

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

IN THE MATTER OF ST MARY'S CHURCH, OXTED

AND IN THE MATTER OF A PETITION BY THE REVEREND DR ANDREW RUMSEY, MS CATHERINE HOUGH AND MR STUART MURDEN

JUDGMENT

Introduction

1. This is the petition of the Revd Dr Andrew Rumsey¹, Ms Catherine Hough and Mr Stuart Murden, the Team Rector and Churchwardens respectively of the Church of St Mary the Virgin, Oxted. By a petition dated 15 October 2018, they seek a faculty to install glass entrance doors to the outer archway of the south porch of the church.

2. The petition was advertised in the usual way (including by being posted on the Diocesan website); no-one objected or commented as a result of this process. The DAC having advised that the proposal would be likely to affect the character of the church as a listed building, Historic England, the Society for the Protection of Ancient Buildings and the Victorian Society were all notified. Historic England and the Victorian Society did not wish to comment². As I shall explain, SPAB objected to the proposal but did not wish to become a party opponent. The local planning authority, Tandridge District Council, had been consulted in the context of the application for planning permission (which in due course was granted).

3. By its Notification of Advice, the DAC recommended the proposals to me. In the light of the disagreement between the Petitioners and the DAC on the one hand and SPAB on the other, I subsequently asked the DAC for its assessment of the proposals. It commented in some detail by a letter to me dated 23 December 2019. I am very grateful for this response. The Petitioners have had the opportunity to comment further but, apart from clarifying one or two points of detail, they have relied upon the material submitted with the petition. I gave the CBC the opportunity to comment but it did not wish to do so.

4. Planning permission was granted on 13 March 2019.

The Church and the significance of the porch

5. St Mary's Church is listed Grade 1. Somewhat heavily restored in the nineteenth century, it has something of everything: a twelfth century tower, a thirteenth century chancel, fourteenth century aisles (and some surviving glass), fine monuments from the seventeenth and eighteenth centuries and some Burne-Jones glass. The porch dates from the fifteenth century and is specifically identified in the listing:

Porch with hood moulding to arch and Cobham arms in spandrels.

¹ Note that on 24 January 2019, Dr Rumsey resigned upon his appointment as Bishop of Ramsbury. His successor as Team Rector, Revd Anna Eltringham, was collated on 30 June 2019.

² By a subsequent e mail dated 6 March 2019 Historic England did however say *We note SPAB's objection and regard the questions posed as valid.*

6. Both Pevsner³ and the Shell Guide to *Surrey*⁴ mention the porch and the Cobham arms. Of the church itself, Pevsner says *The usual Surrey story: a slow growth medieval church over-restored* and observes *Arcades and south porch C15, the only worth-while parts of the church*. One knows from the style that this is Nairn speaking but the words are in the first edition (which also was co-authored) and Pevsner must have approved.

7. A photograph of the porch is at **Annex 1** to this judgment.

8. Viewed as a whole, the church itself is evidently a building of high significance, even if, for the reasons given in Pevsner, it is not outstanding. Only 2.5% of listed buildings are listed as Grade I and Historic England say that these are those that are of exceptional interest. The porch is of interest and beauty in itself, is an integral part of the building and, by virtue of being the entrance to the building, is in a prominent position. SPAB also point out that it provides protection to the fourteenth century main door to the church; it asserts that it is of high significance. In the Statement of Significance (prepared by Thomas Ford and Partners) it is said:

The south porch as a later addition is of artistic merit and is also a historic document to the patronage of the church. The porch is the main entrance to the church. Therefore it is of Moderate – High Significance.

9. In the context of the planning application, the Petitioners were required to submit a Heritage Statement⁵. This was prepared for them by Martin Higgins BA Arch MPhil IHBC, who is the Historic Buildings Officer of Surrey County Council⁶. He said:

It can be seen ... that the route from the lychgate up the steps to the south porch is of considerable significance to the use of the building as the religious heart of the settlement. The decorative nature of the porch reinforces this importance as well as being of intrinsic artistic and historic significance.

10. It seems to me that, despite the suggestion that the porch might be only of moderate significance or perhaps somewhere on the spectrum between moderate and high significance, when it is viewed overall the material set out at paragraphs 8 and 9 above indicates that it is of high significance and I so conclude.

The proposals

11. The Petitioners submitted two alternative proposals, one using a metal frame, the other a hardwood one. The DAC did not recommend the metal frame option and I shall say no more about it. The proposal is for two glass doors of equal size, having vertical handles about 1200mm in length. There would be a “manifestation” consisting of two horizontal rows of small circles. The proposals are reversible.

12. Included in the papers were “before” and “after” photographs of glass doors that had been installed at St Mary’s, Bletchingley after the grant of a faculty in 2003. The Petitioners observed that this was a similar installation which *had been very successfully carried out ... with little or no impact on the existing historic structure or appearance of [that church]*⁷. At Bletchingley it seems that the

³ I.e. Pevsner and Nairn *The Buildings of England: Surrey* (2nd edition, 1971).

⁴ By Bruce Watkins (1977).

⁵ See paragraph 189 of the National Planning Policy Framework.

⁶ Until 31 December 2019 Mr Higgins was also the nominee of the local authorities to serve on the DAC. He did not take part in the meeting of the DAC which led to its recommendation nor in that leading to the authorisation of the letter dated 23 December 2019.

⁷ See a statement supporting the petition dated 27 September 2019.

two circular handles also function as a manifestation. As I have explained, a different arrangement is proposed at Oxted. The before and after photographs of Bletchingley are at **Annex 2**⁸.

13. The justification for installing the glass doors is two-fold:

First and foremost, it will ... improve access for all. In the winter months when the church is in use, the existing timber door is kept closed to reduce incoming cold air and draughts. This is a very heavy door and is not only a barrier to people getting in and out – especially the young, disabled, elderly and infirm – but also prevents any people looking in to see whether there is anything of interest going on which might draw them in. The proposal is, when the church is in use, to keep the existing heavy timber door open and people would be able to see in and, hopefully, be drawn in. Second, enclosing the porch in this way will, in inclement and cold weather, improve the environment of the access in to the church and go a little way to reducing the draughts and heat losses. Also, it will reduce the occasional misuse of the porch which often needs a measure of sweeping and cleaning out on a Sunday morning! Recently there was an incident of graffiti to the porch walls.

The objection

14. By a letter dated 9 January 2019, SPAB objected to the proposal. Having expressed the view that the porch was of high significance, it went on to say:

... we do not support the installation of glazed doors in this location. Historically, porches were left open and were an important area for the parish. Porches also play an important part in the experience of entering the church. In the Society's view the character of the porch and its significance as a place of preparation for entering the church would be very seriously compromised, if not destroyed, by the installation of a pair of glazed doors. Aesthetically, the effect of the external glass doors will be to reflect the outside rather than drawing one in to a deep interior; they would be completely out of character with this part of the church. We consider that the proposed doors will have a very damaging impact on the doorway and on its aesthetic appreciation. Further, glass is by nature a hard material and would detract from the warmth and beauty of the important ancient stonework and carving.

15. This was SPAB's initial response. It subsequently made a further representation by a letter dated 4 February 2019 which I shall refer to in due course.

Law and guidance

16. As in all cases of this kind, I assess this proposal in the light of the guidance provided by the Court of Arches in the case of *In re St Alkmund, Duffield*⁹. In a case where any harm is caused to a listed building, this involves balancing the public benefit arising from the proposals against the harm. In *In re St Michael, Llanybodwel* in the Diocese of Lichfield (also, as it happens, a case concerning the installation of glass doors), Chancellor Eyre QC said:

*... the rationale of the Duffield approach still requires that the works permitted must only be those which cause the minimum harm to that special significance which is consistent with producing the benefit in question*¹⁰.

⁸ SPAB had objected. I have had the opportunity to look at the faculty papers and it is evident that some of the issues were the same as in the present case. It was however a case where the principle of enclosure was not in issue because the porch was already gated.

⁹ [2013] Fam 158.

¹⁰ [2019] ECC Lic 6 at paragraph 17. I will not refer to this case further on the particular issue of glass doors. The doors in question were not the main entrance to the church and rather particular issues relating to access to a toilet arose.

17. Historic England provides guidance of changes to doors and porches in churches. The relevant passages are as follows:

If you are trying to create a sense of welcome or reduce draughts, it is sometimes possible to introduce an additional, inner set of glazed doors and to keep the historic door(s) open when the building is in use. Good levels of lighting at the entrance can also assist in creating a welcome.

...

If your outer porch entrance has always been open, it is best to keep this arrangement as part of the historic character of the building. If you have a strong need to enclose your porch, the most successful designs are generally partially open screens (in metal or timber, potentially with some glazing) rather than fully glazed doors.

18. The Church Buildings Council provides guidance:

You may want to install glass doors, glazed screens or lobbies to create a draught-proof entrance and allow people to have a clear view into the interior.

We can help you understand the benefits and the drawbacks ...

The benefits

Having a glass screen can:

-) Create a sense of openness and welcome*
-) Create a “shop-window” effect and encourage people to look inside*
-) Create enclosed spaces which do not compete with surrounding architecture*
-) Provide a greater sense of safety*

The drawbacks

Glass screens:

-) Are heavier than other forms of construction and may require special fixings*
-) Are more prone to thermal movement*
-) Can create unintentional reflections*
-) Show marks more easily*
-) Can be a safety hazard (people might not see them)*
-) Can impede air movement and lead to condensation and mould growth*
-) Can cause overheating*
-) May not be fire resistant*

19. The Diocese of London has also produced guidance called *How to install glass doors in your church*. As its title suggests it explains how glass doors may appropriately be installed in churches but it also recognises that there can be disbenefits:

Glass has a presence all of its own: it picks up glare, especially the low afternoon or evening sun, and it also picks up reflections ... In some circumstances a glass door can be visually as impermeable as a solid one. Glass surfaces can also pick up dust, dirt and greasy fingerprints.

20. It goes without saying that keeping the warmth (such as it is) of the church in and excluding draughts increases the comfort of those inside the building but energy efficiency is a good idea in

itself, particularly so in the context of the concern to reduce the Church of England's carbon footprint. There are many policy statements to this effect¹¹.

Consideration

21. I think that the starting point for my consideration of this matter is the harm to the listed building that might arise from the installation of the doors.

22. I have set out at paragraph 14 above the trenchant views of SPAB.

23. Mr Higgins took a rather different view:

[The doors] will not affect the artistic significance of the porch so this element of the building's significance will be preserved. The perception of this being a key route into the church will not be diminished by these doors. Indeed making it clearly the principal entry to the church will re-inforce this as the historic entrance for day-to-day use of the church. The proposed alterations will not materially affect the significance of the building as one of special architectural or historic interest ...

24. The view of the DAC is as follows:

8. Any door enclosing the external arch will reduce the openness of a porch, as seen from outside ... However it is also arguable that if the inside of a porch, even when "open" happens to be substantially in shadow, the real effect of "openness" and the appreciation of the depth of the space is markedly reduced.

9. In relation to the visual properties of glass doors, they will look transparent from the outside when the internal illumination is stronger than external ambient light, generally at night and on days when the natural light is dull. At other times they will be more reflective and therefore reduce apparent openness. However the claim, which appears to have been made, that the effect of a reflective (glass) surface on openness is still worse than that of an opaque (eg wood) surface, was not thought by the DAC to be a valid one. There are ways in which the reflectivity of the glass could be reduced, such as by seeking to use a 'non-reflective' glass product/treatment. In other ways the parish's own future management and use of the doors (and the building more generally) will have greater effect, particularly when (through internal illumination or – in warmer weather – by having the glass doors open more) the comparative lighting levels are such that visibility through the porch into the church is maximised.

10. If¹² reduction in openness is regarded as a harm, then the installation of doors in an external opening (whether glazed doors or not) will constitute a harm ... In this instance the openness of the porch is part of the character of the church and to reduce it thus does constitute a harm in the DAC's view. However it is noted that, whilst guided by relevant policy and precedent, reaching the assessment of 'harm' has a subjective element; and during the local authority's consideration of the planning application, Martin Higgins ... assessed that there would be no material effect on the building's special historical or architectural significance.

11. As to the extent of this harm as assessed by the DAC, it is acknowledged that the porch is located in a Grade I listed building, is of some antiquity (dating from the 15th century) and Pevsner ascribes to it the (double-edged) compliment of it being one of a few worthwhile features about the church ("worthwhile" presumably means architecturally so). It is also to be noted, that to the best of our knowledge, its openness has been a continual feature of the porch during its existence, as there is no documentary or archaeological evidence of doors or gates having been fixed to the external arch.

¹¹ I refer to them expressly in my recent judgment in *In re St Michael and All Angels, Blackheath Park* [2020] ECC Swk 1.

¹² Emphasis in the original.

12. *Balanced against this, the proposal involves no loss of historic fabric, is reversible, is small scale in comparison to the listed building as a whole, and there are aspects (as will be alluded to below) whereby the harm is mitigated.*

13. *Therefore the DAC would conclude that in terms of a detrimental impact to the special historical and architectural character of the listed building, the harm caused by the installation of the doors and consequent reduction in openness can be assessed as being significant but less-than-substantial.*

14. *Although it will be an alteration to the focal point of the building, the harm which could be said to be caused by these proposals being implemented will be mitigated by the way in which the design sets the doors behind the arch. Though some loss of openness will be apparent, the way in which the doors are placed, sitting neatly behind the arch, will still allow the depth of the arch to register from the outside and thus reduce the loss of openness – to some extent¹³.*

25. I need first of all to pick up on what the DAC says at paragraph 14 of its letter. This is making a worthwhile point but it is not describing mitigation as one would usually understand it. The proposals before me set the doors behind the arch; and these are the proposals the harm in respect of which (if any) falls to be assessed. One may say that the proposals before me **incorporate** mitigation or that they would have caused more harm (if any) if they had been within or proud of the arch but that is not at the heart of the issue before me.

26. It will be seen that the view of the DAC as expressed is equivocal. In paragraphs 8 and 9 it is making sound points as to why in any particular case, the installation of glass doors will not as a matter of fact reduce the openness of the porch or, at any rate, it will not reduce it as much as one might think. However they contain the suggestion that reduction in openness may not harm at all – this is made clear by the use of the word *If* at the beginning of paragraph 10.

27. I think that I do understand the point that is being made by the DAC in paragraphs 8 to 10 of its letter and why it was that Mr Higgins, someone evidently with great experience in these matters, expressed the view that the proposals would not affect the significance of the building as one of special architectural and historic interest. It is because the proposals do not **physically** affect the building or at least only do so in a way to which objection is not taken (the fixings of the door are to be made in the joints to stonework)¹⁴.

28. I am unpersuaded that this does not amount to harm. I may or may not be persuaded that the need for enclosing the porch outweighs any harm arising but that is a separate matter.

29. What I do however find extremely difficult is to decide how serious this harm is¹⁵. I have no difficulty in accepting the DAC's alternative formulation, namely that the harm is significant but less than substantial, so that in terms of *Duffield* question 3¹⁶, the harm is not serious and may be outweighed by public benefit. But that does not tell me how serious the harm is. I do take SPAB's point and I think anyone who looks at a mediaeval porch enclosed by a glass door (as at Bletchingley) will appreciate the point that SPAB is making. On the other hand someone looking at such a porch will appreciate that the building itself is not harmed and will generally be able to see through the glass into the porch itself. In the end, what leads me to discount the **weight** of what SPAB says (although I agree with the concern that its objection articulates) is that Historic England does not object and that planning permission has been granted. Historic England is a body of great experience specifically

¹³ I have retained the paragraph numbering of the letter.

¹⁴ Thus I think Mr Higgins's conclusion was a result of a different approach and not, as the DAC float, that he took a subjective view which may be viewed as one of a number of subjective views on a spectrum.

¹⁵ This is the fourth of the *Duffield* questions.

¹⁶ See paragraphs 49 - 50 below.

charged with advising on heritage matters and it finds no reason to object; and its non-objection has evidently informed the view of the planning authority¹⁷.

30. I need to add a footnote. The DAC fairly drew my attention to *In re St Thomas of Canterbury, Mumby*¹⁸. Mumby is a small village in East Lindsey in Lincolnshire. This concerned a nineteenth century porch to a mediaeval building which the Petitioners wished to enclose with a glass door or doors to keep heat in and leaves from the churchyard out. Here English Heritage (as it then was) said that the glass doors would

*... cause substantial harm to the significance of the church through their negative impact on the character and appearance of the church, particularly on the main south elevation and on the historical function of the church*¹⁹.

31. Obviously there are similarities between that case and the petition now before me but it is always important to keep in mind that each case turns on its own facts. In *Mumby* what seems to have been particularly important was the view of the exceptionally fine thirteenth century **inner** doorway that would have been obscured by the glass door.

32. Turning to the issue of need and benefit, I am generally familiar with the use of glass doors to churches as a way of “opening them up”: attracting people inside a church who would otherwise be put off by a solid door. There are examples given in the guidance issued by the Diocese of London. In the present case, the glass doors are proposed so that people will be able *to see in and hopefully, be drawn in*. However this benefit will only arise when the church is being used. Otherwise, the existing historic timber door will be kept locked, so that the view through the glass doors will be of that door. (Note that even if the inner door were left unlocked during, say, hours of light, the glass doors could not draw anyone in because they themselves would be locked.)

33. In terms of the thermal benefit, the DAC say

23. Installation of the proposed new doors will prevent large draughts when the current inner door is being left open, and will thereby aid thermal comfort, reducing heat loss. That will be the key mode of reducing heat loss; the glass doors themselves will not have high insulation value. So there will be some loss by thermal conduction, although clearly less than an open archway. Small gaps will remain at the top, bottom and where the two door leafs meet in the middle. There will be some residual draughts, but these would be minor when compared with leaving open the inner door with an open door with an open outer arch.

24. In the event that the inner and outer doors are both closed the reduction in heat loss would be much more noticeable and thus beneficial. The principle of a “draught lobby” whereby heat can be prevented from “escaping” works on having a configuration of entrance doors whereby only one pair of doors would be open at any given time, thus “trapping” the heat inside the building. A “draught lobby” would not be created where only the outer doors are in use being opened and closed, and with the historic inner door being kept continually open.

34. When I read this it seemed to me that, accordingly, the thermal benefit would be limited. The porch would not operate as a draught lobby (as explained in paragraph 24) because the idea was that the inner wooden door would be open when the church was open to enable people to see in. When both doors were closed there would be limited benefit because glass doors in themselves do not have a

¹⁷ The planning authority is likely to have given some weight to the views of Mr Higgins, which I discount for reasons that I have explained. Its overall assessment would have been made by a qualified planning officer, albeit not one necessarily with particular expertise or experience as regards listed buildings.

¹⁸ Lincoln Consistory Court, 3 May 2014.

¹⁹ The views of the DAC do not emerge from the judgment. One would guess that they were the same as those of English Heritage since otherwise the disagreement might have been referred to.

high insulation value (see paragraph 23). However the Petitioners suggested to me that when both inner and outer doors were shut, the glass doors would operate like double glazing. I sought clarification on this from the DAC. The relevant adviser confirmed what the Petitioners said:

) *there will be significant thermal benefit from the glass doors, when both they and the existing wooden door are shut, because they will act like a form of secondary (or double) glazing by reducing the thermal transmittance from the (currently-open) porch, and also reducing air leakage (ventilation heat loss).*

) *... the comment about “not having high insulation value” refers to the thermal transmittance of a single sheet of glass or single glazing, which is much higher than insulation materials such as mineral fibre insulation. However, this does not negate benefits as secondary glazing in terms of reducing heat loss (as mentioned above) or when operated as a draught lobby (see paragraph 24 of the letter).*

35. Accordingly, I work on the basis that there is a significant thermal benefit arising from the proposal.

36. This leaves the security aspect. One may observe that the porch has remained open since it was first built several centuries ago but that is no guarantee for the future. As I observed in my directions dated 26 November 2019, *I can readily accept that the enclosure of the porch may be appropriate on security grounds.* Obviously such an enclosure need not be glass doors; at this point in the process of assessment of the proposals it is appropriate to consider alternatives.

37. In its initial objection, SPAB suggested

May we suggest instead that consideration be given to an internal glazed porch so that the 14th century door may be left open for everyone and an air curtain is placed inside the church over the arch of the doorway.

38. The DAC observed of this suggestion:

Advisers noted the suggestion of SPAB for installing a warm air curtain over the doorway inside the church, but the DAC generally discourages these as being intrusive, of dubious effectiveness, noisy expensive to install and expensive to run.

39. One could, I think, have the internal glazed porch without the air curtain, but that would impinge on the internal arrangements of the church and also affect its historic layout. I think that it is probably significant that after a senior member of SPAB had visited the church, the Society did not repeat the suggestion.

40. Instead, after this visit (which occurred after SPAB’s initial representation on 9 January 2019), SPAB suggested the following compromise in a letter dated 4 February 2019:

... that the parish considers some simple, attractive and well-crafted wooden doors in place of the glass doors proposed? One door could be left closed and one open to invite people to enter, and then closed during services to keep the warmth in. Additionally, and as suggested in our previous letter, an internal curtain heater might be placed above the inner door to make the space warmer. We suggest that this solution would overcome our view of the unacceptability of glazed doors in this location but would provide the parish with a means of improving the welcome, accessibility and warmth of the south porch.

41. The warm air curtain is subject to the objection set out at paragraph 38 above and it does not seem to me that the church would, with one wooden door open, seem to be particularly welcoming.

Moreover when the doors were closed (most of time) the historic openness of the porch (which SPAB is concerned to preserve) would be lost. I can see that SPAB might prefer wood to glass as being a material that might have been utilised in the fifteenth century but generally speaking I think that this proposed compromise may get near to being the worst of all worlds – not really satisfying anybody.

42. One next considers gates, recognising that if gates were installed rather than any kind of doors, there can no longer be any thermal benefit. However, experience suggests that gates are a common way by which churches address the security issue.

43. Croydon Minster is a good example of this (see **Annex 3**). The gates here were half-height, which reduced their impact²⁰. For security reasons they were raised to full height in 2016. Recognising that I do not have a detailed proposal before me, it would seem that gates are in general terms a better option than glass. The DAC recognises this:

Depending on the spacing of their bars and railings, gates (whether timber or metal) can better preserve some sense of apparent openness, to a greater or lesser degree. However they would have a very visible presence that would need to be designed very carefully and with a high degree of sensitivity in relation to the arch and the porch generally²¹.

44. There is no reason why such gates should not be carefully designed. On the other hand, on the face of it, one would be looking at a more expensive option; and there could be no guarantee that (for whatever reason) gates would ever be installed were I to refuse to grant a faculty for glass doors. And, finally, it seems to me that gates are far from ideal: like the glass doors they close what historically has been open; and bars (particularly when of full height, as at Croydon) may be viewed as unwelcoming. Once one accepts a need for enclosure, it might be thought that the sting of the SPAB objection is drawn; an unhistoric and intrinsically unwelcome enclosure might perhaps be better in visual terms if made by gates but the root objection is to the enclosure, not as to how it is achieved if it is to happen.

45. It seems to me that the public benefit flowing from these proposals is not as strong as it might be and, in particular, the security concerns (which are potentially decisive) are fairly not over-emphasised in the petition. Thus the case is as clear-cut as a decision maker I would like it to be. Nonetheless it is important that I recall that the proposals before me are recommended to me by the DAC. I remind myself that this is an expert body of great experience and which has the benefit of the input of a number of highly respected conservation architects. I also note that on it serve nominees of Historic England, the local authorities and amenity societies. As well as assessing the heritage impact, it is well used to assessing the need for and public benefit of proposals. To assist with the most significant and/or difficult proposals there exists the Church Buildings Council, a body with a similar composition to that of the DAC and of the highest standing. In the present case, it did not wish to comment, content to defer to the views of the DAC. The view of Historic England, as I have explained, is also of considerable significance; and I further take into account the grant of planning permission. In the light of all this, I think that it is appropriate that a faculty should issue despite the fact that the proposals do cause some harm.

46. It is appropriate that I articulate the conclusion that I have reached in terms of the *Duffield* questions.

1. Would the proposals, if implemented, result in harm to the significance of the church as 2. building of special architectural or historic interest?

²⁰ Interestingly, it looks as though at some point the lower part of these gates was made impermeable in some way.

²¹ See paragraph 15 of the DAC's letter. The letter goes on to emphasise the fact that gates would provide no thermal benefit.

47. As set out above, I consider that the answer to this question is “Yes”.

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*, 26–28, and the review of the case law by Bursell QC Ch in *In re St Mary's Churchyard, White Waltham (No 2) [2010] Fam 146*, para 11. Questions 3, 4 and 5 do not arise.

48. By reason of my answer to question 1, questions 3, 4 and 5 do arise.

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

49. The wording of this question, using the word “serious” anticipates question 5. As I pointed out in *In re St John's Church, Waterloo*²², it seems that the word *serious* in question 5 has the force of *very serious*, being the equivalent of *substantial* in paragraph 134 of the National Planning Policy Framework²³.

50. It seems to me that the harm would be *significant* but not *very serious/substantial*, using those words as they are used in question 5. In ordinary speech if someone says that harm is not very serious their meaning is usually that it is inconsequential; here I am using *very serious* as a term of art. In this I seem to agree with the view of the DAC²⁴. As to the seriousness of the significant harm, see the discussion at paragraph 29 above. I think it is relevant here to refer to the fact that the works are reversible. I have expressed elsewhere my view of the general relevance of this matter, namely that it reduces the level of harm that would arise if works were not reversible, but I think that there is a particular relevance in the present case. I think that a person visiting the church will readily appreciate that the new doors are incorporated within the historic building but also that they are clearly identifiable as new work which could readily be removed. I think that this does lessen the harm that they cause.

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

51. I think that there is a clear and convincing case for the proposals even though in this case not all the arguments apply that can sometimes be adduced in favour of glass doors.

5. Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building (see *In re St Luke the Evangelist, Maidstone [1995] Fam 1*, 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 II*, where serious harm should only exceptionally be allowed.

52. I consider that in this matter public benefit will outweigh harm. This is not a case where the harm will be serious in terms of this question.

Conditions

53. Permission is given only for the wooden framed and not the metal framed option. The DAC was not persuaded of the need for any manifestation other than the door handles themselves, although obviously if anything specific is required by the Building Regulations this will need to be provided.

²² [2017] ECC Swk 1.

²³ As to the NPPF, see paragraphs 107 to 109 of my judgment in *In re St John's Church, Waterloo*.

²⁴ See paragraph 10 of its letter dated 23 December 2019.

Accordingly I shall require any manifestations to be the subject of specific approval by the DAC. The provision of push pads on the doors (together with the associated apparatus so that the doors open automatically) will assist those whose mobility is impaired. I shall require such push pads unless the DAC is satisfied that, in the particular circumstances, they are not feasible. The fixings are to be made through the joints of the stonework and, as is usual, the works are to be completed to the reasonable satisfaction of the Church's Inspecting Architect.

Concluding remarks

54. It does appear that I have been engaged with an issue on which there are divergent views among the heritage community, if I may so describe it. Although my decision cannot please everybody within that community, I hope that the discussion contained in this judgment may be useful and perhaps that it may encourage the formulation of clearer guidance.

PHILIP PETCHEY

Chancellor

27 February 2020

ANNEX 1



ANNEX 2



ANNEX 3



11

