

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

IN THE MATTER OF ST JOHN'S CHURCH, WATERLOO

AND IN THE MATTER OF A PETITION BY REVD CANON GILES GODDARD, BELINDA TAYLOR AND STEVEN LANCASHIRE

## JUDGMENT

### Introduction

1. This is the petition, dated 9 November 2018, of Canon Giles Goddard, Belinda Taylor and Steven Lancashire, respectively the Vicar and Churchwardens of the parish of St John with St Andrew, Waterloo. The petition seeks a faculty for the following works to the interior of St John's Church:

*Renovation of the church interior, including: lowering of the Vestry and Lady Chapel floors to the ground floor level of the Nave; reordering of the interior of the Lady Chapel; alterations to the interior of the Vestry; alterations to the Sanctuary flooring levels to facilitate greater access; relocation and safe storage of the Thomas Ford pulpit and lectern, and communion rails; introduction of semi-permanent (but moveable) access ramp to Sanctuary; installation of new Sanctuary panelled adjustable screens (with the North side screen incorporating a staircase and pulpit); installation of new intermediate panelled screens part way down the Nave (to contain storage); installation of new Baptistry and Oratory structures in the Nave towards the West end (to contain storage), and relocation of the Font to the North side (to be incorporated into the Baptistry area); introduction of new chairs to replace existing chairs; additional/upgraded lighting; re-decoration of the church interior; restoration of the Hans Feibusch murals; removal/relocation of the David Morris murals and other items as detailed in the documentation; additional/upgraded audio-visual system; improvements to the acoustics (principally in the ceiling).*

2. It will be apparent from this description that a major re-ordering of the interior is proposed.
3. St John's Church is a well-known landmark to the south of Waterloo Bridge and close to Waterloo Station. The church is listed Grade II\*.
4. This is not the first petition seeking a faculty for the re-ordering of the church that has been presented to me. In December 2015, the present Vicar and two representatives of the parish petitioned for a faculty for a more radical re-ordering scheme. That scheme was opposed by the Twentieth Century Society (which became a party opponent), Historic England and the local planning authority (the London Borough of Lambeth). The petition was considered at a consistory court held over four days in December 2016. I handed down a judgment in the matter on 14 February 2017. In that judgment I decided that the harm that I identified that would arise from the proposals to the special character of the church as a building of special architectural and historic interest was not outweighed by the public benefit that would arise from them.

5. The Petitioners and PCC have carefully considered my judgment together with their architects, Eric Parry Associates. Following consultation, Eric Parry Associates were instructed to draw up a new scheme, intended both to provide the same or similar benefits and also to address what I had concluded about harm to the special architectural and historic interest of the building. It is evident that in large measure they have been successful in addressing the heritage concerns that were expressed in respect of the earlier scheme. Historic England and the local planning authority no longer object. The Twentieth Society does still have objections but it recognises that the current scheme retains the majority of the important elements of the Thomas Ford interior<sup>1</sup>.
6. The Twentieth Century Society is indeed now the only party objecting. It does not however wish to become a party opponent.
7. By directions dated 19 March 2019 I decided that this was a matter that I could decide on the basis of the written representations submitted to me.
8. Before reaching a decision on the present petition I carefully read again my judgment dated February 2017. That judgment contains a description of the parish (paragraphs 10 – 14) and of the church (paragraph 15). It also sets out an extended history of the matter, ending with the submission of the earlier petition (paragraphs 17 – 56). These matters are essentially unchanged since February 2017. In this judgment I shall have occasion to refer to matters set out in those paragraphs; anyone who wishes to understand more fully the detailed background should read them.
9. St John's, Waterloo is an impressive Georgian church, prominently located at one of the transport hubs of London. The area around it is experiencing extensive redevelopment, including the building of many flats. It is close to the Royal Festival Hall and the other facilities which make the South Bank of the River a place which many people visit. The Vicar heads a dedicated team which is developing the church as a place for worship; for mission; and as a community resource. They are doing some splendid things. But much as they have achieved, they want to do more, building upon the remarkable potential which the building has. It is worth saying at the outset that they recognise that part of that potential is the beautiful building that they have inherited.
10. However the building does present them with challenges.
11. Early in the Second World War it was hit by a bomb and the interior was gutted. It was decided to restore it and, more specifically, to restore it as the church for the Festival of Britain. However the decision was taken not to re-instate the galleries. There was no justification for such re-instatement in terms of providing accommodation and the case for doing so on aesthetic and historic grounds (which was strong) did not prevail. The historic aesthetic was further comprised by the installation of an intrinsically fine mural by Hans Feibusch in place of the east window.

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<sup>1</sup> See its letter dated 9 October 2018.

12. Moreover in liturgical terms, the restoration does not reflect what has for some time now been seen as the most appropriate arrangement. The main service on a Sunday is the Eucharist. As restored, the Holy Table was against the east wall of the church and surrounded by a rail<sup>2</sup>. Currently a Holy Table has been introduced into the church which is nearer the congregation but this compromises the design of the restoration.
13. The decision not to re-instate the galleries after the war made the church barn-like. In the context of churches this is usually a term of criticism, although, as Professor Powers pointed out in his evidence to me on behalf of the Twentieth Century Society in December 2016, this is not necessarily the case (at least in aesthetic terms). The point being made is that it is a big space for not that many people and that those taking and attending services would relate better to each other in a smaller space or, at least, a space that did not appear to be so big<sup>3</sup>.
14. More broadly, visitors to the church at the moment will find inside much to interest them and much to appreciate. But they probably do not leave thinking that, as regards the interior, they have visited an outstandingly attractive church.
15. There are other criticisms. Aesthetically it would be better if the two pulpits designed by Thomas Ford were set inwards from the walls of the Church. However they are not used liturgically and are currently positioned up against the walls where as well as having no liturgical function they also do not fulfil their original aesthetic function. The different levels of the sanctuary impede access to it for those whose mobility is impaired. The Lady Chapel can only comfortably accommodate about 15 people – ideally there would be an intimate space that could accommodate, say, 30 people. (The Sunday 9 am service is growing). The acoustic is poor. This is particularly significant for a church that aspires to accommodate high quality musical performances<sup>4</sup>. There is inadequate storage.
16. I felt the force of these criticisms when I wrote my judgment on the previous proposals. However I considered that the public benefits of the proposals did not outweigh the harm that would result from them. It is worth recalling what that harm was. Although the interior might have aesthetic deficiencies, within the constraints imposed upon him the architect, Thomas Ford, achieved a great deal. I received weighty expert evidence telling me just how good a job he had done; and, of course, by the time I came to consider the matter St John's had served as the church for the Festival of Britain. Many thousands of people visited it at that time, giving it new historical significance. Its importance was reflected in its extensive restoration in 1998 (with the aid of a

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<sup>2</sup> The rail has not been in place for many years now.

<sup>3</sup> If congregations were bigger, the issue would not arise in the same way although it would still need to be addressed.

<sup>4</sup> I note the further points the Petitioners make in this context, namely that a higher quality venue would mean that the church attracted more lettings; intrinsically a good thing and also an important source of revenue.

significant public grants). It was an interior of high intrinsic significance which it was proposed radically to alter<sup>5</sup>.

17. It must always be possible for public benefit to be outweighed by harm in respect of proposals to alter a church but it is generally an unhappy conclusion for a Chancellor to reach because it frustrates considered plans to develop the mission and ministry of the Church in a particular situation where it finds itself. I concluded my judgment by saying that it was my hope and prayer that a way forward might be found. Evidently if a scheme can be found which delivers the same or similar benefits but has a lesser impact on the church then the balance of benefit weighed against harm is significantly altered.

### **The current proposals**

18. The bare description of the works set out in the petition is helpfully expanded at paragraph 6.1 of the explanatory materials produced in support of the proposals by the Architects:

*The ambition for the new architectural proposal is to offer greater focus to the east end of the church, bring worship closer to the congregation and offer greater flexibility for concerts and other events. The proposals will provide much needed practical storage for furniture and equipment and provide discrete areas for private prayer and reflection. It will provide greater access into the vestry, Lady chapel and sanctuary and offer improved acoustics for spoken word and as a place for music.*

*Beautifully crafted additions will enhance the setting of the Ford interior to be celebrated and offer a better, more flexible space with greater opportunities for interaction.*

*The works will include:*

- *lowering of the sanctuary, vestry and Lady chapel floors to offer access to all, liturgical freedom and greater flexibility whilst bring back into use the Ford altar and candlesticks;*
- *re-ordering the Lady chapel better to meet liturgical and congregational needs;*
- *new sanctuary screens to re-focus attention to the east end and liturgy, mediate and reflect natural light and offer greater flexibility. The screens will offer renewed focus on the ensemble of Feibusch murals, reredos, and Ford's altar and candlesticks;*
- *new insertions will celebrate craft and offer something new and tangible for the 21<sup>st</sup> century;*
- *restoration of the Hans Feibusch murals;*
- *beautifully crafted intermediate panelled screens part way down the nave that will give decorum to the nave space, provide intimate spaces for reflection and help define the baptistery and oratory spaces, as well as offering a practical solution to the need for additional storage;*
- *a new baptistery and oratory near the entrance to the worship space will encourage prayer and reflection and give physical expression to the spiritual journey;*
- *re-decoration of the church interior, respecting both the pre-war and 1951 decorative schemes with subtle lightening of the interior tones;*

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<sup>5</sup> I should here note that opinion was divided on whether there was aesthetic benefit from the radical re-ordering. It is very difficult to form an objective judgment on matters of this kind and I was not asked to weigh in the scales in favour of the re-ordering any such benefit.

- *improvements to the acoustics for the spoken word, music and performance.*

19. It is not readily possible in words to describe the proposed new screens, which are the most innovative of the proposals; it is necessary for a person who wishes fully to understand the proposal to look at the plans. I should, however, identify certain features of them and this will enable a reader to form some idea of what is proposed. First, their basic design incorporates an element of openness, which while enabling them to fulfil their function of providing focus allows the pre-existing space to be appreciated. Second, in a way similar to a mediaeval triptych, it will be possible to “close” the screens. This will give more space when the sanctuary is used for performances; and the architects suggest it may have a liturgical use, marking the penitential seasons. Third, the north screen will incorporate a pulpit. Fourth, the design of the screens is “picked up” or echoed in the design of the storage space in the nave, contributing to the improved focus which it is designed to achieve. Fifth, they will improve the acoustic<sup>6</sup>.

### **Consideration**

20. Radical proposals of this kind inevitably involve pluses and minuses and I shall need to look at the identified minuses in due course. However the new proposals evidently have a lot going for them, as the phrase is, and I want to begin by looking at those pluses.

21. First of all, the proposals improve the church liturgically. This will be a great benefit to the congregation that currently worships there but it will also make it more attractive to those who currently do not worship there. Second, it will enhance the building as a community resource. Third, it will improve the church visually. There are evidently great opportunities for mission as the area around the church changes and experience shows that a building that helps people to worship can greatly help mission; and a beautiful building that is used by the community will likewise do so. And I need to recall that this is all in the context of much enhanced community facilities in the crypt. Canon Goddard and his team have adopted the slogan “Re-ignite the Festival Church”. This is what they aim to do and what I am sure they will do if given the opportunity.

22. I need to say something more about the visual benefits. As I have indicated, it seems to me that it is perfectly possible to appreciate the interior as restored by Ford and still feel that something is lacking. Moreover, there is no contradiction in seeking to improve an existing arrangement which is recognised as intrinsically good. As is often pointed out, churches are in effect palimpsests on which each generation has written. This is not always, of course, by way of improvement; but each generation always so hopes.

23. In the present case, I consider that there will be gain because of the improved focus of the building and because that improvement is achieved in a way that is intrinsically visually good. I accept the Petitioners’ evidence about this. But there will also be loss because the integrity of Thomas Ford’s work will be compromised. This is evidently a loss from an historic point of view (and I do not underestimate the importance of a building from an historical point of view) but it is somewhat difficult to see it as an visual loss if what is being done is an visual improvement to the original design. The Twentieth Century Society regret the impact of the proposals on Thomas Ford’s work; it has not sought further to analyse it. In the light of this stance it is likely that it does

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<sup>6</sup> The proposals overall address the current acoustic deficiency and improve it to requisite high concert standard.

not recognise a visual improvement. If so, I do not agree with it. I consider that there will be a visual improvement arising from the proposed scheme.

24. In saying this I recognise a problem that was identified in the hearing on the previous petition, namely that it is not necessarily easy to identify what is a visual improvement. It is ultimately only in the light of history can one tell (to take two extremes) whether what was done reflected a transient fashion without merit or was of outstanding value. It seems that sometimes the former was easy to justify and the latter highly controversial. However that may be, Chancellors have to do their best in the light of the expert evidence that is tendered to them. In the present case, I readily acknowledge the assistance that I have had from the CBC, the DAC, Historic England, the local planning authority and the Twentieth Century Society.
  
25. As in many cases of this kind, the work proposed is reversible. It is very difficult to imagine anyone ever wanting to restore the existing arrangements after they had once been lost. It is easier to imagine some future generation wanting to change them. In the light of experience, it would be arrogant to assume that the proposals will stand the test of time, although it is my judgment that they will. However this may be, the reversibility of the proposals must be of some comfort to anyone who might have reservations about them, whatever their viewpoint.
  
26. A further point to be made in the context of the visual impact of the proposals is that, although they do impact on the Ford scheme, they do not supersede it. That original scheme will continue to shine through (so to speak) the new arrangements<sup>7</sup>. In one respect what is proposed will restore the integrity of the original scheme, namely the removal of the David Morris murals<sup>8</sup>. Ford's Holy Table and candlesticks will be seen to better effect.
  
27. I turn from the pluses to consider the minuses. I have already identified the impact of the proposals on the interior as restored by Ford. No-one has suggested that there are any other downsides to the proposal and it is to this effect that I now turn.
  
28. In my earlier judgment, in accordance with the evidence that was presented to me (including that from the Petitioners), I placed a high value on the interior of the church. No-one at this stage has suggested that this assessment was wrong. What I now need to do is assess the nature and extent of any harm to the interior of high value from the current proposals.

29. I have identified the general point that the integrity of the interior will be compromised, a matter mitigated by the fact that it will still be possible to appreciate that interior. I would still regard this harm as significant. The more specific element of harm is the removal into storage of Ford's twin

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<sup>7</sup> Another way of putting this point is the ability of the new scheme to complement Ford's work, a point picked up by Historic England in a letter of advice dated 20 February 2018.

<sup>8</sup> A good example of a change that was thought to be for the better in its time and is now universally considered to be unfortunate.

pulpits and the Twentieth Century Society, not surprisingly, identify this as the chief of their concerns.

30. From a functional point of view, the pulpits were the least successful aspect of Ford's scheme. They reflected a liturgical fashion which seems to have been out of date even in 1951. From a visual point of view they had something of the same function that the screens are designed to fulfil in the current scheme but from an early stage they got in the way from a practical perspective. A photograph of the opening service in 1951 shows them pushed from the location for which they were designed to the sides of the church; and this temporary re-arrangement was confirmed by faculty in 2012. That faculty was for a period of five years. However, realistically, I think that I have to work on the basis that they are never again going to function as was originally intended, nor be located as originally intended<sup>9</sup>. Nonetheless, whatever caveats are made, I do consider the loss of the pulpits to be significant.<sup>10</sup> An important part of the Thomas Ford interior will disappear.

31. It is possible to identify other changes to the interior which translate into harm to the special character of the building as it now stands but I think that it is the two elements of harm identified at paragraphs 29 and 30 above which are the most important; these other elements are less important.

32. The Court of Arches suggests that the balancing exercise I am required to undertake, weighing benefit against harm, is appropriately addressed by asking the "Duffield" questions, that is a series of questions identified in *In re St Alkmund, Duffield*<sup>11</sup>. I consider it appropriate to ask these questions in the present case.

**(1) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?**

33. The answer to this question, as I have explained above, is "Yes".

**(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*, 26–28, and the review of the case law by Bursell QC, Ch in *In re St Mary's Churchyard, White Waltham (No 2) [2010] Fam 146*, para 11. Questions 3, 4 and 5 do not arise.**

34. In the light of my answer to question (1), question (2) does not arise.

**(3) If the answer to question (1) is "yes", how serious would the harm be?**

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<sup>9</sup> I cannot now imagine an order being made to restore them to their original position.

<sup>10</sup> It will be possible to store them. I have mixed feelings about this since I cannot envisage them ever being taken out of store. Nonetheless the fact that they are to be stored necessarily removes the concern that would otherwise arise as to their irreplaceable loss.

<sup>11</sup> [2013] Fam 158.

35. The harm identified at paragraphs 29 and 30 above would be significant.

**(4) How clear and convincing is the justification for carrying out the proposals?**

36. There is a clear and convincing justification for carrying out the proposals. Obviously if the Petition were refused the life of the church would continue and it would still seek to be fulfil its function of mission and ministry. There will be alternative strategies. However the strategy which has been identified involves seeking to build on the historical resource represented by the church building; and it is hard to identify any alternative strategy which would so utilise it. Not to utilise the building is to forgo what I think is a considerable opportunity.

**(5) Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building (see *In re St Luke the Evangelist, Maidstone [1995] Fam 1, 8*), 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 I or II\*, where serious harm should only exceptionally be allowed.**

37. Evidently the starting point is strongly to prioritise harm over benefit but obviously if the public benefit is sufficiently great, that harm may be outweighed. In my previous judgment I explained how in my view the circumstances in which *serious harm* should be allowed should be wholly exceptional; and that *serious harm* had the force of *substantial harm*. I note that in the context of the NPPF, Historic England say that *substantial harm is a very high test that reflects the greatest levels of seriousness*. If harm is not *substantial* it does not mean that it is *insubstantial* but is described as *less than substantial harm*; Historic England say that this can include *very harmful works*<sup>12</sup>. I am bound to say I do not find categorisations of this sort altogether helpful or easy to apply but I entirely understand how it is that the view is taken that it is only the most serious levels of harm which appropriately attract a wholly exceptionally test.

38. In the scale of things, any harm arising from the present proposals is less than from the previous proposals. All the heritage stakeholders acknowledge this. Although I think that the harm is significant, I do not think it is substantial.

39. In saying this I am conscious of the risk to a decision maker of, so to speak, categorising harm backwards; that is deciding on the outcome and categorising harm by reference to outcome he or she wishes to see eventuate. The attraction of arriving at a judgment in this way is greater, given that harm to the special character of a listed building and public benefit are different commodities and not directly comparable. However my judgment that the harm is not substantial is one that is intended to reflect the fact that the new proposals build on the Ford scheme, of which, as I have explained, much survives. This conclusion contrasts with my judgment in respect of the earlier scheme that the harm was serious or substantial because those proposals had a substantial adverse effect on a high value interior viewing that interior as a whole<sup>13</sup>.

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<sup>12</sup> See Historic England's letter of advice dated 20 February 2018.

<sup>13</sup> See paragraph 244 of my earlier judgment.

40. In the present case, I think that the significant harm is outweighed by the public benefits which it secures as set out at paragraphs 21- 26 above. I will not categorise them further save to observe that what is proposed comes at a particular moment of opportunity for St John's as the South Bank is further developed and that this fact adds to their importance. I share Canon Goddard's concern that the opportunity should not be missed.
41. I have specifically considered whether the Ford pulpits might be preserved within the church. It seems to me that it is likely that some scheme could be devised that did this. However the Twentieth Century Society's principal concern is to keep the church as it is (ideally with the Ford pulpits restored to their original position). The restoration of the pulpits will evidently not happen and a scheme which worked around them in their present position would be forced to make many compromises. The choice does seem to me to be between requiring the church to be kept as it is or permitting the current proposals and my judgment in this regard is set out at paragraph 40 above.
42. Having reached this judgment, I consider it appropriate that a faculty should issue. This does not however mean that the details of the scheme are immune from comment; potentially, an alteration or modification could be required to some element.
43. As the Petitioners know from my directions, I have been concerned by one particular detail, namely the provision of a pulpit. I make it clear at the outset that, of course, I have no objection to a pulpit as such; and pulpits of all different ages and types in churches throughout England function effectively as providing a focus for the preaching of God's word as well as facilitating a means by which the preacher may be seen and heard. Nonetheless I am very familiar with situations where although a pulpit exists, it is no longer used. This is frequently the case where a Holy Table is provided between the nave and the sanctuary and the sermon is preached from a temporary lectern or legilium; and sometimes not even that. This reflects the more intimate setting which a Holy Table in the nave encourages and the fact that congregations are now smaller than they were in the past. Nonetheless, it is intended in the present case that the proposed pulpit will be used liturgically, if not for all services; and the DAC make the point that, in any event, the existence of a pulpit symbolises the importance of the word as the existence of the Holy Table symbolises the importance of the sacrament. This latter consideration is particularly appropriate in a church which began its existence as what is sometimes described as a "Georgian preaching box". The pulpit will have a value for secular performances; visually, it enhances the arrangements at the east end of the church. Accordingly, there is no reason to require an alteration of the scheme in respect of the pulpit.
44. The David Morris murals (which are to be removed) were an attempt to flag the relevance of the gospel in the contemporary world (they show the Good Samaritan on Waterloo Bridge) and are intrinsically fine without being in the same league as Feibusch's work. I would hope that somewhere on the South Bank a new home will be found for them; until this happens they must be stored safely. I think that it will be appropriate for them to be photographed and copies be displayed somewhere within the church (which for this purpose includes the crypt).

## Formal decision

45. I direct that a faculty should issue in this case. That faculty will be subject to the following conditions:

- (i) before work starts, developed design stage details of the proposals are to be agreed with the DAC. (In the event of disagreement, the matter is to be referred back to the Court). Without prejudice to the generality of this requirement, the relevant details are to include those of the Sanctuary screens; the storage screens; the Baptistry and Oratory; the Sanctuary ramp; the chairs; the re-ordering of the Lady chapel; lighting and audio-visual systems; acoustic provision; restoration of the Feibusch murals; and redecoration (including the new colour scheme).
  
- (ii) the work is to be completed to the reasonable satisfaction of the Church's Inspecting Architect.

46. The DAC have indicated that they generally expect approval of details to be by full Committee although, as one might expect, certain matters may be delegated. I am content to leave these arrangements to the DAC.

PHILIP PETCHEY  
Chancellor

20 June 2019