

Neutral Citation Number: [2023] ECC New 6

**DIOCESE OF NEWCASTLE
IN THE CONSISTORY COURT**

His Honour Judge Simon Wood
Chancellor

30 August 2023

In the Matter of St Thomas the Martyr, Newcastle upon Tyne: organ refurbishment

JUDGMENT

Introduction

1. St Thomas the Martyr holds a unique status in the Church of England in that it has no parish but nor is it a Peculiar. It is governed by a body corporate comprising the Master (the senior priest) and Churchwardens whose power derives from statutory authority.
2. On 8 January 2021, court approved a major re-ordering of the church of St Thomas as a prelude to re-purposing it as the Diocesan Resource Church. The court's judgment at [2021] ECC New 1 sets out the background and the nature of the re-ordering approved. By petition dated 30 January 2023, the Master petitioned on behalf of the body corporate to commence the process of repairing, modifying and refurbishing the organ to bring it back into a fully working and playable condition, work to be carried out in phases, hopefully, over the course of the next decade as and when funds permit another stage.
3. Having been the subject of public notice in accordance with rule 6.2 of the Faculty Jurisdiction Rules, the registrar received a single, hand written letter of objection dated 1 March, from a congregant, Mrs F Harding, in the following terms:
 - (i) people are just beginning to find the church after the previous refurbishment and to disrupt the church again seems unwise;
 - (ii) at a time when the diocese is under financial pressure, so that rural ministers are having to cover up to eight churches; others have no incumbents or are closing, this doesn't appear to be good stewardship of the resources we do have;
 - (iii) when people are unable to buy food and energy costs are rising, whilst others are losing their homes or under threat of doing so and across large areas, it again seems a strange use of the resources we do have.

4. On receipt of the letter it was referred to the petitioner for comment and, in an undated letter received on 25 May, the Master replied as follows:

'The restoration of the organ at St. Thomas' to its former glory would be a remarkable undertaking.

Mrs. Harding has presented valid points that warrant careful consideration.

It is crucial to acknowledge that we have inherited an organ that has suffered from a lack of maintenance for over two decades, resulting in its current state of disrepair. This instrument holds a special place in the hearts of many due to its historical significance.

However, we must also be mindful of the potential negative perception that may arise among the congregation at St. Thomas', the broader diocese, and the general public when contemplating the significant expenditure required for its restoration.

In these times of societal and financial strain, both the diocese and numerous churches face pressing financial challenges. Consequently, allocating substantial funds to restore the organ poses the risk of unfavourable perception. It is our responsibility, as custodians of the church and diocese, to effectively manage and navigate this potential concern and perception problem. Similarly, investing sums of money in the rebuilding of the console, knowing that it won't contribute to the instrument's ability to even sound, requires careful consideration.

I humbly present these thoughts for your consideration, acknowledging the need to strike a delicate balance between our respect for the organ's importance, public perception, and the financial realities faced by our community."

5. This thoughtful and reflective but ultimately inconclusive response resulted in a pause for thought and a request of the Master as to whether the petition was pursued. On 4 July he confirmed that he did, offering further explanations I will quote later in this judgement.

"I maintain my position as the petitioner that the application should proceed as originally proposed. This entails the console being returned to St Thomas' and the complete restoration of the organ once the necessary funds have been raised."

6. Finally, it should be noted that having been invited to indicate whether she wished to become a party opponent, Mrs Harding indicated that she did not.

Background

7. It is not necessary to rehearse the broader background that was discussed in [2021] ECC New 1 other than to note the nature and purpose of the re-ordering as well as the church's role *vis à vis* the civic community (as there noted it

stands on land immediately in front of the City's Civic Centre) as well as its strong relationship with Newcastle University and Northumbria University (it stands between, and close to, each of them).

8. The organ itself is a significant one, built by the famous Durham organ builders, Harrison & Harrison, in 1961, albeit incorporating some components from its predecessor. A report in 2007 notes that it was, however, substantially new in 1961 and characterised it as a fine instrument. Although maintained by the manufacturer on a regular basis for the first 30 years of its life, that became irregular despite "still behaving remarkably well" in 2007, a testament to the quality of the original build. Alas, things thereafter slipped and, from not then in need of a full-scale overhaul it is now no longer in a playable condition.
9. Nevertheless, at a fairly early stage in the planning stages of the re-ordering, it was noted that the organ was to be retained and remain as an attractive feature both of worship and community activities such as organ recitals which had hitherto been popular events that drew more people into the church.
10. Although it did not feature in the 2021 re-ordering faculty, in June 2022, it came to the court's attention that, during the church refurbishment works, the console had been removed from the church without permission. The source was a member of the DAC, who had an interest in the organ, and his report lent support to the significance of the instrument which is worth repeating here:

Its design was developed in consultation with Dr Alan Wicks, then organist at Canterbury Cathedral, and the substantial sum for its genesis borne by a local charitable trust. To replace it today would cost almost £2 million. During the 1960s and 1970s, it attracted recitalists of international reputation, the concerts being extremely well attended and often broadcast on Radio 3.

11. With a suitable rebuke for carrying out works without suitable authority to do so, this event was explained as a necessary step to ensure it was sufficiently protected from the works but that there was a clear intention to return it in due course as part of a wider plan to restore the full instrument once suitable fundraising had been carried out. Having been furnished with advice by the DAC which agreed to the console being stored for 12 months on terms. The court approved a retrospective amendment to the 2021 faculty in these terms:
 - after 12 months the console must be brought back to the church.
 - at that stage, though preferably before, details of the work required to bring the organ back into full use must be presented to the DAC for a separate faculty.
 - the organ should be regularly inspected, as it may deteriorate further. In particular there was some concern about humidity inside the organ due to the change in heating and Harrison's should be asked to check this.
12. The petition now before the court comes pursuant to the amendment and is accompanied by a detailed plan of restoration in phases. It notes that, such is

the condition of the instrument that it can no longer sound without upgrading and extensive repair. Thus, the return of the console to the church is but a preparatory step to future work. The plan describes the work required which falls into two phases.

13. Phase 1 is broadly to enable the organ to be playable again but is itself in several parts: rebuilding and re-positioning the console cabinet at the east end of the south balcony, close to its original location albeit not reconnect it to the instrument as the linkage mechanism is obsolete and will require renewal. The original budget sum for this remains ringfenced and available although the preference in the first instance, is to store it in its disassembled state until the balance of this phase can be completed. That comprises the installation of a reliable contemporary digital linkage system and then essential works to the instrument itself to make it playable.
14. Phase 2 would be the full overhaul that, although not mandated in 2007, certainly is now.
15. Needless to say, the costs involved in 2023 terms are very significant: although the console could be re-built now for around £13,000 with the funds originally earmarked for this, the preference is to postpone that and for it to be undertaken with the whole of phase one which is likely to cost in the region of £200,000. Phase 2 will cost at least double that.
16. The proposal is to establish a fund raising committee to develop a funding strategy with proposals to seek grants from those bodies which make such awards, public and private benefactors.

Discussion

17. The issue raised by Mrs Harding is obviously sincere and well intentioned. It is obviously sensitive at a time of extreme pressure on public and private finances with evidence of hardship being suffered by many never out of the daily news. The Master's quoted responses recognise this very clearly and he can readily see the potential for reputational damage.
18. However, the starting point has to be that the console was removed from the church on a temporary basis, for good reason, and on strict terms as to its return. That return was not based on any condition or contingency: it was a mandatory order directing its return. It follows that what is being sought in terms of the return itself is not only not controversial but is a requirement of a faculty of this court.
19. The controversy relates to future expenditure to return what might otherwise be regarded as a series of components with no functional purpose into a usable musical instrument. That it is a significant and potentially very valuable instrument is apparent from what has already been said. It has the capacity to be used to complement and enhance worship as well as to be used for social and artistic purposes to the benefit of parishioners, the local community and

other visitors alike, all of which will contribute to the well-being to the church as a vital, living hub in the unique community in which it is situated.

20. Furthermore, it is an asset of the church that, as has been seen, itself arose from the generosity of those who enabled it to be built in 1961. It might reasonably be thought that, in addition to those mentioned in the previous paragraph, there is a positive duty on the current custodians of this presently defunct asset to those who had the vision, energy and generosity to enhance the church with the instrument when it was installed. Quoting again from the DAC member who reported the removal of the console:

Because of its history and musical quality, the organ in St Thomas' is an important part of the heritage of the church and of our city, which would be a great loss, and not only to our musical life, if it were to remain silent.

21. There are, of course, many calls on the limited finances of the church and those charged with their management are called upon to do so responsibly, fairly and with a proper regard for competing demands. This court is not concerned with making judgments about such decision making unless decisions are being made that are, in effect, decisions that no reasonable PCC paying proper regard to its constitution, its needs and priorities would make. In this case, the sensitivity around the expenditure of significant sums on the organ has been well recognised by the Master as petitioner. The only sum earmarked is a modest one that formed part of the original budget for the re-ordering. I repeat his initial response:

“allocating substantial funds to restore the organ poses the risk of unfavourable perception. It is our responsibility, as custodians of the church and diocese, to effectively manage and navigate this potential concern and perception problem.”

In his second response, a like message:

“I am also mindful of my role as the Master of St. Thomas' and the importance of preserving the heritage of the church.”

22. Further comment illustrates recognition of the balance that has to be struck and the sensitivity surrounding that exercise:

“While we are all facing financial pressures, I believe that the funds necessary for the organ's restoration should come from new external sources rather than diverting existing funds designated for mission and ministry.

When the funding becomes available, it will be crucial to communicate the restoration work in a manner that considers the perceptions and concerns some individuals may have regarding the financing of such a significant project.”

23. In relation to Mrs Harding's concern about disruption, the Master said this:

"The organ holds significant historical value for the church and plays a vital civic role. It deserves to be given a voice once again. It is important to note that the restoration of the organ will cause some disruption, but this is a future endeavour that will require substantial funds to be raised before any work can commence. The restoration schedule will be carefully planned to minimize disruption to church activities."

Decision

24. In the court's judgment, the Master, as petitioner, has shown entirely appropriate respect and sensitivity to the concerns sincerely raised by Mrs Harding. The decision to return the console is no more than compliance with this court's faculty. The decision to embark upon a programme of external fundraising with the ambition to restore the instrument, first, to becoming playable and, thereafter, overhaul it to provide another half century or so of service is a responsible one and in no sense capricious. It recognises the need to seek external funds and not divert money from mission. Any such work will cause a degree of disruption. Without that, no church would ever be restored or altered. There is a wealth of experience of managing such works to minimise interference with the daily working of the building as a place of worship, a sanctuary, a venue for suitable social and performance events and work.

25. The plan is an ambitious one, will require much fundraising and will likely take at least the decade that it is suggested will be required. In the court's judgment, to grant an open ended faculty to cover the entire project over at least ten years in circumstances where two distinct phases are identified would not be appropriate faced with such uncertainty. The ambition to return the console and embark on Phase 1 is, however, reasonable as presented and the court is satisfied that it should grant a faculty to complete that work within a period of five years from the issue of the faculty with the opportunity to return to the court before the expiry of the faculty to seek an extension on the presentation of a worked up plan for Phase 2.

26. In short, I am satisfied that the petition be granted to enable the Petitioner to proceed with Phase 1, a plan recommended for adoption by the DAC.

Simon Wood
Chancellor
30 August 2023