

Faculties, Listed Building Consent, and Planning Permission

Summary

If you wish to carry out works to a listed church building (in use as a place of worship), then the Ecclesiastical Exemption means that

- you do not need Listed Building Consent; but
- you do need permission under the Faculty Jurisdiction Rules 2015, i.e. a List A notification, List B Archdeacon's consent, or a Faculty granted by the Chancellor; and
- you might need Planning permission.

Legislation

The Ecclesiastical Exemption (Listed Buildings and Conservation Areas) (England) Order 2010 (<http://www.legislation.gov.uk/ukxi/2010/1176/article/7/made>) provides for works to places of worship in use by certain religious denominations (including the Church of England) to be exempt from the requirements for Listed Building Consent, (and Planning permission for relevant demolition* in a conservation area), but not from the requirement for planning permission generally.

The Order was intended to reduce instances of 'dual control', where both church and local authority controls apply, by extending the Ecclesiastical Exemption to cover separately listed buildings and structures fixed to or in the curtilage of exempt church buildings, where they themselves constitute ecclesiastical buildings in use for ecclesiastical purposes. Examples could include: campaniles, chest tombs, parish halls or rooms, school rooms, chancel houses, lychgates or boundary walls.

Guidance

The DCMS produced a Guidance note on 'The Operation of the Ecclesiastical Exemption and related planning matters for places of worship in England' (July 2010):
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/77372/OPSEguidance.pdf

When is Planning permission required?

The Ecclesiastical Exemption does not exempt PCCs from the need to obtain planning permission for:

1. Development which affects the exterior of a listed church building (or of an unlisted church building if it happens to be in a conservation area). Planning authorities must have special regard to the desirability of preserving the church building or its setting or any features of special architectural or historic interest which it possesses.

'Development' is defined in Section 55 of the Town and Country Planning Act 1990 as the carrying out of building ... operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. Building operations in this context:

- include demolition of buildings; rebuilding; structural alterations of or additions to buildings; and other operations normally undertaken by ... a builder; but
- exclude works carried out for the maintenance, improvement or other alteration of any building which—
 - (i) affect only the interior, or
 - (ii) do not materially affect the external appearance of the building.

2. Change of use of a church building to a use which falls outside planning class D1 for places of worship, or is not directly related to a church's charitable activities. Examples include: installation of a telecommunications mast; use of part of the building as a Post Office.

*These notes are not intended to cover the question of demolition or partial demolition of a church building.