

IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY

ST JOHN THE BAPTIST: HILLMORTON

JUDGMENT

- 1) The church of St John the Baptist in Hillmorton has a grade II* listing. It dates from the Thirteenth Century with sundry later additions and alterations. The pews date in large part from works undertaken in 1774 though they were subjected to a number of alterations in the 1960's.
- 2) At the west end of the north aisle there is a vestry made up in part of wood taken from the pews previously in that part of the church. Immediately outside the vestry there is the only boxed pew which retains its door. This is a small pew and currently contains the only supply of water to the church in the form of a low level cold water tap over a basin on the floor. At the west end of the nave (under the organ gallery) the Eighteenth Century pews remain albeit having been altered significantly in the 1960's works and having been shortened when the vestry was created. The only toilet facilities in the church are in the form of a single outside toilet without facilities for handwashing located in a lean-to extension outside the west door of the church. It is of note that the church hall is not in the immediate vicinity of the church building but is approximately $\frac{3}{4}$ mile away.
- 3) The Petitioners (the Priest in Charge at the time of the petition and the churchwardens) petition with the support of the Parochial Church Council for a faculty authorising the reordering of the west end of the church. They propose adding a ceiling to the vestry; replacing the current extension with a larger extension containing two toilets, one of which is to be accessible by wheelchair, and baby-changing facilities; removing one row of pews in the nave; and removing two pews under the organ gallery and installing in their stead a servery/kitchenette and seating area using in part the wood of the pews for the servery. They also propose works in the south aisle by way of the repositioning of an effigy and removal of the plinth on which the font stands but these elements are entirely uncontroversial.

The Need for the Works and the Development of the Proposals.

- 4) The Petitioners explain that the church seeks to provide a ministry of welcome to the existing congregation and to the current local community and to provide a venue for activities benefiting the local community. The Petitioners contend that the church is not currently in a condition enabling that ministry to be provided in a way suitable for the Twenty-First Century. In that regard they point to the inadequacy of the toilet and catering facilities.
- 5) That is the current position but the Petitioners say that the need for such facilities will shortly increase. The parish is the site of one of the largest single brown-field urban developments in the United Kingdom. That development started in 2016 and will continue for the next decade or longer. It involves the building of a further 6,200 homes in the area around the church. This will more than double the population of the parish and it is anticipated will bring a population which will be markedly younger than and containing many more young families than the present population of the parish. The Petitioners say that the facilities for which they seek permission are necessary if there is to be a ministry meeting the needs and expectations of this increasing population.
- 6) The proposals in their current form are the result of an extensive process of consultation and modification. The papers contain a detailed explanation of the various options which were considered setting out the relative advantages and disadvantages of each. The Petitioners have taken account of comments made by the Diocesan Advisory Committee; Historic England; and the Church Buildings Council in relation to earlier versions of the proposals and have modified the proposals to take account of the suggestions made by those bodies. The Petitioners obtained a detailed report from a specialist conservator addressing the history and significance of the pews and modified their proposals with regard to the pews to take account of the matters set out there by seeking to minimise the impact on those pews of the greatest significance. Thus the Petitioners now propose that the pew to be removed in the north aisle should be the penultimate one rather than the northernmost pew given the greater significance attached by the conservator to the latter than the former. It is apparent that the current proposals are different in a number of significant respects from those originally

contemplated. It is also apparent that the Petitioners do not regard the current proposals as ideal in terms of the facilities to be provided and their location but that they accept that some diminution from that ideal is appropriate in order to minimise the impact on the historic fabric of the church.

The Procedural History.

- 7) There was no response to the public notice and the local council has already given planning permission for the proposed extension.
- 8) The Diocesan Advisory Committee has recommended approval of the works but certified that the proposed works are likely to affect the church's special significance and that they also have the potential to affect archaeological remains in the church or its curtilage. I agree with that certification.
- 9) Historic England is supportive of the proposals acknowledging the value of the report obtained on the pews and the steps which have been taken to accommodate earlier advice.
- 10) Similarly the Church Buildings Council acknowledges the modifications which have been made to earlier proposals to accommodate criticisms which the Council made of those proposals. In the light of that the Council is also supportive of the current proposals.
- 11) The Georgian Group has written objecting to the removal of two pews from under the organ gallery. The Group has chosen not to become a party opponent. The Society for the Protection of Ancient Buildings was generally supportive of the proposals but it also expressed some reservations while choosing not to become a party opponent. I shall set out the views of the Group and of the Society in more detail below.
- 12) I concluded that it was expedient to determine this matter on the basis of written representations. The Petitioners consented to that course and made short representations in response to my directions. I made an unaccompanied site visit on 26th August 2018.

The Views of the Georgian Group and of the Society for the Protection of Ancient Buildings.

- 13) The Georgian Group objects to the proposed removal of two pews from under the organ gallery. It takes the view that notwithstanding the alterations made to these pews in the 1960's they remain a "legible and important element" of the significance of the church. The Group does not believe that the creation of an "eating area" is a sufficiently compelling reason to justify the harm which would be caused by the proposed removal and says that the proposed reuse of the fabric of the pews would not make up for their removal.
- 14) The Society for the Protection of Ancient Buildings accepted that the expansion of the local community amounted to a "good case" for a number of the proposals. It also acknowledged that "clearly a great deal of time and effort has gone into looking at a wide variety of possible options". The Society is supportive of much of what is proposed but did express (albeit in the mildest of terms) some concern about the proposed removal of the pews under the organ gallery saying:
- "It is a shame to remove any more pews, Georgian box pews, as they are becoming a rarity. However, the Society appreciates that the number proposed to be removed here is being kept to an absolute minimum. Careful consideration should be given to whether even this small number really need to be removed, or could the scheme be adjusted to retain them."
- 15) If the pews are to be removed the Society would resist the reuse of the fabric to make the serveries but instead urges that they be repositioned elsewhere in the church.

The Approach to be Taken.

- 16) I have already said that St John the Baptist is a listed church and that the proposed works will lead to an alteration in its appearance. Therefore, the approach laid down in *Re Duffield: St Alkmund* [2013] 2 WLR 854 as modified in *Re Penshurst: St John the Baptist* (2015) 17 Ecc L J 393 is to be followed namely:
- a) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?

- b) If not have the Petitioners shown a sufficiently good reason for change to overcome the ordinary presumption that in the absence of a good reason change should not be permitted?
 - c) If there would be harm to the significance of the church as a building of special architectural or historic interest how serious would that harm be?
 - d) How clear and convincing is the justification for carrying out the proposals?
 - e) In the light of the strong presumption against proposals which will adversely affect the special character of a listed building will the benefit outweigh the harm?
- 17) In considering the last question I have to bear in mind that the more serious the harm the greater the level of benefit needed before proposals can be permitted. I also have to bear in mind that serious harm to a church listed as Grade I or Grade II* should only be permitted in exceptional cases.

The Application of that Approach.

- 18) I am satisfied that the proposals will cause harm to the special significance of this church in that they involve the removal of Eighteenth Century fabric from its original position. However, the harm is markedly more modest than might be thought when one speaks starkly of removing Georgian box pews. The pews in question have already been subject to significant alteration; the removal is limited to two pews under the gallery at the west end of the church; and the nave and north aisle will continue to consist of Eighteenth Century pews.
- 19) It is highly relevant that the Petitioners have made a number of modifications to their original proposals. I am satisfied that the proposals now before me are the result of careful consideration taking proper account of expert advice. I am also satisfied that those proposals are for the minimum alterations consistent with the introduction of a servery and the related new facilities.
- 20) I also accept that a real need has been shown for those new facilities. The church is in the centre of an area of expanding population. I accept the Petitioners' assessment that the new population is likely to be markedly younger than the existing population of the parish. For the church to be able to exercise a

ministry of welcome of the kind appropriate in the Twenty-First Century it needs to be able to provide refreshments to those worshipping in the church. Such a facility is also necessary if the church building is to be used for the activities of the local community. This is particularly so in circumstances where, as I have already noted, the church hall is $\frac{3}{4}$ mile away from the church building. The Georgian Group is somewhat dismissive of the need for an “eating area”. In my judgement that view fails to appreciate what is necessary if the church is to carry out its work in the modern world. The provision of refreshments of at least a modest level and of space for those who have attended worship to talk to each other after the services is an important part of making the church fit for its rôle.

21) In the light of those considerations I am satisfied that the Petitioners have shown a real need for the proposed works; the harm to the church’s special significance is real but cannot be regarded as being the most serious; the harm which will result is the minimum necessary to meet that real need. In the light of the views expressed by the Diocesan Advisory Committee, Historic England, and the Church Buildings Council I am satisfied that the Petitioners have demonstrated that the benefits flowing from the proposed works will outweigh the harm which will be caused. Accordingly, I direct that a faculty authorising the works is to issue.

STEPHEN EYRE
HIS HONOUR JUDGE EYRE QC
CHANCELLOR
26th August 2018