

IN THE COMMISSARY COURT OF
THE DIOCESE OF CANTERBURY

Faculty Ref: 731

RE: PETITION IN RESPECT OF
ST ALPHEGE, SEASALTER

JUDGMENT

1. The Petition before me relates to proposed works at St Alphege Old Church, Seasalter (which I shall refer to as "the church"). I held a hearing in relation to it at the church on 24 November 2017.

The church

2. The church is a Grade II listed building, dating from around 1150. The present building is actually the chancel of the original church, the nave of which was demolished about 150 years ago, when it was decided to build a new St Alphege Church in nearby Whitstable.
3. As recorded in the Statement of Significance, one of the most notable features of the church is the massive ancient oak beam in the roof, which is around 800 years old. To the right of the altar there is a projecting Corbel where a statue of St Alphege stood, the Aumbry where the Communion of the Sick was reserved, and the arched Piscina where the vessels used at Mass were washed. All these are 14th century. It also has a bell dating from 1592.
4. The building is attractive externally and (leaving aside contents, to which I shall refer below) has a simplicity of appearance inside, with a number of impressive 19th century memorials of suitable scale on the walls which add to its attractiveness.

The Petition

5. By their Petition, the Revd Stephen Coneys, Mrs Lynda Kemp and Mrs Yvonne Champion (“the petitioners”) seek a re-ordering of the interior of the church in accordance with a Statement of Need dated June 2016, a Heritage Statement dated 2016, a statement of significance (undated), a specification dated November 2016 and specified drawings.
6. The proposed works include: glazed frameless inner doors; a new limestone floor with under-floor heating; the removal of a plywood ceiling, the oak reredos on the east wall, 1950s pews, an organ, lighting and cables; the provision of new lighting and projection facilities; the introduction of chairs; and the construction of a freestanding ‘extension’ building in the churchyard.
7. The proposals also originally included the relocation of some of the wall memorials. Happily, following the receipt of representations, this aspect of the proposal has been withdrawn in line with a letter to the Registrar dated 7 August. This was confirmed at the hearing, and the petition, with my permission, accordingly stands amended to exclude the proposed relocation of memorials. Any reference to this in the drawings or elsewhere is to be disregarded.

Diocesan Advisory Committee’s Views

8. The Diocesan Advisory Committee (“DAC”) by advice dated 23rd March 2017 considered the proposal to be likely to affect the character of the church as a building of special architectural or historic interest, but recommended approval of the works.

Objections

9. Objections to the proposals were received from Mrs J Brown, Mr Alan Leith, Mrs Carole Leith, Margaret Cohen, and David Walton, none of whom elected to become party opponents. Following directions I gave on 27 October 2017, none of the objectors applied to give evidence at the hearing but further written submissions, with attachments, were received from Mr Leith dated 14 November and from Mrs Leith dated 15 November 2017. I have taken all the representations into account, and raised a number of questions resulting from them at the hearing.

Other Representations

10. I have also taken into account the views expressed in writing by the Church Buildings Council by letter dated 31 July 2014, the Society for the Protection of Ancient Buildings by e-mail dated 30 December 2016, the Ancient Monuments Society by e-mails dated 21 April 2016 and 21 June 2017, and Historic England by letter dated 21 February 2017 and e-mails of 4 and 27 July 2017.

Applicable Principles

11. In terms of the effect of the proposals, if carried out, on the character of the church, what in summary I have to consider, as set out by the Court of Arches in Re St Alkmund, Duffield (at paragraph 87), in the context of this case is as follows:

- (1) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
- (2) If not, then the ordinary presumption "in favour of things as they stand" is applicable, but, generally speaking, that can readily be rebutted by reference to need for change;
- (3) If, however, the proposals would cause the harm I have referred to, how serious would that harm be?
- (4) How clear and convincing is the justification for carrying out the proposals?
- (5) Bearing in mind there is a strong presumption against proposals which will adversely affect the special character of a listed building, would any resulting public benefit (including matters such as pastoral well-being, opportunities for mission, and putting the church to viable uses consistent with its role as a place of worship and mission) outweigh the harm? The more serious the harm, the greater will be the level of benefit needed in order for the proposals to be permitted.

12. If the final stage of weighing the balance is reached, I need also to consider whether the works would be readily reversible in the future and to what extent that helps in justifying any harm in the context of this case.

The Hearing

13. At the hearing, I looked round the church and its grounds accompanied by the Revd Stephen Coneys (until recently Team Rector), Mrs Lynda Kemp (churchwarden) and the Registrar, and had relevant places and features pointed out to me. I raised a number of questions in relation to the existing features and clarified aspects of the proposals.
14. I heard evidence on oath from Mrs Kemp, which included confirming that the answers she had given to factual questions about the existing features and the proposals during the time spent looking round the inside and outside of the church were correct.
15. I raised a number of queries in relation to the needs of the church and its users, what was proposed, and the likely effects.
16. I also listened to comments from a number of parishioners who were present, and from the Archdeacon of Canterbury, and received oral submissions by Mr Coneys on behalf of the Petitioners (of whom he is one). Mr Coneys has some 23 years' experience of conducting services in, and otherwise using, the church, and emphasised its present day needs.
17. In summary, the aim is to restore simplicity to this small church, in keeping with its age and size, and to provide greater access and flexibility of use within appropriate confines. I was impressed by the care with which the proposals had been thought out and the consideration given to the views of those concerned.
18. During the course of the hearing I raised the question of whether the removal of the oak reredos on the east wall was necessary, and whether this could not be stripped and limed as for example Mrs Leith had suggested in her letter of 5 June 2017 and her further written submissions dated 15 November 2017. This would lighten the reredos but keep it as a focal point for the east wall and suitable backdrop when either entering the church or viewing it from outside through open or glazed doors. As a result an application was made by the Petitioners at the hearing to amend the petition to keep the oak reredos but to strip and lime it to match the walls, with a suitable finish, and to extend it down the few inches to floor level if the plinth in front of it is removed. I allowed this amendment, and the petition before me accordingly now includes this modification.
19. Following the formal closure of the hearing, I took the opportunity of viewing the Christian Centre in Faversham Road, about ten minutes' walk away, as suggested by Mrs Leith in her further written submissions

dated 15 November. That includes a very large up to date meeting room and worship space, smaller meeting rooms, kitchen, and toilets facilities, and is plainly completely different to the church which is the subject of the petition.

Discussion and Decision

20. I shall deal in turn with the principal works sought.

Inner Doors

21. The proposed inner doors are to be glazed, which will allow light to enter the church when the outer doors are open, but will retain some heat, and will enable the church to be viewed from outside when the church is closed by the inner doors being locked but the outer doors kept open. They will not affect the existing (Victorian) doors, which are to be retained. There has been no objection to the introduction of these inner doors, which will not, in my judgement have any significant effect on the church other than to increase the visibility and lightness of its interior and provide practical benefits. They are plainly appropriate.

Works to the Floor

22. The existing floor surface is modern carpet which is not particularly attractive. At the hearing, I saw photographs of the area beneath this, and carefully considered the potential impact on it. The nature of what is proposed has been clarified by the church's architects, Lee Evans Partnership, as set out in Mrs Kemp's letter of 7 August 2017 and at the hearing. In summary, it will involve using dry crushed slate for levelling and the incorporation of under-floor heating and tiling, laid above existing concrete flagstones which have been placed over a modern concrete floor slab. It will have no effect on what is beneath, will not interfere with existing burials in any way, and will be entirely reversible at any stage in the future. This aspect of the proposals will not have any effect on the existing character of the church, save that the underfloor heating will mean the current mish-mash of electric heaters on the upper walls of the church can be removed, with attendant improvement in the character of the church, as well as warmth. It is again appropriate.

Works to the Ceiling

23. The present ceiling consists of dark brown stained plywood with stained timber mouldings covering the joints, which was installed in the 1950s when the plaster ceiling was removed. The proposal is to remove the plywood ceiling panels, expose the beams and insulate between them

with a breathable, compressed wood fibre insulation, and plaster between the exposed timbers.

24. Following receipt of the proposals, Historic England questioned whether there was a scissor brace roof and recommended further investigation. That investigation having been carried out and the results reported to them, Historic England are satisfied with the position and have no objection to the proposals in their current form, as indicated in their e-mail of 27 July 2017.
25. The proposals will lighten the appearance of the roof area and enable the mediaeval roof timbers to be seen. This will be in keeping with the age, general appearance and character of the church, and will in my judgement enhance that character and appearance. It is again entirely appropriate in my judgement.

Video projectors and screens and removal of the organ

26. The proposal is to introduce two projectors and screens on the north and south walls of the church and to remove the current organ, replacing it with an electronic music system. The intended system as referred to at the hearing would involve a Klavinova capable producing a traditional organ sound. It would, however, not only be more flexible, but would create additional space where the current organ stands, which, though relatively small for an organ, occupies what in the context of this small building is significant space in the north-east corner of the church. The organ dates from the mid-1950s and its removal will not only create additional space, but will mean that its pipes which partly cover a memorial on the northern wall will no longer do so. Further examination behind the organ during the hearing revealed an attractive carved stone angel's head sculpture on that wall currently completely hidden from normal view by the organ but which will again become visible if the organ is removed. The removal of the organ, though relatively modern, might be thought to have some detrimental effect on character given it is a fairly traditional looking organ with pipes, but on the other hand it will give a full and better view of a longer standing wall memorial and expose what appears to be a traditional looking old carved sculpture. Overall, I consider this aspect of the proposal will not harm the character or significance of the church as a building of special architectural or historic interest, and indeed is likely to enhance it. Again, therefore, it appears to me to be appropriate. For completeness, I would add that a good and appropriate home has already been found for the organ, where it can continue to be put to use in the community.

27. The video projectors are intended to be located high on the walls and I clarified during the hearing that they will be no more than shoe box size (and light in colour, like the walls). They will in fact be concealed between vertical ashlar pieces above the wall plate area, with controls unobtrusively located for remote use at the back of the church. There will be projector screens beneath them but these are intended to be kept retracted within timber pelmet structures when not in use. They are not intended to be in use all the time, and would not, and are not intended to, prevent the holding of traditional services with books, but would provide flexibility in a small church where necessary. They are intended to enable suitable displays to take place during contemplative days, during services in other than the traditional form, and at other times. This means that the needs of the church will be able to be better met by the times when the church can be used, and the variety of purposes and types of service for which it can be used, being increased.

28. I have carefully considered the effects of this aspect of the proposal bearing in mind the ambiance and feel of the church, which is a small and ancient one, entirely different in feel to the Christian Centre on Faversham Road which complements it. However, there will be minimal visual intrusion when the screens are retracted, as they are intended to be when not in use (and which I intend by condition to require), and whilst they will have an effect on the architectural and historic significance of the church this will not in my judgement amount to serious harm. In my judgement the harm the proposal will cause will be small and is justified by the needs of the church.

29. I mention for completeness that it is also the case that the several electric wall heaters currently at the top of the north and south walls, which are highly visible and intrusive, are to be removed as part of the current proposals, so that overall there will, as a result of the proposals, be less intrusion from wall mounted features, when not in use at least, than at present.

Lighting

30. The existing lighting units are undistinguished and there is visible electrical cabling for these and the heaters I have just referred to. It is proposed to replace these lights with strategically located LED spotlights and concealed strip lighting, with largely concealed cabling. There has been no objection to this and it will not damage the character of the church, but is likely to enhance its appearance.

Cupboards and Associated Facilities

31. At the west end of the church there are what have been called some ad hoc late twentieth century cupboards. These add nothing to the character of the church, and it is proposed to replace them with simpler purpose-made oak cupboards. There is no objection to this, it will add to the character and appearance of the church. Within the cupboard there will be a small kitchenette, which is likewise not objected to, and which will not generally be visible. This is plainly appropriate.

New furniture

32. The proposal includes the removal of the current pews and their replacement with chairs. The pews date from the twentieth century. They restrict the use that can be made of the church, though it is clear that weddings and funerals do nonetheless take place. This is no doubt in large part due to the character of the church, its scale, simplicity and memorials.
33. The pews, together with the altar rail, and raised plinth at the east end, do, however, plainly restrict the use that can be made of the church. In particular, weddings and more particularly funerals are significantly more difficult to conduct for reasons that have been explained to me. For these and other events the church is also able to accommodate fewer people than it could otherwise do. Wheelchair access is also almost impossible with the pews in situ.
34. As I have indicated, the pews do not date in any part from the age of the church itself, though four of them are inscribed in memory of people connected with those who subscribed to them and one has a general dedication. Their removal, together with the altar rail, will to a very limited extent affect the significance of the church as a building of special architectural or historic interest but I do not consider that its replacement by suitable wood framed seating would amount to serious harm. Such very limited harm as there would be would plainly be outweighed in my judgement by the needs of the church for more flexibility in terms of layout, enabling a wider variety of services to take place, more people (including disabled people) to be readily accommodated, and encouraging greater use of the church for Sunday and other services, weddings, funerals, prayer meetings and the like.
35. I should say that I have considered whether the pews, which are loose and freestanding should be kept stored for use when desired rather than

disposed of. However, the proposed new outbuilding would not be of a size to satisfactorily accommodate this, they are not easy to move, and there is nowhere within the church that they could be kept. I have also considered the possible retention of two to four of them within the church along the walls, but it would not only restrict space and flexibility but would detract from the plain and uncluttered look the scheme is intended to create in what is in essence a very simple church. Having considered these matters, I do not consider it appropriate to require them to be retained.

36. The proposal indicates that the pews will be replaced with loose seating of a type to be confirmed but “likely to be stackable ... with simple stained plywood on a metal frame”. I do not consider this to be appropriate, however, and will by condition require the chairs to be wooden ones (similar to the “theo” type for example), which are in common use elsewhere. In coming to this conclusion, I have also had regard to the Church Buildings Council guidance in relation to seating in historic churches.

37. So far as the altar rail, is concerned, I was told in evidence that the traditional practice in this particular location, both within the church and in the nearby Christian Centre, is not to kneel to receive communion (which would be more easily facilitated by the retention of the altar rail) and very few do this. It is largely impractical in the church anyway because of the pews nearest the rail. However, the railed off area takes away space. There has been no objection to the removal of the altar rail or the levelling of the floor. The altar table is of mid-1950s origin and is kept covered at the moment. There is no objection to its replacement with a lighter, more moveable table, and no reason why that should not be done. When not required for use elsewhere within the church, it should generally be kept, as the altar, at or near to the east wall of the church, where the reredos is to remain, so that the layout of the church, when not in use, will not significantly change from this point of view.

New Toilet, boiler room and storage building

38. Where objectors have commented on this, they have recognised the need for a new building of the sort proposed, but have suggested it may be appropriate to have a covered way to it to allow for inclement weather, or better to locate it immediately adjacent to the church for practical reasons.

39. I viewed the location of the proposed building. In this location it will be relatively unobtrusive in an area of trees and vegetation and, with further planting intended in place of that lost, capable of offering good screening.

As shown on drawing number 08179-WD (90) 100 it will be within about 16m of the church itself. This is less than the distance people must pass along to get to the church from the nearest entrance, and a distance people will clearly be prepared, in terms of clothing and otherwise, to deal with when going to church.

40. An added consideration is the absence of known graves in this location where only one headstone can be seen, which is in a place unlikely to be affected by the construction of the new building.
41. The relationship of the proposed new building to the church building itself can also be seen from the drawings, in particular number 08179-PL (00) 015. The location of the building any closer to the church itself would be likely to detract to a significant degree from its character, appearance and setting.
42. Even so, the proposed building is likely to have some impact on the significance of the church as a building of special architectural or historic interest but it is likely to be much less than otherwise, and not to amount to serious harm given the proposed location, combined with its relatively small size, its design and the materials to be used. The limited harm there will be is clearly outweighed by the acknowledged need of all who have commented, on the need for such a facility, which will offer much needed toilet and storage facilities for users of the church, aiding the church in its mission and also enabling the church itself to be kept tidy and uncluttered (with extra chairs kept in the new building when not needed for larger services or events) which will benefit the internal character of the church. It is entirely appropriate in my judgement

New Pathway and below ground services

43. There is no objection to the replacement of the existing path with a new path, and an additional path running to the new building in the churchyard as shown on the drawings. This will be an interlocking path of gravel appearance in a subdued colour appropriate to the surroundings. The ledger stones that will be taken up are to be re-laid close to the path. The existing path is uneven, leads to water collecting, and also involves a step up into the church itself which does not aid wheelchair access. What is proposed will not in my judgement harm the significance of the church as a building of special historic interest to any significant degree and such limited harm as there will be is outweighed by the acknowledged need for a safe path which will also be likely to encourage future use of the church, and improve the access for regular and new churchgoers, attendees at weddings, funerals or other special services, those who wish

to pray, and those who simply wish to visit this interesting little church as a building of architectural and historic interest. Again, the proposal is in my judgement entirely acceptable.

Conclusion

44. Having considered in detail individual aspects of the proposals before me, which I judge acceptable for the reasons I have given, I have also been concerned to stand back to consider the extent to which any cumulative effect might be more damaging or less justifiable than the sum of the individual parts.
45. In my judgement, the individual proposals viewed together will not give rise to any greater degree of harm or be any less justifiable than when considered individually. They will be part of an overall scheme the overall impact of which will in some respects be less in the case of some individual items than when considered in isolation. For example, though high level projectors and retracted projector screens will be present on the upper north and south walls, though to an extent hidden when not in use, the old electric heaters currently mounted on the walls, with attendant cabling, will be gone, so that overall there will be less intrusion from wall mounted features (when not in use, at least) than at present. Similarly, though chairs are proposed to be introduced, which will enable larger services, including such things as weddings, funerals and other events than hitherto, those which are excess to everyday requirements will be able to be stored in the new building nearby.
46. With the retention of the reredos on the east wall, the use of wooden framed chairs of a type to be approved by the DAC, and the other conditions set out in the Annex hereto, there will in my judgement overall be little harm to the significance of the church as a building of special architectural or historic interest and such limited harm as there will be is entirely justified having regard to the needs of the church and the public benefits there will be.
47. In my judgement, the public benefit that would result from the alterations, including pastoral well-being, opportunities for mission, and putting the church to viable use consistent with its role as a place of worship and mission, would strongly outweigh the harm I have identified.
48. All this provides a clear and convincing justification for the works for which permission is now sought following amendment.
49. It is also right to mention for completeness that (excepting the loss of the particular twentieth century furniture now in use) the works will be

reversible in the future, should that be seen as appropriate for any reason, with no real damage to the fabric of the building. This further strengthens if anything the decision I have come to, though it is in no way dependent on it.

50. I should also mention that Mr Leith in his letter of 5th June 2017 stated that there seemed to him to be a “number of anomalies” between the specification/tender documents and the drawings provided showing the proposals. However, he did not identify the matters to which he was referring, and was not present at the hearing. The petitioners’ architect, Mr Lee-Evans, was consulted during an adjournment of the hearing and was unable to identify any. For the avoidance of doubt, in granting the petition I do so on the basis that in the event of any such conflict being identified the drawings (on which the hearing most closely focused) are to take precedence, although further directions can be sought should any changes subsequently prove necessary.

51. Accordingly, the proposals as amended will be allowed, on this basis, subject to the conditions set out in the Appendix, the reasons for which will be self-apparent. A faculty will be issued accordingly.

Steven Gasztowicz QC

Deputy Commissary General

18th December 2017

APPENDIX

The faculty granted is subject to the following conditions:

(1) The chairs to be introduced to the church shall be wooden chairs the precise form of which are to be approved by the DAC in advance having regard to this judgment;

(2) The replacement altar table is to be kept as part of the altar near the east wall when not in use elsewhere in the building or intended imminently to be in such use;

(3) The controls for the projection and audio systems shall be located unobtrusively at the back of the church;

(5) The projector screens are to be kept retracted when not in use or intended imminently to be in use;

(5) The new/replacement paths are to be of gravel appearance in a subdued colour appropriate to the surroundings to be approved by the DAC in advance;

(6) The ledger stones that will be taken up are to be re-laid close to the path they currently form part of;

(7) A person approved in advance by the archaeological adviser to the DAC shall maintain an archaeological watching brief as appropriate during this project;

(8) No items of archaeological or historical interest may be removed from the church site without prior consultation with the DAC;

(9) Any human remains disturbed during the works shall be immediately covered from public view and must be decently treated and with reverence at all times. Their discovery shall be notified immediately to the incumbent. They shall be labelled and preserved as an entity in locked premises until they are re-buried in the churchyard at the direction of the incumbent, in a place as close as practicable to the location in which they were uncovered;

(10) The electrical installation must comply with BS7671 - 2008 Requirements for Electrical Installations (IEE Wiring Regulations 17th edition)

(11) Photographs are to be taken of all relevant areas of the interior of the church, and of the churchyard, before any works are carried out, and are to be kept in a place to be identified by the PCC from time to time together with photographs taken from the same positions following completion of the works.

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ADDENDUM AS TO COSTS

1. In relation to the costs of the petition, there are no formal parties to the proceedings other than the petitioners.
2. There are therefore no inter parties costs to consider and I can only direct that the Court costs be paid by the Petitioners. These constitute a necessary addition to the budget for the works, but I have endeavoured to keep them to a minimum by avoiding anything other than paper directions and a half day hearing and view.

Steven Gasztowicz QC

Deputy Commissary General

18th December 2017