

In the Consistory Court of Bristol

In re Lydiard Tregoz, St Mary

JUDGMENT

1. This is a petition for the extensive conservation and re-ordering of this important Grade I listed church. The petition requests permission to:
  - a. Re-roof the St John chapel and isolated areas, to carry out masonry repairs including repointing and new copings to the North aisle east parapet and isolated other areas,
  - b. To renew drains and soakaways,
  - c. To repair and realign pews damaged by localised inset manifestation and poor quality reconstruction,
  - d. To repair and/or clean wall paintings and conserve monuments,
  - e. To install a new heating system,
  - f. To install new lighting better to serve liturgy and illuminate wall paintings and monuments,
  - g. To remove some pews and the boiler to re-create a vestry and create a welcoming space.
2. The plans have been 8 years in the making and are only realisable after a third application for funding to the Lottery Heritage Fund.
3. I have been sent the very helpful 'packs' that deal with the various items above (and also some other areas that need work but for which there is no funding currently). The analysis and presentation of the issues is enormously comprehensive. The detailed photographs and expert opinions have been very helpful in reaching my decision.
4. The parish, quite properly, consulted the DAC and various amenity bodies. The very extensive analysis of the proposals by the DAC lead to the petitioners filing another, very full and helpful reply taking on board the DAC's analysis and setting out in detail why they had made the decisions that they have. The DAC recommend the grant of a Faculty with the following suggested conditions:
  1. Details of proposed repairs to the South Porch window and removal of stain from South Porch external doors are to be submitted for approval.
  2. Details of the cases for books of remembrance, notice board, book cupboard, interpretation panels and Polyptych interactive model are to be submitted for approval.
  3. Details of the proposed location for the relocated Hardyman monuments in the South Porch window are to be submitted for approval after investigations to establish the presence of wall paintings.
  4. Percolation tests are to be carried out to ensure that soakaways are sized for projected increase in

rainfall associated with climate change.

5. Details of new stone for paving at the west end reordering are to be submitted for approval.
6. All wiring routes and light fixings and locations are to be agreed with the Conservation Architect and Project Conservator
7. All external excavations and trenching to be carried out under a comprehensive archaeological watching brief
8. All work should be overseen by the church architect.

5. The Ancient Monument Society had no comments to make about the petition.
6. The Society for the Protection of Ancient Buildings only raised a concern about the location of the new boiler (by a shed outside the church). They describe the rest of the plans as 'well considered' and they had no major concerns. The petitioners set out there justifications for moving the boiler so that it:
  - a. remained on land owned by the church,
  - b. would not create a nuisance to other land users and residents and,
  - c. would have the least visual impact on the church.
7. Historic England were consulted and replied as follows:

The church is Grade I listed and its heritage significance relates to the survival of early fabric, the extensive collection of box pews, which while re-ordered range in date and provide clues as to earlier layouts and practises within the church and finally the exceptional survival of wall paintings, the layering of which shows changing social and political attitudes throughout the buildings life.

The supplementary documents supplied with this application provides further information regarding the pews to be removed, heating systems and external boiler location and the proposed lighting provision. This together with the information previously submitted, which included a Conservation Management Plan (2017),

Report on the Woodwork by Hugh Harrison and The Conservation and Preservation of Wall Paintings, Monuments and Polychomy by Jane Rutherford, Eddie Sinclair and Deborah Carthy gives a thorough understanding of the works proposed.

Based on this information we are content that the works will not adversely affect the overall heritage significance of the Church. As outlined, appropriate archaeological watching briefs and recording should be undertaken with all intrusive works. Care should be taken to ensure that those undertaking the works are professional to ensure they are carried out to a high standard.

I do however raise concerns that the proposed relocation of the boiler into a new external shed may not be the most beneficial long term plan for the future

heating of this important building. While the proposed location and the re-use of previous pipe runs will cause minimal harm to the setting of the church we ask that appropriate consideration is given to this being a long term solution to the important issue of heating the building both for its use, and its on-going maintenance and care.

8. The petitioners reply I quote in toto as it identifies the thought that they have put into this petition:

The proposed boiler is a recognised quality brand but the PCC appreciate that an exterior grade boiler may well not last as long as an interior equivalent. There are however considerable advantages in location the boiler away from the church and as funds do not at present allow the construction of a new building this solution is considered reasonable.

The performance of the boiler in terms of delivery of conservation heating is not compromised by its location.

9. The Church Buildings Council were approached about the petition. I quote their response in detail:

The Council thanks the parish for the warm welcome of the delegation on the 26 April 2018. The Council was impressed with the depth of knowledge of their heritage, and its importance within the wider missional activities of the church.

The Council understands that this is the first phase of a larger project of conservation, repair and interpretation of the church building and its historic interior. The parish has phased the works due to financial constraints.

This initial phase is to undertake fabric repairs, drainage works, heating, lighting, some reordering and conservation work. These are considered to be the necessary 'dirty works' before other work can be undertaken in future phases. The work has been prioritised using the following criteria:

- optimising access (ie working on areas whilst scaffolding is available),
- working down to avoid damage from subsequent works,
- suitability of work for the ambitious training programme
- achieving 'impact' (ie maximising aesthetic impact from interventions).

The Council notes that the Conservation Management Plan is still in draft stage and will need another draft. It notes that the plan is overly prescriptive on certain aspects, notably the medieval glass where re-leading may be neither necessary nor advisable, where the original leading survives and since environmental protective glazing is proposed.

The Council can see many positive aspects to this current phase of the project.

It is encouraged that the fabric repairs and drainage works are prioritised in this phase of the project. The re-introduction of the south door and

south porch as an entrance will enhance the visitor experience. Conservation of the wall paintings in the south porch and re-location of two Hardyman tablets to the south porch is supported by the Council. It is important to protect the surrounding wall paintings during this work, to repair the wall in a manner sympathetic to the wall paintings, and to check that the west wall of the south porch has no evidence of previously painted schemes where the tablets will be inserted.

The removal of the boiler from the vestry to enable the space to be used for a vestry again is a laudable aim. The Council supports the erection of a stand-alone fenced enclosure for the new boiler adjacent to the shed in the churchyard.

The Council supports the removal of the pews by the west door, which have been identified as of low significance, and the repair and re-presentation of the earlier wall panelling revealed by their removal.

The proposal to remove the lower non-original stones at the base of the font is a practical solution to help baptisms, of which the church has at least two per month. The Council understands that moving the font elsewhere is problematic, given the small amount of free space in the building.

The proposed conservation treatments of the monuments and wall paintings in themselves are not controversial, although the Council advises that it is not necessary to cover the Christ on the pillar wall painting, for both aesthetic and conservation reasons. The Council is pleased that the conservation contractors are involved with the parish and architect in project decisions for the routing of heating and lighting equipment. The Council is also encouraged by the training element included in the conservation works.

The tone of the letter then takes a radically different turn:

However, the Council is deeply disturbed that funding, and the main funding body, is dictating the direction of the project, over and above the needs of the parish and building. It regrets that the mandatory requirement to consult the CBC was not done at an earlier stage of formulating an application to the HLF for the scope of work. With the advice of the Council being offered at such a late stage in the process, this has effectively disabled its impact. The statutory guidance on when to consult the CBC is available at:

[http://www.churchcare.co.uk/images/Guidance\\_Notes/When\\_to\\_consult.pdf](http://www.churchcare.co.uk/images/Guidance_Notes/When_to_consult.pdf)

Furthermore, since the 1920's, the Council (and its predecessor bodies) has invested substantial resources in both specialist expertise and grant funding to support the parish in both maintaining the fabric and conserving its contents. This has hitherto been in response to a strictly prioritised programme of urgency as defined by the Quinquennial Inspection Report (QIR) and refined by specialist conservators' reports. Many of these have been produced, and the consequent conservation work has been achieved, thanks to generous donations from the parish, the public, philanthropic patrons, many charitable trusts and English Heritage/Historic England.

The Council is seriously concerned that this careful stewardship and responsible management of the legacy of this nationally important heritage, is now being undermined and disrupted by the short-term objectives of one funding organisation. The works selected for funding are not the urgent priorities for conservation defined by the QIR or the expert conservators' reports. Postponing these urgent works is a high-risk strategy: endangering the fabric, increasing the eventual costs and finding the funding. Works of low conservation need and high aesthetic impact are being prioritised over those with high conservation need but low aesthetic impact. As an example of this, the Council appreciates that the conservation cleaning of the Sir John St John monument and walls in the St John Chapel will have high aesthetic impact on this area. However, the conservation need of the delaminating plaster on the north and south nave walls is higher, yet stabilisation of these areas is not planned in this phase of works, despite scaffolding being present in the nave for cleaning of the nave ceiling.

The strategy of undertaking the detailed conservation survey of the plaster on the south and north nave walls without having funding available for emergency conservation treatment is a high-risk strategy. The Council urges a contingency fund for this part of the works, for any areas that need urgent treatment.

The Council is concerned about a lack of attention to detail for aspects of the fabric repairs. It advises that the dormer lights on both the north and south side of the nave are addressed, including treatment of the cheeks of the reveals and that cleaning of the 16C glazing is undertaken by an experienced professional conservator.

Whilst the Council supports the need for below-ground drainage works, it asks for further details to ensure the works are appropriate, effective and fully covered by the archaeological watching brief.

No plans have been submitted for the heating, or lighting. The DAC must be consulted before any further petition is submitted. I have seen no plans for the colour of the limewash, which must also be approved by the DAC. An archaeological watching brief must be maintained when any excavations occur.

10. The petitioners replied, saying they were 'dismayed' by the letter which they asserted was based on a misreading or misunderstanding the information provided. They set out their detailed response over two pages rebutting the criticisms levelled at them by the CBC. I quote only two of the criticisms and their rebuttal to give a flavour to the correspondence;

The works selected for funding are not the urgent priorities for conservation defined by the QIR or the expert conservators' reports.

The rebuttal reads as follows:

This is NOT the case. In planning the project we have relied on the condition survey of wall paintings by McNeillage Conservation, however this did not identify hollow plaster as a significant issue.

The Development Stage of the project included the provision of quality access to representative areas of fabric selected after much consideration and the fingertip inspection that followed identified the unexpected and considerable extent of hollow plaster in the areas that could be directly inspected.

The nave north wall, where there is the highest concentration of the most significant but as-yet-untreated wall paintings, as well as the un-treated section of the nave east wall are two of the most important areas that have been selected and highlighted as priorities for conservation.

As well as these areas the most urgent need of stabilization include 17th C polychromy in the St John Chapel as well as wall paintings in the South Porch and the Project Conservators' proposals set out balanced approaches that incorporate these priorities.

Another reads as follows:

Postponing these urgent works is a high-risk strategy: endangering the fabric, increasing the eventual costs and finding the funding. Works of low conservation need and high aesthetic impact are being prioritised over those with high conservation need but low aesthetic impact.

The rebuttal reads as follows:

In accordance with best professional practice, areas requiring conservation interventions as a matter of urgency are prioritised and this treatment takes precedence over 'achieving impact' however the Project Conservators have designed a programme of interventions that achieves both. The suggestion of disregard for established priorities is therefore unwarranted.

**NO WORKS THAT LEAVE HERITAGE AT RISK ARE BEING DEFERRED.** See above.

A third example reads as follows:

As an example of this, the Council appreciates that the conservation cleaning of the Sir John St John monument and walls in the St John Chapel will have high aesthetic impact on this area. However, the conservation need of the delaminating plaster on the north and south nave walls is higher, yet stabilisation of these areas is not planned in this phase of works, despite scaffolding being present in the nave for cleaning of the nave ceiling.

The rebuttal reads as follows:

This is incorrect; Sir John St. John's monument is NOT included in this project. However, John 2nd Viscount St. John IS included because this is a straight-forward cleaning exercise for conservation students still in the earliest stages of their training. Skilled conservator resources are not therefore diverted from urgent work. Furthermore, consolidation of plaster in the nave IS included in the project. See Wall painting report. Because the extent of hollow plaster was not identified in the Mc Neillage report and because it has not been possible

11. The CBC were given a chance to deal with the detailed rebuttal of their trenchant criticisms and invited to become a party opponent. I quote their reply:

Thank you very much for providing the Church Buildings Council with the opportunity to comment on the detailed rebuttal of the Council's concerns as set out by the parish in the documents on the Online Faculty System.

The Council stands by its advice of 18 May 2018 and wishes it to be taken into consideration by the Chancellor. The Council re-iterates that the need for stabilisation of areas of hollow plaster to provide structural stability for the wall paintings is a high priority.

The Council does not wish to become a party opponent.

12. The particular considerations of *In Re St Alkmund, Duffield* [2013] Fam158 apply. The Court of Arches in *In re St John the Baptist, Penshurst*[2015] WLR (D) 115, reaffirmed the approach it set out in *In Re St.Alkmund, Duffield* [2013] Fam 158 in performing the necessary balancing exercise when determining petitions affecting listed buildings attracting the ecclesiastical exemption. It is this, as applicable in this case:
- (1) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historical interest?
  - (2) If the answer to the first question is in the affirmative, how serious would that harm be?
  - (3) Thereafter, how clear and convincing is the justification for the proposals?
  - (4) Generally, the greater the harm, the greater the demonstrable benefit will need to be to justify the proposals.
13. I have read all of the documents with the greatest care, the very full and very extensive 'packs' of materials, the criticism of them by the CBC and the measured response by the petitioners. I have no hesitation in rejecting the criticism of the petition made by the CBC and accordingly I have no hesitation in concluding that the answer to question 1 in *Duffield* above is a conclusive 'no'. In those circumstances I grant the petition as prayed, subject to the conditions identified at paragraph 4 above.

24<sup>th</sup> October 2018

Justin Gau  
Chancellor