

Re: St Martin Lichborough [2015]

IN THE CONSISTORY COURT OF THE DIOCESE OF PETERBOROUGH

IN THE MATTER OF ST MARTIN, LICHBOROUGH

Chancellor Pittaway QC:

Introduction

1. The Faculty Petition applies for permission to install a new lavatory and to reorder the serving area in the vestry at the west end of the south aisle of St Martin's Church, Lichborough, Northamptonshire, at an estimated cost of £19,880.
2. The church is an attractive 13th and 14th century building, with 15th century additions, set in South Northamptonshire countryside, with memorials to the Grant family, who lived in the village until relatively recent times. There is a large marble statue of an angel erected as a memorial to several members of the Grant family over a burial vault at the east end of the south aisle. There are also some noticeable stained glass windows including two windows in the vestry area, commemorating members of the Grant family. Although there is a south aisle there is no north aisle to the nave. There was extensive restoration towards the end of the 19th century, commemorated by the east window. The village consist of about 120 houses including a new village hall and a public house, which is opposite the church. There are usually weekly services with an average congregation of 15 or 20, with more on special occasions.
3. The area at the rear of the south aisle was previously subject to re-ordering under a faculty granted in 2006 to create a vestry and serving area at the rear of the church. Prior to that time a wooden screen had apparently been placed across the rear of the church, probably in the early 20th century. The wooden screen was reused to create

the vestry area in the south aisle including a servery and kitchen units. It is a large area which has also been used for Sunday school and meetings. At that time the original proposal included the provision of a lavatory but that was not taken forward. The drainage, however, was installed at a cost of £7,000, in preparation for the lavatory at a later date. The proposal at that time placed the lavatory adjacent to the wooden screen.

4. The new proposal divides the vestry area into two distinct parts, the first part, creating an entry lobby, adjacent to the south door of the church, through which the lavatory is accessible. It will be necessary to move the screen 500 mm into the chancel. The proposal includes the use of the entrance lobby as a small vestry for the robing of clergy. The second part is accessible from the nave, leading into a servery area. At present the wooden screen stops short of the rear wall leaving an uninterrupted view of the kitchen area. Although described as a pod, the lavatory would to be constructed on site with its own ceiling and roof. The remaining areas of the entrance lobby and serving area will continue to be open to the roof of the church. The works are capable of being reversed. It is common ground between the parties to these proceedings that the facilities of the church would be enhanced by the provision of a lavatory.

Issues

5. The case for the petitioners is that the provision of a lavatory is an integral part of what is required in modern church life, particularly where the church congregation is elderly, where services bring in large congregations, for baptisms, weddings and funerals, involving persons travelling distances, and where it is used for fund raising events. It is proposed that the lavatory should be suitable for disabled use and baby changing. Consideration had been given previously to the location of the lavatory in the west tower, which was rejected as being unsuitable. External solutions had not been considered appropriate, and would not have been supported by the amenity societies or local planning authority.

6. The case for the objector, Mr Heygate, is that the new facility will affect the simplicity of the internal beauty of the church, the sanctity of the vestry, disrupt church services and cause demolition of the relatively new vestry and serving area. He believes that the roof of the lavatory will protrude above the wooden screen and be visible from the chancel and other parts of the church, including the rear of the nave through the opening into serving area. Mr Heygate also draws attention to the lavatory obscuring a clear view of the stained glass window on the west wall. He also raises an issue as to the practicality of the new vestry area being used as an entrance lobby to the lavatory, whilst clergy are preparing themselves before the service. Mr Heygate also suggests that the parishioners were not permitted to consider in detail any alternative to the proposed installation. An alternative location adjacent to the south porch is suggested.

Consultation

7. The amenity societies, EH, SPAB, CBC have been consulted and have no objection to the proposals. EH had provided pre-application advice in 2011. EH wrote on 24th July 2014 that it supported the proposal in principle *“as the facilities will be contained within the existing envelope of the vestry, and therefore there will be little change in terms of the internal appearance of the church, when seen from the nave and aisles.”* CBC took a similar view.
8. Copies of the DAC’s minutes disclose that it considered internal and external options, and after two visits to the church made a number of recommendations, which were followed by the submission of the present proposals, which were subsequently approved. At a late stage the petitioners sought to introduce written evidence from the South Northamptonshire DC, which was not opposed, that the construction of a separate lavatory to the right of the south porch would be unlikely to be acceptable to the planning authority. The proposed location is where an old boiler had been situated. At the outset the DAC had advised the petitioners that an external facility was unlikely to be approved by EH or the local planning authority.

Evidence

9. During the course of the hearing I heard oral evidence from Mr Deacon, church architect, Mr Redman, building surveyor, and the Archdeacon of Oakham, supplementing a written witness statement from the Archdeacon of Northampton, who attended the hearing but had largely lost his voice through illness. Mr Heygate, the objector, gave evidence as did Mr Graves, who had also written in to object to the petition but was not a party to the proceedings. The hearing was well attended by more than twenty interested persons. The specification and drawings were explained and relied upon by both parties.

10. Mr Deacon has considerable experience of specialist ecclesiastical work, including 38 similar installations, of which 30 have been internal. He described the discussions that the petitioners entered into with the DAC. His consistent advice had been that any new facilities should be developed within the envelope of the existing building. Only when the introduction of such facilities is likely to have an adverse and detrimental visual impact on the historic significance of the building interior, should an alternative external solution be considered, either as an extension to the church or as a free standing structure within the churchyard. In his witness statement he explained the history of the proposals, which began in 2004. A plan to construct a meeting room above the vestry has not been pursued.

11. He does not consider that the new lavatory, located behind the existing wooden screen, will have any significant visual impact on the view of the church interior at the west end. The structure is approximately 200mm higher than the wooden screen, and the visual eye line of the south west window will not be altered. The structure has been reduced slightly in height from that prescribed in the current Building Regulations to fit the space available. He said that modern systems of sound proofing and ventilation obviated problems of sound and odour. He explained that the base of the tower is unsuitable because of the difficulty in repositioning the ringing area, providing access to the tower and complying with electrical requirements. He did not consider that an extension would be appropriate for this

church and, in any event, an extension adjacent to the south porch would have a significant impact on the south elevation. He also drew attention to the loss of historic fabric forming a doorway in the south porch and to the additional cost being considerably higher than an internal solution. He considered overall that the proposed location of the lavatory was the best use of the space available.

12. The Archdeacon Oakham gave evidence, on behalf of the DAC, in place of the Archdeacon of Northampton, who had lost his voice. He confirmed the content of Archdeacon of Northampton's witness statement, on his behalf, and articulated his view that the reordering of the vestry will not significantly alter its existing appearance. It has been designed so that the appearance of the vestry area remains as close as possible to the current one. From the south aisle the only difference will be the removal of one short pew and the removal of the door from the centre to the left of the screen. There will be no visible difference from the south aisle, the screen being moved 500mm, where an external shelf is situated. The roof of the lavatory will be slightly higher than the screen but not visible because it is set back adjacent to the south wall. It will not obscure either window in the vestry. The new vestry will provide a small and private area for the clergy to robe. The sound proofing and ventilation means that the facility will not have an adverse impact on church services. All of the existing vestry kitchen units will be reused with a new matching work surface. The scheme is reversible and does not affect the fabric of the church. The public notices were displayed and no requests were made to view the plans or specification. Copies of a report were left in the church and the issue was publicised in the July 2014 edition of the village newsletter. He also said that the new village hall and its two meeting rooms are now being used for meetings in place of the existing vestry. There is a file of correspondence and minutes attached to the witness statement.

13. Mr Redman also has considerable experience in these matters and gave evidence in support of the matters raised both by Mr Deacon and by the Archdeacon of Oakham, on behalf of the Archdeacon of Northampton.

14. Mr Heygate gave evidence that the toilet at the back of the church will have the appearance of a bunker which will distort not only the balance of the building but also the views through the windows. He believes that anybody seeking to use the facilities will have the embarrassment of passing through the lobby whilst occupied by clergy robing. He raised concerns about cleanliness, odour and noise, particularly during use in services. He considers that the correct place for the lavatory was outside the main church building, where it can be used before entering the church or, if required, during the service, where the user has the comfort that any distraction is kept to a minimum. The problems of cleanliness, odour and noise are kept outside the church. He suggested that one location could be adjacent to the south porch, where the old boiler house had been situated. He suggested that a bricked up window on the east wall of the porch could be converted into a door leading into the lavatory. He also referred to the fact that water and sewage pipes pass through the boiler house area. He drew attention to the success of the construction of the vestry area in 2006, providing refreshments and encouraging the use of the church for meetings, fellowship and social occasions. He referred to the sympathetic construction of the vestry using wooden screen. He referred to the loss of use of a large vestry, which would be reduced to an area in which two volunteers could operate.
15. Mr Graves had been chairman of the church fabric trust, during which time £129,000 had been expended on maintaining and enhancing the church. He supported the installation of a lavatory but considered that an external solution was appropriate with the most suitable site being adjacent to the south porch. He believed that would enable visitors to use the facilities on arrival or departure without intruding into the main body of the church. He believed that the proposals would destroy the existing vestry on which £27,000 had been spent. He emphasised the usefulness of a large serving area, which would not be possible once the vestry had been reduced in size. He believed the advantages of the proposals would be outweighed by the disadvantages, including the congestion of working in a small area, and from the

noise of the lavatory, detracting from the tranquillity of the church. He did not consider that the new vestry area would provide adequate space for robing of clergy or choir.

Law

16. Adopting the framework and guidelines recommended by the Court of Arches in *Re St Alkmund, Duffield* [2013] Fam 158, I am required to address a series of questions whenever changes are proposed to a listed building.

"1. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?"

2. If the answer to question (1) is "no", the ordinary presumption in faculty proceedings "in favour of things as they stand" is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals (see Peek v Trower (1881) 7 PD 21, 26-8, and the review of the case-law by Chancellor Bursell QC in In re St Mary's, White Waltham (No 2) [2010] PTSR 1689 at para 11). Questions 3, 4 and 5 do not arise.

3. If the answer to question (1) is "yes", how serious would the harm be?"

4. How clear and convincing is the justification for carrying out the proposals?"

5. Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building (see St Luke, Maidstone at p.8), will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or 2, where serious harm should only exceptionally be allowed."*

Discussion

17. In my view the proposals, if implemented, do not result in harm to the significance of the church as a building of special architectural or historic interest. If that view is correct I am not obliged to go onto consider questions 3 to 5 set out above.

18. I accept the evidence of Mr Deacon that the impact of the installation of the lavatory within the existing vestry will not have a significant impact on its appearance from the body of the church. I also accept his evidence, based upon his considerable experience in this area, that the proposals make the best use of the space available. His views are supported by Mr Redman, the Archdeacon of Northampton, the DAC and the amenity societies. The petitioners, DAC, and the amenity societies have given careful consideration to these proposals over many years. I am satisfied that the proposals represent the best solution available.

19. Although I have some sympathy with a number of the points made by Mr Heygate, I do not consider that the proposals result in harm to the church. He raised the issue of visibility of the lavatory from other points in the church. I am not convinced by this argument, because it did not seem to me that the height above the wooden screen is likely to be significant as to make it obtrusive. There is force in the point that as it is set back from the screen, it would, in any event, be less visible than if it had been, as originally proposed, adjacent to the wooden screen. Mr Heygate also suggested that the stained glass window would be obscured by the construction of the lavatory. I have sympathy with Mr Heygate on this particular issue. It is an attractive feature of the stained glass window, at present, standing in the vestry the full window can be seen including the sloping reveal surrounding the window. Once the lavatory is constructed it will not be possible to have a clear view of the window, probably within the vestry area at all, however, the view of the window itself from the south aisle will remain unaltered.

20. Mr Heygate raised a number of other issues. He considers that the new entrance lobby will be inadequate for use as vestry for the incumbent or visiting preachers. It

was conceded that it would only be large enough for use by one person at a time. He also believed that the use of the lavatory before or after the service, whilst being used by the clergy was inappropriate. Mr Heygate raised an issue as to the sanctity of the vestry before and after a service. The Archdeacon of Northampton, who had recovered his voice to ask questions, referred to the use of the rear of the nave as being a suitable place in which the clergy can sit to gather their thoughts before the service. I do, however, have doubts about the practicality of using the vestry to robe whilst a person was accessing the lavatory. It may prove impractical.

21. As set out above the ordinary presumption in faculty proceedings is in favour of things as they stand is and can be rebutted depending on the proposals. I have to consider the practicalities of the scheme, both advantages and disadvantages, in coming to a conclusion as to whether the presumption has been rebutted. In my view, the petitioners have made out a compelling case for the proposals. It is common ground between the parties that the church would benefit from a lavatory to enhance the use of the building and fulfil its mission. It is probably as well that the original location for the lavatory was not followed, as the top of the construction would then have been very visible above the wood screen, whereas the present proposal will result in the increased height of the construction being barely visible above the screen. Although, I have expressed sympathy with Mr Heygate's views, in particular as to the practicality of the use of the entrance lobby and the view of the stained glass window, his objections, taken overall, are not sufficient to defeat the scheme. I am also satisfied that there is no suitable alternative location within the envelope of the building. The suggested external location would be aesthetically unsuitable and unlikely to obtain planning permission. It would also damage to the historic fabric of the porch, creating the doorway. I am also satisfied from the evidence I have received that there was sufficient opportunity for parishioners to respond to the proposals.
22. Accordingly I have decided to grant the faculty requested. Care should be taken in carrying out the scheme to ensure that damage to the screen and the fabric which it

adjoins are minimised. I do consider that there would be merit in closing the view from the nave into the kitchen and servery, preferably by placing a door in the opening with a pediment matching that of the surrounding screen. I have considered whether a curtain would be sufficient but in view of the extent of the works being undertaken I have concluded that a more permanent solution is required. It is also important that the roof of the lavatory is not used to store any items. I make both matters conditions of the faculty.

23. Unless an application is made to the Court within 14 days of this judgment being delivered, the Court costs will be paid by the objector. I will assess the costs separately, for notification by the Diocesan Registrar to the parties.

18 June 2015