

11 November 2020

To all interested parties

**Mission and Pastoral Measure 2011  
Diocese of Birmingham  
Benefice of South Yardley, St Michael & All Angels**

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

I attach a copy of the draft Scheme and a glossary of terms used. 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 the Church Commissioners at the following address no later than midnight on **Monday 4 January 2021**.

Katie Lowe  
Church Commissioners  
Church House  
Great Smith Street  
London SW1P 3AZ  
(email [katie.lowe@churchofengland.org](mailto:katie.lowe@churchofengland.org)) (tel 020 7898 1737)

If they have not acknowledged receipt of your representation before this date, please ring or e-mail them to ensure it has been received. For administrative purposes, a petition will be classed as a single representation and they will only correspond with the sender of the petition, if known, or otherwise the first signatory for whom they can identify an address – “the primary petitioner”.

If the Commissioners do not receive representations against the draft Scheme, they 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 the Commissioners receive any representations against the draft Scheme, they 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 Commissioners' 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 them.

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. Their 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, they will let you know the arrangements for attending (in person or virtually) and details will also appear on their website. Otherwise, if a hearing is not to be held, the case will be considered in private and you will be informed accordingly.

When the Commissioners acknowledge representations they will let individual representors (and the primary petitioner) know the next few dates of their Committee's meetings. They 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.**

Yours sincerely

Dr Jan Smart  
Secretary to the Birmingham Diocesan Mission and Pastoral Committee

## 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.

**You are required as soon as possible 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 **every** parish church, chapel of ease or licensed place of worship in your parish; (whether or not they are currently open for individual prayer or services); if you are unable to print the Notice(s) please get in touch with me and I will make arrangements for copies to be sent to you for display;
- 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.

## 2. The Announcement

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

***“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.”***

**PCC 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. Please also let me know if there has been a recent change of Secretary in any of the parishes.

## 4. Circulation List

The Rt Revd David Urquhart

The Ven. Simon Heathfield  
Rosemary Lissaman

The Revd Andrew Bullock  
The Revd Toby Crowe  
Mrs Deirdre Moll

Patron: St Michael & All Angels, South  
Yardley  
Archdeacon of Aston  
PCC Secretary: St Michael & All Angels,  
South Yardley  
Co-Area Dean of Yardley & Solihull  
Co-Area Dean of Yardley & Solihull  
Deanery Synod Lay-Co Chair

Historic England (Midlands office)

Commonwealth War Graves Commission, 2 Marlow Road, Maidenhead, SL6 7DX  
Home Office, Coroners Unit, 5th Floor, Steel House, 11 Tothill Street, London SW1H  
9LH

Society of Genealogists

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

*This draft Scheme provides for the transfer of part of the churchyard of the parish church of Saint Michael and All Angels, South Yardley in the diocese of Birmingham to the Birmingham Diocesan Board of Finance for sale for residential purposes and for the net sale proceeds to be transferred to the Birmingham Diocesan Board of Finance.*

**DRAFT**

**PASTORAL SCHEME**

This Scheme is made by the Church Commissioners this        day of 2020 in pursuance of the Mission and Pastoral Measure 2011 ("the 2011 Measure"), the Right Reverend David, Bishop of Birmingham having consented thereto.

**Appropriation of part of churchyard**

1. That part of the churchyard of the church of Saint Michael and All Angels, being the parish church of the parish of Saint Michael and All Angels, South Yardley in the diocese of Birmingham, which is indicated by hatching and labelled A on the plan annexed hereto ("the land") shall be appropriated, subject as hereinafter provided, to use for residential purposes and for purposes ancillary thereto ("the uses").

**Vesting and disposal**

2. The land shall without any conveyance or other assurance vest in the Birmingham 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) the right to the passage of water, soil, gas, electricity and telecommunication services through any existing drains, sewers, pipes, wires, cables and other conducting media ("services") upon, under or over the land and the right (subject to prior arrangement with the owner or occupier) to enter the land in order to inspect, repair, maintain, relay and replace the existing services subject to the person exercising the said rights making good any damage caused to the reasonable satisfaction of the said owner or occupier;
- (ii) 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;
- (iii) 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;

- (iv) 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 said parish church or the remainder of the churchyard thereof;
- (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.

**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..

**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 held by the Board upon trust to expend the net proceeds and any income arising therefrom, shall be placed to the credit of the Birmingham Diocesan Pastoral Account.

**Coming into operation of this Scheme**

6. This Scheme shall come into operation upon 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 David, )  
 )  
 Bishop of Birmingham. )

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

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Signature of Authorised Signatory

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Signature of Authorised Signatory

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

The rationale behind the diocesan proposals is as follows:

**It is proposed to sell a section of parsonage garden (notices will be served on the interested parties under the Church Property Measure) and an unused small strip of consecrated churchyard for housing. The Birmingham Diocesan Board of Finance (DBF) has obtained planning permission for two dwellings and has marketed the site.**

**The DBF have agreed to share some of the proceeds with the PCC including some significant improvements to the parsonage.**

**The PCC gave their support for the development in 2018 and the Property Director provided a further update on Tuesday 8 September 2020. The incoming priest-in-charge, the Reverend Alex French, was also made aware of the proposed development during the interview process and had no objection to the proposed development.**

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, the Commissioners will send all representations, both for and against, to the Bishop whose views will be sought. Individual representors will then receive copies of the Commissioners' correspondence with the Bishop (including copies of all the representations) and they may comment further in writing to the Commissioners in light of the diocesan response if they so wish.

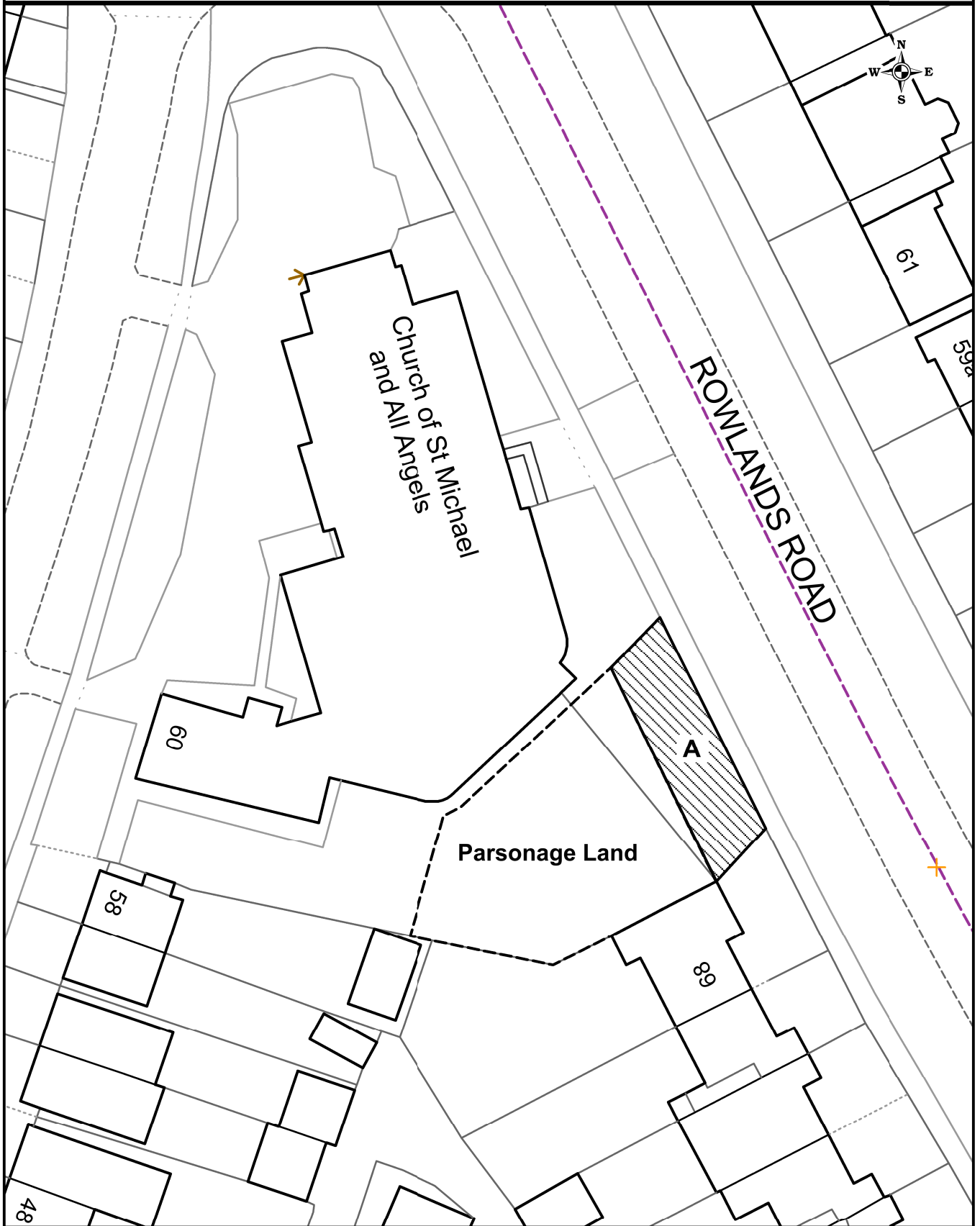
If there are no representations against the draft Scheme, the Commissioners will make the Scheme and arrange for it to be brought into effect.

#### Clause 4

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 effects 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.



# Part of the Churchyard of St Michael and All Angels, South Yardley



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## Glossary of words commonly used in Pastoral Reorganisation

A fuller version is available in the Code of Recommended Practice to the Mission and Pastoral Measure 2011

(<https://www.churchofengland.org/clergy-office-holders/pastoralandclosedchurches/mpm2011code.aspx>)

Archbishop	Senior bishop with authority over a Province. In England, either Canterbury or York.
Archdeacon	An office held by a senior member of clergy appointed by the bishop with an administrative responsibility over an archdeaconry. Some of their duties are laid down by law but in other respects 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 the holder is appointed and may comprise one or more parishes. A benefice may be a rectory or vicarage and an incumbent is therefore either rector or vicar.
Bishop	In the Church of England the diocesan bishop is the central focus of organisation and ministry within a diocese. The Bishop is the chief pastor and authority and shares the cure of souls with all the incumbents of that diocese and is also the chief representative of the diocese in the work of the wider church. 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. Originally within a parish that had a parish church, 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 help pay for stipends and clergy housing 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 a curate, deacon, licensed lay worker, retired priest etc.
Interested Party	One of the statutory persons or bodies that the Diocesan Mission and Pastoral Committee is required to consult in accordance with s.6 / 21 of the Mission and Pastoral Measure 2011.

## Glossary of words commonly used in Pastoral Reorganisation

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 (but not a pastoral order) 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 Committee	A Committee of the Commissioners' Board of Governors which makes decisions on representations on pastoral, houses and glebe matters. It is chaired by the Third Church Estates Commissioner.
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.
Parish	The basic geographical unit over which an incumbent has cure of souls. There may be several parishes within the area of one benefice.
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 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 the incumbent.
Parsonage House	The official place of residence of an incumbent of a benefice. The house belongs to the incumbent in right of their 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 or significant 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 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 (who has not been presented by the patrons and does not become the incumbent) given charge of a benefice to which the right of presentation has been suspended.
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	In a team ministry 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 but 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, who shares the cure of souls with the team rector and other team vicars.

**Please do not touch this Notice**  
(to avoid possible spread of Covid-19)

**Notice**

**Mission and Pastoral Measure 2011**  
**Draft Pastoral Scheme**  
**South Yardley, St Michael & All Angels**

11 November 2020

The Birmingham Diocesan Mission and Pastoral Committee has prepared a draft Pastoral Scheme for

The transfer of part of the churchyard of the parish church of Saint Michael and All Angels, South Yardley in the diocese of Birmingham to the Birmingham Diocesan Board of Finance for sale for residential purposes and for the net sale proceeds to be transferred to the Birmingham Diocesan Board of Finance.

The draft Scheme is on the Commissioners' 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 the Commissioners no later than midnight on Monday 4<sup>th</sup> January 2021. **Please send your representation to (e-mail: name of [katie.lowe@churchofengland.org](mailto:katie.lowe@churchofengland.org)) or letter marked for the attention of Katie Lowe, Pastoral Division, Church Commissioners, Church House, Great Smith Street, LONDON SW1P 3AZ.**
- If they have not acknowledged receipt of your representation before this date, please ring 020 7898 1737 or e-mail them to ensure it has been received. For administrative purposes, a petition will be classed as a single representation and the Commissioners will only correspond with the sender of the petition, if known, or otherwise the first signatory for whom they 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 their Committee regarding your representation if the Commissioners decide a hearing should be held regarding the case.
- If they receive representations against the draft Scheme, they 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

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the representations received and associated correspondence will normally be published on the Commissioners' website if the matter needs to be considered by them.

- If a hearing is held, anyone may attend the meeting of the Commissioners that considers the case and representors may have an opportunity to speak to their Committee. Otherwise, if a hearing is not to be held, the case will be considered in private and you will be informed accordingly.
- When they acknowledge representations the Commissioners will let individual representors (and the primary petitioner) know the next few dates of their Committee's meetings. They will confirm the actual date if a hearing is to be held 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 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 the Commissioners' website [www.churchofengland.org/consultation](http://www.churchofengland.org/consultation) for further information about the procedure.

Dr Jan Smart  
Secretary  
Birmingham Diocesan Mission and Pastoral Committee