

IN THE CONSISTORY COURT OF THE DIOCESE OF LEICESTER

IN THE MATTER OF ST BARTHOLOMEW, KIRBY MUXLOE

HEARING DATE - 24TH AUGUST 2015

JUDGMENT

Introduction

1. By a petition presented on 2nd September 2014 the Reverend Tom Ringland, the Rector of Kirby Muxloe and Mrs Helen Thomas, churchwarden, seek a faculty to replace the existing font in St Bartholomew's church with a moveable font. The petition forms part of a process of re-ordering the western end of the church, the greater part of which has already been authorised and carried out.

Background

2. St Bartholomew's church is a small, medieval Grade II* listed church in a village outside Leicester. The oldest parts of the church date to around 1300, although it was comprehensively restored in Victorian times. The details in the National Heritage List for England refer to it as having been:

“Very much restored 1849 and 1857-8 with further restorations to tower 1891.”

3. The church is around 70 foot long with a simple nave, chancel and sanctuary. Until Easter 2015 the principal entrance to the church was through a door near the western end of the south wall. A new porch and door has now been constructed at

the western end of the north wall which permits step-free access into the church, and that this has now become the principal entrance.

4. Originally, I understand that the church had a “large ancient square font on a circular base” which stood under a balcony at the western end of the church. This appears to have been damaged when the balcony was removed early in the twentieth century and it was replaced. The subsequent fate of this ancient font is unknown.
5. Its replacement stood in the church from the early part of the 20th century until January 2015, when it came to be removed in circumstances which I will describe in greater detail below. The origins of this font are unclear; there has been some suggestion that it was introduced from another church, However, it has not been suggested to me that it is of earlier date than the second part of the nineteenth century. There appears to be some doubt as to the material from which it is made. The evidence before me has suggested that it may be stone, reconstituted stone or even concrete. In this judgment I will refer to it as “the stone font”.
6. In or around the 1950s, the south western corner of the nave was cleared of pews and the stone font moved to the centre of this area to form a baptistery area. The placing of the stone font in this location was in accordance with the practice

(subsequently embodied in Canon F1¹) that the font should stand as near the principal entrance to the church as conveniently may be. A detailed consideration of the development of this practice and of Canon F1 (to which I have had regard) is to be found in the judgment of Petchey Ch in *Re Holy Trinity, Wandsworth* (Consistory Court of the Diocese of Southwark 4 September 2012 at para 28 *et seq*).

7. No mention is made of the stone font in the details of the church in the National Heritage List for England, although I accept that the description that appears in the List is neither a comprehensive, nor exclusive, record of the special interest or significance of the building.
8. The stone font is about 3'8" high. Its top is square with a circular recess. It stands on an octagonal pillar with simple carvings. This pillar itself stands on a square pedestal with sides some 30" or so long. It has a wooden cover with ironwork detailing.
9. In about 2001 the parish began a process of re-ordering and reorganisation. This process has progressed slowly. However on 21st August 2013 Chancellor Blackett-

¹

F 1 Of the font

1. In every church and chapel where baptism is to be administered, there shall be provided a decent font with a cover for the keeping clean thereof.
2. The font shall stand as near to the principal entrance as conveniently may be, except there be a custom to the contrary or the Ordinary otherwise direct; and shall be set in as spacious and well-ordered surroundings as possible.
3. The font bowl shall only be used for the water at the administration of Holy Baptism and for no other purpose whatsoever.

Ord granted a faculty authorising significant works to the western end of the church.

This authorised the following:

- “1. In the nave:
 - (a) Removal and disposal of 6 pews in the northwest corner of the nave;
 - (b) Creation of a new north door beneath the existing north west corner window;
 - (c) Installation of raised floor to bring the nave floor up to the same level as the Chancel;
 - (d) Installation of underfloor heating system;
 - (e) Relocation of font to central east-west axis
 - (f) Removal and replacement of existing plaster on south wall of the nave.
2. Construction of extension [to] the north of the nave to provide WC and kitchen and new west entrance accessible for all
3. Installation of new heating system using radiators in the Vestry, Chancel and Porch.”

10. The effect of the removal of the pews from the north west corner of the nave, coupled with the earlier removal of the pews from the south west corner, was to create an open space at the western end of the church. The original scheme, as authorised by the Chancellor, was that the stone font would be moved to a central location in this area on the main east-west axis.

Events since the grant of the 2013 Faculty

11. However, the matter did not rest there. The stone font was considered unsatisfactory for various reasons which I expand upon below, and proposals began to be formulated for its replacement with a new, moveable font. Whilst I am not aware of the precise order of some of these events it appears that consultations between the parish and the DAC on the possible replacement of the stone font and the design of a new font began in or about June 2014. By that stage, a design by a parishioner had already been chosen by the PCC. A site meeting was held with members of the DAC on 1st September 2014, when a prototype of the proposed font was inspected.

12. By a petition dated 2nd September 2014 the Petitioners sought authority:

- “1. To remove and dispose of the [stone font] introduced into the church in the early 20th century
2. To replace it with a lighter font which will be able to be moved close to the wall when the space is required.”

The statement of need which accompanied the petition described the perceived difficulties with the stone font thus:

- “1.2.1 The present font was introduced into the church in the early 20th century and is not therefore original. It is a large piece, some would argue too large for the small church it inhabits.
- 1.2.2. Being solid stone or concrete it is quite immovable. Whilst we do not seek a fully portable font, we have a very modest area at the back of the church which can be cleared of furniture for a variety of potential uses and events. At such times it would be helpful to be able to push the font back against the wall and so to maximise the space in a small church building, and so increase the range of functions this part of the building can support.
- 1.2.3. The south west corner of the church is used as a crèche corner. This is planned to continue after the re-ordering. The font base is a large stone step which is a potential hazard for the toddlers in this area. A temporary and partial solution at present is to wrap a bolster around the base of the font.
- 1.2.4. Besides being large and heavy, the present font is not especially attractive. The DCC considers that along with the present reorganisation and the new central location, we have an opportunity further to enhance baptisms by the provision of a more attractive piece.”

13. A supporting statement dated 16th October 2014, provided further reasons why a moveable font was desired. This stated:

- “3. Space created at the back of the building will be invaluable.... It will be space to circulate after services and other events, space for small children and families to use, both in Sunday services but also in new events that become possible when the space is available: notably our toddler group would like occasional “pram services”, and Messy Church uses the building for a part of each session. With the church hall frequently booked for community use, meetings can be sited here. We can use it for study groups, prayer groups, ecumenical Lent and advent courses - but beyond church meetings there is the opportunity to use the space to draw other people into the building. There might be displays of the Local History Group or other interest bodies for example. This is why we spoke of potential.
- ...
7. We have considered the suggestion the existing font is relocated in a central position opposite the south door. Our observation is that this would raise its prominence as a visible symbol of baptism, but would block access to the aisle for weddings and funerals... However it would be very possible for a moveable font to be placed in such a location for a baptism. The candidates and families could thus be in the midst of the congregation - a powerful symbol of inclusion.

8. We want strongly to build on our ministry to baptism (sic) families and to promote the sacrament of baptism to the whole church. However we are firmly of the opinion we have a very modestly sized building in a village which has multiplied in size over the past 150 years and we need to create space that can be used for a variety of purposes as the occasion demands, and that with such space we can introduce new events and activities both for the worshipping community and for the wider village.”
14. The petition did not put forward any specific proposals for the disposal of the stone font.
15. The proposed new font is hexagonal in design. Its top is a hexagon of black granite into which has been set a white, circular, ceramic basin. This stands on an inverted hexagonal pyramid made from oak veneer MDF. This in turn sits on a hexagonal black granite plinth. The base is mounted upon casters so that it can be moved. It is a heavy construction and it is stable when in position. The oak veneer MDF was chosen as it is less likely to warp than solid wood. The veneer matches the new nave flooring and dark wood beading between the wooden faces of the inverted pyramidal stand reflects darker detailing in the nave floor. Alternate faces of the pyramidal stand have had a light wooden cross applied to them. A hexagonal cover made from the same veneered MDF has been provided.
16. The DAC referred the proposals to the Church Buildings Council (“the CBC”) and English Heritage for comment. A response was received from Christina Emerson a Church Buildings Officer on 2nd October 2014. The CBC considered that the case for removing the stone font was “not robust” and suggested that the priority should be to retain it for use in a suitable location, with or without the plinth, and suggested that it should be moved to a central position in the new space created at the western

end of the church. The letter continued:

“If the font was to be replaced (and the Council thought that a much stronger case would need to be made for this) this should be on the basis of replacement with a worthy piece as well as one that allows a generous administration of water. While the parish may be right to reject a catalogue item, the Council thought that the proposed design raises substantial concerns: the font appears as lacking in substance, it would be too low for the proper administration of the sacrament, is unlikely to be stable (how will it be attached to the slate base?) and the large cross is superfluous. By its own admittance the PCC considers that the proposed font will not in fact be easy to move. The DAC has asked that consideration be given to the emptying of the font and its practicality given the absence of a plinth and the Council thought that both these points would be important ones to consider.

In the event that the font were to be disposed of, the parish needs to be aware that it should be broken up and buried in the churchyard, according to Bishop's directions. It must not be put outside as a 'decorative feature'.”

The CBC indicated that it wished to “remain involved in the proposals as they evolve.”

17. By a letter dated 23rd July 2014 English Heritage indicated that it did not wish to comment on the proposals.
18. The DAC provided its notification of advice on 13th February 2015 and the petition was referred to the Chancellor. The reasons for the delay in the petition coming before the Chancellor are unclear, but may have been related to the introduction of the new on-line faculty petition system; the Leicester Diocese being one of the dioceses in which this system was trialled.
19. In initial remarks made on 27th February 2015, Chancellor Blackett-Ord indicated that he did not in principle oppose a moveable font, or a font in a new place, or a replacement font, but that he had qualms about the shape and design of the proposed new font, and asked for the Petitioners to indicate by the end of March

2015 whether they were content for the matter to be determined on the papers. Having had no response from the Petitioners to this request or to a further request made on 24th April 2015, on 15th May 2015 the Chancellor directed that the matter should proceed to an oral hearing. To assist the Petitioners to understand his concerns, the Chancellor provided some written observations. The relevant passage is as follows:

- “7. It occurs to me, however, that it would be fair to the petitioners and the PCC if I expressed more clearly the “qualms” that I have mentioned. In an ordinary case, where a party opponent has registered an objection, I would not think it right to state my initial views on the matter. But where, as here, there may be no formal party opponent but I have expressed my doubts on the proposal, it is right that I should say why.
8. I have already made clear that it is the structure and appearance of the proposed font that I am concerned about. I have to add that the fact that the designer of the new font is a parishioner is not a matter which, in my view, should be taken into account in favour of the proposal. Indeed, I wonder if this particular design would have been approved by the PCC if it had come from someone with no connection to the parish.
9. My concerns are these:
 - a) It is a structure of considerable weight (75kg) mounted on castors but with no sort of braking system. Its base will be about 1cm above the floor. It is to be in a place where children may play on the floor. I am concerned for the safety of those children. A child or adult may well lean against it, supposing it to be a fixed structure (as it appears to be) and set it moving. What effect it might have on the fingers of a child crawling on the floor can easily be imagined.
 - b) The design is said to be “contemporary”. If this matters (and perhaps it does not), I do not agree. It has a 1950’s appearance, which I suspect will be completely at odds with the appearance of a 14th Century Church. But I may be wrong about this, as I have not yet visited the Church. I shall do so soon.
 - c) Although the structure is to be very heavy, it does (as the CBC observes) have a curiously insubstantial look. I have seen a mock-up design. It is much lower than a traditional font; its top has a black surround into which a circular silver bowl is intended to be fitted. I have to say that I am not being facetious when I suggest that it looks more like a toilet than a font.
 - d) I hardly need say how important it is that the sacrament of baptism is presented in a dignified way.”

20. The Petitioners responded with a request for an oral hearing. Chancellor Blackett-Ord then transferred the petition to me. On 16th June 2015 I made written directions intended to lead to a hearing of the consistory court on 5th August 2015. At the

request of the Petitioners, the hearing was subsequently moved to 24th August 2015.

21. I indicated that the hearing would give me an opportunity to view the existing font and the design of the proposed replacement. In order to assist the Petitioners I set out in my directions the issues which appeared to me to be raised by the application:

- “(1) The *Duffield* questions that arise in relation to most faculty petitions 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 the answer to question (a) 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. Questions (c) to (e) do not arise.
 - (c) If the answer to question (a) is ‘yes’, how serious would the harm be?
 - (d) How clear and convincing is the justification for carrying out the proposals?
 - (e) Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building, 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 this question, 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 1 or 2*, where serious harm should only exceptionally be allowed.
- (2) The proposal that the position of the font should be moved. Specifically in this context I would find it help for the evidence to address the reasons why it is proposed that there should be a departure from the general rule laid down in Canon F1 that the font should be as near the principal entrance into the church as conveniently may be. In this context the Petitioners may wish to consider the judgment of Petchey Ch in *Re Holy Trinity Church, Wandsworth*
- (3) The design of the proposed new font. Is it substantial, both physically and symbolically? In this context the Petitioners may wish to consider the judgment of Eyre Ch in *Re St Nicholas, Radford Semele ...* and the article by Bishop David Stancliffe “*Baptism and Fonts*” (1994) 3 Ecc LJ 141...
- (4) Proposals for the disposal of the existing font. Were I to grant the petition, my preliminary view is that burial of the existing font in the churchyard should be viewed as a last resort rather than the first option, and I would wish to be addressed on what alternative options for disposal (such as removal to the diocesan store or disposal to another church) might be available in relation to the existing font.”

22. I gave directions for the filing of formal evidence by the Petitioners. I also directed

that a copy of the petition, directions and supporting documents should also be provided to the Victorian Society (which appeared to me to be the relevant amenity society) and that a copy of my directions should be provided to the CBC.

23. No further response was received from the CBC. However, a response was received from Christopher Costelloe of the Victorian Society dated 17th July 2015.

The material part of the response is as follows:

“The font in question is made of stone and dates seemingly from the late C19 or early C20. It is an item of quality, with carving and mouldings and good quality ironwork on the font cover. It has a certain sentimental and historical value as well, having seen the baptism of generations of parishioners.

The case for removing it seems very weak. If the narrow step is a problem a removable step could be provided. Being 30 inches square at the base, the font is not excessively large. If its position is causing a problem in using the space, we would be open to the idea of it being relocated.

Additionally the proposed replacement font is of a somewhat bizarre design with odd proportions. It is an unsuccessful design and unworthy of a place in a Grade II*-listed building.

For these reasons the Victorian Society objects to the petition. We do not wish to become a party opponent but request that the Chancellor takes our representations into account and refuses consent for the faculty.

Finally, I would like to take issue with the penultimate paragraph of the letter dated 2 October 2014 from Christina Emerson of the CBC. It states ‘In the event that the font were to be disposed of, the parish needs to be aware that it should be broken up and buried in the churchyard, according to Bishop’s directions. It must not be put outside as a ‘decorative feature’.’ I would draw the Chancellor’s attention to paragraph 25 of Re St. Peter Shipton Bellinger [2015] Christopher Clark Ch. (Winchester), which makes clear that it is legally possible to dispose of a redundant font by sale or otherwise, and that breaking up and burial in the churchyard should be an absolute last resort.”

24. I should add that no objections were received in response to the public notice of the petition.

The Hearing

25. In the week before the hearing I received two witness statements in support of the Petitioners’ case. One was from the incumbent, the Reverend Tom Ringland, and

one from the Archdeacon of Loughborough, the Venerable David Newman. Upon receipt of these witness statements I discovered an important fact which had hitherto not been apparent from any of the papers provided to me; namely that the stone font had already been removed and that the new font had been constructed and introduced into the church without authority.

26. The hearing was held in St Bartholomew's church, Kirby Muxloe, on St Bartholomew's day, 24th August 2015. When I arrived at the church, one of the first things that was visible to me was the stone font which had been placed outside in the churchyard near to the north wall of the church. There was no font immediately visible within the church itself, although it subsequently transpired that the new font had been placed under a sheet in the north porch.

27. The case for the Petitioners was presented by Rev Ringland. I heard from him and from the Archdeacon and I questioned both of them about the petition, the statements they had presented and the events that had led to the stone font being placed in the churchyard. In the course of the hearing I inspected the stone font in the churchyard and saw the new font which I asked to be moved inside the body of the church for that purpose. This gave me an opportunity to view it *in situ*; both against the west wall of the nave (where it is proposed that it should be normally be) and in the centre of the space that has been created at the western end of the nave (where it is proposed that it should be placed for baptisms).

28. At the hearing I was told that the stone font had to be placed outside by the builders in order to enable the new floor and underfloor heating (authorised by the 2013 faculty) to be installed and that this had occurred in January 2015. However, as it would have been necessary to strengthen the new floor to receive the stone font, this work had not been undertaken in the hope that this expense could be avoided if the petition was allowed. The church (which had been closed after Christmas 2014 to allow the floor and heating works to be carried out) reopened at Easter 2015. Following some questions from me, Rev Ringland admitted that since Easter 2015 the new font has been brought into the church and been used for baptisms.
29. The hearing was also attended by a dozen or so members of the PCC and congregation (including Helen Thomas). I was told that the PCC was supportive of the application. At the end of the hearing I asked if anyone else wished to say something in relation to the proposals, but no one took up this opportunity.

The Law

30. The principles that I have to consider are the *Duffield* questions which I summarise in the passage from my earlier directions set out at paragraph [21] above. In addition, I have had regard to the summary of authorities relating to the introduction of a new font set out by Chancellor Eyre in *Re St Nicholas, Radford Semele* (Consistory Court of the Diocese of Coventry 6th February 2012). At paragraph [26] of his judgment the learned Chancellor stated:

“In addition I am able to take account of the approaches adopted by other chancellors and the *Response by the House of Bishops to questions raised by Diocesan Chancellors* (1992). The following principles emerge:

- a) In an appropriate case a font can be located in a position away from the main entrance to a church and the practices of a particular church community for baptism to take place in the body of a congregation can be a good reason for so locating the font (see **Re St James, Shirley** [1994] Fam 134).
- b) A moveable font is not impermissible per se and can be authorised in a suitable case (see **Re St. Andrew, Cheadle Hume** (1994) 3 Ecc L J 254).
- c) However, even if a moveable font is installed it has to be substantial both physically and symbolically. It has to be such as to make a point to those entering the church building about the significance of baptism (see **Re St. Margaret, Brightside** (1997) 4 Ecc L J 765 and (**Re St. Andrew, Cheadle Hume**). In this regard I take account of the views expressed by Bishop David Stancliffe in "**Baptism and Fonts**" ((1994) 3 Ecc L J 141) making the point that "*what the font says by its style, size, and position tells the regular worshipper and the casual visitor alike a good deal about the life of the church, the company of the baptised.*"

The Introduction of the New Font

- 31. I remind myself that in considering whether the proposals would result in harm to the significance of the church as a building of special architectural or historic interest, I must consider the position that would have pertained had the works authorised by Chancellor Blackett-Ord's faculty of 21st August 2013 been fully carried out. Had that occurred, the stone font would be standing on the main east-west axis of the church in the cleared western end of the nave.
- 32. I have inspected the stone font. Whilst I take into account the written submissions of the Victorian Society and the CBC, the stone font does not appear to me to be an item of any particular significance or merit beyond its historical association with the church.
- 33. I must also record that my visit to St Bartholmew's left me very impressed with the reordering that had taken place. The space that has been cleared at the western end of the nave provides an attractive contrast to the traditional pews that remain in the rest of the nave. Moreover, I accept Rev Ringland's evidence that the

opening up of this space provides greater flexibility; both for worship and for other community uses.

34. Given that the new moveable font has (albeit without proper authority) been used for baptisms, I asked Rev Ringland about his experience of these. It is clear that being able to place the moveable font in the centre of the cleared space at the western end of the nave on these occasions has meant that the baptism service has been able to be more inclusive. Rather than turn in their pews, the congregation have been able to gather round the font to participate and welcome the newly baptised.
35. This would of course still be the case if I directed that (as envisaged by the 2013 faculty) the stone font should be returned into the church and placed in the centre of the cleared area. Nonetheless, as I have already explained, St Bartholomew's is a small church and, whilst baptism is of course a fundamental part of its mission, there is a need to put the limited space available to other uses as well. If I were to insist on the stone font being placed in this space, I have no doubt that it would dominate and overwhelm this area and remove much of the benefit which has been achieved by its creation.
36. In my view the removal of the stone font from this position and its replacement with a moveable font does not result in harm to the significance of the church as a building of special architectural or historic interest.

37. Moreover, provided that the font is stored when not in use against the west wall of the church (as I am told is the intention), the provisions of Canon F1 will be satisfied.
38. Whilst I have no doubt that in principle, a faculty authorising the introduction of a moveable font should be granted, the point that has caused me greatest concern is whether the particular font that has been constructed should be introduced into the church. Unlike Chancellor Blackett-Ord, I have had the advantage of seeing the new font in its final form and in its proposed place. I have therefore been able to see the care that has been taken in its construction and in particular the detailing that has been added so that its wooden stand and beading repeat the palette of tones that are to be found in the new floor.
39. That said, the new font is of singular design and will be by no means to everyone's taste, although it has the clear support of the incumbent and PCC. Whilst I have no doubt that the new font has considerable physical substance, I have had reservations about whether it can also be said to have the necessary symbolic substance. In particular, I have been concerned whether the white ceramic basin that is incorporated into the font sufficiently conveys the dignity of the sacrament of baptism. On balance however, I have decided to accept the evidence of both Rev Ringland and Archdeacon Newman in this regard. Both told me that they considered that it had the necessary symbolic substance, and indeed Rev Ringland explained that he had been happier with the finished font than he thought he might

be.

40. I am also satisfied that the practical objections that were raised both by the CBC and the Chancellor have been overcome. The height of the new font has been adjusted. It is stable and once placed takes some effort to move, so there is no risk of it being pushed accidentally.

41. Taking all of these matters into account, on balance I am satisfied:

- (1) that the new font has the necessary physical and symbolic substance; and
- (2) that its introduction, and the removal of the stone font, will not result in harm to the significance of the church as a building of special architectural or historic interest.

In the circumstances I will grant a faculty permitting the introduction of the new moveable font. This will be subject to a condition that when it is not in use, it should be stored in a central position against the west wall of the nave.

42. Even if I had concluded that the removal of the stone font and its replacement with the new font would have resulted in result in harm to the significance of the church as a building of special architectural or historic interest, I would have permitted this faculty. In my view any harm would have been relatively modest, and would have been strongly outweighed by the benefit to the church and its mission that would arise from introducing a moveable font so that the western end of the nave can be used in a more flexible fashion.

The Disposal of the Stone Font

43. In the light of my decision to permit the introduction of the new font, I must now consider what should happen to the stone font. The petition did not seek to put forward any specific proposals as to its future use. At the hearing on 24th August 2015 I sought further detail from the Petitioners on this point. Rev Ringland indicated that the parish was anxious to maintain a connection with the stone font, but that this was simply no space to place it within the church building. It was suggested that it could remain in the churchyard (where it has been temporarily placed) and perhaps used as a form of planter. I questioned the Archdeacon about this possible use of the font; he did not consider that it would be inappropriate for this to occur.
44. I disagree. It seems to me wholly unfitting for a font that has been used for the sacrament of baptisms in the parish to be turned into a decorative feature in the churchyard. The notion that the stone font should be turned into a form of planter seems to me to be entirely unsuitable. Equally, simply leaving it outside in the churchyard means that it will become a receptacle for dead leaves, litter and rainwater (it has no functioning drain) and be vulnerable to frost damage, weathering and theft.
45. In its letter of 2nd October 2014 the CBC had indicated that if the faculty were granted, the stone font would need to be broken up and buried in the churchyard.

This accords with a traditional view for the disposal of a *vas sacrum*, although it is not an absolute rule that a redundant font should be so treated (see *Re St Peter's Draycott* [2009] Fam 93).

46. The Victorian Society's letter of 17th July 2015 drew my attention to the decision in *Re St Peter, Shipton Bellinger* (Consistory Court of the Diocese of Winchester, 12 March 2015) in which Chancellor Clark took the view that burial of a redundant font in a churchyard should be regarded as very much a last resort. In that case he required the petitioners to do everything they reasonably could by way of publicity and advertisement to find a new home for a redundant Victorian font. I have also had regard to the approach adopted by Chancellor Bishop in *Re All Saints, Winterton* (Consistory Court of the Diocese of Lincoln, 24 July 2014) where he permitted a redundant Edwardian font to be placed in another location in the church where it would not be used as a font but could 'co-exist peacefully' with a medieval font.

47. In my view:

- (1) It is unacceptable for the stone font to remain where it has been placed in the churchyard. Subject to an a suitable alternative home being found for it, either in St Bartholomew's or elsewhere it, and its wooden cover, should be removed forthwith to the diocesan store for safekeeping.
- (2) I was impressed by the wish of the PCC to retain a connection with the stone font, which has been a fixture at St Bartholmew's for over a century. I would

encourage them to put forward proposals which would enable the stone font to be returned to a position in St Bartholomew's where it could remain as an item of historic interest (but not be used for baptisms).

- (3) If this is not considered a realistic alternative, then I require the Petitioners to do everything they reasonably can by way of publicity and advertisement to find a new home for the stone font, either in another church, or failing that a museum.
- (4) If none of these options is available, then I would be prepared (as was Chancellor Clark in *Re St Peter's, Shipton Bellinger*) to countenance a sale on the open market. The Court of Arches made clear in *Re St Peter's Draycott* [2009] Fam 93 that the sale of a redundant font is permissible.

48. For the avoidance of doubt, a further faculty will be needed before any proposal for the re-siting or disposal of the stone font can be implemented.

The Unlawful Removal of the Stone Font

49. Finally, I must say something about the pre-emption of this petition by the incumbent and Churchwardens through the removal of the stone font from the church and the introduction of the new font without a faculty. Both were unauthorised and were unlawful acts.

50. In his witness statement, the Archdeacon (who had not been aware of the removal of the stone font or the introduction of the new font until after the event) indicated

that the PCC:

“...are very aware that if the decision is made to retain the [stone] font, then it will need to be reinstated and I am absolutely sure that this was a question of timing rather than any inclination to circumvent the faculty process which was in fact already in motion but not completed”

At the very outset of the hearing Rev Ringland apologised for what had happened.

He stated:

“I would like to stress that it has always been my intention, and with me my Church Council, to operate within the faculty system and with full respect for understanding of its purpose and authority.

I deeply regret the circumstances that led us to take the decision, when the builders were completing their project, to retain the stone font outside, where it had been placed whilst the floor was raised.

I understand subsequently that we should have sought permission for this temporary arrangement whilst the faculty process was completed.

I would like to record our apology for any wrong doing.”

51. Whilst I note the explanation that was provided to me during the hearing (and which I have set out at paragraph [28] above, it seems to me that it provides no excuse for the actions which were taken by Rev Ringland and the churchwardens. Save for certain *de minimis* exceptions, it is illegal to make changes or alterations to a church building without the authority of a faculty. This principle should be wholly familiar to all incumbents, churchwardens and PCC members. It should certainly have been clear to those in authority at St Bartholomew's. This was by no means the first faculty petition that they had sought in relation to the re-ordering process.

52. As the ChurchCare website explains:

“[The faculty jurisdiction] ensures that churches are properly cared for, and that whatever is done to them is properly considered beforehand and carried out in the most appropriate way.”

The faculty jurisdiction replaces the need for listed building procedures which apply

to secular buildings and, importantly, allows for due regard to be given to the role of a church as a local centre of worship and mission, to be taken into account. To pre-empt the grant of a faculty (whether wilfully or by ignorance) and make a significant change to a grade II* listed building, by replacing an item as important as a font without any authority is wholly unacceptable.

53. As soon as it became apparent that the stone font would need to be removed from the church and placed outside to enable the re-flooring work to take place, proper authority should have been sought. Leaving the stone font outside and introducing the new font in the hope that its removal would be authorised in due course was completely unjustified. Any concerns about the time that was being taken to deal with the petition should have been raised with the Registrar or the Archdeacon. Under no circumstances should a parish ever contemplate proceeding with planned (but unauthorised) work simply because a petition is taking longer than expected to progress.
54. Whilst I have, in the present case, concluded that I will grant a faculty, had I concluded otherwise, I could have made a restoration order which could have led to the incumbent and churchwardens personally meeting the costs of re-instating the stone font.
55. Given the generally impressive re-ordering that has taken place in Kirby Muxloe, it seems to me to be regrettable in the extreme that I have found myself concluding

this judgment by censuring those in authority at St Bartholomew's. However it must be understood, both by those in Kirby Muxloe and more generally, that the faculty jurisdiction exists for a reason and is not to be flouted or circumvented.

Conclusion

56. In conclusion:

- (1) I will grant a faculty permitting the introduction of the new moveable font. This is subject to a condition that it shall be stored in a central position against the west wall of the nave when not being used for baptisms.
- (2) I will direct the removal forthwith of the redundant stone font together with its wooden cover to the diocesan store. This will be authorised until further order.
- (3) In the first instance I propose to give the parish twelve months to explore alternative ways of disposing of the stone font. I will direct that by 1st October 2016 the Petitioners shall provide a report to the Registrar setting out the steps that have been taken to find an alternative home or use for the stone font, and any further proposals that they wish to put forward for its disposal. For the avoidance of doubt a further faculty will be required before the stone font can be moved from the diocesan store, sold or otherwise disposed of.

David Rees

Deputy Chancellor

23rd September 2015