

IN THE DIOCESE OF PORTSMOUTH

Re: Chancellor's Faculty, St Mary the Virgin, South Hayling

JUDGMENT

Introduction

1. By a petition dated 8th October 2013 the churchwardens of the church of St Mary the Virgin, South Hayling seek a Faculty for the construction of an octagonal extension to the North side of the church and for related works. The construction of the extension would extend over the site of several graves which are marked with headstones and kerbsets and the petition includes a request for a Faculty for the removal of the headstones and kerbsets concerned, subject to relocation or the provision of substitute memorials.
2. The families of some of those interred at the site of the proposed extension are understandably concerned about the proposed works and have expressed their opposition to the plans. One of those seeking to oppose the petition (Mrs PT) indicated her wish to become a formal objector and a party to the proceedings. However, in a letter dated 7th May 2014 she confirmed that she is content to accept a proposal for the memorials to be removed, to be replaced by engraved plaques on the building, and she does not now oppose the petition.
3. Accordingly the petition is formally unopposed. Nevertheless, I have concluded that, in view of the nature and impact of the proposed works and letters of opposition which have been received, it is appropriate for my decision and reasons to be set out in a formal judgment.

The petition

4. The petitioners request a Faculty for the following works:
 - (i) to remove a yew tree, which is protected by a TPO, to be replaced in the location of a lost elm to the southwest of the church with a Sweet Gum (*Liquidambar styraciflua*) of nursery standard size. Local authority approval has been granted for this work and is not, in itself, opposed.
 - (ii) to remove 7 grave markers in the form of 4 standing headstones and four kerbsets, to be relocated by agreement with associated family members. Engraved substitute memorials may be provided on the new north extension external plinth or internal stone floor if requested.
 - (iii) to excavate between grave markers for foul water drainage connection to a sewer in Church Road.
 - (iv) to erect an octagonal extension with a link to the existing north door of the church to provide facilities for a clergy vestry, a meeting room with mezzanine, 2 WCs (including one for disabled), a kitchenette, choir robe store and general storage.
5. The Faculty sought would be subject to the following provisos:
 - (i) that the works are subject to an archaeological watching brief; and

- (ii) that the specification for the works is submitted to and agreed by the Diocesan Advisory Committee.

The opposition

6. Letters of opposition have been received from the following:
- Mrs Sylvia Denyer, who expresses concern about the prospect of the disturbance of the remains of her parents and grandparents
 - Mr David Gillians, who is also concerned about the risk of disturbance to the remains of his parents and grandparents
 - Mrs Elizabeth Sadler and Ms Rosemary Pengelly (who are sisters) who are also concerned about the risk of disturbance to the remains of their family members and therefore request relocation of the graves concerned.
 - Mrs Patricia Treadwell, who expresses her strong objection to the erection of a building on the site of the graves of members of her family and where she had intended to be laid to rest with them.
7. The churchwardens have responded to the letters in a letter dated 16 December 2013. Discussions have taken place between the churchwardens and those who have expressed concerns about or opposition to the impact of the planned extension and options for relocation and for replacement of the memorials have been considered.
8. The advice of the architect is that with the building methods proposed the excavations will not reach the depth of any of the coffins beneath the site of the extension, even where, as in one case, there is a double depth grave. Care will be taken to ensure that no disturbance will take place.
9. The option of exhumation and re-interment has been offered and is not dependent on remains being found or disturbed.

Statement of Significance

10. The church of St Mary the Virgin is a Grade II* listed building which dates from the 13th – 14th centuries. There has been significant internal restoration, especially in the late 19th century and where external repairs have been necessary, efforts have been made to retain the essentially mediaeval appearance of the exterior.

Statement of need

11. The church has no facilities on site for public or clergy other than a small vestry room dating from the late 19th century work. There is a hall on the opposite side of the road, built in the early 20th century. The hall is used extensively by other organisations and the second floor is let to produce rental income. Access to the hall from the church is hampered by traffic.

12. The proposed extension is the second phase of a redevelopment project and has been planned to provide a meeting area, vestry facilities, refreshment area and

toilet facilities on the north side of the church adjoining and accessed through the north door.

Permissions and subsidiary matters

14. Planning permission has been granted by the local planning authority
15. English Heritage have provided helpful guidance and the original plans have been revised to take account of points raised in the guidance.
16. The scheme has the unanimous approval of the PCC.
17. The DAC issued a certificate on 13 September 2013 recommending the works which are detailed in the petition, subject to the provisos noted.
18. The excavation may have archaeological significance and an archaeologist has been engaged to inspect and record findings during the course of the work.
19. Although there are bats in part of the church, the architect has advised that the proposed works will not harm or disturb the bats or their roosts.

Discussion

20. In my judgment the petitioners have established a clear need for the proposed extension and the facilities which it will provide. The facilities available in the church building and its immediate surrounds are wholly inadequate for the current and likely future use of the church. I am satisfied that the needs of the clergy, congregation and others using the building cannot be met by the existing facilities either on the site of the church or in the hall across the road.

21. The extension would be a significant addition to the exterior of the building, but I am satisfied that the size and design of the new building is in keeping with the existing building and the exterior appearance. With a church of this age and the internal limitations which the structure presents, it is inevitable that facilities of the type required here will involve an extension to the existing structure and in my judgment, the present proposal achieves the required space in a sensitive and appropriate manner.

22. The opposition to the proposals relates to the graves and associated memorials or markers at the site of the proposed extension. In summary the objections are:

- (i) that it is inappropriate to build over the site of a number of long-standing graves;
- (ii) that there is likely to be disturbance to remains interred under the site of the extension;
- (iii) that associated family members will not in future be able to be interred in the family graves at the site;
- (iv) that memorials and markers will be lost.

23. The objections have been carefully and appropriately expressed and are borne of genuine concerns for the remains of departed relatives and strong family

connections with that part of the churchyard. Any building proposal which may affect family graves and memorials must be sensitively and carefully considered. The feelings of those most affected must be respected and taken fully into account.

24. As regards the location of the building, it is clear that a great deal of thought and planning has been given to the location and design of the new building. Planning and English Heritage advice has been sought and implemented as appropriate. From the plans of the church and churchyard, it is difficult to see how the proposed extension could be sited differently, if it is to fulfil its intended purpose.

25. In relation to the impact on the graves and memorials at the site, the advice of the architect is that there is little if any risk of disturbance to the remains interred under the proposed site and that the building methods to be employed will not reach the depth of the coffins buried there. The church offers a number of ways of alleviating the concerns of the families affected and these are reflected in the terms of the permission sought and can be further reflected in appropriate conditions if the faculty is granted.

Conclusion

26. I respect and fully understand the anxieties and feelings of all those who have expressed opposition to the planned extension or requested arrangements for re-interment and I have taken into account all the matters raised in their letters.

27. However, in my judgment the petitioners have demonstrated a clear need for the proposed extension and I am satisfied from all the information available that the nature, design and location of the building are all entirely appropriate and fulfil the intended purpose. It is a matter of regret that established grave sites and markers will be affected by the erection of the new building, but I have reached the conclusion that the proposed extension is necessary if the mission and functioning of the church is to be maintained and developed and that the benefits for the church and for all who use it outweigh the adverse impact on the grave sites.

28. I have therefore concluded that the petition should be granted and that a Faculty should issue in the terms sought.

29. It is important that the feelings of the families affected are respected and steps should continue to be taken to offer suitable alternatives to them and to minimise the impact on the graves concerned. Accordingly, while it is clear that the church has these matters well in mind, I consider that the following conditions should attach to the Faculty:

- (i) that the opportunity for exhumation and re-interment of the remains of any person interred beneath the site of the proposed extension should be offered to the close family of any such person; and
- (ii) that should any human remains be disturbed they are to be reverently and discreetly re-interred.

30. The offer of alternative options for relocation or replacement of grave markers or memorials is provided for in the terms of the Faculty and will, I am sure, be sensitively explored with the families concerned.

Philip Waller
Chancellor, Diocese of Portsmouth
24th July 2014