

The majority of the churches in the Diocese are set within a churchyard, and most of these are, or will have been, used for burials. This is therefore their primary function, and as such they provide a place of tranquillity and a place to grieve, but are also important in terms of social history, archaeology, and nature conservation for both flora and fauna.

Churchyards are classified as either 'Open' or 'Closed' depending on whether they are still 'open' for burials or not. If they have been closed by way of an Order in Council, because the churchyard is full, then the responsibility for the maintenance of the churchyard is usually transferred to the relevant Local Authority, Town or Parish Council. If it is still open, then the responsibility rests with the incumbent and PCC (as a parish churchyard, along with the church buildings, is normally vested in the incumbent, with shared responsibility with the PCC).

PERMISSIONS

Whether the churchyard is 'Open' or 'Closed', a faculty will be required for anything more than minor works. Reference should be made in the first instance to Lists A & B (issued in January 2016), to see whether what is being proposed falls under these lists, if not, then it is likely that a faculty will be needed. The Church Buildings office can offer further advice if you are unsure what permission(s) will be required.

Changes to the Ecclesiastical Exemption in 2010¹ meant that works to structures such as lych gates, tombs and walls which are listed in their own right (they have a separate grading and list description to the church building), no longer need a separate Listed Building Consent application to the Local Planning Authority. They are now also covered by the Exemption from needing such permission.

Certain works within churchyards may however require planning permission *in addition* to a faculty. Planning permission may be required where works involve an alteration to the exterior of the church or addition to the churchyard. This would include, for example, an extension to the church, construction of a separate structure within the churchyard, creation of a new, or alteration of an existing path, a permanent ramp for disabled access, the addition of handrails, or the introduction of an oil tank. There may be further restrictions if the churchyard falls within a Conservation Area. Parishes should check with their Local Authority Planning Department (Conservation Officer) on whether any form of permission will be needed, and if so, this should be applied for at the same time as applying for a faculty. If no form of permission from the Local Authority is needed for the works, then the parish should ask for this to be confirmed in writing as evidence to be submitted with their faculty petition.

¹ <http://www.culture.gov.uk/images/publications/OPSEEGuidance.pdf>

HEALTH & SAFETY IN CHURCHYARDS

This is a complex area, and health and safety in a churchyard can cover many aspects including walls, headstones and monuments, trees, paths, and steps. People often ask where the responsibility for these items lies, and who is actually liable if things go wrong. Maintenance of headstones and tombs is primarily the responsibility of the deceased's family, but where the family no longer tends the grave or cannot be traced, responsibility for any injury resulting from dangerous structures may rest with the PCC. Few people are likely to be aware that they may be responsible for maintaining the monuments of not only their parents and grandparents, but also more distant relatives. In the case of closed churchyards, if the family cannot be traced, it is the responsibility of the Local Authority which has taken over responsibility from the PCC to ensure that gravestones are safe.

Ecclesiastical Insurance recommends that all gravestones and tombs are inspected for safety annually. They suggest that rather than using 'Topple Testers' each stone should be physically handled to check for loose mounting, disintegrating mortar or undue spalling caused by age or frost, thus making the stonework unsafe.

Gravestones must be sufficiently secure so that they would not topple over if someone held on to them to help themselves up if they had knelt down to read the inscription, but every stone need not be perfectly upright.

A record of such a routine inspection should be recorded in the PCC minutes, noting the dates and names of the personnel undertaking the survey, together with a record of any action taken. Straightening stones (so that they are upright) as described above can be taken without any recourse to the DAC, but any laying flat, relocation or repair will need a faculty. The conservation of table tombs will also need a

faculty. If the Local Authority is undertaking any work to ensure the safety of gravestones and tombs, they should be made aware of the possible need for permission. If a PCC or Local Authority is proposing to undertake any works to a memorial or tomb, it also needs to have shown that it has made every effort to contact the heirs to gain their consent when petitioning for a faculty.



In addition to ensuring the safety and maintenance of gravestones, the PCC has a general responsibility for the general maintenance of the churchyard, including the safety of walls and paths. Even if the churchyard has been closed (see above), and the Local Authority has taken over the responsibility for maintenance, the PCC and the incumbent may continue to share responsibility for certain items (clearing paths of snow, gritting in frosty weather etc). Parishes are advised to contact the Diocesan Registry and their church insurers if they have any specific queries regarding this complex matter. Ecclesiastical Insurance provide general guidance on churchyard safety for parishes that they insure in their 'Health & Safety' Guidance Notes.

<http://www.ecclesiastical.com/churchmatters/churchguidance/churchhealthandsafety/index.aspx>

CHURCHYARD MANAGEMENT

Useful guides on how to produce a Churchyard Management Plan are given in *The Churchyards Handbook* and *Wildlife in church and churchyard* (see recommended reading, below). Such a Plan (usually a user-friendly leaflet or A4 sheet) tells people both in and outside the congregation about the character and features of the churchyard, and should outline the maintenance regime e.g. the height of grass, whether a wildlife area has been set aside, the management of dead flowers, cuttings etc and the inspection of tombstones. It should be displayed on a noticeboard along with the diocesan regulations, and should be revised and updated every five years. Whatever the rules are for a particular churchyard, it is important that they are explained clearly and displayed somewhere at the church to avoid upsetting those tending graves.

Some parishes have set up a 'Friends' group for their churchyard – such a group can help with raising funds specifically for churchyard maintenance, and also provide more pairs of hands to help. People from the local community not otherwise involved in the church may wish to



become involved in this way, and to help with working parties etc.

Each PCC should also have a comprehensive record and plan of its churchyard. Some have undertaken projects to record the inscriptions of the headstones. If this has not yet been undertaken for your churchyard, perhaps a local history society could become involved with helping with this project.

IN THE CHURCHYARD....

Repairs to churchyard walls are an item often identified in a church's Quinquennial Inspection, with works required ranging from removal of small amounts of vegetation and repointing, to complete rebuilding in some extreme cases. When a number of repairs are needed to the church building itself, it is understandable that items in the churchyard are not always given the highest priority. However, walls may bound on to a road, a public footpath, or a neighbouring property, and therefore become a health and safety issue if repairs are not attended to. If a wall falls onto a highway and causes injury to a passer-by or to any property, such as a parked car, the PCC will be liable (unless the churchyard has been closed, in which case responsibility falls to the relevant Local Authority). As such, the Highway Authority can serve notice on a church if a dangerous wall is adjoining a road, and the PCC (or Local Authority) will be under an obligation to repair it. Where stones have become dislodged in areas close to burials, there is also a risk to those tending graves.

The appearance of churchyard boundaries (indeed churchyards as a whole) is also important in giving an impression of the maintenance and upkeep of the church to the wider community, as they may only view the church building from the outside – walls covered in heavy vegetation and in disrepair may give an image of decay and neglect, which will not create the right impression, and may not encourage people to venture further in to the churchyard or church building.

If the church architect or surveyor has not drawn up the specification the DAC is likely to suggest that they should be consulted. There may be technical aspects of the project, as well as the issue of any visual changes to the wall that could impact on the setting of the church, that should be discussed with them. In some instances a Structural Engineer's advice may also need to be sought. Churchyard walls often retain a ground level that is higher than the surrounding area and any reconstruction of the wall may therefore require digging back into the churchyard and/or the digging out of deep foundations. Both of these actions also have archaeological implications (see below).

In cases of genuine emergency where a wall has collapsed due to storm damage or an accident involving a vehicle, or is in real danger of imminent collapse, the Chancellor can issue a Licence to Proceed so that immediate measures can be taken whilst the faculty is applied for.

In all circumstances, the Local Authority Planning Department (Conservation Officer) should be consulted to see whether either planning permission is needed (if any changes to the wall are proposed). Grants may be available for the repair of historic walls; consult the latest funding list available in hard copy from the Church Buildings office or on the 'Church Buildings' pages of the diocesan website:

<http://exeter.anglican.org/resources/church-buildings/>

List B or Faculty approval are likely to be needed for wall repairs. The DAC will need to be provided with the following information for an application to repair a churchyard wall:

- a plan of the churchyard marking the extent and location of the proposed work
- good photographs, showing both the detail of the areas needing repair and the context of the wall in terms of the overall churchyard
- a specification for the works detailing how the wall is actually being repaired i.e. the mortar mix to be used, any new stones needed, types of coping, whether the wall is being rebuilt like-for-like or any alterations proposed such as additional drainage holes, strengthening bars etc. It should be remembered that like for like rebuilding will invariably be far less invasive (and destructive of archaeological deposits and churchyard environments), than reconstruction using modern materials.
- information about any soil behind a retaining wall that may need to be removed, and
- any other associated works such as removal of trees/vegetation.

SPOIL FROM THE DIGGING OF GRAVES

Over the years the inevitable spoil remaining from the digging from graves has often accumulated against churchyard walls, or the church walls themselves. This accumulation can lead to undue pressure on the churchyard walls, and to their eventual failure, as well as to the ingress of damp into the church building. If the spoil is tipped beneath the nearest tree it poses a threat to the tree, making it vulnerable to rot. Spoil should be deposited in a carefully chosen spot.

If there are large amounts of spoil which need to be removed a faculty may be required. Care will need to be taken that no fragments of bones are removed from the churchyard, and archaeological oversight of the work may well be required.

LYCHGATES

Much of the same information as that listed above for the repair of walls would need to be provided for works to a lychgate.

NOTICEBOARDS

The Diocesan Communications department & DAC have produced guidance on the provision of noticeboards to a churchyard; it can be downloaded from the Churchyards page of the Diocesan website

<http://exeter.anglican.org/resources/church-buildings/churchyards/>, or a hard copy obtained from the Church Buildings office. A faculty is required for a new noticeboard, and if over 1.2 square metres in area, planning permission will also be needed.

PATHS

Paths should normally be repaired on a like-for-like basis unless there is good reason for changing the material(s) or design. Any alterations to the design or material, or addition of new paths will require a faculty and possibly also planning permission. Early consultation with the DAC, the Local Planning Authority and any relevant amenity societies (when regarding historic paths) on any proposed alterations is advised, as paths can be an important part of the setting of the church and changing them can have a dramatic impact on this external appearance.

The condition of churchyard paths should be described in the Quinquennial Inspection for the church, but should also be monitored by regular inspections by the PCC. If paths have deteriorated, this not only affects the visual appearance of the churchyard, but has implications for Health and Safety (see above) and disabled access.

A PCC has an obligation to ensure that their churchyard boundary is 'duly fenced', and as such many churchyards have historic walls bounding them, some of which may be 'listed' in their own right.

Many churches in the Diocese have historic cobbled paths in their churchyards, some very fine with letters and numbers written in cobbles, geometric designs incorporated into the cobbling, and patterning such as herringbone pitching. Such paths add to the historic character and setting of the church, and it should always be the priority to retain and repair them where possible. Such surfaces are not always compatible with achieving disabled access however, and an alternative route for a new path may need to be found within the churchyard to achieve this.



If this option is not possible, then alterations to the paths may be allowed in some circumstances, but each application is judged on its own merits, and what may be appropriate for one church may not be for another. The Equality Act 2010 requires reasonable efforts to be made to remove physical barriers to equal access but legislation protecting historic buildings still applies. A balance therefore needs to be achieved between maintaining the historic fabric and character of the church and churchyard, and providing safe and level access. The DAC would expect any proposed alterations to such paths to be designed by the church's architect or surveyor, and parishes are advised to contact the DAC for early Informal Advice if they are considering alterations to historic cobbled paths.

When considering a change of material for any path (or the addition of a new path) careful consideration will need to be given to the materials used, especially in a rural churchyard. Slabs, concrete and tarmac can look too 'hard' and urban, so consideration may need to be given to alternatives that will be more compatible with a rural or semi-rural setting. Each churchyard is different and may require different treatment. If new paths are being provided, or existing paths re-graded, for the purpose of disabled access, the current Building Regulations should be consulted as to the recommended width, gradient and camber of the path. Your architect or surveyor will be able to advise on this in conjunction with the Local Authority Building Control department. The Church Buildings office can provide details of churches that have recently improved their paths for the purposes of improved disabled access.

ARCHAEOLOGY

The archaeology of a churchyard can be complex, involving not only human remains, but also buried remains of previous structures (perhaps an earlier church on the site?), along with above-ground structures such as churchyard walls, tombs, and monuments. Unmarked graves are always a possibility. If the proposed works are likely to involve any disturbance of either the ground or an above-ground structure, then there may need to be an archaeological input which can have cost implications. Such works may be as a result of drainage, services (gas, water, electricity, and telecommunications), creation of disabled access, or a new structure such as an extension. Parishes may also sometimes be asked to provide historical or archaeological assessment of the significance of feature(s) affected by development, in support of their applications.

Some churchyards have areas or structures within them that have been designated as Scheduled Ancient Monuments. Such a designation may be for a ruin, or other standing structure/monument, but may also be a below ground feature such as a

known archaeological site (such as the site of a former priory). A schedule has been kept since 1882 of monuments whose preservation is given priority over other land uses. It is an offence to do any work on a scheduled monument without consent from the Secretary of State (and an application would have to be made via Historic England for such permission).

A PCC undertaking work in a churchyard is legally a "developer" and is required by law to be responsible for the costs of any archaeological work which may need to be done or observations which must be made before, during or after the works. This is not an option for PCCs but an obligation in the same way that it would be for a commercial company. All proposals that have an archaeological element will be sent to the Diocesan Archaeological Adviser (DAA) for comment. The DAA is also available to offer free advice on archaeological matters to PCCs.

ECOLOGY

Due to development, farming practices and pollution, the churchyard is often the only place in a settlement where certain types of plants, grasses, animals and insects may now be found. While managing a churchyard in such a way to provide for wildlife needs careful planning and a little more work than for a domestic garden the results can be highly valuable. As well as providing refuge for many species of flora and fauna, a well-managed churchyard will also be enhanced by the presence of more flowers, butterflies and birds. Grasses of different heights will provide homes for many types of animal, for example. Some parishes have set up specific areas within their churchyards as wildlife havens, and creating such areas may attract grant funding, and when created may be something that could also be used by the local school as part of the National Curriculum. Chemicals as a general rule should not be used in churchyards – herbicides will kill many of the interesting plants, and spraying near to the base of

headstones can damage the stone and increase weathering.

Some churchyards, or parts of churchyards, may be designated as a Site of Special Scientific Interest (SSSI). Many churchyards also have Tree Preservation Orders (TPO) on selected trees, for which permission from the Local Planning Authority would have to be sought for works to those trees. Trees in a Conservation Area are also offered special protection.

Many headstones and monuments within the churchyard (as well as the exterior walls of the church building itself) may be home to a variety of lichens. These are unlikely to be damaging to those stones on which they are found, and they should be preserved, especially as some types are virtually restricted to churchyards, and some are protected under the Countryside and Wildlife Act 1981. Removal of extensive patches of lichen from headstones will, for example, increase the loss of the inscriptions as they are often protectors of weathered stonework.



FURTHER SOURCES OF INFORMATION

- *The Churchyards Handbook*, Church House Publishing 2001 ISBN 0-7151-7583-1
- *Wildlife in Church and Churchyard*, Church House Publishing 2001 ISBN 0-7151-7587-4
- *FSC Guide to Common Churchyard Lichens*, 2004 ISBN-10 1851538941
- *Wildlife in the Churchyard, the Plants and Animals of God's Acre*, F Greenoak, Little Brown Books 1993
- Ecclesiastical Insurance Health & Safety Guidance Notes
- Diocese of Exeter Churchyard Regulations 2013
- Christian Ecology Link www.christian-ecology.org.uk – Wildlife Conservation section
- Devon Wildlife Trust www.devonwildlifetrust.org
- British Lichen Society Churchyard Factsheet www.thebls.org.uk/content/churchyard.html
- National Churchwatch www.nationalchurchwatch.com - Churchyard Security Guidance Notes to download
- Churchcare www.churchcare.co.uk – Caring for your Churchyard section