



ENGLISH HERITAGE

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11 March 2010

Dear Jeremy,

The Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 2010 – A consultation

I am writing with English Heritage's response to the above consultation.

4.1 The draft Order does appear to fulfil the policy intent as outlined in the consultation document without any loss of protection for listed church buildings. On a more practical level, the loss from the current draft of the Explanatory Note that was printed at the back of the 1994 Order is regrettable as it provided a concise and easily understood summary of the effects of the legislation. While the guidance provides the same information it does not do so in such a succinct way.

4.2 The revised guidance and code of practice are generally useful documents and lay appropriate emphasis on equivalence with the secular system. There are, however, a number of points at which we feel the text could be improved or added to, set out in the table below.

Paragraph	
3 fn2	Churchyards in use are also exempt from scheduling although structures within them may be scheduled.
8	2 nd sentence should read "...must provide equally as stringent procedures for the authorisation of works as the secular heritage protection system"
9	2 nd sentence, English Heritage should be included and the point made that these bodies are <i>statutory</i> consultees.
13	Could more details of the procedure be included as a footnote here?
15	The "waiting" period is now known as the "use-seeking" period. Does the reference to "any other church building" refer to other Church of England buildings or to churches of other denominations? This needs to be clarified.

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18	A definition of curtilage would be useful here. In order to align the exemption with the secular system, reference should also be made to the fact that listing includes any buildings which fall within the curtilage of a listed structure and pre-date 1 July 1948. These structures should, therefore, be treated as listed buildings.
19	Should green line plans not be mentioned here too?
20	The first two sentences appear redundant: if a denomination does not have the appropriate internal procedures it would surely not have the exemption.
27	Explain what the exemption in relation to CAC covers, if not demolition.
29-30	These paragraphs could easily be combined.
31	After the first sentence, it should be stated that (like local authorities) the denominations will have special regard to the desirability of etc. Demolition should be dealt with in a separate paragraph.
33	This paragraph replaces several pages in the old guidance. It needs to be stated i) that it is part of the Code of Practice for the denominations to publish details of their procedures and ii) where to find those details.
38	Reference should be made here to i) the special interest of most churches being best protected by conversion to a 'single vessel use' and ii) the aim of all parties should be to find the optimum viable use compatible with the fabric, interior and setting of the closed church.
43	The preference that applicants consult HERs should be strengthened, e.g "Applicants are expected to consult local HERs at pre-application stage..."
45-48	This section should start with a paragraph that explains that the exempt denominations operate in accordance with the Government's advice on management of the historic environment, PPS and guidance.

Annexe A – Code of Practice

I	The last sentence relates to demolition in a conservation area, but para 27 of the code of practice states that this is not exempt, but a matter for the LPA.
4 ii	A bulleted list of supporting information would be clearer. It should include a statement of significance which sets out what is special about the building and needs to be protected; and a statement of need, which sets out what the changes are meant to achieve and why they are felt to be necessary.
4 ii fn8	The words "of the interior" are missing from the end of the sentence.
6	Insert "be" in the first sentence between "should" and "a".

4.3 We would need at least two months notice of the revised order coming into force so as to make the appropriate changes in our casework handling process and ensure our regional teams are fully informed.

4.4 Other than the comments in 4.2 above we have no comment to make on this question.

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4.5 Although it may go beyond the immediate issues of the Order and the guidance, we are concerned about how individual congregations and local authorities can obtain information about denominational procedures. While information does indeed exist on the denominational websites it takes some determination to find it even if one knows it is there (and has access to the internet). Our experience from recent HELM training days is that some local authorities are completely unfamiliar with the different procedures and would not know where to find information on them. Removal of the detailed accounts of the denominational systems from the guidance, although understandable in view of the scope and intent of the document, will not help in making them more accessible. We would be happy to discuss with you alternative ways of addressing this issue.

Please give me a call if you would like to discuss any of the above.

Yours sincerely,

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