

**IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD**

**ST PETER: STOKE UPON TERN**

**JUDGMENT**

- 1) The church of St. Peter, Stoke upon Tern, has a Grade II listing. The current church building dates from 1875 replacing an earlier church on the same site.
- 2) The church has a gabled timber-framed porch. The timber-framed sections of the porch are mounted on a stone plinth and there is a band of solid timber topped by windows with bracing across them. The timber parts of the porch are stained in a dark colouring. The porch has a panelled door surmounted by a glass tympanum which are not original features and which were added in the Twentieth Century.
- 3) The Petitioner, David Higson, has been nominated by the incumbent and the Parochial Church Council to bring the petition and to manage the project for which permission is sought. The petition seeks permission for works of repair and partial replacement of the porch. The proposed works involve repairing damaged and decayed stonework and a significant remodelling of the porch. The footprint and overall shape of the porch are to remain unaltered and elements of the current structure are to be retained. However, the glazing and timberwork arrangements are to be altered. The proposal is that there should be new windows and timber with the new windows extending almost to the stone plinth and not being crossed by bracing. It is proposed that the woodwork should be light oak of a kind which is believed to reflect the original appearance of the porch. The Petitioner explains that existing materials will be used as much as possible and emphasises the retention of the current footprint and shape of the porch. The proposed works also involve creating a level floor and doors operated electronically with a view to facilitating access to the church and the porch by those in wheelchairs and by others whose mobility is impaired.
- 4) The church is in an exposed and isolated position. It is some distance from the nearest dwellings in this small settlement and is on a slightly raised position meaning that it is exposed to wind and rain – an aspect brought home to me on

my site visit on a wet and windy day. It is kept locked other than at the time of services but the porch is left unlocked and is intended to be available as a place for prayer and reflection and one where information about the church is available. With that in mind the porch contains sundry items intended as aides to prayer and reflection. Mr. Higson explains that the decay of the masonry and woodwork means that the porch is no longer wind or watertight and that repairs are needed to prevent further decay and to exclude the elements. This is said to be necessary if the porch is to continue to be a place for prayer and reflection. The alteration of the configuration of the windows and related seating works are intended to create a more open and airy appearance. The interior of the church was reordered in 2003 and that reordering involved the removal of the pews and related works. It is said that the reordering was successful in creating a welcoming setting for worship and fellowship. The proposed changes to the porch are intended to accord with that approach and to bring the porch into line with the appearance of the interior of the church.

### **The Procedural History.**

- 5) There has been no response to the public notice. The Diocesan Advisory Committee has recommended approval subject to the reservation I will address below. Historic England has also expressed reservations but is prepared to defer to the Diocesan Advisory Committee. The local planning authority has stated its view that that there is no need for planning permission and has chosen to make no other comment. The Victorian Society has set out the strong objections which I will address below but has chosen not to become a party opponent.
- 6) I concluded that it was expedient to determine the matter on the basis of written representations and the Petitioner consented to that course. I have received the Petitioner's written submissions and made an unaccompanied site visit.

### **The Approach to be applied.**

- 7) I have already said that St. Peter's is a listed church and that the proposed works will lead to an alteration in its appearance. Therefore, the approach laid down in *Duffield: St Alkmund* [2013] 2 WLR 854 as modified in *Re Penshurst: St John the Baptist* (2015) 17 Ecc L J 393 is to be applied and the following questions addressed:

- a) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
- b) If not have the Petitioners shown a sufficiently good reason for change to overcome the ordinary presumption that in the absence of a good reason change should not be permitted?
- c) If there would be harm to the significance of the church as a building of special architectural or historic interest how serious would that harm be?
- d) How clear and convincing is the justification for carrying out the proposals?
- e) In the light of the strong presumption against proposals which will adversely affect the special character of a listed building will the benefit outweigh the harm?

**Representations.**

- 8) The Victorian Society has expressed its “strong objections” to the proposed works. It says that those works will involve the demolition of a “principal element” of the listed building and refers elsewhere in its submissions to the porch being “a major element of the original building’s external form.” The Society says that the proposal involves the replacement of that original element with a “new porch of a different design”. The Society accepts that parts of the porch are in a poor state of repair but says that this situation could be remedied by works of repair (although it does not spell out the extent of the repair works it accepts would be needed).
- 9) The Society says that there are fundamental differences between what is currently in place and the proposed works. It points to the differences in the shape of the windows and the extent of the glazing both of which will change; to the omission of a trefoil in the gable; and to the use of timber benches rather than stone ones. The key point for the Victorian Society is that it sees the proposed works as going beyond refurbishment or reinstatement and says that they do not even involve like for like replacement. Rather in the Society’s view there is to be a removal of the existing structure and its replacement by something different in

circumstances where the Society says that the case for such a change has not been made out.

- 10) Historic England has indicated throughout that it is prepared to defer to the views of the Diocesan Advisory Committee. However, it does express some reservations about the proposed works. It accepts that there is a need for some repair and rebuilding but would have preferred the rebuilt porch to conform more closely than is proposed to the original design. Historic England regards the porch as originally designed as making a “positive contribution” to the special architectural significance of the church. In further correspondence Historic England accepts that the modification of the drawings setting out the details of the works has gone some way to assuage its concerns but ultimately it remains of the view that a rebuilding conforming more closely to the original design would have been preferable.
- 11) The Diocesan Advisory Committee recommended approval of the proposed works. The Committee did, however, have reservations about the proposal for the inclusion of a curtain heater above the door into the church regarding that as intrusive. It proposed that there be further liaison between the Petitioner and the Committee’s heating advisor in relation to that element of the works but did not regard that reservation as sufficiently serious either to cause it not to recommend approval or to cause it to wish the outcome of that liaison to be brought back to the Committee. The Parochial Church Council has reflected on the Committee’s reservations and has decided not to proceed with that element of the proposed works.

### **The Petitioner’s Response.**

- 12) The Petitioner expresses frustration at the Victorian Society’s failure to respond to earlier correspondence in which the Parochial Church Council had attempted to meet the Society’s concerns. He points out that the Society declined an invitation to visit the church to view the state of the porch. Mr. Higson expresses his belief that the Society has failed to appreciate the extent of the decay of the porch. He also takes issue with the suggestion that the porch’s current state is the result of a failure to undertake proper repairs in the past and in this regard the exposed location of the church is of note.

13) In his submissions Mr. Higson emphasizes the extent to which the current footprint and shape of the porch will be retained. He contends that to require like for like replacement of the current structure would be to lose the opportunity for improvement which, he says, is provided by the need for repairs.

### **Assessment.**

14) In my judgement the following factors are of particular relevance to my application of the *Duffield* guidance here: the extent of the decay of the porch; the exposed location of the church; the extent to which the proposed works involve retention of the footprint and overall shape of the porch; the fact that the door is not an original feature of the porch; and the use of the porch as a place for prayer and reflection in circumstances where the church is necessarily locked other than during services.

15) Weight is to be given to the advice of the Diocesan Advisory Committee; and the views of Historic England and of the Victorian Society. Those bodies have reached different conclusions on the merits of the proposed works. In assessing the weight which the Victorian Society's submissions bear I note that they are not informed by actual inspection of the church or the porch. I understand that the demands on the Society and the limited resources with which it must address those demands mean that a site visit is not possible in every instance where the Society comments on a proposal and not even in those where it objects to what is proposed. The absence of a site visit does not automatically reduce the weight which is to be accorded to the representations of the Victorian Society or any other amenity society. However, in this particular case the location of the church and the use to which the porch is being put are of significance and in the absence of a site visit I have concern that the Society has not taken full account of those matters. I also note the heightened language used by the Society in its submissions. That language is to be contrasted with the markedly more nuanced and balanced approach taken by Historic England and summarised above. The language used in the Victorian Society's submissions is suggestive of a disproportionate reaction to what is proposed.

16) I must begin by reflecting on the impact of the proposed works on the special significance of this church. There will be an impact on that significance in that

there will be replacement of parts of the original structure and the replacement structure will have a different appearance from that original structure. The impact will in my judgement be a modest one. In that regard the stance of the Diocesan Advisory Committee and of Historic England is of note. The footprint and overall shape of the porch will be retained. Moreover, it is significant that the door and tympanum were not original features. It seems that the original porch had an open doorway and so the structure which the Petitioner proposes to modify is one which has already been modified.

17) There is no doubt that the porch is in need of significant repair. The Victorian Society's criticism that this is due to a failure of maintenance and repair in the past is in my judgement an oversimplification and to the extent that it is intended to connote a criticism of those who have the care of this church I reject it. In any event it begs the question of the form which such repairs should take which is the key issue in this matter.

18) It would be possible for the repairs and replacement works to be done in such a way that the current appearance of the porch was retained involving smaller windows and more timber than is proposed. Even on that basis a significant amount of new material would be required. I accept that for the works to be done in that way would reduce the extent to which the Parochial Church Council could achieve its desired objective of causing the porch to be a lighter and more welcoming place and one more suitable for prayer and reflection. Mr. Higson says that the need for repair should be seen as an opportunity to improve the current position. The listed status of the church means that is not the correct approach. I have to consider the need for the proposed works and the benefit which they will bring and assess whether those justify the impact which there will be on the church's special significance.

19) In undertaking that consideration I come back to the fact that works are necessary in any event to address the current decay and to make the porch watertight. It follows that significant rebuilding and replacement will occur anyway. Should the works permitted be limited to those which would replicate the original design of the porch (or rather the original design as modified by the later addition of a door)? Do the benefits of those elements of the proposed works

which go beyond replacement justify the harm to the church's special significance which such elements will cause?

20) It is clearly appropriate that those modifications which are necessary to make the church readily accessible to those with mobility difficulties should be permitted. There can be no real question that the original design should be altered to the extent that such alteration is necessary to facilitate that access. The core question here is whether the benefits from the lighter and more comfortable internal arrangements which would result from the proposed glazing outweigh the harm to the church's special significance resulting from the change to the design of the windows and the related changes. The matter is finely balanced and I am conscious of the presumption against proposals adversely affecting the character of a listed church. However, I am satisfied that the balance is tipped in favour of permitting the proposals by the fact that the church is in an isolated location which makes it appropriate for the body of the church to be kept locked. In those circumstances the porch plays an important part in the mission of the church by providing a place for prayer, for reflection, and for giving information about the work and activities of the local church. Enabling that rôle to be performed well is an important matter. I am satisfied that the proposed works will have the benefit of improving the extent to which the porch fulfils that function. That benefit is real and important and it outweighs the modest impact on the church's special significance which will result from the change in the glazing and timber arrangements and the related works.

21) Accordingly, I direct the grant of the faculty sought.

*STEPHEN EYRE*  
HIS HONOUR JUDGE EYRE QC  
CHANCELLOR  
2<sup>nd</sup> June 2019