

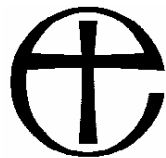
General Synod of the Church of England

THE CATHEDRALS FABRIC COMMISSION FOR ENGLAND

PROCEDURAL GUIDE 8

**THE CATHEDRALS FABRIC COMMISSION
FOR ENGLAND:
Its Role and Functions
&
DETERMINING AN APPLICATION:
Procedures for the Cathedrals Fabric Commission for
England**

Issued by the Commission
March 2008



Cathedrals Fabric Commission for England

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THE CATHEDRALS FABRIC COMMISSION FOR ENGLAND: Its Role and Functions & DETERMINING AN APPLICATION: Procedures for the Cathedrals Fabric Commission for England

Notes

1) This document amalgamates and replaces in their entirety Procedural Guides 8 and 9 (May 2001). All the forms referred to in this Guide are set out in Schedule 2 of *the Care of Cathedrals Rules 2006* (“*the 2006 Rules*”), which replace *the Care of Cathedrals Rules 1990* in their entirety, and can also be downloaded from the Church of England website:
<http://www.cofe.anglican.org/about/cathandchurchbuild/cathedralforms/>.

2) Except where otherwise stated, references in this document 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*”).

3) The expression “of interest” refers to the concept “of architectural, archaeological, artistic or historic interest” which appears in a number of different contexts in the 1990 Measure.

PART 1

THE CATHEDRALS FABRIC COMMISSION FOR ENGLAND: Its Role and Functions

1 Duties of the Cathedrals Fabric Commission

1.1 The Cathedrals Fabric Commission for England (“the Commission”) is a body established by section 3 of the 1990 Measure.¹ Its statutory duties include:

- (i) giving advice to the Chapter of a cathedral and to the cathedral’s Fabric Advisory Committee (“FAC”) on the care, conservation, repair and development of the cathedral church; any buildings or archaeological remains within its Precinct;² the landscape and environment in which the cathedral church is situated and any objects

¹ See Procedural Guide 1 *The Care of Cathedrals Measure: a General Introduction* (March 2008).

² For the meaning of the “Precinct” in the 1990 Measure see Procedural Guidance Note 1 *Cathedral Precincts: their definition, designation and purpose under the Care of Cathedrals Measure as amended* (March 2008).

of interest to whose ownership, possession or custody the corporate body of the cathedral is entitled

- (ii) considering and determining any application made to the Commission under the 1990 Measure as now amended
- (iii) promoting co-operation with other organisations concerned with the care and study of buildings of interest in England
- (iv) assisting cathedral Chapters by participating in educational and research projects that will promote the care, conservation, repair or development of cathedral churches and their ancillary buildings
- (v) maintaining, jointly with the Council for the Care of Churches,³ a library of books, plans, drawings, photographs and other material relating to cathedral and other churches and the objects in them
- (vi) promoting, in consultation with Chapters, FACs and others, good practice in relation to:
 - the care, conservation, repair and development of cathedral churches, their Precincts and objects of interest in the ownership, custody or possession of their corporate bodies
 - the compilation, maintenance and dissemination of information about cathedral churches, buildings and archaeological remains within their Precincts and objects of interest as in (i) above
 - the role and duties of Cathedral Architects or Surveyors of the Fabric and of Cathedral Archaeologists; and
 - the form and content of records to be kept in accordance with section 14B of the Measure.

1.2 Section 11 of the 1990 Measure also gives the Commission statutory powers:

- (i) to advise the Council for the Care of Churches,⁴ at its request, on proposed works to a Church of England church which is not a cathedral
- (ii) to give advice on proposed works to a cathedral in Wales, if requested to do so by the Representative Body of the Church in Wales and subject to reimbursement of the Commission's expenses)
- (iii) in exceptional circumstances, with the agreement of the Archbishops' Council and the Governing Body of the Church concerned, to give advice on proposed works to a cathedral of a Church other than the Church of England or the Church in Wales (again subject to reimbursement of expenses); and

³ As from June 11th, 2008 the functions of the Council for the Care of Churches will be taken over by the new Church Buildings Council established under *the Dioceses, Pastoral and Mission Measure 2007*.

⁴ See footnote 3 above.

- (iv) where another person or body holds moneys for the benefit of cathedrals generally, to exercise functions in relation to those moneys which the person or body concerned has delegated to the Commission.

1.3 In order to exercise its other functions under the 1990 Measure, the Commission is also given power by section 11 of that Measure:

- (i) to acquire books, plans, drawings, photographs and other material relating to cathedrals; and
- (ii) to hold conferences for cathedral clergy and staff, cathedral architects or surveyors of the fabric, cathedral archaeologists and others concerned with the care, conservation and maintenance of cathedrals.

1.4 In discharging these functions (whether they are a power or a duty), the Commission is subject to important general duties:

- (i) under section 1 of the 1990 Measure, the Commission must have due regard to the purpose of the cathedral church as the seat of the bishop and a centre of worship and mission; and
- (ii) under section 11A of the 1990 Measure⁵ without prejudice to the duty under section 1, the Commission must have due regard to the desirability of preserving the fabric of the cathedral church and any features of interest which it possesses, the immediate setting of the cathedral church, any building of interest or archaeological remains within the Precinct of the cathedral, and any such objects of interest as are referred to in paragraph 1.1 (i) above.

2 Membership of the Commission

2.1 The Commission has 24 members. The Chairman, Vice-Chairman and 17 other members are appointed by the Archbishops of Canterbury and York. The other five are elected by the General Synod of the Church of England from amongst its members. The Archbishops make their appointments on the nomination of, or in consultation with, a number of other bodies or office-holders: the Secretary of State for Culture, Media and Sport, the Archbishops' Council, the Appointments Committee of the Church of England, the House of Bishops, the Liturgical Commission, the Deans' Conference, the Council for the Care of Churches⁶, the Royal Institute of British Architects, the Ecclesiastical Architects and Surveyors Association, the Royal Institution of Chartered Surveyors, the Institution of Structural Engineers, the Institute of Civil Engineers, the Royal Academy of Art, English Heritage, the Council for British Archaeology, the Society of Antiquaries of London, and the Royal School of Church Music.⁷

⁵ Added by the 2005 Measure.

⁶ See footnote 3 above.

⁷ See Schedule 1 of the 1990 Measure.

- 2.2 All members are appointed for a term of five years and may be re-appointed for one further such term. This term relates to the quinquennium terms of the General Synod. Casual vacancies are filled as they arise, by the Archbishops or, in case of members elected by the General Synod, by Synod.
- 2.3 The Commission appoints its own Secretary who, along with other members of the Commission's Secretariat, is employed by the Archbishops' Council of the Church of England.
- 2.4 The Commission may appoint such committees as it considers expedient, provided that more than half the members of each committee are Commission members.

3 Procedures of the Commission

- 3.1 Certain of the Commission's procedures are laid down by the 1990 Measure, as follows:
- the quorum of the Commission is eight members
 - the Commission may act notwithstanding any vacancy in its membership
 - the business of the Commission is decided by the majority of members present and voting (with the Chairman having a second or casting vote if the need arises); and
 - the Commission may hold public hearings in order to receive oral representations from members of the public on any matter the Commission is to consider. The Commission may also appoint a panel of not less than three of its members to hold a public hearing on any matter which the Commission specifies, and to report back to it.
- 3.2 Subject to the above and any other specific legislative requirements or directions by the General Synod, the Commission is empowered to regulate its own procedure.
- 3.3 If a member has a personal interest in a matter to be discussed at a meeting of the Commission – for example, if he or she is a member or agent of a Chapter making an application that is under consideration or a member of the FAC of the cathedral concerned - he or she must declare it before the Commission commences the relevant item of business concerned. He or she may be invited by the Chairman to be present at the beginning of that item, to provide factual information only, but must then withdraw from the meeting for the whole of the discussion and while a decision is taken (including any vote on it).⁸
- 3.4 The Commission normally holds nine meetings a year and its calendar is published in advance. The Commission publishes an Annual Report.

⁸ Declarations of personal interest are required under Rule 25 of the 2006 Rules, which lays down the procedure to be followed and contains specific provisions for cases where the Chairman or Vice-Chairman of the Commission has a personal interest.

- 3.5 Currently (March 2008) the Commission has several committees, which usually meet twice a year, to discuss particular areas of business such as appointments to FACs, grants and inventories.
- 3.6 When considering an application for approval of works or a request for advice, the Commission will often appoint a delegation of members to visit the cathedral concerned and discuss the proposals on site with representatives of the Chapter, the FAC and any other interested party. The delegation may make recommendations to the Commission, but the full Commission will be responsible for taking any decision on the application or for the advice to be given.
- 3.7 For complex proposals, the Commission will generally welcome representatives from the Chapter and its professional advisers, by prior arrangement, to make a presentation to a full Commission meeting.

4 Role of the Commission in Relation to Proposed Works

- 4.1 Most of the Commission's work in relation to specific proposals involves either giving advice, or considering and determining applications. Since the advisory stage is often a preliminary stage towards a formal application for approval, both in the main relate to categories of proposal that are specifically reserved to the Commission for determination under section 6 of the 1990 Measure. These are proposals (including proposals by others which require the Chapter's consent, as well as proposals to be implemented by a Chapter itself) that would involve:
- (i) works, including works of repair or maintenance, that would permanently alter the fabric of the cathedral church or any other building in the Precinct which is for the time being used 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) the demolition of any part of the cathedral church or such other building as in (i)
 - (iii) the disturbance or destruction of any archaeological remains within the Precinct
 - (iv) the sale, loan or other disposal of, or the carrying out of any works to, any object to whose ownership, custody or possession of the corporate body of the cathedral is entitled, and which has been designated under the 1990 Measure as being of **outstanding** interest; or

- (v) works relating to items which have been found within the Precinct and which would be items of “Treasure” under *the Treasure Act 1996* had they not been specially excepted by an Order under that Act.⁹
- 4.2 In addition, the Commission may call in an application for approval of any other proposal which gives rise to considerations of such special architectural, archaeological, artistic or historic interest that, in the Commission’s view, it should itself determine the application. This procedure requires the Commission to issue a written declaration to that effect.
- 4.3 Section 6 of the 1990 Measure also makes provision for the Commission to refer to the cathedral FAC certain proposals which the Commission would otherwise need to determine, or vice versa. These are more fully explained in Part 2, paragraphs 1.5 and 1.6 below.
- 4.4 Under *the Care of Cathedrals (Supplementary Provisions) Measure 1994* (“*the 1994 Measure*”), where works require approval under the 1990 Measure but this was not obtained in advance, an application for retrospective approval can only be made to and determined by the Commission (see Part 1, paragraph 4.4 above). Such an application cannot be made to or determined by a cathedral’s FAC.
- 4.5 When the Commission is giving advice on a proposal it seeks to make this as broad and helpful as possible. At the same time, any advice in respect of a proposal that will subsequently be the subject of an application for approval must be provisional, and without prejudice to the Commission’s giving full and fair consideration to all information submitted and written representations made in the context of the application.
- 4.6 The Commission does not give any advice on technical issues as such. Technical matters are properly the responsibility of professionals employed by the cathedral. However, in cases where doubts arise, the Commission may advise the Chapter to seek a second professional opinion.
- 4.7 In cases where the Commission is required to determine an application for approval of a proposal in respect of which there has been, or may be, a divergence of technical opinion, the Commission will take into consideration whether, on the basis of the evidence presented to it, the technical issues appear to have been fully understood and resolved.
- 4.8 The manner in which the Commission handles applications for approval is set out in more detail in Part 2 of this Note.
- 4.9 A cathedral Chapter must also notify the Commission of:
- (i) all applications that it makes to its cathedral’s FAC for approval of proposals. (In such cases, the Commission has 28 days to submit any

⁹ See paragraph 4.14 in Part 2 of this Guide. At the time of writing, the Government has not yet made this Order.

representations to the FAC before the latter determines the application); and

- (ii) all applications that it proposes to make for secular Listed Building Consent or Scheduled Monument Consent in respect of any building or monument within the Precinct.¹⁰ (In such cases, the Commission has 28 days to make any written representations about the proposed application to the Cathedral Administrator.)

5 Other Specific Statutory Duties of the Commission

Under the 1990 Measure, the Commission also has the following specific duties:

5.1 Compilation and maintenance of cathedral Inventories

Rule 28 of the 2006 Rules makes provision for the Commission to give general or specific directions as to the making of entries in the Inventory compiled under section 13 (1) of the 1990 Measure or advice as to the details of the form of the Inventory. The Commission should notify the Chapter of these in writing. Under section 13 (2) of the 1990 Measure the FAC is also required to consult with the Commission on which objects included in the Inventory should be designated as being of **outstanding** architectural, archaeological, artistic or historic interest.¹¹

5.2 Definition and Designation of the cathedral Precinct

Section 13 of the 1990 Measure also required the Chapter to supply to the Commission a plan showing the land surrounding the cathedral church that is in the ownership of the corporate body. After consultation with the Chapter, the Commission was required to indicate on the plan the Precinct of the cathedral for the purpose of the 1990 Measure. The 2005 Measure introduced more detailed provisions regarding the extent of the land to be included in the Precinct and provision for subsequent amendment of the designated Precinct boundary.¹²

- 5.3 Appointment of the Fabric Advisory Committee of a cathedral. The Commission appoints half the members of each FAC in consultation with the Chapter; and the Chapter appoints half the members in consultation with the Commission.

5.4 Register of Applications

The Commission is required to keep a Register of Applications in the form set out in the 2006 Rules. The Rules also deal with the arrangements for making the register available for inspection and the supply of copies. The FAC of each cathedral is also required to keep such a Register.¹³

¹⁰ See section 15 of the 1990 Measure and the 2006 Rules Part 6, Rule 11.

¹¹ See Procedural Guide 6 *Cathedral inventories: their purpose, scope and compilation* (May 2001).

¹² See Procedural Guidance Note 1 *Cathedral Precincts: their definition, scope and purpose under the Care of Cathedrals Measure, as amended* (March 2008).

¹³ See section 10B of the 1990 Measure and the 2006 Rules Part 10, Rule 27.

6 General Duties of the Commission

6.1 Much of the Commission's work flows from its general duties under the Measures (see paragraph 1.1 above) to promote and give advice on the care, conservation and development of cathedrals.

6.2 Publications

The Commission produces a series of Guidance Notes on issues relating directly to the operation of the 1990 Measure as amended, and Advisory Notes on matters of good practice relating both to the Measure and, more generally, to the care, conservation and development of cathedrals. A full list of publications and copies to download can be found at:

www.cofe.anglican.org/about/cathandchurchbuild/cathedralsguidance/index.
Paper copies are also available on request from the Commission Secretariat.

6.3 Conferences and Seminars

In collaboration with FACs, the Commission organises both a triennial residential conference for FAC members and others, and an ongoing programme of regional seminars for FACs. Often in collaboration with others, it also arranges other periodic conferences and seminars on issues relating to the care, conservation and development of cathedrals.

6.4 Liaison and Cooperation

The Commission maintains links with a range of other bodies in order to promote and assist in the care, conservation and development of cathedrals. These bodies include: the Association of English Cathedrals; the Archbishops' Council and the Church Heritage Forum; the Department for Culture, Media and Sport; English Heritage and the Heritage Lottery Fund; the Cathedral Architects Association, the Association of Diocesan and Cathedral Archaeologists and the Cathedral Libraries and Archives Association; the statutory National Amenity Societies (i.e. the Council for British Archaeology, the Society for the Protection of Ancient Buildings, the Ancient Monuments Society, the Georgian Group, the Victorian Society and the Twentieth Century Society).

6.5 Advice

On request, the Commission can give advice to the Council for the Care of Churches¹⁴ on proposed works to a Church of England church that is not a cathedral. It may give advice on proposed works to cathedrals of the Church in Wales, at the request of the Representative Body of the Church in Wales. In exceptional circumstances, it may also give advice on proposed works to cathedrals other than those of the Church of England or the Church in Wales, with the agreement of the governing body of the Church concerned and of the Archbishops' Council.

¹⁴ See footnote 3 above.

7 The Commission and Fabric Advisory Committees

- 7.1 The Commission's relationships with the Chapter and FAC of each cathedral are key to the operation of the Measures. This triangular relationship is one to be valued and encouraged, with each party taking account of its proper role and the roles of others.
- 7.2 The FAC is appointed jointly by the Commission and the Chapter, but the Commission expects all members, once appointed, to act corporately as members of the FAC and not as representatives of the Commission or of the Chapter.
- 7.3 The Commission will expect all proposals that are referred to it, either for advice or as an application, also to have been referred to the FAC for its consideration and advice at the appropriate stage. Referral to the Commission should never bypass the FAC. The Commission will expect the FAC to be notified by the Chapter and to be represented when it sends a delegation to a cathedral to discuss a proposal on site.¹⁵ The Commission wishes to have, and will expect to receive, the FAC's views in respect of any proposal that is the subject of a formal application to the Commission¹⁶. Finally, the Commission notifies the FAC of its determination of every application.
- 7.4 The Commission should receive agendas and minutes of FAC meetings for information, and these are read by the Commission's Secretariat. However, if the FAC wishes to have the Commission's advice on any matter, it should approach the Commission directly. Copying of minutes should not be considered a substitute for formal consultation. Similarly, the views of the FAC in respect of an application made to the Commission (as referred to above in paragraph 7.3) should be sent direct to the Commission.
- 7.5 As set out in paragraph 4.8 above, the Commission should also receive formal notification of all applications made by the Chapter to the FAC. The Commission considers all such notices at its regular meetings, and may submit written representations to the FAC in response to them. Such representations are required within 28 days and the Commission seeks to meet this deadline whenever possible in the context of its meeting cycle.

8 Grants Made by the Commission

- 8.1 At the time of writing (March 2008), the Commission manages two grant funds held for the benefit of cathedrals. Letters of enquiry and requests for application forms should be addressed to the Commission's Assistant Secretary. Alternatively, eligibility information and application forms can be

¹⁵ Under the section 8 (2C) of the 1990 Measure (added by the 2005 Measure) and Rule 7 (6) of the 2006 Rules, where a meeting is arranged between the Commission and the Chapter to discuss a proposal, the Cathedral Administrator must notify the FAC Secretary at least 14 days before the meeting, and representatives of the FAC are entitled to be present at the meeting.

¹⁶ Under section 8 (1A) of the 1990 Measure the FAC Secretary must inform the Commission whether the FAC has considered the proposal and, if so, what its views were.

downloaded from the website at:
<http://www.cofe.anglican.org/about/cathandchurchbuild/index>.

- 8.2 The Cathedral Amenities Fund (“CAF” - the Charity of Richard Inglis Cochrane) exists to assist with the preservation and improvement of the visual amenity of ancient cathedrals, abbeys and parish churches in England, Wales, Scotland and Northern Ireland (i.e., under the terms of the bequest, buildings and related structures substantially dating from before 1714).

The types of project likely to be eligible for assistance include removal of car parking, screening of ancillary buildings, tree planting and improvement to hard and soft landscaping in the immediate vicinity of the cathedral/abbey/church; and works to enhance or remove obstructions from key sight lines to and from the cathedral/abbey/church. Work to the cathedral/abbey or church fabric itself or provision of new facilities such as car parking, WCs and disabled access are not eligible, unless they contribute directly to improved visual amenity.

Grants from the CAF are not made retrospectively for work that has already been started or been completed prior to submission of an application to the Fund.

- 8.3 The English Cathedrals Repair Fund (“ECRF” - the Florence Adella Baddeley Bequest, which now incorporates the legacy of Miss Joan Poole) exists to assist with the care and conservation of the Church of England’s cathedrals in England.

The types of project likely to be eligible for assistance include the conservation or repair of specific and distinct elements of the cathedral’s fabric such as decorative stone carving, decorative metal work or statuary; and the conservation or repair of monuments or objects of historic, artistic, architectural or archaeological interest. In practice, such objects are likely to be designated **outstanding** on the cathedral’s Inventory.

Applications for assistance from the ECRF should be submitted in tandem with a formal application to the Commission (under the 1990 Measure) for approval of the proposal in question.

Applications to the ECRF for assistance with work that has already been approved by the Commission will also be considered. However, grants cannot be offered retrospectively for work that has already been started or completed prior to submission of an application to the Fund.

PART 2

DETERMINING AN APPLICATION: Procedures for the Cathedrals Fabric Commission for England

1 Proposals Requiring an Application to the Commission

- 1.1 As set out in Part 1, paragraphs 4.1-4.4 above, under section 6 of the 1990 Measure,¹⁷ applications for approval of specified categories of proposal must be made to the Commission. These are proposals (including proposals by others which require the Chapter's consent, as well as proposals to be implemented by the Chapter itself) that involve:
- (i) works, including works of repair or maintenance, that would permanently alter the fabric of the cathedral church or any other building in the Precinct which is for the time being used for "ecclesiastical purposes"
 - (ii) the demolition of any part of the cathedral church or such other building as in (i)
 - (iii) the disturbance or destruction of any archaeological remains within the Precinct
 - (iv) the sale, loan or other disposal of, or the carrying out of any works to, any object to whose the ownership, custody or possession of the corporate body of the cathedral is entitled, and which has been designated under the 1990 Measure as being of **outstanding** architectural, archaeological, artistic or historic interest
 - (v) works relating to items which have been found within the Precinct and which would be items of "Treasure" under *the Treasure Act 1996* had they not been specially excepted by an Order under the Act.¹⁸
- 1.2 In addition, the Commission may call in an application for approval of any other proposal that gives rise to considerations of such special architectural, archaeological, artistic or historic interest that, in the Commission's view, it should itself determine the application. This procedure requires the Commission to issue a written declaration to that effect.
- 1.3 Under the 1994 Measure, where works require approval under the 1990 Measure, but this was not obtained in advance, an application for retrospective approval can only be made to and determined by the Commission. Such applications cannot be made to or determined by a cathedral's FAC.
- 1.4 All other applications for approval required under section 2 of the 1990 Measure are properly made to the FAC of the cathedral in question. However,

¹⁷ See Procedural Guide 1 *The Care of Cathedrals Measures 1990 as amended: A General Introduction and Context* (March 2008).

¹⁸ See paragraph 4.14 below.

in respect of an application properly made to it, at least three members of the FAC may vote to refer that application to the Commission on the grounds that it gives rise to special architectural, archaeological, artistic or historic considerations.

- 1.5 Conversely, under section 6 (3) of the 1990 Measure, in respect of an application properly made to it, the Commission may refer that application to an FAC for determination, by making a declaration in writing that the proposal does not give rise to considerations of such special interest as to require an application to be determined by the Commission.
- 1.6 Further, section 6 (2A)-(2D) of the Measure sets out some special types of cases which would normally need to be determined by the Commission but where the Commission can decide that the application should be made instead to the FAC, or that no approval is required. These are cases where:
- (i) the Commission considers that the proposal does not give rise to considerations of sufficient importance to require the application to be determined by the Commission itself
 - (ii) the Commission, after consultation, has decided that the provisions in section 6.1 listed in paragraph 1.1 above are not to apply to a class or description of proposals; or
 - (iii) a proposal falls within the scope of the 1990 Measure but:
 - it does not relate to the cathedral church itself or a building within the Precinct which is used for “ecclesiastical purposes”
 - Planning Permission, Listed Building Consent or Scheduled Monument Consent would be required for all the works in that proposal; and
 - the Commission is satisfied that any considerations relevant to preserving the immediate setting of the cathedral church or archaeological remains within the Precinct will be, or have been, adequately taken into account by the person or body responsible for granting that secular permission or consent

In such cases, the Commission may, again subject to consultation, decide that no “dual control” application is to be required under the Measure.¹⁹

2 The Pre-Application Stage

- 2.1 In respect of any project for which it is anticipated that, in due course, an application for approval will be made to it, the Commission will expect its informal preliminary advice to be sought as early as possible in the process. It will also expect the proposal to have been fully discussed with the FAC. In certain cases the Commission may indicate that it considers preliminary

¹⁹ For an explanation of “dual control” see Procedural Guide 2 *Proposals requiring approval: What requires approval and to whom should an application be made? & Making an application: Procedures for Cathedral Administrators* (March 2008).

discussions would also be helpful with the LPA, with English Heritage, or with other bodies such as the National Amenity Societies (see Part 1, paragraph 6.4 above).

- 2.2 In most cases where substantial or complex proposals are involved, the Commission will offer to discuss a project on site at the cathedral with representatives of the Chapter and of the FAC. It will appoint a delegation of its members for this purpose, who will visit and report back to the full Commission, which will then give its corporate advice.
- 2.3 At the pre-application stage the Commission's advice is, and must be, given without prejudice to its subsequent impartial consideration of a formal application and of the written representations that may be received from third parties in respect of it. The preliminary advice will seek to identify any aspects of the proposal that the Commission considers could helpfully be considered further before the application is made. It will not indicate prior approval of the proposal, but may indicate that it is ready to receive an application for the proposed work along the lines discussed.
- 2.4 The Commission may also indicate to the Chapter what preliminary assessments it will expect to have been carried out, and what documentation it will expect to be submitted in support of the application.²⁰

3 Receiving an Application

- 3.1 The Cathedral Administrator should make the application to the Secretary of the Commission, using Form 8. The Commission Secretariat will check the form for confirmation that, at the same time as the application is made, the required notices of the application (Form 9) have been displayed inside and outside the cathedral where they are readily visible to the public, and have been issued to the statutory consultees specified in the 1990 Measure and the 2006 Rules (that is, to the LPA,²¹ to English Heritage, to SPAB²²) and to the FAC.²³ These notices will give particulars of the proposal and state that written representations may be sent to the Secretary to the Commission within 28 days of the date of notice. The notices to the statutory consultees must be accompanied by the same supporting documentation that accompanied the application, and the notices inside and outside the cathedral must state when and where those documents can be inspected.²⁴

²⁰ See Guidance Note 8 *The Care, Conservation and Development of Cathedrals* (November 1999, revised March 2008). Guidance Note 4 *Procedures for Major Developments at Cathedrals* (March 2008) might also be of assistance.

²¹ Except for applications relating to the sale, loan or disposal of objects or the carrying out of works to objects.

²² SPAB acts as a "clearing house" for the National Amenity Societies.

²³ See Procedural Guide 2 *Proposals requiring approval: What requires approval and to whom should an application be made? & Making an application: Procedures for Cathedral Administrators* (March 2008).

²⁴ All the forms referred to in this Procedural Guide are appended to the 2006 Rules and can also be downloaded from the Church of England website:
<http://www.cofe.anglican.org/about/cathandchurchbuild/cathedralforms/>

- 3.2 The notices displayed inside and outside the cathedral must be displayed for 28 days, and 28 days from the date of the notice is allowed for making representations. At the expiry of the 28-day period, the Cathedral Administrator must return the Certificate of Publication in Form 9 to the Secretary of the Commission, to confirm that the necessary notification procedures have been undertaken. The Commission cannot determine the application until this certificate is in hand.
- 3.3 The application will be referred to the next meeting of the Commission following its receipt. (The Commission’s calendar of meeting dates and deadlines for submission of new applications is published in advance.)
- 3.4 When it first receives an application, the Commission will consider two matters. Firstly, whether a visit by a delegation to discuss the proposal on site is desirable (if such a visit has not already taken place). Secondly, whether the application is accompanied by such supporting information as is necessary to provide a full description of the project. The issues that the Commission will expect to see covered by the supporting information are indicated in more detail in the next section.
- 3.5 As explained in Part 1, paragraph 3.7 above, in some cases the Commission finds it appropriate to invite Chapter representatives and their professional advisers to make a presentation at a full Commission meeting, by prior arrangement. Time at these meetings is limited and the Secretariat will, in advance of the meeting, advise any such representatives of the time slot allocated to them. Discussion of proposals in detail with Chapter representatives and their professional advisers will usually have taken place on a site visit.
- 3.6 As explained in Part 1, paragraph 3.1 above, the Commission has a power, should it be needed, to hold a public hearing in connection with any matter to be considered by it, for the purpose of receiving oral representations from members of the public. The Commission may also appoint a panel of not less than three of its members to hold a public hearing on any matter which the Commission specifies, and to report back to it.

4 Considering an Application

- 4.1 In determining an application (as in all its other functions), the Commission has a statutory duty under section 1 of the 1990 Measure to “have due regard to the fact that the cathedral church is the seat of the bishop and a centre of worship and mission”.
- 4.2 Without prejudice to this, under section 11A of the 1990 Measure (added by the 2005 Measure), the Commission also has a duty to have due regard to the desirability of preserving the fabric of the cathedral church and any features of interest, the immediate setting of the cathedral church, any building of interest or archaeological remains within its Precinct and any objects of interest. It also has to bear in mind the Code of Practice issued by the Government setting out the terms agreed between the exempt denominations and the Government in

relation to the ecclesiastical exemption from some of the secular controls. This continues on the basis that the Church has adequate controls of its own, and the Code of Practice explains that the relevant Church decision-making body should be required to “take into account ... along with other factors, the desirability of preserving historic church buildings and the importance of protecting features of architectural merit and historic interest”.²⁵

- 4.3 Under the 1990 Measure and the 2006 Rules,²⁶ after the Commission has received the Certificate of Publication it is required to consider any representations made to it. Such representations may be expected from the cathedral’s FAC, the LPA, English Heritage, the National Amenity Societies or any member of the public. The Commission will expect those making representations to do so within the 28-day period wherever possible, but, at its discretion, it may allow longer if one of the parties has given a good reason for requiring more time. The Commission will consider all representations made to it fully and fairly.

Permanent Alterations and Partial Demolitions

- 4.4 Where an application concerns a proposed permanent alteration or demolition of any part of the cathedral church or of any building in the Precinct which is for the time being used for “ecclesiastical purposes”, before determining it the Commission will expect the Chapter to have provided an overview of the proposal and its context,²⁷ including:

- (i) an analysis of how the proposal relates strategically to the cathedral’s life, work and mission, including a liturgical statement, demonstrating the permanent benefits that will derive from the scheme in question, and showing whether these benefits are desirable, necessary and sustainable
- (ii) evidence that the impact of the proposals on the architectural, archaeological, artistic and historic character of the building and its contents has been fully assessed and understood, and that this understanding has informed the particular proposals
- (iii) an indication of how the proposals relate to the cathedral’s Conservation Plan, if it has one.

- 4.5 In more detail, the Commission will also expect the supporting information to include (as appropriate) the following:

- (iv) a project description by the architect responsible for the scheme (this may be the Cathedral Architect or Surveyor of the Fabric or, for new

²⁵ Planning Policy Guidance Note 15, *Planning and the Historic Environment* (Department of the Environment and Department of National Heritage, 1994), section 8.4.

²⁶ This is also required under the Code of Practice relating to the ecclesiastical exemption referred to in the previous paragraph.

²⁷ For more detail see Guidance Note 8, *The Care, Conservation and Development of Cathedrals* (November 1999, revised March 2008).

works, another architect engaged specifically for the works in question)

- (v) an options appraisal detailing alternative solutions that have been examined, and the reasons for rejecting these and selecting the option put forward
- (vi) statements by the Cathedral Architect or Surveyor of the Fabric and the Cathedral Archaeologist about how the proposed works will alter or otherwise materially affect the fabric or permanent contents²⁸ of the building; together with proposals for mitigating that impact (including proposals for recording the fabric before and during the works)
- (vii) where new work is involved, an assessment of the implications this may have for the future maintenance and conservation of the fabric
- (viii) such other written, drawn and photographic material as is necessary to give a sufficient account of the proposed works
- (ix) such reports or assessments made by subject or technical experts necessary to support or fully describe the proposed works (these may relate specifically to the impact upon the fabric or may provide contextual information, such as visitor surveys etc)

bearing in mind that such information should be proportionate in scope to the particular project, and that it should provide a full understanding of what is proposed.

The Disturbance or Destruction of Archaeological Remains

4.6 The Commission recognises and endorses the Government policy set out in planning guidance establishing a presumption in favour of the physical preservation without disturbance of nationally important archaeological remains.²⁹ If, therefore, an application is submitted for a proposal that may involve the disturbance or destruction of archaeological remains, the Commission will again expect the Chapter to provide an overview of the proposal and its context, including:

- (i) an analysis of the how the proposal relates strategically to the cathedral's life, work and mission, including a liturgical statement, demonstrating the permanent benefits that will derive from the scheme in question, and showing whether these benefits are desirable, necessary and sustainable

²⁸ Under section 20 (2) of the 1990 Measure any object or structure permanently situated in a cathedral church or any building within the Precinct is to be treated as part of the cathedral or building.

²⁹ See Guidance Note 5, *Cathedrals and Archaeology: a Guide to Good Management* (November 1994) and Planning Policy Guidance Note 16, *Archaeology and Planning* (Department of the Environment, 1990).

- (ii) evidence that the impact of the proposal on the archaeology of the Precinct and its buildings has been fully assessed and understood, and that this understanding has informed the particular proposals
- (iii) an indication of how the proposals relate to the cathedral's Conservation Plan, if it has one.

4.7 In more detail, the Commission will also expect the supporting information to include (as appropriate) the following:

- (iv) an assessment by (or in accordance with a Brief by) the Cathedral Archaeologist, reviewing the existing archaeological information about the site, and analysing the likely impact upon it of the proposed works
- (v) a statement of how it is proposed to mitigate the archaeological impact of the proposal, e.g. through preservation beneath the level of the works, through archaeological recording and excavation, or by other means
- (vi) an options appraisal detailing alternative sites and alternative construction methods that have been examined, such as might have minimised still more the archaeological disturbance, and the reasons for rejecting these options
- (vii) a commitment by the Chapter to provide adequate resources to see any archaeological project through from its inception to its appropriate completion (including post-fieldwork analysis and archive deposition) and the dissemination of the results, in accordance with established good practice and published professional standards
- (viii) such other written, drawn and photographic material as is necessary to give a sufficient account of the proposed works

bearing in mind that such information should be proportionate in scope to the particular project, and that it should provide a full understanding of what is proposed.

4.8 If the assessment by the Cathedral Archaeologist, referred to above, does not provide sufficient archaeological information about the site to analyse the likely impact on it of the proposed development, the Commission may request that further information be obtained through a field evaluation. Such an evaluation may involve geophysical survey, trial excavation, or the opening up of sections of fabric (which may, in itself, require the Commission's prior approval).

4.9 If the application refers to an archaeological research excavation (rather than disturbance occasioned by some other project), the Commission will still have a presumption in favour of the preservation of important archaeological remains. This presumption, however, will not rule out the possibility of a

research excavation where the Chapter is able to demonstrate that the proposal is:

- (i) directed towards clearly formulated and convincing academic aims
- (ii) backed by resources of finance, personnel, technology and time, such as will be fully adequate to see the project through from inception to appropriate conclusion.

4.10 In all cases where, on the basis of the above information, the Commission approves an application for carrying out archaeological work, it will require additional documentation to be submitted and approved before the work is put in hand:

- (i) in the case of an archaeological excavation, an archaeological Project Design
- (ii) in the case of an archaeological monitoring project (usually a watching brief), an archaeological specification
- (iii) in the case of the archaeological investigation and recording of standing buildings or structures, an archaeological Project Design or specification.

In each case the Project Design or specification should be drawn up in accordance with a Brief provided by the Cathedral Archaeologist, or a Brief drawn up by another competent archaeologist and approved by the Cathedral Archaeologist.

The Sale, Loan or Disposal of Objects of **Outstanding** Interest

4.11 Where an application concerns the loan for temporary exhibition of an object of **outstanding** architectural, archaeological, artistic or historic interest, the Commission will expect the information supporting the application to include the following:

- (i) a description of the object in question (a copy of the Inventory entry and photograph would be appropriate)
- (ii) details of the location, duration, aims and scope of the exhibition for which the loan is requested, and how the object in question will relate to these
- (iii) details of the proposed arrangements for insurance, transport, handling, security and environmental control and monitoring, during the exhibition and in transit
- (iv) information on the condition of the object and any conservation requirements it may have, together with an assessment of any

foreseeable risks to the object that might be incurred if it were to be moved from its context in the cathedral

- (v) details of any proposals for the conservation of the object.

4.12 Where an application concerns the sale, the long-term loan, or any other disposal of an object of **outstanding** architectural, archaeological, artistic or historic interest the Commission will expect the information supporting the application to include the following:

- (i) a description of the object in question (a copy of the Inventory entry and photograph would be appropriate)
- (ii) a more detailed assessment of the object's historic association with the cathedral and its importance within the cathedral collections as a whole
- (iii) a detailed statement of the reasons proposed for the disposal
- (iv) a statement of whether there are any reasons the Chapter could not continue to look after the object and provide for its proper care and conservation
- (v) if the sale of the object is proposed, a statement covering:
- the proposed method of sale
 - how the money anticipated from the sale would be used
 - if a particular project is to be funded, how that project fits strategically into the cathedral's work and mission
 - what the consequences would be if the sale of the object in question did not go ahead.

4.13 In addition:

- (i) the Commission may request the Chapter to consult the cathedral Council if it has not already done so, and to inform the Commission of the Council's views; and
- (ii) the Commission may consult the Church Commissioners on any financial consideration (other than the value of the object).

In practice, the question of the possible use of these powers would normally arise in cases under paragraph 4.12 above rather than those under paragraph 4.11.

Works to Objects of **Outstanding** Interest

4.14 Where an application concerns the carrying out of works to an object of **outstanding** architectural, archaeological, artistic or historic interest the Commission will expect the information supporting the application to include the following:

- (i) a description of the object in question (a copy of the Inventory entry and photograph would be appropriate)
- (ii) a detailed statement of the works proposed and the reasons for them
- (iii) such reports or assessments made by subject or technical experts necessary to support or fully describe the proposed works.

In the above instances, such information should be proportionate in scope to the particular project, and that it should provide a full understanding of what is proposed.

Treasure

- 4.15 The Commission proposes, in due course, to issue a Procedural Guidance Note (PGN2) *Procedures for items of Treasure found within a Cathedral Precinct* explaining the provisions for such items that were introduced by the 2005 Measure.³⁰

5 Determining an Application

- 5.1 Having considered an application and its supporting information, and having considered all the representations made to it, the Commission will determine the application. It must do this within three months following the expiry of the 28-day statutory period for written representations and the holding of any public hearing. If it does not, the applicants may request a review by a specially constituted Commission of Review.
- 5.2 The Commission may either approve an application unconditionally or subject to conditions, or it may refuse to give its approval. This may include approving one part of a proposal but refusing a separate or subsidiary element of it.
- 5.3 In practice, as an alternative to refusing a proposal outright, the Commission may informally advise the Chapter to withdraw a proposal in its submitted form, and to resubmit it in a revised form; or defer its determination in order to seek additional information or clarification from the Chapter.
- 5.4 In a case where the Commission is willing to approve a project in outline, it may, by way of a conditional approval, require the submission to it of further details for approval or information before work is put in hand. Alternatively it may delegate to an FAC the consideration of such further details.
- 5.5 Where the Commission refuses an application, or approves it subject to conditions, it must state its reasons clearly.

³⁰ See section 6A of the 1990 Measure (added by the 2005 Measure) and Schedule 1 to the 2006 Rules, which came into effect on 1st January 2008. However, at the time of writing (March 2008), these provisions are not yet in operation as they are dependent on the making of an Order under the Treasure Act 1996, the timetable for which is a matter for Government. The Order has not yet been made.

- 5.6 The Secretary of the Commission will issue formal notices of the Commission's determination (on Form 10) within ten days of the relevant meeting of the Commission. The notice will be sent to the Chapter, the FAC, English Heritage and the National Amenity Societies (via SPAB), to the LPA (except in cases dealing solely with objects) and to the Church Commissioners in cases where they were consulted under the provision explained in paragraph 4.13 (i) above.
- 5.7 In addition to a notice of determination including formal conditions, in a covering letter the Commission may draw certain matters to the attention of the Chapter and ask that these be given further consideration. Such informal comments do not affect the validity of any approval given by the formal notice.
- 5.8 Where the Commission's approval is given subject to conditions, it is the Cathedral Administrator's responsibility to draw these to the attention of the relevant persons at the cathedral.
- 5.9 A Chapter may request a review by a specially constituted Commission of Review of any determination by the Commission within three months of receiving the notice thereof.³¹
- 5.10 Under provisions in section 10A of the 1990 Measure, introduced by the 2005 Measure, any approval given to an application under the Measure by the Commission (or by an FAC) lapses 10 years from the date of the decision notice to the Chapter. However, that period may be extended by the body which gave the approval, at its discretion.³²
- 5.11 Under the same section, as soon as possible after the completion of any work for which approval has been given, the Cathedral Administrator is required to notify the Commission (or the FAC as the case may be) of completion.

Cathedrals Fabric Commission for England
March 2008

³¹ See Procedural Guide 2 *Proposals requiring approval: What requires approval and to whom should an application be made? & Making an application: Procedures for Cathedral Administrators* (March 2008) for an explanation of the appeals procedure. The 2005 Measure introduced special provisions – to be found in section 10C of the 1990 Measure as amended - for appeal by a tenant who wishes to implement a proposal and requires the Chapter's consent to do so, if the Chapter's application for approval is refused or granted subject to conditions.

³² Where the approval was given before the 2005 Measure came into force, the 10-year period runs from the date when section 9 of that Measure came into force, i.e. 1st January 2008.