

IN THE CONSISTORY COURT OF THE DIOCESE OF MANCHESTER

IN RE HOLY TRINITY SHAW

JUDGMENT



1. By their Petition dated 4 August 2011 Peter Benedict McEvitt, the incumbent of Holy Trinity Shaw, a Grade 2 listed building, and Noreen Clayton and Frederick Hollingworth, the Churchwardens, [together described as 'the Petitioners'] sought a faculty to install metal railings on the western and northern sides of the church, as described and illustrated by Garcia & Sykes Ltd. The estimated cost of such works was £ 4000.

2. As I explained in my judgment dated 28 December 2011 the rationale behind the proposed works was twofold : firstly, to prevent repeated metal thefts, primarily from the north side of the building which is hidden from view; and secondly, to improve the security of the Vicarage which is on the northern side of the Church.

3. The unanimous view of the police, parish architect and local authority, and in particular its crime-reduction officer, was that the only realistic way of dealing with such problems was to enclose the areas to the north and west of the Church by metal railings. Accordingly the Petitioners sought a faculty to install railings.

4. Such proposal was supported by the Parochial Church Council of Holy Trinity Shaw ['the PCC'] and the Diocesan Advisory Committee but there were some 'objections' from residents of Durban Close Shaw whose rear gardens adjoin the churchyard at the western end of the Church but no 'objector' responded to an invitation from the Diocesan Registrar to become a formal objector and they were treated as having asked that I should take their views into account.

5. In my judgment I set out the precise 'objections' made and the responses thereto by the Petitioners. After a site visit in my judgment I concluded thus :

15. Having carefully considered all the arguments both for and against the proposed works, I am satisfied that the area to the north and west of the Church have in recent years become prone to lead or metal theft and an area misused by youths. I am further satisfied that it is reasonable to enclose such area by railings : such is the advice which the parish have consistently received. Although it is in some ways regrettable that metal railings need to be erected and I can understand that the nearby residents would wish not to have such railings in the churchyard beyond their gardens, I am satisfied that the erection of such railings is a proportionate response to a

problem which requires to be remedied. Thus, notwithstanding the views expressed by nearby residents, I grant the faculty sought.

16. I will grant the Petitioners liberty to apply as to whether such fencing should contain any measures to discourage persons from climbing over or around it. If, however, it is contemplated that fencing should be reinstated on top of the churchyard boundary wall, a further faculty must be sought therefor.'

6. The Petitioners now seek permission to carry out the following :

[a] To permit the addition, to the post at the West End of the previously authorised railings, of the section edged in red on the drawing labelled 'Appendix A' as supplied by the parish and further detailed in an email from Canon McEvitt dated 2 March 2012 and

[b] If found necessary, to permit the additions of sections of 'Raptor' anti-scaling barrier to the top of the railings as detailed in the document labelled 'Appendix B' as supplied by the parish.'

7. It is to be noted that [b] is only to undertaken if it is found necessary. For this purpose I will assume that it is the PCC who should determine whether such further works are necessary.

8. Public Notice of such proposed further works was given in a Public Notice displayed between 12 March 2012 and 12 April 2012.

9. In response thereto Mr Collins of 4 Durban Close made submissions, of which the salient and relevant parts can be summarised thus :

'With regard to the second application, I have, reluctantly, no objection to the railings being extended over the wall. Without this, the investment made is a total waste of money. How someone can spend thousands of pounds on security railings with a virtual public footpath running alongside is laughable.

With regard to section [b] and the possible addition of Rapture [sic] sections, I am totally against this as the railings are already a total eyesore and if this was thought necessary, why wasn't it applied for in the original application? Reluctantly again I would agree to one section of the Rapture [sic] fitting being put where the railings meet the church.

It is apparent, anyway, that the position of the railings, another point to which we disagreed, leave them easily to be climbed over, with the contours of the church acting as a ladder. Had the position of the railings been moved back somewhat, this easy access could have been prevented.'

10. Mr Collins has again declined to become a party but I will take his views into account in reaching my decision.

11. Having considered all the relevant facts I am satisfied that I should grant permission to carry out the further works described in paragraph 6 above.

12. I note that Mr Collins has no objections to the railings being extended over the [church] wall.

13. As to the Raptor anti-scaling barrier, I am satisfied that what is proposed is necessary to diminish the prospect of further metal theft at the Church and to improve the security of the Vicarage. Moreover, I do not agree with Mr Collins that it will be sufficient to install merely one section of such a barrier where the railings meet the Church. In my judgment the best security will only be provided with the Raptor anti-scaling barrier as sought by the Petitioners. I suspect that such anti-scaling barrier was not included initially in the hope that it might prove unnecessary but I am satisfied that it is appropriate to install it 'if found necessary'.



GEOFFREY TATTERSALL QC
Chancellor of the Diocese of Manchester

29 May 2012