

Ecclesiastical Exemption from Listed Building
Control

Guidelines for Appeals



Catholic Bishops' Conference of
England and Wales

2026

Note

These guidelines were approved by the Bishops' Conference of England and Wales in 2024 and amended in 2026

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Guidelines for Appeals

Introduction

- 1 The Catholic Church in England and Wales has exemption from certain controls over listed buildings. The terms upon which Parliament has allowed this exemption to continue oblige the Church to operate a system of internal control which while based on its own procedures is comparable to the secular system of Listed Building Consent in terms of due process, rigour, consultation, openness, transparency and accountability. The Church's procedures operate at diocesan level under the oversight of the Patrimony Committee of the Catholic Bishops' Conference of England and Wales (CBCEW). An Historic Churches Committee (HCC) makes decisions on behalf of the Ordinary (normally the diocesan Bishop) in relation to faculty applications. Sometimes two or more dioceses operate their procedures jointly. The procedures are described more fully in the *Directory on the Ecclesiastical Exemption from Listed Building Control* issued by the Bishops' Conference of England and Wales.

What is an appeal?

- 2 Parliament requires that the operation of the ecclesiastical exemption should include a clear and fair procedure for settling disputes between the local congregation or community and the decision-making body. The means of settlement adopted by the Catholic Church is through an appeal process, as set out in these guidelines.
- 3 After an application is made to the HCC for work to be carried out to an exempt building there is a period of consultation.
- 4 The decision of the HCC is made in its exercise of administrative (or executive) power delegated to it by the Bishop. Once the committee has made its decision, the Secretary sends out **Form 4, Determination of Application**, (generated by Catholic Historic Churches (CHC) website¹) to the applicant, Historic England/Cadw, the local authority, the national amenity societies and to all those who sent written representations to the Secretary during the consultation period.

¹ <https://www.catholic-historic-churches.org.uk/>

Who can appeal?

- 5 An appeal against the HCC's decision may be lodged by the interested parties:
- The applicant
 - Any statutory consultee (the local planning authority, a national amenity society, Historic England/Cadw)
 - Any person who submitted written representations to the HCC during the consultation period.

These are referred to as 'interested parties'. Where there is more than one appellant, the appeals will be considered together and treated as though a single appeal.

How is an appeal lodged?

- 6 Any interested party wishing to lodge an appeal should complete and send **Form 9** (Notice of Appeal) to the HCC Secretary within 21 days of the determination of the application (the date given on Form 4). Appeals received by the HCC Secretary after the 21 day appeal period will be disregarded. The notice of appeal must contain valid reasons or grounds for appeal (see below). Form 9 is downloadable from the Catholic Historic Churches website, or is available from the HCC Secretary.

What can be appealed against?

- 7 An appeal may be against:
- The merits of a decision of the HCC, and/or
 - An error in the procedure used to make a decision.
- 8 If the appeal is against the merits of an HCC decision, the notice of appeal must be accompanied by reasons for the challenge to that decision. If the appeal is based on procedural error then the notice must contain the grounds upon which the procedural error is alleged. The appeal may be based both on the merits and on questions of procedure, in which case both of the above comments apply.
- 9 At the end of the 21 day appeal period, the HCC Secretary will send **Form 10**, Acknowledgement or Appeal (generated by the CHC website) to the appellant(s) and other interested parties. The first appellant registered will be named on Form 10. Subsequent appellants will be listed in a Form 10 Addendum, giving their names and addresses. The HCC Secretary will then forward all relevant documentation to the Historic Churches Adviser at the Bishops' Conference of England and Wales.

Who hears the appeal?

- 10 Advised by the Patrimony Committee, the Bishop will appoint a panel to hear the appeal. The panel will consist of three people, one of each with:
 - relevant architectural and historical knowledge and practical experience of listed buildings;
 - practical pastoral involvement in the care and function of church buildings;
 - familiarity with Canon Law.

- 11 In consultation with the Patrimony Committee, the Bishop will invite one of the panel members to chair the appeal proceedings.

- 12 The Historic Churches Adviser to the Bishops' Conference will act as appeal secretary. The appeal secretary plays no part in the decision-making process but acts on behalf of the panel in any administrative matters, ensuring that they receive all relevant documentation, and serving as the point of contact with the HCC, the appellant and other interested parties. The appeal secretary will liaise with the HCC Secretary as the latter issues the relevant Forms and notifies the interested parties.

- 13 The appeal panel may decide to have a preliminary meeting to look at the submissions and to decide the format of the appeal. The appeal secretary should also be in attendance. Subject to the advice of the Patrimony Committee the panel may also wish to seek specialist advice to help them in their deliberations.
- 14 Once the format, date, time and venue have been confirmed, the HCC secretary will send **Form 11**, Notice of Appeal (generated by CHC website), to interested parties, providing contact details and giving those parties an opportunity to make further representations up to one week before the date of the appeal hearing.

Is a new panel appointed for an appeal relating to a project which has been the subject of a previous appeal?

- 15 It is recommended that unless there are good reasons for not doing so, the same panel hears each appeal relating to the same project because of the knowledge of the project which they will have acquired.

What are the timescales?

- 16 The appeal panel should normally be appointed within eight weeks of Form 10 being sent out. The appeal should be determined within six months of its being lodged (the date on Form 9). The appeal decision

should be published using **Form 12** (generated by CHC website) within six weeks of the hearing. These timescales may be extended with the agreement of the applicant and appellant.

Can an interested party be represented?

- 17 The panel may allow an interested party to be represented by another person. If a party wishes to be represented by a civil lawyer, the panel may wish to be satisfied that he or she is sufficiently competent in his or her understanding of the Church's procedures.

The Appeal

How is the appeal organised?

- 18 The appeal panel has the choice of proceeding either by written process or by oral process — see below.

Where is the appeal held?

- 19 Although the meetings of the appeal panel may be held at any convenient place, it is recommended that where possible they are held at or near to the building in question. The panel can then familiarise itself with the issues raised and (especially if there is an oral process) points can be demonstrated and details

checked. This will, however, be unnecessary in appeals relating solely to procedural points.

What documents are available to the appeal panel?

- 20 The appeal secretary shall make the following documents available to the panel:
- The original application, and all papers originally presented to the HCC (including representations from consultees and interested parties).
 - The minutes of the HCC recording its decision.
 - Form 9, showing all submissions on the appeal from the appellant or appellants.
 - Any subsequent documents submitted by any party following the serving of Form 11. This will normally consist of the submissions of other parties in response to the appellant's submissions.

For HCCs using the Catholic Historic Churches website, all the above documentation should also be exhibited publicly.

- 21 The panel will not normally expect substantial new evidence to be submitted at this stage, as it is assumed that parties will have put all relevant facts before the HCC in the first place. If new evidence is submitted, the panel may decide to refer the matter back to the HCC for reconsideration.

Can the panel reject a notice of appeal?

- 22 Even at this stage, the notice of appeal can be rejected if the panel, with advice from the Patrimony Committee, considers that:
- there are no reasons or valid grounds given in Form 9; or
 - there has been a previous appeal relating to the same proposal and no new case has been presented, or
 - the appellant is identified as a ‘vexatious litigant’ (e.g. one who has had an appeal dismissed due to insufficient grounds on two separate occasions previously).

What is at issue in the appeal?

- 23 The panel will need to identify the nature of the appeal — whether it is on procedural grounds or against the merits of a decision of the HCC or a mixture of both. In the light of this information, they will then decide whether the appeal concerns the whole of the original application or just part of it.

What will be the format of the appeal?

- 24 The panel has discretion as to the format of the appeal. There are two options: a written process or an oral process. Appeals on the merits of a decision of the HCC may be best dealt with by an oral process, while

for matters of procedure a written process may suffice. The decision on format is one for the appeal panel with advice from the Patrimony Committee and taking into account the circumstances of the case.

Written process

- 25 Determination by written process will be made on the basis of the documentation provided to the appeal panel (para. 20). At its discretion, and if further comment or clarification is needed, the appeal panel will publish copies of representations received following the serving of Forms 10 and 11, using the CHC website.

Oral process

- 26 The following may attend an oral hearing:
- Any party to the appeal (para. 5).
 - Anyone representing a party (para. 17).
 - Any other person permitted or invited to attend by the panel.
- 27 Witnesses or members of the press will be admitted to the hearing only at the panel's discretion.
- 28 The purpose of the oral part of the hearing is to clarify points identified by the panel from its examination of the submissions. With this objective the panel will

initially meet together to agree the points to be raised with each party.

- 29 Each party will be interviewed by the panel in turn. After asking any questions on that party's submission they may invite the party briefly to add any further observations they wish to make. The panel should make it clear to each party before this part of the hearing what format the interview will take and what opportunity, if any, they will have to make any further points. Oral appeals are not adversarial; the applicant and appellant, or their representatives, are not permitted to cross-examine the other party.

How is a decision reached?

- 30 When considering the appeal, the panel is under a specific duty to take into account, along with canon law and pastoral/liturgical factors, the desirability of preserving listed ecclesiastical buildings and the importance of protecting features of special historic, archaeological, architectural or artistic interest and any impact on setting.²

² DCMS, *The Operation of the Ecclesiastical Exemption, Annex A: Code of Practice*, 2010

31 There are four possible determinations:

- *Appeal upheld:* If it is the applicant who lodged the appeal, the proposal is thereby approved. Following notification by the appeal secretary, a Form 5 Faculty, incorporating any stipulated injunctions or conditions imposed by the appeal panel, will be issued by the HCC Secretary. If the appeal was lodged by a third party, the applicant may choose to submit a new application to the HCC, taking account of the conclusions of the appeal panel.
- *Appeal dismissed:* The appeal is rejected and the original decision of the HCC upheld. If the appeal was lodged by a third party, the HCC may then issue a faculty to the applicant, as in *appeal upheld*.
- *Application remitted to HCC for full rehearing:* This will usually apply where it has been established that the correct procedure was not followed.
- *Application remitted in part to HCC for rehearing:* This applies if the panel concludes that part of a scheme should be reconsidered. The full procedure for applications will then follow.

- 32 The decision of the appeal panel is a collegiate decision. Although a 2–1 majority is acceptable, all members of the panel must sign the final decision. The panel’s decision is final.
- 33 The decision of the panel will contain a brief record of the procedure that has been adopted. This will be followed by the reasons for the conclusions reached. Each appeal panel will need to consider how much detail the determination should cover. It is not necessary for the determination to enter into a detailed discussion of all the evidence before the panel. A short list describing each point requiring a decision together with the reasoning behind the decision may well be sufficient. It may be helpful if the determination follows the grounds of appeal set out in the original notice of appeal, but the panel is at liberty to use the format which best suits the needs of the case.
- 34 Form 12 (Notice of Determination of Appeal) and the panel’s written determination will be issued together to all interested parties by the HCC secretary within six weeks of the appeal hearing.

Costs

- 35 The applicant is responsible for all costs incurred throughout the appeal process, including the fees for any specialist advice. However, the appeal panel may also, at its discretion, request third party appellants to make a reasonable contribution towards the cost of holding the appeal.

Canon law

- 36 These guidelines should be read in conjunction with canonical norms.

Glossary

Bishop

The diocesan bishop (see Ordinary)

Historic England

Public body which advises government on, amongst other matters, listing and the operation of the ecclesiastical exemption. Contact details on the Catholic Historic Churches website.

Cadw

The Welsh Government Historic Environment Service. Contact details on Catholic Historic Churches website.

National Amenity Societies

Historic Buildings & Places (formerly the Ancient Monuments Society), the Society for the Protection of Ancient Buildings, the Georgian Group, the Victorian Society and the Twentieth Century Society. Contact details on Catholic Historic Churches website.

The Council for British Archaeology should be consulted where works may affect the archaeology of the site. The Gardens Trust should also be consulted if the church lies within a registered historic park or garden. Contact details on the Catholic Historic Churches website.

In Wales, the Royal Commission on the Ancient and Historical Monuments of Wales and the relevant Welsh archaeological trust should also be consulted for all applications. Contact details on the Catholic Historic Churches website.

The Historic Churches Adviser to the Bishops' Conference

The official who acts as appeal secretary on behalf of the panel in administrative matters and in consultation with the Patrimony Committee, ensuring that they receive all relevant documentation, and serving as the point of contact with the HCC, HCC secretary, the applicant, the appellant and other interested parties.

Ordinary

The person having jurisdiction over the relevant structure or the administrator of that structure; not just the territorial bishop but also, for example, the Bishopric of the Forces and the Ordinariate (see also Bishop), Abbot, Provincial etc.

Patrimony Committee

The common abbreviation for the Subcommittee of the Patrimony Committee of the Bishops' Conference of England and Wales.