

DIOCESAN OPERATING PROCEDURES

Pro tem Procedures for Building and Repair Projects

July 2016 until further notice

To be applied in conjunction with prevailing Diocesan Operating Procedures for Buildings and Maintenance (DOP B). In the case of any conflict of procedures, those contained in this document will take precedence.

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1. Procedures for a Parish Project

Any project estimated to cost more than £10,000 must obtain Diocesan approval **before** tendering and/or starting construction work. The procedures are set out in the Flowchart in Appendix A. This applies whether the parish has sufficient funds or requires an loan facility. This procedure applies to new capital works, alterations etc. and to repairs to existing buildings. See also Luke 14: 28-30 for excellent advice.

Some projects will follow the steps very quickly in a straight line through the chart. Others of a more complicated nature may move through the procedure much more slowly, but the basic principles apply to every project.

Projects smaller than £50,000 will be considered by the Capital Projects Panel, a sub-committee to the Diocesan Evangelisation Committee (EC). All larger projects up to £250,000 will be referred to the full EC. The Diocesan trustees have the final sanction on any project over £250,000, although projects have to receive EC approval first. Occasionally, for exceptional projects, the EC will pass the decision on approval straight to the Trustees.

At any stage in the approval process, the EC or Trustees may form a New Project Committee to help in their decision making and to run the project.

2. Steps to be taken before approaching the Evangelisation Committee (EC)

Any project must have the support of the parish. The EC must be satisfied that this is the case before initial agreement in approving the project. The Department for Administration Property Office should be consulted on land matters, planning and technical details and the appointment of consultants.

The parish priest should form a parish project committee to help and advise him on all aspects of the proposed scheme. The parish priest and his committee will be responsible for the project from inception through to completion and final clearance of any loan.

The Diocesan Patrimony Co-ordinator (Liturgical Buildings) or Property Office must be consulted at an early stage when any alteration is planned to an existing church. However small the change within the church there will be an effect on its liturgical and structural integrity. The Diocesan Patrimony Co-ordinator or Property Office must also be consulted when a new church is planned. No permission will be given by the EC without this approval being obtained beforehand.

The Historic Churches Committee (HCC) must be consulted before any repairs or alterations are proposed for listed or listable churches or churches in conservation areas. The HCC will only approve a project after permission has been granted by both the Diocesan Patrimony Co-ordinator or Property Office and the EC.

Up-to-date quinquennial surveys of all parish buildings must have been prepared. This ensures that there is no other unexpected expenditure in addition to the project.

3. Building Professionals

Building professionals are required on all except the simplest parish building or repair projects. Even apparently simple repairs could mask far greater problems needing attention. Generally for building repairs a building surveyor is the appropriate

professional whilst new work or alterations require an architect. For larger projects an architect may require quantity surveyors, topographical surveyors and consulting engineers (structural, mechanical and electrical). Another important role is the health & safety planning supervisor.

Selecting the principal professional is often the most difficult choice in commencing a building project, particularly for new build or alterations. Parishioners or their relatives should not act as professionals; this would create great difficulties if problems develop. Parishioners may make recommendations or other denominations in your area can advise. A list of approved firms is provided in Appendix B. Use of alternative building professionals requires prior Property Office approval.

The parish priest and his advisers should actually view the work of the principal professional. Final selection can be based on a "beauty parade" of short listed candidates. On larger projects the principal professional, usually an architect, will be able to advise on other professionals to assist him.

However, the parish is strongly recommended to appoint its own quantity surveyor who is responsible to the parish for cost control. The EC must agree all professional appointments. For new churches the final decision rests with the Bishop who may wish to be involved in the selection process.

Large scale projects require a project manager who will oversee the other design professionals and act as the client representative. Other duties will include monitoring asset disposals or procurement including land, buildings and contents. The project manager would prepare and update the cashflow analysis, and will need to liaise with the parish funding team. Keeping the parish and Diocese on target for key decision making is crucial.

All professionals must hold Professional Indemnity insurance cover to at least £2 million, but higher for large projects. The parish must obtain proof of this.

Fees must be negotiated at an early stage. Fees up to feasibility study could be on a "no contract–no fee" basis. This may not be practicable for larger projects. Initially the professionals may indicate fees as a percentage of the total construction cost. The most satisfactory safeguard for the parish is to settle on an agreed lump sum with each professional. Payment is usually at agreed interim stages of design work. In aggregate the total of all professional fees and disbursements, such as site visits and printing, should not exceed 15% (excluding VAT) of the initial estimated cost. Large project fees would be nearer 12%.

The parish priest, as agent to the Trustees, will need to sign agreements with each building professional. The best approach is to follow the standard form of engagement of the relevant professional body. Appointments must not be made until the project has received the first stage approval from the EC.

4. Design, Construction and Commissioning

The design will need a client's brief and the selected professional will advise the parish on the information required. The brief has to indicate how the building will be used, by what groups and how often. The Patrimony Co-ordinator or Property Office advises on churches. The need for adequate storage must never be overlooked. New buildings

generally should be low maintenance and highly energy efficient. Cleaning and maintenance should be considered. Very large projects should be modular to allow the removal of elements if the tenders come in too high, for example, some rooms could be omitted. Parishes should consider phasing projects over time to ease cashflow problems and reduce any loan requirement.

The building professionals will ensure that the parish complies with all civil law aspects of construction, such as; building regulations, planning, fire precautions, listed building consents, disability access, health and safety, asbestos surveys, CDM regulations, party wall act, building insurance, etc. The project must be fully designed and then put out to tender; generally the Diocese does not recommend design-and-build as an option. The design team must be given adequate time to fully design the works without the project needing to meet artificial deadlines (saints days, anniversaries, etc). At a certain point the designer must be allowed to complete the design without any further changes by the client. Modification to design during the final design process, or worse still during construction, is always very costly to the parish.

For projects above £20,000 in value the building contract should be a JCT standard form with interim and final payments at 28 days from certification. For smaller projects, the contract is the written acceptance of a contractor's quotation and specifications or on specifications and drawings prepared by the design professionals.

The Client is the Trustees of the Portsmouth Diocesan Trust and the parish priest may sign as agent to the Diocesan trustees. Contractors must not be appointed until the project has received the second stage approval from the EC. The building professionals will recommend a tender list of least three suitably competent contractors. The building professional should state whether there is any conflict of interest in connection with any contractor or sub-contractor. The building professional will certify payment. Once payment is certified, the parish is legally bound to pay, even if the parish disagrees with the certification.

The design professional decides when to issue the certificate of practical completion. The parish takes over full responsibility for a building at practical completion, including insurance. The maintenance period runs for six to twelve months during which time the contractors rectify any defects. Contractors must hold insurance cover of at least £5 million.

At the commissioning stage, the contractors should provide for full "as built" drawings of the buildings and operation manuals for the plant and equipment. Staff will need training to operate equipment. All documents and safety plans must be securely archived on the parish premises. Once the project has completed the defects period, the building should be maintained as any other parish building.

5. Documentation for Project Application

The following information should be submitted to the EC for a project of any size:

- The need for the project and reasons for the size of the building.
- The results of the parish consultation exercise.
- The total estimated costs of the project including fees and VAT, and the phasing of the works with costs. Costs estimates are provided by the design professionals
- Parish financial resources available.

- Any loan facility required.

This will require a cash flow showing all income and all expenditure. It should show the time it will take to repay any loan, ideally five years maximum. See Appendix C model cashflow spreadsheet available from the Finance Office in excel format. Two versions are given – one for annual data and the second with quarterly data for the first two years.

- Any comments from the Patrimony Co-ordinator or Property Office and/or Historic Churches Committee on church projects.
- Some simple plans of the proposals. Site plan, and buildings' layout and elevations.
- Project Management. Details of the structure of the project management team.

The cashflow is a key document in requesting a loan facility. The income will include:

- sale of assets, land and artefacts
- special fundraising, collections and donations
- grants – lottery, landfill tax credit, charities, government
- extra income through lettings of new facilities
- Gift Aid tax rebates on special collections and donations

Expenditure will include:

- building professionals fees and disbursements plus VAT
- construction costs plus VAT including sub-contractors
- fixtures and fittings plus VAT
- contents, carpeting, curtains plus VAT
- costs of sales of assets
- land acquisition, easements, access
- legal, planning, surveying and specialist fees plus VAT
- temporary accommodation plus VAT or leases
- planning gain contributions

In the case of a major project, that is to say of significant size in the context of the parish, its needs and financial record, the EC may ask the parish priest and one or two members of the parish team to attend one of its meetings to discuss the proposals.

6. If Approval is Not Given

The EC may request further information or consultation. The funding proposals may not be satisfactory; the need for the project may not be proven; there may be doubts about the proposed design; or the proposed usage. A feasibility study may need to be undertaken, particularly where the funding proposals depend upon the predicted usage of a new building.

The EC may give approval for the appointment of professional consultants to undertake a detailed feasibility study. This must not be understood as appointment for the full scheme if it is later given approval. Unless circumstances dictate otherwise, the parish may re-submit the project with the additional requested information.

7. Approval by the Diocesan Evangelisation Committee

There is a two stage approval process, firstly to proceed to tender stage, and then secondly to commence construction. The EC will give its first stage approval to proceed to tender, subject to any terms deemed necessary. At this stage the design professionals are formally appointed. No commitment to fees must be made before the EC have given their approval. The project may now proceed to tender stage. The results of the tender process will be considered by the EC. Second stage approval to commence construction will only be granted if costs are as expected. The project will need adjustments if the tenders are too high. Contractors must not be appointed until the EC grants construction approval.

8. Reordering of Churches – Role of the Patrimony Co-ordinator (Liturgical Buildings) or Property Office

Any parish which is considering a church extension, or structural alteration, or reordering its present building must consult the Diocesan Patrimony Co-ordinator or Property Office at the earliest opportunity. Alterations to churches which may require permission include re-painting, re-lighting, renewing of carpets and furnishing as well as larger scale works. A meeting will be held at an early stage of planning to discuss the project with the parish team. The EC will not consider a project until the Patrimony Co-ordinator or Property Office has approved a project. For details of the Diocesan Patrimony Co-ordinator or Property Office, see the Diocesan website.

9. Historic Churches Committee (HCC)

The Diocese of Portsmouth has some churches which are either listed or in a conservation area and therefore subject to the statutory procedures laid down in the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 2010. It must be noted that a conservation area applies to the geographical area and does not take into account the worth or historical value of the buildings within the area. In addition, churches that are potentially "listable" under the Taking Stock programme also fall under the remit of the HCC. "Taking Stock" was a joint Diocesan/English Heritage programme to review all Catholic churches and specifically to recommend quality buildings for listing.

This Order removed the ecclesiastical exemption (this is the exemption from control by local authorities/the Government) from all Churches with the exception of the four main denominations i.e. Anglican, Catholic, Methodist and Baptist. All other churches lost the Exemption and their Listed churches now fall under complete local Authority/Government control. The only exemption now is through the Historic Churches Committee which is responsible for all Roman Catholic buildings within its defined area, whether owned by the Diocese or by a Religious Order. The HCC is independent of the local church or congregation and its remit covers only the principal place of worship. Other buildings within the curtilage remain subject to local Authority listed Building consent (there are some exceptions and reference should be made to the Secretary of the HCC for guidance in the cases of structures within the curtilage such as tombs, shrines, boundary walls etc.).

The performance of the HCC is monitored by the civil authorities who have the powers to assume control if it is considered necessary. The legislation represents a concession to the Church in allowing the HCC to make decisions which would otherwise be

controlled by outside bodies; it is therefore very important that the guidelines are followed to avoid losing these concessions.

The legislation applies only to churches and other buildings, which are used for religious services. Presbyteries, halls, schools, etc. are not covered by this legislation and will require either Listed Building Consent or Conservation Area Consent from the local authority for any alteration, extension or demolition works. Any change which can be considered to alter the architectural character or historic appearance of a church is covered, for example replacing iron guttering with plastic, external or internal repainting in a different colour, installing heating, changing the style of lighting, replacing old slates with modern alternatives, etc.

The full guidance notes and information about applications to the Historic Churches Committee are available on the link <http://www.hccsouthern.org.uk/>

10. Construction Design and Management Regulations

The Construction (Design and Management) Regulations 2015 (CDM15) replace the 2007 CDM regulations and control health, safety and welfare on all projects which involve construction work, construction skills or construction materials.

CDM15 applies regardless of the size, duration or cost of the project. This means that most building, refurbishment and some maintenance projects carried out on Diocesan premises, including domestic premises, will now fall within the scope of these regulations.

CDM15 requires key appointments to be made by the Client. The Client is the person for whom the work is being carried out e.g. the parish priest. These appointments include a Principal Designer and Principal Contractor where more than one contractor is involved on the project. Any one appointed to act in the capacity of a CDM duty holder must have the appropriate skills, knowledge and experience to carry out their role competently.

Projects likely to last more than 30 working days and involve more than 20 workers on site at any one time OR last for more than 500 person days must be notified to the Health and Safety Executive (HSE) using the form F10 available on their website www.hse.gov.uk. Larger construction projects (those above the £10,000 threshold and all HSE notifiable projects) must be notified to the Diocese and you will be assisted with your CDM15 duties.

Further information about CDM15 to help you manage a CDM15 project are available at <http://www.hse.gov.uk/construction/cdm/2015/commercial-clients.htm>.

11. Applications for Grants

Historic England (formerly English Heritage)

Grants are for repairs to places of worship but the grant will sometimes extend to include some element of repair work in associated parish buildings. The application form is detailed and has to be countersigned by the Diocesan Financial Secretary. Further details are available from the Diocesan Property Office within the Dept. for Administration.

Lottery Fund Grants

Church halls can receive grants for construction and /or refurbishment provided there is a community use element to the application. In other words the hall cannot be for

exclusive Catholic use. Most halls want fees from lettings and this is a community use. Further details are available from the Diocesan Property Office.

Listed Placed of Worship Grant Scheme (LPWGS)

From 1st April 2001, the Government gave grant aid to refund the difference between 5% and the actual rate of VAT spent on eligible repairs to listed churches. From 1st April 2004, the grant was increased to fully refund VAT. Grant applications have to be countersigned by a Trustee. Further details are available from the Diocesan Property Office. See also the LPWGS website for forms and eligible expenditure: www.lpwscheme.org.uk.

12. VAT On Construction Works

The following construction work can be zero rated for VAT:

- new freestanding buildings
- an "annexe" to an existing building – see Appendix D for explanation
- wheelchair access and disabled person toilets
- hearing loop systems

The construction work for freestanding buildings or annexes can be apportioned between standard and zero rated for VAT. The building professional must contact the Diocesan Property Office for the appropriate HMRC certificate for the builder.

The following construction work is always standard rated for VAT:

- repairs
- alterations (zero rating on listed buildings ceased on 1 October 2012)
- extensions
- fees of building professionals
- loose contents, carpets, curtains, landscaping

Listed churches can receive grants to partially offset VAT on repairs. (see sub-section above). Details from the Property Office.

Attempting to avoid VAT by paying contractors cash is a criminal offence.

The Diocese has formed a building company, the Portsmouth Diocesan Trading Company Limited (Tradco). The creation of the company allows the Diocese to use current financial legislation to avoid paying VAT on the fees of design professionals. The Diocese, as a registered charity, can obtain zero rating for VAT on the construction of new freestanding buildings or annexes. Use of Tradco as the main contractor, with the design professionals as subcontractors, enables the Diocese to extend the zero rating to professional fees. The company can only be used for projects costing in excess of £300,000.

13. Building Works Insurance

The building contractor insures new freestanding structures during construction. The client takes over responsibility upon the issue of the practical completion certificate by the building professional.

Extensions including annexes, alterations and repairs to existing structures require a

joint employer-contractor insurance issued through the Diocesan Property Office. This is required for works (construction costs plus fees but excluding VAT) costing more than £250,000. Below this threshold insurance cover is automatically included in the Diocesan insurance scheme. See Section 15 "Insurance".

In both cases, upon issue of the practical completion certificate, parishes should inform the Diocesan Property Office of any changes to the insured values of the building/contents.

APPENDIX B

Approved Building Professionals

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APPENDIX D

EXTRACT FROM HMRC NOTICE 708

BUILDINGS AND CONSTRUCTION – Aug 2014 VAT ON ANNEXES

Comment: HMRC have narrowed the definition test for an annexe. It is now also necessary to demonstrate that the annexe has different activities to those in the existing building.

Extract:

What is an ‘annexe’?

An annexe can be either a structure attached to an existing building or a structure detached from it. A detached structure is treated for VAT purposes as a separate building. The comments in this section only apply to attached structures.

There is no legal definition of ‘annexe’. In order to be considered an annexe, a structure must be attached to an existing building but not in such a way so as to be considered an enlargement or extension of that building.

An enlargement or extension would involve making the building bigger so as to provide extra space for the activities already carried out in the existing building. Examples of an enlargement or extension are a classroom or a sports hall added to an existing school building or an additional function room (or kitchen or toilet block) added to an existing village hall.

On the other hand, an annexe would provide extra space for activities distinct from but associated with the activities carried out in the existing building. The annexe and the existing building would form two separate parts of a single building that operate independently of each other. Examples of an annexe are a day hospice added to an existing residential hospice, a self-contained suite of rooms added to an existing village hall, a church hall added to an existing church or a nursery added to a school building.

Relevant charitable use and part qualifying annexes

Where only a part of the annexe is intended for use solely for a relevant charitable purpose, you can only zero-rate your supply to the extent that it relates to that part. The apportionment rules apply in the same way to the construction of relevant charitable annexes as they do to the construction of buildings.

When is an annexe capable of functioning independently?

For zero-rating to apply the whole annexe must be capable of functioning independently from the existing building, even if only part of it is used solely for a relevant charitable purpose.

An annexe is capable of functioning independently when the activities in the annexe can be carried on without reliance on the existing building. You can ignore the existence of building services (electricity and water supplies) that are shared with the existing building.

What are the access conditions for annexes?

The annexe and the existing building must each have its own independent main access. So, even if the annexe has its own entrance,

- The main access to the annexe must not be through the existing building; and
- The annexe must not create the main access to the existing building.