

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

IN RE HOLY TRINITY, WANDSWORTH

JUDGMENT

1. INTRODUCTION

- 1.1. On behalf of the Parish, the Revd Gregory Prior, Vicar, Simon Wakeley, Churchwarden and Carl Hughes, PCC member responsible for property, seek an amendment to a Faculty issued on 7 September 2012 pursuant to a Judgment dated 4 September 2012 by Petchey Ch. The Faculty permitted a major re-ordering of the church but it is only one element of this with which I am concerned. Particular issues before the Chancellor, at the time of his initial consideration of the Petition, were the appropriateness of moving the font out of a screened Victorian baptistery in the south-west corner of the church into a new position on the dais in the north transept and of converting the baptistery into a servery. These elements of the Petition were the subject of objection by English Heritage ("EH") and the Victorian Society ("VS"), whilst the Church Buildings Council ("CBC") expressed reservations about them.
- 1.2. The request to amend the Faculty was made by letter dated 18 February 2013 and concerns an important element of the baptistery screen. Petchey Ch

initially considered the request and, on 25 February, asked the Parish to seek the views of EH and VS on the amendment. The DAC had already indicated that it was content with the proposal. The Petitioners were reluctant to engage in such discussion, considering that those bodies had been fully consulted. In the event, due to circumstances connected with another matter, the Chancellor recused himself and the application was transferred in August to me in my capacity as Deputy Chancellor.

1.3. On 19 August I gave the following directions:

"The parish seeks the amendment on a number of bases as set out in their letter of 18 February 2013. The principal substantive reason seems to be that there could be a saving of £5,000 and that future maintenance costs would be lower. Procedurally, the Petitioners evidently believed that they had amended their Petition by virtue of their two letters dated 1 May and 21 June 2012. I note (as did the Chancellor in his Judgment) that they expressly stated in the earlier of these two letters that they did not wish to amend the Petition. In their later letter, under a heading, 'The Parish's Final Submission', however, they did welcome comments from the DAC on 'Option 2' (essentially, the option represented by the application to amend), but later in the letter referred the Chancellor back to the 1 May letter. The position is therefore somewhat confusing. I recognise that these letters were preceded by many meetings and discussions, including one attended by the Chancellor himself but the Judgment evidently proceeded on the clear basis that the Petition had not been amended and that it might, in fact, be dangerous to do so since 'it involves the risk that the whole Petition might fail if the amendment were found not to be acceptable.' (Para. 102)

English Heritage and the Victorian Society objected to that part of the Petition concerning the baptistery though to differing degrees. The Chancellor placed considerable weight on EH's views at paragraph 95 when considering the vital question "How important is the baptistery?", their answer being, "that it is sufficiently valuable so as to want to reserve the metalwork in situ and for it not to be converted into a servery but not so

valuable that the font cannot be removed from it." In contemplating the "further option", the Chancellor made it clear that if application were to be made to amend the Faculty, he would "require the specific views of the Church Buildings Council, English Heritage and the Victorian Society on the amendment and, generally, the requirements as regards publicity for new proposals to be gone through in respect of the amendment." (Para. 102).

Whilst I can see some logic in moving the screen given that the font is to be moved and I accept what the Parish says about financial implications, I consider that I have no option but to require citation of the bodies mentioned in the Judgment and publicity in the event that the Parish wishes to pursue the amendment. I acknowledge that there were extensive discussions of all options, including the one now proposed, but it seems to me that the retention in situ of the screen which it is now sought to move was an essential element of the balancing exercise undertaken on the evidence (particularly from EH) by the Chancellor. In view of that fact and in view of the express commitment in the Judgment about citation and publicity, it would be neither just nor expedient to go back on those matters now without giving the relevant bodies the opportunity to comment. In the absence of their advice I cannot form a sensibly informed opinion as to whether or not the amendment would constitute a substantial change in the authorised works. What I can deduce from the Judgment, however, is that the Chancellor thought that such an amendment was significant enough to warrant publicity.

I should add that I would not have felt able to determine the substantive issue without a site inspection."

- 1.4. EH, VS and CBC ("Citation Bodies") were formally consulted pursuant to my directions and duly responded. As I shall set out below, they did not object. I therefore considered it unnecessary to hold a hearing but I remained of the view that a site visit was essential. The first date when it was possible to hold a site visit was 6 November 2013, when I met the Petitioners and their architect, Mr Julian Vallis, in company with a representative of the Diocesan Registry and the

DAC Secretary. The church was still in the possession of the building contractors and it was therefore necessary for me to be accompanied. Worship has not taken place in the building for many months but the Petitioners hope to reopen it in December for several carol services which are programmed with primary schools. This commitment is clearly a very important aspect of mission and I have, accordingly, agreed to issue my Judgment in time to allow the question to be resolved in advance of those services.

2. THE CHURCH AND ITS BAPTISTERY

2.1. Petchey Ch described the church in his Judgment as follows:

“The parish of Wandsworth, All Saints with Holy Trinity has two parish churches. I am told that, historically, the church of All Saints served Wandsworth Town and the church of Holy Trinity the more affluent area of West Hill. All Saints, which is listed Grade II, is the finer architecturally. It dates from the 17th century. Holy Trinity, which is listed Grade II, dates from the mid-nineteenth century. The listing reads as follows:*

‘Main building mid 19th Century. Circa 1863. Plaque dates south aisle and transept to 1872 by John M K Hahn. Decorated style: nave and transepts. Kentish Rag with ashlar dressings. Slate roof with green slate bands. The north-west tower with angle buttresses and tall stone broach spire is the key to the asymmetrical composition. Spire added 1888. Pointed-arch tower door on north side with good wrought iron gates and hanging lantern within. Traceried east window. Interior with octagonal piers and stiffleaf capitals. ribbed open timber wagon roof Chancel arch and timber chancel roof

The church receives a two-line entry in Pevsner (i.e. The Buildings of England: London 2. South by Cherry and Pevsner (1983)):

HOLY TRINITY, West Hill. 1863 by JMK Hahn; ragstone, Dec, spire 1888 by G Patrick.’

.....

Holy Trinity with its impressive spire stands prominently at the top of West Hill on the A3. Inside it is a typical church of the period. Lofty and naturally well lit, it is an attractive building. The chancel is separated from the nave by a fine metalwork screen. In the south-west corner of the church there is a baptistery containing a stone font which is separated from the body of the church by metalwork screens. These are contemporary with the chancel screen and face east and north. The screen facing east forms the entrance to the baptistery and contains gates¹. The screen facing south is a "half" screen, the lower half being formed of varnished plywood. I think that the reason for this may be that originally the cleared area at the west end of the church now forming a northex was originally pewed; accordingly there would have been no reason for wrought ironwork to have been provided rather than the varnished plywood, because it would not have been visible if it had. The chancel screen and the baptistery are not thought to be contemporary with the church but to date from about 1889. It is not known who designed them.

At the east end of the church there is a painted and sculpted reredos with a wall painting of the Last Supper.

On the south side of the chancel, there is a three manual organ dating from 1889 by "Father" Willis. It retains its original pneumatic lever mechanism. It is an instrument of high quality.

Finally of the fittings of the church, I should mention the bells, although they are not affected by the proposals. They are a 15 cwt ring of 8, cast by Taylors of Loughborough in 1926, and are considered one of the finest rings in the old county of Surrey.

The church underwent a conservative re-ordering in 1959. A dais was introduced in front of the chancel screen on which was placed a second Holy Table. The original Victorian pews were retained."

¹ These must be the gates referred to in the listing

2.2. Visiting the church when the re-ordering works were substantially complete, I was able to appreciate its spaciousness and light following the removal of the pews and the thorough cleaning and restoration of the fine stained glass windows. The reredos has also been expertly cleaned and restored, evidently with great care and skill. In the course of that work, further painted panels either side of the representation of the Last Supper have been discovered, revealed and restored. The metalwork chancel screen mentioned in the Chancellor's Judgment is, indeed, fine. Its detailing is similar, but not identical, to that of the baptistery screen. Although at the time of my visit the reredos was covered with protective plastic and the chancel and sanctuary were being used to store various objects connected with the building works, I formed the impression that the east end of the church will, when the works are complete, act as a compelling and beautiful visual focus. No doubt that was the intention of the designers of the building, who were clearly influenced by Anglo-Catholic doctrinal, liturgical and architectural principles. The tradition of the church has now changed. Its main Sunday worship is not always Eucharistic. A Holy Table is placed on the dais for Communion services but moved, to leave a clear space in the centre of the dais, for non-Eucharistic services. Paradoxically, perhaps, the visual influence of the chancel screen and reredos are likely to be strongest during non-Eucharistic services.

2.3. All the work which has already been undertaken pursuant to the Faculty has been executed to a very high standard.

2.4. I must now return to Petchey Ch's Judgment for his detailed description of the then proposals for the baptistery and font. These details are now, of course, embodied in the Faculty. He said, at paragraph 17:

"It is necessary to explain in more detail what is proposed as regards the baptistery and the relocation of the font. As regards the baptistery, the east facing screen and gates will be retained. The north facing screen will also be retained but provision will be made to enable it mechanically to be lowered into the new "wall" formed by the panelling of the new servery. The new panelling will replace the existing varnished plywood to match that proposed throughout the building. It will be surmounted by a high quality counter top, whose purpose will not be evident when the servery is not in use. Thus the historic form of the baptistery will be preserved (albeit on its west and north sides it will be lined with the units necessary to create the servery). The north facing screen will only be lowered when the servery is not in use. As regards the relocation of the font, it is proposed that the new dais will extend into the north transept and the font will be positioned on the northern side.

At paragraph 18, the Chancellor noted:

"The new location for the font reflects the existing practice whereby baptisms take place at the front of the church (in a portable font)."

Following a learned and exhaustive consideration of the law relating to the position of fonts, the Chancellor noted at paragraph 92:

"in its new position the font will speak symbolically of the importance of the baptism – certainly in a more direct way than at present, enclosed within the baptistery, it is able to do."

2.5. I respectfully agree with the Chancellor's observations as to liturgical practice and meaning. Mr Prior explained, in answer to my questions, the usual arrangements for baptisms. They are generally performed during the main Sunday worship which, on such occasions, is non-Eucharistic. The evidence before the Chancellor was that, for 70 years or more, baptisms have been performed using a mobile font "*at the front*" of the church, which, since the reordering of the 1950s, has meant on the dais. At such services, therefore, the Holy Table is not proposed to be in place at the centre of the dais. The font has already been moved and I saw it in its new position at the northern end of the extended dais. The baptismal candidates, with their families and sponsors, will be invited to come to the font and the congregation will witness the baptism(s) from their positions in the new chairs, placed in the nave and north transept. The worship leader might also invite children to come and sit on the edge of the dais around the font so as to have a good view of the baptism(s) and feel involved in the proceedings.

2.6. One further point of detail which I should note is the presence of a small stained glass window in the east wall of the north transept behind and a little to the side of the new position of the font. It depicts Our Lord welcoming children and is, in itself, unremarkable, being typical of its Victorian period. Like many similar windows, it was clearly inspired by the text "*Suffer the little children to come*

unto me".² It is well conceived and attractive, especially in its newly cleaned and restored state.

2.7. When I visited the church, the baptistery was unfinished. The spot in the floor where the font had stood had not yet been made good but I was able to see the servery in an advanced state of construction. The new wooden part of the southern enclosing structure had been installed and the upper, screen, part of that section had been removed. Sensibly, because of the outstanding request for amendment, the mechanical device for lowering and raising the screen had not been installed inside the new "wall" on the south side of the baptistery. I was, however, disappointed to find that the top of the wooden structure had already been constructed in a fixed manner, which is not in accordance with the Faculty.

2.8. The upper part of the southern enclosure – the screen which is the subject of the requested amendment – had been detached from its supporting pillars and moved to the wall of the north transept. The builders had fixed it to the wall by means of large temporary bolts.

2.9. I shall now describe the screen. The lower part is comprised of wrought iron tracery in an intricate abstract pattern with matt gold painted florets at various intervals. This lower portion is surmounted by an ornate, cross shaped, section of similar pattern, framing a central circle which holds a descending dove painted in matt gold. In its new position I was unable to see (but established by

² Luke 18.6

touch) that all the elements of the screen which I have just described are truly double sided. The remaining element, which is not double sided, is a band of brass which runs the full length of the screen at its base and has cut into it the words:

"ONE FAITH, ONE BAPTISM, ONE LORD"

These words were clearly designed to face outwards into the church.

2.10. It was explained to me that the cavity in the new wooden wall to the north of the baptistery would not be tall enough to house the whole of the screen and this was, indeed, obvious upon examination. The means of dealing with this difficulty was to sever the screen so as to remove the cross shaped section and to create a storage space for this section in the masonry of the south wall of the baptistery.

2.11. The alternative now proposed is to hang the screen on the eastern wall of the north transept behind the font and centrally positioned below the "*Suffer the little children*" window. I requested further information from the Petitioners to explain fully the fixing of the screen to the wall for two reasons: first, because such information is clearly relevant to assessing the degree of intervention to the fabric of the screen and the wall and, secondly, because the screen is very heavy and safety is obviously also an important consideration. The suggestion made on my site visit was that the screen might be fixed by two brackets at either end and I asked for that proposition to be considered by a structural

engineer. I am very grateful to Mr Vallis and Mr Costas Michaelides (Structural Engineer) for their co-ordinated work which has produced a proposal for fixing consisting of *“small steel angles fixed to the wall ... essentially hanging the screen from the top rail ... Unfortunately we have had to include supports at the centre of the screen in order to ensure that the screen does not deflect and distort”*. A sketch showing both elevation and section were initially produced but these did not deal with the structural characteristics of the wall or the calculation of load. I accordingly sought further details in this regard and am now satisfied that these important details have been properly considered and evidenced. Clearly, the insurance implications of the proposal are important matters for the Parish to pursue.

3. LEGAL FRAMEWORK

- 3.1. I have jurisdiction to amend the Faculty pursuant to Rule 32(b) of the Faculty Jurisdiction Rules 2000 where:
- (i) I am satisfied that it is just and expedient to do so and
 - (ii) the amendment will not constitute a substantial change in the works or proposals already authorised by the Faculty.
- 3.2. These two tests require the consideration of procedural and substantive issues. On the procedural front, I am satisfied that, if persuaded on the merits, it would be just to permit the amendment because the three Citation Bodies, two of whom objected to and one of whom was unenthusiastic about, the original Petition, have been consulted and the proposed amendment has been the

subject of public notice. No objections have been elicited, the previous objectors graciously acknowledging their respect for the Judgment of the Court and taking the view that they would not therefore oppose the proposed detailed amendment. Those responses, of course, help to inform my consideration of the second test, relating to substance. Whilst the proposed amendment would be noticeably different from the authorised arrangements, I attach weight to the fact that the expert bodies clearly regard the Faculty itself as having established the principle of the scheme. To my mind, important elements of the Faculty are:

- (i) that it authorised interventions which disrupted the physical integrity both of the baptistery and of the screen now in question and
- (ii) that in authorising removal of the font from the baptistery, it physically confirmed the separation of form and function, in recognition of the fact that, in reality, form and function in relation to baptism had parted company 70 odd years previously in the life and mission of this church.

Bearing these factors in mind, I consider that I can properly – and do - find that the proposed amendment would not constitute a substantial change in the works or proposals already authorised by the Faculty. I am therefore satisfied that, if persuaded on the merits that it is expedient, I have jurisdiction to authorise the amendment which is sought.

3.3. Because the church is a listed building, special considerations arise. These considerations have recently been fully reviewed by the Court of Arches in Duffield, St Alkmund. Having noted the relationship of the Faculty Jurisdiction to

secular listed building control, the Court enunciated five guidelines, which I shall adopt as the framework for my consideration of expediency under the Faculty Jurisdiction Rules 2000. There is no need, in the light of the full review of the relevant authorities in Duffield, for me to refer to previous cases. Nevertheless, I should note that the Chancellor considered the Faculty Petition before the decision in Duffield and, entirely properly at that time, considered the so-called "Bishopsgate Questions" which were then authoritative.

3.4. The Duffield guidelines are 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 the answer to question (1) is 'no', the ordinary presumption in Faculty proceedings 'in favour of things as they stand' is applicable and can be rebutted more or less readily, depending on the particular nature of the proposals (see **Peek v Trower** (1881) 7 PD 21, 26-8, and the review of the case-law by Chancellor Bursell QC in **In re St Mary's White Waltham (No2)** [2010] PTSR 1689 at para 11). Questions 3, 4 and 5 thus do not arise.*
3. *If the answer to question (1) is 'yes', how serious would the harm be?*
4. *How clear and convincing is the justification for carrying out the proposals?*
5. *Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building (see **St Luke, Maidstone**), will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question (5), the more serious the harm, the greater will be the level of*

benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade 1 or 2, where serious harm should only exceptionally be allowed."*

Caselaw³ also recognises that in the exercise of the Court's jurisdiction I should have regard to the role of the church as a local centre of worship and mission.

- 3.5. In answer to Question 1, I find that the proposed amendment to the Faculty would cause harm to the significance of the church as a building of special architectural or historic interest. Whilst I can see some liturgical logic in moving the screen with the font, because of the screen's verbal and symbolic associations with baptism, I consider that its relocation would be harmful for the following reasons. It would destroy any vestige of physical integrity of the baptistery which might otherwise have been retained. The baptistery exemplified a stage in the Church of England's baptismal practice (private baptisms) which has now largely been abandoned. The structure is therefore of some significance as a physical record of ecclesiastical and social beliefs and practice. The screens around the baptistery are of a good standard of workmanship, if not exceptional. They were designed as three dimensional objects; the fullness of the plunging dove, representing the power of the Holy Spirit, is particularly striking within the more delicate surrounding tracery. Removal of the screen from the matching eastern tracery ironwork and gate, to be mounted flat against a remote wall in the church would, in my view, lead to a

³ Re St Luke the Evangelist, Maidstone [1995] Fam 1 at 7 A-C; [1995] 1 AER 321 at 326

further loss of integrity on the part of the baptistery and diminution of the screen as a work of Christian art. If retained and sometimes displayed as part of the baptistery, the verbal and symbolic linkage with baptism within the screen would help to explain what was the original purpose of the enclosure. The screen was not designed to be a wall decoration and its three dimensional character would not be evident in the proposed arrangement.

- 3.6. In view of my answer to Question 1, I can omit Question 2 and turn now to Question 3. Properly analysed, the harm would not be serious, for reasons which I shall now explain. The baseline for consideration is the Faculty as issued. The authorised arrangements would, themselves, involve a degree of harm; the Faculty permits severance of the cross from the screen in question and there would be the risk of further damage as parishioners would be required to lift this heavy, ornate cross in and out of its storage place and insert it in position at the top of the screen. The proposed amendment has the advantage of displaying the screen complete and in a static fashion. I consider that the integrity and safety of the screen would be better preserved than they would be under the current terms of the Faculty. A further important advantage of the amended proposal is that, unlike the Faculty, it is reversible. The proposed fixings would not damage the screen and the holes in the north transept wall would be small and limited in number. In assessing the seriousness of harm, I also attach weight to the decisions of EH, VS and CBC not to oppose the amendment in view of the decision of the Chancellor as the major issue of

principle. I have considered whether it would, in its new position, challenge the symmetry and focus of the chancel screen. As I have said, the contemporary interpretation of the mission of this church is different from that of the building's designers. Worship is not now focused on the Eucharistic celebration in the sanctuary, the celebrant with his (in the nineteenth century, never her) back to the congregation. The movement of the font means that attention is now sometimes focused on the other great biblical sacrament, that of baptism. A piece of detailed tracery, superficially similar to the chancel screen might, on its own, confuse and distract from the chancel screen and what lies beyond it. In practice, however, the font will be closer to the viewer in the congregation and provide context for the wall mounted screen. Closer inspection of the words and dove motif will make clear the connection between the items and the relationship to baptism. Balancing all these matters, I conclude that the harm would be less than serious.

3.7. Turning to Question 4, I must, once again, consider matters in the light of the Faculty. The Chancellor was persuaded that there were clear and convincing reasons for moving the font; these reasons arose from long standing custom in this church which, in turn, reflects the current understanding within the wider Church about the desirability and importance of generally performing baptisms publicly as part of regular worship. He went on to find that, having decided in favour of moving the font, the best solution to contemporary needs was to locate the servery inside the former baptistery. Bearing in mind the resultant difficulties

with regard to the screen, I consider that there is clear and convincing justification for the proposed amendment. The reasons advanced by the parish – essentially convenience and slightly lower ongoing costs – are, in my judgment, much less clear and convincing than my concerns about the practicability of the original scheme but they are slight additional considerations in favour of the amendment.

- 3.8. Question 5 starts by noting the strong presumption against proposals which adversely affect the special character of a listed building and finishes by reinforcing this presumption in the case of Grade 1 and 2* buildings. Holy Trinity, Wandsworth is a Grade 2 listed building. This means that, whilst it is an important element of the national heritage, it would not attract the extra weighting against serious harm which Question 5 imports. In any event, I have found that the harm in this case would be less than serious. I can therefore consider Question 5 on the basis of the general presumption balanced against the public interest and, specifically, the matters highlighted by the Court of Arches. I am in no doubt that liturgical freedom, opportunities for mission and the future of this church as a place of worship and mission would all be served by the works authorised by the Faculty, regardless of the outcome of this application. Liturgical freedom and the attendant mission advantages have been achieved by the consent to move the font. As to viability, this is clearly a thriving and active church, benefitting from strong clerical and lay leadership. The extent and outstandingly good standard of the re-ordering work which I observed are testament to that, as is the reason why this Judgment is urgently

required, not least because the church is located close to two junior schools in the middle of a dense and varied residential area. The position of the screen, I am sure, will not dampen the enthusiasm of this Christian community for engaging with the people of the parish in which they live. Similarly, the question is not a defining one for pastoral wellbeing. I do, however, have concerns about the authorised arrangements, not only from the point of view of the integrity and well being of the screen, but also for parishioners. It is far from ideal to have to cope, in a kitchen area, with moving awkwardly shaped, heavy but delicate objects. I can see the potential for accidents and, possibly, resentment of the screen and especially the severed cross element, if it has constantly to be moved and set into position. It can often be challenging preparing and serving refreshments for large numbers of people when working in a confined space. As I have said, however, my overriding concern about the authorised arrangements is for the integrity and long-term security of the screen itself, which brings me back to the public interest in its preservation. I therefore see public benefit in the proposal which, in my judgment, overcomes the harm which would flow from detaching the screen for the foreseeable future from the baptistery.

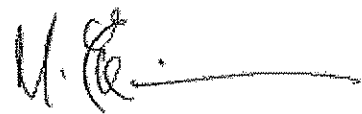
4. CONCLUSION

- 4.1. Having considered the facts through the medium of the Duffield guidelines, I conclude that it would be expedient to allow the amendment to the Faculty. The single most weighty factor in reaching this conclusion is that I have found

that the screen would be safer in its new position: it would not need to be modified, it would not be subjected to regular handling and, if properly mounted on the wall in accordance with the engineer's recommendations, it would be neither a danger nor an incumbrance to anyone. A further advantage of the proposal is that it would be reversible. Fashions in church layout and adornment change as each generation works out for itself how to be the Church in the World. The history of Holy Trinity, Wandsworth amply demonstrates this phenomenon. In the event of different priorities for the building emerging in future, the screen could be restored to the baptistery undamaged. In that sense, the wider public interest in the preservation of the listed building is served.

- 4.2. I therefore make the following Order: that the Faculty be amended by the addition to the Schedule of Works of the words,

"relocation of the north-facing baptistery screen to the north transept adjacent to the relocated font."



MORAG ELLS QC
Deputy Chancellor
25 NOV 2013