

Neutral Citation Number: [2022] ECC SEI 2

IN THE CONSISTORY COURT OF THE DIOCESE OF ST EDMUNDSBURY AND IPSWICH

And

IN RE Sudbury, St Gregory

### JUDGMENT

1. This case demonstrates the need for Petitioners to supply the fullest possible information when they submit their Petitions. In this instance the Petitioners chose only to send a very limited amount of their research. This was due to the fact that the petitioner didn't feel the need to burden me with their research. I emphasize as I have in other Judgments that it is imperative that I have all the relevant documentation. I would prefer to be overburdened than under. One of the great strengths of the electronic application system is that a very large amount of documentation can be uploaded and read. I note that this was a paper Petition.
2. The petitioners applied for the introduction of BN Thermic Quartz Halogen heaters and the replacement of windows in the ringing chamber. I refused the application for the introduction of the proposed heaters on the basis that the CBC had objected in the following terms:

Thank you for seeking the Church Buildings Council's advice over the details pertaining to a faculty application for introducing BN Thermic Quartz Halogen heaters at Sudbury St Gregory. The Council acknowledges that the Chancellor has received the paperwork and has requested its comments on the proposals. This has been considered under the Council's delegated advice policy, and its advice is set out below.

St Gregory's is a Grade I listed building of considerable architectural and historic significance. A substantially medieval building, St Gregory's was rebuilt as a Collegiate church in 1365 under the patronage of Simon Theobald, also known as Simon of Sudbury, whose head the church still possess. The nave was remodelled in the 14<sup>th</sup> century and last addition to the late-medieval fabric was the tower, added in 1466. Architect William Butterfield oversaw a restoration of the church in the second half of the 19<sup>th</sup> century.

St Gregory's holds 3 services per week and additional services at Christmas and Easter. Although the full extent to which the building is used by community groups on an otherwise regular or frequent occasion is not made entirely clear from the documentation submitted, it is evident that the church is used for some concerts, meetings, and lectures.

The Council understands that the parish feel the existing central heating system, installed c.1975, to be inadequate for its present needs and that it has pursued options for alternative heating arrangements, including the provision of under floor heating and Hershel non-glow heaters, both of which it found to be unsatisfactory. However, the Council does not support the decision to introduce the BN Thermic Quartz Halogen heaters as these are fundamentally not suitable for a Grade I listed church with 3 services per week and would have a significant impact upon the character of the building. There is the potential that if introduced, this could have long-term implications for the historic fabric as this type of heating heats up organic matter. Additionally, if members of the congregation are not within range, or the zone of radiation that these heaters give out, they will not feel warm.

The Council also wishes to express its concern over the impact that BN Thermic Quartz Halogen heaters could have on the extensive inventory of wooden furnishings noted within the Statement of Significance. It is not clear from the documentation submitted where these items are located and what they look like, and it is difficult for the Council to comment on how the proposed heating system may impact the historic furniture without additional photos and description of these items.

The Council would also like to take this opportunity to highlight one other aspect of the schedule of works and draw attention to an extract from the electrical contractor's quotation letter, where it is stated that 'the Builder is to drill any holes required and lift flooring for cable access/routing'. The Council cannot support this in principle without further information as there is potential to cause irreversible damage to the historic fabric of the building.

In summary, the Council believes that there are other more appropriate options available for the parish to consider and would encourage them to refer to its extensive guidance on [Heating](#).

3. I went on to say:

"It appears, with respect, that the petitioners in their enthusiasm to replace the heating system have failed to carry out some basic investigations. Their statement of significance is inadequate and there appears to have been insufficient analysis of the implications, physical and aesthetic, of their proposals.

I regret to say that, on the information provided, I am unable to grant this Faculty."

4. There was concern expressed by the parish that I had not taken into account all of the research they had done with regard to the proposed heating. In fact, I had taken into account everything they had sent me. It turns out that, in fact, there had been a great deal of research undertaken but they had chosen not to send it with their application because they were unaware that it should be included in their statement of need.
5. I confess to being unclear about whether I have the power to revisit a Judgment I have already delivered, but I do so in this case and will stand to be corrected. In any event I failed to deal with the application for the replacement of the windows in the ringing chamber in my original Judgment, so revisit it on that basis as well.
6. Subsequent to my Judgment dated 22 February the parish held an in-person meeting with the CBC. They then sent a letter to the parish which has been forwarded to me. It reads as follows:

Following an in-person meeting on 10 May 2022 at St Gregory's church, Sudbury, in attendance with representatives from the PCC, the DAC Secretary, Edmund Harris and DAC heating advisor, Oliver Clark, the Church Buildings Council can confirm that it is content to support the proposed heating scheme as a suitable and appropriate heating solution for this church.

In the first instance, the Council learnt that it had not previously been sent the full scope of design documents and additional information relevant to the proposed scheme involving the installation of 15 Quartz Halogen heaters. Upon receipt of this information, the Council's initial concerns raised in the advice letter of 18 November 2021 such as the impact on historic furnishings (particularly in the chancel); the direction of zonal heating from individual heaters; cable and wiring routes, were quickly addressed, and the Council was grateful to the PCC in being able to provide this information on site.

The Council's primary concern was the proximity of the proposed infrared heaters to historic woodwork such as the stalls in the chancel, and the font cover in the nave, and the impact of potential prolonged exposure to shortwave radiation. The Council heard that the radiant heaters will not be directed towards the important historic furnishings. Of the 4 units fixed above the stalls in the chancel, it was demonstrated that the position of these heaters will be such that it will not impact the woodwork, nor that they will be in use for extended periods of time as the seats are only occupied intermittently by choral groups and not in regular use. The Council was therefore satisfied that the proposed arrangement has taken these factors in to consideration and is a suitable scheme to heat the building, given its size and current use pattern.

7. I have taken into account the 'Duffield' questions:

(1) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?

(2) If the answer to the question (1) is 'no', the ordinary assumption in faculty proceedings 'in favour of things as they stand' is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals (see *Peak v Trower* (1881) 7 PD 21, 26-28, and the review of the case law by Chancellor Bursell QC, in *In re St Mary's, White Waltham (No.2)* [2010] PTSR 1689 at para 11). Questions 3, 4 and 5 do not arise.

(3) If the answer to question (1) is 'yes', how serious would the harm be?

(4) How clear and convincing is the justification for carrying out the proposals?

(5) Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building (see *St Luke, Maidstone* [1995] Fam. 1 at 8), 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?

8. I believe that the introduction of such heaters will result in harm to the significance of this Grade I listed building but am satisfied that there is a clear and convincing justification for carrying out the proposals to introduce the heaters that outweighs the harm. I therefore grant the petition for the introduction of such heaters.
9. I am satisfied that the petition for windows in the ringing chamber passes the seal as well.

24<sup>th</sup> May 2022

Justin Gau,  
Chancellor.