners are proposing to sell St Margaret's churchyard to developers.

Although the developers have indicated that their current intention is to retain the churchyard as an open space to enhance the experience of visitors to their multiple restaurants and market stalls, this is hardly in line with the wishes of those parishioners who were assured, and believed that their souls would be recognised from their tombstones and venerated for eternity under the auspices of the Church!

The potential, additional, movement of gravestones from their locations so that overspill picnickers, residents and revellers can ignore the sanctity of the space is a worrying precedent, especially given that the site will already be dominated by a completely incongruous, oversized glass and concrete construction, that clearly demonstrates the developers' actual level of empathy with the site and its historic surroundings.

Should the Commissions be determined to sell for a quick financial return, they MUST stipulate that the site should not be physically disturbed in any way and be forfeited immediately back to the Church by the owners if they should ever subsequently propose it for future "development".

Canterbury St Margaret - representations

We have all seen how developers even boast that they can circumvent planning restrictions simply by paying expensive lawyers to pursue appeals that councils cannot afford to fight. If they already own the land, there is little to stop them,

Thank you for considering submissions such as mine. Please take them seriously.

Dr Sheila Sweetinburgh

I have just been informed by my colleague Professor Paul Bennett, with whom I teach a postgraduate module on Medieval Canterbury, that there is a proposal to sell the churchyard of St Margaret's church. Consequently, I am writing to object to this sale by the Church Commissioners of this historic churchyard in a key part of the city.

Even though, I believe, the sale is for 'open space and community use', I, too, oppose the **sale** of the churchyard. Such a move would effectively detach the cemetery from St Margaret's church, especially as this is the only central city church where this remains the case. As a result, they would be far better kept together under the control of the Diocese/Church Commissioners. However, if it was felt absolutely necessary, one option would be to lease them separately.

I believe Prof. Bennett has outlined to you the historic importance of both church and churchyard, so I will not reiterate these points.

Thank you for your time.

Regards

Dr Sheila Sweetinburgh
Lecturer in Medieval & Early Modern Studies
Co-Director of the Centre for Kent History and Heritage
School of Humanities
Canterbury Christ Church University

Tim Tatton-Brown – his email to Prof Paul Bennett copied to the Commissioners

Dear Paul,

I am very sorry to hear that it is proposed to sell this tiny little churchyard, which must still be full of many burials. I totally agree with your letter to Mr Andrew, who is copied in here. I have just refound a paper copy of a leaflet that I wrote for the CAT thirty seven years ago (* attached herewith), and the plans still show clearly the archaeological importance of the whole area around, as well as beneath the church. I still remember the archaeological work we did in 1983-5, before YAT took over the church for a medieval pilgrimage centre. What is the church used for now?

Very best wishes, Tim Tatton-Brown OBE
(Director of the Canterbury Archaeological Trust, 1975-85)

Canterbury St Margaret - representations

3.
 Visitations were also held here: the Archbishop's quadrennial visitation of the clergy in the eastern part of the diocese and the Archdeacon's annual visitations to the clergy and churchwardens. After the suppression of the Poor Priests' Hospital in 1575 the patronage of the church passed to the Archdeacon of Canterbury.

Some fine mural monuments survive from the early seventeenth century to the mid-nineteenth century, though many were moved from their original positions during the restoration in 1850. Those commemorated include:

Francis Aldrich: Fellow (1599) then Master (1608) of Sidney Sussex College, died 1609. (On the north wall of the north aisle).

Alderman John Hatson: Mayor 1615, died 1633. (On the south wall of the south aisle). On the same monument is

Leonard Cotton: Sheriff 1563, Mayor 1579, responsible for refounding the twelfth century Hospital of Mayner the Rich before his death in 1605.

Joseph Colfe: Mayor 1611, died 1620.

Sir George Newman: Commissary to Archbishops Whitgift, Bancroft and Abbot from 1598, M.P. for Dover 1603, Freeman of the City 1608, for thirty years Judge of Admiralty of the Cinque Ports, knighted 1617, died 1627. (On the window ledge at the east end of the south aisle).

William Somner: Born 1606, famous Canterbury historian and compiler of the first Anglo-Saxon dictionary, lived in Castle Street, died 1669. (On the east end of the north wall of the north aisle).

George Barrett: Died 1709. (In the south aisle).

Paul Lukin: Notary & Proctor to the ecclesiastical courts of the Archbishop and Archdeacon, Auditor to the Dean & Chapter of Canterbury, died 1716.

Anthony Oughton: Mayor 1702 & 1730, Sheriff, Chamberlain and Alderman, died 1750.

Leger Stones in the floor record the burials of members of several Canterbury families, such as the Lovelaces, Lukins, Barretts, Primroses, Oughtons, Carters and Halfords.

In the late eighteenth century efforts were made to open the city to new traffic and in 1771 a faculty was obtained to pull down the east end of the church to widen the street and improve access to the Fountain Inn. In 1780 a gallery was built in the south aisle to increase seating in the shortened church. The graveyard was probably extended in 1824 and an organ installed in the church in 1829.

In 1850, when Mr. Woodall was Rector, Sir G. G. Scott undertook a great re-building of the church: the 'deformed' east end was 'masked', the aisle walls were heightened and given pitched roofs with gabled ends, the external spiral stair was added to the tower and the exterior was refaced with new, uncoursed, knapped flints, giving the church a wholly Victorian look. A vestry was added, which was extended early in the twentieth century. Inside, new pews and chancel fittings were inserted and many monuments etc. were re-arranged. The chancel windows have since had new glass.

In 1942 the church and surrounding area was extensively bomb-damaged and after the war the parochial use of the church ceased. In 1958 it was reopened as the church and Institute for the Deaf and Dumb of Canterbury and East Kent. The Institute moved in 1983, when the church was closed.

The present excavation represents the first stage of the setting up of a new and exciting Pilgrim Centre for Canterbury. The Archaeological Trust, in conjunction with Heritage Projects Ltd., who are best known for the Jorvik Viking Centre in York, are currently formulating plans for the establishment of a walk through 'time tunnel' in the church which will take the visitor on a medieval pilgrimage from London to Canterbury in the early fifteenth century. The Canterbury Pilgrim Centre, due to open in Easter 1988, will not only attract thousands of tourists to the area but should also help to finance much of the Trust's future archaeological work in the City.

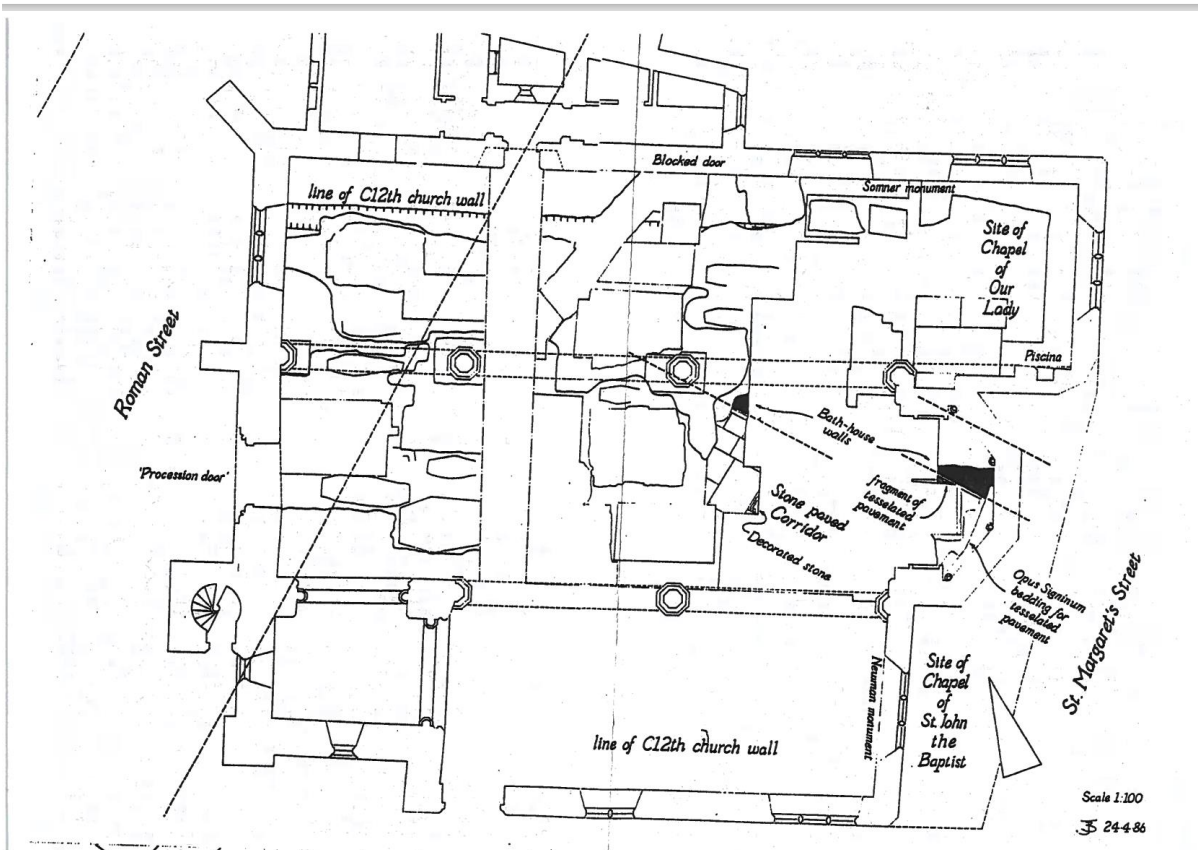
Tun Tatton-Brown April 1986

Sorry, this photocopy of a photocopy is all I have, Tue 19/6/83

ST. MARGARET'S CHURCH



CANTERBURY ARCHAEOLOGICAL TRUST



Canterbury St Margaret - representations

Carole Wells

I was alarmed and saddened to read of the proposed development of the St Margaret's Church Grave Yard in Canterbury, particularly into the hands of large developers.

This is a peaceful, spiritual and rare green space in the heart of the city which, prior to closure, was used by residents as a quiet place of solace and sought out by tourists and visitors specifically for its ancient historic interest and as a sanctuary from the busy streets of the city.

Developers, whatever they say, will not respect or restore this precious place but will build over and around it with modern flats overlooking it's privacy. Also, its value as a secret garden attraction to tourists and visitors will be forfeited and its biodiversity destroyed.

As a resident of Canterbury I strongly ask you to reconsider the development of this historic site. Of course, it needs restoration but could be included in the Canterbury Council LUF funding, recently won precisely for the renovation of historic sites in Canterbury and the creation of the 'Canterbury Tales of England Garden Stories'?

Perhaps the Church of England could work together with the council and Historic England to agree the best way forward to protect and preserve this precious site in the interests of all involved and the beneficiaries, including the residents, tourists and visitors to our world heritage city?

For

PCC

Having been sent the paperwork relating to this pastoral scheme, I took the proposal to the PCC of St Peter & St Mildred, in whose Parish this lies.

The PCC response is:

"We support the sale of the churchyard for an open community garden. However, we would not be content if this becomes a building development as suggested by local media. Such a development would reflect badly upon the Parish"

Rev Jo Richards

Rector of the Benefice of St Dunstan, St Mildred and St Peter, Canterbury

Canterbury Diocesan Secretary

I fully support this sale.

Comments

The Canterbury Society

I write to you because of some serious concerns felt by The Canterbury Society in relation to the proposed sale of the churchyard at St Margaret Canterbury to the developers of the Nason's/Biggleston's yard site.

We are not opposed to the principle of the sale given the context of the proposed development but our fear is that if the ownership of this ancient churchyard was to be transferred to the developers - there will be nothing to stop them altering the ancient boundaries, adjusting them to suit the development and altering the fundamental character of the place. The area may be allowed to be paved over and its very special old, English traditional character will be lost. The medieval gravestones, grass and Yew trees could all be removed to make a bland, contemporary amenity space - as part of the new development.

The proposals contained in the existing planning approval for the adjacent development already exhibits this tendency, with part of the graveyard shown to be converted to private gardens; no distinct separation between the development and the Churchyard; insensitive paved paths and a secure cycle shelter proposed to be sited right next to the church building itself. In addition the concern is that with the future of St Margarets church itself uncertain, It would seem unwise to alienate the church from its churchyard before plans for the future use of the church building are finalised

We want to be supportive of the development as a whole but would politely and urgently request that you place a suitably worded restrictive covenant in the transfer documents to ensure that the welcomed new development pays respect to Canterbury's past and a blend of the ancient and modern can be enjoyed by all, for the longer term.

Yours sincerely

Hilary Brian
Chair, The Canterbury Society

Cathy Sales

Please can the Church insist that there are caveats to the sale so that the human remains on this former holy land will be protected from water, concrete and noise pollution, out of respect to the people who are buried here and the loved ones who buried them?

They thought they had found eternal rest near the presence of so many Saints and Martyrs. It is likely that without this caveat, their remains will be dishonoured with sewage floodwater from the overloaded drains and ancient sewers , when a 5 storey high building of 32 accommodation units and no additional infrastructure is built next to St Margaret's graveyard on the former Nasons and Debenhams sites.

Canterbury St Margaret - representations

There is a statutory requirement given by National Planning Policy Framework (2021) to align infrastructure and growth and take measures to avoid and adapt to climate change. However, forces of profit override the common good and this is ignored.

I pray that the Church may continue to give sustenance to us all in these difficult times and have Faith you will use your resources to serve His purpose.

Yours in Christ.