

## Listed Buildings Advisory Committee (LBAC) Review

|                                 |  |
|---------------------------------|--|
| <b>Contact Name and Details</b> | Nick Moore, Head of Support Services<br>mooren@methodistchurch.org.uk  |
| <b>Status of Paper</b>          | Final  |
| <b>Action Required</b>          | Decision   |
| <b>Resolutions</b>              | <p>44/1. The Council receives the report.</p> <p>44/2. The Council adopts the recommendations as listed in section F of the report.</p> <p>44/3. The Council delegates adoption of initial Terms of Reference for the Listed Buildings Advisory Committee to the Strategy and Resources Committee.</p> |

### Summary of Content

|  |   |
|--|---|
| <b>Subject and Aims</b>  | Review of the LBAC's terms of reference and the operation of the appeals process in Section 98 of CPD   |
| <b>Main Points</b>   | <ol style="list-style-type: none"> <li>1. Clear Line of Accountability from the Committee to the Council</li> <li>2. Relationship to other Committees</li> <li>3. Appeals Procedure</li> <li>4. Confusion between the Roles of the LBAC and the Conservation Officer</li> <li>5. Perceptions of the LBAC</li> <li>6. Reducing Delays</li> <li>7. Listed Building Consent and the Online Consents System</li> </ol>  |
| <b>Background Context and Relevant Documents (with function)</b> | <ul style="list-style-type: none"> <li>• Review of the Listed Buildings Advisory Committee (LBAC) MC/15/110</li> <li>• Ecclesiastical Exemption (Listed Buildings &amp; Conservation Areas) (England) Order 2010</li> <li>• Ecclesiastical Exemption (Listed Buildings &amp; Conservation Areas) (Wales) Order 1994</li> <li>• The Operation of the Ecclesiastical Exemption and related planning matters for places of worship in England, Annex A: Code of Practice</li> <li>• SO 332 - LBAC Membership</li> <li>• Section 98 - Listed Buildings Works (LBAC Responsibilities and Functions)</li> </ul> |

## Listed Buildings Advisory Committee (LBAC) Review

### Introduction

1. At its meeting in October 2015 the Methodist Council, in response to the report Review of the Listed Buildings Advisory Committee (LBAC) MC/15/110, directed the Connexional Team, in consultation with the Listed Buildings Advisory Committee, to undertake a review of the Committee's terms of reference and the operation of the appeals process in Section 98 of CPD and bring to the Council any proposed policy changes in April 2016. This evolved into a more significant piece of work than had been anticipated at that time, resulting in the review now being brought in April 2017.

### Background

2. There are approximately 600 listed Methodist buildings and a further 1,200 in conservation areas. Under The Ecclesiastical Exemption (Listed Buildings & Conservation Areas) (England) Order 2010, and The Ecclesiastical Exemption (Listed Buildings & Conservation Areas) Order 1994, the Methodist Church has been granted certain controls over relevant works to listed buildings in England and Wales which are being used for ecclesiastical purposes. These buildings have for the time being been exempted from the provisions of sections 3, 4, 7 to 9, 47, 54, 59 and 74 of the Planning (Listed Buildings & Conservation Areas) Act 1990.
3. The Ecclesiastical Exemption requires the Methodist Church to appoint an independent body of experts to assess schemes affecting listed buildings or those situated within conservation areas. The independent body is the Listed Buildings Advisory Committee (LBAC), a committee, appointed annually by the Council in accordance with SO 332. The purpose of the committee is to fulfil the functions and responsibilities set out in Section 98 of CPD. The key role of the LBAC, as well as other statutory bodies and amenity societies, is to advise the appropriate connexional authority on whether or not to provide consent to a project (see SO 982(i)).
4. Churches in Scotland are exempt from listed building controls under section 54 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, under a voluntary scheme run by Historic Scotland, reviewed every three years, full exemption is limited to the interior of churches only. Local authorities receive applications for external works to listed church buildings in Scotland but if the application is refused it is then referred to the appropriate church authority for consideration. In the case of the Methodist Church in Scotland this means that the LBAC forms part of the Decision Making Body with a final decision being taken by the appropriate connexional authority. Listed buildings in other jurisdictions, such as the Channel Islands and the Isle of Man, are dealt with locally without reference to the LBAC.

### Wales

5. With the move towards greater devolution to the Wales Assembly, there is now a new Historic Environment (Wales) Bill which aims to give more effective protection to listed buildings. As a consequence the Welsh Government's historic environment service, Cadw, has developed the Strategic Action Plan for Historic Places of Worship in Wales which proposes a review of the Ecclesiastical Exemption in Wales in 2017 (albeit this will not be a grass roots review). The Connexional Team and Chair of the Wales District are engaged in this process on behalf of the

Church and any statutory changes will prompt recommendations to the Council to consider whether changes to its processes are necessary.

6. The appropriate connexional authority is the Methodist Council under SO 909 but the Methodist Council has delegated this responsibility to the Property and Facilities Officer. The officer authorises requests based on the recommendations of the Conservation Officer, after expert advice from the LBAC and other consultees has been considered in accordance with SO331 (1).

#### **Issues initially identified by the LBAC**

7. Prior to September 2006, the LBAC reported to the Property Committee and was convened and chaired by the Connexional Property Secretary. However, following the winding-up of that committee and the role of Property Secretary, there has been a lack of organisational support for and governance oversight of the LBAC. An annual report to the Council has not been produced since 2012. Therefore, concern has been raised by both the Committee and the Conservation Officer regarding how the Methodist Council can effectively monitor the work of the LBAC, including the Church's adherence to the Ecclesiastical Exemption. The Committee has also raised concerns about the lack of a procedure for appointments, length of service, and frequency of meetings etc.

#### **Clear Line of Accountability from the Committee to the Council**

8. In 2010 a sub-committee of the LBAC looked in detail at the Committee's functions and modes of operation. It identified, as a weakness, the lack of a clear reporting line from the LBAC to the Methodist Council following the abolition of the Property Committee and cessation of the post of Connexional Property Secretary (CPS), who undertook the role of Chair of the LBAC.
9. The sub-committee found that the responsibility and activity of the Committee was not fully understood in wider Methodism, which has resulted in criticism of Committee recommendations. The sub-committee review also identified the lack of transparency in the appointment of members, with particular reference to the Chair, who had hitherto been the CPS. The Committee has been ably chaired by one of its members, Revd Anthony Parkinson, which is in line with other Connexional committees, but concern has been expressed that formal documentation still refers to it being convened by the defunct CPS role.
10. Both the LBAC and the Connexional Team agree that there should be a clearer reporting line in place to ensure accountability, but also encourage the Methodist Council to recognise the contribution and important role played by the LBAC, praised as an independent expert panel who give credence to the Church's internal system of control, by The Newman report<sup>1</sup> 'A Review of the Ecclesiastical Exemption from Listed Building Control' 1997, which scrutinised the Church's administration of Ecclesiastical Exemption.
11. It is recommended therefore, that the Council clarifies matters by confirming as a result of this review that the LBAC should report directly to the Council, and be held accountable by it.

---

<sup>1</sup> In 1997, the Secretary of State for Culture Media and Sports commissioned the Newman Report, *A Review of the Ecclesiastical Exemption from Listed Building Control*. (this has been deleted because the Faculty Jurisdiction Rules apply to the Church of England and are not relevant to the Methodist Church) [www.buildingconservation.com](http://www.buildingconservation.com)

## **Recommendations**

- To establish a means of providing appropriately informed oversight by the Methodist Council over the LBAC, on the basis of an understanding of the LBAC's functions and responsibilities within Methodism and within the operation of the Ecclesiastical Exemption, and to require a clear and coherent annual LBAC report to the Council summarising its work throughout the year.
- To adopt Terms of Reference to develop a clear procedure for appointments, length of service, frequency of meetings etc. and to amend SO 332 to make the Council responsible for adopting the Terms of Reference.
- To provide tangible backing for the LBAC as it works with Team members and the Property Development Committee to enhance the way in which it serves the Church. Indeed, clear guidance and information sheets need to be produced to explain the responsibilities and activities of the LBAC.
- The LBAC needs to consider its ways of working and the format of meetings to serve the Church more effectively by reducing the delay in responding to applications.

## **Relationship to other Committees**

12. In January 2016, the Methodist Council encouraged the Secretary of the Conference, following a discussion introduced by the Secretary on the potential of our property for mission, to bring forward proposals for the creation of a Property Development Committee (PDC). This Committee is now in place and is actively engaged in the development and testing of policy and practice in respect of property.
13. It is recognised that there are areas of mutual interest, upon which it would be valuable for the two Committees to pool expertise for the good of Methodism as a whole. While the LBAC deals solely with matters relating to works to listed places of worship, both Committees treat mission as a major guiding force in all their activities. In order to provide cohesive advice it will be necessary for there to be a close relationship between the two Committees and it will therefore be important to consider ways in which this can be achieved, with a member of the LBAC becoming a member of the PDC. Also, this would ensure that the LBAC would have a more significant presence with regard to both Conservation and Mission within the wider church, and its work would be informed by the emerging strategic work of the PDC.

## **Recommendation**

- A member of the LBAC becomes a member of the Property Development Committee

**MC/15/110 highlighted a number of specific areas requiring further scrutiny and these are considered below:**

### **A. Appeals Procedure**

**To adopt a revised process of appeals against the decisions made by the Conservation Officer on behalf of the Methodist Council to ensure a transparent and robust internal system of control to satisfy the Ecclesiastical Exemption**

14. The number of appeals has been very low over the last three years with only one lodged in 2012 (although this did not progress to an appeal hearing as a suitable compromise was agreed). However, the Committee recognises that the appeals policy is important in demonstrating the commitment to a robust and transparent internal system of control similarly to that found in similar planning authorities outside the Church.
15. The post of CPS became defunct when the Conference decided in 2011 to close the Resourcing Mission Office and re-shape the way in which property guidance is provided by the Connexional Team. This and some changes in legislative guidance mean that some minor factual amendments are now required. Whilst it is not considered that major changes to the appeal procedure are required it is proposed that the procedure includes sufficient time for a period of negotiation, as recent experience shows that this is not properly accommodated.

### **Recommendations**

- That a procedural note be produced by the Connexional Team relating to the process for reviews and appeals as set out in SO 983A.

### **B. Confusion between the Roles of the LBAC and the Conservation Officer**

**Any confusion around the Connexion needs to be addressed, with particular reference to the roles of the LBAC and Conservation Officer and a better understanding of the Ecclesiastical Exemption.**

16. One of the conclusions shared jointly by the LBAC and the wider Church is that the process is not well understood by many of the Ministers and Managing Trustees who have responsibility for listed church buildings. There is also some confusion over the relationship of the Conservation Officer and the LBAC, with many considering the latter to be the decision making body, when in actual fact the LBAC is one of a number of consultees providing expert advice to the Conservation Officer, under SO 982, who then makes a recommendation under SO 982 after an assessment of all representations received.
17. It is not believed that any changes to the Standing Orders are required to overcome this confusion, indeed this is a communication issue, which we believe can be improved by enhanced guidance notes. It is therefore proposed to improve and add to the existing guidance notes in order to clearly outline the role of the LBAC, and explain this in the wider consultation process and their relationship to the Conservation Officer. It is also proposed to improve the information provided on the Ecclesiastical Exemption.

### **C. Perceptions of the LBAC**

**The perception that the LBAC acts in isolation from the overall work of the Church also needs to be addressed. This often arises from unpopular recommendations about property projects, which breed a certain level of mistrust and dissatisfaction.**

18. The LBAC works in accordance with the requirements of Standing Orders 332 and section 98 and the relevant primary legislation (P(LB&CA)Act 1990). Where there is insufficient information or justification and/or where a project may cause less than or substantial harm to the significance of the listed building, the LBAC advises the Conservation Officer accordingly.

19. There is a delicate balance, which the Committee has to consider, between conservation of historic buildings and the need for them to be suitable for use in fulfilling the Church's mission in the current context.
20. It also considers the challenges often faced by local trustees as a result of the cost and complexity that can be involved in maintaining and developing a building that is subject to listed buildings consent.
21. Thus, there is a breadth of experience on the Committee from both the Ministry and the Conservation Sector, which enables the Committee to provide a well considered and balanced response. Although there have undoubtedly been frustrations with the suggestions made by the LBAC, its advice reflects the breadth of expertise of the members and is therefore sound.
22. The LBAC recognises that the Methodist Church faces particularly challenging times. Consequently there is a need to focus on the long term sustainability and the continuation of mission of many of our traditional chapels and churches. In order to consider this fully during the discussion of projects it would be advantageous to have a representative District Chair and active ministers, preferably those who have experience of overseeing successful property projects, sit on the LBAC.
23. The most common request from the Committee is for further information or justification for the proposal. What is therefore apparent is that there is an issue with the quality of the submissions compared with what the LBAC needs in order to undertake its work. Applications are often incomplete, they sometimes lack the input from a professional adviser and often include documentation that merely describes the features, rather than provides an assessment of their significance, or includes anecdotal evidence and insufficient justification.
24. This appears to be a consequence of two main factors: a) the existing timetable for submissions of projects, with many applicants making the application on the deadline for the circulation of papers, providing no opportunity for Team staff to assess them and raise questions or offer suggestions before circulating them to the Committee; b) the standard of the current guidance notes pertaining to the Statements of Need and Significance and the Submission of Schemes. We have started looking at ways to improve the submission of information and the timescale in which this is done, and this work is ongoing.
25. It is acknowledged that the process for obtaining consent to listed buildings work can be arduous for trustees, however it is essential that trustees are aware that in order to maintain and uphold the Ecclesiastical Exemption, it is necessary that the process is followed correctly.

#### **D. Reducing Delays**

**The perception that the LBAC delays property projects needs to be addressed. An appraisal of current practice could improve flexibility and assist in providing more rapid responses to trustees who are often working with competing pressures themselves.**

26. The Committee members sit on the LBAC on a voluntary basis, with many members having full time positions as architects, lecturers, public servants, or as employees within the private sector, hence why the Committee meets on a quarterly basis. The Committee has considered the possibility of more frequent meetings, but this does not appear to be viable. The Church owes a gratitude to the members for giving of their time and expertise, which also includes attending site meetings, generally in their own time.

27. The Committee has considered alternative forms of working, including the possibility of geographical sub-committees. However, there are administrative costs and other potential problems with this, such as whether the number of applications in each geographical area could justify this form of working and it seems that maintaining the current practice best reflects the Church's Connexional identity. The intention is that by ensuring a greater level of understanding amongst trustees, and improving the standard of submission this will reduce unnecessary delays. However, it is necessary that the LBAC reviews its current practice, work as flexibly as possible, and assist in providing rapid responses to trustees.

#### **E. Listed Building Consent and the Online Consents System**

**To evaluate the listed building consent process and the overall consents procedure to ensure they work in harmony together.**

28. With the abolition and move from the process of connexional authorisation to district consent, via the Consents website, it is apparent that the consents process can cause confusion for trustees requesting conservation authorisation. Trustees do not always understand the dual requirement to obtain both district consent and connexional listed buildings consent from the Conservation Officer, as set out in SO 930 5(a), (b) and (c) and 931 (1)(x) in order for listed building and unlisted building in conservation area work to be permitted.
29. Several years of experience have shown that the way in which this dual requirement is supported on the Consents Website is not particularly user-friendly; sometimes acting as more of a hindrance to managing trustees than as the facilitatory tool that was envisaged when it was introduced. The Conservation Officer is currently working with the IT applications team to look at creating a document management system for listed building approval within the Consents System. Relevant documents will be uploaded as part of this, including the s.98 decision notice and relevant approved plans. Work is also underway to integrate the listed buildings consent process more effectively into that for obtaining district consent. For example, one need identified is providing a means to record and alert Managing Trustees to the need and process of discharging conditions, to ensure they are complying with their statutory responsibilities. A flow diagram of the listed building consent process for applications requiring LBAC advice is included in **Appendix A**.

#### **F. Full List of Recommendations**

1. To establish a means of providing appropriately informed oversight by the Methodist Council of the LBAC, on the basis of an understanding of the LBAC's functions and responsibilities within Methodism and within the operation of the Ecclesiastical Exemption.
2. To require a clear and coherent annual LBAC report to the Council summarising its work throughout the year.
3. That the Council recommends an amendment to SO 332(1) to show that the Council will be responsible for adopting Terms of Reference for the LBAC.
4. To provide tangible backing for the LBAC as it works with Team members to enhance the way in which it serves the Church producing clear guidance and information sheets explaining its actual responsibilities and activities, alongside those of local trustees of buildings within its remit.

5. That a member of the LBAC becomes a member of the Property Development Committee.
6. That the Connexional Team produces a procedural note on the process for reviews and appeals as set out in SO 983A.

**\*\*\*RESOLUTIONS**

**44/1. The Council receives the report.**

**44/2. The Council adopts the recommendations as listed in section F of the report.**

**44/3. The Council delegates adoption of initial Terms of Reference for the Listed Buildings Advisory Committee to the Strategy and Resources Committee.**