

19 April 2012

Department for Communities and Local Government
Eland House
Bressenden Place
London SW1E 5DU

Dear Sir

Material Planning Consideration – Church of England Canon Law

I refer to the [Department's letter to all Planning Officers dated 4 June 1997](#) (of which I enclose a copy for ease of reference), which states:-

Canon Law imposes a legal duty on a Bishop to provide a place of worship in every parish in his Diocese; this duty is carried out in each benefice by a vicar or rector, who is in turn required to reside in his or her benefice for the care of all the people.

The legal advice we have received is that it is possible for Canon Law to be a material planning consideration in a particular case. Case law indicates that legislation, other than planning legislation, may be relevant when considering a planning application.

It follows that things, that are not legislation (planning or otherwise), cannot be relevant when considering a planning application. In particular, the applicant's mere self-made rules (as opposed to statutory duties), cannot be relevant.

Unfortunately, the Church of England, in making planning applications for parsonages, has been misrepresenting, as Canon Law, things that are not Canon Law and conflating them with those things that are, thereby obtaining consents where they might not otherwise have been granted. It has also been misrepresenting the Department's letter. In this connection, I enclose a copy of a document, issued by the Diocese of Winchester, entitled "[Proposed New Vicarage, Christchurch Priory: Planning Supporting Statement](#)", paragraph 2.1.5 of which states:-

... the Property Committee has been made aware that in 1997 legal advice taken by the Department of the Environment established that **Church of England Canon Law**, which **imposes a legal duty on a Bishop to provide** a place of worship and **a dwelling for the Vicar or Rector in every parish in his Diocese**, can be a material planning consideration.

The statement "Church of England Canon Law ... imposes a legal duty on a Bishop to provide ... a dwelling for the Vicar or Rector in every parish in his Diocese" is a falsehood; there is no such duty under Canon Law. The correct position is as quoted above from the Department's letter: the duty¹ is upon the vicar or rector to reside in the benefice, not upon the Bishop to provide a dwelling. The self-made rule, that the Bishop is to provide such a dwelling, cannot be relevant when considering a planning application for it. Furthermore, the duty, to reside in the benefice, is not absolute. Canon C25.4 provides:-

¹ Which is not absolute – see below.

In the case of any benefice in which there is no house, or no fit house of residence, the priest holding that benefice may be licensed by the bishop of the diocese to reside in some fit and convenient house, although not belonging to that benefice: Provided that such house be within three miles of the church or chapel of the benefice, or, if the same be in any city or borough town or market town, within two miles of such church or chapel.

However, paragraphs 2.6.1 and .2, of "*Proposed New Vicarage, Christchurch Priory: Planning Supporting Statement*", state:-

Under Canon Law, the Diocesan Bishop has a duty to appoint priests to serve each benefice and to ensure that there is suitable accommodation for the priest within the parish boundaries. In an urban situation the accommodation should be within two miles of the church, however, in practice **ten minutes walk** is considered the maximum.

The Vicar of Christchurch is required to attend regularly scheduled morning and evening services each day at the Priory Church as well as any unscheduled services which may arise such as funerals. As part of their national environmental campaign, *Shrinking the Footprint*, the Church of England is actively seeking to reduce its carbon footprint; one means of doing this is to reduce the number of car journeys made by clergy in carrying out their pastoral duties. For this reason, the search for alternative premises has been limited to those areas within a **one mile** radius of the Priory Church and within the parish boundaries.

"Under Canon Law, the Diocesan Bishop has a duty ... to ensure that there is suitable accommodation for the priest within the parish boundaries" repeats the previous falsehood.

The document fails to state that the accommodation **may** be outside the parish boundaries and that the "two mile rule" applies only if it is². More significantly, the "ten minutes' walk" and "one mile" rules are not part of Canon Law, although the applicant presents them as such; they are merely the applicant's self-made rules. Therefore, these cannot be relevant when considering a planning application.

Canon Law has nothing to say about the specification of the parsonage, other than that it must be a "fit and convenient house of residence". However, paragraph 2.2, of "*Proposed New Vicarage, Christchurch Priory: Planning Supporting Statement*", presents the Church Commissioner's publication "*Parsonages – A Design Guide*" as if it were part of Canon Law, but it is not. Therefore, it cannot be relevant when considering a planning application.

I request that, in view of the misrepresentation and conflation that has been going on, the guidance, contained in the Department's above-mentioned letter, be revised to make clear that, while Canon Law may be relevant when considering a planning application by the Church of England for a parsonage, the above self-made rules, masquerading as Canon Law, cannot be.

Yours faithfully

² Indeed, the accommodation may be more than two miles distant if it is within the parish boundaries, although this is unlikely.