

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

IN RE ST PAUL'S CHURCH, HERNE HILL

JUDGMENT

Introduction

1. This is a petition dated 16 May 2011 by Reverend Cameron Barker, Leigh Whittingham and Andrew Griffiths, the Vicar and Churchwardens respectively of the parish of Herne Hill. It seeks permission for the creation of new “welcome facilities” (a narthex) at the west end of the church together with a kitchen, toilets and two new rooms. These are to be divided from the main body of the church (the “worship area”) by a full height partition. Currently a rood screen separates the nave of the church from the chancel. It is proposed to move this and to incorporate it in the new partition. Currently the font stands at the west end of the church, a little to the north of the main aisle. It is proposed to move the font to the south side of the Holy Table which stands at the east end of the nave. The existing wooden draught lobby will be replaced with a glazed entrance lobby. It is proposed to renew the heating and lighting systems of the church.
2. I visited the church on 12 July 2011. I raised a number of questions on that visit relating to matters which had been raised by the Church Buildings Council, English Heritage and the Victorian Society. Thereafter the scheme was modified in a number

of respects, the effect of which has been to eliminate a number of issues and, by common consent, to improve the scheme. I am grateful to everybody who participated in this process. I visited the church again on 6 July 2012.

3. The proposals have been supported by the PCC throughout their development. The revisions are supported by a resolution dated 25 January 2012.
4. The original proposals were recommended to me by the DAC by a certificate dated 14 April 2011; by a letter dated 17 February 2012 they have advised on the revised proposals.
5. The proposals were advertised in the *South London Press* on 29 June 2012 and in the *London Gazette* on 3 April 2012. These advertisements did not elicit any objections or comments.

St Paul's Church

6. St Paul's Church is listed Grade II*. It is an attractive Victorian church with an interesting history, although it was described in the first edition of *Pevsner*¹ as *disappointing* and it is possible to see what he meant: it is not, as is reflected in its listing, a building of the highest architectural quality. No one has suggested that it is of such high quality that no changes can be made to it; and no one has suggested that it is not capable of accommodating a scheme of the kind suggested.

¹ I.e. *The Buildings of England: London except the Cities of London and Westminster* by Nikolaus Pevsner (1952).

7. The original church was completed in 1844 to a design by George Alexander. In 1858, however, it was gutted by fire. It was rebuilt by George Edmund Street, being his first major commission after he moved his practice to the capital. Of particular note are the capitals of the columns, which were carved by Thomas Earp. The stained glass also was of high quality, by the firm of J Hardman & Co of Birmingham. The church was furnished with pews and a wooden draught lobby which extends across the west end of the church. This is the main entrance to the building, on to Herne Hill. As one might expect, the draught lobby - although it incorporates some attractive ironwork - is not intrinsically an attractive feature of the church.

8. A history of the church records John Ruskin as describing the church as *one of the loveliest ... of its kind in the country and one that makes the fire a matter of rejoicing*². (Ruskin was brought up at 28 Herne Hill and subsequently lived at 30 Herne Hill. Both houses have been demolished but there is a plaque commemorating Ruskin in the church).

9. A wooden rood screen was installed as a memorial to those from the parish who had died in the First World War. The names of the dead are inscribed in the lower panelling. It was to a design of Gerald Cogswell ARIBA. This was before the days of PCCs and DACs. However the Diocesan records show that the proposal was approved at a special congregational meeting and at the annual vestry meeting held in 1919. The design was also approved by the Diocesan Committee on War Memorials before a faculty was granted by my predecessor, Talbot KC Ch.

² Unfortunately it has not proved possible to trace this quotation to its source.

10. In the Second World War the stained glass was lost, apart from that at the west end of each aisle. A fine new east window (by Lilian Peacock) was installed after the war.
11. There was a re-ordering scheme in the late 1970s. The pews in the chancel immediately in front of the rood screen were removed and a Holy Table, which sits on a raised platform, was introduced. Although this sort of re-arrangement is frequently encountered, this is a particularly successful example.
12. At the same time as the re-ordering, the pews at the back of the church were removed to provide a “welcome area” and space for a crèche. Although successful in providing the space, this arrangement is not completely satisfactory from an aesthetic point of view.

The proposals

13. The proposals are of a kind that has become very familiar in the last 30 or 40 years. The plans show that at the west end of the church there will be provided:
 - (i) a glazed entrance lobby;
 - (ii) a welcome area which will also be the place where refreshments may be enjoyed after services and which will be available for use as a reasonably sized function area at other times;
 - (iii) a room for a crèche during services, which will be available for mother and toddler groups during the week;
 - (iv) a meeting room (which during the main morning service will function as a room for part of the Sunday School);
 - (v) a kitchen;
 - (vi) toilets.

14. There is a church hall next to the church, which is already utilised for the Sunday School (and will continue so to be used) but no one argues that the new facilities which are proposed will be not be valuable or not of considerable assistance to the church in its mission. Experience has shown in many places the real usefulness of facilities of the kind proposed “on site”.

15. The element of the proposal which has generated a degree of controversy is that the division between the new facilities and the main body of the church (what is sometimes called “the worship area”) will be effected by moving the rood screen from its existing location to a position at the mid-point of the fourth bay (counting from the east) of the nave. It is also proposed that the separation of the new facilities should be complete. Thus it is proposed that there should be a partition – incorporating the rood screen – to the roof of the existing building.

16. The reason for the complete separation of the worship area from the new facilities is threefold:
 - (i) to provide noise insulation;
 - (ii) to enable the new facilities to be separately heated;
 - (iii) to provide security.

17. The reason for moving the rood screen is that the present arrangements unnecessarily divide the nave from the chancel and reduces the flexibility with which the worship area can be used (a matter of increased importance given that the size of the worship area is being reduced). It is considered that its value as a war memorial is reduced

because the re-ordering carried out in the 1970s means that it is less accessible than it was originally (in particular to read the names inscribed on it). Thus it is considered that, viewed purely as a war memorial, its relocation will increase its prominence and significance. Finally it is considered that moving the screen will affect an aesthetic improvement, as well as representing the church as it was originally conceived by the architect.

18. The reason for moving the font is that it is currently located within the area which it is proposed to turn to new uses (more particularly within the welcome area) and not within the worship area. It could physically be accommodated at the west end of the worship area and near the door but this would involve the loss of a considerable number of original pews. In practical terms, the proposed new location is very suitable for the font.
19. The reason for replacing the existing draught lobby with a glazed entrance lobby is that the existing entrance, although functional, is unwelcoming.

Legal test

20. It is for the Petitioners to establish the case for change. In *In re St Helen, Bishopsgate*³ Cameron QC Ch formulated the following approach which was to be taken by the Consistory Court in respect of petitions for the alteration of listed buildings, namely that three fundamental questions were to be asked:

(1) Have the petitioners proved a necessity for some or all, of the proposed works, either because they are necessary for the pastoral well-being of [St Paul's], or for some other compelling reason?

³ Unreported, 26 November 1993, Consistory Court of the Diocese of London, Cameron QC Ch.

- (2) *Will some or all of the works adversely affect the character of the church as a building of special architectural and historic interest?*
- (3) *If the answer to (2) is yes, then is the necessity proved by the petitioners such that in the exercise of the Court's discretion a faculty should be granted for some or all of the works?*

21. In *In re St Luke, Maidstone*⁴, the Court of Arches endorsed this approach. In *In re St John the Evangelist, Blackheath*⁵ my predecessor, George QC Ch, addressed the meaning of *necessity* and *necessary* in the Bishopsgate question:

something less than essential, but more than merely desirable or convenient; in other words something which is requisite or reasonably necessary.

Consideration of the proposals

22. It seems to me that the creation of discrete areas within the church for the various rooms proposed will be a considerable advantage from the point of view of the functioning of the church. As such it will assist the church's role as a local centre of worship and mission⁶. If the church were still laid out as it was originally (i.e fully pewed) I think that the proposals would be viewed as, to a degree, adversely affecting the church as a building of special architectural and historic interest because they would compromise the integrity of the building. That integrity is already compromised and I think that the effect of what is proposed is largely neutral: it effects an improvement by addressing the current arrangements at the west end of the church, which are not completely satisfactory; on the other hand, it is still a significant alteration to the historic fabric of the church as originally conceived. I consider that even if there were a degree of harm to the listed building, that harm is more than offset by the proved necessity for the change.

⁴ [1995] Fam 1.

⁵ Unreported, 13 October 1998.

⁶ See section 1 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991.

23. It is often noted - but it bears repeating, - that if reasonable changes are not permitted to historic churches, their future viability is threatened. Change far more detrimental to the integrity of the building than those contemplated by anything of the sort contained in the proposals currently before me would be likely to ensue.
24. The Church Buildings Council considers that it is not necessary for the partition to be full height. In the scheme as originally proposed, it was proposed that the upper part of the partition should be reflective, and considerable doubts were expressed as to whether this could be made to work. The amended proposals have dropped this idea and, accordingly, the height of the partition is a less controversial matter. All other things being equal, the less invasive an amendment is to a listed building, the better it is; and the visible connection of the welcome and worship area, as separate “rooms” within a single building, does have merit. On the other hand, the practical issue of noise and heating have led the Petitioners to the present proposals. In the end, I think that the practical issue should prevail; and it is relevant also that the partition proposed will be of glass, so that it will not be a total visual barrier. Moreover, in reaching this decision, I recall that, as is usually the case with proposals of this kind, what is proposed is reversible. Although it may be difficult now to envisage circumstances in which the full height partition is removed, it is particularly relevant that this would be a simple matter to achieve.
25. I need to consider separately the proposals in respect of the incorporation of the rood screen within the partition and the removal of the draught lobby. First I shall consider the rood screen.

26. I think the Petitioners have proved a case of reasonable necessity for moving the rood screen. Moreover English Heritage, the London Borough of Southwark and the Victorian Society all consider that moving it will be a benefit. Mr Malcolm Woods of English Heritage wrote as follows:

The relocation of chancel screens is not something that would normally be acceptable within any listed church but in this case the primary historic and architectural significance of this building is clearly Street's remodelling of Alexander's earlier fire ravaged building. Relocation of the later screen would enable the elegant proportions and remaining fittings – especially the carved stone reredos – of Street's chancel and the fine post Second World War glass in the east window to be re-united and spatially with the nave. In my view, this would be a significant benefit that would outweigh the relocation of the screen.

27. It seems to me that, as articulated, the reasoning involves a degree of circularity: I think that what Mr Woods has done is to identify some harm flowing from the relocation but considers that this harm is outweighed by the benefit flowing from it.

28. The Church Building Council disagrees. Mr Jonathan Goodchild of the Council has observed:

The parish's case for the relocation of the screen is that it blocks the view of the east window.. that it obstructs the sound of the choir and that space on the nave platform is reduced, a particular problem for orchestral concerts ... The review of the east window is not a strong reason; the design is light, and church buildings were generally not designed to have a complete view from west to east (although the absence of a screen in the original design backs up the parish's case). Acoustically, the removal of the screen would not substantially improve the sound transmission from chancel to nave. The need for additional space at the entrance to the chancel is perhaps stronger, although mounting concerts in churches often gives rise to challenges, and this should not in itself prove necessity in the removal of screens. Architecturally the screen appeared to be of good quality, and it nicely demarcates the chancel from the nave, providing a good backdrop to the nave altar.

29. It is necessary for me to take a view about the aesthetic merits of the screen. It may be helpful for me to explain that considering the matter on the papers, before I had visited the church, I was minded to side with Mr Goodchild. Having visited the church I changed my mind. Although of good quality, the screen is understated and does seem, to a degree, to detract from the church. All other things being equal, I would not hesitate to authorise it being moved as benefiting the architecture of the church. I appreciate that I am differing from Mr Goodchild - who has great experience in these matters; but he is a lone voice in this regard and, of necessity, he cannot be right if the views of English Heritage, the London Borough of Southwark and the Victorian Society are correct.

30. It does however seem to me that all other things are not quite equal. What has given me considerable pause in this case is that the screen is a war memorial. I asked that the War Memorials Trust should be consulted. Their Conservation Officer, Ms Emma Nelson, responded as follows:

Relocation is a difficult undertaking and poses a risk to the memorial. As such the Trust recommends it is only undertaken where a memorial is at risk or no longer publicly accessible. I attach our help sheet on relocation for your information.

It is recognised in this instance, that the intention is not to remove the screen from its original building and the congregation it commemorates. However, the proposed alteration will remove the functionality and prominence of the memorial. Whilst the screen represents a later alteration to the church, in this instance the addition could be seen as a positive and sensitive one.

This type of memorial would have been decided by the community at the time. It may be that this item of commemoration was favoured due to the respect for those remembered as it would occupy a prominent location within the church and would be located near to the altar.

From the documents supplied it appears that the proposed alterations to the main body and functionality of the church can occur without the screen being relocated. As such the risk to the fabric and significance of the

memorial needs to be weighed against the benefits that its relocation will provide.

31. I am grateful to Ms Nelson for her comments which seem to me to be generally sensible ones. I think that her comments echo mine above, namely that I should have greater reservations about authorising the moving of a war memorial than an artefact which it is not. Her comments also echo guidance contained in *War Memorials in England and Wales: Guidance for Custodians* (March 2007) issued by the Department for Constitutional Affairs.

32. As I have stated, I think, in fact, that as a war memorial, the screen will in its proposed new location, not have less prominence but more; but I sympathise with Ms Nelson's point that the loss of functionality of the memorial is something to be weighed against moving it. I do not consider that the community support for the installation of the screen is, in itself, a matter of relevance. I would not have thought that its nearness to the altar or Holy Table at the east end of the church was a matter which weighed in the decision to install it; I would have thought the fact that it was a rood screen with its emphasis on Christ's sacrifice is why it was identified as an appropriate memorial (this is the functionality point).

33. I have finally decided that it is appropriate to permit the screen to be moved. If it had not been a war memorial, I would not have been troubled by its loss of functionality. As it is, in the proposed scheme it will still be prominent and still function as a memorial, even if not as a memorial which is a rood screen. I think something is lost but that whatever is lost is outweighed by what is gained.

34. I turn to the draught lobby. I think that this is a clear case where the benefits of what is proposed offset the detriment. I think that a new and welcoming entrance to what I hope will in future be a generally warm and draught-free church will offset the moderate detriment to the listed building resulting from the removal of the draught lobby. There might be scope for incorporating some of the ironwork in details elsewhere in the church; I would be happy to see this happen. Otherwise the draught lobby must be dismantled and stored (something which is entirely feasible) so that the detriment arising from its removal may be offset by the preservation of the artefact itself).
35. Finally I need to consider the relocation of the font. If the font were to be relocated within the discrete welcome area, it would not be within the worship area. I think that it does need to be in the worship area. Accordingly the question about the font resolves itself into that of as to where in the worship area it should be located.
36. At the same time as handing down this judgment, I am handing down a judgment which examines in detail the principles surrounding the relocation of a font: *In re Holy Trinity Wandsworth*. The conclusion I reach is that by reference to Canon F1, it is necessary to show reasons out of the ordinary if the font is not to be located near the principal door of the church. In the present case, it seems to me that once the possible location for the font is within a discrete worship area at a distance from the principal entrance to the church, the connection with the principal door of the church has been severed. By analogy it may be argued that the font should be located at the entrance to the worship area. However in the present case that would seriously disturb the “balance” of the various elements within the worship area, giving considerable prominence to the font in

relation to the other features. In particular, it would not relate well to the War Memorial screen. Further, it would lead to the loss of original pews and, with that loss, the loss of capacity. It seems to me that these matters together amount to reasons out of the ordinary why the font should not, by analogy with the requirement of Canon F1, be located at the entrance to the worship area; and amount to reasons out of the ordinary justifying relocating the font as is proposed.

Conclusion

37. I direct that a faculty shall issue in this case. The details of the scheme have not yet been fully worked up; accordingly, it shall be a condition of the faculty that before work starts, full specification and tender drawings shall be supplied to the DAC for approval. In the event of disagreement, the matter shall be referred back to the Court. As stated at paragraph 34 above, the draught lobby is to be dismantled and stored unless the court hereafter make a different order. As is usual, it shall be a condition of the faculty that the work is to be completed to the reasonable satisfaction of the Church's architect.

PHILIP PETCHEY

Chancellor

4 September 2012