

Neutral Citation: [2020] Ecc Win 3

In the Consistory Court of the Diocese of Winchester

In the parish of Hatherden with Tanglely

In the church of St Thomas of Canterbury, Tanglely

In the matter of: Introduction of WC in shed structure in the churchyard and a wooden platform to the woodland, changes to the vestry and to the sound system

JUDGMENT

1. The church of St Thomas of Canterbury, Tanglely is a beautiful Grade II* listed church in what would be considered by many to be an idyllic rural setting. Mr Frank Harris, the first Party Opponent and a neighbouring resident, goes as far as to describe it as the “finest small church in Hampshire”. Of direct relevance to this case, to the south of the church building there is an old churchyard and beyond that (but entirely contiguous with it so as to fall within the curtilage of the church) is a plot of former glebe woodland.
2. The Petitioners aspire to make the best use of the “quiet and contemplative surroundings” of the church by using it to run small retreats and quiet days. At points they have characterised their plans as being to create a ‘retreat centre’, but at the directions hearing I held at the church on 27 February 2020, Revd Alex Randle-Bissell apologised for the use of this term and acknowledged that it had created a misleading impression.
3. The specific works proposed by the Petitioners are as follows:
 - a. Install a kitchenette and new cupboards in the vestry
 - b. Build a structure externally at the rear of the church to accommodate a WC
 - c. Relocate the sound system from the vestry to the back of the church
 - d. Change the choir stalls to enable them to be moveable
 - e. Resurface the path leading up to the church with resin-bound gravel and introduce new path to external WC
 - f. Build a low platform in the woodland to provide a base for a temporary structure and lay electricity supply to the same
 - g. Lay water supply to the vestry and WC and provide domestic sewage treatment plant and soakaway.
4. I have reworded what is set out in the petition slightly for clarity, and to reflect later modifications to the Petitioners’ proposals. At the directions hearing I clarified that the plan depicting these proposals is drawing no. 18.02.10/E, which supersedes all previous drawings.
5. The CBC had no objections on 24 September 2019, provided that the modification of the choir stalls is carried out by a professional carpenter, and that the details of the cabinets and worktops in the kitchenette were approved by the DAC. The Victorian Society also had no objections. The DAC recommended approval on 7 October 2019 subject to certain conditions.

6. Objection was, however, made to the proposals in trenchant terms by Mr and Mrs Harris, who live in the adjoining property Lantern Cottage. Letters and statements from the Parties Opponent contain a number of allegations about the past conduct of the Petitioners/PCC which it is not this court's function to investigate and on which I will accordingly say no more. In terms of the issues I have to consider, they initially objected on a number of grounds. By the time of the directions hearing, however, and following various modifications to the proposals and discussions with Revd Randle-Bissell, they helpfully confirmed that their only outstanding objection was to the first part of item f. above – namely the creation of a wooden platform in the woodland area. All other objections had either been superseded by changes to the scheme, or withdrawn.
7. I should mention that Mr Hall of Church View also objected to the proposed drainage from the toilet (he wanted “proper treatment works not a contraption or a hole in the ground”), but did not elect to become a party opponent. It seems his objection has also therefore been superseded by the new drainage arrangements now proposed.
8. I can deal with the uncontroversial elements of the proposals in short order. I do not think any of them would have any appreciable impact on the historic or architectural significance of the listed building. On the other hand, each of them constitutes an obvious answer to the practical needs of those using the church. They are amply justified on that basis alone, and all the more so given the laudable proposal to increase the usage of the church by way of organised retreats. I am happy to grant a faculty for these elements, and the electricity supply forming part of point f., subject to the conditions set out below. Whilst I have not made it a condition, I would commend the DAC's suggestion that the inspecting architect be involved with the proposed works to the choir stalls.
9. I turn then to consider the proposed wooden platform. The objection of the Parties Opponent can helpfully be summarised under the following four heads, as was agreed at the directions hearing:
 - a. There is no demonstrated need for the platform;
 - b. The platform will be visually intrusive in the landscape/setting of the church;
 - c. The platform will be impractical, becoming wet and consequently “slippery, slimy and green” over time;
 - d. The platform will cause disturbance to the ecosystem of the ancient woodland.
10. In respect of the last point, this was initially advanced with reference to the proposed concrete foundations of the platform. The Petitioners clarify in their Form 6 response that “concrete would not be used and should not be considered... the platform will be erected using a wooden framework system to allow the existing ecosystems to survive”. Nonetheless the Parties Opponent maintain their concern for the effect the platform would have on the ancient woodland. By shading the ground and preventing leaves from falling there, they consider it would detrimentally affect the soil structure.
11. In this connection, Mrs Harris refers me to material connected with the recent designation of a Tree Protection Order in respect of the woodland. This stresses the

role of the soils “changed over decades of tree cover. The soil communities have mixed woodland floor materials into the mineral soil.... These systems of energy and nutrient exchange are very complicated and very important ecologically.” I can quite see how, on the face of it, the creation of a substantial wooden platform such as that proposed could have a detrimental effect on those ecosystems.

12. At the directions hearing, I pointed out to Revd Randle-Bissell that I did not have any expert evidence from the Petitioners with which to gainsay the assertions of harm to the ecosystem of the woodland. He confirmed that the Petitioners had not had any advice from an ecologist, and declined the opportunity to seek any such input, commenting that he was “90% sure a woodland specialist would say ‘don’t put anything in there at all’”. That may be unduly pessimistic on his part. However, as things stand I consequently have to assess the petition on the basis that there will be some harm to the ecology of the woodland soils, and I weigh this in the balance against the proposals.
13. Also weighing against the proposals are the concerns in terms of visual intrusion in the setting of the church (although not in the wider landscape, in which respect I find the intrusion of the platform would be minimal) and practicality outlined by the Parties Opponent.
14. None of these points necessarily constitutes a major or insuperable objection to the proposals. They could be overcome if the justification were strong enough. However, I do not think it is. The platform is intended to host outdoor retreats four to six retreats a year, each for 8-12 people. It is presented by the Petitioners as a temporary measure whilst the success of the ‘retreat centre’ concept is ascertained. It is not obvious that a platform is required at all on that basis. It only seems to have become part of the Petitioners’ plans following a suggestion made by a DAC member on a site visit. It is said to be needed to support a tent or gazebo, but the Petitioners confirmed at the directions hearing that they did not yet know how big such a structure would be, furthermore that it could be erected on matting in any event. In those circumstances, and given the concerns outlined above, I do not find that the platform element of these otherwise very laudable proposals is justified, and I will not permit it.
15. Whilst the Petitioners therefore have permission in theory to install electrical power to the proposed site of the platform, they may choose in the circumstances not to proceed with this element of the proposals either.

CONDITIONS

- a. All works of excavation in the churchyard shall be subject to an archaeological watching brief;
- b. All electrical works must comply with the Diocesan Electrical Guidance Document, to be accessed at:
<https://cofewinchester.contentfiles.net/media/documents/document/2019/02/Electrical-guidelines-DACguidance-note.pdf>
- c. The service runs within the churchyard shall be routed so as to avoid disturbing any known burial locations

- d. Any power supply cable installed under the terms of this faculty shall not be used to facilitate the playing of amplified music in the churchyard or adjoining woodland area
- e. The modification of the choir stalls must be carried out by a professional carpenter
- f. Before work on the kitchenette area commences, details of the cabinets and worktops must be submitted for approval to the DAC, or in default of such approval to the court, and the work must then be carried out in accordance with the details as approved.

Chancellor of the Diocese of Winchester
Matthew Cain Ormondroyd

3rd March 2020