

Consistory Court of the Diocese of St Albans

Guidance on Installation of commercial telecommunications/communication equipment (including wireless broadband) in/on churches.¹

A number of Churches across the Church of England are used to host telecommunications equipment, such as a mobile telephone base station or a wireless broadband relay.

Such proposals may be an attractive prospect for a parish. The use of an otherwise unused or underused part of the Church, for purposes which may be thought to be beneficial to the local community, and producing an income stream for the parish, might well be considered as good stewardship by a Parochial Church Council ("PCC"). In certain parishes, such installations have produced a significant and secure annual income. However, there are a number of important things for a Parish to consider before entering into agreements with telecommunications operators:

1. A Faculty is required for all such installations. The initial stages of the process are the same as for any other Faculty involving works to a church.
2. As soon as an approach is received, the PCC should obtain the agreement in writing of the telecommunications company to pay all costs incurred on behalf of the parish, whether or not an agreement is reached and the installation proceeds. These costs are likely to include the professional fees and expenses of the church architect, a valuation surveyor, solicitors and the fees of the Consistory Court.² They may also include a lightning conductor consultant, structural engineer and/or bells specialist.
3. The Parish should consult its inspecting architect - in particular for advice as to whether the Church tower (or wherever the equipment is to be installed) will take the weight of the equipment and to advise on any disturbance to the fabric of the building. If there is any doubt, a structural engineer must be consulted.
4. The inspecting architect should also advise the Parish whether the organ or other items in the Church require protection during the installation. It is likely that the inspecting architect will be required by the Consistory Court to supervise the installation. S/he should be provided with a copy of these guidance notes.
5. The Parish should instruct a surveyor to negotiate the financial terms for the agreement. This will usually be an annual fee, but might contain some sort of 'per subscriber' element too. Depending of the length of agreement, a periodic fee review mechanism (to inflation, or to market levels) is likely to be appropriate.
6. Whilst not directly applicable, the fee should be assessed having regard to the matters and principles set out in the *Charities (Qualified Surveyors' Reports) Regulations 1992*. A surveyor with the necessary experience in this type of matter will be familiar with these regulations. An estate agent (unless s/he is also a qualified surveyor) is not suitable. The surveyor will be required to provide written confirmation that the financial terms which s/he agrees, subject to contract and faculty, represent the current open market value of the licence sought by the telecommunications company and are the best terms reasonably obtainable for the PCC in the circumstances.
7. The surveyor should be provided with a copy of these guidance notes. It is important that the Parish should not simply accept the first offer it receives from the telecommunications company. As with all

¹ This note is partly based on guidance notes from the Consistory Courts of the Dioceses of Bath & Wells and of Chelmsford, whose permission to reuse that material is gratefully acknowledged

² The DBF usually pays the Consistory Court lodgement fees on behalf of Parishes, but there may be further Court costs as the matter progresses.

charities, the trustees (PCC members) are under a legal duty to obtain best value in their negotiations with commercial third parties.³

8. The Parish should instruct a solicitor to negotiate the form of Licence Agreement with the telecommunications company. It is strongly advised that, before a PCC appoint a solicitor, the PCC satisfies itself that the solicitor has the requisite knowledge and expertise to advise on such matters, including the particular requirements of the Faculty Jurisdiction.
9. The DAC will advise on whether consultation with Historic England and/or other amenity societies (e.g. the Victorian Society) is required. These bodies are experienced in considering proposals of this nature and their observations should be considered carefully by the Parish.
10. If the installation has a material effect on the exterior of the building, planning permission will be required. If planning permission is required the Chancellor will not grant a Faculty without it already having been granted, save in exceptional circumstances. In most cases, the telecommunications company will arrange this, but it is the PCC's responsibility to ensure that it is in place (if required) before petitioning for faculty.
11. The Parish should consult its insurers regarding the installation and act in accordance with any advice received.
12. Whether or not the Church has a lightning conductor or similar protection, the Parish must (if so advised by the inspecting architect) seek the advice of a specialist lightning conductor consultant to ensure that the proposed installation does not adversely affect the existing protection or increase the risks from lightning strike.
13. The telecommunications company must provide to the Parish sufficient copies - for the PCC, the church architect, the Diocesan Advisory Committee and the Diocesan Registry of the detailed drawings and specification of the installation including:
 - the size, type, shape and colour of the aerials/antennae
 - the location of all equipment
 - the cable runs
 - any work affecting the church fabric including drilling and cutting through the church walls
 - any work affecting the church, fixtures, fittings, furniture and furnishings

It is hoped that this note will be of assistance to all PCCs approached by telecommunications operators. Compliance with this guidance is likely significantly to assist with a Petition's progress through the Faculty process.

M.J. Chinery
Joint Diocesan Registrar
November 2016

³ There may, exceptionally, be circumstances where the telecommunications provider is a non-profit body (perhaps in isolated rural areas). PCCs should seek legal advice at an early stage in such cases as to their duties to obtain best value.