

Overview

Historic England welcomes the review of the Mission and Pastoral Measure 2011, particularly the aims of simplification, creation of a legal interim status between 'open' and 'closed' churches, and better provision for the maintenance of church buildings being considered for closure. Such provisions could help PCCs to set churches on a better trajectory to wider and new uses so that closure is unnecessary.

We would want to respond positively to a process that looks at closure and re-use together. Such an approach would support the church building while the congregation is still involved, before severe deterioration of fabric, and offers the local community an opportunity to engage at an early stage. When combined with new models of ministry, such as festival churches, and the possibility of local Trusts taking on responsibility for the building, there is potential to build sustainability and keep buildings open.

Where the long-term security of the building as a place of worship is in doubt, an 'interim status' would give time to prepare a development brief, in consultation with all stakeholders, to establish what physical changes might be acceptable to make new non-worship uses possible. Such discussion will speed up the process for closure, if that is the only possible outcome, and enhance information available during the use-seeking period. It will also encourage more positive thinking about the closure process so that it becomes part of the trajectory in the life of the church rather than an ending.

However, Historic England has serious concerns about some of the heritage/planning wording in GS 2222 and some of the suggestions that are not in line with Government statute/policy/guidance. These threaten to create a disparity of handling between closed church buildings and secular buildings. We have pointed those out where relevant, particularly at Question 18 in relation to paragraphs 121-123.

Question 1 Is there a need for a fundamental review of parish governance at the current time

Historic England cannot comment on the Church of England's internal governance, but we realise that caring for a listed church building and its setting puts huge responsibility on a PCC, particularly where that building is listed Grade I or II* and contains medieval fabric. There is a strong correlation between churches on the [Heritage at Risk Register](#) and the ability (or otherwise) of PCCs to cope with repair and maintenance needs, grant applications, works management etc.

Supporting PCCs with these issues at a higher or joint level could prevent church closures where the issues are down to PCC capacity. Changes to allow other people to have a formal role in maintenance could be a great help, whether at Diocesan or other level.

Question 3. How important is it to control the future use of the church building?

Where the Church of England seeks to control the future use of the church building, there can sometimes be a conflict with the needs of the building as a heritage asset within a community, rather than as a Christian place of worship. For example, use for worship by another faith is not considered appropriate under the current legislation. However, that may be desirable in terms of the protection of the building and service to the community because such a use might require fewer changes to the fabric of the historic building than alternatives and meet the needs of a changed local demographic.

The current list of acceptable uses limits reuse possibilities, which can lead to the rapid deterioration in the condition of empty buildings by lengthening the time it takes to find a new use: it also increases the cost of the duty of care borne by the diocese.

It would be helpful to approach this issue in light of the planning policy and guidance relating to 'optimum viable use', as referred to in paragraph 202 of the NPPF, and paragraphs 15 and 16 of the historic environment section of the Planning Practice Guidance:

If there is a range of alternative economically viable uses, the optimum viable use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes. The optimum viable use may not necessarily be the most economically viable one. Nor need it be the original use. However, if from a conservation point of view there is no real difference between alternative economically viable uses, then the choice of use is a decision for the owner, subject of course to obtaining any necessary consents. [PPG Paragraph: 015 Reference ID: 18a-015-20190723]

Since the process of making a Scheme removes the legal effects of consecration, once any interim discussion/consultation stages have passed, it is appropriate for the future use of the church building to be controlled by the secular authorities through the planning process, as with change of use of any other building type. As noted in the policy and guidance referred to above, 'sustaining heritage assets in the long term often requires an incentive for their active conservation. Putting heritage assets to a viable use is likely to lead to the investment in their maintenance necessary for their long-term conservation': the overall goal should be supporting the long-term active conservation of the heritage asset. [PPG Paragraph: 015 Reference ID: 18a-015-20190723]

Question 4. Is there support for greater powers to lease or vest churches in use or in the use-seeking period in the CCT or other trust bodies for maintenance purposes or during use-seeking

Historic England supports the proposal to introduce greater flexibility to lease or vest churches in use, as options are currently very restricted.

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Greater powers for leasing or vesting to deal with maintenance or temporary uses would help both congregations that wish to continue worship use (using whatever model) and during the use-seeking period when buildings can deteriorate at a significant rate. This could also create an opportunity to engage a new group of people interested in the building, who may help to champion it longer-term.

However, the trusts who take on responsibilities must have the capacity, knowledge and resource to do so and the financial arrangements, terms and exit strategy need to be clearly understood. The same requirement applies to organisations taking on the responsibility for churchyards: we would recommend that the building and landscape are kept together as a single asset wherever possible.

Q5 In what ways do you believe simplifying financial arrangements can better support the church in undertaking these functions?

'Optimum viable use' is the key here - and should follow the PPG definition: 'If there is a range of alternative economically viable uses, the optimum viable use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes. The optimum viable use may not necessarily be the most economically viable one.' [PPG Paragraph: 015 Reference ID: 18a-015-20190723]

Q7. Do you support dividing any new legislation replacing the MPM into primary and secondary legislation in the way proposed?

Historic England advises that it is important to remember that ecclesiastical exemption is predicated on the basis that is equivalent to the secular handling of heritage assets, so any simplification or amending should not have the result of lessening or weakening the protection given by the Church to listed buildings.

However, the principle of primary and secondary legislation seems a sensible approach. The secular planning system governing listed buildings is divided in the same way, with the 1990 Planning (Listed Buildings and Conservation Areas) Act as primary and regulations/orders as secondary.

Question 11 Do you support the Commissioners having greater flexibility to amend schemes

Historic England notes that within the secular system such changes would require re-consultation, if with a shortened timescale for response. We suggest that the flexibility could be in giving a shorter timescale for response, rather than doing away with re-consultation altogether.

Question 14. Should the requirement to obtain a CBC report before proposing closure be removed?

If the provision for a CBC report is removed, then there should still be a requirement for a report on the architectural and historic significance of a church building and its landscape - a comprehensive 'Statement of Significance'. Guidance would be needed to explain how this is produced but it could be created by the parish or diocese or by Places of Worship Support Officer (or equivalent).

Historic England notes that paragraph 107 states “the reports themselves have little or no influence on the decision to propose closure”. It is disappointing that the significance of the building and interior is not given greater weight, as it would be in the secular system.

Question 15. Should it be possible to designate a church as having an interim status between “open” and “closed” and what might this mean in practical terms?

Historic England suggests that it is hard to address this question without clear definitions of what is meant by 'interim status' or 'festival church'. However, some form of interim status could be useful providing it explicitly sets out arrangements for governance and maintenance. There is a risk that an 'interim stage' may give rise to greater confusion as to the building's status and whether it is to be managed under secular processes or ecclesiastical exemption in the event of works being necessary. This could be complex given the lack of legislative definition of ecclesiastical building in ecclesiastical use and existing disparities between technical ecclesiastical and ordinary uses of the terms 'open' and 'closed'.

In practical terms an 'interim status' might allow a church building to be pulled back from the brink of closure, if the local community or other interest groups took an interest, perhaps opening a new chapter in the building's (and community's) life rather than a gradual decay and abandonment. In such a situation branding is important: a title used nationally, with a succinctly expressed definition, would be helpful both within and beyond the Church of England.

Q 16 Would it be helpful to be able to spend from the CCBSA pre-closure?

Historic England agrees that it would be useful if CCBSA funds were available for advance work, such as set out in para 109. This could include ongoing maintenance, the cost of reports on significance, options appraisals and marketing briefs (following consultation with the Local Planning Authority).

Question 17. Do you agree that a closed church during the use-seeking process should only be subject to the secular planning system?

Historic England notes that this is primarily an issue for Government but the issues relating to optimum viable use and clarity as to which procedures apply and when are key to the entire process.

The purpose of the ecclesiastical exemption is to allow for worship uses/needs to be fully taken account of in planning decision making. If a church is no longer used for worship, there is no reason for it to be subject to the additional burden of the faculty process, when any decisions can be made through the secular planning system and in line with Government policy and guidance.

However, the dioceses should continue to be involved in the use-seeking process, and the parish should be offered support, even if the building is no longer subject to faculty process. Such local contacts can help maintain useful dialogue with Local Planning Authorities as proposals for future use are developed or prospective new owners seek to understand what development potential there is. Engagement at early stages will help avoid wasting time on developing plans that will not get Listed Building Consent or Planning Permission and speed up the disposal process to everyone's advantage.

There also needs to be separate consideration of churchyards and burial grounds. These may be excluded from the sale of the church building, continuing in the care of the PCC and remaining open for burials, so churchyard regulations still apply. Generally, it is preferable if the church building and the churchyard are managed and/or disposed of as an entity.

Question 18. Do you think that there should continue to be a consultation on the future of unlisted churches not in a conservation area?

Historic England considers that there should continue to be consultation on the future of unlisted churches not in a conservation area. This is because some churches may not be listed but are nonetheless considered 'non-designated heritage assets' by the Local Planning Authority (under local list or planning decisions, for example): the relevant National Planning Policy Framework (July 2021) policy would still apply. This is particularly the case for 20th century Post-War churches e.g. The Church of The Epiphany in Corby, Northamptonshire, now a gym and URC church, and other 19th and 20th churches and chapels, e.g. the Marshland chapels of ease by Ewan Christian in Lincolnshire.

In addition to any architectural or historic interest they may have, such buildings may be highly valued by the local community as one of the few public buildings in the locality. Local people may have been using and maintaining the building to the best of their ability and react negatively if it were closed without open consultation.

Question 19. Do dioceses need powers to ensure the repair of church buildings in use?

Historic England finds that lack of PCC capacity and resource is often the reason why church buildings develop serious fabric problems such that they are added to the Heritage at Risk Register (the data from which is an Official National Statistic). Our experience shows that it is easier to bolster capacity at diocesan level than at parish level, which is why Historic England introduced grant aid to dioceses to provide Support Officers to work alongside PCCs (2008 and ongoing). The value of such roles was recognised and recommended by the Taylor Review (2017).

Increased powers at diocesan level could help vulnerable church buildings being considered for closure – whatever their physical condition - to be maintained in a weather-proof and water-tight state that would either facilitate rapid appropriate disposal to a new owner or enable the building to continue in use for worship (i.e. keep it in an 'interim state'). This would be a good investment, which could be recovered if buildings are sold, but dioceses would need access to up-front financial resources to support it.

Question 20. Would you support ways of better enabling closed church buildings to be leased in certain circumstances without needing wide consultation?

Historic England has some nervousness about this: firstly, we are concerned about lack of parity with the secular system and secondly, there is a risk that new uses will be informally introduced, that have not been subject to formal consultation, leading to proposals for physical changes to buildings.

In the secular system, Planning Permission is required for change of use to a different category of use, alongside Planning Permission and/or Listed Building Consent for physical changes. The definition of 'temporary' is also clearly defined and restricted to between 28 days a year and 5 years (extendable to 10 years) dependent on the type of use or works. The secular system always considers 20 or 30 years to be a permanent change, for which full permissions must be sought.

Even leasing to another Christian denomination could entail proposals for major changes, such as removal of all fixed seating and other important fixtures. Our preference would therefore be to look at what can be done to increase provisions for leasing under faculty, as that would deal with any physical changes and potential harm to the significance of buildings at the same time as the change of use (in parity with the secular system).

Question 21. Do you believe that there continue to be benefits in the Church retaining the SAC to provide separate independent advice in dealing with the future of closed church buildings?

Historic England considers that the SAC has an important role in discerning the future of closed church buildings. The SAC brings a national perspective of

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experience and expertise in articulating and understanding the significance of specific buildings in the wider architectural, historic and artistic context.

This is particularly important for early-stage advice on potential for a closed church to be vested with the CCT, or potential interventions to secure re-use. This process is crucial for identifying those churches where potential for intervention is extremely limited and vesting with the CCT should be the primary option.

No developer will be able to provide equivalent independent advice. Looking at parity with the secular system, the SAC is here fulfilling the professional role of the Local Planning Authority conservation officer.

We accept that some simplification of the role of the SAC is possible e.g. it seems unnecessary to consult the SAC for advice on plans once Planning Permission and/or Listed Building Consent have been granted.

Question 22. Do you consider that the arrangements for consultation with Historic England might better align with the secular planning system?

Historic England agrees that it is appropriate for the Church of England's processes to reflect the secular system.

There are two parts to this question: what to consult HE on, and when to consult HE.

For the reasons set out below we consider that HE should continue to be consulted on all closures of church buildings. Engagement with HE at the earliest possible stage is strongly recommended.

On the question of 'what', we do not agree with the premises in paragraph 114 as they are factually incorrect. HE is a statutory consultee on applications affecting Grade I and II* buildings but also on relevant demolition in Grade II buildings. This includes removal of many internal fixtures and fittings, which is almost always the outcome of closure of a church building. We are also statutory consultees on proposals affecting scheduled monuments, highly graded registered parks and gardens (including cemeteries and burial grounds), World Heritage Sites, and new buildings/extensions over 1000 sqm in a Conservation Area. So, a high proportion of listed church closures are likely to lead to works on which we would be consulted through the secular planning system. In addition, many unlisted churches and chapels could be considered 'non-designated heritage assets' by the LPA, through their local list or planning decision-making, and the relevant NPPF policy would therefore apply.

Regarding the question of 'when', we advise that we should continue to be consulted at the earliest stage. This ensures we have an opportunity to comment on specific cases where we've had previous involvement with the building e.g. because it is on the Heritage at Risk Register, has been grant aided, or received input from an HE Inspector. In cases where we have not had such engagement, we can provide generic advice to help the next stages of the process.

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It would be extremely helpful if consultation could be sent directly to the appropriate regional HE office rather than, as has recently happened, to our Archive in Swindon or other random contacts that have no role in statutory consultation. It would also be useful if communications were clearly identified as statutory consultation under the Measure and related to buildings or churchyards, not boundary changes and pastoral reorganisation. Clear lines of communication and clarity about its purpose and contribution to the closure process would increase efficiency and effectiveness for all parties.

We would also encourage consultation with local authorities at an early stage.

Question 23. Do you support a change to the way Ministry of Justice procedures with respect to burials are managed?

In our advice on disposal of church buildings, our preference is always for burials to remain in situ wherever possible, and we agree that this is what happens in practice in most cases.

As a member of the Ministry of Justice (MOJ) Burials and Cremation Advisory Committee, Historic England supports the long-standing call for a review and update of burial law and, in particular, re-use of graves in cemeteries to address community needs for burial space. It is our view that sensitive conservation management planned re-use schemes can also help the conservation of cemeteries and burial grounds of historic significance. Historic England also welcomes the Law Commission's proposed 'A Modern Framework for Disposing of the Dead'. In the meantime, the London local authorities, New Southgate Cemetery and Highgate Cemetery have had to pursue individual parliamentary Bills for statutory powers to re-use graves.

Conservation principles could be incorporated in MOJ guidance that accompanied burial law reform including archaeology, design, landscape, bio- and geo-diversity, and community history aspects. For example, Historic England encourages the adoption of the principles in the Advisory Panel on the Archaeology of Burials in England's (APAB) 2017 'Guidance for Best Practice for the Treatment of Human Remains Excavated from Christian Burial Grounds in England' for all burial grounds.

A planning application case in a former Church of England churchyard in Brentford highlighted that such Compulsory Purchase Orders are a Department for Levelling Up, Housing and Communities (DLUHC) [formerly Ministry of Housing, Communities and Local Government (MHCLG)] rather than a MOJ responsibility. Historic England advised DLUHC (MHCLG) on this case and recommended that the statutory duty was updated so that Historic England was named as a consultee rather than the former Royal Fine Arts Commission.

Q24 would you favour restricting rights of representations on parsonage provisions in schemes

Historic England has an interest in the disposal of listed parsonages. We would want to continue being consulted on disposal of listed parsonages of all grades, as this often leads to Listed Building Consent and Planning applications for works on which we are statutory consultees.

Q25 Do you support any of these options for changes to representation rights? And if yes, why?

Historic England considers that, for matters relating to church closure and churchyards, only Option 5 would be acceptable: allowing representations from everyone, but perhaps limiting the right of appeal to interested parties.

Q 28 Do you support the simplifying of the provisions for suspension and restriction of presentation?

Historic England has no views on the patronage and appointment processes or the suspension and restriction of presentation but we have grave concerns about the views expressed in paras 121 -123 as they do not meet Government statute (1990 Planning (Listed Buildings and Conservation Areas) Act) or national policy (NPPF) and guidance (PPG). We do not consider that closure and re-use of a church building should be exempt from the same planning considerations and balances as a secular building. The intention of the ecclesiastical exemption is to accommodate worship use; once that worship use ceases, church buildings should be treated equivalently under the secular system as secular buildings. This would simplify and streamline the system in the spirit of paragraph 109.

Conversion of a closed church to non-community uses can often entail substantial harm to its significance. The 1990 Act SS 16(2) and 66(1) require Local Planning Authorities to have special regard to the desirability of preserving listed buildings, their setting, or any features of special architectural or historic interest which they possess.

NPPF paragraphs 199-200 state that great weight should be given to the conservation of designated heritage assets: substantial harm to Grade IIs should be exceptional and to Grade I or II* wholly exceptional. NPPF paragraph 201 says that Local Planning Authorities should refuse consent where proposals will lead to substantial harm unless certain criteria are met; one of these criteria is that 'no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation'. This is why Local Planning Authorities require marketing for community use in the first instance, as otherwise it may be impossible to demonstrate that substantial harm is necessary, and they will need to refuse consent. While the premise being put forward is that marketing for community uses wastes time, it may actually prevent substantial harm (or make it easier to prove that it is unavoidable) during the planning process.

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Paragraph 121 proposes that the Church of England is granted deemed consent for the residential conversion of unlisted church buildings in conservation areas. This would be asking Government to treat places of worship as if they were offices or other commercial buildings. This implies that places of worship only have emotive associations or community values as long as they are still in use for worship.

This proposal does not take into account how members of the public may feel about the closure and conversion to residential without consultation, the harm that might be caused to those buildings as non-designated heritage assets, or the wider implications on communities and the visions they may have for their areas. The proposal also fails to recognise the likely contribution made by the building and its setting as important features in Conservation Areas, contributing to the distinctiveness of the area. Churchyards and green spaces also have an important role as green infrastructure and adapting to climate changes.

A further risk that could adversely affect the long-term future of the building is that deemed consent may be thought to encourage schemes that are within the Permitted Development boundary. This could result in a decision being made because it doesn't need consent, rather than because there has been careful consideration of all the options to determine the most appropriate way forward.

Paragraph 122 states that Historic England 'takes a strong view on limiting proposals for reuse', implying that this is an organisational choice rather than the reflection that we follow Government statute, policy and guidance on harm to significance and substantial harm. Historic England, like other statutory consultees and local authorities, does not resist schemes that divide up internal space because we want to be difficult; we are doing it because these schemes often cause substantial harm to significance, and even where it is less than substantial harm, can't be justified if there are alternative options. The key here is optimum viable use, as referred to in paragraph 202 of the NPPF, and paragraphs 15 and 16 of the historic environment section of the Planning Practice Guidance.

A private use can cause different levels of harm. Residential use to create an individual's home could be negotiated to be less harmful: they are more likely to value the large open spaces and require fewer subdivisions, in addition to being prepared to invest in maintenance longer term of the building. A developer, turning the building into residential units for the purposes of income generation or letting is likely to require bigger changes, as they will need to cause more harm in order to generate a profit in the shorter and longer term.

Paragraph 123 deals with long-standing cases. Historic England advises that the best way to avoid extended use-seeking periods and repeated failure to dispose of a church building is to have development briefs agreed in advance, which can set parameters that are more likely to achieve planning/Listed Building Consent for the specific circumstances of that building.

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The current closure process tends to push things down the line by saying 'subject to Planning Permission and Listed Building Consent permissions' whereas Historic England advises early engagement with the Local Planning Authority and all statutory consultees to establish in advance of marketing what options are most likely to gain necessary permission/consent so that the building can be marketed appropriately. Such a process would also minimise the risks for potential owners/developers and greatly reduce the likelihood of a building suffering long term, damaging, neglect and decay.