

SMALLTHORNE: ST. SAVIOUR

JUDGMENT

- 1) The church of St. Saviour in Smallthorne is a Grade II Victorian church. The vicar and churchwardens petition, with the unanimous support of the Parochial Church Council, for a faculty to perform repairs to the stonework at the north and south doors and around the west window and to reglaze the west window. Those elements of the proposed works are uncontroversial and are to be welcomed. The stonework repairs are clearly appropriate acts of stewardship of the fabric of this church. The reglazing of the west window is also to be welcomed. Only a small part of the existing glass in that window is original and the rest is plain somewhat mottled glass. The Petitioners propose retaining elements of the original glass and replacing the rest of the window with glass from a disused church. The new glass will be clearer than the existing glass and has coloured parts. So the new window will include elements of colour and will let in more light than is currently the case. I have already direct that those works can be undertaken without awaiting my determination of the one contentious element of the Petitioners' proposals.
- 2) That element relates to the guarding of the new window. It is common ground that some protection of the window is needed. This also accords with common sense. The layout of the church building and the site on which it sits means that the window is not readily visible from the road and there has been a history of vandalism in the area.
- 3) The current window is guarded by wire mesh. The Petitioners propose replacing this with polycarbonate guarding. The specification provides for clear polycarbonate 6mm thick which is to be fitted approximately 20mm before the glazing and which is to be "*cut and formed to fit exactly within [the] window stonework*". It is the use of polycarbonate guarding which caused the Diocesan Advisory Committee to certify that it did not recommend approval of the Petition. The Committee advised that polycarbonate was not an

appropriate material for guarding of the window and that instead wire mesh should be required.

- 4) The public notice elicited no objections. The choice between wire mesh and polycarbonate is apparently not a matter on which English Heritage or the Victorian Society take a particular stand and so neither of those bodies has been involved in this matter. However, as will be explained below, the Church Buildings Council has published a Guidance Note on “Protective Window Guards” which I have found of considerable assistance.
- 5) The Petitioners consented to the matter being determined on the basis of written representations and I am satisfied that this is an appropriate case for such determination. The Diocesan Advisory Committee has provided a report setting out its reasoning. The Petitioners have provided detailed written submissions dealing with the points raised by the Diocesan Advisory Committee. They have also provided a short but helpful video showing the location and setting of the window.

The Competing Contentions.

- 6) The Petitioners explain that they wish to have a window guard of polycarbonate rather than wire mesh because they regard wire mesh as unsightly and as giving a prison-like appearance. They make the point that the west window is about 4m above the ground at its lowest point and is not visible from the highway nor readily visible from other points outside the church building. Conversely it is visible from the inside of the church and it is to those inside the church that the mesh will be visible. The Diocesan Advisory Committee has set out a number of reasons for its advice against approval and those reasons together with the Petitioners’ responses can be summarised thus.
- 7) The DAC’s initial note referred to the flammability of polycarbonate though this did not feature in their subsequent expanded report. The Petitioners accept that polycarbonate will burn more readily than steel. They point out that the powder coating which the Diocesan Advisory Committee would wish to be applied to any wire mesh guard would also be flammable. More tellingly

the Petitioners refer to the fact that the window is about 4m above the ground at its lowest point and say that deliberate fire setting in respect of the guard is unlikely to be a significant risk.

- 8) The DAC expressed concerns about the appearance of the polycarbonate itself and also about the effect which such a guard would have on the overall appearance of the church building though I note that in its certificate the Diocesan Advisory Committee recorded its view that the proposed works would not result in a material alteration in the appearance of the building. As to the appearance of the covering itself the Committee warned of the risk of fading and also the risk of the covering becoming scratched or disfigured by graffiti. In terms of its effect on the building's appearance the Committee said "*if fitted in large sheets covering stonework as well as glass, the result is aesthetically and technically unacceptable... The reflection of light can give the building and unpleasant 'blind' and somewhat neglected look*". This was coupled with the Committee's earlier reference to the risk of a "*distorting reflection*". In terms of the appearance of the guard itself the Petitioners explain that they intend to use high quality and durable material which will be properly fitted so as to extend its life and avoid the risk of buckling. As with the risk of fire setting the risk of the guard being disfigured by graffiti is reduced by its height above the ground. In terms of the impact on the appearance of the church the Petitioners make a number of points. The first is that what is proposed is not a large sheet covering the stonework as well as the glass but rather a series of guards fitted so as to cover the glass but to leave the stonework uncovered. Second, emphasis is laid on the position of the window and on the limited view of it from outside the church. This is to be contrasted with the fact that a guard made of mesh would be visible from inside the church and would detract from the appearance of the window and from the appearance of the church.
- 9) The DAC says that polycarbonate guards can be difficult to remove. This difficulty can hinder cleaning and can be coupled with the risk of condensation to lead to disfiguring algae and to the presence of insects. These points were made in the Diocesan Advisory Committee's initial comments. The further

report explains that the risk of condensation arises if polycarbonate sheets are incorrectly fitted and that the cleaning difficulties arise if large polycarbonate sheets are fitted by contractors. The Petitioners make the points that the guards will be properly fitted and will be in smaller units rather than a large single sheet. They also say that a mesh guard at a lowest height of 4m above the ground will be difficult to remove for cleaning.

10) The further concern raised by the Diocesan Advisory Committee relates to the durability of polycarbonate. The Committee explains that wire guards are a known method of guarding windows and can, if properly maintained, last for up to hundred years. Conversely the long-term qualities of polycarbonate are unknown and the lifespan of such a guard is unlikely to exceed twenty years. The Petitioners say that the quality and durability of polycarbonate are improving and increasing and that a guard made of good quality polycarbonate will have a longer life than would have been the case with an earlier or lower quality version. Nonetheless, I do not understand them to suggest that a polycarbonate guard will last as long as a well maintained wire guard.

11) In addition to dealing with the particular points raised by the Diocesan Advisory Committee the Petitioners submit that the Committee's approach appears to have been one of being influenced by the general disadvantages of the use of polycarbonate rather of considering the particular features of St. Saviour's and of the works proposed there. They say that the Committee "*has not taken into account the actual situation in which we propose to use polycarbonate but only stated a general concern*".

The Church Buildings Council Guidance Note.

12) I have found this Guidance Note of considerable assistance. It was referred to in the Diocesan Advisory Committee's report which described it as offering a comparison of the merits and defects of wire guards and polycarbonate without expressing a preference between them. That is correct as far as it goes. The Guidance Note does show that there are disadvantages and advantages with each of these kinds of guard and does not say that one is to be preferred to the other. However, what is striking is that the key

disadvantages of wire guards are those identified by the Petitioners here and that the disadvantages of the use of polycarbonate are said by the CBC to be capable of being minimised by proper fitting and/or by the use of the material on sheltered windows precisely the circumstances which the Petitioners say will obtain here.

- 13) Thus the Guidance Note identifies a disadvantage of wire guards as being the fact that *“They can be visible from the inside, looking out: in the case of leaded lights, the building becomes a ‘cage’; and in the case of stained glass, lightly painted sections can be compromised by a grid of unwanted lines.”*
- 14) When dealing with polycarbonate guards the Guidance Note describes a number of *“grave mistakes”* which were made when such guards were first introduced. These included the use of large sheets often only 4mm thick covering stonework as well as glass. It goes on to say that the design of polycarbonate guards can be *“greatly improved”* if certain standards are applied. Those standards include the use of polycarbonate which is at least 6mm thick and ensuring that *“the guards are cut to exactly the same shape as the ‘sight size’ of the glazing; all stonework is exposed and the area of reflection is reduced to a minimum and confined to areas where, visually, glass is expected anyway.”* The Council says that disadvantages remain namely the shorter lifespan of polycarbonate as opposed to wire guards; the risk of graffiti; and the risk that *“the reflection of light can give the building an unpleasant ‘blind’ look.”* However, in respect of the latter the Guidance Note adds that *“the problem is not so apparent at the more sheltered windows of the church”*.

Assessment.

- 15) In deciding the appropriate course I have to give very substantial weight to the views of the Diocesan Advisory Committee. The Committee is composed of experts advising on matters in respect of which they have an expertise which neither the Chancellor nor the Petitioners have. Although those views must have substantial weight they cannot be determinative of the matter. I must assess the position in the light not just of those views but also of the other material available to me. Having done so I have concluded that the

Petitioners have established that the use of polycarbonate is justifiable and appropriate in the particular circumstances of the west window of St. Saviour's. The following are the key factors leading me to that conclusion.

- a) The work is to be done in the way which the CBC Guidance Note indicates will minimise the disadvantages of the use of polycarbonate. It appears to me that the Diocesan Advisory Committee failed to give proper weight to the particular way in which the work was to be done.
- b) The particular circumstances of the window. I agree with the Petitioners that the DAC appears not to have taken adequate account of the facts that the window is 4m above the ground at its lowest point and that it is not readily visible from outside the church. These facts mean that the problems of reflection causing a "blind look" (a risk which is any event being minimised by the fact that the polycarbonate will not cover the stonework) and of disfiguring graffiti are less serious than they would otherwise be.
- c) The fact that the Petitioners have clearly given the matter serious and proper consideration. They are not unaware of the potential disadvantages of polycarbonate but they have taken appropriate steps to minimise those disadvantages. They have balanced those disadvantages against the recognised disadvantage of the internal effect which the use of wire mesh can have. Having conducted that balancing exercise they have decided that the advantages of polycarbonate in this particular setting outweigh its potential disadvantages. That is a rational decision. Just as the views of the DAC carry considerable weight so also the Court is to give real weight to the considered view of incumbent, churchwardens, and PCC where those persons have chosen between two alternatives each of which has both advantages and disadvantages. Others performing that balancing exercise might have come to a different conclusion but the desire of the Petitioners and the PCC to avoid the prison appearance of wire mesh is a legitimate objective and it is one which the Petitioners are entitled to seek to achieve at least when they are doing so in circumstances where the disadvantages of using polycarbonate are minimised.

d) The shorter lifespan of polycarbonate guards when compared with that of wire guards is a relevant factor but it is not conclusive. The anticipated lifespan of about twenty years for the polycarbonate guard is not a negligible period. It is perfectly legitimate for the Petitioners to say that they wish to have a guard which does not detract from the internal appearance of the church even though that guard will need to be renewed in about twenty years' time.

16) Accordingly I direct that a faculty issue authorising the works as set out in the Petition.

STEPHEN EYRE
CHANCELLOR
31st December 2013