

In the Consistory Court of the Diocese of Chichester

Petition No. 2020-052628

In the matter of St Michael and All Angels, Berwick

Determination of Application

1. This is an application to lift a stay that was imposed on these proceedings on 18 November 2021.
2. It is the practice of the Consistory Court, in this diocese at least, not to entertain a petition for a faculty where there is an earlier petition that remains outstanding and unresolved. It is axiomatic that, as a general rule, where permission to appeal has been sought in respect of the dismissal of a petition, no further petitions concerning the church in question should be considered by the Consistory Court until that application has been determined, and if permission is granted, until judgment has been given in the subsequent substantive appeal.
3. In this matter, the petitioners have applied for permission to appeal a decision of the Deputy Chancellor dated 13 September 2021. The matter is currently awaiting a determination from the Dean of Arches on whether permission should be granted.
4. Following a technical glitch, this second matter reached me via the Online Faculty System on 15 November 2021. To the best of my recollection, there was nothing in the papers on the System to justify any departure from the norm, and accordingly a stay was directed, but I gave the petitioners liberty to apply in writing for it to be lifted. This they have now done.
5. The application is settled by counsel and accompanied by a clip of helpful correspondence from: the inspecting architect, the parish treasurer (exhibiting papers from the National Heritage Lottery Fund), the project manager, and the director of the construction company engaged to carry out the works, in the event that a faculty be granted.
6. The principal reasons for seeking the lifting of the stay are that the proposed works (an extension for lavatory facilities) are discrete and severable from those which were the subject of the petition that the Deputy Chancellor refused (removal of pews). Accordingly, it is submitted that the outcome of the appeal (in the event that permission is granted) will have no bearing on the outcome of the current petition.
7. Additionally, it is submitted that the proposed works are uncontroversial (as evidenced by the lack of any objection) and, more particularly, that they would be compromised if delayed until any appeal in the Court of Arches had run its course. I am specifically referred to the formation of an airlock, the better to protect the paintings for which this church is well known; to the probable withdrawal of Lottery funding were the commencement of the works to be put back; and to potential difficulties in rescheduling the contractors. In addition, reference is made to the statutory consideration of the church as a local centre of worship and mission.

8. I am satisfied, for the reasons advanced in the application, and supported by the documents annexed thereto, that it is in the interests of justice to depart from the general norm in the particular circumstances of this case. I give particular weight to the possible loss of Lottery funding which could serve to frustrate the entire project.
9. Accordingly, the stay will be lifted, and the matter determined via the Online Faculty System.
10. The costs of this application are to be borne by the petitioners.

The Worshipful Mark Hill QC
Chancellor of the Diocese of Chichester

30 November 2021