

Drains, soakaways, paths and other work in churchyards. A guide to archaeological implications.

Recent cases which have come to the attention of the DAC suggests that there are a number of misconceptions about ground disturbance in churchyards. This guide is intended to help those contemplating any work in this area.

Background information

- It is stating the obvious that most churchyards are burial grounds. There does, however, seem to be a general belief that all burials will be, or will have been, marked by a gravestone. However, a wander around the churchyard of any church built earlier than the late 18th century should show you that this is not the case. Few churchyards can boast grave markers earlier than the 18th century. So a medieval church is likely to have in both church and churchyard, unmarked burials predating the existing gravestones. Indeed, there could be some five centuries or fifteen generations of unmarked burials as well as the up to 3 centuries (or nine generations) of marked ones, although even are likely to have some missing markers.
- Medieval burial areas were crowded and many graves unmarked. It was common to disturb the burials of one generation with those of a later one. The result is that medieval (and some later) burial plots tend to be well supplied with disarticulated human bones, often surprisingly near the surface.
- This is one reason why any ground disturbance in church or churchyard requires a Faculty and often requires the presence of an archaeologist. There may of course be other archaeological concerns such as the likelihood of the structural remains of earlier buildings, but these are less common.
- The likelihood that any ground disturbance will also disturb human remains, whether full burials or disarticulated and already disturbed bones, carries with it a particular legal requirement. Recent emphasis upon treating all human remains with respect has led to alterations in the administration of the law and means that all disturbance of human remains – whether it be a Bronze Age cremation or a 20th century interment – requires a permit from the Ministry of Justice. There is no ecclesiastical exemption in this respect so that, in addition to a Faculty, any disturbance of human remains requires an MoJ License. However, the obtaining of a license can be undertaken by the archaeologist contracted to do the watching brief. So, although parishes are responsible for ensuring that all its contractors obey the law and that an MoJ license is in place if needed, they are advised to leave the obtaining of a license to their archaeologists.

What to do?

- Apply for a Faculty being careful to specify all ground disturbance envisaged. The necessary forms can be found on the Diocesan website. Some work in churchyards may also require Local Authority permission.
- For all ground disturbance other than that on relatively new churches built on new sites, it is likely that the Faculty will require you to provide an archaeological watching brief on any below ground work. The archaeologist will provide an estimate of the cost of the watching brief and will enter into a contract with the parish – so they will have control of costs.
- Please remember that a Faculty is a legal document, issued by a legal officer (the Chancellor of the Diocese, who is usually a judge) and any stipulation in it (eg. a watching brief) is not an option but a legal requirement. Do not sanction ground disturbance which is not covered by the Faculty and ensure that all ground disturbance specified by the Faculty has a watching brief.
- If you need a MoJ license it will stipulate reburial of the bones, probably within a year. It also is based upon the premise that human remains will at all times be treated with respect. This excludes leaving them lying around the site and implies their retrieval from spoil etc. Please ensure they are kept in a safe place prior to reburial.
- If human bones are accidentally revealed in the churchyard, e.g. in a soil slide, please Contact the Care of Churches Officer and meanwhile recover those which have been disturbed and ensure that any that have not been disturbed are covered over. Human bone lying around churchyards makes a good story for the press but poor publicity for the parish.

FURTHER READING

Guidance for best practice for the treatment of human remains excavated from Christian burial grounds in England, 2nd edition, produced by the Advisory panel on the archaeology of burials in England and available as a pdf on their website