

Re All Saints, Thornage

Judgment

1. This is the determination of a petition seeking a faculty for the conversion of the existing vestry into a toilet and tea-point, together with the provision of vestry facilities within the base of the tower.
2. The DAC have recommended the proposed works and English Heritage and the local parish council support the works. The Society for the Protection of Ancient Buildings and the Local Planning Authority are also content with the proposals. There have, however, been objections received as a result of the public notices displayed.

Background

3. In a petition dated 1 October 2013 the incumbent and churchwardens of this parish applied for a faculty for these works. This Grade II* listed church is in the tiny village of Thornage with only 8 people on its electoral roll. Services take place approximately fortnightly with an average congregation size of between 12 and 25 people. The PCC is to be commended for ensuring that the church is open between 9am and 5pm daily, particularly in light of the fact that it is the only community space available within the village. The PCC wish to encourage wider use of this ancient building as well as making the building more comfortable and welcoming for those who already use it. As a result, they wish to provide toilet facilities and a modest tea-point for the serving of refreshments after services.
4. The public toilet nearest to the church is some three miles away in the village of Holt, clearly too far to provide any use to the congregation. When toilet facilities are needed (especially for a recent visiting children's choir, and for visitors who have travelled sometimes long distances for weddings or funerals) the PCC must rely upon the goodwill of neighbours to share their facilities. At present, when coffee is served during fellowship after services, parishioners must transport the dirty dishes back to their homes afterwards and then, presumably, return the dishes again once clean.
5. The intention is to subdivide the current vestry, which was added to the church in 1920. The south side would be used for a disabled toilet, with an external door being placed in the west wall, as the internal door is not wide enough for disabled access. The north side of the vestry would be used as a tea-point, with running water and storage.

Provision for vestry facilities would then be made within the base of the tower.

The objections

6. The objections received as a result of the public notices displayed at the church take two forms. Firstly, four members of the Barnard family have written out of concern for a family grave. Secondly, Mr and Mrs Hammond have raised concerns of principle about the provision of toilet facilities within this vestry. All of the objectors have been given the opportunity to become parties opponent in this case. All have elected (either expressly or by implication) to leave me to take their written representations into account. I have read the objections carefully and will deal the two aspects of concern in turn.

The Barnard grave

7. The four members of the Barnard family who have raised objections to the proposed works are either the daughter or grandchild of Mabel Rose Barnard whose remains lie buried with those of her husband in the churchyard close to the trench which is to be dug to accommodate the drainage pipes for the proposed works. It is fair to say that none of the Barnard family object to the provision of the toilet and tea-point facilities within the church. Rather, they raise understandable concerns about the integrity of and risk of damages to the grave of Mabel Barnard.
8. The petitioners acknowledge the Barnard family's concerns, but are clear that there would be no disturbance of the family grave. Although the trench would pass close to the family grave, it would not interfere with it and the petitioners would ensure that instructions were given that the excavated soil must be placed on the opposite side of the trench from the grave whilst the works were on-going. I am assured that the architect spent a considerable amount of time measuring the churchyard and investigating possible routes for the drainage in an effort to ensure that graves were not disturbed. The other possible route identified would interfere with the main access to the church during the works and, significantly, would involve a much longer route including a number of bends. Those latter considerations would, in all likelihood, involved a greater risk of the need arising in future to excavate the trench again for repairs etc not least because the use of drain rods would be difficult, if not impossible. The route which the petitioners would like to use is straight.

The change of use

9. Mr and Mrs Hammond, who have been involved in the life of the church for some 30 years, object to the change of use of the vestry into a toilet and tea-point. They point out that the vestry was built just after World War I in memory of those lost and they raise concerns that to change its use from a vestry to a toilet is insensitive. They argue

that the provision of toilet facilities may be unnecessary and should be first tested by the provision of a portable toilet in the churchyard. They also query the need to adjust the height of the threshold of the main door.

10. Mr and Mrs Hammond suggest that the provisions of the War Memorials Act 1923 may come “into play”. I am satisfied that that statute, which was passed to enable local authorities to maintain war memorials and which is permissive only, is not engaged in this instance.
11. The petitioners query the significance of changing the use of the vestry (which, after all, is simply a changing-room) into a toilet facility. They acknowledge the link to World War I but point out that the memorial stone erected is on the south wall of the vestry and will be unaffected by these proposed works. In relation to the changes to the main threshold, the petitioners argue that it is necessary to ensure compliance with disabled access legislation.

Determination

12. In its decision in *Re St Alkmund, Duffield* [2013] Fam 158 the Court of Arches set down a framework or guidelines for the determination of petitions dealing with the re-ordering of listed buildings. That framework took the form of a list of questions. The first question to be addressed is whether the proposals would, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest? The Court of Arches went on to state that if the answer to that question 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. In those circumstances the subsequent questions listed in the *Duffield* case do not arise.
13. In this case, I am satisfied that the proposed works would not result in harm to the significance of the church. That is clearly a view shared by both English Heritage and the local planning authority. I note, also, that the objections received do not principally relate to a concern for the historic or architectural significance of the building. It is true that the drainage works could affect archaeological remains existing within the churchyard, but that risk will be adequately addressed by the requirement that the works will be monitored by a suitably qualified and experienced archaeologist under a watching brief agreed with the Norfolk Historic Environment Service.
14. Given that the answer to the first question is ‘no’, we fall back upon the more or less readily rebuttable presumption in favour of things as they stand.

15. In this case, the petitioners have shown an overwhelming case in favour of the proposed works. Mr and Mrs Hammond themselves acknowledge that there has been little use of the church over the last 30 years, apart from for services. Even for services, congregations are relatively small. The petitioners here are seeking to introduce relatively basic facilities of the type now expected by modern congregations. The facilities will be of real importance in encouraging wider use of this church building, especially by the elderly or very young. It is of particular importance that there is no other community facility or hall within this village. Section 1 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 exhorts those involved in the care and conservation of churches to have 'due regard to the role of the church as a local centre of worship and mission'. These proposed facilities will go a long way to help this building to fulfil its role as such a centre in the village of Thornage. The change in threshold levels is a necessary part of opening up this church to all of the community it serves.
16. Whereas I understand Mr and Mrs Hammond's concerns about the sensitivity of changing the use of this vestry into a toilet and tea-point facility, I do not find that those concerns outweigh the benefit which the parish will gain from the works. I find it significant that at the time the monies were spent in memory of our war dead, the decision was made to use those monies to create something of practical benefit to the parish community, rather than a simple memorial. These proposed works could be seen to continue in this vein in bringing much needed facilities into this community.
17. In relation to the objections raised by the Barnard family, I have great sympathy for their concerns. Nevertheless, I find that to require the petitioners to lengthen and complicate the drainage route in the way suggested, with the consequent risk of greater future disturbance of the churchyard is disproportionate. Instead, I find that the placing of stringent conditions upon the faculty to be granted will ensure that their concerns about disturbance of their family grave can be allayed. As well as making it a condition of this faculty that the grave shall not be disturbed, I shall require the petitioners to ensure that contractors place the excavated soil on the opposite side of the trench to the Barnard grave. In addition, the excavation works shall be undertaken subject to the archaeological monitoring referred to above and the usual condition about the seemly and reverent re-interment of any disturbed remains shall apply.
18. In light of the above, I order that a faculty shall pass the seal in relation to the proposed works, but subject to the following conditions:

- a. The petitioners shall ensure that the drainage route does not disturb the grave of Rose Barnard and shall ensure that the contractors undertaking the excavation works in the churchyard place the excavated soil on the opposite side of the trench the that grave;
- b. The works shall be undertaken by a contractor approved by the inspecting architect;
- c. The electrical works shall be executed by an NICEIC approved/ECA registered contractor;
- d. Mr C Birks, or some other suitably qualified and experienced archaeologist approved by the inspecting architect, shall be appointed to carry out a watching brief for the excavation works;
- e. Any interment and any disarticulated remains which are disturbed by the excavation shall be re-interred as soon as reasonably possible in a seemly and dignified manner. Any such re-interment shall take place within the churchyard and, in the case of articulated remains, in a location as close as reasonably practicable to the original interment;
- f. Any surplus excavated soil should be re-deposited on consecrated ground;
- g. The works shall be executed under the direction of Ruth Blackman; and
- h. The works shall be completed within 18 months of the issue of the Faculty or within such extended time as may be allowed.

Ruth Arlow
Chancellor

29 November 2013