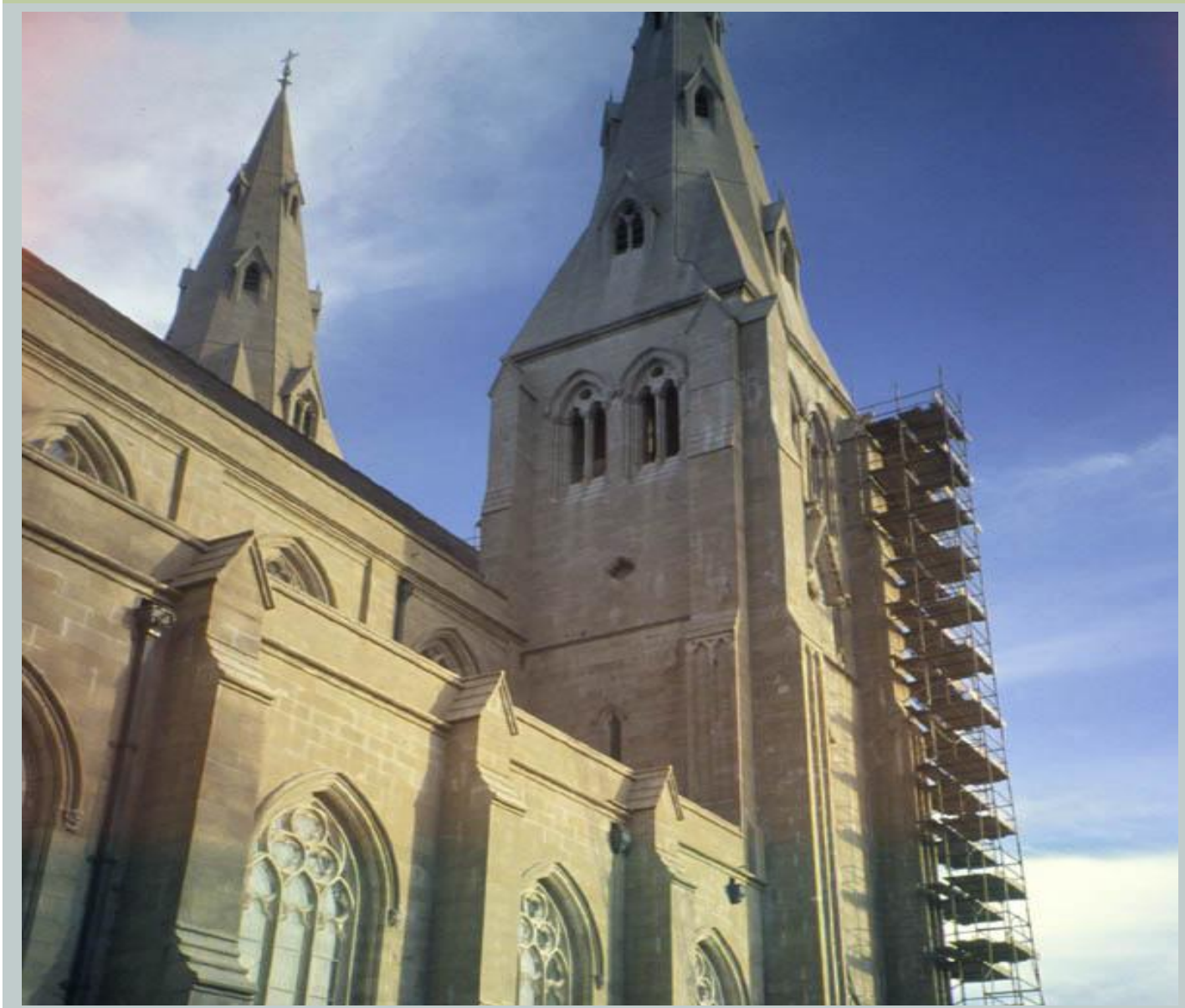


Consultation on proposals to remove ECCLESIASTICAL EXEMPTION

SYNOPSIS OF RESPONSES, SEPTEMBER 2016

HISTORIC ENVIRONMENT DIVISION



Department for
Communities
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Front cover. St Patrick's Roman Catholic Cathedral, Armagh, during repair works in 2001 which were supported by the Listed Building Grant Scheme.

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Section 1: Summary of the Consultation

Introduction

- 1.1 On 18 March 2016 the Historic Environment Division of the Department of the Environment issued a public consultation on the exemption enjoyed by listed places of worship from listed building consent for alterations that might affect the architectural and historic interest of such buildings. The consultation closed on 13 June.

Background

- 1.2 Under Section 85(8) of the Planning (NI) Act 2011, listed places of worship are exempted from the need to apply for listed building consent.
- 1.3 In 2014, the Historic Buildings Council of Northern Ireland wrote to the Minister on this issue. They were concerned by the unnecessary loss of detail on some places of worship which had led to their delisting, and of proposals for significant change to others which would remove much of their architectural and historic interest. The Minister asked for a subcommittee of DOE officers and HBC members to be set up to review the current situation. The sub-committee's recommendation that the exemption be removed and replaced with clear guidance formed the body of the consultation.
- 1.4 122 groups and individuals responded to the consultation and their views are summarised in Section 2. The Department's decisions in light of the consultation responses are provided at Section 3. A list of respondents is provided at Appendix A.

Changes Proposed

- 1.5 The key change proposed was that the Department exercise its power under Section 85(9) to issue an 'order' that the exemption be removed. In parallel, guidance would be produced for owners and planning authorities. The proposals were listed in the consultation as follows:
- Develop best practice guidance on the alteration and adaption of Northern Ireland's listed places of worship;
 - Clarify within this guidance that listed places of worship do not enjoy permitted development rights and that external changes, such as removing and replacing windows and doors, taking off render or changing roof details are 'development' and require planning permission
 - Issue an order that the Ecclesiastical Exemption is removed in Northern Ireland; and
 - Advise councils that styles of worship or liturgical requirements should also be considered when assessing Listed Building Consent applications for places of worship.

Consultation Document

- 1.6 The consultation asked for general views on the proposal but also asked a number of questions to focus responses.
- 1.7 The Department is grateful to all of the organisations and individuals who submitted responses.

Section 2: Summary of Responses

Nature of Responses

- 2.1 Around a quarter (30) of the 122 responses agreed with the proposal. Those in agreement included: district councils (7 councils: Belfast City Council; Lisburn and Castlereagh City Council; Mid Ulster District Council; Derry City and Strabane District Council; Mid and East Antrim Borough Council; Armagh City, Banbridge and Craigavon Borough Council and Fermanagh and Omagh District Council. NILGA, the Northern Ireland Local Government Association, was also in agreement); voluntary sector groups; the Heritage Lottery Fund; three Trustees of the Ulster Historic Churches Trust; the National Churches Trust; professional bodies (Royal Society of Ulster Architects (RSUA) and Institute of Historic Buildings Conservation (IHBC)); advisory bodies (Historic Buildings Council, Historic Monuments Council and the Ministerial Advisory Group on Architecture and the Built Environment); individuals; and two church groups.
- 2.2 Those opposed were all, with the exception of one architect, ecclesiastical organisations. Of the opposed responses, 49 (40% of all responses) were from the Roman Catholic Diocese of Down and Connor. The majority of these were short letters from parish administrators expressing support for the main diocesan response. A letter from the Diocese of Dromore noted that it also availed of Down and Connor expertise. 32 (26% of the responses) were from congregations of the Presbyterian Church. The Church Representative Body of the Church of Ireland also opposed the proposal, as did one Baptist Congregation.
- 2.3 One comment, from the Churches Legislation Advisory Service, advised that it had no opinion in regard to the principle of removing ecclesiastical exemption.
- 2.4 One comment, from an individual, advised that all religious buildings '*should be flattened and crushed to dust and forgotten about*'. It did not express an opinion on the merits of removing the exemption in regard to this aim.
- 2.5 No specific comments were received in regard to the regulatory considerations of Equality Screening, the Human Rights Act or Rural Proofing; however, a number of responses, all opposed to the proposal, highlighted a concern in regard to state intervention in ecclesiastical affairs. A number suggested that, because of this, the Assembly and Executive should be consulted before a final decision is made. One suggested that this intervention in church affairs might be considered a contravention of Article 9 of the Human Rights Act.
- 2.6 The majority of responses to the consultation were received from individuals or groups located in Co Antrim [66], with 35 responses received from those based in Co Down [82% of all consultation were received from Counties Down and Antrim]. Four responses were provided from organisations or individuals based in Co Armagh, six from Co Tyrone and two each from Counties Londonderry and Fermanagh. Four responses were received from England and two from the Republic of Ireland. The remainder, received via e-mail, were not from a clear destination.

- 2.7 Apart from the letter on behalf of the Church Leaders Group, no response was received from or on behalf of the Methodist Church, or from other, smaller, religious congregations. No responses were received on behalf of, or referring to, non-Christian places of worship.

General Comments

- 2.8 Though most of responses focused upon the main proposal of removal of the ecclesiastical exemption (considered in the next section on Question 1 of the consultation), a number of general points were made by respondents.
- 2.9 One asked for clear English suggesting that the wording of the consultation was confusing. This comment is noted and will be taken in account when preparing other consultations.
- 2.10 One made a point that an ecclesiastical exemption also exists with regard to scheduled historic monuments and that perhaps this also should be removed.
- 2.11 One respondent argued that all religious buildings should be demolished because in his view they are a *'symbol of cultural imperialism and of social tyranny'*.
- 2.12 One respondent noted that some aspects of the changes to the examples given in the consultation document were not exempt from planning controls. This highlighted to them that the need for monitoring and enforcement should not be overlooked. The Department agrees that there is an ongoing need for monitoring and enforcement, the majority of the powers for which now rest with district councils.
- 2.13 One respondent argued in their general comments that the churches should have been involved from the beginning of the process. This was echoed within the detailed comments of a number of other submissions. The composition of the original subcommittee followed the request of the then Minister; but consultation with the churches in advance of public consultation was subsequently considered by the Department. This was not progressed on equity grounds, as the exemption relates to all places of worship and not just the main churches, and it would have proven very difficult to engage with representatives of all places of worship. The Department therefore took forward an open, public consultation to allow churches and others to put forward their views for consideration.
- 2.14 Two submissions highlighted the approach taken in Scotland as a possible alternative approach not discussed in the document. This approach was reviewed by the subcommittee as part of its considerations, a point which could have been made clearer in the consultation document.
- 2.15 The concern was expressed by one consultee that local councils will take different approaches to the planning rules which *'could lead to very different outcomes to church redevelopment projects throughout the province'*. Clear guidance can help

address such concerns, given the legislative position that most planning matters are now the responsibility of district councils.

- 2.16 The architect for one of the schemes depicted in the document objected to the way the project was described pointing out that *'it fails entirely to reflect the complex range of challenges that our congregation is trying to address'* and that these had been set out in a detailed submission to the Department at the time planning permission was sought. He felt that this one sided representation compromised the legitimacy of the consultation process. The Department did not intend to cause offence by the depiction of this scheme and acknowledges that difficult decisions on the part of the congregation and their leaders were required in advance of arriving at their proposal.

Questions

- 2.17 Most respondents concentrated on the first of the six questions set out in the consultation document. As the questions are inter-related, the remainder of this section will summarise the points made in responses to each of the questions; Section 3 will then set out the Department's way forward in light of the responses.

Question 1

- 2.18 The first question asked: **'Do you agree with the Department that the Ecclesiastical Exemption should be removed?'**
- 2.19 Of the 31 respondents who agreed, 24 were in general agreement, with a number of these expressing strong agreement. One commented that the *'justification for this proposal is entirely supported by the evidence that 5% of places of worship have been delisted due to inappropriate changes in their fabric'*. Three agreed on the basis that the Department was content that it had the resources to implement the change and one agreed on the basis that Departmental officials were adequately trained in architectural conservation. Two agreed but emphasised the need to strike a balance between heritage and changing functions.
- 2.20 Ten arguments against the removal of the exemption emerged from the 87 responses received from those opposed:
1. To perform their main function churches need the freedom readily to adapt their buildings.
 2. The major denominations have existing controls in place which are sufficient.
 3. The proposal raises issues about religious liberty and the undue intervention of government in church affairs.
 4. A convincing argument has not been made.
 5. We question the competence and appropriateness of liturgical requirements becoming government policy.
 6. We disagree that a parallel system would be costly and bureaucratic.
 7. The proposal will impose a financial burden on congregations.

8. The proposal will act as a deterrent for investment.
 9. Design decisions should not be more important than the functions of a church.
 10. The proposal to remove Ecclesiastical Exemption could hamper the churches' ability to provide a safe environment whilst fulfilling health and safety law.
- 2.21 The first argument was made by the Church Leaders Group, the Representative Church Body of the Church of Ireland, most Presbyterian Congregations and the comments received on behalf of a Baptist Congregation. A standard comment was as follows (taken from the Church Leaders comments): *'We recognise that many church buildings are important to the wider community, due, in part, to their historical and architectural significance. Their raison d'être however is to provide space for worship and be hubs of Christian service to local communities. To do this effectively the churches need the freedom to adapt to meet new and changing needs. We are concerned that if implemented this proposal will restrict freedom and make the process of change additionally cumbersome.'*
- 2.22 The second point, made by 81 of the respondents, was that the major denominations, or their church, have sufficient controls in place to take into account the concerns expressed in the consultation. The process of approvals in the Presbyterian Church, wherein changes are ultimately reviewed by a Church Architecture and Manses Panel, was set out in detail; as was the process of the Roman Catholic Diocese of Down and Connor, which is also subscribed to by the Diocese of Dromore. The Church Representative Body of the Church of Ireland also explained its process. Offers were made in regard to all three that, while content with the current standard applied, they would be happy to engage with the Department to consider potential refinements. A number of responses also pointed out the lack of cost to the Department and district councils of the current arrangement.
- 2.23 The third argument made was that the proposal raises issues about religious liberty and the undue intervention of government in church affairs. This was articulated in a number of different ways by respondents. That provided by the Council for Public Affairs of the Presbyterian Church perhaps explains the background to the concern most clearly: *'consultation raises wider issues of intervention of the government in church affairs. We realise that the Department's concern is not to restrict religious liberties nevertheless the understandable desire to protect significant buildings raises important questions about the extent of government intervention in church affairs. Such intervention should be strictly limited – a principle accepted in other areas of legislation in NI. If government exerts control over ecclesiastical design it enters the sphere of religious decision making. Local authorities will become the de-facto judge of what is permissible in terms of religious expression. This is inappropriate and disproportionate in terms of the proper role and responsibilities of government.'*
- 2.24 The fourth point made in opposition to the proposal was that the Department has not put forward a convincing argument. This point was raised by one respondent (Council for Public Affairs of the Presbyterian Church in Ireland). They felt that the lack of detail presented was *'alarming'* and felt that it was impossible to conclude from the evidence presented that removal was the only option.

- 2.25 The fifth argument outlined concerns in regard to the competence and appropriateness of liturgical requirements becoming government policy. This was a key argument made by the Roman Catholic Diocese of Down and Connor and supported by 48 parishes and the Diocese of Dromore. A number of Presbyterian Churches also articulated a similar argument with the added indication that for some congregations such requirements can change quickly, one respondent said *'even weekly'*.
- 2.26 The sixth argument made was that a parallel system would not be costly and bureaucratic as set forward in the consultation. This was articulated by the Roman Catholic Diocese of Down and Connor, supported by 48 parishes and the Diocese of Dromore. Dunamanagh Baptist Church made a similar argument as did the First Presbyterian Church of Bangor. Down and Connor suggested that the English system was introduced to cut costs, whereas First Bangor noted that the current system of control employed by the PCI costs the Department nothing. Dunamanagh Baptist Church argued that no evidence for this assertion had been produced.
- 2.27 The seventh point was that the proposal will impose a financial burden on congregations. A number of respondents suggested that it is likely that a fee will be applied and that this will pose an unnecessary financial burden. With regard to this point, such fees do not currently apply to listed building consent applications in respect of secular buildings.
- 2.28 The eighth argument was deployed in number of responses which suggested that the proposal will act as a deterrent for investment. Concerned by the costs and process involved, congregations may elect to not carry out the works or in extreme cases to leave their building (one respondent in favour, anticipating this view, argued that Department should publish information to counter such arguments – see paragraph 2.85).
- 2.29 The ninth argument was deployed by a number of respondents was that the matter of hierarchy of importance of ministry and worship, as opposed to the importance placed on the architectural features and merits of a place of worship, has the potential to be biased in favour of architecture and that the weighting of design decisions should not be more important than the functions of a church.
- 2.30 A tenth argument made was that the proposal to remove ecclesiastical exemption could hamper the ability of an individual church to provide a safe environment whilst fulfilling Health and Safety Law. In regard to this last point, it should be noted that secular listed buildings are required to deal with both requirements and in most cases it is resolved without issue.

Question 2

- 2.31 The second question asked: **'The Department could have proposed a parallel system of consents based upon the English model. It rejected this because this was likely to require a complex system of control which would be costly to administer without clear benefits to owners/ custodians or to the protection of ecclesiastical heritage assets. Do you agree with this approach?'**
- 2.32 14 respondents agreed with the approach, with one respondent noting that the *'English system was introduced at a time when the Church of England had a very sophisticated system ensuring quinquennial inspections by architects with a deep knowledge of their buildings. While the Church of Ireland does have a similar model, other religious denominations do not all have such structures and establishing them for each body or setting up a mutual body would be time consuming and probably controversial.'*
- 2.33 One of the church leaders who responded (Lutheran Church) offered a view that it makes no sense to create *'new costly administration'*. One of the council responses noted that it *'made no sense to create new separate and costly system of control when one already exists in the form of planning control'*. A respondent noted that *'the parity of protection model operating in England would not be tough enough here....The situation in Ireland where these controls already exist means that the major denominations are already familiar with this framework... we believe there are sufficient safeguards built into this proposal to ensure that churches are not burdened with unnecessary bureaucracy and controls.'*
- 2.34 One of the respondents from GB noted that *'the model of parallel systems works well in England where over 90% of historic listed churches are owned by the Church of England. This concentration of resources allows for consistency in response to faculty applications. The system also benefits from the involvement of Diocesan and Archdeacon support staff. The National Churches Trust agrees that a centralised system managed by the Department would be more appropriate for Northern Ireland, where the ownership of historic churches is more fragmented.'*
- 2.35 Another GB respondent (Twentieth Century Society) commented that a parallel system of consent based on the English model *'would be time consuming to set up and the system of parallel control in England has taken many years to evolve. It can work well if Diocesan Advisory Committees (C of E) and Historic Churches Committees (RC Church) are effective but can be less effective for post 1914 churches and the non conformist denominations.'*
- 2.36 Another practitioner noted that the *'leadership of mainstream churches have enough challenges to face today without being burdened with additional responsibilities of undertaking a new statutory role in protecting heritage assets'*.
- 2.37 Some responses expressed qualified agreement for the proposals on the basis of guidance being agreed with the places of worship in advance of removal of the exemption. One respondent noted that *'whilst we see many strengths of other systems*

currently in use around the UK, we agree that they are complex, costly and resource intensive and are unlikely to be universally appropriate. The consistent approach proposed in the consultation would be to the benefit of all denominations and congregations, providing a clear framework within which they can both maintain and develop their buildings while also protecting them for future generations.'

- 2.38 The financial implications were noted in one council's response in that *'there is no fee for Listed Buildings Consent and therefore no additional cost on applicants in imposing the requirement to apply for LBC. However it should be recognised that there is a cost to the council in dealing with this additional requirement.'*
- 2.39 Another response from a congregation (St George's Church) noted that its denomination has firm procedures for the approval of work undertaken that would otherwise require listed building consent. *'However we can see that if the ecclesiastical exemption is removed a system which incorporates the provision of support and advice as well as having the power to grant permission for work could lead to a more effective system. It would allow decisions to be taken in a timely manner, particularly when work may be required to protect the future fabric of the building.'*
- 2.40 Of the 83 respondents who disagreed with this question, one (The Royal Society of Ulster Architects) felt that there was a lack of evidence to support the argument and *'that successful systems within some church bodies already exist, however to achieve a consistent and cohesive policy that safeguards listed places of worship from inappropriate change, extension and alteration, a single policy should be established'*.
- 2.41 Two others (Dunamanagh Baptist Church and the Churches Legislation Advisory Service) also felt that the department had not produced enough evidence on this point. Dunamanagh argued that *'this 'one size fits all' approach is much too simplistic for the diversity of faiths that exist in Northern Ireland'*.
- 2.42 The Churches Legislation Advisory Service expressed a view that the *'English model works perfectly well in England – and it should be noted that the faculty jurisdiction of the C of E (which is responsible for the vast majority of English places of worship) is much more rigorous than are secular listed building controls and applies to all C of E churches whether they are listed or not. That said it would not be a simple matter for the churches in NI to establish a parallel system of control de novo'*. They added that they *'are not entirely convinced however by the assertion that it "would be too costly to administer". Perhaps it would: but so will secular controls - the cost will have to fall on someone, and we assume that that someone will be the applicant.'*
- 2.43 The remaining 80 responses offered views that they were opposed because a reasonable system was considered to exist either across a number of denominations or in their own denomination.
- 2.44 The response on behalf of the Church Leaders Group noted that *'each of the major denominations encourage local churches to take cognisance of the potential impact of proposed works on a building's character. The church leaders believe that an appropriate balance has been struck'*.

- 2.45 The Representative Church Body of the Church of Ireland outlined the current system that it operates to manage its estate; that it has *‘since 1870...through its approval system of ‘Certificates of Consent to Alterations’ managed effectively and with great care the changes in the structure, ornaments, furnishings or monuments of our churches whether by introduction, alteration or removal, in a way that we believe has struck an appropriate balance between preserving their historical and architectural importance, whilst also permitting them to evolve to meet the liturgical requirements of present day worship and mission.’*
- 2.46 The curia of the Roman Catholic diocese of Down and Connor outlined that it had *‘put in place strict procedures in relation to all works relating to its listed church buildings as acknowledged by the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) England Order 2010. The diocese does not agree with the Department’s proposal. The Department has provided no evidence to support its conclusions with respect to a parallel system based upon the English Model. Nor has it provided evidence of consultation with denominational bodies to assess systems already in place as to their cost and effectiveness’*. This view was supported by the Diocese of Dromore and 49 parish representatives.
- 2.47 26 responses from Presbyterian Congregations and representatives argued that within their denomination there are long established procedures to ensure appropriate work is carried out.
- 2.48 Malone Presbyterian Church argued that *‘the English model is a viable one and should not have been rejected’* and continued with the suggestion that the Scottish system of Ecclesiastical Exemption should also have been reviewed as it offers an alternative approach.

Question 3

- 2.49 The third question asked: **‘The Department is proposing that the liturgical requirements of places of worship become a material concern in determining relevant applications for listed building consent for such buildings Do you agree?’**
- 2.50 Of the 53 detailed responses received to this question, 21 confirmed support for this proposal. Mid Ulster District Council expressed the view that *‘it is important that local authorities recognise and support various individual religious and cultural practices within Northern Ireland. Given that such practices can result in a physical impact upon the external and internal appearance and character of a listed place of worship, it is justified that liturgical requirements be a material consideration in the determination of a planning application’*.
- 2.51 Causeway Coast and Glens Borough Council noted that *‘liturgical requirements differ between the various individual religious and cultural practices that exist in Northern Ireland. Given that such practices can result in a physical impact upon the external and internal appearance and character of a listed place of worship, it is justified that the liturgical requirements be a material consideration’*.

- 2.52 One of the professional bodies confirmed support for the proposal: *‘how a place of worship chooses to conduct its worship should be determined by the relevant church body, which may result in alterations to the historic fabric of a building. The requirement for LBC before undertaking such changes can ensure that they do not unduly diminish the character or special interest of the building’.*
- 2.53 Another practitioner responded that while he *‘agreed strongly that it would be beneficial for liturgical requirements of places of worship to be considered as a material consideration in determining a relevant application’* that did not see the requirement for changing the legislation and that this could be dealt with as a planning application. He provided the observation that *‘many protestant churches have no defined ‘liturgy’- in fact this word is alien to the majority of Presbyterian Churches. Styles of worship vary greatly from congregation to congregation and can change weekly. Regulators have little understanding of the activities of such churches. Many traditional churches face competition from new fellowships unrestricted by regulation’.*
- 2.54 Another respondent (Heritage Lottery Fund) outlined the necessity for understanding the issues in his assertion that *‘Places of worship are highly specialised buildings in terms of their use, so any proposals for development control must fully respect this. Form and function are inextricably linked in the design of places of worship and therefore liturgical history and its current practice need to be fully understood in order to make balanced judgements about how best to adapt places of worship to meet modern needs’.*
- 2.55 Two respondents were in agreement but felt that liturgical concerns should not outweigh heritage concerns. *‘We would caution that applicants could also argue that their own liturgical requirements may be a justification for removal or destruction of parts of buildings which would be of genuine historic interest and should be protected regardless’* (St George’s Church). Another felt that *‘both the liturgical and community use requirements of places of worship should be a material concern in determining relevant applications. Many church buildings will require community use to ensure sustainability. Ensuring that, where liturgical requirements allow, such buildings have the flexibility to meet community needs should be an important consideration of the review process’* (National Churches Trust).
- 2.56 One agreed but felt that heritage should not outweigh liturgical concerns: *‘places of worship are primarily about worship, not about the preservation of the built heritage – however important the latter might be’* (Churches Legislation Advisory Service).
- 2.57 For the 54 respondents who disagreed with this proposal, the *‘competence and appropriateness of liturgical requirements becoming an aspect of government policy’* was a key concern. This was expressed in detail by the Diocese of Down and Connor and supported by the Diocese of Dromore and 48 parish representatives. They expressed a strong view that *‘to do this is fraught with difficulties’*, adding that in their view it is for *‘each denomination to interpret its own liturgical requirements and not the responsibility of the Department’.*

2.58 Another noted that *'the question presupposes a yes in response to question one. As we have indicated no, the question is not relevant'*.

Question 4

2.59 The fourth question asked: **'Do you agree that best practice guidance on the alteration and adaption of Northern Ireland's listed places of worship should be developed in parallel to the process of removal of the exemption?'**

2.60 77 of the 78 responses received in relation to this question were in general agreement with the proposal to develop best practice guidance. Of these, however, 50 responses by or in support of the view offered by the Diocese of Down and Connor argued that a code of practice along the lines of that published in England should be established instead: *'liturgical requirements are for each denomination to decide and it is our contention that the Department risks overstepping its competence in seeking to regulate this. Therefore we have grave reservations about the development of best practice. Instead we propose that the Department works with the denominational bodies to establish a code of practice, comparable to that of the Department of Culture Media and Sport published in 'The Operation of Ecclesiastical Exemption and related planning matters for places of worship in England (2010).'*'

2.61 Mid Ulster District Council expressed a view that *'it is important that such a change in legislation and practice is highlighted and publicised once commenced so that all local authority planning officers are fully aware of the new procedures and processes. Clear, concise, authoritative and expert best practice guidance would be of great benefit to both professional and the public on this matter'*. Existing guidance in other parts of the UK were highlighted by some respondents (National Churches Trust, Twentieth Century Society). The Heritage Lottery Fund noted that *'it is vitally important that any guidance recognises that whilst congregations caring for places of worship oversee and maintain some of the country's most significant historical buildings, their members are often volunteers and may not have the skills required for building conservation. For this reason, all guidance must be accessible, provide clear and unambiguous direction on the requirements...and include sources of advice and specialist support'*.

2.62 One of the professional bodies (Royal Society of Ulster Architects) requested that consideration be given to the provision of better information on *'each building so that the impact of changes can be fully understood by the building's custodians'*, adding that the Department should also consider the provision of grants for Conservation Management Plans and quinquennial reviews *'where such documentation is not available'*.

2.63 In addition to the Down and Connor views noted above, six respondents agreed that the provision of best practice guidance would be viewed as beneficial but made clear that they did not support the removal of Ecclesiastical Exemption. One respondent (First Bangor Presbyterian Church) noted that such guidance might be helpful to an Architectural Committee who *'would have a member with relevant listed building works'*. Another (Malone Presbyterian Church) expressed the view that *'the Department's participation on the PCI's Church Architecture and Manses Panel might*

be a potential way forward and additional best practice guidance is always useful'. Another noted a potential constraint of guidance in 'the danger is that it [guidance] becomes a rulebook without flexibility'.

- 2.64 One response argued that the development of guidance should not hold back removal of the exemption (Historic Buildings Council).
- 2.65 Gardenmore Presbyterian Church noted that it did not support the development of guidance.

Question 5

- 2.66 The fifth question asked: **'Do you agree that the guidance should clarify that listed places of worship do not enjoy permitted development rights and that external changes such as removing windows, doors, taking off render, or changing roof details are 'development' and require planning permission?'**
- 2.67 Of the 76 respondent who responded to the individual questions, 23 were in favour of this clarification being provided in the guidance. A number of local authorities confirmed that *'it is very important that both professional officers and the general public are aware of what constitutes 'development' and what requires planning permission or consent'*. Another felt that *'this is considered essential in terms of clarifying that consent and planning permission is required and under what circumstances'*. The necessity to avoid incremental damage was covered in a number of responses as one respondent commented that they agreed that guidance *'should be included in order to avoid incremental damage to listed heritage assets'*.
- 2.68 Another respondent who objected strongly to the removal of Ecclesiastical Exemption noted that *'it is still essential that Planning Policy is in place to control the external changes described'*. Another respondent (National Churches Trust) noted that the proposed guidance *'should be clear that unauthorised changes will require churches to re-instate changes that have been undertaken without the proper permissions'*. One of the major funding organisations outlined that it was *'entirely supportive of the development and dissemination of best practice guidance'*.
- 2.69 The Diocese of Down and Connor, supported by the Diocese of Dromore and 48 parish representatives, outlined that they felt that insufficient information had been provided on the scope of the revised guidance and they thus reserved judgement.
- 2.70 Three responses outlined objections: Dunamanagh Baptist Church felt that it would amount to *'removal of a significant part of the exemption'*; while another local authority respondent added that *'if external alterations such as windows and doors are considered development, it should apply to all buildings including those which are not listed. This would add a considerable burden to the planning system in terms of numbers of planning applications. It is difficult to argue that the replacement of windows and doors would materially affect an ecclesiastical building and not any other building'*.

2.71 In regard to this last point, works to the exterior of places of worship normally involve changes already subject to planning controls. Only listed buildings are exempt from permitted development and therefore, as such changes already require Listed Building Consent for all listed buildings other than places of worship, this clarification of planning law would only lead to potential changes of process for external developments at listed places of worship.

Question 6

2.72 The sixth question asked: **‘Do you agree that what is understood by ‘liturgical requirements’ should be clearly defined in the guidance?’**

2.73 Of the 77 responses received to this question, 21 agreed with the proposal. One respondent (Historic Buildings Council) noted concerns that it was *‘uncertain of the weight that will be given to it, which will require careful assessment on every application’*. They added the suggestion that *‘thought might be given to advising the council planners to jointly employ an officer with expertise on churches who could operate within the council system but across all districts’*.

2.74 The precision of scale and scope of the exercise was outlined in a number of responses, with some respondents suggesting that it *‘might be a challenge to do this across all denominations and faiths’* and another suggesting that this can only be achieved *‘after the most careful and exhaustive consultation’*.

2.75 One respondent, St Georges’ Church, argued that while they felt this should be taken into account, *‘we would caution that applicants could also argue that their own liturgical requirements may be justification for the removal or destruction of parts of buildings which would be of genuine historic interest and should be protected regardless.’*

2.76 Of those who disagreed, the Diocese of Down and Connor, supported by the Diocese of Dromore and 48 parishes noted that they disagreed *‘with the ability or competence of the Department to define “liturgical requirements”. This is a matter for each denomination to determine as it does not fall within the competence of a state body to determine matters of faith and practice’*. They felt that that *‘in seeking to do so, the Department is potentially interfering in the rights of religious freedom insofar as guidance could be used to restrict freedom to develop the property of a religious community in a manner conducive to its acts of worship’*.

2.77 The necessity for flexibility was outlined in a number of responses – *‘there has to be flexibility to allow for changes of worship over periods of time’* (First Presbyterian Church Bangor). Another (Malone Presbyterian Church) outlined that *‘needs are constantly changing and we consider that the PCI Panel is best placed to assess any particular circumstances and to direct congregations accordingly’*.

2.78 The risks of not involving the denominations in the determination of liturgical requirements were expressed in the response by Dunamanagh Baptist Church: *‘if the removal of the exemption is forced on churches against their will then only churches*

should be permitted to define their own liturgical requirements. As this is a spiritual matter it should not be the prerogative of the Department. Different faiths and traditions have differing liturgical requirements; any definition would have to be capable of serving this diversity. To fail to do this would make a mockery of the Equality Screening Exercise’.

- 2.79 A final section of questions asked the respondents **‘If you think the Department might have better achieved its aim of improving the management of change to our ecclesiastical heritage please feel free to say so’.**
- 2.80 In response to this, four respondents were critical of the Department having advanced to consultation without consulting the main denominations in advance of its proposal. This has been discussed at paragraph 2.13.
- 2.81 Nine respondents outlined that churches with appropriate procedures should be allowed to continue to carry out the function of monitoring and deciding upon changes.
- 2.82 Ten responses argued that the current situation is sufficient and should be maintained.
- 2.83 Two responses argued that the Department should be engaging with the various denominations to debate and tackle emerging concerns. Dunamanagh Baptist Church suggested that, in partnership with churches, the Department *produce ‘best practice guidelines that: a) recognise that the primary purpose of church building is worship and service; b) commit to working in partnership with church authorities to provide for historical and architectural interest while respecting the primacy of the spiritual function of church buildings; c) respect the historic separation of church and state which many faiths hold dear; and d) enable ecclesiastical authorities alone to define spiritual function’.*
- 2.84 A final question asked **‘In responding to this consultation, please highlight any unintended consequences of the proposals and any practical difficulties you foresee in implementing them’.**
- 2.85 A number of unintended consequences were identified. Two Trustees of the Ulster Historic Churches Trust suggested that there may be an increase in the numbers of congregations requesting that their churches be delisted. First Bangor Presbyterian Church noted that this proposal may hasten abandonment with increased bureaucracy involving additional expense and time in getting approvals. Anticipating such a claim the National Churches Trust suggested that *‘some congregations may feel that listed building requirements will slow their project... it would be useful to publicise the system required to gain listed building consent and the average time that this requires. It would also be useful to confirm that requiring consent does not preclude a place of worship from making well considered and well designed changes.’*

- 2.86 One respondent suggested that the intervention by the Department in the definition of liturgical requirements risked dictating worship styles and potentially contravening Article 9 of the European Convention on Human Rights.
- 2.87 This respondent was also concerned at the LBC process being '*governed by individuals with a conservation understanding and agenda and no inherent ability to understand the needs of a faith community*'. This is a similar point to that raised by the Diocese of Down and Connor in response to the question on liturgical requirements.
- 2.88 Another respondent was concerned at the level of sanction which would be out of proportion with the nature of the offence, citing the example of the installation of a screen for audio visual use.

Section 3: Conclusion and Way Forward

Conclusion

- 3.1 One hundred and twenty two groups and individuals responded to this public consultation. Many of the comments received were detailed and reflected a range of views and opinions. Key stakeholders in the churches, voluntary and public sector were represented as well as the views of some individuals. The Department has carefully considered all of the comments made.
- 3.2 In summary, it is clear that, while there is widespread support among groups concerned with the protection of the historic environment and among the majority of district councils (seven of which responded) for the removal of the exemption, almost all of the responses from churches were opposed to the removal of the exemption.
- 3.3 A number of concerns coalesced in the responses opposed to the removal of the exemption. Flexibility was seen as key to dealing with future challenges and the responses demonstrated little confidence that requiring permission from the local authority will help in this regard. This was associated with a strongly held conviction among some that intervention by the state is potentially an intervention in how worship can be conducted and therefore an assault on religious liberty. For many, as well, their present internal system, administered by people intimately conversant with their faith, works perfectly well. Some were of the view that a few extreme cases should not cause upset to this system, while others were unconvinced by the evidence presented by the Department. Another concern raised was in regard to the definition of liturgical requirements. It was argued these are subject to change, and doubt was cast upon the suitability of Departmental and district council officials to evaluate these.
- 3.4 In principle, these concerns could be addressed in a system which removed the exemption. Listed Building Consent procedures for secular buildings have proved very flexible in their 42 years of operation in Northern Ireland. As part of this, significant changes have been approved for many redundant churches. The principle of government intervention has already been established through health and safety and building control requirements. Easements in both cases can be achieved based upon reasonable argument. The idea in the Department's proposals of introducing liturgical requirements as a material concern was to ensure similar flexibility. While the responses have made clear that the definition of such requirements is potentially very difficult, the point was that the principle of flexibility to accommodate such concerns be enshrined in any new approach.
- 3.5 It is, however, clear that there are major concerns among many church bodies and congregations in regard to the impact of the proposed change. As they are the principal custodians of listed places of worship, this has to be taken into account.
- 3.6 There was general agreement in the responses to the proposed development of best practice advice. Responses also expressed general agreement on the benefits of clear

guidance regarding planning legislation relating to the exterior of listed church buildings

- 3.7 Three of the main churches, the Church Leaders Group and a number of others also proposed discussions with denominations to refine their current internal processes as an alternative way forward. They argued that this would help ensure that the concerns set out in the consultation responses are understood and addressed.
- 3.8 One concern that the Department had in regard to such an approach was that, while some denominations have procedures, others do not; and that ecclesiastical groups are not defined or listed in the legislation. It is acknowledged, however, that the majority of listed ecclesiastical buildings are owned by the main churches.

Way Forward

- 3.9 The Department has decided, taking account of all of the consultation responses, that discussion with church representatives fully to explore the potential of refinements to their systems, and the development of suitable systems for smaller churches, is an appropriate way forward. District councils as planning authorities also need to be involved in the discussions.
- 3.10 The following way forward will therefore be pursued:
- The ecclesiastical exemption provided for in Section 85(8) of the Planning Act (Northern Ireland) 2011 will remain in place
 - The Department will work closely with those responsible for listed places of worship in Northern Ireland, and with district councils as planning authorities, to support effective decision making as regards changes to places of worship, taking account of legislative provisions and of developing knowledge and insights as regards such works. This close working will take two forms:
 - For larger organisations, the Department will put in place partnering arrangements, governed by a Memorandum of Understanding or similar, which will enable structured engagement with governing bodies at a Northern Ireland level to review developing best practice in this and other jurisdictions, and agree appropriate changes to Departmental, planning authority and governing body guidance and processes in light of this and of any relevant specific examples of changes to listed places of worship
 - For smaller organisations and individual self-governing places of worship, the Department will provide appropriate guidance on changes to places of worship which enhances the advice already available. This will provide for access to the Department's conservation architects to discuss proposed developments, and for access to the expertise in larger organisations as to how best to manage and codify processes for approving changes to places of worship which take account of liturgical and architectural matters and the appropriate balancing of these

3.11 The Department believes, having considered the representations made in the responses to the consultation, that such an approach is proportionate in addressing the issues raised and will continue to allow worshipping communities to adapt their buildings in response to their mission whilst taking account of architectural considerations and community association with these important buildings. The Department, working closely with those responsible for listed places of worship, will monitor the effectiveness of these arrangements.

Appendix A – List of Organisations who provided comments

No	Response From	Received
1	Trustees of Milford Buildings Preservation Trust	20 April
2	Church of Ireland Trustee for Ulster Historic Churches Trust	22 April
3	Methodist Trustee for Ulster Historic Churches Trust	25 April
4	Private individual	5 May
5	Lutheran Church of Ireland	6 May
6	Mid Ulster District Council	9 May
7	The Church Leaders Group (Ireland)	3 May
8	Carrickfergus Presbytery of the Presbyterian Church in Ireland	10 May
9	Scarva Street Presbyterian Church	10 May
10	Belfast Civic Trust	11 May
11	Belfast City Council	4 May
12	Private individual	13 May
13	Private individual	16 May
14	Tyrone Presbyterian Church	17 May
15	Crumlin Presbyterian Church	17 May
16	Private individual	18 May
17	Newry Presbytery	19 May
18	Derry City and Strabane District Council	20 May
19	Mid and East Antrim Borough Council	20 May
20	Gardenmore Presbyterian Church, Larne	19 May
21	Representative Church Body, Church of Ireland	23 May
22	Stormont Presbyterian Church	25 May
23	East Belfast Presbytery	25 May
24	Second Presbyterian Church, Comber	29 May
25	Down & Connor Diocesan Trust	27 May
26	Roman Catholic Diocese of Dromore	1 June
27	Private individual	2 June
28	St Brigid's Parish, Derryvolgie	31 May
29	McQuiston Memorial Presbyterian, Castlereagh Road	31 May
30	Parish of Saul and Ballee	31 May
31	Private individual	2 June
32	Presbytery of Iveagh	2 June
33	Parish of Bright	1 June
34	St John's, Falls Road	1 June
35	Parish of Bangor	1 June
36	Parish of Kilmegan and Kilcoo	1 June
37	St Luke's Presbytery	1 June
38	Parish of St Mary Greencastle, Star of the Sea, Whitehouse and St James, Whiteabbey	1 June
39	Catholic Chaplaincy	1 June

No	Response From	Received
40	Newry Cathedral Parish	1 June
41	Parish of Carrickfergus	1 June
42	Parish of Glenavy	1 June
43	St Oliver Plunkett Presbytery	1 June
44	Armagh City, Banbridge & Craigavon Borough Council	3 June
45	Private individual	3 June
46	Bloomfield Presbyterian Church	4 June
47	Parish of Dromore	6 June
48	St Malachys Seminary	6 June
49	Parish of Blaris	6 June
50	Parish of Upper Mourne and Kilkeel	6 June
51	Parish of St Michael the Archangel	6 June
52	Parish of Ballyclare and Ballygowan	6 June
53	Parish of the Nativity	6 June
54	Parish of St Peter's, Clonallon	6 June
55	Parish of Drummaul	6 June
56	Parish of Christ the Redeemer	6 June
57	Parish of Kilmore and Killyleagh	6 June
58	Cathedral Parish of St Peter	6 June
59	Parish of Derriaghy Rev	6 June
60	Parish of St Mary's, Chapel Lane	6 June
61	First Presbyterian Church, Bangor	6 June
62	Parish of Larne	6 June
63	Parish of Annaclone	6 June
64	Magherahamlet Presbyterian Church	6 June
65	Downshire Road Presbyterian Church	6 June
66	Parish of Downpatrick	6 June
67	St Patricks Parish, Donegall Street	6 June
68	Parish of Tullylish	6 June
69	Parish of Seapatrick	8 June
70	Parish of Magheradroll	6 June
71	Parish of Portaferry	6 June
72	Parish of Maghera	6 June
73	Parish of St Colmcille, Holywood	6 June
74	Lisburn Buildings Preservation Trust	6 June
75	Parish of Portglenone	9 June
76	Cooke Centenary Church	9 June
77	Hamilton Road Presbyterian Church	9 June
78	Historic Buildings Council	9 June
79	Parish of Newry	9 June
80	Parish of Corpus Christi	9 June
81	Private individual	9 June
82	Gilnahirk Presbyterian Church	9 June

No	Response From	Received
83	Malone Presbyterian Church	10 June
84	Holy Rosary Presbytery	10 June
85	The Parish of St Malachy	10 June
86	Parish of Clonduff	10 June
87	Dunamagh Baptist Church	10 June
88	Streaton Presbyterian Church	12 June
89	Whitehouse Presbyterian Church	11 June
90	NILGA Northern Ireland Local Government Association	11 June
91	Lisburn and Castlereagh City Council	10 June
92	National Churches Trust	10 June
93	Presbytery of Ards	8 June
94	Molesworth Presbyterian Church	11 June
95	Ministerial Advisory Group on Architecture and the Built Environment	13 June
96	Private individual	10 June
97	South Belfast Presbytery	10 June
98	Newcastle Presbyterian Church	13 June
99	Twentieth Century Society	13 June
100	Private individual	10 June
101	Enniskillen Presbyterian Church	13 June
102	Historic Monuments Council	13 June
103	Royal Society of Ulster Architects	13 June
104	Parish of Portrush and Bushmills	13 June
105	First Presbyterian Church Dunboe	13 June
106	Parish of Loughguile	13 June
107	Parish of Dunloy and Cloughmills	13 June
108	Castlecaulfield & Eglisk Presbyterian Churches	13 June
109	Parish of Cushendall	13 June
110	Council for Public Affairs of the Presbyterian Church in Ireland	13 June
111	Ballygrainey Presbyterian Church	13 June
112	First Omagh Presbyterian Church	13 June
113	Ulster Architectural Heritage Society	13 June
114	Institute of Historic Buildings Conservation	13 June
115	Churches' Legislation Advisory Service	13 June
116	Kilbride Presbyterian Church	13 June
117	Downshire Presbyterian Church	14 June
118	Parish of St Olcan's Armoy	16 June
119	Heritage Lottery Fund	14 June
120	Causeway Coast and Glens Borough Council	23 June
121	St Georges Parish Church, High Street, Belfast	23 June

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Supporting and sustaining vibrant communities and a strong economy through realising the significant, ongoing value of our historic environment.

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