

IN THE CONSISTORY COURT OF THE DIOCESE OF YORK

IN THE MATTER OF THE PARISH OF NEWINGTON

THE CHURCH OF ST JOHN THE BAPTIST

JUDGEMENT

1. The Petition

1.1 By a petition lodged in the Registry on the 10th September 2009, the Reverend Paul Copley, the priest in charge, and Mrs Lesley Hills and Rosalie Handley, the churchwardens, petition for a faculty to permit:

- (1) the creation of a complex of buildings for youth related activities to the east and north-east of the church, linked to the church and incorporating the site of the south east chapel (c.1920) which it is proposed to demolish;
- (2) to remove and dispose of the pews within the south aisle, the Lady Chapel altar and rail;
- (3) to lower the aisle pew platform and to create an access ramp and stone floored landing within the south aisle and a new door to the youth complex.

1.2 Because the petition included the demolition of a part of the church, although there were no objections to the petition, I held a hearing at the church on the 10th November 2009.

1.3 At that hearing I gave leave for additional items to be added to the schedule of works or proposals, namely:

- (4) to permit the incumbent, under section 56 of the Pastoral Measure 1983 as amended by the Pastoral (Amendment) Measure 2006, to grant a lease of the benefice land, upon which a part of the complex of buildings for youth related activities will be situated, to the York Diocesan Board of Finance (DBF) and the PCC;
- (5) to permit the DBF and the PCC thereafter to let the benefice land (as described in the preceding paragraph) together with the adjoining land (vested in the DBF and PCC for the Church Hall and in the local authority), being the whole site on which will be erected a complex of new buildings, to the Hessle Road Network (HRN) for use for youth related activities.

2. The Hearing

- 2.1 Having heard evidence I announced my decision, which was to grant the faculty prayed and said that I would give my full reasons in writing as soon as possible.
- 2.2 In the course of the hearing I heard evidence from Mrs Hills, a petitioner and churchwarden, who presented the case on behalf of the petitioners; Jonathan Smith, of SALT Architects, the architects for the project; Shaun Horton, the Neighbourhood Development Manager of the Hessle Road Network (HRN) - the youth project; the Reverend Michael Hills, a former Vicar of the church and one of the founders of the HRN also currently the Chairman of its Board of Directors; and from Mrs Sue Whittaker the Vice Chair of the Diocesan Advisory Committee for the Care of Churches (DAC). All were very helpful in explaining what was needed and why and what the timescale of the project and its funding were.

3. The Background

- 3.1 The church, which is a Grade II listed building, is situated on St George's Avenue, Hull. I was told that the area around the church is one of the most deprived and blighted areas in Hull. Some years ago it was known locally as "Little Beirut". The Reverend Michael Hills became the Vicar of the church in 1996. In 1999 in response to the needs around them, the church was instrumental in setting up the HRN. In the early years of the project the church provided a vehicle for getting the project off the ground, namely by providing financial structures and controls that enabled it to hold money and employ people. It also provided its church hall as premises for the project to operate from and in.
- 3.2 In 2003 a company limited by guarantee was formed and that is the legal entity currently responsible for running the project. However the church has remained actively involved in the project throughout its history. The heavy use of the church hall for 5 years effectively wore it out. The HRN has more recently been using space in a redundant local junior school, but that too is now worn out.
- 3.3 As its website says: "The Hessle Road Network Youth Project works with young people aged 9-21 predominately from the Newington and St Andrews wards of Hull. The project has several key areas of work, the Alternative Learning Programme for Schools (ALP's) project, The 223 Centre, evening and holiday activities, training, mentoring, outreach and detached work all of which support and benefit local young people by giving them the opportunity to become involved in fun activities which also help them to develop skills."
- 3.4 I was told that something like 1500 young people use the facilities of the HRN six days a week. There is clearly a pressing need for purpose-built durable

premises. The HRN has been promised funding of £850,000 to enable it to provide such premises.

3.5 The church would be delighted to be able to offer the use of the land adjacent to the parish church for the continuing activities of the HRN in such premises.

3.6 Plans have been drawn up by SALT architects to provide such premises.

3.7 The proposal is to provide a link between the new centre and the church. The best way to achieve that in the space available is to link the buildings at the south east corner of the church through the space that is currently the Lady Chapel. The most efficient and effective way to achieve that is said to require the demolition of the Lady Chapel.

3.8 If this is done then not only will the result be the provision of excellent facilities for the HRN and the local community but also the addition of significant amenities to the church itself.

4. Application for a faculty

4.1 Having set out the background and rehearsed ‘the story so far’, it is apparent that this proposal has much to commend it .

4.2 To make such alterations to the church requires a faculty from the Consistory Court. When the building is listed, as this one is, the questions that I have to decide in determining whether to grant a faculty are (1) whether the petitioners have made out a case for the necessity of the work; (2) whether the proposal would have any adverse effect on the character of the building; (3) if there will be an adverse effect, then I have to decide whether the need outweighs that effect. Additionally here, if I consider that the proposed work includes the demolition of a part of the church, then there are a number of additional conditions that have to be met before a faculty can be granted.

4.3 As this is the first formal judgment that I have given in this Diocese in relation to the grant of a faculty to re-order a church in a significant way, it may be helpful if I set out in a little detail how I approach such an issue. I hope that this will help others, whether those making applications as petitioners, or those who advise churches at early stages of planning, to know what questions I will be asking and what material will assist me to answer those questions.

5. Statement of Need

5.1 The Faculty Jurisdiction Rules 2000 (FJR) require that when significant changes to a listed church are proposed, the intending applicant shall submit to the DAC a Statement of Needs (FJR, Rule 3(3)(a)). That statement should set out what the purpose of the proposal is, ie why it is necessary to do what they propose and to do it in the way they propose. It is always helpful if that statement explains how the petitioners perceive that need in the context of the

ongoing worship and mission of the church. Mission is to be understood in the widest sense of our calling as Christians to serve the world in which God has placed us. Thus to offer part of the land of the church for a building which will principally be used by those who do not attend church services may be entirely consistent with the mission of that church to its local community.

- 5.2 “Necessity” is not an easy concept to define, It has been the subject of a number of different interpretations in Consistory Courts.
- 5.3 For my part I find very helpful the decision of the Dean of Arches when he was Chancellor of Southwark in the case of *Re St John the Evangelist Blackheath* (1998) where he interpreted ‘necessity’ and ‘necessary’ as “something less than essential, but more than merely desirable or convenient; in other words something that is requisite or reasonably necessary”.
- 5.4 In this case the Statement of Needs in this case is commendably brief (less than one side of A4) and has set out all that I need to know. It explains that the church hall is no longer fit for its purpose and so there is a need for a replacement to provide necessary facilities for the church and to generate income. It then describes what the church proposes to offer to the HRN in the context of its historical and present link to the HRN. It speaks of the adaptability and benefits of the new building. It concludes by stating that: “This will be the first purpose built community facility for over 30 years and will give encouragement and confidence to our community, as well as being of great benefit to our young people”.
- 5.5 I am satisfied that the petitioners have established their case and that the proposed development is necessary to provide facilities that the church needs and that the proposal will also provide facilities that the community needs and which it is a proper part of this church’s calling to provide.

6. Statement of Significance

- 6.1 In the case of listed churches the Rules also anticipate that the PCC will supply the DAC with a Statement of Significance in relation to the building. (FJR, Rule 3(3)(a))
- 6.2 In this case the Petitioners have attached such a Statement to the Petition. It provides extracts from Bulmers Gazetteer (1892), which describes the church some 25 years after it was constructed and also from Pevsner (1972). They also add that the only part of the church to be affected by the proposal is The Lady Chapel (which is not described in either of the above) and they assert about it:

“The Lady Chapel to the east of the south aisle is a converted choir vestry which is a very poor later addition (c.1920) of no architectural quality and no interesting internal features.”

- 6.3 It is apparent from those extracts and from my own inspection of the church when I held the hearing there, that the assessment of the PCC is accurate.
- 6.4 Furthermore there has been consultation with the Church Buildings Council (CBC), perhaps more widely known by its former name of the Council for the Care of Churches (CCC) and with English Heritage, to which I shall return, and neither suggests there will be any adverse effect on the character of the building.
- 6.5 I therefore conclude that no feature of this church, whether external or internal will be adversely affected by the proposal.
- 6.6 If this were a proposal that did not involve the demolition of the Lady Chapel, I would then be able to conclude that the Petitioners had established their case for the necessity of the proposal, and that the proposal would not affect adversely the character of the building and I would be able to exercise my discretion and direct that a faculty be issued.

7. Demolition of a church or part of a church

- 7.1 However section 17 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (EJM) provides as follows:

- “(1) A court shall not grant a faculty for the demolition or partial demolition of a church except on the grounds specified in this section.
- (2) Subject to the following provisions of this section, a court may grant a faculty for the demolition of the whole or part of a church if it is satisfied that another church or part of a church will be erected on the site or curtilage of the church or part of a church in question or part thereof to take the place of that church or part of a church.
- (3) Subject to the following provisions of this section, a court may grant a faculty for the demolition of part of a church if it is satisfied that—
- (a) the part of the church left standing will be used for the public worship of the Church of England for a substantial period after such demolition; or
- (b) such demolition is necessary for the purpose of the repair or alteration of the church or the reconstruction of the part to be demolished.”

- 7.2 On all the evidence I have seen and heard I am satisfied that:

- (1) The part of the church that will be demolished will be replaced by another part to take its place – s17(2).
- (2) The part that will not be demolished will continue to be used for public worship for the foreseeable future - s17(3)(a).
- (3) The demolition is necessary for the purpose of carrying out alterations to the church – s17(3)(b).

7.3 So, in fact, although any one of those reasons would have sufficed, all three exist.

7.4 That is not an end of the matter because the Measure goes on to set out that if that is the case then a number of other steps must be taken before a faculty can be issued.

7.5 There are a number of steps that must be taken before a demolition of any church, even an unlisted church, can be permitted. There are then additional steps which must be taken in the case of all listed churches or unlisted churches in conservation areas.

7.6 These steps may be thought by some to be onerous or even unnecessary. However the demolition of a church or a part of a church is a significant matter and the legislation requires notifications to various bodies, which have responsibility for looking after particular interests in connexion with the built environment. It is not unreasonable, given that the Church of England has been entrusted with making decisions about these important issues through the exercise of the faculty jurisdiction, that these notifications be made and that the Consistory Court gives full weight to any representations it receives when coming to a decision as to whether demolition can be permitted.

7.7 It was suggested by the CBC, in their response, that it may not have been necessary to invoke the Section 17 procedures. In her letter dated 28th October 2009 Mrs Jude Johncock said:

“The Council had some queries as to whether this case would strictly fall under Section 17 and questioned whether the new building would be subject in any part to Faculty Jurisdiction. It would seem preferable if it were not.”

I am afraid that I disagree with her about that.

7.8 I find the decision of Mynors Ch in the Worcester Consistory Court case of *Re Powick Callow End* (April 2000) very helpful on this point. A report of the case in the Ecclesiastical Law Journal summarises his decision in these words:

“The decision of the House of Lords in *Shimizu v Westminster CC* [1996] 3 PLR 89 indicates that ‘demolition’ did not embrace within its definition the removal of part only of a building, contrary to what many had previously understood. On consideration of a preliminary

point, the chancellor stated that in relation to any proposal for works, one should consider whether the overall operation is best characterised as:

- i. demolition or partial demolition alone;
- ii. demolition or partial demolition followed by the building of something else;
- iii. alteration; or
- iv. extension.

In the first two, section 17 applies and the additional procedures will need to be followed. If the third or fourth then, even though the works may involve demolition of some of the existing fabric, section 17 will not apply. The quality of what is to be demolished, altered or extended is irrelevant in this preliminary analysis.”

7.9 Here, at Newington, the former choir vestry which is now a Lady Chapel, is to be demolished, the external walls of the church at that point will be taken down and the roof removed, a new structure will be erected in its place which will link the church to the new Centre. I do not see how that can be described in any way other than the demolition of a part of the church and the rebuilding of something else.

7.10 Of course there are times when what is proposed does not amount to demolition within section 17. I recently dealt with a petition in relation to *Hedon, St Augustine* where I said this:

“There is one matter that I need to consider and that is the work described as ‘carefully dismantle brick chimney and break up roof of former boiler house, backfill boiler void with rubble from demolition and provide additional suitable material as required ...’. (see specification page 12 at para n, i). I need to consider whether this brings Section 17 of the EJM into operation.”

I then referred to the above cited words of Mynors Ch and went on to conclude:

“I am satisfied that what is proposed here is more properly described as alteration in the course of major stonework repairs and that section 17 is not engaged.”

8. Special requirements arising because of demolition

8.1 I will deal first with those requirements that apply in all demolition cases. Section 17 (4) provides:

- “(4) The court shall not grant a faculty under subsection (2) or (3)(a) above unless—
- (a) the person bringing proceedings for the faculty has —

- (i) obtained the written consent of the bishop of the diocese concerned to the proceedings being brought; and
- (ii) within the prescribed time, caused to be published in “The London Gazette” and in such other newspapers as the court may direct a notice stating the substance of the petition for the faculty;
- (b) the registrar has given notice in writing to the Council for the Care of Churches and the advisory committee of the diocese concerned of the petition;
- (c) the judge of the court has thereafter considered such advice as the advisory committee has tendered to the court; and
- (d) the judge has heard evidence in open court, after application for the purpose has been made to the court in the prescribed manner, from—
 - (i) a member of the said Council or some person duly authorised by the Council; and
 - (ii) any other person, unless in the opinion of the judge his application or the evidence which he gives is frivolous or vexatious.”

8.2 On the 13th September 2009 I gave directions so as to ensure that these various requirements would be met as soon as possible thereafter.

8.3 The Bishop of the Diocese

The written consent of the Diocesan Bishop has been obtained. The Archbishop of York signified his consent in writing on the 27th October 2009.

8.4 The London Gazette and other newspapers

Publication in the London Gazette took place on the 6th October 2009. I have been provided with a copy of the Gazette for that day. When I gave directions on the 13th September I directed that there should also be publication of the proposal in the Hull Daily Mail. A copy of that publication which was also dated the 6th October has been produced to me.

8.5 The Council for the Care of Churches

The Registrar in accordance with my direction wrote to the Church Buildings Council (CBC) which is the successor in title to the Council for the Care of Churches on the 28th September 2009.

8.6 Although I heard evidence in open court as I indicated at the beginning of this judgment, I did not hear evidence from the CBC as it did not apply to give evidence.

8.7 It has traditionally been the understanding of those practising ecclesiastical law that the CBC would always give evidence and that it would be necessary in all cases involving demolition for there to be a hearing in open court. A number of textbooks say so.

8.8 In fact it is apparent from the wording of the Measure that such a hearing is only necessary if the CBC makes an application to give evidence.

8.9 In the time frame to which I was working, with the possible loss of funding if the money was not spent by March 2010, it was important to progress matters quickly and so when giving directions on the 13th September I indicated that a hearing would be held in open court as soon as possible. A date was then arranged by the Diocesan Registrar, which would be convenient to all the parties. The earliest such date, after allowing for the requisite period for any responses to the various notifications that had to be given of these proposals, was the 10th November. The CBC wrote to the Registrar on the 28th October indicating that they had considered the case and had no adverse comment to make. The letter concluded by saying

“The Council did not consider the demolition to be controversial and was happy to submit this view to the Chancellor as its evidence. It also wished to support the principle of redevelopment of the site but chose not to comment on the proposed design for the new centre.

The Council had some queries as to whether this case would strictly fall under Section 17 and questioned whether the new building would be subject in any part to Faculty Jurisdiction. It would seem preferable if it were not.

The Council did not wish to send a witness to attend the hearing unless it is considered strictly necessary.”

8.10 When I learned of that letter I of course said that it was quite unnecessary for the Council to attend.

8.11 By then this hearing was fast approaching. It seemed to me that in fact the simplest and most expeditious way for me to have all the relevant material before me and for me to make and give a speedy decision, was to hold the hearing as planned. I have no doubt that was the correct decision. I saw the building; I had the plans explained to me fully on site by the architect and I heard directly from those involved both in the HRN and in the parish.

8.12 However in future cases where there is not a need for such a speedy resolution, it will be possible to publish all the necessary notices and notify the required persons and bodies of what is proposed and then wait to see if anyone (whether the CBC or any other person) applies to give evidence under Section 17(4)(d), having set out in the notifications a time within which such application must be made. If there were no such application then I would consider whether a hearing in open court was required and if not I could then proceed to give a written decision.

8.13 As regards future faculty jurisdiction, I will as always decide whether to assert jurisdiction on a case by case basis. The principal criteria will be the likely effects of the proposals upon the church.

8.14 The Diocesan Advisory Committee

The petition was received in the DAC office on 12.8.09, considered at its meeting on the 2.9.09; the DAC issued its formal advice to me in its Form 1 Certificate on 10.9.09 on which date the petition was also lodged in the Registry.

- 8.15 In the course of the hearing I heard evidence from the Vice Chair of the DAC. Mrs Whittaker; she gave evidence which was both informative and helpful. It is worth observing that I would not have had this advice in this form in the absence of a hearing.

She told me that:

“The church is a fine example of a tough, Victorian town Church designed in the 1870s to dominate the surrounding houses and provide a dignified focus to the community. It is a large building by the important architects Smith & Broderick, and has been maintained in good condition by a small community of loyal worshippers. It is one of the very few listed buildings in the locality. Newington is a very deprived area, where access to many facilities and services is restricted by lack of finance and support. The church already engages with young people, and this project is designed to enhance and develop that work.”

She told me that the DAC had been involved in the discussions with the parish from an early stage and had offered advice about how the new building might link to the church. She said:

“Members of the DAC felt that the two buildings should have a dynamic relationship with each other. They should interlock as a symbol of their close relationship and a demonstration of how they might support each other in practical ways: spaces in the Youth Centre could help serve the church community and spaces in the church could be used by young people engaged in a variety of creative activities. The whole complex of Church and Youth Facility would extend beyond its physical boundaries to make striking connections with the local community and the lives of local people.

The DAC felt the interior of each building should be visible from the other, and that the materials and rhythms of the two buildings should be sympathetic yet each of its own time. Members suggested that the floor levels and treatments in the cafe area of the Youth Centre and the south aisle of the church should be similar, and they strongly advised that the former Lady Chapel should be removed to bring the new and the old buildings into a closer relationship. The chapel is a much later addition to the church, which copies some of the original building but is crude and poorly executed by comparison. It is the considered opinion of the Committee that it is not of any architectural quality.

SALT Architects responded with a dramatic, contemporary design which encourages easy passage between church and the centre and between two cultures; church community and youth community. The

present design (in what is hoped will be its eventual, fully developed form) respects the Christian character and architectural quality of St John the Baptist Newington, but gives access to additional facilities and opens it to a wider community.”

She concluded by saying:

“This is a remarkable opportunity for mission, encouraged by good design. It should be a chance for the church to show a creative lead by placing the best it has at the service of the community, working in collaboration with local government. The DAC believes that this project could yet revitalise a major Victorian city church and give it new meaning and a new function in the redevelopment and growth of Newington and the surrounding parishes.”

9. Requirements for listed churches or churches in conservation areas

9.1 There are then further requirements in Section 17 (5) when the case concerns a church, which either is listed or is in a conservation area.

(5) Without prejudice to the requirements of subsection (4) above, the court shall not grant a faculty under subsection (2) or (3)(a) above in the case of a church which is a listed building or in a conservation area unless—

- (a) the registrar has given notice in writing to—
 - (i) the Secretary of State;
 - (ii) the local planning authority concerned;
 - (iii) the Historic Buildings and Monuments Commission for England; and
 - (iv) the national amenity societies;
- (b) the judge of the court has thereafter considered such advice as any of those bodies may have tendered to the court;
- (c) the registrar has given notice in writing to the Royal Commission on the Historical Monuments of England and thereafter either—
 - (i) for a period of at least one month following the giving of the notice reasonable access to the church has been made available to members or officers of the said Royal Commission for the purpose of recording it; or
 - (ii) the said Royal Commission have, by their Secretary or other officer of theirs with authority to act on their behalf for the purposes of this section, stated in writing that they have completed their recording of the church or that they do not wish to record it.

9.2 I directed the Diocesan Registrar to give these notices, save and except to the local planning authority, as they had already granted planning permission for the proposal. In fact they had asked the architects to apply for listed buildings consent (LBC). The architect told me that rather than get into a prolonged

struggle with possible delays by arguing that LBC was not required as the ecclesiastical exemption from listed building controls applied, they applied for and obtained LBC on the 2nd April 2009.

- 9.3 Of the various bodies so notified the only comment has come from English Heritage to whom the Secretary of State in the person of the Government Office for Yorkshire and Humber had referred it.
- 9.4 English Heritage said that they had no objections and enclosed copies of their advice to the local planning authority when LBC had been applied for.

10. And finally

10.1 The final issue that Section 17 raises is

- (6) A court shall not grant a faculty under subsection (3)(b) above unless—
- (a) the court is satisfied, after consultation with the advisory committee, that when the proposed repair, alteration or reconstruction is completed the demolition will not materially affect the external or internal appearance of the church or the architectural, archaeological, artistic or historic character of the church; or
 - (b) the requirements of subsection (4) above and also, in the case of a church which is a listed building or in a conservation area, the requirements of subsection (5) above have been complied with.

10.2 As I indicated earlier, I am satisfied that I can proceed under s17(2) or s17(3)(a) or s17(3)(b). As it is not necessary to rely on s17(3)(b) I do not need to consider s17(6).

10.3 I am therefore satisfied that a faculty can and should issue in relation to this proposal.

11. Conditions

11.1 The following conditions will be attached to the faculty:

- (1) A copy of the planning permission for the development shall be filed in the Registry before a faculty issues;
- (2) Copies of the draft leases referred to at paragraphs 1.3 above shall be submitted to the Registrar and approved by me before the same are completed by the incumbent and /or the PCC
- (3) The said demolition shall not commence until the said leases have been completed, which it is hoped will have been before the 31st December 2009.

- (4) The Petitioners shall send to the DAC Secretary and to the Registrar photographs of the new buildings within six weeks after practical completion of their construction.
- (5) Time for completion of the works and purposes authorised by this faculty shall be 18 months from the date of the issue of this Faculty
- (6) There shall be liberty to the petitioners to apply generally.

12. Costs

- 12.1 Mrs Hills asked that I would consider not ordering the PCC to pay the costs as they have very limited funds. She told me that of the 18 persons whose names are on the Electoral Roll, only 2 are in full time waged employment.
- 12.2 As I said during the hearing, the Court and Registry costs are properly described as costs of the development; it could not take place without the obtaining of a faculty. It is my understanding that the legal costs of the development are included in the grant aid. I can see no reasons why the HRN should not be asked by the Parish to pay these necessary legal costs in addition to any others, such as the costs of obtaining the leases, that they have agreed to pay. Equally it seems that the HRN should seek to recover those costs within its grant aid.
- 12.3 The HRN are not parties to the Petition and so I cannot make an order directly against them. However I do expect the Petitioners to approach the HRN and to request that they pay these costs. Although the only order I can make is that the Petitioners shall pay the costs.
- 12.4 Those costs will be assessed by me, when the Registrar submits the bill of costs.

13. Lessons for the future

- 13.1 Before parting with this matter I will take the opportunity to address the wider community of incumbents, churchwardens, PCCS, architects and all others concerned with major developments in churches.
- 13.2 There have been a number of occasions in the last two years when there have been major developments taking place in a church which have got to a very late stage before there has been any consultation with the Registrar or others about what legal requirements there may be that need to be dealt with to enable the project to get under way.
- 13.3 Such questions as these need to be asked and answered:

Will a faculty be required and if so are there any particular special requirements that will need to be addressed?

Who must be consulted?

What will be the timescale for any legal processes?

What will be the costs of the legal processes?

- 13.4 Often it will be appropriate for the petitioners to seek their own independent legal advice when there are issues regarding the vesting of land on which some development is to take place; or the leases / licences which will need to be created in relation to the use of land or buildings; or the agreements that have to be entered into with secular funding bodies who have little understanding of how the Church of England works and how normal procedures and documents need to be adapted to cater for the particular legal requirements of the Church.
- 13.5 Too often Petitioners and their advisors have seemed surprised (1) that a faculty is required in relation to community use of a church or the grant of licences and/or leases, (2) that it will take some time to obtain such a faculty because the law requires the Chancellor to ensure that the various statutory consultations have taken place and (3) that there will be a cost to that process.
- 13.5 All these things should be factored into the earliest planning so that the appropriate time can be allowed and provision for the costs can be built into the initial planning of the project.
- 13.6 All these requirements are requirements of the Law of England as passed by the General Synod and the UK Parliament.
- 13.7 Finally, as I observed earlier, when the local planning authority told the architects that they should apply for LBC, the architects did so. In the event this has not caused a problem in this case. However there is a principle here, which is important. This church being a church used for worship is exempt from listed building control, that control being vested for Anglican churches in the Consistory Court of the Diocese. All that is required from the local planning authority is planning permission for development. There could be serious problems created if the local planning authority were to impose certain conditions, or even worse if they were to refuse LBC. I hope that in future petitioners and their advisors will explain to a planning authority that the ecclesiastical exemption applies, which if necessary the Court can reinforce with directions.

Canon Peter Collier QC
Chancellor

The Feast of St Andrew 2009