

History and Background to the Application:

To be read with Statement of Need and Statement of Significance



Photo: Todmorden Church of England Junior and Infants, with the trees of Christchurch Churchyard behind. The Christchurch church building is in the trees at the right of the picture.

The Woodlands Nursery and Childcare Provision:

As can be seen in the photograph above (on the right of the photograph) at the back of the school site, the Woodlands is an eco-friendly, wooden-clad building, which houses the over-subscribed nursery, educating up to 54 children, a third of whom are deemed as disadvantaged.

As well as housing the nursery, Woodlands accommodates a community playgroup for parents and young children (3 months to 4 years old). It also has a classroom for children needing specialist provision for a disability or support for special educational needs.

The wrap around care, described in section 1 above, is housed in an upstairs classroom, providing childcare for children (Aged 2 to 11) from 7am to 6pm.

This wooden clad building was planned in 2016 and the building was completed in early 2017, before the current headteacher took up post in September 2017. This work was undertaken under the leadership of the previous headteacher and the governing body, none of these people now lead the school.

Before the Woodlands building opened in 2017, another one-story nursery building stood on the same plot. This was a single story portacabin style building, which was placed on this land in the mid 1990's, with planning permission granted in 2001. It was demolished in 2016 for the new 'Woodlands' building. This means that a nursey has been in situ on the plot of land for over 25 years.

School History and Land Ownership:

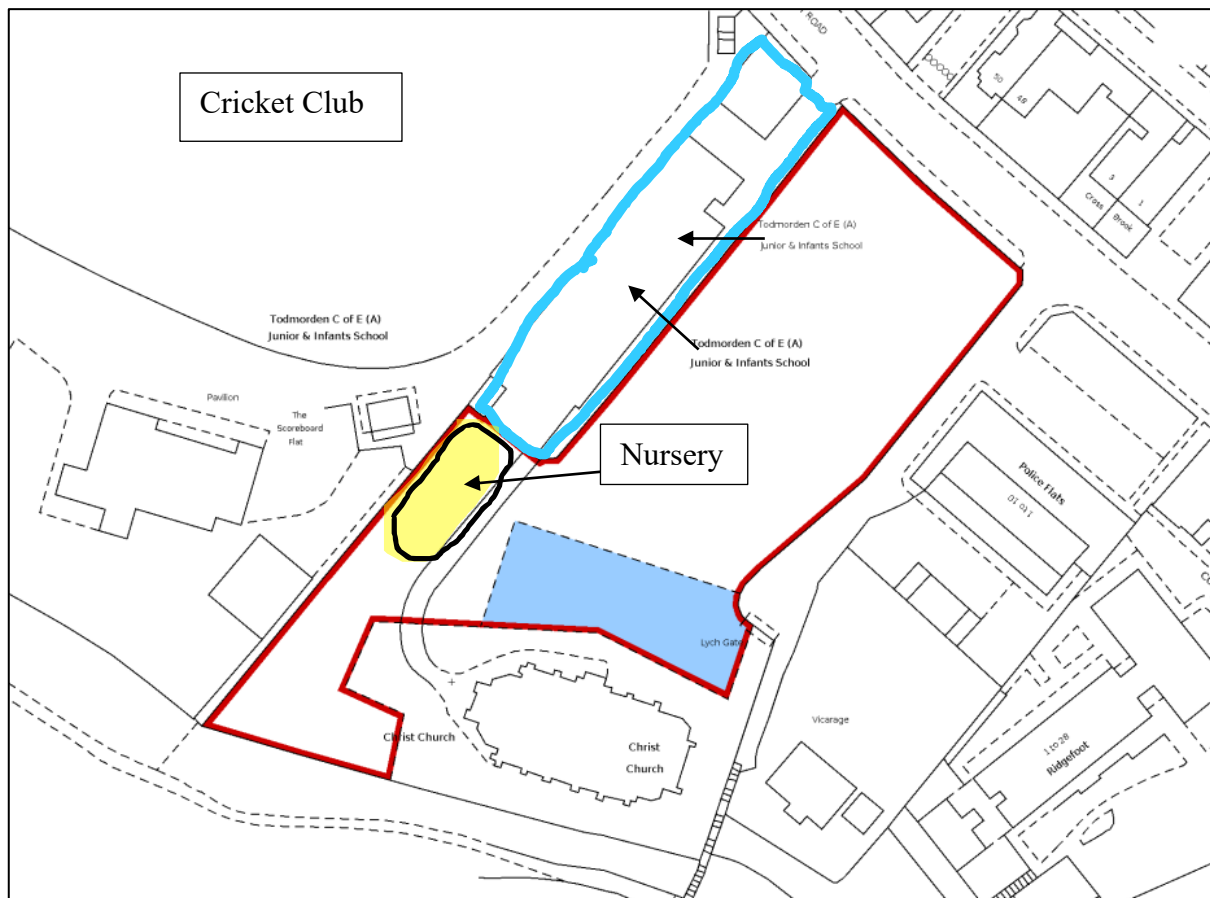
The school building was built in 1844 with building extensions added later. It is situated on a very tight, narrow plot of land that sits between the closed Christchurch graveyard and Todmorden Cricket Club (see Appendix 1 of the Statement of Need).

The school land is owned by Leeds Diocesan Board of Education, as the successor to Wakefield Diocese, but the land at the back of the plot, where the Woodlands building is placed, is part of the closed churchyard of Christ Church (see Appendix 2 and attached Title

Deed and Plan for the school land). The churchyard is separately registered, in the name of the Incumbent of St Mary's Church, as the successor to Christchurch, the former parish church. The former church building of Christchurch is also separately registered as that building is now a private residence.

The Woodlands building (2017) and the previous nursery building (1995), both of which were granted planning permission by Calderdale MBC, are built above graves. Examination of the Planning documents shows that there was awareness in 2016 of the Commonwealth War Grave but there is no reference to the rest of the graves beneath the extension in of the planning documents.

In addition, one of the plans that actually outlines the Churchyard site misleadingly includes references to the school on the Churchyard side of the plan.



History of Current Application:

The current headteacher, Mrs Alice Leadbitter, found out in November 2023, 6 years after becoming headteacher, that the 'Woodlands' building does not have a faculty or any property provision to authorise its placement on the churchyard land. It was thought that the previous building (1995) which had the same footprint, did have a faculty although this faculty cannot be found.

It is not known why the previous headteacher and governing body did not apply for a faculty in 2016. It is possible that as it was thought permissions were already in place for the old nursery and with no change to the footprint of the plot, a new faculty was not required. The whole community, the PCC, Calderdale MBC, and the incumbent of St. Mary's Church, Todmorden were aware of and in support of Woodlands being built. Planning permission was

granted at each stage with the accompanying planning consultation processes and public notices.

When the lack of a Faculty or lease for the Woodlands site came to light in 2023 the current Governors and Headteacher of Todmorden CE J, I & N School, supported by the PCC, were advised to apply for a retrospective faculty for the Woodlands Nursery. However, it is understood that the case of Christchurch Spitalfields, ruling on the application of the Burial Acts, means that it is not possible to grant a retrospective faculty.

Accordingly, as Planning Permission will need to be renewed in 2026, if the nursery and wrap around school provision are to be retained, a Faculty is therefore sought for the Woodlands Nursery going forward. In addition, a Lease, arrangements for the Headstones and notices with information about the Churchyard and the graves beneath the extension are sought.

Enquiries made by way of background to the application:

Faculty documentation has been sought in a number of former records, as follows:

- Records held at St Mary's Church
- Records in West Yorkshire Archives, held at Wakefield
- Registrar's records, now held at Lupton Fawcett
- Conversations with the former DAC secretary, Sylvia Johnson who would have been in post in 2016 when the current Woodlands building was erected
- Conversations with the former Registrar, Peter Foskett

No faculty has been found and none of those consulted, who would have dealt with any petition at the time, have any recollection of any Petition being received. Calderdale Council have not given any indication of why planning permission came to be given without a Faculty in place.

Consideration has been given to whether the school has acquired the churchyard land by reason of adverse possession but as the land is a churchyard, with burials made within 50 years of the building work, it is thought that adverse possession would not be possible, as it would have been illegal.

Other interested parties:

Other parties with a clear interest in the Petition have already been informed that a Faculty and other measures are being sought to regularise the position of the Nursery on the churchyard site. These include:

From Calderdale MBC, the Planning, Bereavement Services and Education departments, including both Capital Development and Early Years.

From Leeds Diocese, the DAC, Archdeacon and Leeds DBE

The Friends of Christ Church, a voluntary group who have been maintaining the churchyard (in the absence of local authority resources) and undertaking local history research.

Relatives of those buried beneath the Nursery insofar as contact details can be found.

Contact details for these parties are contained in a separate document.

So far as the Petitioners are aware none of the other interested parties is seeking a Restitution Order under the Burial Acts, for the removal of the nursery. Such an application would in any event be out of time.

There has been some talk by relatives and FOCC of exhumation of remains buried beneath the Nursery. However, the passage of time since burial, all now over 50 years ago, means that exhumation is unlikely to be practically possible. The Petitioners would not oppose the removal of some soil by way of symbolic exhumation, alongside the re-location of headstones.