



Care of Cathedrals Measure 2011

2011 No. 1

PART 2

APPROVAL FOR WORKS TO CATHEDRALS AND APPROVAL BODIES

Application for Approval

6 Body to which application for approval to be made

- (1) Any application for approval for a proposal shall be made to the Commission where—
- (a) the proposal would involve—
 - (i) the carrying out of works, including works of repair or maintenance, which would permanently alter the fabric of the cathedral church or any building within the precinct of the cathedral church which is for the time being used for ecclesiastical purposes, or
 - (ii) the demolition of any part of the cathedral church or any such building, or
 - (iii) the disturbance or destruction of any archaeological or human remains in or under the cathedral church or within its precinct, or
 - (iv) the sale, loan or other disposal of or the carrying out of any work to any object for the time being designated under section 24(4) in relation to the cathedral church as being of outstanding architectural, archaeological, artistic or historic interest, or
 - [^{F1}(aa) the proposal would involve the erection of a building on a disused burial ground, or]
 - (b) the Commission declares in writing that the proposal gives rise to considerations of such special architectural, archaeological, artistic or historic interest that the application should be determined by it;
- and any application for approval for any other proposal other than an application under section 7(4)(a) shall be made to the fabric advisory committee.

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- (2) If the Chapter or the fabric advisory committee wishes to have it determined whether under subsection (1) an application for approval is required to be made to the committee or to the Commission, the Commission shall have power to determine that question.
- (3) If the Commission considers that a proposal falls within subsection (1)(a), but that the proposal does not give rise to considerations of sufficient importance to require an application to be considered by it, it may make a declaration in writing to that effect and any application for approval of the proposal shall be made instead to the fabric advisory committee.
- (4) The Commission shall also have power, subject to subsection (5), to determine that subsection (1)(a) shall not apply to proposals of any class or description specified by the Commission in relation either to cathedrals generally or to such cathedrals as may be specified.
- (5) Before making a determination under subsection (4), the Commission shall consult any relevant Chapter and any relevant fabric advisory committee, English Heritage, the national amenity societies (or such person as the societies shall jointly appoint for the purposes of this section) and, in the case of a proposal described in section 2(1)(a), any relevant local planning authority.
- (6) Any application for approval of a proposal specified by the Commission under subsection (4) shall be made instead to the fabric advisory committee.
- (7) The Commission may revoke or vary any determination under subsection (4).
- (8) If, following a request in writing from the Chapter of a cathedral, the Commission is satisfied—
 - (a) that a proposal or intended proposal falls within section 2(1)(a)(ii) or (iii) but does not fall within section 2(1)(a)(iv);
 - (b) that the proposal does not relate to the cathedral church itself or a building within the precinct of the cathedral church for the time being used for ecclesiastical purposes;
 - (c) that planning permission, listed building consent or scheduled monument consent is required for the carrying out of all the works to which the proposal relates; and
 - (d) that any considerations relevant to preserving the immediate setting of the cathedral church or any archaeological remains in or under the cathedral church or within its precinct will be or have been adequately taken into account by the person or body responsible for granting the permission or consent;

the Commission may, after consulting the local planning authority, the fabric advisory committee and English Heritage, make a declaration in writing that no approval is required under this Measure for the proposal.
- (9) In subsection (8) “planning permission”, “listed building consent” and “scheduled monument consent” have the meanings respectively assigned to them by section 336(1) of the Town and Country Planning Act 1990 (c. 8), section 8(7) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) and section 2(3)(a) of the Ancient Monuments and Archaeological Areas Act 1979 (c. 46).
- (10) Where—

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- (a) an application has been made to the fabric advisory committee by virtue of subsection (1) (not being an application in respect of which a determination has been made under subsection (2)), and
- (b) at least three members of the committee present and voting determine that the proposal in question gives rise to considerations of such special architectural, archaeological, artistic or historic interest that the application should be determined by the Commission,

the secretary of the committee shall refer the application to the Commission and shall notify the Chapter accordingly; and section 9 shall apply to that application.

(11) Any application for approval in pursuance of section 2(3) shall be made to the Commission.

(12) Any application under this section shall be made in accordance with rules ^{F2}....

Textual Amendments

- F1** S. 6(1)(aa) inserted (1.9.2020) by [Church of England \(Miscellaneous Provisions\) Measure 2020](#) (No. 1), **ss. 6(3)**, 16(3); S.I. 2020/835, art. 2
- F2** Words in s. 6(12) repealed (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018](#) (No. 3), s. 99(2), Sch. 3 para. 21, **Sch. 5** (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2

Commencement Information

- I1** S. 6 in force at 1.9.2011 by [2011 No. 2](#), **art. 2**

7 Treasure

- (1) This section applies to any object which would, but for an order under section 2(2) of the Treasure Act 1996 (c. 24), be treasure within the meaning of that Act and which is found in or under the cathedral church or within its precinct.
- (2) Where the administrator of the cathedral becomes aware that an object has been discovered which appears to be an object to which this section applies the administrator—
 - (a) shall within 14 days notify the Commission in writing of the discovery; and
 - (b) shall arrange for the object to be recorded in the inventory required to be compiled and maintained under section 24 and designated as treasure in that inventory in accordance with directions issued by the Commission.
- (3) On receipt of a notification under subsection (2) the secretary of the Commission shall report the discovery, in writing, to the Secretary of State or to such a person or body as may be designated by the Secretary of State.
- (4) The Chapter of the cathedral shall—
 - (a) before implementing any proposal for the sale, loan or other disposal of an object to which this section applies, apply to the Commission for approval, unless the Commission's approval is required under section 6; and
 - (b) before implementing any proposal for the sale or other disposal (other than a loan) of such an object, afford the British Museum or another registered museum nominated by the British Museum an opportunity of purchasing the object.

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- (5) Rules ^{F3}... may prescribe the procedure to be followed in connection with any matters arising under this section and in particular shall make provision for determining the purchase price to be paid under subsection (4)(b) and for the procedure for and the matters to be taken into account in arriving at the purchase price.
- (6) In subsection (4)(b) “registered museum” has the meaning ascribed to it in the Code of Practice issued under section 11 of the Treasure Act 1996 or such other meaning as may be specified by the Secretary of State.

Textual Amendments

F3 Words in s. 7(5) repealed (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018 \(No. 3\)](#), s. 99(2), Sch. 3 para. 22(a), [Sch. 5](#) (with [Sch. 4 Pt. 1](#)); S.I. 2018/720, art. 2

Commencement Information

I2 S. 7 in force at 1.9.2011 by [2011 No. 2](#), [art. 2](#)

8 Applications for approval of fabric advisory committee

- (1) Where any application is made by the Chapter of a cathedral for the approval of the fabric advisory committee, the administrator shall display in the prescribed manner a notice in the prescribed form specifying the place where details of the proposal are available for inspection and stating that representations in writing with respect to the proposal may be sent to the secretary of the committee before the end of the prescribed period; and the administrator shall also send such a notice—
- (a) to the Commission, and
 - (b) if the application relates to a proposal of a kind described in section 2(1)(a)—
 - (i) to English Heritage,
 - (ii) to the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section), and
 - (iii) to the local planning authority.
- (2) After considering any representations made to it under this section, the fabric advisory committee shall determine whether to give its approval to the proposal, either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval.
- (3) The secretary of the fabric advisory committee shall send a notice of the committee's decision—
- (a) to the Chapter of the cathedral,
 - (b) to the Commission, and
 - (c) to any body or person to whom notice of the application is required to be sent by virtue of subsection (1)(b),
- and the administrator of the cathedral shall display in the prescribed manner a copy of the notice sent to the Chapter under this subsection.
- [^{F4}(4) The fabric advisory committee, whether on the application of the Chapter or on its own initiative, may vary or revoke an approval, or a condition of an approval, given under this section.

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- (5) The fabric advisory committee may not exercise the power under subsection (4) in a way which would, in its opinion, result in the approval of a proposal substantially different from the proposal originally given approval.
- (6) Subsection (3) applies to a decision by the fabric advisory committee to exercise, or not to exercise, the power under subsection (4) as it applies to a decision by it whether to give, or to refuse to give, its approval to a proposal.
- (7) For the purposes of subsection (6), subsection (3) has effect as if for paragraph (c) there were substituted—
- “(c) to any body or person to whom notice of the original application was required to be sent by virtue of subsection (1)(b),”.]

Textual Amendments

- F4** S. 8(4)-(7) inserted (1.9.2020) by [Church of England \(Miscellaneous Provisions\) Measure 2020 \(No. 1\)](#), **ss. 5(1)**, 16(3); S.I. 2020/835, art. 2

Commencement Information

- I3** S. 8 in force at 1.9.2011 by [2011 No. 2](#), art. 2

9 Applications for approval of Cathedrals Fabric Commission

- (1) Where any application is made by the Chapter of a cathedral for the approval of the Commission, the administrator shall—
- (a) display in the prescribed manner, and
 - (b) send to the fabric advisory committee, English Heritage and the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section),

a notice in the prescribed form specifying the place where details of the proposal are available for inspection and stating that representations in writing with respect to the proposal may be sent to the secretary of the Commission before the end of the prescribed period; and, if the application relates to a proposal of a kind described in section 2(1)(a) [^{F5}or (2A)], the administrator shall also send such a notice to the local planning authority.

- (2) Following receipt of the notice referred to in subsection (1), the secretary of the fabric advisory committee shall inform the Commission in writing whether the committee has considered the proposal and, if so, of its views.
- (3) After considering any representations made to it under this section, the Commission shall determine whether to give its approval to the proposal, either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval.

[^{F6}(3A) In the case of a proposal of the kind described in section 2(2A), the Commission may, in spite of section 3 of the Disused Burial Grounds Act 1884 (which prohibits building on disused burial grounds except for the purpose of enlarging a place of worship), give its approval if either of the following conditions is met.

- (3B) The first condition is that no interments have taken place in the land on which the building is to stand during the period of 50 years preceding the date of the application for approval of the proposal.

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- (3C) The second condition is that—
- (a) no personal representative or relative of a person whose remains have been interred in the land during that period has objected to the proposal, or
 - (b) any such objection has been withdrawn.
- (3D) In subsection (3C), “relative”, in relation to a person, means—
- (a) a spouse or civil partner, parent or grandparent or child or grandchild of the person, or
 - (b) a person who is, or is a child of, a brother, sister, uncle or aunt of the person.
- (3E) The reference in subsection (3D)(a) to a person's spouse includes a reference to a spouse of the same sex as that person.]
- (4) Before determining whether to give approval to any proposal for the sale, loan or other disposal of an object falling within section 6(1)(a)(iv), the Commission may consult the Church Commissioners on any financial considerations (other than any which relate to the valuation of the object in question) which may be relevant to the proposal and on which the Commission considers it appropriate to receive the advice of the Church Commissioners and the Church Commissioners shall give such advice as they consider appropriate.
- ^{F7}(5)
- (6) If a meeting is arranged between the Commission and the Chapter of the cathedral to discuss the proposal, the administrator shall notify the secretary of the fabric advisory committee of the meeting and the committee's representatives shall be entitled to be present at the meeting.
- (7) The secretary of the Commission shall send notice of the Commission's decision—
- (a) to the Chapter of the cathedral,
 - (b) to the fabric advisory committee,
 - (c) to English Heritage,
 - (d) to the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section), and
 - (e) if the decision relates to a proposal of a kind described in section 2(1)(a) [^{F8}or (2A)], to the local planning authority,
 - (f) if the Commission has consulted the Church Commissioners on the proposal under subsection (4), to the Church Commissioners,
- and the administrator shall display in the prescribed manner a copy of the notice sent to the Chapter under this subsection.
- [^{F9}(7A) The Commission, whether on the application of the Chapter or on its own initiative, may vary or revoke an approval, or a condition of an approval, given under this section (including an approval given by virtue of subsection (8)).
- (7B) The Commission may not exercise the power under subsection (7A) in a way which would, in its opinion, result in the approval of a proposal substantially different from the proposal originally given approval.
- (7C) Subsection (7) applies to a decision by the Commission to exercise, or not to exercise, the power under subsection (7A) as it applies to a decision by it whether to give, or to refuse to give, its approval to a proposal.]

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(8) This section shall apply in relation to an application for approval in pursuance of section 2(3) as it applies in relation to an application for approval of a proposal.

Textual Amendments

- F5** Words in s. 9(1) inserted (1.9.2020) by [Church of England \(Miscellaneous Provisions\) Measure 2020 \(No. 1\)](#), [ss. 6\(4\)](#), 16(3); S.I. 2020/835, art. 2
- F6** S. 9(3A)-(3E) inserted (1.9.2020) by [Church of England \(Miscellaneous Provisions\) Measure 2020 \(No. 1\)](#), [ss. 6\(5\)](#), 16(3); S.I. 2020/835, art. 2
- F7** S. 9(5) omitted (coming into force in accordance with s. 53(3) of the amending Measure) by virtue of [Cathedrals Measure 2021 \(No. 2\)](#), [Sch. 4 para. 34](#) (with [ss. 42\(4\)](#), 48, 52(1))
- F8** Words in s. 9(7)(e) inserted (1.9.2020) by [Church of England \(Miscellaneous Provisions\) Measure 2020 \(No. 1\)](#), [ss. 6\(4\)](#), 16(3); S.I. 2020/835, art. 2
- F9** S. 9(7A)-(7C) inserted (1.9.2020) by [Church of England \(Miscellaneous Provisions\) Measure 2020 \(No. 1\)](#), [ss. 5\(2\)](#), 16(3); S.I. 2020/835, art. 2

Commencement Information

- I4** S. 9 in force at 1.9.2011 by [2011 No. 2](#), [art. 2](#)

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Changes and effects yet to be applied to the whole Measure associated Parts and Chapters:

Whole provisions yet to be inserted into this Measure (including any effects on those provisions):

- s. 2(1)(ba) and word inserted by [2024 No. 1 s. 15\(1\)](#)