



James Davidson-Brett  
Pastoral Case Advisor

4/9/2020

**Mission and Pastoral Measure 2011  
Draft Pastoral Scheme**

**Part of the detached burial ground of Saint Nicholas, Durham in the diocese of Durham**

The Bishop has asked us to prepare a draft Pastoral Church Buildings Scheme in respect of pastoral proposals affecting this benefice.

I attach a copy of the draft Scheme. I am sending a copy to all the statutory interested parties, as the Mission and Pastoral Measure requires, and any others with an interest in the proposals.

Anyone may make representations **for** or **against** all or any part or parts of the draft Scheme (please include the reasons for your views) preferably by email or by post to reach me no later than midnight on **16 November 2020**. If we have not acknowledged receipt of your representation before this date, please ring or e-mail me to ensure it has been received. For administrative purposes, a petition will be classed as a single representation and we will only correspond with the sender of the petition, if known, or otherwise the first signatory for whom we can identify an address – “the primary petitioner”.

If we do not receive representations against the draft Scheme, we will make the Scheme and it will come into effect as it provides. A copy of the completed Scheme will be sent to you together with a note of its effective date.

If we receive any representations against the draft Scheme, we will send them, and any representations supporting the draft Scheme, to the Bishop whose views will be sought. Individual representors and the primary petitioner will then receive copies of our correspondence with the Bishop (including copies of all the representations). They and individual petitioners may comment further. Copies of all of the representations received and associated correspondence will normally be published on the Commissioners' website if the matter needs to be considered by us.

Those making representations should indicate whether they would like an opportunity to speak to the Commissioners regarding their representations in the event the Commissioners decide a hearing should be held. Meetings are normally held at Church House, Westminster, but during the current circumstances they may need to be held virtually via 'Zoom'. If a hearing is held, we will let you know the arrangements for attending (in person or virtually) and details will also appear on our website.

*Church House, Great Smith Street, London, SW1P 3AZ*  
*Direct line 01403 581025 Email: james.davidson-brett@churchofengland.org*  
*DX: 148403 Westminster 5*  
*Website: www.ccpastoral.org*

The Church Commissioners are a registered charity (number 1140097)

Otherwise, if a hearing is not to be held, the case will be considered in private and you will be informed accordingly.

When we acknowledge representations we will let individual representors (and the primary petitioner) know the next few dates of our Committee's meetings. We will confirm the actual date of any hearing nearer the time. The Commissioners will decide if the draft Scheme should proceed when they consider all the representations on the basis of a paper prepared by their staff and any points raised at the meeting. If the Commissioners do so decide, any representor or petitioner against the draft Scheme may seek leave from the Privy Council to appeal against the decision.

You will be informed of the Commissioners' decision and the reasons for it.

Please see [www.churchofengland.org/consultation](http://www.churchofengland.org/consultation) for further information about the procedure.

**PCC Secretaries, incumbents/priests-in-charge/rural deans, persons taking services during the Notice Period and local planning authorities should refer to the relevant notes below for important additional information concerning them.**

James Davidson-Brett  
Case Officer

## Notes

### 1. PCC Secretaries

The draft Scheme is sent to you to ensure that the PCC as a body is able to make a representation on the draft if it wishes.

#### **PCC Secretaries are required to:**

- i) print and display the Notice(s) ***(to avoid spread of Covid-19, please display single-sided)*** at or near the main door of both parish churches.
- ii) make arrangements for the Announcement (see 2. below) to be made at as many services as possible at every parish church, chapel of ease or licensed place of worship in your parish where a service is held during the notice period (including any that are 'streamed').

**Please e-mail or telephone me confirmation as soon as you have displayed the Notice(s) and made arrangements for the announcements to be made. Do not wait until the end of the notice period before confirming this.**

Although the following are not legal requirements, to ensure that as many of those who habitually attend public worship, as is practicable, are aware of the contents of the Notice, you are also encouraged to take (or make arrangements for), where possible, such of the following steps as is appropriate in your parish:

- i) arrange for copies of the Notice to be posted to members of the worshipping community who are shielding or self-isolating (in accordance with the general advice to parishes this should be by the postal service and not hand delivered);

- ii) insert the Notice in the parish magazine or newsletter;
- iii) use Facebook/social media posts;
- iv) send emails; and
- v) spread by word of mouth, including pastoral telephone calls.

**Please make a note of what you have been able to do regarding steps i) to v) above in case the consultation process is queried.**

If you are no longer the PCC Secretary, please pass this communication to the current Secretary and let me have a note of his or her name and email/postal address.

**Further action required as there is a proposed church closure**

In addition to the above, a copy of the draft Scheme must be made available for inspection in the locality – the arrangements for this will already have been made with the parish(es) concerned.

**If you are the person doing this, will you please let me know that you have taken this additional step.**

If you are no longer the PCC Secretary, please pass this communication to the current Secretary who should let me have a note of his or her name and address.

## **2. The Announcement**

Anybody taking services (including those that are ‘streamed’) during the Notice Period should ensure that the following announcement is made.

**PCC**

***“A Notice giving the objects of proposed pastoral reorganisation affecting this parish has or will be displayed near the main door and on the Church of England website. The Notice includes the last date by which representations regarding the proposed reorganisation may be made to the Church Commissioners.”***

**Secretaries** – please note that it is essential that:

- i) Notices are displayed; and
- ii) arrangements are made for Announcements.

## **3. Incumbents/priests-in-charge/rural deans**

Please ensure that the required Notices are displayed and Announcements made.

If a PCC Secretary is not able to carry out these requirements, please could you arrange for these matters to be dealt with as soon as possible.

**SUMMARY OF MAIN PROVISIONS OF DRAFT SCHEME (NOT PART OF THE DRAFT SCHEME)**

*This draft Scheme provides for the transfer of part of the detached burial ground of Saint Nicholas, Durham in the diocese of Durham to the Durham DBF for sale to the Orthodox Church of Saint Cuthbert and Saint Bede, Durham for a place of worship and for the application of the net sale proceeds to the Durham Diocesan Pastoral Account.*

**DRAFT  
PASTORAL SCHEME**

This Scheme is made by the Church Commissioners this     day of     20     in pursuance of section 44 of the Mission and Pastoral Measure 2011 ("the 2011 Measure"), the Right Reverend Paul, Bishop of Durham, having consented thereto.

**Appropriation of part of burial ground**

1. The parcel of land which is indicated by hatching on the plan annexed hereto ("the land") and which consists of part of a burial ground vested in the incumbent of the benefice of Saint Nicholas, Durham but not annexed or belonging to a church, shall be appropriated, subject as hereinafter provided, to use as a place of worship for the Orthodox Church of Saint Cuthbert and Saint Bede, Durham and for purposes ancillary thereto ("the uses").

**Vesting and disposal**

2. (1) The land shall without any conveyance or other assurance vest in the Durham Diocesan Board of Finance ("the Board") and the Board is hereby empowered to sell, lease or otherwise dispose of the land for the uses subject to the following conditions:

- (i) that the land shall not be used for any purpose other than the uses without the consent in writing of the Board, given after consultation with the incumbent of the benefice ("the incumbent") or, in a vacancy of the said benefice, with the parochial church council of the parish ("the council") within the area of which in each case the land is for the time being situated;
- (ii) that no building or buildings shall be erected on the land except in accordance with plans, elevations and specifications of materials approved by the Board after consultation with the incumbent or, in a vacancy of the said benefice, with the council;
- (iii) that nothing shall be done in or upon the land or any part thereof which may be or become a nuisance, annoyance or disturbance to the minister for the time being conducting or the congregation attending divine service in the parish church of Saint Nicholas, Durham or the remaining part of the said burial ground;
- (iv) that the use of the right of way conferred by this Scheme is subject to the payment of a fair and proper proportion of the cost of keeping the same in good and substantial repair;
- (v) that any conveyance or lease of the land shall contain covenants on the part of the grantee to observe and perform the above-mentioned conditions.

(2) To enable the land to be used for such purposes as may, from time to time, be in accordance with the provisions of this Scheme a right of way with or without private/motor vehicles over and along that part of the said burial ground which is indicated by stippling on the said plan.

(3) No use or development of the land shall take place and no sale, lease or other disposal of the land in pursuance of this Scheme shall be made by the Board before the requirements of Section 78(1) of the 2011 Measure and of Schedule 6 thereto in relation to the disposal of human remains, tombstones, monuments

and other memorials within or on the whole or any part of the land have been satisfied, or the Secretary of State has by Order under Section 78(3) of the 2011 Measure dispensed with the aforesaid requirements so far as they concern the removal of human remains within the whole or any part of the land.

**Power to impose and enforce covenants**

3. The provisions of Section 75(1) of the 2011 Measure with regard to the power to impose and enforce covenants shall apply in relation to any sale, lease or other disposal of the land by the Board.

**Removal of legal effects of consecration**

4. The provisions of Section 74(1) and (3) of the 2011 Measure (which provide for the legal effects of consecration and the faculty jurisdiction to cease to apply to land except where it is subsequently restored to its former use or is appropriated to another use for which consecration would be required) shall apply to the land as if it were land to which Section 74(1) applied and the exercise of the right granted by Clause 2(2) hereof.

**Proceeds of disposal of land**

5 The proceeds of any sale, lease or other disposal of the land in pursuance of clause 2 hereof, after payment of the expenses incidental to this Scheme and any such disposal, and any income arising therefrom shall be placed to the credit of the Durham Diocesan Pastoral Account

**Coming into operation of this Scheme**

6. This Scheme shall come into operation upon the first day of the month following the date of it being made by the Church Commissioners.

In witness of which this Scheme has been duly executed as a deed by the Church Commissioners.

SIGNED by the )  
 )  
Right Reverend Paul, )  
 )  
Bishop of Durham. )

Executed as a Deed by the Church Commissioners for England acting by two authorised signatories:

-----  
Signature of Authorised Signatory

-----  
Signature of Authorised Signatory

-----

## Notes by the Diocesan office (not forming part of the draft Scheme)

The rationale behind the diocesan proposals is as follows:

**This appropriation will allow part of the Providence Row burial ground to be used by the Orthodox Church of Saint Cuthbert and Saint Bede.**

Publication of this draft Scheme has been approved by the Church Commissioners but does not mean that they have taken a view on the merits of the diocesan case.

If they receive representations against the draft Scheme, they will send all representations, both for and against, to the Bishop and ask for his views. Individual representors (along with all the interested parties) will then receive copies of their correspondence with the Bishop (including copies of all the representations) and they may comment further in writing to the Commissioners on the issues raised in their original letter in light of the diocesan response if they so wish.

If there are no representations against the draft Scheme, the Commissioners will make the Scheme and arrange for it to be brought into effect.

The effect of clause 4 is that the land ceases to be subject to the legal effects of consecration and that the faculty jurisdiction of the consistory court ceases to apply to the land. But should any of the land ever be restored to its original use (as a churchyard, burial ground etc.) or appropriated to any other use for which consecration would be required the legal affects of consecration, and the faculty jurisdiction of the consistory court, are automatically reinstated in respect of the land that is restored for use as a churchyard etc or appropriated for another use for which consecration would be required.

# LAND AT PROVIDENCE ROW CEMETERY



Drawn by  
godonnell

Scale  
1:1000 at A4

Date  
18/08/2020

File Pathname / Project / Drawing No.  
\\PastoralPlans\\S30\\24R\_ProvCem\_18Aug20.wor

© Crown copyright and database rights 2020.  
Ordnance Survey Licence number 100040148

A fuller version is available in the Code of Recommended Practice to the Mission and Pastoral Measure 2011 <https://www.churchofengland.org/more/parish-reorganisation-and-closed-church-buildings/mission-and-pastoral-measure-2011-and-code#na>

|   |  |
|---|--|
| Archbishop  | Senior bishop with authority over a Province - of Canterbury and of York.  |
| Archdeacon  | An office held by a senior clergyman appointed by the bishop with an administrative responsibility over an archdeaconry. Some of his duties are laid down by law but in other respects his duties vary according to diocesan practice: they include care for church property.  |
| Archdeaconry                                      | Sub-division of the diocese over which an archdeacon has administrative responsibility.  |
| Benefice  | An ecclesiastical office carrying certain duties. An incumbent's benefice is therefore not a geographical area (see parish) but the office to which (s)he is appointed and may comprise one or more parishes. A benefice may be a rectory or vicarage from which the incumbent is called rector or vicar.  |
| Bishop  | In the Church of England the bishop is the central focus of organisation and ministry within his diocese. He is the chief pastor and authority and shares the cure of souls with all the incumbents of that diocese. He is also, in his own person, the chief representative of the diocese in the work of the wider church. He may be assisted by suffragan or assistant bishops. |
| Common Tenure                                     | The basis on which all Church of England offices will eventually be held under the Ecclesiastical Offices (Terms of Service) Measure 2009. Existing holders of freehold offices may decide not to opt-in to Common Tenure but new office holders will be on Common Tenure.   |
| Chapel of Ease                                    | A consecrated church that it is not a parish church but is within a parish that does have a parish church. Originally for the ease of parishioners who could not attend the parish church.   |
| Church Representation Rules                       | Schedule 3 to the Synodical Government Measure 1969 but updated as a separate booklet. They contain the mechanism for the setting up of representative bodies in the Church of England from parochial church councils to the House of Laity of the General Synod.  |
| Cure of Souls                                     | 'Cure' means 'care'. The bishop has the universal cure of souls in a diocese but, subject to this, the incumbent of a benefice (or team rector and team vicar(s) in a team ministry) has the exclusive cure of souls within his or her parish or parishes. The expression should not be confused with the more general phrase 'pastoral care'.                                     |
| Deanery   | A sub-division of an archdeaconry usually comprising between 10 and 20 parishes.   |
| Declaration of closure for regular public worship | The act of closing a church for public worship under the Mission and Pastoral Measure 2011.  |
| Diocesan Board of Finance                         | A company constituted by the diocesan synod and regulated by the Companies Acts. A board of finance holds property for Church of England purposes, transacts business in that connection and acts as a committee of the diocesan synod. It normally also acts as the diocesan trust.   |
| Diocesan Mission and Pastoral Committee           | Statutory Committee established by the Mission and Pastoral Measure 2011. Its duty is to review the arrangement for pastoral supervision in the diocese and, as appropriate, to make recommendations to the bishop.  |
| Diocese   | One of 41 main territorial units of the Church of England over which a bishop has responsibility. Divided into archdeaconries, deaneries and parishes.   |
| District Church Council                           | If a parish comprises two or more places of worship or churches then individual councils can be set up for the districts in which each place of worship or church is situated to exercise such functions as may be delegated by the parochial church council.  |
| Glebe   | Land or buildings vested in the Diocesan Board of Finance that either provides a rental income to augment the Diocesan Stipends Fund or provides housing for those involved in the cure of souls.  |
| Group Council                                     | Where a group ministry is established the parochial church councils of the individual parishes can form a group council to act in the area as a whole in such matters as the individual PCCs together decide.  |
| Group Ministry                                    | An arrangement, authorised by the Mission and Pastoral Measure 2011 whereby the clergy of two or more separate benefices can assist each other to make the best possible provision for the cure of souls in the area as a whole.   |

|   |   |
|---|---|
| Incumbent                                       | Holder of a benefice (which can be either a freehold or a Common Tenure office) – and can be either a rector or a vicar - with responsibility for the cure of souls. May be assisted by curate, deacon, licensed lay worker, retired priest etc.  |
| Interested Party                                | One of the statutory persons or bodies that the Diocesan Pastoral Committee is required to consult in accordance with s.6 / 21 of the Mission and Pastoral Measure 2011.  |
| Joint Parochial Church Council                  | Where a benefice comprises two or more parishes the parochial church councils of the individual parishes can form a joint parochial church council to act in the benefice as a whole in such matters as the individual PCCs together decide.  |
| Leave to Appeal                                 | Any person who makes a representation to the Commissioners against a pastoral scheme has a right to apply for leave to appeal to the Judicial Committee of the Privy Council against a decision of the Commissioners to proceed notwithstanding that representation.  |
| Members ('Other') of a Team Ministry            | May be clerical or lay (see s.34 of Mission and Pastoral Measure 2011). They share the pastoral care of the area with the team rector and team vicars, but NOT the cure of souls.   |
| Mission and Pastoral Measure 2011               | The Measure of the General Synod which authorises changes in pastoral reorganisation. Designed to "make better provision for the cure of souls". Part of the law of the land and equivalent to an Act of Parliament.  |
| Mission, Pastoral and Church Property Committee | A Committee of the Commissioners' Board of Governors which makes decisions on representations on pastoral, church buildings, houses and glebe matters. It is chaired by the Third Church Estates Commissioner.  |
| Parish Centre of Worship                        | An unconsecrated Place of Worship designated by the bishop under s.43 of the Mission and Pastoral Measure 2011 whereupon for most purposes (other than marriage) it is regarded as a parish church.   |
| Parish Church                                   | A consecrated building in a parish in which, subject to canon law, the statutory services must be held. Parishioners have a right to be married, baptised etc. in the parish church. S.41(2) of the Mission and Pastoral Measure 2011 requires that any new church or existing building which is to become a parish church must be approved by the bishop, subject to the bishop having consulted both the Diocesan Pastoral Committee and the Diocesan Advisory Committee. |
| Parochial Church Council                        | Representative body of parishioners elected from those on the electoral roll in accordance with the Church Representation Rules. Usually chaired by incumbent.  |
| Parsonage House                                 | The official place of residence of an incumbent of a benefice. The house belongs to the incumbent in right of his or her office.  |
| Pastoral Order                                  | A document which effects changes in pastoral reorganisation made under the Mission and Pastoral Measure 2011. Differs from a pastoral scheme mainly in that it deals with lesser matters.   |
| Pastoral Scheme                                 | A document which effects more complex changes in pastoral reorganisation made under the Mission and Pastoral Measure 2011.  |
| Patron  | The person or body owning an advowson (i.e. right to present a priest to a benefice) who may be a private individual or a corporation (ecclesiastical or lay).  |
| Plurality                                       | The holding of two or more separate benefices by one incumbent who then has the freehold of all the benefices. This can only be authorised by a scheme or order under the Mission and Pastoral Measure 2011.  |
| Priest in Charge                                | A priest given charge of a benefice by licence of the bishop. (S)he has not been presented and is not the incumbent but holds office under common tenure.   |
| Representations                                 | The Mission and Pastoral Measure 2011 requires that any draft scheme or order be published and made available to the public. Any person can make written representations to the Commissioners either for or against what is proposed.   |
| Team Council                                    | Where a team ministry is established a team council can be established, either under the authority of a scheme or under the Church Representation Rules. Such a council is similar to a joint parochial church council and provides a formal structure for all the parishes in the team to discuss matters of mutual concern.   |
| Team Ministry                                   | A special form of ministry whereby a team of clergy and possibly lay people share the pastoral care of the area of a benefice. Can only be established by a pastoral scheme.  |

|             |   |
|-------------|---|
| Team Rector | The priest in a team ministry who heads the team and owns the property of the benefice. (S)he shares the cure of souls with the team vicars.            |
| Team Vicar  | A priest of incumbent status in a team ministry, other than the team rector. (S)he shares the cure of souls with the team rector and other team vicars. |

**Notice**  
**Mission and Pastoral Measure 2011**  
**Draft Pastoral Scheme**  
**Part of the detached burial ground of Saint Nicholas, Durham in the diocese of Durham**

**4/9/2020**

The Church Commissioners have prepared a draft Scheme in respect of proposals sent to them by the Bishop for:

***the transfer of part of the detached burial ground of Saint Nicholas, Durham in the diocese of Durham to the Durham DBF for sale to the Orthodox Church of Saint Cuthbert and Saint Bede, Durham for a place of worship and for the application of the net sale proceeds to the Durham Diocesan Pastoral Account.***

A copy of the draft Scheme may be inspected at the church.

The draft Scheme is on our website [www.churchofengland.org/consultation](http://www.churchofengland.org/consultation) or you may obtain a copy from me. **Large print and/or audio copies are available on request.** Anyone may make representations **for** or **against** all or any part of the draft Scheme (please include the reasons for your views) preferably by email or by post to reach me no later than midnight on **16 November 2020**. If I have not acknowledged its receipt, please ring or e-mail me. For administrative purposes, a petition will be classed as a single representation and we will only correspond with the sender of the petition, if known, or otherwise the first signatory for whom we can identify an address – “the primary petitioner”. When making a representation, please indicate the nature of your interest in the proposals (e.g. parishioner, member of parochial church council, etc) and whether you would like an opportunity to speak to the Commissioners regarding your representation if they decide a hearing should be held regarding the case. If we receive representations against the draft Scheme, we will send them, and any representations supporting the draft Scheme, to the Bishop whose views will be sought. Individual representors and the primary petitioner will then receive copies of the correspondence with the Bishop (including copies of all the representations) and will be told whether a hearing is to be held. They and individual petitioners may comment further to the Commissioners. Copies of all of the representations received and associated correspondence will be published on the Commissioners’ website if the matter needs to be considered by the Commissioners. If a hearing is held, anyone may attend the meeting of the Commissioners’ Committee that considers the case and representors may have an opportunity to speak to it. Otherwise, if a hearing is not to be held, the case will be considered in private and you will be informed accordingly. When we acknowledge representations we will let individual representors (and the primary petitioner) know the next few dates of our Committee’s meetings. We will confirm the actual date if a hearing is to be held nearer the time. The Committee will decide if the draft Scheme should proceed when it considers all the representations on the basis of a paper prepared by the Commissioners’ staff and any points raised at the meeting. The Commissioners will notify all representors of their decision and give a statement of the reasons for it.

If they so decide, any representor or petitioner against the draft Scheme may seek leave from the Privy Council to appeal against the decision. Please see [www.churchofengland.org/consultation](http://www.churchofengland.org/consultation) for further information about the procedure.

James Davidson-Brett (Case Officer )  
Tel: 01403 581025 Email address: [james.davidson-brett@churchofengland.org](mailto:james.davidson-brett@churchofengland.org)

Church Commissioners, Church House, Great Smith Street, London SW1P 3AZ