

## **Neutral Citation No [2019] ECC Yor 6**

### **In the Diocese of York**

### **In the Consistory Court**

### **The Parish of Bishop Burton**

### **The Church of All Saints**

1. On 7<sup>th</sup> November 2018 the Rev David Messer, Rector; David Oxtoby, Churchwarden and Nigel Penton, Treasurer; all of the church of Bishop Burton, All Saints (“the parish”) presented a proposal to the DAC for the
  1. Installation of an external access ramp to the South Door;
  2. Introduction of a glass draught lobby to the South entrance;
  3. Removal of 2 pews at the west end of the South Aisle and installation of a disabled accessible WC in an oak-panelled cubicle adjacent to the South Door;
  4. Reordering of the west end of the nave by removing 4 pews and relocating the font;
  5. Upgrading the kitchen facilities in the under Tower area and introduction of a mobile server;
  6. Introduction of a trench arch drainage system into the churchyard to the south of the church with gravelled and paved pathway over;  
all as per the Drawing Nos. 2018: P1B, 1A, 2B, 3, 4A, 5B, 6A, 7 and K1-4 by Ingleby & Hobson Architects dated 6th December.
2. This proposal was the latest iteration of matters that had been considered by the DAC on several occasions in recent years. Although members of the Committee had some concerns about the position of the servery in the doorway of the under-tower area, the parish had assured them that they had seen this working well in another church. Further, if numbers attending an event so required, then the servery could be lifted up and moved into the west end of the nave. The parish also gave an undertaking that if this did not work out in practice they would seek further advice from the Committee. On that basis, the Committee was satisfied with the proposal and recommended it, subject to clarification about what appeared to be two references to the trench arch drainage system on the drawings.
3. The matter was then referred to me via the Online Faculty System on 2<sup>nd</sup> January 2019. I considered the material before me which included a letter from Historic England dated 13 November 2018 in which Historic England indicated that they “have no objection to the location and arrangement of the proposed new facilities. We are now content to defer to the DAC on matters relating to detail.” There was also an email from an officer of the local authority planning department indicating that “I do not need to be involved and am happy to leave it to the diocese’s judgement.” Finally, there was also an email from the Victorian Society stating that it

was “grateful for the opportunity but does not wish to comment. This should not, however, be taken to imply support or approval.”

4. On 8<sup>th</sup> January 2019 having considered all the available material I declared that I was satisfied that the petitioners had made out a case for their proposals and I directed that, subject to no objections being received following Public Notice, a faculty would issue.
5. I imposed conditions on the faculty namely
  1. The petitioners shall consult with the Humber Archaeology Partnership before embarking on excavations in relation to the Trench Arch Drainage System
  2. The churchwardens shall within 14 days of the completion of the drainage works record details of the same on the Churchyard Plan including the measured dimensions of the location of any Trench Arch Drainage System.
  3. The churchwardens shall within 14 days of the completion of the work record in the church property register (Terrier) information about the construction and location of the drainage system.
6. Public Notice was then given of the proposals and the Diocesan Registrar received several objections to the proposals. The following communications were received: undated notices of objection on 15 January 2019 from Andrew Dunning and John Dunning OBE; a letter of objection, dated 14 January 2019, from Joy Woodward. I will set out the nature of their objections in due course.
7. The Registrar thereafter, in accordance with the Faculty Jurisdiction Rules (FJR) 2015 Rule 10.3, wrote to each of them explaining the options facing them, namely whether to formally object by filing a Form 5 document, or to allow me to take their objections into account when coming to my decision, without them becoming parties to contested proceedings.
8. Ms Woodward has not replied to that letter. Under FJR 2015 Rule 10.3(2)(d) she is therefore deemed not to have become a party opponent, and FJR 10.5(2) then requires me to take account of any letters of objection, and any comments on them received from the petitioner, in reaching a decision on the petition.
9. Andrew Dunning replied on 24 January 2019 stating that both he and his brother John were “content to leave the decisions to the Chancellor, our ‘objections’ being on behalf of the Village Community that has not been consulted, despite the Statement of Need making it abundantly clear that the reordering is intended, in no small measure, for the community as a whole as well as for Churchgoers.”
10. The Registrar had of course also written to the Petitioners to inform them of the objections received. In due course they responded to the objections in a document dated 15<sup>th</sup> March 2019 setting out their response to the several objections.
11. In all these circumstances the matter has now been referred back to me for a final decision in relation to the proposals.

12. Before turning to the substance of the arguments, there is a preliminary point that I have to deal with. The petitioners draw to my attention a question they have as to whether Andrew Dunning is an interested party within Rule 10.1 of the FJR 2015. That Rule provides:

- (1) For the purposes of this Part “interested person” in relation to a petition for a faculty means—
  - (a) any person who is resident in the ecclesiastical parish concerned;
  - (b) any person whose name is entered on the church electoral roll of the ecclesiastical parish concerned but who does not reside there;
  - (c) the parochial church council;
  - (d) the archdeacon;
  - (e) the local planning authority;
  - (f) any national amenity society;
  - (g) any other body designated by the chancellor for the purpose of the petition;
  - (h) any other person or body appearing to the chancellor to have a sufficient interest in the subject matter of the petition.

They draw to my attention that he is not resident within the parish, that he is not on the electoral roll, but is on the electoral roll of Newbald parish church (he describes himself thus in his objection), and that any attendance at All Saints is occasional.

13. If Andrew Dunning had opted to become a party opponent in contested proceedings, then I would have required him to justify his “interested person” status. However, in all the circumstances it seems to me that no injustice will be served if I consider his submissions without reaching a final consideration on the point of status.

14. The tests that I must apply in reaching my final decision are to consider firstly whether the petitioners have made out a case for the proposal, secondly whether the proposals, if implemented, would result in harm to the significance of the church as a building of special architectural or historic interest, and thirdly, if they would, then there would be a number of other issues for me to consider. Finally I must weigh against the arguments in favour of the proposal those against it.

15. I will begin with the basic question as to whether there is a case made out.

16. The Statement of Need sets out the proposal in this way: “The intention is to adapt a small number of pews so that they can be moved to create circulation space for church and social events at the west end and around the font. Whilst it is proposed that we install a kitchen and disabled toilet into the tower, access to the clock will still be possible by adapting the current staircase”. It then goes on to describe how with the assistance of John Arthur, the Diocesan Bell’s Advisor, they plan to manage the bellringing by re-siting the Ellacombe Bracket.

17. The petitioners have also provided a document entitled “Building for the future – today”. In that document they recite the history of the church and describe its place in the local community of Bishop Burton. The community has a population of

approximately 700, it is actively focused on farming and has a major College of Agriculture located in the ancient seat of the Lord of the Manor. Much of the village is within a conservation area. There is a Village Hall which is the focus for many of the social activities which take place in the village. The Methodist Chapel in the village closed in 2013. All Saints describes itself as having “a small but friendly and faithful congregation” which cares for the church, including keeping it open on a daily basis, and wants to reach out to the rest of the community. The Friends of All Saints consists of some 50 members and has in the last two years raised over £12,000 towards this project to improve the facilities within the church and to enable more community use of the building.

18. The parish hopes that with a reordered building they will be able to offer more opportunities for teaching and discipleship through both conventional and more novel forms of engagement. They would like to provide additional teaching courses, café style church, Celtic forms of worship, and places for young people and children to pray and explore faith in a safe environment making use of prayer stations and individual spaces. The difficulties they presently face in relation to such proposals are the lack of level access, the absence of any toilet facilities, and any up-to-date facility for providing light refreshments.
19. Following a lengthy consultation process involving the DAC and the amenity societies the parish proposes to resolve their difficulties by installing a disabled access toilet adjacent to a new draught lobby inside the south entrance door to the church. The draught lobby will be constructed of glass so as not to obstruct the view of the Kempe window in the south-west corner of the church. This new lobby will require the relocation of the font and the removal of some pews. The pew ends which incorporate the figures of saints have some historical significance and it is proposed that they will be reused by attaching them to pews elsewhere, including at the east end of the north aisle. The pew platforms which will thus be exposed will be levelled with the floor which will be paved to provide safe and level access in the newly created circulation space.
20. There is currently a small sink unit with shelving in the area under the tower which is used for the provision of hot drinks. The proposal is to introduce in its place a small kitchen facility with a fridge, oven/microwave, worktop and storage cupboards, so that they will be able to provide light refreshments after services and other events. One part of that installation will be an island unit which will be able to be lifted out into the west end of the nave when needed. The alterations under the tower involve rearranging the Ellacombe bellringing bracket. There will also be a trench arch drainage system introduced to deal with drainage.
21. All these proposals now have not only the support of the church members but also of the Friends, several of whom represent the wider village community. The DAC has been instrumental in the shaping of these final proposals which have gone through several iterations over recent years. The local authority, Historic England, and the Victorian Society have all indicated that they have no objections to these proposals.

22. In all the circumstances I am satisfied that the petitioners have identified a real need to provide both toilet and kitchen facilities in this church. I am also satisfied that the proposals which they make in order to meet that need are now very common in churches and do not offend against any basic principles about what may be introduced into a parish church. Further, the absence of any objection from the amenity societies is evidence of the absence of harm to the significance of the church as a building of special architectural or historic interest.
23. At this stage I need to take account of the matters raised by the objectors in order to consider whether they amount to any reason for not permitting this proposal to go ahead.
24. I understand that John Dunning (JD) and Andrew Dunning (AD) are brothers and I am told by the petitioners that Joy Woodward (JW) is their niece.
25. JD retired as a churchwarden in 2007 but continued to be actively involved in the discussions and plans to introduce a toilet into the church. Since he has been living in a care home the parish has kept him informed of the developing proposals and taken back his responses to the PCC, the working group and the Church Buildings Advisor who has been closely involved in the most recent iteration. In the document he has submitted JD says "I wholeheartedly support improvements to the facilities at All Saints, and the aim of greater community use, but am forced to object to the removal of four rear pews – they, and two more, should be relocated in the church, thus giving the space stated to be needed." In the introduction to his document he sets out the history with some of the different proposals that have been made at different times. His preferred scheme would involve the toilet entrance being from the south door draught lobby/vestibule rather than from the nave. The relocated pews would be positioned in a 'collegiate style' with two pairs facing each other across the church, or alternatively one pair facing each other in that manner and another pair reversed back to back with what would otherwise have been the rearmost pews in the nave. He would also wish to retain but lower the exposed pew platforms with mortice slots filled.
26. JW in her letter begins by congratulating the village "on its work over the years to find a way to modernise the church, and have a much needed toilet." She goes on to say "The current design is fine, although I would prefer the toilet door to be near the door of the church to be more discrete (*sic*), I understand the access would be more difficult. However, in the above proposal the oak pews to be removed at the rear of the church are to be desecrated and have the carved ends removed. I strongly object to this, and suggest the pews are kept in their entirety and moved to the side of the church with their back to the wall."
27. AW supports his brother's proposing in relation to toilet access, pew relocation and flooring, also saying that this way of doing things would be cost saving. He also makes a number of other points, more in the manner of asking questions about whether several things have been thought about and whether they will work as suggested. In my judgement and in the greater scheme of things these are minor

points and I am sure will be considered as the practical details of living with the new arrangements develop.

28. In their response the petitioners acknowledge JD's long involvement and deep commitment to the church of All Saints. They acknowledge his responses as he had been kept informed of the developing proposals and say that they have all been considered seriously. They say that "the decision regarding the relocation of pews has been an area of strong disagreement and it is only in the last three years that the PCC have united behind the current proposal." In relation to the alternative proposal they say that they consider it important to have all the pews in the main body of the church facing the pulpit and lectern. That will also ensure that audiences for concerts will face the choir or musicians. They describe having explored with the DAC the possibility of relocating the four pews intact into the chancel to replace the choir stalls. They were advised that that was unlikely to be permitted. They intend not only to retain and redeploy the poppy headed carved figures of the saints but also to acknowledge and celebrate them by producing a visitor's guide setting out the stories behind the names. Their preference for a paved floor rather than retaining the wooden pew platforms will not as they believe it add significantly to the cost of the proposal and is to be preferred in relation to access. They are satisfied that the space they will create will be quite sufficient for circulation. They were advised against accessing the toilet from the draught lobby as that would cause potential congestion and be less accessible for disabled persons and the entrance from the nave would in fact be more discreet. Further they were satisfied there was sufficient storage under the tower. The same points obviously apply to the objections by JW and AD in so far as they also make them.
29. It is not uncommon that the type of proposal under consideration here is the subject of much discussion and some dispute in churches and their wider communities. Ultimately, a Chancellor looks to see whether the proposals presented have the support of the duly elected PCC. I note that in this matter the PCC decision was unanimous. I also note that the petitioners acknowledge the history of disagreement about the proposals during the consultation process in which they became refined, supported, or at least not objected to, by the amenity societies and finally achieved a consensus of support in church and village. I also note that the objections come from JD a proponent of an alternative scheme in the earlier iterations, but who now sadly through no fault of his own is distanced from any direct involvement on a day-to-day basis with others involved in the developing ideas. AD and JW are both related to JW and whilst AD acknowledges that he is supporting his brother's proposals JW makes no reference to JD. However, it would not be sensible to overlook her connection with the two brothers, her uncles.
30. Having considered all these matters I am persuaded that it would not be appropriate for access to the toilet to be from the vestibule area, and I note that JW accepts that. It is therefore not possible to relocate the pews in the manner proposed by JD. I do not regard the redeployment of the pew ends as being a "desecration" but as something that is a perfectly acceptable way of retaining what is best from the past, ensuring its continued use and through interpretive means

ensuring that that past is better understood and celebrated. A recent exercise in Hull Minster has, so far as I am able to judge from what I have heard, been very successful with the George Peck pew ends being similarly redeployed. (see *Re Holy Trinity, Kingston upon Hull* [2017] ECC Yor 1).

31. However, if I understand matters correctly, one or more of these pews may bear memorial plaques. If that be the case, then it would clearly be appropriate for the plaque to be attached in some way to the pew to which the pew end will become attached. Discussion should take place with the Church Buildings Advisor about where would be the most appropriate place for that attachment. In the absence of any agreement the matter shall be referred back to me for further directions.
32. In all these circumstances I am satisfied that the petitioners have made out a case for their proposals. I do not find that any of the arguments advanced by any of the objectors whether taken singly or together overcome those advanced by the petitioners in favour of their proposals.
33. I therefore propose to allow the petition and grant a faculty subject to the conditions I imposed when first considering the matter. In addition the last two sentences of paragraph 31 above will be added as a condition.
34. I will allow 18 months for the completion of the proposals.
35. This being an 'opposed' petition the petitioners will have to pay the additional costs created by this being an opposed petition.

Canon Peter Collier QC  
Chancellor of the Diocese of York.

11<sup>th</sup> April 2019