

**Neutral Citation Number: [2019] ECC Bri 1**

**In the Consistory Court of Bristol**

**In re Bristol, St Philip and St Jacob**

## **JUDGMENT**

1. A petition from the incumbent and Church Wardens requests permission to:

‘enter into a Licence agreement with Bouygues UK (BUK) to rent out part of the churchyard. ...BUK will construct and occupy site offices, site welfare facilities and car parking in accordance with the works specification. In order to allow access for construction the pair of the church gates in the north west corner will be widened and replaced with automated access gates with a GSM intercom system. These will allow the church office and BUK remote access for visitors, deliveries and car park users. These will remain after the licence terminates. In addition to these works we are looking to sell some furniture which is unused and has been in storage for some time. List of furniture: 1. Two 20th Century Glastonbury Chairs; 2. Three lockable Metal Safes; 3. Brass Lectern; 4. Oak Prayer Desk—Plain; 5. Jacobean Revival Open Oak Chair; 6. Three Front Carved Prayer Desks.’

2. The amenity bodies were consulted and the Registrar has reviewed and approved the licence agreement with BUK. The petitioners have given assurances that the income from the licence will be used as capital funds and for the restoration and maintenance of the fabric of the church.
3. None of the amenity bodies have indicated that they wish to be parties opponent, but I take their comments on board in my decision. I am very grateful for their thoughtful and helpful input.
4. The Victorian Society stated:

We would particularly regret the disposal of the brass lectern, the large oak chair and the three prayer desks. All are attractive pieces, which do (or could) contribute positively to the character and appearance of the historic interior, for which presumably they appear to have been designed specifically, and of which they have formed part for a century at least . The lectern bears a shield plaque bearing an inscription, indicating that it was commissioned and installed – and has served ever since – as a memorial to “RICHARD CORNALL FIRST VICAR OF THIS PARISH 1862-1908”. To dispose of it, and with it the historic interest and information it conveys, as well as its aesthetic value, seems rather heartless, not to mention seemingly unnecessary. The oak chair is in the manner of the

communion table and is an impressive piece. The prayer desks are attractively designed with decorative blind tracery panels, are clearly a set - of sorts - and bear stylistic similarities with the panelling in front of which the three metal safes (items B for disposal) have been photographed. We respectfully suggest that on the grounds of aesthetic and historic interest there is surely benefit and reason in retaining these pieces.

5. In relation to the BUK licence, Historic England warned:

the potential archaeological implications of the ground loadings of temporary buildings and the excavation of the ground in association with the proposed new gates need to be properly investigated. We would wish to have comfort that the works would not result in the compacting of burials and associated remains within the churchyard. Likewise, the construction of any new gates may result in archaeological impact.

We advise that the proposed replacement gates require further thought, particularly as it remains unclear to whether this is a temporary or permanent intervention. Presumably, the recessed arrangement is on account of highway requirements for vehicles to exit the highway. However, this is an unconventional and potentially incongruous layout in the context the historic boundary to the churchyard. The hollow-section steel posts are particularly bulky and lack the finesse of traditional ironmongery. There also needs to be further details for the proposed widening of the entrance with regard to specifications for reforming the chamfered stone face and mortar specifications.

6. SPAB also raise issues about the archaeological issues in relation to the contract stating:

Should consent for this licence be granted we would request that a pre-commencement condition is imposed for a full and detailed archaeological survey of the area to be leased. Depending on the results of this, some trial trenching to ascertain the actual depths of any archaeological remains may also be advisable. The results of the survey may also require a mitigation strategy to be agreed. If the survey shows that there are significant remains / vaults close to the surface that would be damaged by the proposed levelling and compaction, what are the alternative options? An archaeologist should be on site throughout the phase of preparing the compound and whilst connecting it to services such as the foul drain.

It is understood that the proposed compound and all the facilities associated with it are temporary and will be removed afterwards. However, there are also some discrepancies noted within the Draft Licence. In Schedule 3, point 11, it notes that the car park area will remain afterwards, whereas in the Annex to the Draft Licence (pg 1, 6.1) it clearly states that the parking spaces will be removed and the grass reinstated. Can this be clarified, please? We would expect that the

parking areas and all signs of the compound would be removed and that the area be returned to grass / soft landscaping as it is now.

We also have some concerns regarding the height and weight of the cabins being in such close proximity to a number of mature trees surrounding the churchyard. We would therefore advise an early discussion with Bristol City Council's Tree Officer to ensure that any mitigation measures they make require are taken into account.

Again, moving the gates may also impact on the archaeology so this will need to be addressed as part of the pre-commencement conditions. We would also suggest that the proposed gates and railings need to be of a higher quality and design to reflect the setting of a Grade II\* listed church.

They conclude:

We are happy with the proposals in principle, providing that our concerns regarding the archaeological potential of this area can be satisfactorily overcome first, and that the area is returned to its current appearance afterwards.

7. The petitioners have replied in detail to the concerns raised by the amenity bodies.

8. The petitioners made inquiries of the provenance of the items of furniture mentioned above:

The Brass lectern does contain a plaque reading 'In Loving Memory of Richard Cornall, First Vicar of this Parish 1862-1906' however, our history books inform us that Richard Cornall was never a vicar in this church and in fact St Philip and St Jacob had 3 different vicars in this time frame. Having done a little research, Richard Cornall was the vicar of Emmanuel (The Unity), a church that was located (now demolished) in The Dings. It was built in 1862/3 and closed in 1939. Therefore, it is thought that this furniture came from Emmanuel when it closed and the two parishes merged. The same Richard Cornall is buried at Arnos Vale cemetery (1 mile away) and a similar inscription can be read on his gravestone. I have contacted Arnos Vale (which is now a museum and event space) to enquire as to whether they may be interested in acquiring the Lectern either for their museum or for use in their chapel. This would be our first and preferred port of call.

9. In relation to the other pieces of furniture, they indicate that they have been in storage for 10 years. I have seen no faculty for the removal of the furniture from the church, and look forwards to receiving a copy of it. In summary the petitioners state that they have no use for the furniture due to their new style of worship. They include photographs of the church as it is currently used.

10. In relation to the licence for BUK's cabins the operations manager of the Church has stated:

Potential Impact on Archaeology – The churchyard was closed in 1886 and in 1907 when the church was undergoing renovation the gravestones were lifted. Some were used to pave the aisles between the pews inside and the rest were used to pave directly around the exterior of the church. The location of the proposed site offices is known to be an area where burials have historically taken place. Being aware of this, we are minimising the risk of disturbing these through careful planning, delivery and monitoring. Bouygues UK (BUK), the developer, has been issued a plan of known burials and prior to the commencement of any work will undertake a ground penetrating survey to discover the exact positioning of both these burials and any other unknown burials/archaeology. They will use this information when placing foundation pads to mitigate the risk of compaction to archaeology. Before the foundation pads are placed the ground will be levelled with hardcore to help further reduce compaction and the foundation pads will sit on the hardcore. All will happen above ground level so no digging will be required when placing the foundations. Some digging will be required in order to tie into existing services (water, sewage and power) however, BUK will again plan around any known archaeology and have a watching brief in place to help safeguard against the disturbance of any unexpected archaeology. We would consider that SPAB's request for a full archaeological survey pre-commencement is unreasonable and unnecessary as the existing plans already mitigate against the disruption and disturbance of the archaeology.

Trees - SPAB raised concerns over the mature Plain trees that line the churchyard. I can confirm that BUK have already consulted with Richard Fletcher the Head of Parks for Bristol City Council (BCC). The Trees department have contributed towards the design (both in the positioning of the cabins and the construction of walkways around the cabins) and have confirmed that they are satisfied that the temporary construction will not cause any threat or harm to the trees.

Gates - Both parties raised queries surrounding the design of the gates and if they would be a permanent fixture or not. To give some context, the churchyard has been used for parking on a daily basis for at least the last 40 years and the PCC now rents out spaces to commuters between 7am – 7pm Monday to Friday. This generates an income of around £30,000 a year for the PCC. At other times the parking is used in conjunction with activities happening within the building both church organised and for private events/hires. The reasoning for the recessed design is twofold (i.) At the busy junction of Tower Hill and Jacob Street (both cars, bicycles and pedestrians) it allows vehicles to pull off the road where currently vehicles must stop on the junction to get out of their car and open the gate. (example of this included in the attached photographs) (ii.) It will allow drivers to operate the intercom from the safety of their vehicle. The GSM

intercom will allow paying car parkers to use a fob to enter and will allow deliveries and visitors to ring through to the church office to gain entry. Currently a member of staff is required to walk out from the office to open and close the gate for visitors and deliveries. The current churchyard wall itself is not considered historically significant, it was installed in the 70's after part of the church yard was sold to BCC for the widening of the roads and pavements on both Tower Hill and Jacob Street. When widening the access, we would look to reuse all the existing stones and copings, match the mortar like for like and would have a watching brief in place during digging.

11. In relation to the items of furniture, as soon as I have been shown the faculty for their removal from the church and placement into storage I am content that they may be disposed of. I am not doing so because they are not used by the church as it is currently ordered, I am doing so as I am satisfied that they are not of such quality or of such significance within the church that they should be retained. I direct that they first be offered to churches within the Diocese of Bristol and, if no interest is shown, I grant permission for them to be sold.
12. In relation to the licence to BUK, I am content that, with an archaeological watching brief at the relevant times, the petition may be granted for the temporary installation of the cabins as proposed. A condition is that the area is returned to its current appearance after the works have concluded.
13. I requested photographs of the gates as they currently appear. Having seen them I am content that the gates that are currently in place are (without being rude) entirely undistinguished and their replacement will not affect the appearance of the churchyard adversely. A condition of their replacement is that the existing stones and copings should be reused and the mortar should be replaced like for like.

27<sup>th</sup> April 2019  
Justin Gau  
Chancellor

#### FURTHER DIRECTIONS

1. In relation to paragraphs 9 and 11 of my Judgment dated 27<sup>th</sup> April. I am now informed that the furniture in question has been placed in storage in the Church and has not, in fact, been removed from the Church.
2. I am content that the furniture can be disposed of as directed.

29<sup>th</sup> April 2019  
Justin Gau  
Chancellor