

# **IN THE CONSISTORY COURT**

## **DIOCESE OF ELY**

### **THE CHANCELLOR OF THE DIOCESE OF ELY**

#### **Holy Trinity Church Cambridge**

#### **BACKGROUND**

1. I have received an application for a Faculty from Holy Trinity Church Cambridge, a listed Grade 2\* building dating from the 13th century, to remove a Victorian pipe organ which it is intended to replace with an electric organ. This application is part of a far larger interior re-ordering which is being pursued by the Church and which they say is required to provide better facilities for a growing congregation. Further, the organ is only used at major festivals and weddings and does not suit the Evangelical style of worship which has been a part of this Church for more than a century. Instruments other than the organ are used to accompany and enhance the worship they offer to God.
2. It is envisaged that the organ chamber will be used to create two meeting rooms and to provide weekday access to the church which is presently prevented because of safety issues in respect of those working in the Church Office. No application for a Faculty for this work has been submitted.
3. The organ is well described in a report commissioned by the PCC in 2011 and which was updated in May 2014. I do not intend to repeat the contents of that report in any detail but I have had its contents in mind when considering this application. The organ was built in 1852 and was originally placed in the West Gallery before being moved to its present position in 1891-2. The organ case also dates from 1852, the painted covering possibly being part of a later addition.

4. In his report John Norman BSc identifies the most striking and artistically important facet of the organ is its case, being of a lacy-Gothic design in the style of Edward Blore's organ case in Winchester Cathedral. Whilst the organ is good for its age and was well restored in 1956, it is not suggested that, as an instrument, it is of special merit compared with those that are found within Cambridge, although in many cities its "...musical resources would be considered outstanding."
5. There is general agreement from the DAC and from BIOS that the organ should be removed together with the organ case and that there is merit in keeping the two elements of the organ together. The PCC believe that the option of keeping the casing and removing the organ would in part destroy the integrity of the organ, because the front pipes make up the bass voice of the organ and, in part, because it would be against the published advice of the Church Buildings Council. Further they consider retaining the case without the organ would amount to a deception.

## **OBJECTION**

6. There is strong objection from The Victorian Society which believes that the removal of the organ and its casing would harm the character of the church as a building of special architectural and historic interest and for which no compelling justification exists. In a letter of 19th December 2014 the Society suggests that, even if I was minded to give a Faculty for the removal of the organ, the case could easily be retained in situ. I have taken the full contents of this letter into account.
7. Mr John Cooper has written, not to object to the organ being removed, but with regards to an undertaking he submits I should extract from the petitioners to replace the organ with something suitable for the building for occasional use.

## **THE TEST**

8. In considering whether I should grant the Faculty I have followed the guidance on the development in the interpretation of "the Bishopsgate Questions" laid down in *In Re St Alkmund, Duffield* [2013] Fam 158:-
  - (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” whilst still applicable can be rebutted more or less readily, depending on the particular nature of the proposals. Questions iii, iv and v do not arise.
- (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 this question, the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or 2\*, where serious harm should only exceptionally be allowed.

## **DECISION**

- 9. I have first considered whether I should delay any decision in respect of the organ until the full proposals for the re-ordering have been submitted. I am aware that there is a danger in making a decision to free up space when I have made no decision on whether I would allow the re-ordering to take place on the lines that are set out in the Statement of Needs.
- 10. However, having considered the position carefully, I have decided that it would not be in the interests of this vibrant church or its mission to delay a decision on the organ when I am satisfied that, whatever the final application, there is a real and justifiable need to create extra space within the church. In addition, there is at present an offer of £25,000 for the organ and case from Oliver Schulte, an organ builder in Germany, and for the organ to be installed in the Church of St Crucis, a Grade II Church in Hesse. They cannot be expected to wait for ever and I judge that there is a real risk that this arrangement may fall

through as a result of delay. Whilst there may be other Churches willing to offer this organ a home, that is by no means guaranteed.

11. However, it must be clearly understood that my decision to proceed with this application does not bind me to agreeing in part or in whole to any application which is to be made in respect of other proposed works.
12. Turning to the St Alkmund Questions:-
  - (i) The proposals, if implemented, would result in harm to the significance of the church as a building of special architectural or historic interest.
  - (ii) Whilst its removal is bound to have an effect on the Church, I cannot class it as causing serious harm to the Church overall even allowing for its development over 700 hundred years.
  - (iii) There is a clear and convincing justification for carrying out the proposals. This is a growing Church which is very short of space for the type of activities which it feels are needed to carry out their mission and which they have fully justified in the Statement of Needs.
  - (iv) Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building, I judge that the need for liturgical freedom, opportunities for mission, and putting the church to viable uses which are consistent with and enhance its rôle as a place of worship and mission outweigh the harm.
13. I have concluded that the circumstances are exceptional and the benefits of allowing this application outweigh any harm that will be done to the integrity of the building.
14. I have considered separately whether I should follow the recommendation of The Victorian Society to retain the case but not the organ. I judge that to be an unacceptable compromise. The interest in preserving the full voicing of the organ with its case is more important than retaining a hollow case at Holy Trinity. The organ and case as a complete item will make a fine addition to St Crucis and can be admired there in its full and original form.
15. As to the issue raised by Mr Cooper, I agree that I should, as part of the Faculty make a condition to ensure that the organ is replaced.

16. Similarly I shall make directions to avoid any further piecemeal applications in respect of the re-ordering of Holy Trinity.

### **THE FACULTY**

17. Let a Faculty be issued for the removal and disposal of the existing pipe organ on condition that:-
- (a) It is sold to Oliver Schulte for installation in the Church of St Crucis for the amount of £25,000.
  - (b) The terms and conditions set out by Francesca Kirkham in her email of 23rd December 2014 are complied with.
  - (c) The work to be carried out within six months.
  - (d) The PCC undertake to install a high quality replacement organ suitable to the building. The make and type of organ is to be approved by the Diocesan Organ Advisor. If there is a failure to agree between the PCC and the Diocesan Organ Advisor, it should be referred to me to make a decision. The replacement organ is to be installed within 12 months regardless of whether any Faculty for re-ordering the Church has been applied for or granted.
  - (e) The position of the replacement organ will need to be approved of by me whether as a temporary measure pending the application for the re-ordering of the Church or as a permanent installation.
  - (f) Liberty to apply.

### **DIRECTIONS**

18. In principle I require any further Faculty for the re-ordering of Holy Trinity to cover the full extent of the proposed works. It is of great importance that I am able to consider and envisage the entirety of the proposed plans and make a single decision in respect of the re-ordering which, if it follows the proposals in the Statement of Needs, will be very substantial.
19. I understand that that it may well be necessary to carry out the work in phases to allow for the raising of sufficient funds and for other practical reasons. I do not intend to prevent that by requiring one application and will be willing to

consider phasing the work and providing a sensible timetable for the work if I agree to issue a Faculty.

His Honour Judge Leonard QC

5th February 2015