

**Neutral Citation Number: [2016] ECC Lon 1**

**IN THE CONSISTORY COURT OF THE DIOCESE OF LONDON**

**IN THE MATTER OF ST GEORGE, HANWORTH**

**AND IN THE MATTER OF AN APPLICATION FOR AN INJUNCTION AGAINST  
THE LONDON BOROUGH OF HOUNSLOW**

### **JUDGMENT**

1. This was an application by the Parochial Church Council of St George, Hanworth ('the PCC') for an injunction against the London Borough of Hounslow ('the Borough'). It related to a site known as Rectory Court ('the site') which is registered at HM Land Registry as being in the ownership of the Borough. The site is immediately adjacent to what appears to be the churchyard and curtilage of St George's church and hall, although in fact the Church land immediately adjacent to the site is vested in the London Diocesan Fund and a children's nursery has been built on it.
2. The Borough or its statutory predecessor has been registered proprietor of the site with freehold title absolute for some 69 years. The site was acquired by its predecessor, Feltham UDC, from previous, private owners who had themselves been registered with title absolute for many years.
3. The Borough intends to redevelop the site, which has been (and will remain) in residential use. It has planning permission to do so.
4. The application has an unusual history. It was initiated on 8 December 2014 by the Priest-in-Charge at St George's, the Reverend Paul Williamson ('Fr Williamson'), supported by one of his Churchwardens, Mrs Janet Tewkesbury. The application was in the prescribed Form 16, but was signed by Fr Williamson only. Evidence in support was provided by a witness statement by Fr Williamson. Fr Williamson argued that the site is historically part of the churchyard of St George's and is still subject to the legal effects of consecration. He stated also that human remains had in the past been discovered on the site.
5. Fr Williamson himself served a copy of this material on the Borough, although unfortunately he served an unsigned and undated copy of the witness statement.
6. The application showed signs of being procedurally ill-conceived. It was evident to me that it had not been drafted or considered by anyone with relevant legal knowledge. In the circumstances, I declined to treat the application as an emergency one, but a written response with supporting documentation was received from the Borough on 30 March 2015.
7. I held a case management hearing in chambers on 8 May 2015. Fr Williamson appeared in person. The Borough were represented by Mr David Lamming of Counsel, instructed by Messrs Sharpe Pritchard.

8. At the case management hearing both the Court and the Borough took the point that by a Civil Proceedings Order made against Fr Williamson on 16 July 1997 he had been declared a vexatious litigant. The proceedings were stayed to enable him to apply to the High Court for leave to bring the application.
9. Fr Williamson duly applied to the High Court for leave to appeal. His application was refused by Mrs Justice Patterson on 8 June 2015. She observed that Fr Williamson's status as a declared vexatious litigant did not prevent him from giving evidence in Court proceedings initiated by others, but she also said the following of the application:- *'The land which the applicant is concerned about has been in the registered ownership of the Respondent since 18 March 1946. On the land is currently purpose-built sheltered accommodation. Its presence is inconsistent with the land being consecrated, which is what the Applicant contends. Even if, at some time, the land was consecrated the presence of the sheltered housing gives rise to a reasonable assumption that the consecration was lifted. Alternatively, the public interest in the application upon which the Respondent is currently consulting could outweigh the public interest that the land should be used for sacred purposes when it has not been so used for a prolonged period of time. In any event, the Respondent is on record as saying that it has no intention ' to commit, or cause or permit the commission or continuance of any act in relation to... a churchyard... being an act which would be unlawful under ecclesiastical law.'* *If the land is consecrated then the Bishop has the power to make a conditional deconsecration order which the Respondent has expressed willingness to invite the Archdeacon of Middlesex to make directing that the land shall not be subject to the legal effects of consecration, which the Archdeacon... has stated would be the most sensible future step to take. For those reasons there are no reasonable grounds for proceeding and the application for leave is refused.'*
10. Notwithstanding this, representations by telephone and letter were made to the Registry by Fr Williamson (and by others apparently assisting him under the aegis of the Diocesan Property Department) to the effect that the PCC believed Fr Williamson had a legitimate case and wished to see the application proceed. Nevertheless, the PCC seems to have taken a conscious decision not to seek any independent legal advice, nor does it seem to have given any consideration to the observations of Mrs Justice Patterson.
11. With some reluctance, I gave leave for the application to proceed on the basis that it would be treated as an application by the PCC and not by Fr Williamson, thereby complying with the Order of Mrs Justice Patterson, and directed that Fr Williamson was not to participate in the proceedings, except that he would be permitted to give evidence if necessary.
12. I also directed that the parties were each to submit written statements of case with evidence in support. This was eventually done, the PCC's statement being dated 26 October 2015, and the Borough's statement dated 2 December 2015.
13. The application finally came to a substantive hearing on 20 January 2016.
14. At the hearing the PCC was represented by Mrs Janet Tewkesbury. The Borough was represented by Mr David Lamming of Counsel. I also heard oral evidence on oath from Fr Williamson. I had already read and considered the written statements of case and documentation in support.

15. Mrs Tewkesbury presented the PCC's case with sincerity. She was, however, in some difficulty because, first, she was completely unable to adduce any compelling evidence that the site had once been part of the consecrated churchyard and was still consecrated and, secondly, she was subject to frequent prompting and intervention from Fr Williamson. It was evident to me that, in reality, Fr Williamson had conduct of the proceedings and was demonstrating a lack of the knowledge and understanding necessary to someone charged with the burden of proof.
16. Briefly, Mrs Tewkesbury said the PCC was seeking a decision as to the consecrated status of the site as well as its alleged continued ownership by the benefice, an injunction against the Borough restraining it from carrying out building works on the site and an Order for compensation for lost burial income going back some 50 years. The existing churchyard is not indicated in the Registry records as having been closed for burials by Order in Council.
17. Mrs Tewkesbury said it was part of the PCC's case that the site had been designated as vacant land prior to having been acquired by Feltham Council. She also indicated that the PCC disputed the accuracy of the Land Registry plan on the Borough's title, despite the fact that this had been undisputed and acquiesced in for sixty years or more.
18. Fr Williamson in evidence claimed that this inaccuracy had been proved by surveyors acting on behalf of the PCC who had carried out measurements. However, no such evidence was before the Court, nor had there ever been any attempt to seek rectification of the register.
19. I pointed out to Mrs Tewkesbury that, if the PCC seriously wished to pursue that line, they would need to apply to adjourn the proceedings to give time for an appropriate professional measured survey report to be prepared and lodged.
20. Mr Lamming for the Borough said that further measurement would achieve nothing. He was clear that the Borough and its statutory predecessor had been absolute owner of the site since 1946. He said that planning permission for the proposed development had been obtained, a demolition contract let, and a construction contract was pending. He pointed out that, if the Borough was prevented from proceeding because of action by the PCC, the potential costs liability on the part of the PCC could be substantial.
21. I told the parties that my reading of the statements of case and annexed plans in my view supported the position of the boundary of the site with the Church land as shown on the Land Registry plan of the Borough's title. I did not find the purported evidence of watercolour paintings of 1790 and 1801 which was adduced by the PCC to be either helpful or convincing. In any event, the likelihood of artistic licence means that such evidence cannot be relied upon. Furthermore, I found the copy estate plan dated 18 July 1878 (also adduced by the PCC) to be consistent with the current boundary. The position of the 'T' boundary mark on that plan also indicated that the boundary was the responsibility of the owner of the site – a further indication that ownership was not at that time with the Church.
22. I also observed that no evidence had been produced as to consecration, and no evidence that the human remains referred to in the PCC's statement had actually been exhumed from the site. On the contrary, the evidence suggested that the remains referred to had

actually been discovered on the adjoining Church land – in particular on the portion of Church land now vested in the London Diocesan Fund.

23. Mrs Tewkesbury responded by saying she believed I had misinterpreted the boundary markers, and that at least a small part of the site remained consecrated.
24. I pointed out that a key part of the PCC's argument was the prima facie inalienability of consecrated land. This led me to a further related point, which only emerged immediately prior to the hearing.
25. Shortly before the hearing the Registry on my behalf checked the up-to-date position of the two registered titles together comprising the site and curtilage of St George's Church and hall. This revealed a Deed of Grant entered in to on 11 April 2014 between Fr Williamson (purporting to be Incumbent and not, as he actually is, Priest-in-Charge) and Thames Water Utilities Ltd. I pointed out that this Deed is ultra vires and void because, firstly, no Faculty was granted, secondly, Fr Williamson is not Incumbent and, thirdly, it is not possible to grant a legal easement over consecrated land in the absence of a Scheme by the Church Commissioners or other express statutory authority. Fr Williamson purported to do so with full title guarantee.
26. I asked Mrs Tewkesbury if the PCC was aware of this Deed of Grant, for which Thames Water paid a premium of £10, 000. After some hesitation, she said she did recall the matter being discussed by the PCC. I asked Fr Williamson what professional advice he had obtained in respect of the Deed and its terms, to which he replied that he 'always takes advice from the Registry'.
27. The Registry has no record of such advice, but to my knowledge has frequently advised Fr Williamson and others (including those acting on his behalf) as to the need for such arrangements only to be entered into by way of a licence authorised by Faculty. Indeed, the Registrar's letter to Mr Greene of Quadrant Property Management Limited dated 24 November 2008 (of which Fr Williamson was fully aware and which is referred to in the PCC's statement of case) makes this very point.
28. This unauthorised action by Fr Williamson is wholly inconsistent with the contention by him and his PCC as to the inalienability of consecrated land. Although not directly affecting the site vested in the Borough, it is seriously damaging to the credibility of the PCC's already weak case. It may also be a disciplinary matter.
29. On the basis of the evidence before me and the submissions of the parties, I dismissed the application. I observed that the application appeared to be an opportunistic and unjustified attempt to extract money from the Borough.
30. The Borough applied for costs. I made no immediate Order for costs, but directed that the PCC should have 14 days to respond to the Borough's application, with the Borough then having a further 7 days to reply.

HHJ Seed QC  
Chancellor  
2 February 2016