

In the Consistory Court of the Diocese of Lincoln

In the matter of St Andrew's Rippingale

And in the matter of Mr Michael Exton

Judgement

1. This is a petition for a Faculty to remove an electrical cable that had been laid in the churchyard by an electrician member of the PCC without a faculty.

2. Matters first came before me on 2 October 2014 when I made an Order that all works laying an electricity cable in the churchyard should cease forthwith. I had been supplied with information by email from the Archdeacon of Lincoln dated 16 September 2014 and the Registrar dated 18 September 2014 and the DAC Secretary dated 19 September 2014. I made a number of consequential orders to make the churchyard safe and required an investigation by an electrical contractor and their written report. I also required a written report into the events that led to the cable being laid to be prepared by the Archdeacon. I also received the undertaking of the Priest in charge and the churchwarden that they would issue a Petition for a Faculty within 2 months after consultation with the PCC and the DAC or such further time as may be allowed. Time was extended for the issue of the Petition.

2. I have now received the report from the electrical contractor, Butters Electrical Services Ltd, dated 15 October 2014. They investigated the scene and took steps to ensure that the installed cable had been isolated and made safe. They confirm that the site is safe and no fencing is required. They have provided an estimate for the removal of the cable from the ground which would involve disturbing the ground again. They have also advised that the 'sensible option' is to cut off the cable at each end below ground where it protrudes from the soil and then leave it buried in situ so that there is no further disturbance of the ground. If at a later stage there is an application for a Faculty to carry out the works in a correct manner then the wrongly installed cable can be removed a new one installed.

3. I understand that the Petition is seeking an Order permitting the 'sensible option' as described which will leave the cable beneath ground level but unconnected and quite safe. I am content to make the Order for this work to proceed.
4. I was most concerned to learn how this situation could possibly have arisen.
5. The Archdeacon of Boston has investigated and I am grateful to her for her report dated 17 October 2014. She has found out that the PCC on 12 March 2014 wanted to investigate the use of some surplus funds held by the Parish Council for flood lighting the church and also contributing to the cost of wiring for external tree lights in the churchyard at Christmas. Mr Exton, who is an electrician and a member of the PCC and also a member of the Parish Council suggested to the Parish Council that they buy with the surplus funds 2 LED floodlights as a one off donation to the church. This would reduce the running costs of lighting for the church by 80% and incorporate an electricity supply for lighting a Christmas tree in the churchyard each Christmas. The Parish Council agreed to this.
6. The PCC minuted on 21 May 2014 the following: 'Floodlighting: 80w LED to be installed, together with a plug for Christmas tree lights [ME]'. The latter initials presumably representing that this was a business item associated with Mr Exton. I do not know if the PCC assumed that Mr Exton would himself carry out the work without further recourse to them, nor if the requirement for a trench to be dug in the churchyard was understood by the PCC as being required. From what Mr Exton has written to the Archdeacon it seems clear that he did not feel it necessary to explain this to the PCC.
7. It appears that Mr Exton then purchased the LED light, a cable, a new time clock, and light sensor obtaining a 30% discount. All these items were paid for by the Parish Council. Then at the beginning of June Mr Exton and another electrician spent 3 evenings carrying out the work of replacing the floodlights, time clock and light sensor. There appears to have been no further PCC minute about this work and of course no Faculty was applied for
8. Then, without further recourse to the PCC, on 9 and 10th September Mr Exton and his colleague dug the trench through the churchyard from the floodlight along the side of the church wall and then to the tree that was to be lit at Christmas. The cable was laid in the trench and terminated at both ends but not connected at the floodlight supply end. The cable ends at the tree end in a stainless steel enclosure.

9. When the trench and cabling work was discovered by the priest in charge on 15th September she immediately contacted the Archdeacon of Lincoln who ordered a stop to the work and applications were then made to this Court.

10. Mr Exton has written to the Archdeacon that

' after it was agreed to replace the floodlights and put lights on the tree it did not enter my head that we would need permission to bury the cable '.

11. To dig a shallow trench through a churchyard to lay a cable without a Faculty or even without having raised this as a necessity with the PCC or the priest in charge, is a serious mistake as I am sure Mr Exton now accepts. I would expect any PCC member to know about the need to get permission before digging such a trench through a churchyard and laying an electricity cable. The risk of disturbance to human remains (even if disarticulated) is obvious and taken very seriously by the Church. Such risks can only be taken when matters have been carefully considered. This involves giving notice of the works so that people are made aware of the proposed works and they can express any concerns if they have them. Additionally a number of other matters were overlooked:

(i) because this was work outside the church that was beyond simple repair work, it was necessary to notify the local planning authority of the proposed works.

(ii) because there was no Faculty there would have been no insurance cover in place for the work or for any accidents arising out of the work if the cable had been installed incorrectly.

(iii) additionally, there was no opportunity of an assessment by the DAC of the proposed works and whether safeguards were in place

12. The Faculty system is provided as an important safeguard that due consideration is given to proposals for all types of work to be carried out within the sacred space of a church and churchyard. Above all, the Church regards it as essential that when works are proposed the local community is given notice and thereby given an opportunity to express a view and that those views will then be considered. This is important because the parish church is held in trust by the PCC, and by the Church as a whole, for the community in the place where the parish church is located. I should also add that if the Faculty system administered by the Church is not respected and followed by those with the care of listed churches, then secular

planning authorities will be given these powers, which would be to the great disadvantage of the life of the Church.

12. Mr Exton has written to the Archdeacon that he will

'do anything I can to comply with the Order that I have received'

which I welcome. I am sure that Mr Exton now understands the importance of the Faculty system and breaches like this are taken seriously. I am sure that Mr Exton had the best of intentions to help the church, by obtaining the new lighting equipment and then fitting it and digging the trench without charge. I also doubt that Mr Exton was the only person involved with the project who had overlooked the need for a Faculty (particularly in the works done in the summer).

13. I have made Mr Exton a party to these proceedings and he has been served with a copy of this Petition, and given him an opportunity to explain his position. I have considered whether or not to require him to make a contribution to the remedial costs (estimated at £150 plus VAT) and also whether he should make a contribution to the fees incurred in the issue of these proceedings. However, I have decided that given that he did this work for the church without charge, and the likelihood that others had overlooked the need for a Faculty in respect of the summer work, as well as Mr Exton, I am not going to order him to make any contributions to these costs. However, I hope that these events have reinforced in the mind of everyone concerned that the Faculty system must in future be complied with before any work of this kind is carried out.

14. The Order that I make is that the Petitioners have 6 months to carry out the work with the following conditions :

(i) the local planning authority to be notified of the works that have taken place in September 2014 and the steps taken to make the area safe, and the proposal to leave the cable buried having been made safe by the electrical contractor . No work is to commence by the contractor without the local planning authority's permission. Any conditions they impose are conditions of this faculty.

(ii) the remedial works are those specified in the report of Butters Electrical Services Limited 15 October 2014 which does not involve any further ground disturbance.

(iii) the insurers to be informed in writing of the remedial work that is now to be undertaken and no work is to commence before the insurer confirms in writing that no further steps need be taken by the PCC for the insurance cover to remain in place. If the PCC are required to carry out any further steps, they must comply before work can commence.



Mark Bishop



Chancellor

24 May 2015