

In the Parish of Mobberley

In the Church of St Wilfrid

Judgment

The Petition

1. By a Petition dated the 26th January 2011 the Rector and then Churchwardens of St Wilfrid, Mobberley, seek a faculty to convert the former organ chamber at the church into a disabled toilet with a vestibule and a storeroom above, the latter to be accessed by a new staircase. Consequential permission is sought in respect of drainage provision to a new septic tank in the south churchyard. Further, they seek permission for the construction of a new 'coffee station' at the west end of the north aisle, with removal of two short pews and the shortening of two other pews.
2. Both proposals have proved divisive in the parish and a decision of the court has become necessary.
3. A first period of public notice of the proposed works took place between 26th January 2011 and 22nd February 2011. By reason of the Registrar's concern that plans may have been insufficiently displayed in accordance with the Faculty Jurisdiction Rules 2000, and out of an abundance of caution, a further period of public notice continued from 23rd February to 22nd March 2011.
4. Conscious of local interest and sensitivity and, again, out of an abundance of caution, I directed newspaper advertisement of the proposals which appeared in the Knutsford Guardian on 19th October 2011.

Objections

5. Twelve letters of objection were received pursuant to public notice of the Petition. A further three letters (one jointly signed by a couple) were received following newspaper advertisement of the works. Of those correspondents, six individuals have since chosen to join the proceedings as objectors and have provided written particulars of objection in accordance with the Rules. Others have requested their written objections to be taken into account, which I have done.
6. It is right to note that amongst the objectors (and I include those who have written letters) are several former churchwardens, a former treasurer, a former chairman of the Finance Sub Committee, Chairman of the Friends and, I believe, some past and/or present members of the Parochial Church Council (PCC). Clearly the views of such individuals command considerable weight and respect.

7. The objectors assert in correspondence that they have identified a further nineteen individuals who are said to object, but who appear to have taken no further or timely steps to participate in this adjudication. Save as broad confirmation that the proposals are controversial, it would be wrong to attach further weight to any views other than those formally communicated to the court.
8. I gave directions on the 19th December 2011 for the filing of evidence and reports. I am grateful to the petitioners, the objectors, the Diocesan Advisory Committee (DAC) and the Archdeacon of Macclesfield for their carefully prepared contributions. I have available a wealth of evidence and analysis, prepared to a very high standard, which exhaustively debates the merits of what is proposed and indeed of various alternative schemes.
9. I am grateful for the conspicuous care all parties have taken in the preparation of written material to assist me in this unenviable decision. I have been left in no doubt whatever of the deep affection which exists for the building and the sincerely and passionately held, if unfortunately divergent, views of committed members of the congregation.
10. I was warmly received by representatives of the parties at an inspection of the church and churchyard I carried out on the 31st March 2012.
11. I considered the petition appropriate for determination upon written representations. All parties have helpfully agreed to that course.

Consultation

12. The proposals have, of course, been subject to statutory scrutiny in the usual way. It may be helpful to summarise the position at the outset, though I shall need to return to some of the detail shortly.
13. By a letter of 1st September 2010 the Ancient Monuments Society stated: 'We have no observations to offer and are quite content to defer in this case to the DAC'.
14. Lengthy and detailed consultation with the DAC led to the committee's certificate dated 20th December 2010 recommending the works, subject to their being under the direction and subject to the inspection of the church architect.
15. Having been earlier consulted about several options, which I shall shortly outline, English Heritage by a letter of 24th June 2011 recommended the organ chamber lavatory scheme as its 'favoured option'. In an earlier letter of 10th September 2010 the coffee station plans were considered acceptable, subject to details of drainage.
16. The Church Buildings Council having been consulted was, subject to some observations as to detail, 'pleased to support the current scheme', by a letter dated 28th June 2011.
17. By a letter of 8th October 2010 the Conservation Officer of Cheshire East Council confirmed that his observations on the scheme 'would not be adverse'. By a further letter of 12th April 2011 he stated the scheme was 'entirely uncontroversial from the perspective of the planning authority'. He also said, 'now that I realize that an internal solution is available, I think the case for adding an extension to the north aisle could prove rather more questionable, particularly were we to receive objections to any application'.
18. Notice of Approval of Full Plans for the purposes of the Building Regulations 2010 (as amended) was granted by Cheshire East Council in a certificate dated the 15th February 2011.
19. The plans were considered by Mrs Gail Robinson, the diocesan Lay Chaplain for Deaf and Disabled people. By a letter of 25th March 2010 she expressed the view, subject to some

helpful observations about any access ramp, that 'an adequate, accessible toilet should be able to be created' within the space which is available.

Removal of the Organ

20. The present lavatory scheme has only become possible at all following the recent removal of the existing pipe organ. I permitted that step upon the recommendation of the DAC, and with no opposition from any other party, by a faculty dated the 25th January 2011. Petition 131/10C sought authority to replace the pipe organ with an electronic instrument and to locate speakers horizontally on top of the chancel screen. Though the organ has since been removed, and its replacement console is temporarily located in the south east corner of the nave, final installation necessarily awaits the outcome of the present petition. By a letter of 12th November 2011 the petitioners have (uncontroversially) sought an extension of time for compliance which I shall grant.
21. Removal of the pipe organ was, I suspect, a matter of real regret, combined with resignation, for most members of the congregation. The instrument was a second hand one, of no distinction, installed in 1955/6 and overhauled in 1991. It had become in a parlous state mechanically, combined with fundamental inadequacies of sound transfer and voicing to the building. The diocesan organ adviser was in no doubt that, in both musical and stewardship terms, the organ should be scrapped and replaced by a good quality digital instrument, to be sited in the same position as the pipe organ. It is to the organ chamber space, now available following removal of the bulky pipe instrument, that the petitioners look as the solution to almost a decade of aspiration and discussion to secure a suitable lavatory for St Wilfrid's.

The Church

22. St Wilfrid is an ancient, delightful, relatively small, and rather beautiful Grade 1 listed church, full of historical and architectural interest and with some unusually fine features, such as the screen, the ceiling, the tower ringing gallery, the nave roof and some of the stained glass, monuments and memorials.
23. Worship has almost certainly taken place there, or nearby, since the 13th century. The present nave is mostly 14th or 15th century, the fine west tower 1533, with the chancel arch and associated area having been reconstructed in approximately 1888/9. A Statement of Significance helpfully spells out the detail. St Wilfrid is an important and distinguished building.
24. The church stands on rising ground in a rural setting above the old village of Mobberley. It is within the Mobberley Conservation area and the North Cheshire Green Belt.
25. The church is surrounded by sizeable grassed churchyards with a striking number of large, flat, memorials – many in close proximity to the building. Room for external building or extension is significantly limited.
26. Road access is from Church Lane, with some car parking, on the north side. The churchyard is entered via a lych gate and paths lead to the north door or, alternatively, the west door. The former is the 'everyday' entrance used by the congregation for most purposes. The latter

serves for weddings and funerals. A long, narrow, pedestrian path through the very large south churchyard reaches the south porch (a 19th century addition) and a south door which is rarely used.

27. There are, generally, three services each Sunday, attracting about 100 people most weeks. Approximately 20 weddings and 20 baptisms take place each year and there are a good number of funerals. Occasional concerts, recitals, meetings and other events are held.
28. Everyone, save two correspondents one of whom considered the church has 'managed for over 500 years' without a toilet, another who considered the proposals a 'complete waste of money' when other essential repairs are required, is in agreement that lavatory and coffee serving facilities are, in principle, wholly desirable. The hotly disputed question is where they should be positioned.

The Need

29. The church currently has no toilet facilities at all and these are urgently needed for use by the Sunday congregations, those serving the church in cleaning and flower arranging, as well as others attending the church for weddings, funerals and the normal variety of meetings and events linked to an attractive and interesting parish church. Local provision of a lavatory is at some remove.
30. Currently refreshments in the church are served from a trestle table put up temporarily either near the south door or occasionally in the choir vestry. Water is boiled in a portable electric geyser or urn powered via an extension lead plugged in nearby. The concern, again longstanding, is to provide more permanent, aesthetic and safe arrangements for the provision of modest hospitality whenever required.
31. I have no hesitation in concluding these needs are, in principle, well established, proportionate and entirely justified. Indeed, no serious argument to the contrary has been advanced. Again, the troublesome issues relate to location.

The Evolving Project

32. The 2003 Quinquennial Inspection report recommended the parish put in hand a project to provide a toilet. In 2007, acting on a report of the Fabric Committee, the highly experienced ecclesiastical architect, Graham Holland, was instructed by the PCC and has been retained since.
33. A number of options for the location of a toilet were discussed. These included the west end of either the north or south aisles; the ground floor of the tower; the south porch (either in its present location, or relocated as a 'new' porch at the north door, or as part of an enlarged and enclosed porch, toilet and lobby on the south side).
34. In January 2008 the PCC agreed to investigate further an enlarged south porch option and a range of consultations and preparation were begun.

35. In March 2008 a parishioner offered to sponsor an architectural exploration of a more ambitious alternative involving the adaptation of the west end by moving eastward the memorial screen and gallery and creating additional space under an enlarged ringer's gallery.
36. In November 2008 the DAC visited and later gave detailed consideration to the various options. The west end of the north aisle was considered to be a location potentially detrimental to the appearance of the church and a number of seats would necessarily be lost. The west end of the south aisle would have necessitated moving the font, the potential loss of a window and was also considered generally likely to be detrimental to the appearance of the church. The south porch, though an external option, was likely to be a costly and complex one. The amenity societies which had been consulted were highly critical of this option. The west end of the nave was also a potentially challenging location for reasons related to possible access, high quality design needs and multiple user in a relatively confined space. In short, none of the options was without difficulty and the DAC suggested the parish give thought to a possible external, wooden, structure to be positioned some distance from the church building, in the new churchyard. Alternatively, it was suggested, thought could be given to the development of Mode Cottage, a property opposite the churchyard and across the road, which the parish had in the past been given by a benefactor.
37. By March 2009 the possibility of a new north porch construction was under active consideration with the architect. Plans were prepared and consultation proceeded. The DAC offered its encouragement and English Heritage was not opposed in principle to the concept, though there was concern (later expressed and shared by the local planning authority) about any external solution and a different position may well, I suspect, have been adopted had the internal (organ chamber) option then been in anyone's contemplation .
38. At its meeting of 28th May 2009, the PCC was recorded as of the view that a new north porch 'would be the best option as an improvement for the church'. A porch at that location would have had the added advantage of affording some element of heat retention and weather protection at the principal door used for 'everyday' entry to the church.
39. That said, by July 2009 the PCC minutes noted that 'increasing disquiet was voiced regarding the cost of this proposed option'. There was also some parochial concern about the likely visual impact to the north elevation of the building. The north porch option was therefore seemingly placed on 'hold' whilst exploration of the new churchyard option was pursued. That too was eventually to founder in the face of complexities relating to access, security, difficulties of management, connection to a main sewer and archaeological considerations. The land which comprises the new churchyard is itself leased to the church by the National Trust.
40. In January 2010 the Fabric Committee advised the PCC that the current arrangements for serving coffee were unsatisfactory, not least from a health and safety point of view. Possible locations for a permanent 'coffee station' were circulated for consideration and the church newsletter for August 2010, in a fairly detailed account headed 'Church Improvements', made reference to the desire to create such a facility. No location was identified.
41. In November 2010 the PCC approved the proposed location at the west end of the north aisle, for which permission is now sought. The detail of this proposal appears to have been communicated to the congregation and parish most fully in the April 2011 newsletter under the title 'More Coffee Station Stuff'.
42. Meanwhile, in March 2010, the PCC learnt the gravity of the pipe organ situation and, in May 2010, resolved to replace it with a suitable digital instrument. The organ chamber option for a

lavatory, which had received some earlier, essentially hypothetical, consideration and been dismissed as unavailable – see for instance the February 2010 newsletter - was revisited and fully explored in consultation with Mr Holland. The August 2010 newsletter stated the PCC had, at its July meeting, ‘agreed to progress the plan to place a lavatory in the organ loft. All other schemes are being suspended for the moment’.

43. At its November 2010 meeting the PCC approved that option. The December 2010/January 2011 newsletter indicated the outcome of the November meeting and confirmed the PCC’s intention to embark upon the current faculty application.

Wider parochial consultation

44. The objectors are critical of the way in which administration of both projects has been handled by the PCC. They are particularly critical that the PCC ‘failed to make its findings and conclusions available to, and failed to seek the views of, the church community before deciding to petition for a faculty’. This, it is suggested, constituted ‘constructive maladministration’.
45. Further, the objectors protest that it is only now, for the first time, that the organ chamber space is physically free to be viewed and appraised, that the PCC or congregation can have any proper opportunity to judge its suitability for a lavatory – or anything else.
46. A detailed procedural critique is advanced, including adverse comment on the 15:1 vote in favour of the project at the November 2010 PCC meeting. An open (congregational) meeting held on 13th February 2011, the purpose of which, according to the petitioners, was to present the PCC decision and reasoning, is also criticised for the Rector’s failure to accede to a spontaneous request from the floor for a show of hands and for the, it is said, unceremonious way in which other options were dismissed. The petitioners have pointed, in response, to what they say was the diligence of the PCC (and Fabric Committee) over a protracted period in exploring options, to communication in magazine articles and the church’s Annual Report and to the efforts made to keep people generally informed. Further, they point out that two of the current objecting parties were themselves PCC members and appeared not to have sought to have minuted any deficits of consultation or communication.
47. There are, I suspect, very few controversial or sensitive church projects where communication and consultation could not be improved to some degree. A PCC is charged with giving leadership, not merely ‘counting hands’. Fortunately, for the purposes of my decision, it is not necessary to venture detailed conclusions on either the procedural criticisms advanced or the defence stoutly mounted by the petitioners.
48. I reject any general charges of ‘disregarding’ the church community, of ‘ignoring the views and advice of both senior and longstanding servants of the PCC’ or of ‘maladministration’, constructive or otherwise.
49. I am wholly satisfied that more than sufficient consultation and publicity has by now taken place and I have little doubt whatever that all, or at least the great majority, of those concerned with the life of the church in any significant way will have become well aware of the proposed works, and will have had ample opportunity to make their views felt. As I have said, the extensive material before me ‘makes every point’ and I can see no conceivable basis for delaying a decision upon procedural grounds.

The Organ Chamber lavatory – the Petitioners’ case

50. The petitioners reason that the proposed lavatory affords a cost effective and unobtrusive option, reversible should needs change, which will have little or no impact, internally or externally, on the fabric of the building.
51. There will be no loss of natural light, or church seating. The toilet and its small lobby are both away from the ‘public area’ of the building. Apart from access to the organ console and storage area above, the toilet will be a dedicated space, potentially and readily accessible to all users, including wheelchair users. Gently ramped flooring will overcome the small step up to the chamber. As an ‘internal’ option, there will be no interference with graves, headstones, memorials or ashes plots.
52. Drainage pipes can follow existing available routes along the north side aisle and across the nave, taking full advantage of the heating trenches to avoid any intervention into flooring. A suitable ‘corridor’ then exists externally alongside the grassed path from the south porch to the only realistically possible position for any drainage disposal, via a septic tank in the south churchyard to be located beyond the ‘ancient’ graveyard, thereby minimizing any archaeological implications or disturbing burials.
53. An internal duct-tube in the lavatory cistern is envisaged to reduce flushing sound. A pump macerator unit, which will be required to dispose of waste, can conveniently be situated externally in the boiler access area, separated from the lavatory compartment by a stone wall. Cladding and other insulation should be effective in reducing noise and a suitable extractor fan should afford satisfactory ventilation and prevent any unwelcome smell migrating into the church. The associated storage area above the chamber will be both useful and welcome, to assist reduce clutter elsewhere.

The Coffee Station – the Petitioners’ case

54. The petitioners envisage a small, purpose built, kitchen unit comprising a wall mounted boiler and sink which, when not in use, will be concealed behind oak double doors. Refreshments would be served from a small bar or counter in front of the unit. This arrangement, they believe, will afford a safe, tidy, practical and aesthetically pleasing solution to the ‘stopgap’ arrangements which have prevailed for too long.
55. Several pews (of no especial quality) would need to be shortened or removed, resulting in a loss of some 15 seats which it is suggested could be substituted by other(moveable) chairs whenever necessary. For the vast majority of time seating is amply sufficient for those attending.
56. The unit would be largely hidden when entering the church via the west or north doors. There would be no loss of natural light. Drainage could readily follow the side aisle and cross the nave as I have indicated above. An attractive 19th or early 20th century Rectors’ Board can conveniently be re-located to the corresponding position at the west end of the south aisle where space is available.
57. The petitioners believe the proposed location represents the optimum space in the church which readily permits circulation of people via the cross aisle and the north aisle. They do not consider the north door will be significantly impeded. They have considered and rejected other locations.

Comments of Consultees and the DAC

58. The DAC in a letter of 30th November 2011 opined that 'no solution was considered ideal as they all involved either significant intervention to the Grade 1 building or, in the case of the option using an adjacent field, an unacceptable degree of inconvenience in terms of practical usage given the distance involved. The Committee noted that the location of toilet facilities in the organ chamber was supported by the Church Buildings Council and English Heritage. The Committee accepted that the organ chamber proposal involved compromises in terms of location, privacy and access routes but was very confident that, overall, this was the least unsatisfactory option for the particular circumstances of St Wilfrid's'.
59. The same letter went on to address a number of issues of concern. I summarise:
- Adherence to Part M of the Building Regulations was not required and in any event building regulation approval had been secured.
 - Usage of the lavatory was more likely to be before and after services and therefore unlikely to produce a significant distraction to worship.
 - Sliding doors of the type proposed had been used successfully elsewhere.
 - Noise and waste pipe maintenance had been considered and the Committee was confident these could be addressed through appropriate installation and management.
 - An alarm signal would be necessary wherever a lavatory was located at the church.
 - Marginal loss of seating for occasional full services would be mitigated by the benefits of being able to serve refreshments throughout the year and by the occasional use of removable seating.
 - Access past the coffee station area via the north door was a straightforward management issue.
 - The Rectors' Board would remain fully accessible on the south west wall.
 - The Committee and English Heritage felt very strongly that one of the particular strengths of the present proposal was its minimal visual impact to a Grade 1 church interior.
 - The only feasible drainage arrangement was the one proposed.
 - A fixed serving unit in the kitchen facility was considered more satisfactory on practical and safety grounds given the weight of the units with under counter storage.
60. The letter concluded : ' The DAC does fully accept the difficulty of reaching a suitable solution given that all the options involve a significant degree of compromise one way or another. The Committee is satisfied that the parish have explored all conceivable avenues and the Committee is confident that the organ chamber proposal offers the best overall solution given the nature of this very special Grade 1 building and the constraints of the surrounding graves and ashes areas'.
61. In its report for these proceedings, dated 29th February 2012, the DAC stated: 'The Committee would also have been prepared to consider in more depth the parish's outline proposal for a new north porch, subject to sight of detailed designs and the necessary

consultations....However, the parish chose to proceed with the organ chamber option given the lower visual impact and lower cost.'

62. ' Concerning the kitchenette, the provision of such facilities is strongly supported by the DAC in principle, wherever they can reasonably be accommodated. This is in line with developments in very many churches throughout the diocese and nationally. The proposals in this case were recommended by the DAC as a suitable scheme which would provide much needed facilities in a way which would not be significantly detrimental to the church interior. The operational issues of a kitchenette (noise, visibility, maintenance and smells) have not been found to be problematic elsewhere and would, in the view of the DAC, be a straightforward management issue for the PCC'.
63. In a letter to Mr Holland dated 10th September 2010, which was supportive of the organ chamber proposal, English Heritage commented : ' The works will potentially have a minimal impact on the interior of the church and the benefits of the alterations in terms of reducing clutter and providing facilities for a sustainable future of the congregation is in our view outweighing any harmful impact on the significance'.
64. Of the kitchenette they commented: 'The "brewing station" is proposed in a location commonly used for this purpose and the slight alteration to the pews arrangement is acceptable, subject to details of drain'.
65. A later letter dated 24th June 2011 made reference to certain potential difficulties with a north porch option and concluded: "...even though we appreciate the congregation's concern for the practicalities of the option of using the organ chamber, we would still recommend this as our favoured option since it will have less harmful impact on the significance of the building, its setting and potentially also burials'.
66. Mr Goodchild, Senior Churches Officer, of the Church Buildings Council said in a letter of 28th June 2011 that, he and a colleague having visited and considered the proposals, the Council was pleased to support the current scheme subject to three caveats which the architect and PCC have since considered further. First, he confirmed that the Council was generally not in favour of siting organ loudspeakers behind a facade of 'dummy' pipes as is proposed; second he suggested a possible alternative to a septic tank system; third, he advocated moveable serving units in preference to a fixed counter. The latter two options have been considered and rejected for what seem to me to be sound reasons. The first has, in this situation, the advantage for which the petitioners contend, namely a wish to alter the 'look' of the chancel area as little as possible.
67. I have already made reference to the observations of the Conservation Officer and the Lay Chaplain for Deaf and Disabled People. They too are broadly supportive of the scheme.

The Organ Chamber lavatory – the Objectors' case

68. Underlining, as I accept, they are in no sense 'anti-lavatory', the objecting parties firmly believe that to place a lavatory in what they term a 'sensitive position at the east end' of the church would 'harm the religious significance' of the building. They protest that 'spiritual considerations' have not been canvassed or assessed adequately.
69. Secondly, they consider that access and usage have not been properly thought through, indeed that the design, generally, is deficient in a number of important respects. They point to

arrangements falling short of aspects of the Building Regulations and the well known publication 'Widening the Eye of the Needle'.

70. Thirdly, they are concerned, given the position, that use during services may be disruptive, distracting and, frankly, embarrassing to all concerned.
71. Finally, they raise a number of concerns about potential noise, smell, ventilation, maintenance and drainage issues.
72. They have, if I may say so, sought to develop their submissions with care and in some well-informed technical detail. My attempt to distil their points in a summary is not to be interpreted as ignoring that detail, which I have fully considered.
73. As to the 'spiritual' dimension, they have pointed to the historicity of the church and its location. They have, with justification, mentioned 'hallowed ground', a 'place of sanctity and prayer'. Some objectors clearly feel that a north porch extension might have had more 'regard for people's sensitivity to place and circumstance' and indeed, it is suggested, may yet be required irrespective of the present decision. That said, it does not appear that the wider group of those recording objection is even united amongst itself as to the solution.
74. The objectors protest that the Building Regulations (and 'Widening the Eye') advocate (I summarize) that lavatories be positioned at or near an entrance and not at the front, where privacy is not compromised and access routes are direct and free of obstruction. They are not in the least re-assured that formal approval under those Regulations applicable has been secured. They consider the present proposal fails on all fronts. They argue the location proposed 'could not be more public'. They suggest that a north porch option might well have afforded a prospect of full compliance and might equally have afforded the prospect of some natural light or ventilation, which present proposals do not.
75. They consider that whilst most use would inevitably be before or after services, any user would, so to speak, be entering the space in 'full view of most of the congregation'. They fear embarrassment and disruption. They consider circulation in the north aisle 'approach' to the entrance to the chamber is very restricted and that access for persons using wheelchairs or walking frames could only be (as the petitioners accept) via the front aisle, where, again, width is restricted and where the front pew (if in use) would probably need temporarily to be vacated. Further, the disabled ramp, which all accept would be required, would need to be two-directional to accommodate this problem, thus leaving little or no level platform immediately outside the chamber door which may prove problematic to users in wheelchairs and was certainly a concern raised by Mrs Robinson.
76. They regard electronically operated sliding doors as potentially confusing to children and the elderly. They consider the internal layout, both of the room and the sanitary ware itself, inadequate and overly constricted, with a further set of sliding doors to be navigated after entry to the (very small) 'lobby'. They fear congestion as persons enter or exit. They are concerned that the organist's access to the console may be impeded were the 'lobby' to be full. They are aghast at the thought of any need for a queue (worse still, a 'procession' of children) to form in the north aisle outside the doors.
77. They are very concerned indeed about possible noise implications (natural human sound, plumbing and drainage noise, door mechanisms, an electric extractor fan and macerator, not to mention an alarm, in a wholly unpredictable combination) and feel this issue in particular has not been sufficiently objectively assessed. They are anxious, despite existing insulation

measures in the design, that what is proposed will be of 'light construction' and that, as it has been put, 'the PCC would have no easy way of retro-fitting suppression'.

78. They raise the obvious maintenance, servicing and repair challenge a number of aspects of what is proposed would inevitably generate. They are concerned that the need to keep the north aisle clear would unnecessarily complicate the positioning of, for example the Christmas tree or a piano. They are concerned at the prospect of distracting signage and the need for the aisle screen to accommodate a sliding door. They are unhappy at the need to set back slightly the screens and the (dummy) organ pipes to the north side of the chancel.
79. In short, they considered the weight of external consultation in favour of the proposals somewhat misjudged. They judged that it, on the whole, underestimated the impact of present proposals (and I include the coffee station here) on the interior of the building and overestimated consequences of adding a north porch.
80. They concluded their opposition to the organ chamber proposal thus: '...we conclude that there are compelling arguments why a lavatory of this form and design, located behind the organ console and at the front of the church, cannot be supported. Its position and substandard access details would inhibit usage. Moreover, even if more investigation is undertaken we are convinced that this would show the scheme has no future.'

The Coffee Station – the objectors' case

81. The objectors consider the present ad hoc arrangements somewhat noisy and distracting and fear that what is proposed will merely formalise the problem and perpetuate unwelcome domestic sound in the church. They fear a coffee odour for which there is no obvious ventilation. They are unhappy to contemplate relocation of the Rectors' Board and make the point the present board is full, with no obviously suitable position presenting itself for any further board. Again, they have technical concerns about water connection, drainage and maintenance. In summary, they are unhappy about 'such a prominent feature within the church, which is itself small and intimate'. They feel the development will 'devalue' that part of the church.
82. Loss of seating (some 15 seats – possibly a few more) is of real concern in what is a small church and it will be a challenge to find space to re-site the existing cupboard and book store which sits to the right of the north door as one enters. Free standing seats, even if used, would still need to be properly stored. The objectors consider the thought of any fixed counter 'anathema'.
83. They consider the west end tower space a preferable, less visible, more appropriate and physically larger location and fear congestion as worshippers seek to leave via the north door while coffee is being drunk by others in the north or cross aisles.
84. They concluded their written submission thus: '...the proposed siting of the coffee station is not considered acceptable for both practical and functional reasons'.

The Law

85. Church buildings 'are not only historic monuments; they exist for a purpose – the worship of God and the mission of His church - and they have a vital role to play in the life of the Church

both now and in the future. They should be living buildings, which fulfil and are seen to fulfil that role' (Care of Churches and Ecclesiastical Jurisdiction Measure, Code of Practice, paragraph 3). This desire for 'living buildings' can often trigger, as here, difficult, even painful, dilemmas about change to historic fabric.

86. The distinguished architect Donald Insall has written "Change is a part of life –we cannot avoid it. All we can agree upon or argue about is merely the degree and direction of that change and its relation to what has gone before. Indeed without change, there could have been no history, nor can it continue. Accepting the inevitability of change, we can still however set out to guide it and influence it. This we can only achieve by intervention. The question then becomes 'what kind of intervention' and 'how much intervention'? And indeed, 'when does that intervention become interference'? This too is a matter of degree". (Living Buildings(2008) at p.93/94)
87. The test in relation to works involving the alteration of a listed church is to consider whether the works in question would adversely affect its character as a building of special architectural or historic interest. If they would, it is then for the petitioners to show why the works are nevertheless justified - for some compelling reason – which may include the pastoral wellbeing of the congregation.
88. There remains a duty on anyone promoting an alteration to any church, whether listed or not, to show the benefits, practical or aesthetic or both, that would result.
89. Alterations that are irreversible are to be avoided where possible.
90. In the case of a listed church there is a strong presumption against change which would adversely affect its character as a building of special architectural or historic interest. But there is no presumption against works to a listed church which – for example, because of their scale or their location - have no effect upon its character. Still less can there be a presumption against works which affect the special character of such a church beneficially. Further, in determining the effect of works, it will be appropriate to have regard to their effect not just on the building as a whole, but also on any features of special architectural or historic interest that it possesses, and on its setting.
91. Where proposed works are found to have an adverse effect, it will be necessary for petitioners to produce evidence of sufficient weight to show "necessity" for the change, that is to say that the benefit resulting from the works outweighs any architectural or aesthetic harm. However, where the effect of the works is either neutral or beneficial, there is no particular need to consider the necessity for them, since there is no adverse effect to be to be mitigated and thus no balancing exercise to be carried out : see **Re Great Malvern Priory[2009]PTSR 1408** (Mynors Ch).
92. The desires of people in a congregation and parish are important and deserve to be given weight, but their views (even of a majority in favour) are not determinative in a case of this kind because the church belongs not to any one generation. Petitioners do not establish necessity merely because they believe works to be a good idea; that is true of all petitions. Some compelling reason which goes beyond an aesthetic judgment and which reflects in some way a wider policy concerned with worship or pastoral wellbeing, or mission must be shown: see **Re All Saints Harthill** (McClellan Ch).
93. Even in the absence of unanimity about any project, the petitioners are entitled to bring forward proposals and put them to the test before the court. It is no part of the court's task to refuse to authorize works merely because alternative schemes may be tenable. The PCC has a

- duty to promote, with the Incumbent, the whole ministry of the church in the way they judge best.
94. As with any petition, the petitioners bear the burden of proof which is on a balance of probability, the normal civil standard. It is not a burden easily discharged in the case of a listed church.
95. As I have said, where changes are proposed to a listed building, the Court of Arches, in its judgment in **Re St Luke the Evangelist, Maidstone [1995] Fam 1** has declared that the correct approach is to adopt what have come to be termed the 'Bishopsgate' Questions namely:
- (a) Have the petitioners proved a necessity for some or all of the proposed works either because they are necessary for the pastoral wellbeing of [the parish] or for some other compelling reason?
 - (b) Will some or all of the works adversely affect the church as a building of special architectural or historic interest?
 - (c) If the answer to (b) is yes, then is the necessity proved by the petitioners such that in the exercise of the court's discretion a faculty should be granted for some or all of the works.
96. Consistory courts of both provinces are loyally applying this approach which is regarded as having universal application.
97. 'Necessity' is a broad concept, not to be treated abstractly, rather taken in its context of the role of the church as a centre of worship and mission. It includes works 'necessary for...pastoral wellbeing...or for some other compelling reason', to borrow from the judgment of Cameron Ch. (as she then was) in **Re St Helen, Bishopsgate (1993) 3 Ecc LJ 256**. In **Re St John the Evangelist, Blackheath (1998) 5 Ecc LJ 217**, George Ch. (as he then was) ventured that 'necessity' and 'necessary' in the context of the Bishopsgate Questions mean 'something less than essential, but more than merely desirable or convenient; in other words something that is requisite or reasonably necessary'.
98. There are no inherent legal objections to either a lavatory or a coffee station being installed in a church. Such arrangements are, in their different ways, like heating and amplification, concessions to human need, even weakness, about which we should feel no undue self consciousness. On the contrary, subject to aesthetic and practical considerations (of the kind at issue here), they may be a positive improvement, making the building more useful and welcoming.

Discussion and Conclusions

99. I am entirely satisfied the need for both a lavatory and a coffee station have been convincingly and amply demonstrated. The prolonged debate in the parish, to which many of the objectors have constructively contributed, is ample evidence that something needed to be done. Much energy, time and cost have already been invested in a quest for an acceptable solution. To be fit for purpose in the twenty-first century, I have little doubt that the provision of suitable lavatory facilities in particular has become a necessity.
100. For all the criticism mounted by objectors of matters of process, I have found myself impressed at the way the petitioners have struggled to explore, and now deliver, a solution which minimizes impact upon the building, internally and externally. Further, they have sought a solution which, in my judgment, is proportionate, cost effective and reversible. To that end,

they have engaged an experienced architect who has in turn sought to identify a workable solution which, though in some respects perhaps less than ideal, has achieved a high degree of acceptance amongst necessary consultees, with the result that what is now proposed has the overwhelming weight of 'external' opinion behind it.

101. I have, I confess, been troubled by the apparent degree of 'internal' opposition from those who plainly know and love the building. I have sought to weigh their various points in opposition. I have considered carefully whether any single argument, or the arguments collectively, should cause me to reach the conclusion the petitioners have failed to prove a case for the proposals before me, or whether, considering all the evidence, I should reject either or both requests as damaging to the building. I am persuaded of neither.
102. I felt reassured, having visited the church, that I was not left with any impression the proposed organ chamber room would constitute any 'spiritual' distraction by being situated where it is. It is, I considered, very much 'in the corner' at the end of a side aisle. It felt acceptable to be removed from the chancel and holy table, to be separated from those areas by some seating, a largish organ console, pipes and panelling and an insulated wall. I recognise there may be an element of subjectivity in the evaluation of such matters and that, in principle, lavatories may be, generally, more appropriately situated at the rear of any building. Here the various limitations I have already discussed have greatly restricted alternative options and the organ chamber has, in my judgment, afforded an acceptable and practical solution to a pressing need.
103. Usage will, I am persuaded, be fairly light, largely before and after services or events, and can be managed sensitively by the congregation. Queuing seems an unlikely risk in reality. Minor disruption to (infrequent) users of the front pew who may need to move or to lend assistance to a potential user with disability requiring access seems acceptable. Perceptions of likely embarrassment and disruption by reason of use plainly vary amongst members of the congregation. The organ chamber entrance will be used by not only lavatory users but perhaps too by the organist and those accessing the store. I am not persuaded any practical issues of this kind should lead me to refuse permission for this development.
104. The actual lavatory space and the adjoining lobby are, without doubt, small but acceptably so, and are not, in my judgment, properly characterised as 'substandard'. Ramp access is, in my view, adequate. That space does not permit a level platform immediately outside the door, is a regrettable but unavoidable compromise to be set against the wholly desirable (and now necessary) creation of a facility for use, in a convenient location, by able bodied and disabled people alike.
105. The various technical aspects of the work plainly have some potential for noise, smell, breakdown and the challenge of continuing maintenance is obvious. I am satisfied the petitioners and their advisers have reflected on these various aspects. I have considered anxiously whether any of the important matters raised by way of objection should cause me to refuse what is sought or, alternatively, to require the petitioners to commission any further expert opinion prior to my determination. Some element of proportionality has to be struck. I have been reassured by all I know of the work of the parish's chosen architect and by the arms length scrutiny I know the detail to have received from the members of the DAC, including the other architect members. I have concluded the proposals are, so far as maybe judged, technically acceptable in the circumstances.

106. I am not myself persuaded the organ chamber work will adversely affect the character of the church as a building of special architectural or historic interest, but even if I was wrong in that conclusion, having asked the 'Bishopsgate' questions, I am satisfied the petitioners have sufficiently demonstrated convincing need for me to exercise my discretion to sanction their chosen option. The difficulty in St Wilfrid is that no option is without potential difficulty. This modest, internal and reversible option seemed to be (as to other consultees) the option to be preferred as things stand. I intend to permit it.
107. I am equally persuaded of the need for more established and secure coffee serving facilities. What is proposed is in my judgment an acceptable, manageable, proportionate and reversible solution. Seating loss is of marginal significance and could be mitigated in other ways as need arose. Pew alteration is acceptable, given their modest quality. The Rectors' Board is capable of relocation to a precisely comparable position in the south aisle with no loss of historic significance. Creation and the location of any further such board would need to be the subject of separate discussion, consultation and approval in any event.
108. I am not persuaded any insurmountable technical difficulty lies in the path of the work proposed nor do I consider there would be any significant disruption to access or circulation. Other locations have, I am satisfied, been properly considered and, for good reason, rejected. This station will be, again, situated 'in a corner', adjacent to what, I concluded, was the optimum position in the church for members and visitors to congregate informally.
109. Again, I am not persuaded of any adverse effect architecturally or historically, but if I was wrong, I am satisfied I should nevertheless exercise my discretion to permit the work.
110. In short, in respect of each proposal I have found the petitioners' case to be sufficiently persuasive to permit what is sought.
111. St Wilfrid is not the first parish which has had to deal with sensitive issues relating to re-ordering where the matter has had to be placed before the court for determination. There is no shame in that course. Strongly held opinions and carefully argued objections deserve to be weighed and scrutinised. I have now examined the merits to the best of my ability. I have no doubt honestly held differences of opinion will persist in the congregation. What matters is that any residual disagreement is handled graciously for the sake of the Gospel. I entirely echo the sentiment with which the Archdeacon of Macclesfield concluded his report for these proceedings: "My personal hope and prayer is that whatever the outcome of the process, the congregation will look forward and outward to their community in the years ahead".

Orders

112. I will grant a faculty for the works sought, to be carried out within 18 months, or such further period as the court may authorise.
113. The faculty will be subject to a number of conditions:
- (a) The works shall be under the direction of and subject to the inspection of the church's instructed architect;
 - (b) The immediate directions of the Diocesan registrar are to be sought in the event of any disturbance of human remains in the course of churchyard works;
 - (c) There will be an archaeological watching brief in respect of the works to record any archaeological evidence revealed during the course of churchyard works;
 - (d) The final design of any doors to the organ chamber room and of signage thereto and thereon shall be the subject of detailed consultation with the church's instructed architect.

- (e) Any associated electrical works must be carried out in accordance with current regulation and by a registered contractor;
 - (f) All graves or cremated remains areas proximate to any ground or building works must be protected as far as practicable from damage.
 - (g) There is liberty to apply as to implementation of this faculty.
114. Conscious that none of the parties will have had opportunity to make representations in respect of any proposed conditions, I will grant 14 days from the receipt of judgment by the parties for any representations to be made. These should be sent in written form to the Registry. I will, if invited, consider carefully any suggestions for amendment or addition and notify the parties accordingly. In the absence of any representations the faculty will issue as drafted. A similar opportunity is afforded in respect of costs.
115. For the avoidance of doubt, I will extend time for compliance under Faculty 131/10C by 18 months, to enable those works to be co-ordinated with the works permitted by this order.

Costs

116. The normal practice in the Consistory Court is not to make an order for costs between the parties save where unreasonable behaviour or some other conduct which may be considered reprehensible has occurred. Nothing of that sort remotely arises here, in my view. Honest and reasonably held differences of opinion have necessitated a court decision. Subject to any further representations, I propose to make no order as to costs save to order the petitioners, in the usual way, to pay the court costs and the reasonable costs of the Registrar (to include a correspondence fee in a sum to be agreed or determined by the court).

7th May 2012

His Honour Judge David Turner QC

Chancellor of the Diocese of Chester