

General Synod of the Church of England

THE CATHEDRALS FABRIC COMMISSION FOR ENGLAND

PROCEDURAL GUIDE 2

PROPOSALS REQUIRING APPROVAL

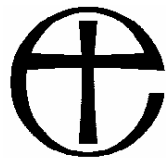
**What requires approval and
to whom should an application be made?**

&

MAKING AN APPLICATION

Procedures for Cathedral Administrators

**Issued by the Commission
March 2008**



Cathedrals Fabric Commission for England

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Notes

1) This document amalgamates, and replaces in their entirety, Procedural Guides 2 and 3 (August 2000). All the forms referred to in this Guide are set out in Schedule 2 to the *Care of Cathedrals Rules 2006* (“*the 2006 Rules*”). They can also be downloaded from the Church of England website:

www.cofe.anglican.org/about/builtheritage/cathedralandchurchbuildings/cathedralforms/.

2) Except where stated otherwise, references to the *Care of Cathedrals Measure 1990* (“*the 1990 Measure*”) are to that Measure, as it stands at 1st January 2008, with the amendments made, in particular, by the *Care of Cathedrals (Amendment) Measure 2005* (“*the 2005 Measure*”). References to section numbers and Schedules, again unless stated otherwise, are to provisions in the 1990 Measure, as amended.

3) References to “the Commission” are to the Cathedrals Fabric Commission for England. “FAC” refers to the Fabric Advisory Committee of an individual cathedral.

PART 1

PROPOSALS REQUIRING APPROVAL

What requires approval and to whom should an application be made?

1 What proposals require approval?

1.1 The central provision of the 1990 Measure, as now amended, is the requirement¹ that, in broad terms, a cathedral Chapter must seek and obtain approval before implementing, or consenting to the implementation of, any proposal involving alterations to a cathedral. The requirement applies not only to alterations in a narrow sense of the word, but to any proposal which in some way alters or affects the architectural, archaeological, artistic or historic character or interest of the cathedral. Four broad categories of proposal are defined.

¹ See section 2 of the 1990 Measure.

- 1.2 The first category² comprises any works, including works of repair or maintenance, on, above or below ground on land owned by the corporate body of the cathedral,³ that would materially affect:
- (i) the architectural, archaeological, artistic or historic character of the cathedral church, or any other building within its Precinct that is for the time being used for “ecclesiastical purposes”. (This includes those buildings that are exempted from listed building control and are enclosed within the red line on the official plan relating to the ecclesiastical exemption,⁴ or are outside the red line, but within the Precinct, and are used for worship or another use ancillary to that of the cathedral church), or
 - (ii) the immediate setting of the cathedral; or
 - (iii) any archaeological remains within the Precinct of the cathedral.
- 1.3 The second category⁵ comprises the sale, loan or other disposal of any item to the ownership, possession or custody of which the corporate body of the cathedral is entitled and that is of architectural, archaeological, artistic or historic interest. Most of these will be items in the cathedral’s Inventory, but it is not a requirement that they be in the Inventory for them to be covered by the requirement for approval.⁶
- 1.4 The third category⁷ comprises the carrying out of work to any such object that would materially affect its architectural, archaeological, artistic or historic character.
- 1.5 The fourth category⁸ comprises the permanent addition to the cathedral church of any object that would materially affect its architectural, archaeological, artistic or historic character.
- 1.6 It should be noted that any object or structure permanently situated in or affixed to the cathedral church or any other building within the Precinct is to be treated as part of the cathedral church or that other building and also as part of its fabric.⁹

² See section 2 (1) (a) of the 1990 Measure.

³ This refers to land in the freehold ownership of the corporate body, and includes land which is subject to a lease to any other person or body.

⁴ See the Commission’s Procedural Guidance Note 1 on the Cathedral Precinct for an explanation of the definition and purpose of the Precinct and the distinction between the “green line” which demarcates the Precinct and the “red line” which indicates the principal area benefiting from the ecclesiastical exemption.

⁵ See section 2 (1) (b) of the 1990 Measure.

⁶ See the Commission’s Procedural Guide 6 *Cathedral Inventories: their purpose, scope and compilation* (May 2001).

⁷ See section 2 (1) (bb) of the 1990 Measure.

⁸ See section 2 (1) (c) of the 1990 Measure.

⁹ See section 20 (2) of the 1990 Measure.

- 1.7 The requirement for approval does not apply to anything done by the Chapter in carrying out its duties under the cathedral’s constitution and statutes in relation to the ordering of services or otherwise in furtherance of the mission of the cathedral church, provided that:
- (i) what is done is of a temporary nature. (“Temporary” is, as a matter of policy, interpreted by the Commission as meaning up to 6 or, at most, 12 months), and
 - (ii) it does not materially affect the fabric of the cathedral church.¹⁰
- 1.8 Whether a proposal requires approval should in most cases be a matter of a common sense understanding of the reasonable meaning of the wording in the 1990 Measure. It would, for instance, be a mistake to split hairs over the meaning of “materially affect” – and sometimes clarity may be achieved by reversing the question i.e. can it be said of a proposal that it would have *no* material effect? Cathedral Administrators, Cathedral Architects and Surveyors of the Fabric and Cathedral Archaeologists, as the people responsible for developing most proposals, should normally be the first to assess whether approval is likely to be required. If there is reasonable doubt, then the cathedral’s FAC should be able to give advice on whether an application is required. Reference can also be made to the Commission Secretariat.
- 1.9 In most cases the Chapter is itself the initiator of the proposal for which an application for approval is required and, if the application is successful, the proposal will be implemented by or on behalf of the Chapter. However, approval is also required in relation to proposals which may have been initiated by, and are to be implemented by, some other person or body (such as a public utility) but for which the Chapter’s consent is required. In such cases the Chapter must itself seek approval under the 1990 Measure before giving its consent.¹¹ This may arise, in particular, where a tenant of the Chapter proposes to carry out works for which the Chapter’s consent is needed, and the 2005 Measure contains some special provisions for such cases.¹²
- 1.10 The 2005 Measure also introduced special provisions (to be found in section 6A of the 1990 Measure) regarding objects which are found within the Precinct of the cathedral and which would have been considered “Treasure” under *the Treasure Act 1996* had they not been excepted by an Order under that Act.¹³ Among other things, the Chapter may not implement any proposal for the sale, loan or other disposal of such an object unless it has the Commission’s approval. This applies even where the application would not in

¹⁰ See section 2 (2) of the 1990 Measure.

¹¹ See section 2 (1) of the 1990 Measure.

¹² See section 10C of the 1990 Measure, to which a new section was added by the 2005 Measure, providing for an appeal by a tenant against a decision of the Commission or the FAC in relation to a proposal by the tenant.

¹³ See also the 2006 Rules, Rule 16 and Schedule 1. At the time of writing (March 2008), section 6A of the 1990 Measure is not in operation as the Government has not yet made such an Order.

any case need to go to the Commission under section 6 of the 1990 Measure.¹⁴ The Commission intends to issue separate guidance on these Treasure items in due course (Procedural Guidance Note 2 *Procedures for items of Treasure found within a cathedral Precinct*).

2 Applications to the Commission

2.1 Under section 6 of the 1990 Measure certain categories of application (for which approval is needed under section 2 of that Measure) are specifically reserved to the Commission for determination. There are four such categories of proposal,¹⁵ which must always (subject to the provisions described in paragraphs 2.6 and 2.7 below) be the subject of applications to the Commission:

- (i) any works, including works of repair or maintenance, which would permanently alter the fabric of the cathedral church or any other building¹⁶ in the Precinct which is for the time being in use for “ecclesiastical purposes”. (This includes buildings in use for worship or a use ancillary to that of the cathedral church and covers those buildings that are exempted from listed building control.)
- (ii) any works which involve the demolition of any part of the cathedral church or any other building within the Precinct that is in use for “ecclesiastical purposes”
- (iii) any works which involve the disturbance or destruction of any archaeological remains within the Precinct
- (iv) the sale, loan or other disposal of, or the carrying out of work to, any object to the ownership, possession or custody of which the corporate body of the cathedral is entitled and which is designated in the cathedral Inventory as being of **outstanding** architectural, archaeological, artistic or historic interest.

The first three of these correspond broadly to matters for which Listed Building Consent or Scheduled Monument Consent would be required, but for the ecclesiastical exemption.¹⁷

2.2 As explained in paragraph 1.10 above, section 6A of the 1990 Measure now provides for a further category of work; that of the sale, loan or other disposal of any Treasure item within the description in that paragraph.

¹⁴ That is, proposals concerning the sale, loan or other disposal of Treasure items require the Commission’s approval even if those items are not designated as being of **outstanding** interest on the cathedral’s Inventory.

¹⁵ These are set out in section 6 (1) (a) of the 1990 Measure as now amended.

¹⁶ Under the 1990 Measure fixtures constitute part of the fabric, as do other objects and structures permanently situated in the cathedral or other such building – see section 20 (2) of the Measure.

¹⁷ See the Government’s *Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994* (“the *Ecclesiastical Exemption Order 1994*”).

2.3 The specific references in the 1990 Measure to repair and maintenance work:

- (i) in section 2 (1) (a), as work which may, in particular, affect the character of the cathedral and may thus require approval under the 1990 Measure, and
- (ii) in section 6 (1), as work which may permanently alter the fabric, and thus require approval by the Commission

were introduced by the 2005 Measure.¹⁸ Whether repairs and maintenance would permanently alter the fabric (and thus require approval by the Commission) will be a matter to be considered carefully in the light of the individual circumstances. Many would not, and it can generally be taken that the Commission will not require like-for-like repairs to be submitted to it for its approval.¹⁹ However, proposals which involve, for example, a change in roofing materials, in the types of stone used or in materials used for downpipes and gutters, or a change in the profiles of masonry or rooflines might well be considered to involve a permanent alteration to the fabric and so require an application to the Commission (subject to the provisions noted in footnote 19 below).

In cases of doubt the Commission has the power to determine whether any specific application should be made to it or to the relevant FAC.²⁰ The Commission Secretariat is happy to give informal advice in the first instance.

- 2.4 In addition to the four specific categories of proposals where applications are reserved to the Commission, the Commission may call in, by issuing a written declaration, a particular proposal that, in its view, gives rise to considerations of such special architectural, archaeological, artistic or historic interest that the Commission should determine the application itself.²¹
- 2.5 Under changes introduced to the 1990 Measure by *the Care of Cathedrals (Supplementary Provisions) Measure 1994* (“*the 1994 Measure*”)²² the Commission alone has power to approve a “retrospective” application in respect of any work that has been carried out in the absence of a prior approval required under the 1990 Measure.

¹⁸ Introduced by sections 1 (c) and 5 (1) (a) of the 2005 Measure.

¹⁹ Applications for like-for-like repairs, where those repairs will have a material effect on the fabric, should be made to the relevant FAC. In addition, under section 6 (2B), the Commission has power to determine, after consultation with specified bodies, that (for all or for specified cathedrals) proposals for certain types of work of permanent alteration shall not require reference to it, such that applications for approval of those proposals should be made instead to the FAC. Copies of any such determinations will be notified to cathedrals (or the particular cathedrals concerned) and the statutory consultees and placed on the Church of England website as they are made.

²⁰ See paragraph 2.6 below.

²¹ See section 6 (1) (b) of the 1990 Measure.

²² See section 2 (3) of the 1994 Measure.

- 2.6 The Commission also has general powers:
- (i) to determine, at the request of a Chapter or FAC, whether an application should be made to the Commission or to the FAC²³
 - (ii) to decide that a proposal that would usually need to be the subject of an application to the Commission under section 6 (1) (a) of the 1990 Measure does not give rise to considerations of such importance that the Commission itself needs to consider it, and that the application for approval should thus be made instead to the FAC²⁴
 - (iii) to determine, after consultation, that applications for particular classes or descriptions of proposals should be made to the FAC rather than the Commission.²⁵

2.7 The Commission also has the power to decide,²⁶ at the request of the Chapter and after consultation, that in a case where a proposal involves work to land or buildings and would normally require approval under section 2 (1) (a) of the 1990 Measure, on the basis that the works would affect the immediate setting of the cathedral church or archaeological remains within the Precinct and where:

- the proposal does not relate to the cathedral building itself or a building within the Precinct which is used for “ecclesiastical purposes”
- it would also require secular consent (Planning Permission, Listed Building Consent or Scheduled Monument Consent) for carrying out all the works involved in the proposal, and
- the Commission is satisfied that any considerations relevant to preserving the immediate setting of the cathedral or archaeological remains within the Precinct will be, or have been, adequately taken into account by those responsible for determining the secular application

there is no need, in the circumstances of the particular case, for “dual control” over the proposal. The Commission can thus determine that an application and approval under the 1990 Measure, in tandem with an application for secular consent or consents, is not required.

2.8 Whenever an application is made to the Commission, notice of it must be given to a number of bodies, including the FAC.²⁷ When the Secretary of the FAC receives this notification, he or she must inform the Commission in writing whether the FAC has considered the proposal and, if so, of its views.²⁸ The Commission would expect that normally all proposals will have been fully discussed with the FAC and its advice on them sought prior to an application

²³ See section 6 (2) of the 1990 Measure.

²⁴ See section 6 (2A) of the 1990 Measure.

²⁵ See section 6 (2B) of the 1990 Measure. The case described in footnote 19 above would be one possible use of this power.

²⁶ See section 6 (2C) of the 1990 Measure.

²⁷ See section 8 of the 1990 Measure and 2006 Rules, Part 4 Rule 7. The application is made to the Commission on Form 8 and notification to the consultees is carried out using Form 9 (see Part 2, Section 4 below).

²⁸ See section 8 (1A) of the 1990 Measure, introduced by the 2005 Measure.

being made to the Commission, and would thus expect the FAC Secretary to provide the Commission with details of that advice.

3 Applications to Fabric Advisory Committees

3.1 Any proposal that requires approval under the 1990 Measure,²⁹ but is not specifically reserved to the Commission (and has not been called in by it) must be the subject of an application to the FAC. Such applications are likely to cover some matters of great importance to the cathedral, for example:

- (i) certain ongoing projects of repair to the fabric, where these are based on the replacement of material like-for-like, yet where important judgements will need to be made as to how the work may affect the architectural, archaeological, artistic or historic integrity of the fabric
- (ii) the conservation of monuments or glass etc, provided that the proposals do not relate to **outstanding** items, or to major projects involving special conservation problems (which applications are likely to be made to the Commission or to be called in by it)
- (iii) liturgical re-orderings of the cathedral church, where these do not involve alterations to permanent fixtures of the cathedral or other alterations to its fabric
- (iv) the commissioning of new works of art that will be permanently added to the cathedral
- (v) the sale, loan or disposal of, or carrying out of work to, objects listed in the Inventory (other than **outstanding** items or Treasure items³⁰)
- (vi) schemes for the lighting of the cathedral
- (vii) proposals affecting the immediate setting of the cathedral
- (viii) interpretation schemes that do not involve permanent alteration to the fabric.

3.2 Where an application has properly been made to the FAC, not less than three members of the Committee who are present and voting at a meeting of the committee may determine that the proposal gives rise to considerations of such special architectural, archaeological, artistic or historic interest that the application should be forwarded to the Commission to determine.³¹

4 Applications to other authorities

4.1 When a Chapter proposes to make an application for Listed Building Consent or Scheduled Monument Consent in respect of any buildings or monument

²⁹ See section 2 (1) of the 1990 Measure.

³⁰ See section 6 (2C) of the 1990 Measure.

³¹ See section 6 (3) of the 1990 Measure and 2006 Rules, Rule 5 (4).

within the Precinct, this must be notified to the Commission using Form 15.³² This is in order that the Commission has the opportunity to make written representations to the Cathedral Administrator within 28 days of notification.

4.2 Listed Building Consent from the local planning authority (“LPA”) is required in respect of certain specified types of works to a building (which for this purpose includes an object or structure) which are subject to listed building control, unless they fall within the ecclesiastical exemption as set out in section 60 of *the Planning (Listed Buildings and Conservation Areas) Act 1990* and the Ecclesiastical Exemption Order 1994.³³ In broad terms, the effect of these provisions is that in order to qualify for the ecclesiastical exemption, in so far as it relates to cathedrals, a building must always be an ecclesiastical building in “ecclesiastical use”, as required by section 60, and must also fall within one of the following two categories set out in the Ecclesiastical Exemption Order 1994:

- (i) a building within the exempted area outlined in red on the plan of the cathedral issued by the then Department of National Heritage (the predecessor of the Department for Culture, Media and Sport) in 1994 in connection with the Ecclesiastical Exemption Order 1994 or
- (ii) a building which is outside the area outlined in red on that plan, but which is within the designated Precinct of the listed cathedral, and is:
 - a building used primarily as a place of worship or an object or structure within it. (An object or structure which is fixed to the exterior of the building, or which is not fixed to the building but is within its curtilage and forms part of the land, is not exempted), or
 - a monument³⁴ which is not separately listed and which lies within land which is or has been used for burial.

4.3 “Dual control”, where tandem applications for Listed Building Consent or Scheduled Monument Consent and for approval under the 1990 Measure are required in respect of the same proposal, only arises in limited circumstances, in particular where the proposal:

- (i) involves the disturbance or destruction of archaeological remains within the Precinct, or
- (ii) affects the immediate setting of the cathedral.³⁵

4.4 As explained in paragraph 2.7 above, the Commission has the power in certain circumstances to declare that certain secular consents will suffice with regard

³² See section 15 of the 1990 Measure and the 2006 Rules, Rule 11.

³³ See, in particular, article 5 (2) of that Order.

³⁴ “Monument” for this purpose includes a tomb, gravestone or other memorial, and a kerb or setting forming part of it. See the Ecclesiastical Exemption Order 1994, article 2 (1).

³⁵ See sections 2 (1) (a) (ii) and (iii) of the 1990 Measure.

to a specific proposal and that no “dual control” application under the 1990 Measure is needed in that particular instance.

- 4.5 Development control is concerned with issues that are largely different from those addressed by the 1990 Measure and cathedrals are not exempt from the need to obtain Planning Permission. With the exception of the specific circumstances described in paragraphs 2.7 and 4.4 above, an application for Planning Permission in no way takes away the need for an application in respect of any matter that may require approval under the 1990 Measure, or vice versa.

5 Other matters requiring consultation or approval under the Measure

- 5.1 In addition to the main provisions relating to the approval of proposed works, a number of other matters require formal approval or consultation under the 1990 Measure. Some of these are to be referred to the FAC and some to the Commission.

The Fabric Advisory Committee

- 5.2 The Chapter must follow the views of the FAC as to what items are of architectural, archaeological, artistic or historic interest and thus should be included in the cathedral’s Inventory. It is for the FAC to decide (having consulted the Commission) which items should be designated as being of **outstanding** interest.
- 5.3 The Chapter should agree with the FAC on the position of notice boards or other places for affixing notices, inside and outside the cathedral, to be used for the display of public notices in relation to applications for approval under the 1990 Measure. Under the 2006 Rules the notices must be placed where they are readily visible to members of the public.
- 5.4 Any member of the FAC may require any matter to be placed on the agenda for an FAC meeting.³⁶

The Commission

- 5.5 The Chapter must consult the Commission regarding its own appointments to the FAC, and the Commission likewise must consult the Chapter about its appointments to the FAC.³⁷
- 5.6 The Chapter must consult the Commission before appointing a Cathedral Architect or Surveyor of the Fabric.³⁸

³⁶ See Schedule 2 of the 1990 Measure, paragraph 13.

³⁷ See Schedule 2 of the 1990 Measure, paragraph 1.

³⁸ See section 12 (1) of the 1990 Measure. In addition, under section 9 (1A) of *the Cathedrals Measure 1999*, the Chapter is to consult the Commission on the qualifications and expertise which the appointee will need.

- 5.7 The Chapter must consult the Commission before appointing a Cathedral Archaeologist.³⁹
- 5.8 The entries in the Inventory compiled and maintained by the Chapter must be in accordance with any general and special directions issued by the Commission, and the Chapter must have regard to any advice from the Commission as to the details of the form of the Inventory.⁴⁰
- 5.9 The FAC must consult with the Commission about which items in the Inventory are to be designated as of **outstanding** interest.
- 5.10 The Chapter was required by the 1990 Measure to provide the Commission with a plan of the land in the freehold ownership of the corporate body which surrounds the cathedral church. The Commission, after consulting the Chapter, was required to designate on that plan the Precinct of the cathedral under, and for the purposes of, the Measure.⁴¹ This has been done for all cathedrals.

Under provisions added to section 13 of the 1990 Measure by the 2005 Measure, the Commission now has the power to vary such a designation once made.⁴² The Commission has issued Procedural Guidance Note 1 on Cathedral Precincts (March 2008).

- 5.11 The Chapter must ensure that the Commission receives a copy of the quinquennial report prepared by the Cathedral Architect or Surveyor of the Fabric required under the Measure.⁴³ Following the appointment of a new Cathedral Architect or Surveyor to the Fabric, the first such report should be made within two years of the appointment.⁴⁴
- 5.12 The Chapter must also ensure that the Commission receives a copy of the Cathedral Archaeologist's report, made within two years after the relevant provision of the 2005 Measure⁴⁵ comes into force, assessing the matters of archaeological interest relating to the cathedral church and the Precinct, and making recommendations to how they are to be handled and the maintenance of archaeological records.⁴⁶
- 5.13 The Chapter must send to the Commission a copy of the Chapter's quinquennial report to the FAC on the permanent records it has made, on the advice of the Cathedral Architect or Surveyor of the Fabric and the Cathedral

³⁹ See section 12 (2) of the 1990 Measure.

⁴⁰ See the 2006 Rules, Rule 28 (8).

⁴¹ See sections 13 (3) and (4) of the 1990 Measure. See also the Commission's Procedural Guidance Note 1 *Cathedral Precincts: their definition, designation & purpose under the Care of Cathedrals Measure 1990 as amended* (March 2008).

⁴² See sections 13 (5) - (6) of the 1990 Measure.

⁴³ See section 14 (1) of the 1990 Measure.

⁴⁴ See section 14 (3) of the 1990 Measure.

⁴⁵ Section 15 of the 2005 Measure, which came into force on 1st January 2008.

⁴⁶ See section 14A of the 1990 Measure.

Archaeologist, in relation to works which have been carried out, and on the arrangements made for maintaining those records.⁴⁷

- 5.12 The FAC Secretary must supply the Commission with a copy of the agenda before each meeting of the FAC and, after the meeting, with a copy of the minutes.⁴⁸

PART 2

MAKING AN APPLICATION Procedures for Cathedral Administrators

1 The pre-application stage

- 1.1 The Cathedral Administrator, in consultation with the Cathedral Architect or Surveyor of the Fabric and the Cathedral Archaeologist, should take an active role in considering what projects will need to go through the formal application procedure (see Part 1 of this Guide). If in doubt he or she should consult the FAC or its Chairman, or the Commission Secretariat.
- 1.2 Having reached a view that an application is likely to be necessary, he or she should plan, in consultation with the Cathedral Architect or Surveyor of the Fabric and other relevant parties, an appropriate timetable leading up to the formal application.
- 1.3 Any matter requiring formal approval should normally be discussed in full with the FAC at a preliminary advisory stage. This applies whether the application will, in due course, be to the FAC itself or to the Commission. However, the FAC's agreement or concurrence with the proposals at the advisory stage does not take away the need for a formal application, public consultation, consideration of any representations received and formal decision. If this process is not followed, the works have no approval under the 1990 Measure and are thus unauthorised, leaving the Chapter open to the possibility of enforcement action under the 1994 Measure. The procedures in Section 2 below should therefore be followed scrupulously by Cathedral Administrators.
- 1.4 If the application is one that will be made to the Commission, then provision should also be made for preliminary consultation between the Chapter and the Commission. This may involve inviting a delegation from the Commission to visit and discuss the proposals informally with members of the Chapter and their professional advisers and members of the FAC. If such a meeting is arranged the Cathedral Administrator must notify the FAC Secretary not less than 14 days before the date of the meeting and FAC representatives are entitled to attend.⁴⁹

⁴⁷ See section 14B (b) of the 1990 Measure.

⁴⁸ See Schedule 2 of the 1990 Measure, paragraph 14.

⁴⁹ See section 8 (2C) of the 1990 Measure.

- 1.5 In certain cases it may also be appropriate to consult at the pre-application stage with the LPA, English Heritage, the Commission for Architecture and the Built Environment (“CABE”), and the relevant National Amenity Societies.
- 1.6 These preliminary discussions should not only help to inform the development of the proposals, but also make clear what information the FAC or the Commission will require to be submitted in support of the application (see also the Commission’s Guidance Note 8 *The Care, Conservation and Development of Cathedrals* (November 1999, revised March 2008)).

2 Making an application to an FAC

- 2.1 The procedures are set out in Section 7 of the 1990 Measure and in the 2006 Rules, Rule 5. The following is a summary.
- 2.2 The Cathedral Administrator should complete Form 3 (the application form, for approval of the proposals) and the relevant number of copies (see below) of Form 4 (the public notice of the application). The Cathedral Administrator should sign the declaration at the end of Form 3 confirming that the public notice referred to in paragraph 2.4 below is being displayed from the date of the application and also confirming that the copies of the notice referred to in the same paragraph are being sent immediately, and to which bodies they are being sent. The Cathedral Administrator or another authorised representative of the Chapter should sign the copies of Form 4. (As stated above, all the forms referred to in this Guide are set out in Schedule 2 to the 2006 Rules and can be downloaded from the Church of England website: www.cofe.anglican.org/about/builtheritage/cathedralandchurchbuildings/cathedralforms/).
- 2.3 The Cathedral Administrator should submit Form 3 to the Secretary of the FAC. This form should be accompanied by such plans, drawings, specifications and other documents as are necessary to provide a full description of the proposal. This information should be proportionate to the scope and likely impact of the work but, in general, should address the following issues:
- the reasons underlying the proposal by the Chapter and how it will relate to any broader issues
 - appropriate assessments of the impact the proposal may have on the architectural, archaeological, artistic or historic character of the cathedral, its contents or its setting or other buildings
 - descriptions, briefs, or specifications by the architect, archaeologist, artist or other responsible professional, clearly indicating the nature and detailed design of the proposed work
 - relevant drawings and photographs.
- 2.4 Form 4 is the notice that must give particulars of the proposal. It must be publicly displayed for 28 days and copies of it must be sent to other specified

bodies. Its purpose is to inform the public and the bodies concerned that the application has been made and that they have 28 days in which to submit written representations to the FAC Secretary. The other requirements in the 1990 Measure and 2006 Rules as regards the completed Form 4 are as follows:

- (1) The notice must be displayed both inside and outside the cathedral for 28 days, where it is readily visible to the public. (The two copies of the notice should be placed on notice boards to which the public has access and which the FAC considers to be sufficiently prominent to bring the contents of the notice to the attention of members of the public.) The notice must state the place and time where the plans, drawings, specifications and other documents describing the proposal can be inspected.
 - (2) One copy of the notice must be sent to the Commission. It is not necessary to send full supporting documentation with this notice. However, it will be helpful to send some outline details to the Commission at this stage, and to be ready to provide further information if the Commission requests it.
 - (3) Except in cases relating to the disposal, work to or addition of objects, one copy each of the notice must be sent to English Heritage, the Society for the Protection of Ancient Buildings (“SPAB”), which acts a clearing house for the National Amenity Societies, and the LPA. There is no obligation to send a copy of the supporting documents, but it would be helpful to provide the consultees with a reasonable level of further information if they request it, to assist them in making an informed response to the consultation.
- 2.5 The Cathedral Administrator should ensure that these procedures have been completed in time to give the parties who have been notified not less than 28 days to make written representations before the meeting of the FAC that is expected to determine the application.
- 2.6 If, in the period between submitting the application and its being determined, the FAC requires any additional supporting documentation to be submitted, the Cathedral Administrator should (as above) be prepared to make this documentation available to all the parties who were originally notified of the application. It should also be added to the copies available for inspection by members of the public.
- 2.7 Immediately after the expiry of the 28 days after posting and displaying the notices in Form 4, the Cathedral Administrator should complete the Certificate of Publication in Form 4 and deliver it to the FAC Secretary. The FAC is not empowered to determine the application until this certificate has been received.
- 2.8 After receipt of this certificate, the FAC must consider any representations received and determine the application. The decision must be given in writing and, if the FAC decides to refuse approval or to give it subject to conditions, it

must give its reasons in writing. When the FAC has determined the application, its Secretary must notify within 10 days the Cathedral Administrator, the Commission, and, if copies of the notice of the application were sent to them, English Heritage, the National Amenity Societies (via SPAB) and the LPA, using the decision notice (Form 5). The Cathedral Administrator must, within 7 days of receipt of this notice, display two copies publicly in the same manner as the original notice of application, for not less than 28 days. (Note that it is the responsibility of the FAC Secretary to send a copy of the decision notice to the Cathedral Administrator, the Commission and the other consultees.)

- 2.9 If the FAC determines the application subject to any conditions, the Cathedral Administrator should ensure that those conditions are drawn to the attention of all relevant parties at the cathedral. In some cases there may be a condition that further documentation be submitted to the FAC for final approval. The Cathedral Administrator should ensure that this further submission is made and any relevant approval obtained before works begin, or by the time specified in the condition.

3 Appealing against an FAC decision

- 3.1 If the application is refused, or is approved subject to conditions, the Chapter, if it wishes to have this decision reviewed, has up to 3 months in which to decide whether to make an appeal. If the Chapter decides to make an appeal, it should do so to the Commission. An appeal is lodged by the Cathedral Administrator completing Form 11 and sending it to the Commission with the information indicated on the Form. At the same time, the Administrator must copy Form 11 to the FAC Secretary and, within 7 days of receipt of Form 11, the FAC Secretary must send to the Commission copies of any representations made to the FAC in respect of the application that is the subject of the appeal. The Commission has 3 months to consider the appeal and a further 10 days to issue its decision notice in Form 12. (These procedures are laid down in detail in the 2006 Rules, Rule 8.)
- 3.2 If the FAC fails to determine an application within 3 months, the Chapter has a further 28 days in which to decide whether to make a request that the Commission determine the application instead of the FAC. Such a request is made by the Cathedral Administrator completing Form 6 and sending this to the Commission with the information indicated on the Form. The Commission then has 3 months to determine the application and a further 10 days to issue its decision notice in Form 10. (These procedures are laid down in detail in the 2006 Rules, Rule 6.)

4 Making an application to the Commission

- 4.1 The procedures are set out in section 8 of the 1990 Measure and the 2006 Rules, Rule 7. The following is a summary.
- 4.2 The Cathedral Administrator must complete Form 8 (the application form for approval of proposals) and the relevant number of copies (see below) of Form

9 (the public notice). The Cathedral Administrator should sign the declaration at the end of Form 8 confirming that the public notice referred to in paragraph 4.4 below is being displayed from the date of the application and also confirming that the copies of the notice referred to in the same paragraph are being sent immediately, and to which bodies they are being sent.

- 4.3 The Cathedral Administrator should submit Form 8 to the Secretary of the Commission. This Form should be accompanied by such plans, drawings, specifications and other documents as are necessary to provide a full description of the proposal.
- 4.4 Form 9 is the notice that must give particulars of the proposal. It must be publicly displayed and copies must be sent to certain other specified bodies, informing the public and the bodies concerned that the application has been made and that they have 28 days in which to submit written representations to the Secretary of the Commission. The other requirements of the 1990 Measure and the 2006 Rules as regards the completed Form 9 are as follows:
- (1) The Notice must be displayed both inside and outside the cathedral for 28 days, where it is readily visible to the public. (The two copies of the notice should be displayed on notice boards to which the public has access and which the FAC considers to be sufficiently prominent to bring the contents of the notice to the attention of members of the public.) The notice must give the address and time where the plans, drawings, specifications and other documents describing the proposal can be inspected.
 - (2) One copy of the notice must be sent to the FAC and the plans, drawings, specifications and other documents describing the proposal must be made available for inspection by the FAC at the address indicated.
 - (3) Two further copies of the Notice must be sent: one to English Heritage and one to SPAB, which acts as a clearing house for the National Amenity Societies. The Notice in each case should be accompanied by a copy of each of the plans, drawings, specifications and other documents which accompanied the application.
 - (4) Except in cases relating to the disposal of or work to objects, one copy of the notice must also be sent to the LPA, together with a copy of each of the plans, drawings, specifications and other documents which accompanied the application.
- 4.5 The Cathedral Administrator should ensure that these procedures have been completed in time to give the parties who have been notified not less than 28 days to make written representations to the Commission in advance of any meeting of the Commission at which the Chapter would like the application to be considered. The Commission publishes in advance a list of its meeting dates and deadlines for submission of new applications.

- 4.6 Upon receipt of the notice in Form 9, the FAC Secretary must, within 14 days, inform the Secretary of the Commission whether the FAC has considered the proposal and, if so, of its views.
- 4.7 If, once an application and the notifications have been duly made, the Commission requires the submission of further information to provide a full description of the proposal, this further information should not only be sent to the Commission but should also be copied to all the parties who were notified of the application in the first place and be made available for inspection by members of the public.
- 4.8 If, in the period between submitting the application and its being determined, the Commission requires any additional supporting documentation to be submitted, this documentation should be copied or made available to all the parties who were originally notified of the application. It should also be added to the copies available for inspection by members of the public.
- 4.9 Immediately after the expiry of the 28 days after posting and displaying the notices in Form 9, the Cathedral Administrator should complete the Certificate of Publication in Form 9 and send it to the Secretary of the Commission. The Commission is not empowered to determine the application until this certificate has been received.
- 4.10 After receipt of this certificate, the Commission must consider any representations received and determine the application. The decision must be given in writing and, if the Commission decides to refuse approval or to give approval subject to conditions, it must give its reasons in writing. When the Commission has determined the application, its Secretary must notify the Cathedral Administrator within 10 days using the notice in Form 10. The Administrator should copy Form 10, displaying two copies publicly in the same manner as the original notice of application for 28 days. The Secretary of the Commission will also send copies of Form 10 to the FAC, English Heritage, the National Amenity societies (via SPAB) and (if appropriate) the LPA.
- 4.11 If the Commission determines the application subject to any conditions, the Cathedral Administrator should ensure that those conditions are drawn to the attention of all relevant parties at the cathedral. In some cases there may be a condition that further documentation be submitted to the Commission or to the FAC for final approval. The Cathedral Administrator should ensure that this further submission is made and any relevant approval obtained before works begin, or by the time specified in the condition.

5 Appealing against a Commission decision

- 5.1 If an application to the Commission is refused, or is approved subject to conditions, or an appeal to the Commission is rejected, the Chapter, if it wishes to have this decision reviewed, has up to 3 months from the date of issue of the decision notice in which to decide whether to request a review. If the Chapter decides to do so, the review will be carried out by a specially

constituted Commission of Review. The request is made by the Cathedral Administrator completing Form 21 (or Form 22 if the application was originally made to the FAC and was submitted to the Commission only on appeal) and sending this to the Registrar of the province in which the cathedral is situated. The request should be accompanied by the information indicated on the form. (The procedures for reviews by a Commission of Review are laid down in detail in the 2006 Rules, Rules 17, 19, 20 and 21.)

- 5.2 If the Commission fails to determine an application within 3 months, (or to deal with an application undetermined by the FAC or an appeal made to it in respect of an FAC's determination within the periods specified in the 2006 Rules) the Chapter has a further 28 days in which to decide whether to make a request to a specially constituted Commission of Review to determine the application or appeal, instead of the Commission. Such a request is made by the Cathedral Administrator completing Form 20 and sending this to the Registrar of the province in which the cathedral is situated. The request should be accompanied by the information indicated on the form. (The procedures for these cases are set out in detail in the 2006 Rules, Rule 18.)

6 Works by persons and bodies other than the Chapter (including tenants) & appeals in cases involving works by tenants

- 6.1 The 2005 Measure made it explicit that the works covered by section 2 of the 1990 Measure (so that proposals for them require approval under the Measure) include works by persons and bodies other than the Chapter (such as tenants of the Chapter) which require the Chapter's consent. The Chapter must not consent to a proposal for such works being implemented unless it has been approved under the 1990 Measure.
- 6.2 Where an FAC or the Commission has refused to give approval for a proposal from a Chapter for the carrying out of works by a tenant, or has given its approval subject to conditions, that tenant can (whether or not the Chapter has or will appeal against the decision or the imposition of conditions) appeal to the Commission or request a review by a specially constituted Commission of Review, as the case may be.
- 6.3 An appeal against a decision by an FAC in respect of proposed works by a tenant, whether made by the Chapter or by the tenant, or by both, should be made to the Commission in Form 13. The Commission will issue its decision in Form 14. (The procedures for these cases are set out in detail in the 2006 Rules, Rule 9.)
- 6.4 A request for a review by a specially constituted Commission of Review in respect of a decision by the Commission on works by a tenant, whether made by the Chapter or by the tenant, or by both, should be made in Form 23. The Commission of Review will issue its decision in Form 24. (The procedures for these cases are laid down in detail in the 2006 Rules, Rule 21.)

7 Proposals affecting clergy housing

- 7.1 Where a Chapter makes an application to an FAC or to the Commission for approval of a proposal under the 1990 Measure and that proposal would affect any house the whole or part of which is for the time being occupied or to be occupied by a clerk in Holy Orders holding office in the cathedral:
- (i) the Cathedral Administrator must send to the Church Commissioners a copy of the public notice which is required to be displayed in respect of the proposal
 - (ii) any observations made by the Church Commissioners to the FAC or to the Commission within the statutory consultation period must be treated as representations on that application, and
 - (ii) the FAC Secretary or the Secretary of the Commission (or the Provincial Registrar if the case is considered by a Commission of Review) must send to the Church Commissioners a copy of the notice of the decision or determination by the FAC, the Commission or a Commission of Review, as the case may be. (This is set out in detail in the 2006 Rules, Rule 10).

The Cathedrals Fabric Commission for England
March 2008