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DEPARTMENT FOR COMMUNITIES

Written Ministerial Statement by Paul Givan MLA

Minister for Communities

CONSULTATION ON THE EXEMPTION UNDER ARTICLE 85(8) OF THE PLANNING ACT (NORTHERN IRELAND) 2011 FOR LISTED PLACES OF WORSHIP FROM THE REQUIREMENT TO OBTAIN LISTED BUILDING CONSENT

I am writing to advise members of my decision following a public consultation on this matter.

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 for alterations that might affect their architectural and historic interest.

On 18 March 2016 the Department of the Environment issued a public consultation on the exemption. The consultation closed on 13 June. 122 groups and individuals responded to the consultation

Background

In 2014, the Historic Buildings Council (HBC) of Northern Ireland wrote to the Minister of the Environment 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 subcommittee's recommendation that the exemption be removed and replaced with clear guidance formed the body of the consultation.

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.

Responses to the consultation

In summary, while there was 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.

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 doubts were cast upon the suitability of Departmental and district council officials to evaluate these.

Way Forward

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.

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.

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

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.

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. I acknowledge, however, that the majority of listed ecclesiastical buildings are owned by the main churches.

I have therefore 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.

The ecclesiastical exemption provided for in Section 85(8) of the Planning Act (Northern Ireland) 2011 will therefore remain in place.

My 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, my 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, my 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

I believe, 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. My Department, working closely with those responsible for listed places of worship, will monitor the effectiveness of these arrangements.