

**IN THE CONSISTORY COURT OF THE DIOCESE OF ROCHESTER**

**Re: PLAISTOW: ST MARY, BROMLEY**

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**J U D G M E N T**

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1. By a petition presented on 15<sup>th</sup> February 2017, the petitioners, being the Incumbent, the Reverend Alan Keeler, and the Churchwardens, Miss Sally Adcock, and Mr Clement Sutton, applied for a faculty for works to be done to the south Narthex of the Parish Church of Plaistow: St Mary Bromley, Kent (known locally as St Mary's Bromley), to include the removal and storage of one pair of wooden doors; the reduction in size of the disabled lavatory cubicle, so as to provide more space in the adjacent room which is used as a creche, and the introduction of worktops; associated electrical and drainage works; and relocation of a Belfast sink to the north porch.
2. The estimated cost of the proposed works is given in the petition as being £36,362.00. The D.A.C., in their Notification of Advice dated 26<sup>th</sup> July 2016, recommended the works for approval, subject to the provisos that the doors to the north porch, which were apparently fitted in 1903, not be removed, but rather retained, and confirmation that; "the parish was happy with the changes to the standard wording to the JCT contract." (I assume that reference to the parish here is, or should be, to the P.C.C.). I suspect that the latter proviso is not contentious. As for the former, the Incumbent, in his letter dated 14<sup>th</sup> February 2017, has

made it clear that the petitioners maintain their wish that the doors be removed, and stored.

3. On 12<sup>th</sup> May 2017, I indicated that I was prepared to deal with the petition on the basis of written submissions, provided that the petitioners agreed in writing to this course being adopted. By letter dated 3<sup>rd</sup> June 2017, the Incumbent confirmed that the petitioners so agreed. Having reconsidered the matter, I am of the view that it is expedient and appropriate to deal with the petition on written submissions.
4. The church is of Victorian origins, having been built in 1863 or thereabouts. It is not listed.
5. The P.C.C., at a meeting on 12<sup>th</sup> September 2016, resolved to approve the proposed works by a majority of 10 to 7, out of a total membership of 26. There were objections to the public notices, to which I shall revert later.
6. The D.A.C., by their Notification of Advice, referred to above, in objecting to the removal and storage of the doors, were keen to keep, in situ, what they regarded as being "fine doors" forming part of the original entrance. Importantly, though, the D.A.C. opined that none of the proposed works were likely to affect the character of the church as a building of special architectural or historic interest, or the archaeological importance of the church. I agree with this assessment.
7. In my directions given on 12<sup>th</sup> May 2017, I raised a number of questions. I was concerned to know where the areas of disagreement lay within the parish/P.C.C., and I wanted to know more about the funding of the proposed works.

8. In the reply letter dated 3<sup>rd</sup> June 2017, and a subsequent but undated document headed "Response to Objections," the Incumbent indicated that there had been discussion and disagreement over the removal of the inner Narthex doors; the motorising of the doors from the south Transept to the Narthex; the proximity of the disabled lavatories to the eating area; the overall cost of the project; health and safety issues; the choice of contractor; the reduced size of the proposed new disabled lavatory; the potential for problems with damp; the construction of a new dividing wall midway along a window; the notification procedure; and the lack of consideration of possible alternatives.
  
9. I have before me 16 letters of objection from members of the congregation. I have read them all. I have no doubt that they have been written by persons holding sincere views about the lack of desirability of, at any rate part of, the proposed works. Unfortunately, none of the objectors have elected to be joined as formal parties opponent to the petition. There are many reasons for not wanting so to be joined; some, doubtless, and understandably, may be concerned about the potential costs implications; others may not want to appear to be divisive; others may feel that it is not for them to be seen to be leading a contrarian faction within the church community; whilst others may feel it wrong that Christians should resort to law in a dispute over their church. These are all valid reasons for not wishing to be joined. No doubt there are many other reasons equally valid. However, it means that I have no hard evidence before me about the extent of the objections, and how deep-rooted they are, nor as to their merits. I have not had the opportunity of hearing the evidence of the objectors given in person, nor of seeing the demeanour of those objectors when giving their evidence.

Crucially, I have heard nothing from them on oath, and have not had the advantage of hearing their evidence tested in cross-examination. Moreover, I must bear in mind at all times that the majority have voted for the proposals, and that the D.A.C. have recommended them, effectively with one proviso.

10. I am satisfied that the removal of the inner Narthex doors will provide more space, albeit not much, and that it will make access to the disabled lavatory easier. It is common ground that the doors cannot be seen by people within the church, unless they use the disabled lavatory, or attend a Twinkles (pre-Sunday school) event. I accept that any increase in the ambient sound level will be low. The doors are to be properly and safely stored, which, of course means that the works are reversible. Much of the works sought to be done are to assist outreach to children. That is to be applauded. The D.A.C.'s advice here, though understandable, should not prevail over the petitioners' arguments and wishes. Subject to a satisfactory undertaking being given as to their preservation, the removal of the inner Narthex doors is permitted.
11. I have no hesitation in rejecting the arguments against the motorising of the doors from the south Transept to the Narthex. These works will provide easier access for the elderly and infirm, especially for those in wheelchairs and the like. Such doors are now routinely found in many churches, and of course in places the public frequent, such as shops, schools, hospitals, and the like. The objections under this head have little or no merit.
12. There is nothing to show that the new disabled lavatory is too small; the design is in compliance with the appropriate regulations. Furthermore, its position, just off an area where food

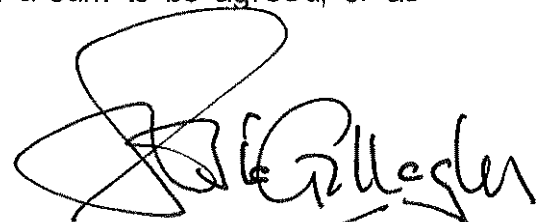
may be consumed, has to be set against the fact that many places, restaurants included, have disabled lavatory facilities opening on to areas where food is consumed. For obvious reasons the facilities have to be easily, and speedily accessible. In the instant case, I am dealing with an area where biscuits and the like are going to be eaten, rather than one where meals are to be served on a regular basis. Whilst the proposal may not be perfect in this regard, I am satisfied that it is appropriate, and note that the D.A.C. had no qualms about it.

13. The overall cost, in my judgment, should not be an issue for me to consider, unless it be apparent, as a matter of common sense, that what is proposed is wildly excessive, or if the works are to be carried out by a church in default of its diocesan financial obligations and contributions; neither of which is the case here. Whilst there may be disagreements, ultimately decisions about financial priorities and how monies are to be raised, and/or spent, are for the P.C.C., and not for the Consistory Court. Provided proper thought has been given to the scheme and to its funding, and the scheme is appropriate, the Consistory Court should not seek to interfere. In the instant case much thought has been given to what is proposed, and much debate has clearly taken place. In the event, substantial monies have been raised towards the project, with 78% of the cost being raised from giving, fund-raising, and a bequest. The remainder is to come from church funds. The costs argument must fail.
  
14. The argument about the suitability of the builder fails for much the same reason. It is not for the Consistory Court, save perhaps, in the most extreme case, to adjudicate on the desirability of a particular builder. Most certainly, in my judgment, the Consistory

Court should not interfere where there is no expert evidence relating to the competence of the builder, and where the D.A.C. have not expressed any reservations about his appointment, save perhaps, those relating to their desire that the terms of the contract to be entered into are clarified, so that they are fully understood by the P.C.C. and/or petitioners. Assuming that such can be called reservations in the first place, they do not relate to the competence of the builder.

15. The arguments about the risk of, or potential for, damp, the health and safety concerns and the new dividing wall also fail for much the same reason. The professionals producing the scheme must be presumed to have done their job, the more so when the D.A.C. make no adverse comment here, unless cogent expert evidence to the contrary is put forward. The Consistory Court cannot and must not go off on a jaunt of its own on expert matters. The same applies to possible, unidentified alternative options.
16. Finally, I am unaware that the notice periods etc have not been complied with. I have no evidence in this regard. The argument fails.
17. The test as set out in Duffield, St Alkmund 2013 Fam 1 is not engaged, but if it was, the petitioners have made out an overwhelming case based on need and desirability. The petitioners have demonstrated good reason for the works sought to be done, which are, in my judgment needed and appropriate, especially those relating to the ministry towards children, and those directed towards the needs and comfort of the elderly and infirm whist at church. I am, therefore, wholly satisfied that the petitioners have made out their case.

18. All of that said, I cannot be blind to the fact that considerable feelings have been aroused by the proposals. I urge the Incumbent to engage particularly with those who have objected to the proposals, so as to allay their concerns, and to ensure that they may be made aware that they are and remain valued and loved members of the Church.
19. Before the works commence, and as a precondition of the faculty issuing, I require an undertaking to be given, in writing, by the petitioners that the inner Narthex doors will be professionally removed, preserved, and safely stored in an area of the church in such a manner that they will remain safe from damage and/or decay. This undertaking must be lodged and filed with the Registrar. In addition the petitioners must confirm, in writing, to the Registrar that the P.C.C. is content with the proposed changes to the standard wording of the JCT contract to be entered into.
20. Thus, for the reasons given above I reject the objections advanced. In the premises I direct that faculty issue. The works should be completed within 12 months or within such period as may be further ordered.
21. The petitioners must pay the Registry and Court costs of and incidental to the petition, in the normal way. There shall be a correspondence fee to the Registrar in a sum to be agreed, or as I direct.



**John Gallagher**  
Chancellor  
9th July 2017