

**IN THE CONSISTORY COURT OF THE DIOCESE OF LIVERPOOL
IN THE MATTER OF ALL SAINTS CHURCH CHILDWALL**

JUDGMENT

1. This is an unopposed petition dated 18th October 2023 by the Revd. Andrew Colmer and Mrs Barbara Critchley who are respectively the Vicar and Churchwarden at All Saints Childwall, Liverpool. By it they seek to move a war memorial from the church porch into the church. I detail the works below, but essentially the proposal is to reposition the war memorial on a wall at the west end of the church, and as such, it will no longer be exposed to the elements in the open porch.
2. In order to gain a better understanding of the proposed works, I visited the church on the late afternoon of Tuesday 7th November 2023 where I met Mrs Critchley and Revd. Colmer.
3. All Saints is a Grade 1 listed building and is the oldest church in Liverpool situated in the Childwall Abbey conservation area. The church dates back to the 14th century, the nave is 15th century and was extended in the 18th and 19th centuries. The churchyard contains graves of notable significance including Bishop John Ryle, the first Bishop of Liverpool, as well as some 11 war graves. Within the church there are a number of memorial brasses, hatchments and wooden boards of bequests and endowments from landowners for the relief of the poor in the parish. The porch (which is the main entrance) is situated at the south side of the church. It is open but has a locked metal gate. The war memorial is affixed to the wall on the right-hand side close to the entrance.

4. As the oldest church in the city, the church attracts many visitors who are interested in the history of the building or who have family connections with the building and churchyard. Students from the nearby Liverpool Hope University also visit as part of their research or studies.
5. The war memorial itself is somewhat unusual. It is essentially a wooden plaque in the style of a large wall cabinet. It is dark wood. It has two hinged doors which can be closed but need to remain open as the names of the fallen from the Great War are inscribed on the interior of each "door." On the main face are the names of the fallen from the Second World War. All the lettering is painted. The head of the memorial is inscribed "For God, King and Country." On the main face is a cross and the words "Greater Love Hath No Man Than This" and beneath those words are the names of 25 who fell in the Second World War. On the interior "doors" are the names of 33 who fell in the Great War. They are listed in the year they died from 1915 to 1919. Some of the lettering is showing signs of damage no doubt caused by exposure to the elements.
6. The petitioners wish to reposition the memorial on a wall at the west end of the church where it will not only be more readily seen, but will also be able to be a focal point for Remembrance Sunday services. In addition, at present, one of the "doors" cannot be opened fully because it is positioned in a corner. Furthermore, as the statement of needs sets out, in a new position, the memorial will be seen by more people, as at present, parishioners understandably concentrate on descending the stairs and entering the church rather than pausing to look at the memorial.
7. The proposal has the support of the DAC. It is clear that the memorial has sustained some weathering damage. The proposal would involve repositioning a brass plaque currently at the west end onto another wall and then repositioning the war memorial repositioned on the south side of the west wall of the nave. The DAC recommend that any fixings be made from non-corrosive

materials and are located in the mortar joints not the stone and that the brass plaque be refitted by a qualified contractor.

8. I am informed that the proposal has the support of parishioners and that there have been no objections pursuant to the formal notice requirements.
9. If changes to a listed church building are to be authorised, I am obliged to consider a series of questions which were commended by the Court of Arches in *Re Alkmund, Duffield* [2013] Fam 158, and also summarised in *Re St John the Baptist, Peshurst* [2015] PTSR D4.

1. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?

2. If the answer to question (1) is “no”, the ordinary presumption in faculty proceedings “in favour of things as they stand” is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals (see Peek v Trower (1881) 7 PD 21, 26-8, and the review of the case-law by Chancellor Bursell QC in In re St Mary’s, White Waltham (No 2) [2010] PTSR 1689 at para 11).

Questions 3, 4 and 5 do not arise.

3. If the answer to question (1) is “yes”, how serious would the harm be?

4. How clear and convincing is the justification for carrying out the proposals?

5. Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building (see St Luke, Maidstone¹⁸ at p 8), will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or II, where serious harm should only exceptionally be allowed.*

10. In short therefore, when considering proposed changes, the court must undertake an assessment of the extent of any harm to the significance of the church as a building of special architectural or historic interest which would result from the implementation of the proposal. In the event that justification for carrying out the proposals would result in harm, the court must consider whether any resulting public benefit outweighs the harm. The more serious the harm, the greater must be the level of benefit to justify the intervention. In the case of a building which is listed as grade 1 or II*, serious harm should only exceptionally be allowed.

11. In addition, in reaching its decision, the court must have regard to the role of the church as a local centre of worship and mission (Ecclesiastical Jurisdiction and Care of Churches Measure 2018 s.35).
12. Accordingly, if these questions are addressed, there is a framework within which any harm caused by the alterations may be assessed against the benefits which are achieved by those alterations. Essentially this is a balancing exercise.
13. Having had the benefit of seeing the proposal myself, I have little difficulty in concluding that, in answering the *Duffield* questions, I am satisfied that the proposal would not result in significant harm. Indeed, in my judgment, the proposal will benefit the church as not only will the memorial no longer be exposed to damage caused by the weather but will be able to be a focal point in Remembrance services as well as for quiet reflection in remembering those who made the ultimate sacrifice in the two world wars. If I were wrong in my assessment, in any event I am satisfied the "harm" would be negligible. There will be no damage to the church building on the basis the existing brass plaque is repositioned by a qualified contractor and the memorial repositioned at the west end.
14. A visitor currently entering All Saints church may well not notice the memorial. In its new proposed position, it will be easily visible, and will not detract from the beauty of the interior of the church. The existing brass plaque can easily be repositioned on the west wall.
15. Accordingly, having considered the proposal and the *Duffield* guidelines, I will grant a faculty on the basis that the works are undertaken in accordance with the recommendations of the DAC and in any event are completed within a period of 3 months from today.
16. It is not without significance that I write this on the eve of Armistice Day.

District Judge Ian Knifton

Deputy Chancellor Diocese of Liverpool 10th November 2023