

Neutral Citation Number: [2023] ECC Gui 5

**IN THE CONSISTORY COURT OF
THE DIOCESE OF GUILDFORD**

Date: 2 July 2023

**IN THE PARISH OF EAST MOLESEY
THE CHURCH OF ST PAUL**

In the matter of a petition for a faculty for the creation of a servery within the church, opening of the war memorial arch to enable level access to the Haffner room and new toilets housed in a small extension, and the creation of new storage areas beneath the organ pipes.

JUDGMENT

1. St Paul's Church is a Grade II church within a small churchyard within a 19th Century residential development. The nave and chancel were completed in 1856, the south aisle in 1860-61, the north aisle in 1864, the nave was extended in 1870, and the tower and spire were completed in 1888. It is constructed of Kentish Ragstone externally in a broad Early English Style, but the nave arcade columns are (unusually) of granite. The Parish Room was added to the north of the church in 1975 (and refurbished in 2005), and in 2002 the interior of the church underwent a major internal reordering which removed many of the 19th century fittings. The pews are not original but were added in 2002.
2. Within the former arched opening to the now blocked north porch is the war memorial and a painted canvas with initials DLS and RTC, depicting St George with tablets. The memorial is assessed by the architects as of some significance and worthy of note.
3. I accept that most areas of the church and its exterior will not be affected by the proposals. The proposals involve areas of the building altered in the late 20th and early 21st centuries. The alteration of the present storage area at the west end of the North Aisle does not remove any significant fabric and replaces a 21st century timber screen.
4. The opening up of the original North Porch doorway into the Kit Haffner Room will return the building to closer to its original design. To achieve this the War Memorial is to be moved to the Lady Chapel which has provoked an informal objection.
5. The relocation of the War Memorial is to allow the creation of a new open lobby in what is currently the south end of the Haffner Room, providing access to the Haffner Room and the new WC and access toilets. The floor level of the Haffner Room will be raised to Nave level, allowing step-free access to these areas which is beneficial for accessibility.

6. A glazed oak screen will separate the lobby from the new meeting room, which will be lit by enlarging the existing window. The Haffner Room is modern and these alterations will therefore not harm the significance of the building. It is proposed to replace the existing rendered flat-roofed WC extension with a slightly larger extension accommodating a WC and accessible toilet. The alterations are proposed to improve the appearance of the elevation.

The Petition

7. By a petition dated 14 March 2023 the petitioners applied for a faculty:

The works proposed include the creation of a servery within the church, opening of the war memorial arch to enable level access to the Haffner room and new toilets housed in a small extension, and the creation of new storage areas beneath the organ pipes. This work would enable the church to be used fully independently of the parish room.

8. The works are estimated to cost £195,000 and predicted to take 10 weeks. At a PCC Meeting on 11 July 2022 the reordering plans were approved. The petitioners completed a net zero checklist in compiling their proposals. The Diocesan Advisory Committee approved the proposals on 4 July 2022. The petitioners' insurance company have been notified of the works. Elmbridge Borough Council granted planning permission on 14 September 2022.
9. The Nave and Aisle floor is currently finished with carpet that needs replacement. At the western end of the nave under the organ pipes the remaining timber platforms would be removed and the floor levelled. The western end of the nave and aisles (including the central bay at the western end of the central aisle) would then have an engineered oak floor, which would be more practical for the new café and Messy Church, with the remaining floors again probably covered in carpet.
10. In order to create open spaces for worship, outreach, and secular use, it is proposed to remove nine of the 2002 pews from behind the rearmost columns but leaving the central block in place. Below the modern organ pipes it is proposed to install cupboards for the storage of chairs, and equipment for children's work.
11. The western storage area is to be rearranged into a small kitchenette and servery. This will allow the church to be used independently from the Parish Room, when the latter is in separate use, and will allow the serving of simple refreshments to a café, café Church, small gatherings, concerts and after service refreshments. This will work with the cleared North Aisle and this area will also be available for exhibitions and will not prevent

worship continuing within the Nave. The westernmost doorway in the North Aisle, which was formed to give access to a small toilet in the second half of the 20th century, will be blocked-in and the dangerous steps removed. This makes the North Aisle much more usable. The new kitchen and servery will be treated as a piece of oak joinery.

12. The former north porch of the 19th century church was blocked in 1921 to accommodate the War Memorial and is currently accessed via a series of steps. The proposal is to unblock the original northern archway and bring this area back into use. The War Memorial plaques will be relocated into the Lady Chapel and the painting relocated. The floor of the Haffner Room will be raised level with the north aisle to create a small meeting and prayer room and access to new level accessible toilets. The sill of the existing window will be lowered to allow light into the space. An oak-faced bulkhead over a new lobby will enclose the existing ceiling and water tank. A glazed oak screen will separate the new meeting space from the lobby.
13. The new toilets will allow the church and the Parish Room to work independently and will also provide additional toilet facilities.
14. The War Memorial plaques will be mounted on the south wall of the Lady Chapel together with the books of remembrance. The existing wall-mounted sculpture, which never received faculty approval will be removed.

Statement of Needs

15. The petition has developed from a working group report in 2019 and feasibility studies. The need is based on sustainable worship, sustainable secular use of the church and Parish Room and a sustainable financial future. The Parish Room is in great demand for both church and community activities, often more so than can be accommodated. The work will help create two independent spaces which can be used separately or together.
16. The Parish seeks to allow the use of the church building to diversify not just for mission and worship but also secular use. This needs better facilities, a range of flexible and enclosed spaces, and the ability for the Church and Parish Room to work together and independently. The Parish has a legacy which will substantially support the costs of the project and seek to implement the four core elements of their Parish Vision:
 - a. Accessible and uplifting worship;
 - b. To grow and deepen our faith;
 - c. To reach out with the gospel message in words and deeds and integrate the church into the community;
 - d. Buildings, administration and finance.

17. The petitioners say the proposals will allow the church and parish room to work together or to be used independently of each other and will also provide a more flexible and attractive space within the church for use by the congregation and the wider community.

Consultation Responses

18. The amenity societies were consulted and Historic England and the Victorian Society raised no objections. During the notice period an objection was raised by someone resident in the Parish for 68 years, baptised and confirmed in St Paul's and on its Electoral Register. She did not apply to be a party opponent.
19. She welcomed the idea of a servery at the rear of the Church and thinks that the provision of cupboards under the organ pipes is a good idea. She disagrees with the removal of the 1921 War Memorial from its current position which she says has great emotional significance for the people of St. Paul's and East Molesey over the 100 years of its existence in the church. She accepts that the relocation of the memorial is to grant access to the Haffner Room but proposes a ramp down through the existing 1956 doorway on the left of the War Memorial into the proposed new extension. The architects confirmed that this is not a practical option because during the Feasibility Study measurements showed that current requirements for wheelchair turning circles at top and bottom of a ramp meant that this option had to be abandoned. The only practical way to provide the necessary access is to move the War Memorial.

Discussion

20. *In re St Alkmund, Duffield* [2013] Fam 158, the Court of Arches put forward the following questions:

(1) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?

(2) If the answer to question (1) 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: see *Peek v Trower* (1881) 7 PD 21, 26-28, and the review of the case law by Bursell QC, Ch in *In re St Mary's Churchyard, White Waltham (No 2)* [2010] Fam 146, para 11. Questions 3, 4 and 5 do not arise.

(3) If the answer to question (1) is "yes", how serious would the harm be?

(4) How clear and convincing is the justification for carrying out the proposals?

(5) Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building (see *In re St Luke the Evangelist, Maidstone* [1995] Fam 1, 8), will any resulting public benefit (including matters such as liturgical freedom, pastoral well being, opportunities for mission,

and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or II*, where serious harm should only exceptionally be allowed.”

21. When considering the *Duffield* questions:

- a. I have identified the special architectural or historic interest of the church. I agree that the War Memorial is of significant interest.
- b. In my view the proposals would result in a very low level of harm to the significance of the church. The reordering would be a change to relatively modern parts of the church interior and do not substantially affect the historical and heritage elements except for the War Memorial. I do not assess the harm to the War Memorial as being of a particularly serious nature in the context of the building as a whole as it will be moved to an appropriate location in the Lady Chapel. I am content for the War Memorial painting to be moved to a location agreed by the PCC.
- c. In my judgment there is clear and strong justification for carrying out these proposals. There is a need to allow the church and parish room to work together or to be used independently of each other and to provide a more flexible and attractive space within the church for use by the congregation and the wider community. The future sustainability of the Parish will be significantly improved by the proposals and the key need to move the War Memorial to ensure proper access.

22. In those circumstances I grant the petition for a faculty as sought. The works must be completed with 18 months but must not commence until the PCC has 85% of the overall cost received or pledged. The faculty is subject to any conditions imposed by the local authority planning permission. Pews should be disposed of by sale or donation to members of the congregation or local community, or by transfer to another church or by appropriate alternative disposal agreed with the DAC.

Andrew Burns KC
Chancellor
2 July 2023