

Additional Matters (Oxford) (No. 1) Order 2016

In accordance with section 18C(4) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (“the Measure”), the Chancellor of the Diocese of Oxford has sought the advice of the Diocesan Advisory Committee before making this Order.

In exercise of the power conferred by section 18C(1) of the Measure the Chancellor makes the following order:

1. An authorised person may undertake any matter prescribed in the first column of the table in the Schedule without a faculty—
 - (a) if the archdeacon has been consulted on the proposal to undertake the matter and has given notice in writing that it may be undertaken without a faculty; and
 - (b) subject to—
 - (i) any conditions that are specified in relation to that matter in the corresponding place in the second column of the table; and
 - (ii) any additional conditions imposed by the archdeacon under paragraph 2(b).
2. Where the archdeacon is consulted under paragraph 1(a) on the proposal to undertake a matter, the archdeacon—
 - (a) must seek the advice of the Diocesan Advisory Committee or such of its members or officers as the archdeacon thinks fit before deciding whether to give notice that it may be undertaken without a faculty; and
 - (b) may make the undertaking of the matter subject to additional conditions specified by the archdeacon in the notice.
3. A notice given by the archdeacon under paragraph 1(a) must specify the proposals which may be undertaken without a faculty.
4. The archdeacon must retain a copy of every notice given under paragraph 1(a) and must also send a copy to—
 - (a) the registrar of the diocese for filing in the diocesan registry; and
 - (b) the secretary of the Diocesan Advisory Committee.
5. If the archdeacon declines to give notice under paragraph 1(a) that a proposal may be undertaken without a faculty the archdeacon must inform the applicants that they may, if they wish, petition the court for a faculty to authorise the proposal.
6. Words and expression used in this Order have the same meaning as they have in Part 3 of the Faculty Jurisdiction Rules 2015.
7. This Order may be cited as the Additional Matters (Oxford) (No. 1) Order 2016.

A.S. McGregor
Chancellor

6 December 2016

Schedule

<i>Matter</i>	<i>Specified conditions</i>
Church building etc. Works of routine maintenance and repair affecting the fabric of a church or historic material	<p>The need for the works is identified in the most recent report prepared in respect of the church pursuant to section 1(2) of the Inspection of Churches Measure 1955 (commonly known as the “quinquennial inspection report”) or in subsequent written advice from a person (“a qualified person”) registered under the Architects Act 1997 or a member of the Royal Institution of Chartered Surveyors qualified as a chartered building surveyor</p> <p>The Diocesan Advisory Committee, or a member or officer of the Committee from whom the archdeacon seeks advice under paragraph 2(a) of the Additional Matters (Oxford) (No. 1) Order 2016, advises the archdeacon that the works should be regarded as routine maintenance or routine repair</p> <p>Details of any materials to be used are submitted to the archdeacon when the archdeacon is consulted on the proposal to undertake the matter</p> <p>The works do not involve any new disturbance below ground level</p> <p>The parochial church council’s insurers are notified if external scaffolding is to be erected</p>
Churchyard The routine maintenance, repair or rebuilding of walls	<p>The works do not relate to any wall which is included in the Schedule maintained for the purposes of the Ancient Monuments and Archaeological Areas Act 1979</p> <p>The need for the works is identified in the most recent report prepared in respect of the church pursuant to section 1(2) of the Inspection of Churches Measure 1955 (commonly known as the “quinquennial inspection report”) or in subsequent written advice from a person (“a qualified person”) registered under the Architects Act 1997 or a member of the Royal Institution of Chartered Surveyors qualified as a chartered building surveyor</p> <p>The Diocesan Advisory Committee, or a member or officer of the Committee from whom the archdeacon seeks advice under paragraph 2(a) of the Additional Matters (Oxford) (No. 1) Order 2016, advises the archdeacon that the works should be regarded as routine maintenance or routine repair</p> <p>Details of any materials to be used are submitted to the archdeacon when the archdeacon is consulted on the proposal to undertake the matter</p> <p>The works do not involve any new disturbance below ground level</p> <p>The parochial church council’s insurers are notified if external scaffolding is to be erected</p>

Explanatory Note

(This note does not form part of the Order)

The Chancellor of the Diocese of Oxford has made the Additional Matters Order 2016 under section 18C(1) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991.

Part 3 of the Faculty Jurisdiction Rules 2015 (“the Rules”) and Schedule 1 to the Rules provide for certain matters within the jurisdiction of a consistory court, subject to certain conditions, to be undertaken without a faculty. Table 2 of Schedule 1 (“List B”) provides for a range of matters to be undertaken without a faculty if the archdeacon has been consulted and has given notice in writing that the matter may be undertaken without a faculty. The archdeacon may impose additional conditions in the written notice.

Item B1(1) and B5(3) in List B provide, respectively, for undertaking routine maintenance and repair affecting the fabric of a church or historic material, and for the routine maintenance, repair or rebuilding of walls in a churchyard. In each case, one of the conditions which has to be met is that the works are identified as routine items of maintenance in the most recent report prepared in respect of the church pursuant to section 1(2) of the Inspection of Churches Measure 1955 (commonly known as the “quinquennial inspection report”) or in subsequent written advice from a person registered under the Architects Act 1997 or a member of the Royal Institution of Chartered Surveyors qualified as a chartered building surveyor.

Many quinquennial inspection reports and follow up reports do not categorise works in the way envisaged by that condition. As a result, some parishes have been unable to carry out routine works of maintenance or repair that are listed in its quinquennial inspection report without petitioning for a faculty – a situation the Faculty Jurisdiction Rules sought to make unnecessary.

The effect of this Order is that where a parish (or other ‘authorised person’ responsible for a church or churchyard) wishes to carry out routine works of maintenance or repair of a type described above, and which are listed in a quinquennial inspection report (or subsequent written report from an inspecting architect or surveyor), they will be able to apply to the archdeacon for consent to carry out the works without a faculty even though the report does not identify them as works of routine maintenance. Before deciding whether to give consent, the archdeacon must consult the Diocesan Advisory Committee, or such members or officers of the Committee as he or she thinks fit, and will be able to give consent for the works if the DAC or other person consulted by the archdeacon advises that the works should be regarded as routine maintenance or routine repair (even though they are not identified as such in the inspection report).

The term “routine” in this context (as in Schedule 1 to the Rules) applies both to “maintenance” and to “repair” in relation to the fabric of a church or historic material; and to each of “maintenance”, “repair” and “rebuilding” in relation to walls in a churchyard. Whether particular works are “routine” is for the archdeacon to determine in the first instance and is to be considered in the context of the general life of the fabric etc. in question. Works should be regarded as routine if they are carried out as part of the regular course of caring for and preserving the church or the churchyard walls. In cases of doubt, the archdeacon can refer the question to the chancellor for determination.

As with permissions under List B of the Faculty Jurisdiction Rules, the archdeacon will still need to have advice from the DAC (or its members or officers) on the merits of any proposed works. And, again as with List B matters, the archdeacon will have a discretion to withhold consent. If the archdeacon gives consent, he or she may impose additional conditions to those set out in the Schedule to this Order.