

**SUMMARY OF MAIN PROVISIONS OF DRAFT SCHEME (NOT PART OF THE DRAFT SCHEME)**

*This draft Scheme provides for the transfer of parts of the churchyard of the former church of St Hilda's Caldwell in the benefice of Forcett and Aldbrough and Melsonby, in the diocese of Leeds to the Leeds Diocesan Board of Finance for sale for amenity purposes and for the application of the net sale proceeds for ecclesiastical purposes of the parish.*

**DRAFT**

**PASTORAL SCHEME**

This Scheme is made by the Church Commissioners this     day of             202 in pursuance of the Mission and Pastoral Measure 2011 ("the 2011 Measure"), the Right Reverend Nicholas, Bishop of Leeds having consented thereto.

**Appropriation of part of burial ground**

1. The parcels of land which are indicated by hatching on the plan annexed hereto ("the land") and which consists of parts of a burial ground vested in the incumbent of the benefice of Forcett and Aldbrough and Melsonby in the diocese of Leeds but not annexed or belonging to a church shall be appropriated, subject as hereinafter provided, to use as amenity land and for purposes ancillary thereto ("the uses").

**Vesting and disposal**

2. The land shall without any conveyance or other assurance vest in the Leeds Diocesan Board of Finance ("the Board") and the Board is hereby empowered to sell, lease or otherwise dispose of the land for the uses, subject to the following conditions:-

- (i) that the land shall not be used for any purpose other than the uses without the consent in writing of the Board, given after consultation with the incumbent of the benefice ("the incumbent") or, in a vacancy of the said benefice, with the parochial church council of the parish ("the council") within the area of which (in each case) the land is for the time being situated;
- (ii) that no building or buildings shall be erected on the land except in accordance with plans, elevations and specifications of materials approved by the Board after consultation with the incumbent or, in a vacancy of the said benefice, with the council;
- (iii) that nothing shall be done in or upon the land or any part thereof which may be or become a nuisance, annoyance or disturbance to the minister for the time being conducting or the congregation attending divine service in the remaining part of the said burial ground;
- (iv) that any conveyance or lease of the land shall contain covenants on the part of the grantee to observe and perform the above-mentioned conditions.

**Power to impose and enforce covenants**

3. The provisions of section 75(1) of the 2011 Measure with regard to the power to impose and enforce covenants shall apply in relation to any sale, lease or other disposal of the land by the Board.

**Removal of legal effects of consecration**

4. The provisions of section 74(1) and (3) of the 2011 Measure (which provide for the legal effects of consecration and the faculty jurisdiction to cease to apply to land except where it is subsequently restored to its former use or is appropriated to another use for which consecration would be required) shall apply to the land as if it were land to which section 74(1) applied.

**Proceeds of disposal of land**

5. The proceeds of any sale, lease or other disposal of the land in pursuance of clause 2 hereof, after payment of the expenses incidental to this Scheme and any such disposal, and any income arising therefrom shall be held by the Board upon trust to expend the net proceeds and any income arising therefrom, after consultation with the council, for or towards any ecclesiastical purpose affecting the parish (within the area of which the land is for the time being situated) or any part or parts thereof.

**Coming into operation of this Scheme**

6. This Scheme shall come into operation upon the first day of the month following the date of it being made by the Church Commissioners.

In witness of which this Scheme has been duly executed as a deed by the Church Commissioners.

SIGNED by the )  
 )  
Right Reverend Nicholas, )  
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Bishop of Leeds. )

Executed as a Deed by the Church Commissioners for England

acting by two authorised signatories:

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Signature of Authorised Signatory

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Signature of Authorised Signatory

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## Notes by the Diocesan office (not forming part of the draft Scheme)

The rationale behind the diocesan proposals is as follows:

**The former church of St Hilda's Caldwell was a licensed place of worship set in a consecrated churchyard. The PCC have now gained planning permission to be able to sell the building with the benefit of this already in place. The planning permission required part of the consecrated churchyard for amenity space and off-road parking facilities. This appropriation will allow the parish to sell the site at the best possible value.**

Publication of this draft Scheme has been approved by the Church Commissioners but does not mean that they have taken a view on the merits of the diocesan case.

If they receive representations against the draft Scheme, the Commissioners will send all representations, both for and against, to the Bishop whose views will be sought. Individual representors will then receive copies of the Commissioners' correspondence with the Bishop (including copies of all the representations) and they may comment further in writing to the Commissioners in light of the diocesan response if they so wish.

If there are no representations against the draft Scheme, the Commissioners will make the Scheme and arrange for it to be brought into effect.

### Clause 1

Neither of the parcels of land being appropriated in this draft scheme have been used for burials.

### Clause 4

The effect of clause 4 is that the land ceases to be subject to the legal effects of consecration and that the faculty jurisdiction of the consistory court ceases to apply to the land. But should any of the land ever be restored to its original use (as a churchyard, burial ground etc.) or appropriated to any other use for which consecration would be required the legal effects of consecration, and the faculty jurisdiction of the consistory court, are automatically reinstated in respect of the land that is restored for use as a churchyard etc or appropriated for another use for which consecration would be required.