

## **Question on behalf of Bradford Deanery Synod:**

'When is the Diocese to receive a swifter, more satisfactory and more sympathetic system for the approval of applications of faculties?'

### **Answer:**

#### **Firstly, regarding the request for a more satisfactory and sympathetic system for the approval of faculty applications:-**

The faculty process is in place under the ecclesiastical exemption from secular planning laws, and replaces listed building consent. The purpose of the ecclesiastical exemption is to allow the church faculty jurisdiction to take account of the mission-based, theological requirements for change in a way that the secular system is not qualified or willing to do.

The Faculty Jurisdiction Rules are laid down by national legislation (The Ecclesiastical Jurisdiction and Care of Churches Measure 2018), with no scope for any local diocesan flexibility except a very limited power for the chancellor of the diocese to make an additional matters order, strongly discouraged and only very sparingly used in this or any other diocese.

Over 90% of the parish churches in this diocese are listed, the majority either Grade II\* or Grade I. These very special and frequently ancient buildings are both a blessing and a responsibility. In the secular world, most such buildings are owned by national charities or other bodies for public benefit and all are subject to very close and detailed scrutiny and management by experts. The fact that applications are made by volunteers usually with no specialist training in the management of such complex and important building means that the process must be closely monitored and support provided to help the parishes.

When seeking to make sometimes quite radical changes to buildings and their interiors, the Chancellor is obliged to bear in mind, and parishes must not lose sight of the fact, that each generation has its own needs and views, not always welcomed or relevant in future times. For many of our churches, some nearly a thousand years old, there have been perhaps 30-40 generations of worshippers with distinctive physical needs and theological attitudes and requirements, many of which have not survived the passage of time but have determined the present layout and use of the building itself.

The national system of planning regulation was brought in at least in part to protect buildings from wholesale destruction or massive unfettered change following rampant "improvement" by the Victorians, for both theological and aesthetic reasons, causing what many now regard as irreparable harm to most medieval churches, although saving many semi-derelict buildings from total collapse or abandonment in the process.

#### **How to make the process swifter?**

The starting point when works are planned is to ASSUME THAT A FACULTY WILL BE NEEDED IN EVERY CASE. If the works do fit into the tightly defined categories permitted to be carried out under Lists B or A this will be advised. NEVER INCUR EXPENSE OR TAKE ACTION BEFORE CHECKING.

Part of the process involves consultation with outside bodies and this is widely felt to be a cause of delay and difficulty. But the amenity societies exist to advise on the special needs

of such special buildings, and full use must and should be made of their expertise. Each parish has an Inspecting Architect who is key to identifying problems with the building and advising how best such problems can be dealt with. Their involvement is critical, and should never be looked at as an expense to be avoided. This is irresponsible and risky. Works undertaken incorrectly are unlikely to be covered by insurance, the purpose of which is to provide financial cover to protect the building and PCC from loss following an accident of any sort. Insurance is another crucial element in the good management of a parish- third party liability and protection from personal liability for the PCC is vital.

The paperwork for faculty applications is actually relatively straightforward; certainly easier, quicker and less bureaucratic than the equivalent listed building consent papers required for secular listed buildings. And in secular applications, all the same statements of significance and need are required, in exactly the same way as in faculty applications. The secular system imposes CRIMINAL liability for breaches and pre-application planning advice costs £60, in Wiltshire at any rate. The application for consent itself then costs further fees.

Faculty applications are free as the diocese pays unless the parish proceeds without permission and has to apply retrospectively. Straightforward applications can usually be dealt with in around two to three months. Large re-orderings are complex and naturally more involved, so take longer and involve more consultation with amenity bodies, though they can be dealt with in stages. Urgent problems can be dealt with by the Registry and Chancellor in hours, by interim faculty, and frequently are. Our Chancellor is available by phone and email every day and must be one of the most speedy and efficient chancellors in the Church of England. It is very difficult to see how an already fast process could be made quicker.

The List B applications are also dealt with very promptly and with reduced paperwork to ensure a more streamlined system for routine works being undertaken. But there is no possibility of a retrospective List B permission, so failure to obtain appropriate List B permission in advance can result in greater paperwork being needed (and expense) as a retrospective faculty to correct the position is required and must be paid for by the parish.

The Faculty Jurisdiction Rules and papers require completion of details in the application form designed to ensure a careful and prudent approach is being taken and proper advice is being obtained. This protects the listed building but crucially, it also protects the vicar and churchwardens or other applicants, who risk personal liability (though not criminal liability in the same way) if things go wrong.

The structure of the paperwork and process is to provide a very skilled and essential support tree to ensure that nothing is overlooked when works are being carried out. The questions on Form 3A (the Petition) are a reminder of each step that needs to have been taken before making the application. That is their purpose.

The Diocese employs trained officers in the DAC and Registry who are at the end of a telephone, email or by post or in person, unlike the local authority planning departments these days, to give advice and support all the way through the process of a faculty application. Our whole function in the faculty process is to support and help parishes to do what they wish or need to do, in the best possible way, if their plan is legally permissible. **We always encourage parishes to ring us for advice at any time before or during the process.**

**One real cause of delay in the system is failure by the petitioners to read the instructions given on the paperwork. Please do read the correspondence and forms carefully, including conditions placed on faculties.**

However, there is a huge, almost overwhelming amount of information available, much of it online, and this has probably reached the stage of being counterproductive, so a helpful and encouraging path through the maze is definitely required. The time has come to update the diocesan website and we propose to:-

- Draw up a flowchart with hyperlinks to more detailed notes for guidance of each stage of the process
- Rewrite the guidance to make it more easy to follow- bullet points, section headings etc could be used to clarify
- Draft podcast and YouTube video delivery of training for faculty processes and procedures to improve availability and accessibility of relevant training without requiring attendance at training days
- Liaise with the Diocesan Communications Team to improve the layout and structure of information on the diocesan website and the recording of podcast/ video training.
- Adopt the national on-line faculty system, making it easier to submit applications and monitor progress (though to do so the applicants must be computer literate)

The question asks, when 'When is the Diocese to receive a swifter, more satisfactory and more sympathetic system for the approval of applications of faculties?'

We trust that the Deanery will understand that every Faculty application will always be subjective when considering the time taken, and that the final decision rests with the Diocesan Chancellor, and that the Ecclesiastical exemption from secular planning regulations offers a more sympathetic consideration for changes to Church buildings than the secular planning system.

Mrs Sue De Candole – Diocesan Registrar/ The Ven. Alan Jeans, Archdeacon of Sarum and member of the DAC.

1st November 2018