

# **Redundant Churches in the Church of England**

**A Guidance Note for Local Planning Authorities**



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## **REDUNDANT CHURCHES IN THE CHURCH OF ENGLAND:**

### **A GUIDANCE NOTE FOR LOCAL PLANNING AUTHORITIES**

***A church, even if not of major historic or architectural quality, may be the most significant building in its locality, a familiar and important feature of the landscape. Churches make up the most significant single group of the nation's historic buildings and the process for settling the future of redundant churches recognises the interests of both the Church of England and the wider community. This guidance note explains the statutory procedures and outlines ways in which the Church and local planning authorities can work together to achieve a satisfactory outcome. A glossary of the main Church organisations involved is at the end of this note.***

#### **1. Introduction**

- 1.1 Churches, like other buildings, can outlive the purpose for which they were built. Those no longer required by the Church of England for public worship can be formally closed (declared redundant) under procedures laid down in Church legislation known as the Pastoral Measure 1983. A Measure requires Parliamentary approval and has the force of an Act of Parliament. The Pastoral Measure also sets out the legal process for settling the future of redundant churches. It lays emphasis on finding a suitable alternative use where possible and this is what is most commonly achieved. Between 1969 and 1999 some 883 redundant churches were found new uses, with examples ranging from use for worship by another Christian body; community use as a concert hall, library, museum or sports hall; commercial use; or residential conversion.
- 1.2 Many local planning authorities (LPAs) will be unfamiliar with the redundancy process as the current annual rate of redundancies for the whole of England is only 20-30 per annum. However, LPAs are a statutory interested party when churches are declared redundant and their future is settled, and they often take a proactive interest in the search to find suitable new uses for redundant churches in their area.

#### **2. The “ecclesiastical exemption” and planning and listed building legislation**

- 2.1 All churches, whether in use or declared redundant, are subject to normal development controls in respect of additions, extensions and changes of use. However, Church of England churches in use are exempt from listed building and conservation area control because the Government recognises as effective the Church's own internal controls, known as the faculty jurisdiction system. This exemption, commonly known as the “ecclesiastical exemption”, is contained in Section 60(1) of the *Planning*

*(Listed Building and Conservation Areas) Act 1990 and the Ecclesiastical Exemption (Listed Building and Conservation Areas) Order 1994.*

2.2 Exemption from listed building and conservation area control ceases when a church is declared redundant. During the “use seeking period” (see below) the Church of England’s faculty jurisdiction continues to apply, so that a church is subject to dual jurisdiction until such time as its future is settled. The exemption can only come into play again if either a subsequent use for the building is as a place of worship (and subject to the internal controls of an exempted denomination), or if demolition is proposed under a Pastoral Measure scheme. The latter exemption, in relation to listed buildings, is provided by Section 60(7) of the 1990 Act and, in relation to conservation area control, by a direction under Section 75(2). Non-church interests in respect of such demolitions are protected by the non-statutory inquiry arrangements which are explained in more detail under **Demolitions** (see section 14).

### 3. What does redundancy involve?

3.1 Normally there is a two-stage process in which a ‘*pastoral scheme*’ for declaring a church redundant is followed by a ‘*redundancy scheme*’ settling the future of the building. Proposals for redundancy originate in a diocese (the Church of England territorial unit roughly equivalent to a county) usually at the request of the parochial church council (PCC). If the Diocesan Pastoral Committee (DPC) and the Bishop consider that, *prima facie*, a particular church is no longer required as a place of worship they will carry out local consultations on declaring it (pastorally) redundant.

3.2 Before making a formal proposal the DPC must:

- obtain from the Council for the Care of Churches (CCC) a report about the historic and architectural qualities of the church and other churches in the area (to include contents and any special churchyard features)
- ascertain the views of various interested parties including the incumbent (i.e. the rector or vicar) and parochial church council.
- ascertain the views of the LPA.

3.3 The bishop submits formal proposals to the Church Commissioners (the Commissioners) who then have a duty to:

- issue the proposals in legal form in what is known as a draft pastoral scheme
- publish notice of the draft scheme in a local newspaper
- serve notice on various statutory interested parties, including the LPA.

3.4 Anyone can make representations within the period prescribed (not less than 28 days). When representations are made, the Commissioners:

- consult the bishop
- obtain any additional information they need to make an impartial decision

- if they then decide that the scheme should proceed notwithstanding any objections they send those concerned a full statement of their reasons for doing so.
- 3.5 Any objector may apply to the Judicial Committee of the Privy Council for leave to appeal against the Commissioners' decision, although leave to appeal is rarely granted. The scheme has to be confirmed by Order of Her Majesty in Council before the church can be declared redundant. The Commissioners will then send a 'print' copy of the confirmed scheme to the LPA. The scheme may specify that the redundancy takes effect on the first day of the month following confirmation and the church is then closed for regular worship. However, there may be practical reasons for allowing flexibility as to the date of closure in which case the scheme provides for the redundancy to take effect on a date to be determined by the Commissioners.

#### **4. What happens to ownership of the church on redundancy?**

- 4.1 The process for dealing with redundant churches is set out in the annexed flow sheet. When a church is declared redundant:
- ownership of the building and its contents transfers automatically to the Diocesan Board of Finance (DBF)
  - the DBF is responsible for care and maintenance of the building, and safekeeping of the contents, whether in situ or elsewhere, until its future is resolved.
- 4.2 DBFs are now recommended consultees in respect of Development Plans (see PPG 12, Annex C, section 5) and are likely, in responding to draft plans, to make the case for a flexible approach in considering possible alternative uses for redundant church buildings.

#### **5. What about the churchyard?**

- 5.1 Declaring a church redundant does not affect the ownership of any churchyard, burial ground or curtilage. This remains consecrated land and the responsibility of the Parochial Church Council (PCC). Any existing agreement whereby the local authority has responsibility for caring for a closed churchyard is also unaffected. However, following redundancy, the incumbent and PCC are advised not to enter into any further Open Spaces Act or maintenance agreements without prior consultation with the DBF as this may complicate arrangements for the future of the building.
- 5.2 The incumbent and PCC are not responsible for seeking a new use for the building, but they will be consulted on the possible inclusion of all or part of the churchyard in any disposal in order to facilitate an alternative use, e.g. by providing necessary amenity or parking space. If the churchyard remains open it is expedient, if practical, to retain in use any part which contains more recent burials, and for the area for disposal to be that part which contains no, or no recent, burials. The terms of disposal can provide

for continued public access for the tending of graves and will prohibit the unauthorised disposal of human remains or tombstones, monuments and memorials.

## **6. Seeking alternative uses for redundant churches**

### **6.1 On redundancy the church enters what is known as the *use seeking period*:**

- each diocese has a Diocesan Redundant Churches Uses Committee (DRCUC) whose task it is to try to find a suitable new use for redundant churches in its area and report to the Commissioners.
- the Commissioners make the final decision on the future of a redundant church, subject to the advice of their statutory advisers, the Advisory Board for Redundant Churches (ABRC).
- it is normal practice for the DRCUC to appoint agents immediately to advise on a marketing strategy and act on its behalf.
- the maximum use seeking period is normally three years, and in most cases the future of the building will be settled within that period.
- sometimes this period will be extended if a ready solution is not available and, especially where the building is listed or situated in a conservation area, demolition is likely to be problematic.

6.2 Finding alternative uses for historic churches is often challenging. The Pastoral Measure places the emphasis on finding a suitable use rather than on the best price that can be achieved. The prospects for a successful outcome increase where the Church authorities work constructively with LPAs and English Heritage (EH) to facilitate suitable new uses. As part of this process the DRCUC is advised to obtain details of the local development plan, including the desired land use and any policy for the re-use and conversion of historic buildings. Sometimes (see below) it will request a planning brief or, less formally, a letter setting out the sorts of uses likely to be favoured by the LPA.

## **7. Early site meetings**

7.1 At an early stage in the use-seeking period or, occasionally, before the church has been declared redundant, the DRCUC or Commissioners are likely to call a site meeting of various interested parties with a view to:

- identifying realistic options for the building
- encouraging a constructive and flexible approach from all concerned
- agreeing a suitable timetabled course of action.

7.2 Those likely to be involved could include: the DBF, the incumbent, the churchwardens, the DRCUC, the marketing agents, EH, the LPA, the appropriate National Amenity Society(ies), the ABRC, and the Commissioners. Representation from the planning authority (both from

Development Control and the Conservation Officer) is particularly important.

### 7.3 Relevant issues to be explored include:

- which types of alternative use are likely to be acceptable to the LPA
- whether the DRCUC have details of all relevant documentation (including, where appropriate, the listing description, Sites and Monuments Record, and relevant extracts from the Development Plan or the Conservation Area Assessment statement)
- whether securing a planning brief to assist the marketing exercise is worth considering or, less formally, a letter from the LPA outlining likely acceptable uses
- the extent to which alterations are likely to be permitted to the building, including for example the removal of pews and other fixtures and fittings<sup>1</sup>
- likely parking or amenity space requirements (many LPAs are encouragingly adopting a more flexible approach by focusing on maximum, rather than minimum, parking standards)
- other areas where the LPA may be able to offer practical assistance (eg grant aid for emergency repairs, the preparation of a feasibility study, or advice on funding)
- the possibility of the local authority itself sponsoring a new use for the building
- likely LPA requirements for an archaeological report

7.4 Sometimes adjacent church properties owned on different trusts are marketed together and the site meeting can help clarify the position.

7.5 Understandably LPAs may be concerned at the potential loss of community facilities provided by the church. Many redundant churches have been found alternative community use, including as community centres, museums or libraries. However in other cases it is apparent that such alternative uses are unlikely to arise or be viable, and a realistic assessment at the outset is important if the future of the building is to be secured by alternative use. An LPA may have reservations if they consider a proposed use may be harmful to the character of a listed church. This could relate to the extent of proposed alterations but sometimes it is the nature of the use- for example residential conversion- which is at issue. Again, a site meeting can be useful for exploring such concerns.

7.6 Follow up meetings involving some or all of the above parties to review progress with the marketing can also be valuable.

7.7 Occasionally the DRCUC itself will apply for planning permission and listed building consent (if required) and market the property with the necessary secular consents in place. This could prove attractive to the

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<sup>1</sup> The Commissioners have prepared a detailed guidance note on the contents of redundant churches (RCG(1)) which is available on request



LPA, especially if the proposal has already been negotiated and approved in principle with the LPA.

## **8. When a use is found**

- 8.1 The DRCUC does not have power of disposal, but will make a recommendation to the Commissioners on the basis of all offers received. If a suitable use is found and approved in principle by the Commissioners, subject to the necessary planning consents, they will:
- put the proposals in legal form in what is known as a draft ‘redundancy scheme’, which can also deal with all or part of any churchyard or other land annexed to the building
  - publish notice of the draft scheme in a local newspaper
  - serve notice on various statutory interested parties, including the LPA
  - consult their advisers, the ABRC, on any architectural or structural alterations.
- 8.2 A redundancy scheme will not usually be submitted to Privy Council for confirmation until planning permission and listed building consent (if required) have been granted. The procedure for dealing with any representations is as set out in section 3.4-3.5: objectors to redundancy schemes cannot though seek leave to appeal to Privy Council (but see section 15).

## **9. Planning Considerations**

- 9.1 Prospective users are encouraged to contact the LPA, as well as the Commissioners and the ABRC, as early as possible to discuss their proposals for using redundant churches, preferably at the pre-application stage, even if only sketch or outline plans are available. It is hoped that such plans, provided they are sufficiently detailed to address the material considerations, might be helpful in identifying and resolving any problems at an early stage before formal applications are submitted. Often civil and ecclesiastical consents will be sought simultaneously so as to avoid any undue delay in implementation.

## **10. Disposal of the property**

- 10.1 Before the property can be transferred (by sale or lease) there must be compliance with a number of other requirements of the Pastoral Measure, as appropriate:
- the procedures for dealing with any human remains and any Home Office instructions
  - the bishop’s directions for the disposal of tombstones, monuments and memorials and the publication of ‘tombstone’ notices notifying next of kin of their rights

- the bishop's directions for the disposal of contents- contents will usually be removed prior to completion of the transfer although occasionally they will remain in situ by agreement.

## **11. Covenants and aftercare**

11.1 Covenants will be included when the property is disposed of. These are primarily designed to:

- ensure the property is only used for authorised purposes
- protect it from any unauthorised alterations or demolition
- reassure local people and enable public access to tend or visit any graves at agreed times
- protect against disturbance of any human remains, tombstones, monuments or memorials.

11.2 The church authorities retain an interest in what happens to the property through the covenants, which are enforceable as though the Commissioners or the DBF are the owners of adjacent land and the covenants are for the benefit of that land. They may liaise with the LPA on any action to be taken in the event of a breach of covenant.

## **12. When no use is found**

12.1 If, despite all efforts, a suitable use cannot be found, the Commissioners are responsible for deciding the future of the building. The remaining options are preservation by the Churches Conservation Trust (CCT) or demolition. Either outcome has to be authorised by a redundancy scheme, and the procedures for publishing a draft scheme and the consideration of any adverse representations are broadly similar to those set out for when a use is found (see section 8). Special arrangements concerning representations against draft demolition schemes are dealt with in section 14 below.

## **13. Preservation by the Churches Conservation Trust**

13.1 The CCT preserves redundant churches of outstanding historic and archaeological interest or architectural quality in the interests of the nation and the Church of England. Both Church and State provide funding and between 1969 and 1999 some 322 redundant churches were vested in the CCT. At present around 5 churches are vested per annum. The ABRC provide expert advice to the Commissioners on possible candidates for vesting. Other factors the Commissioners take into account include the likely cost of preservation and the money available for this purpose.

## **14. Demolition and the role of non-statutory public inquiries**

14.1 As explained in section 2.2, demolitions pursued under the Pastoral Measure are exempt from the listed building and conservation area consent regimes. However, the Commissioners and the Secretary of State

for Communities and Local Government have agreed a procedure whereby, in the circumstances described below, the latter will be asked by the Commissioners if he wishes to hold a non-statutory local public inquiry or informal hearing into contested proposals to demolish, wholly or partly, a listed redundant church, or to demolish an unlisted church in a conservation area. This is when there are sustained objections to the draft scheme from a **qualifying body**, i.e. the LPA, EH, a national amenity society or the ABRC. If the Secretary of State does not choose to hold such an inquiry, the Commissioners are able to proceed with the scheme. Otherwise the Commissioners have undertaken to abide by the Secretary of State's decision following an inquiry.

- 14.2 Given the cost of pursuing a non-statutory inquiry, and the uncertainty of the outcome, the Commissioners are reluctant to agree to demolition without clear evidence that all possible alternatives have been explored and exhausted. They or the DRCUC may arrange a 'final' site meeting to review the case and seek a consensus view that all reasonable efforts to find a new use have been exhausted. A full explanatory memorandum setting out the case history will be provided when any draft scheme to demolish a redundant church is published.

## **15. Declaring a church redundant and settling its future in the same scheme**

- 15.1 A church can be declared redundant and its future settled in the same pastoral scheme, rather than via the normal two-stage procedure. This is uncommon but is likely to happen where:

- a church or new place of worship is to replace the church being declared redundant, and the old one is either to be appropriated to a new use or demolished
- a suitable new use is available at the time of redundancy
- the Commissioners have agreed in exceptional circumstances to vest the church directly in the CCT on redundancy.

- 15.2 The procedures for dealing with the relevant pastoral scheme are set out in section 3. Such a scheme could be the subject of Leave to Appeal to the Judicial Committee of the Privy Council against the Commissioners' decision to overrule any representations. Sustained qualifying objections against the demolition of a listed church or an unlisted church in a conservation area would also be subject to the non-statutory inquiry arrangements (see section 14).

## **16. Providing guidance and information**

- 16.1 As well as taking the final decision on the future of redundant churches, the Commissioners also offer practical guidance and advice. In addition to the guidance note on contents, they have also published an information leaflet to guide prospective purchasers through the process of acquiring a redundant church. Copies of these, and any further information on the

Pastoral Measure procedures, are available by contacting the address overleaf. If you would like further information on local questions or redundant churches in your area you should contact the DRCUC secretary at the Diocesan Office concerned (usually found in the Cathedral City). The Commissioners can assist if you do not already have contact details.

Redundant Churches Division  
Church Commissioners  
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*The Commissioners have also prepared a guidance note for Church bodies (RCG 2- How to Work Effectively With Local Planning Authorities on the Future of Redundant Churches- A Guidance Note for Church of England bodies). Copies are available on request.*

## **CHURCH ORGANISATIONS INVOLVED WITH REDUNDANT CHURCHES**

### **Diocesan Bodies**

**Diocesan Advisory Committee (DAC)** primarily acts as an advisory body on matters affecting churches in use and other places of worship, but also advises on the disposal of contents of redundant churches, and of tombstones, monuments and memorials.

**Diocesan Pastoral Committee (DPC)** keeps under review the arrangements for pastoral supervision in the diocese. When the possible redundancy of a church arises it obtains a report on the church from the Council for the Care of Churches and ascertains the views of interested parties- including the local planning authority- before making any recommendations to the bishop.

**Diocesan Redundant Churches Uses Committee (DRCUC)** seeks an alternative use for any redundant church in the diocese and makes a recommendation to the Church Commissioners. It usually appoints a firm of agents to market each property and will consult the local planning authority on possible uses.

**Diocesan Board of Finance (DBF)** becomes the owner of a church when it is declared redundant and is responsible for care and maintenance of the building and its contents while a use is being sought. It becomes the permanent freeholder in cases where the building is leased when its future is settled.

### **National Bodies**

**Council for the Care of Churches (CCC)** advises parishes on maintaining their church buildings, contents and churchyards. Likely to become involved if plans involve major work in the building or the conservation or disposal of an important object. Also prepares reports for DPCs on churches under consideration for redundancy.

**Address:** Church House, Great Smith Street, Westminster, London SW1P 3AZ

**Church Commissioners (Commissioners)** publish draft pastoral schemes providing for the redundancy of a church following the recommendation of the bishop and decide whether the scheme should proceed if objections are received. They also make the final decision in respect of the future of a redundant church, publish draft schemes accordingly and consider any representations.

**Address:** Church House, Great Smith Street, Westminster, London SW1P 3AZ

**Advisory Board for Redundant Churches (ABRC)** is the Commissioners' expert adviser on the architectural, historic and archaeological merit of redundant churches and their contents. The Board also advises the Commissioners on proposed architectural and/or structural alterations.

**Address:** Church House, Great Smith Street, Westminster, London SW1P 3AZ

**Churches Conservation Trust (CCT)** preserves outstanding redundant churches in the interests of the nation and the Church of England.  
**Address:** *1 West Smithfield, London, EC1A 9EE*