

In the Consistory Court of the Diocese of Worcester

Archdeaconry of Worcester: Parish of Dodford: Holy Trinity Church

Faculty petition 11-42 relating to new glass screens and doors

Judgment

Introduction

1. This petition is for a faculty to install two glass screens and doors into the Church of Holy Trinity, Dodford.
2. The church, erected in 1907-08, is a notable example of the work of the Arts and Crafts movement. For that reason it has been listed Grade II*, and is featured in a number of books on church architecture. It is fully described in the statement of significance produced by the Parish.
3. The proposal is to introduce two new glass screens, between the eastern end of the nave and the south transept and between the south transept and the lady chapel. The result will be to enable the south transept to be used as a separate room. The screens will be fixed by brushed steel fittings to the walls causing as little disturbance as possible, and will have similar style door furniture with polished wood handles, and engravings to ensure visibility. Each of the new screens will contain a glass door; and there is also an existing external door to the south-west corner of the transept room.
4. The intention is that the new room thus created will be used by church youth meetings and children's groups during main Sunday worship services; and also for Church meetings of various kinds (including confirmation classes, bible study groups, as well as PCC meetings). There is no suitable alternative space at the church that could be used for such purposes; neither the village hall nor private houses are necessarily appropriate. It would also still be possible for the south transept to be used, with the doors open, as an overflow space for exceptionally large services.
5. The cost of the works is expected to be £25,000, to be met from the general funds of the parochial church council (PCC). The proposal was approved unanimously by the PCC at its meeting in September 2010, having been on the agenda of virtually every PCC meeting since early 2009, and endorsed without dissent at each such occasion.

Representations by those consulted and objectors

6. The Victorian Society is content with the proposal, subject to being able to comment on the detailed design for the images to be engraved on the doors; English Heritage

also raises no objections. The Diocesan Advisory Committee (DAC) also recommends the proposal on the same basis.

The objection

7. The proposal was advertised publicly in the usual way, as required by the Faculty Jurisdiction Rules 2000. Thus a notice was displayed at the church for 28 days, as required by rule 6(4), inviting objections to be made to the Registry by 6 June 2011. And an advertisement was placed in the *Bromsgrove Standard* on 13 May, as required by rule 13(4), inviting objections to be made by 27 May.

8. No objection was received by the Registry prior to 6 June. However, on 4 July, some four weeks later, an email in the following terms was sent by Mr Hodges and Ms Bowden, residents of Dodford ("the objectors"), to the Diocesan Communications Officer, and passed by her to the Registry:

"We are not sure who we should be directing our comments to. Perhaps you can advise us or forward this email to the appropriate person. We will explain.

During this last weekend we attended the annual Dodford Church Fete, a typical "old fashioned" event much enjoyed by many residents of Dodford, and others.

We are both residents of Dodford and attend The Church infrequently. During our visit we met many villager friends who are regular attenders of The Church. Of the people we spoke to they were all of the opinion that a glass screen "box" which is to be installed in The Church is unnecessary and undesirable for varying reasons.

We can only say that we were horrified at the prospect of this addition to The Church interior for the following reasons.

The wonderful open aspect of The Church is to be lost with this inappropriate glass "box" creating an unbalanced narrowed frontal area adjacent to the Altar.

The cost! We are amazed that £25,000 pounds can be found for such an unnecessary and retrograde project when there are many good causes that the money would make a tremendous difference to rather than just providing a warm area for the PCC to hold their meetings. It should be noted that nearby there is our village hall or our village pub if comfort is so important.

We would hope that it is not too late to reconsider this selfish project which will have such a negative effect on a beautiful building. I would also ask The Church authorities to consider where this money could be spent where it will make a real difference to the lives of deserving people.

Thank you for taking the time to consider this request."

Admissibility of the objection

9. Clearly the objectors had failed to comply with the time limit provided by rule 16(1), which provides that objections shall be made during the period of 28 days during which the public notice is displayed. However, that was not the end of the matter.

10. The question of extending time limits is not dealt with explicitly by the Faculty Jurisdiction Rules 2000. It is therefore subject to rule 34 of those Rules, which provides as follows:

“Where, in the exercise of the faculty jurisdiction, any procedural question or issue arises, or it is expedient that any procedural direction shall be given in order that the proceedings may expeditiously and justly be disposed of, and where no provision of these Rules appears to the chancellor to be applicable, the chancellor shall resolve such question or issue, or shall give such directions as shall appear to be just and convenient, and in doing so shall be guided, so far as practicable, by the Civil Procedure Rules for the time being in force.”

11. Part 3 of the Civil Procedure Rules 1998 provides for the Court’s general powers of management. This states, at rule 3.1, as follows:

- (2) Except where these Rules provide otherwise, the court may–
 - (a) extend or shorten the time for compliance with any rule, practice direction or court order (even if an application for extension is made after the time for compliance has expired);
 - (b) adjourn or bring forward a hearing;
 - (c) require a party or a party's legal representative to attend the court;
 - (d) hold a hearing and receive evidence by telephone or by using any other method of direct oral communication;
 - (e) direct that part of any proceedings (such as a counterclaim) be dealt with as separate proceedings;
 - (f) stay the whole or part of any proceedings or judgment either generally or until a specified date or event;
 - (g) consolidate proceedings;
 - (h) try two or more claims on the same occasion;
 - (i) direct a separate trial of any issue;
 - (j) decide the order in which issues are to be tried;
 - (k) exclude an issue from consideration;
 - (l) dismiss or give judgment on a claim after a decision on a preliminary issue;
 - (ll) order any party to file and serve an estimate of costs;
 - (m) take any other step or make any other order for the purpose of managing the case and furthering the overriding objective.

12. The overriding objective referred to is, by virtue of rule 1.1 of the CPR, the objective of the CPR as a whole, namely to enable a court to deal with cases justly, which includes, so far as is practicable:

- “(a) ensuring that the parties are on an equal footing;
- (b) saving expense;
- (c) dealing with the case in ways which are proportionate–
 - (i) to the amount of money involved;
 - (ii) to the importance of the case;
 - (iii) to the complexity of the issues; and
 - (iv) to the financial position of each party;
- (d) ensuring that it is dealt with expeditiously and fairly; and
- (e) allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases.”

13. It follows from rule 34 of the 2000 Rules that all of the courses of action referred to in rule 3.1 of the CPR are available in appropriate cases to a consistory court as if they were contained within the 2000 Rules, to be exercised in accordance with the overriding objective.
14. On that basis, and given I had not by that stage determined this petition, I explained to the objectors and to the parish that I was minded to take into account the objection that had been made, on the same basis as one that had been made within time and dealt with under rule 16(3)(a), but not to afford the objectors an opportunity to be heard at an oral hearing. It seemed to me that that would be the just and convenient way to proceed, subject to the views of all concerned. And if I were to take the objection into account, it would, of course, be important for the petitioners to have the same right of reply that they would have had if the objection had been made in time.
15. I therefore directed that the objection should be forwarded to the petitioners (if that had not been done already), and that they should be invited either
 - to respond to the substance of the objection, as if it had been duly received in time, or
 - to say why it would not be just and convenient for me to take it into account (and in particular what prejudice would arise if I were to do so).

If the petitioners opted for the first course of action, they should also be invited to express a view as to whether I should simply take into account the objection and their written response, or whether they would wish to be heard at an oral hearing.

16. The objectors should similarly be asked whether they were content that I should simply take into account their objection (and the parish's response) in reaching my decision, or whether they would like an opportunity to be heard.
17. In response, the objectors stated that they were content that I should simply take into account their written objection, without the need for an oral hearing. And the petitioners raised no objection to that course of action, and did not themselves require to be heard.
18. The parish drew attention to the continuous support for the proposal by the PCC, and explained that it had been drawn to the attention of the congregation on two occasions at regular services and had been the subject of a presentation at the annual general meeting; at the latter, questions had been asked, and answered to the apparent satisfaction of those asking them. It had also been referred to in several editions of the monthly church magazine.
19. The objectors explained that, following a conversation with the Secretary of the PCC and other parishioners, it was clear that there exists considerable strong feeling within the Parish regarding the proposal, and that wider formal consultation would be desirable.

Consideration of the proposal

20. This is a proposal for the alteration of a church that has been listed as a building of special architectural or historic interest. The starting point is therefore as explained in the decision of this court in *Re Great Malvern Priory* [2009] PTSR 1408 (at paragraph 35) as follows:

“The true test in relation to works for the alteration of a listed church is thus to consider whether they would adversely affect its character as a building of special architectural or historic interest. If they would, it is then for the petitioners to show why they are nevertheless justified for some compelling reason—which may include the pastoral well being of the congregation.”

21. Later in the same judgment, I summarised the relevant law as follows, at paragraphs 56 to 58:

First, there remains a duty on anyone promoting an alteration to any church, whether listed or not, to show the benefits, practical or aesthetic or both, that would result. Where there is a disagreement, the views of the regular worshippers are to be given particular weight. And alterations that are irreversible should be avoided where possible.

Secondly, there is a strong presumption against alterations which *adversely* affect the character of a listed church as a building of special architectural or historic interest. But there is no presumption against works to a listed church which—for example, because of their scale or their location—have no effect at all upon its character. Still less can there be a presumption against works which affect the special character of such a church beneficially—either by the removal of an existing feature which detracts from that character or by introducing a new one that enhances it. Further, in determining the effect of works, it will be appropriate to have regard to their effect not just on the building as a whole, but also on any features of special architectural or historic interest that it possesses, and on its setting.

Thirdly, where proposed works to a listed church are found to have an adverse effect on its character as a building of special architectural or historic interest, it will be necessary for petitioners to produce evidence of sufficient weight to show “necessity” for the change. That does not mean that it is necessary to show in some abstract sense that the works are necessary, but simply that the benefit resulting from them outweighs any architectural or aesthetic harm. However, where the effect of the works is either neutral or beneficial, there is no particular need to consider the necessity for them, since there is no adverse effect to be mitigated and thus no balancing exercise to be carried out. The only reason to do so is, as in the case of any faculty petition for proposed works, in order to save a parish from unwise expenditure or other impropriety.

22. Applying those principles to the present case, I consider that this is undoubtedly a proposal that affects the character of a listed church as a building of special architectural or historic interest. The question is therefore whether that affect will be harmful, beneficial or neutral.
23. The parish has engaged an experienced architect and historic building consultant to come up with this proposal, and he in turn has taken considerable trouble to produce a design that interferes as little as possible with the overall appearance of the church. The plan of the church is not symmetrical, in that there is not a north transept to balance the one to the south. I therefore do not entirely understand the reference to the area by the chancel steps as being unbalanced; it seems to me that it is already

somewhat unbalanced. Further, the glass screen is, of course, translucent, and it will still be perfectly possible to see through to the south transept.

24. The proposed works will also, incidentally, be reversible, in that the screens can be removed leaving the arches almost unaltered bar a few screw holes.
25. The objectors clearly consider that the result will be an inappropriate glass “box”, creating an unbalanced narrowed frontal area adjacent to the altar, and losing the wonderful open aspect of the church. Others to whom they had spoken also considered that it would be unnecessary and undesirable for various reasons, although neither the details of those reasons, nor the identity of those expressing them, were specified.
26. The DAC, English Heritage and the Victorian Society, on the other hand, clearly considered that the proposals were satisfactory. And no one else has written in to object.
27. It is not uncommon for those who object to a proposal to claim that they represent “many others” who feel the same way. But in this case there has been no other objection, nor even a petition. As the parish points out, the proposal has been perfectly properly publicised – not just recently, in relation to the faculty petition, but over an extended period. And there has been an annual parochial meeting earlier this year, at which those opposed to the proposal could have sought (and maybe did seek) election.
28. The objectors feel that there should be wider formal consultation of parishioners. It seems to me that sufficient consultation and publicity has already taken place, such that it is likely that all or at least the great majority of those who are concerned with the life of the church in any significant way will have been made aware of the proposed works, and will have had an opportunity to make their views felt and, if so inclined, gather support from others of like mind. I therefore see no basis for delaying this decision further on that basis.
29. In conclusion, on this issue, I note that the professional bodies all support the proposal, as do all those within the worshipping community. I see nothing to suggest that such support is misplaced. I thus consider that, on balance, there is no evidence that this proposal would harm the character of this listed church – as opposed to merely changing it.
30. On that basis, I do not need to perform a balancing exercise between harm and need. However, even if I thought that this proposal would be slightly harmful, I consider that the parish has made out a sufficient case to justify a need for this facility. It is in practice highly desirable for young people to have somewhere to meet on Sundays, away from the general worshipping congregation. It is also appropriate for there to be a meeting room for the various purposes referred to by the parish.
31. I consider, secondly, the argument raised by the objectors that this proposal is a waste of money.
32. It is for the PCC to determine the way in which the funds freely given by the congregation are to be used (see PCC (Powers) Measure 1956, s 4(1)(ii)). I note that the parish paid its share of diocesan expenditure (including of course the cost of

providing a stipend for its incumbent) last year, and intends to do so again this year; this project is thus clearly not a drain on its regular resources.

33. The money to be spent will be coming from the PCC's general resources, which are subject to scrutiny each year both by the PCC itself and by the annual church meeting – at which any resident of the parish is entitled to be present. Here too, those opposed to the scheme – on the basis of its cost, even if not its appearance – could have, but presumably did not, object either at meetings of the PCC or at the annual meeting, or seek election to the PCC at the annual meeting.
34. I conclude that there is no basis for this concern on that account either.

Conclusion

35. I am therefore satisfied that the petitioners have made out a case for this proposal.
36. A faculty should issue accordingly, subject to a condition that no work shall be carried out until drawings showing the details of the screens, including the fixings into the stonework, the handles, and the engravings on the glass, have been approved by the Court following consultation with the Diocesan Advisory Committee; and that the works should thereafter be carried out in accordance with the details thus approved.

DR CHARLES MYNORS

Chancellor

29 July 2010