

IN THE CONSISTORY COURT OF THE DIOCESE OF ROCHESTER

Re: ST PETER AND ST PAUL SHOREHAM

J U D G M E N T

1. By a Petition dated 25th March 2016, the Petitioners, the Reverend Diane Rees, Frank Hinks QC, and John Lyons, have applied for a faculty to authorise the works that are described in the Petition as;
 - i. An extension to the north aisle and vestry to be accessed through a doorway created through the north aisle wall and also a doorway in the west wall of the vestry;
 - ii. The introduction of a glazed screen between the vestry and the north aisle;
 - iii. The felling of a yew tree to the north of the church.
2. The Petition records that at its meeting on 11th March 2016, the Parochial Church Council passed, without dissent among those present and voting, a resolution approving the proposed works. The total cost involved is likely to be in the region of £450,000.00.
3. The Diocesan Advisory Committee (the DAC) issued a Notification of Advice on 23rd March 2016, which replaced earlier ones dated 22nd December 2014, and 25th June 2015. The DAC recommended the proposals for approval by the Court subject to certain provisos which are set out in the latest Notification of Advice. The DAC opined that the works or part of them were likely to affect the character of the church as a building of special architectural or historic interest, and/or archaeological remains existing within the church or its curtilage. The church is Grade 1 listed.
4. By a Grant of Planning Permission dated 28th April 2015, the planning authority, the Sevenoaks District Council, approved the proposed works, subject to certain conditions, which are set out in the Grant.
5. English Heritage, having made certain comments, have not opposed the proposed works, whilst the Church Buildings Council (the CBC), in their letter of 4th November 2013; “accepted the need for an

extension and accepted the rationale of using the full space between the vicar's vestry and the tower," and went on that they also accepted; "that it would be content for the detailing of the scheme to be worked up to the satisfaction of the DAC without the need for further comment."

6. I gave directions on 19th May 2016, and indicate that I was prepared to deal with the petition on written submissions provided that all interested parties consented. At that stage I had before me comments from the Society For The Protection Of Ancient Buildings (SPAB), which I shall return to below.
7. I also caused the Commonwealth War Graves Commission to be served a special citation under the **Faculty Jurisdiction Rules 2015 Rule 9.4**. In their reply of 13th May 2016 they said; "We do not wish to make any representation on the matter."
8. Because it seemed from their letter dated 26th February 2015 that SPAB were objecting to the works, when I gave directions on 19th May 2016 I directed that SPAB have 28 days to identify with particularity their objections and any counter-proposals. I gave the Petitioners 28 days to reply. SPAB were written to by the Registrar on 10th June 2016 to the above effect; he also sent them Form 5 to enable them to join the proceedings as formal Party Opponents.
9. In the event SPAB have not replied to the Registrar's letter. They have neither amplified nor particularised any objections they might have, still less have they sought to be joined to the proceedings. This means that the Petitioners are the only relevant party whose consent I need to enable me to deal with the petition on written submissions. I understand that they are content for me to adopt this course, which I do.
10. It appears to me that some of SPAB's concerns have been addressed, but because of their failure to engage in the faculty process I am unable to ascertain what their final position is, and/or what they might be proposing. SPAB have declined to give the particulars requested, and have not taken up the option of joining in the proceedings. They are, of course, entitled to act as they have done, but it does mean that I do not have the chance of hearing and seeing their witnesses give evidence, still less of having that evidence tested in cross-examination.
11. I do not propose to set out in any detail the needs for the proposed works. They are dealt with in depth in the Statement of Needs

accompanying the Petition. Moreover, no one has suggested that the works are not needed.

12. As I have said above, St Peter and St Paul is a Grade 1 listed building. In deciding the Petition I have to have regard to the framework of guidance provided by the Court of Arches in; **Re St. Alkmund Duffield 2013 Fam 158 @para 87;**
 - i. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
 - ii. If the answer to question (i) is “No,” the ordinary presumption in faculty proceedings “in favour of things as they stand” is applicable, and can be rebutted more or less easily, depending on the particular nature of the proposals....
 - iii. If the answer to question (i) is “Yes,” how serious would the harm be.
 - iv. How clear and convincing is the justification for carrying out the proposals?
 - v. Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building....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 be particularly the case if the harm is to a building which is listed Grade 1 or 11*, where serious harm should only exceptionally be allowed
13. The church is a Grade 1 listed building. Only 2.5% of listed buildings are listed as Grade 1, and they are of exceptional interest.
14. Since I am left not knowing the final stance of SPAB, but aware that, subject to certain comments and recommendations, English Heritage, the CBC, and the DAC have all approved the proposals, and likewise the planning authority, who admittedly because of the application of the ecclesiastical exemption will, not have had to consider an application for listed building consent, I have no hesitation in saying that the Petitioners have discharged the burden that lies on them.
15. Insofar as the alterations may result in harm to the church building as might affect its character as a building of special architectural or

historic interest, I find that such harm would not be significant or serious. Thereafter the need for the works is not challenged; it is clear and made out. The proposed changes will allow modern facilities, including lavatories, to be introduced to the church, a Sunday school space to be created, and kitchen facilities to be provided, along with a meeting room and a storage area. Each and every one of those is required. Individually and collectively they are needed pastorally, and for mission, and for the benefit of the public (music concerts and the like). The Petitioners have clearly discharged the burden that lies on them here.

16. I propose to allow this Petition, subject to the following conditions, namely that;
 - i. There is compliance with all conditions imposed by the planning authority;
 - ii. There is compliance with the provisos and recommendations contained in the Notification of Advice dated 23rd March 2016 from the DAC;
 - iii. Any human remains disturbed during the works must be immediately covered from public view and must be treated decently and with reverence at all times. Their discovery shall be notified immediately to the Incumbent. They shall be labelled, and preserved as an entity in locked premises until they are reburied in the churchyard at the direction of the Incumbent, in a place as close as is practicable to the location in which they were uncovered.
 - iv. There is lodged and filed with the Registrar written particulars, to his satisfaction, to show that at least £420,000.00 has been raised, alternatively irrevocably pledged, towards the proposed works, and no contract shall be signed, or works commenced until this has been done.

17. In the premises, and subject to what I have said above, I direct that the Petition be allowed, and that faculty issue subject to conditions. The Petitioners must pay the costs of and incidental to the petition and the Court costs in the usual way.

John Gallagher
Chancellor
20th October 2016