

**Neutral Citation Number: [2016] ECC Swk 3**

**IN THE CONSISTORY COURT IN THE DIOCESE OF SOUTHWARK**

**IN THE MATTER OF WEST WIMBLEDON, CHRIST CHURCH**

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**JUDGMENT**

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1. The Petitioners are the Reverend Richard Lane, the Incumbent of Christ Church, West Wimbledon and the two churchwardens, Ms Julie Grainger and Ms Sally Janine Edmunds.
2. The object of the Petitions is the construction of a new church hall on land adjacent to the church building. Petition 2912 relates to the physical works and is in the following terms:

"Construction of a new church hall linked to the south porch; removal of internal draught lobby; external lighting; tree felling, landscaping and signage as described in the following documents."
3. There follows a list of drawings, illustrations of proposed materials, glass link and foundations statement, arboricultural report dated December 2014, planning permission and planning officer's report.
4. Full planning permission was issued by the London Borough of Merton on 24 June 2015. Condition 2 requires the development to be carried out in accordance with many, but not all, of the drawings submitted with the Petition. Condition 3 requires approval of "details of particulars and samples of the materials to be used on all external faces of the development" prior to implementation. Conditions 4 and 22 respectively impose similar requirements in relation to details of surfacing of parking, service areas, roads and footpaths and in relation to full details of a landscaping and planting scheme. The planning application generated thirteen letters of support and two objections from local residents. There is no record of any adverse representation having been made on heritage or architectural grounds.
5. Petition 2913 seeks the necessary authorisation for the Petitioners to enter into a contract with the Diocese of Southwark for the transfer of a small piece of land to the south west of the church building which is required for part of the proposed new structure.
6. Unanimous Resolutions to seek these Faculties were passed by the Parochial Church Council on 15 July 2015. The Diocesan Advisory Committee has issued Notifications of Advice recommending both Petitions.
7. Shortly before submitting the scheme to the DAC, the Petitioners' architect consulted the Victorian Society on the project. The Society's officer responded as follows:

"The Society has no objection in principle to the building of an extension on the location and to the size proposed. Our sole criticism is that, as currently proposed, the hall would sit too close to the existing church; it should be pushed further away, closer to the boundary of the churchyard, to allow the historic building to 'breathe'. We realise that this will require some reconsideration of the relationship between the entrance to the hall and the avenue from the road and associated redesign, but we feel strongly that it is necessary to avoid harm to the setting of the nationally important church."

8. Following consideration by the DAC and the lodging of the Petition, the Chancellor of the Diocese directed as follows:

"As far as I can see, the Victorian Society has an outstanding objection to this proposal. Rather than formally requiring them to be specially cited, the Petitioners may be able to ascertain by email whether (i) the Victorian Society is still objecting and (ii) whether it wishes to become party opponent or simply wish the Chancellor to take their views into account..."

9. In accordance with the Chancellor's direction, the Petitioners' architect responded to the Society on 28 September 2014, setting out the siting constraints relating to practical requirements concerning neighbouring amenities and the implications for siting that these imposed upon design, together with the need to respect the church itself. He concluded by stating:

"English Heritage [now Historic England] who approved the scheme are guardians of heritage assets and represent all parties including the Victorian Society. During the planning consultation stage the project was widely publicised and the Victorian Society did not choose to comment at this time."

10. A site visit was offered to the Society, but this was declined.
11. The Society responded, pointing out that Historic England do not represent them and are not the "sole guardians of heritage assets". The response also noted that the Society had not been consulted until May 2015 and that they rely on the impetus of parishes to initiate contact, rather than themselves actively seeking out projects for consultation. The Society's representative notified the Registry on 9 October 2015 that the Society did not wish to become a Party Opponent.
12. In due course, both Petitions were transferred by the Chancellor to me to determine.
13. Christ Church is a Grade 2 Listed Building. The listing description states:

"Church. 1859-60. S S Teulon, architect. Later alterations including addition of west bay and west wall in 1881 by Charles Maylard. Muscular Gothic manner. Squared, coursed rubblestone. Steeply pitched slate roof to eaves. 6 bay aisled nave, no clerestory. Low square, massive tower over choir, with pyramidal roof and north eastern stair turret with conical roof; bell louvre to each face of tower. Transept to south; north east vestry. Pointed arches with Geometrical and Decorated tracery. Pair of dormers to south side of nave. Interior with chamfered stone piers; carved capitals; pointed arcade arches more elaborately moulded to choir. Panelled roof with arched braces, hammer beams and traceried spandrels. 5-light flowing traceried east and west windows. 3-light geometrical traceried aisle windows. Blind arcading to walls of chancel. Reredos 1907-12 by E C Shearman. Timber pulpit; blocky stone font; eagle lectern, some Victorian and Edwardian stained glass etc. London 2: South B Cherry and N Pevsner."

14. I visited the church on 12 January 2016. I was shown some of the original architectural drawings and it is clear that the building grew from the original plan at a very early stage, with early additions of a south transept and nave extension. The building appears

simpler inside than out, having a conventional layout comprising of a nave leading to a choir and High Altar, with north and south transepts.

15. A number of internal changes have been made over time. The only significant one for my purposes is the addition of a box-like internal porch around the southern door. This is a glass structure on a simple wooden frame. It is reasonably functional, facilitating some relatively draught-free access. However, owing to a combination of a change of level down to the external ground and a fairly small area in which to manoeuvre, it does not afford regular disabled access. Wheelchair users normally have to enter via a movable metal ramp through the west door. I understand that, although this access is sometimes used for weddings and funerals, the principal regular access for the congregation is via the south door and entrance porch. The brighter southerly aspect is felt to be more welcoming.
16. Externally the building is complex in form, as the listing description evidences. The west door is accessed off Copse Hill and the south entrance off Cottenham Park Road. Copse Hill is the higher order of these two highways, but Cottenham Park Road is a long road containing a variety of sizeable houses and other buildings. A consequence of the church's corner position between these two roads is that it has no obvious main access or front. Instead, it seems to me that it has the advantage of addressing both frontages in different ways.
17. Next to the church, on the Cottenham Park Road side, is a hall. This was built in 1936 on land to the south of the church, which was bought by the Parish in 1931 for the purpose. The hall stands back from the road, with a surfaced parking area in front. It runs back into the site for some way, being separated from the adjoining properties by a small wild garden area to the west and a side passage used for storage and composting to the south. There are numerous doors to the hall, including one opposite the south door of the church, from which the hall is separated by a line of trees and a surfaced path. Between the wild garden and the church building is a small area of somewhat overgrown appearance, with grass and some shrubby plants, containing a pleasant but unremarkable stone bird bath. This latter area is the subject of Petition 2913.
18. I inspected the hall, which is typical of its type and era. The facilities are dated and basic. The building is damp and musty. It is set down below the level of the church, accessed by steep narrow steps. I was told that refreshments after services were not a success in the hall and are now served in church. An income is generated from lettings for community uses. The hall is not listed nor has anyone suggested that it is a curtilage building, since it stands on its own separate plot and has a distinct history from that of the church.
19. The church lies within the Wimbledon West Conservation Area, but the hall and its plot are excluded from that designation.
20. For completeness, I should mention that the current vicarage is an unusual twentieth century building which is located on the opposite side of Copse Hill.
21. It is proposed to demolish the existing hall and build a new vicarage at the eastern end of the hall site, fronting Cottenham Park Road. The existing vicarage would be sold. A new hall would be constructed behind the new vicarage garden, with shared parking for both buildings being provided in much the same area as the present hall parking. A glass link would join the new hall to the church, connecting at the south door. It is proposed to level the land, allowing for movement between the two buildings at grade and the existing glass porch inside the church would be removed.
22. The proposed hall has been designed to provide a lettable space which, whilst smaller than existing, would nevertheless be viable as a venue for community uses. The southern side of the building would additionally house a PCC office, a room for smaller group meetings, storage, a modern kitchen and WCs including disabled provision, which does not currently exist. The door to a welcome area at the eastern end of the new hall

would form the focal point of the entrance path from Cottenham Park Road. This area would also have doors opening into the linking structure leading to the south door of the church.

23. The architect has sought, through his design and choice of materials, to respect the listed church building and surrounding residences, both those existing to the west and south and the proposed new vicarage to the south east of the hall. The hall part of the proposed structure has a sloping roof, which rises to a gable at the eastern end, above the doors to the welcome area. The southern part of the proposed building has a shallow monopitched roof, falling slightly to the south, away from the hall. In views from Cottenham Park Road and from the eastern end of the access route, the lower part of the hall would be, to a greater or lesser extent, screened by the new vicarage. The link would be executed in glass, without any visible framing structure. Attention has been paid to designing fixings to enable it to be attached to the southern wall of the church in a manner which minimises intervention to the historic stone fabric. The adjoining welcome area would also be glazed and supported on wooden columns, while the northern and eastern walls of the hall would be faced in pale Portland stone, the southern wall clad in larch timber and the western elevation rendered and painted. The roofing material is proposed to be grey zinc.
24. Three trees are proposed for removal: a cockspur thorn, a magnolia and a purple plum. These are all in the area to the south of the church and, whilst none is within the footprint of the proposed building, all would be likely to be affected by construction works. They are graded 'C' in the Tree Survey: "Trees of low quality with an estimated remaining life expectancy of at least 10 years ... Unremarkable trees of very limited merit or of such impaired condition that they do not qualify in higher categories ... with no material limited conservation or other cultural value". New planting is proposed as follows: a replacement magnolia in a similar position to the one to be removed; and a line of cockspur along the northern side of the pedestrian access from Cottenham Park Road. The intention is to mirror the line of remaining cockspur trees along the opposite side of the path, producing a tree lined avenue framing views to the hall entrance. The path would rise gently to the hall entrance.
25. Planning permission for the hall and new vicarage was granted by the London Borough of Merton on 9 March 2015. This determination followed a pre-application advice process in which the views of English Heritage were sought. They raised no objection to the principle of the proposed hall and link, but noted the importance of using the proposed materials. The planning officer's report concluded as follows on the design of the hall and its impact upon the setting of the listed church building:

"...The proposed church hall is considered to achieve a high quality of design with its bespoke design and form and use of high quality materials, including a well considered link to the main church building. It is considered that the proposed church hall with its distinctive roof form and lightweight frontage provides a high quality focal point and welcoming environment to the new church hall. The development as a whole is therefore considered to acceptable (sic) in design terms by bringing existing and new facilities together in a coherent and well designed manner.

#### Listed Building

The proposed development is considered to respect the character and special architectural or historic interest of the building, and its structural integrity will be preserved. The proposed link between the church hall and the grade II listed building has been carefully considered with the lightweight structure (glass box) that allows views through to the listed building.

The proposed church hall would be located towards the rear of the site and would run parallel with the rear section of the listed church building. Given the location of the proposed church hall, its roof form and low level height, it is considered

that the setting of the adjoining listed building would be preserved. The level of separation between the proposed church hall and the listed building is another key feature in preserving the setting of the listed building and would provide a new landscaped vista/focal point within the site.”

26. The DAC considered the project and issued its Notification of Advice on 24 June 2015. The Committee made some helpful practical recommendations about potential disturbance of burials and tree reports. It also certified that, in its opinion, the proposed works are likely to affect the character of the church as a building of special architectural or historic interest.
27. The PCC resolved unanimously on 15 July 2015 to apply for the necessary Faculties to carry out the proposed works.
28. Upon his initial consideration of the Petitions, the Chancellor suggested that the Petitioners contact the Victorian Society to ascertain whether or not they were still objecting and directed that, if the objection was being pursued, the determination of these Petitions should be transferred to me.
29. The correspondence which followed was not conducted in the most tactful fashion by the Parish, which I regard as regrettable, as is the fact that the Victorian Society was not consulted until an advanced stage in the process. It may be that, had matters been discussed at an earlier stage, the impatience which the Petitioners have expressed about the process could have been avoided. Unfortunately the Parish’s response referred to English Heritage as “guardians of heritage assets” representing “all parties including the Victorian Society”. This understanding is inaccurate and partial. The Society takes an active and legitimate interest in projects concerning buildings of the relevant period and, with similar bodies such as the Georgian Group and the Twentieth Century Society, represents a valuable expression of specialist voluntary interests in aspects of the nation’s built heritage. These Societies have considerable reserves of knowledge and expertise and much to contribute to the process of shaping the future of historic buildings. It is highly desirable that they be consulted at the formulation stage of projects affecting high status heritage assets such as listed churches.
30. The substantive parts of the Parish’s response to the Society explain the design constraints which influenced decisions about detailed siting. These matters included not only the respect due to the listed building and its setting but also the desirability of providing space about the buildings and achieving satisfactory relationships with existing neighbours and the proposed Vicarage. I accept that the Petitioners and their architect worked hard and collaboratively with neighbours and officers of the Local Planning Authority and the then English Heritage to arrive at a proposal which was considered to meet the requirements of the secular planning system and I give weight to that fact. Nevertheless, it now falls to me to consider this project within the ecclesiastical jurisdiction. The Victorian Society has elected not to become a Party Opponent, but asks me to take its views into account, which I have done in reaching my own conclusions.
31. When I visited the church I was accompanied by the Registry clerk and representatives of the Parish and Diocese. The Victorian Society was invited to send a representative to the site visit but elected not to do so. There was no discussion of the merits of the Petition on site but I gained useful information and a full appreciation of the physical arrangements.
32. The Court of Arches in *In re St John the Baptist, Penshurst* (9 March 2015) has recently reaffirmed the approach to be taken in the determination of Faculty Petitions affecting listed buildings. The Court said:

"20. Where works are proposed to a listed building, a balancing exercise has to be carried out, in respect of which this court gave guidance in Duffield para 87.<sup>1</sup>

21. For those chancellors who would be assisted by a new framework of guidelines, the court suggested an approach of asking:

"(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.....Questions 3, 4 and 5 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 character of a listed building...., will any resulting public benefit (including matters such as liturgical freedom, pastoral wellbeing, 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 to a building which is listed grade I or II\*, where serious harm should only exceptionally be allowed".

22. We make four observations about these questions:

(a) Question (1) cannot be answered without prior consideration of what is the special architectural and/or historic interest of the listed church. That is why each of those matters was specifically addressed in Duffield paras 57-58, the court having already found in para 52(i) that "the chancellor fell into a material error in failing to identify what was the special character and historic interest of the church as a whole (including the appearance of the chancel) and then to consider whether there would be an overall adverse effect by reason of the proposed change".

(b) In answering questions (1) and (3), the particular grading of the listed church is highly relevant, whether or not serious harm will be occasioned. That is why in Duffield para 56 the court's analysis of the effect on the character of the listed building referred to "the starting point...that this is a grade I listed building".

(c) In answering question (4), what matters are the elements which comprise the justification, including justification falling short of need or necessity (see Duffield paras 85-86)? That is why the document setting out the justification for the proposals is now described in rule 3.3(1)(b) of the FJR 2013 as a document "commonly known as a "statement of needs"" (italics added), in recognition that it is not confined to needs strictly so-called.

<sup>1</sup> [2012] Court of Arches (Derby)

(d) Questions (1), (3) and (5) are directed at the effect of the works on the character of the listed building, rather than the effects of alteration, removal or disposal on a particular article.”

33. The listing description cited above summarises this Teulon building as being of “muscular Gothic manner”. It then refers to a number of features, none of which would be directly affected by the proposed new building. The only physical impact is the attaching of the lightweight, frameless glass linking structure to the rubblestone south wall of the church. It is not suggested by anyone that harm would be caused by this feature and I find that the physical change in itself would be of no significance to the architectural or historic interest of the listed building.
34. The Society’s objection relates instead to the impact upon setting. In addressing this issue, I note that the existing church hall is of no historic or architectural significance or merit. It is described in the planning officer’s report as “a tired looking building which lacks any architectural merits” and as “ugly”. I agree. In my opinion, it detracts from the setting of the listed building by reason of its depressing and dingy appearance viewed both from Cottenham Park Road and when approaching the south door of the church along the entrance path. By contrast, the proposed building would, in my opinion, be a structure of obvious quality, befitting its locational and functional association with a listed building. In principle, I find that the introduction of an example of high quality modern design would be a good demonstration of the way in which historic and contemporary buildings can be mutually enhancing.
35. The Society considers, however, that the new hall would be too close to the church, leaving it with inadequate “breathing space”. I have assessed this objection very carefully, particularly in views from the east and moving along the path to the church’s south door. Undoubtedly the hall would form a focal point which is currently lacking, but I conclude that its lower height, lightweight, transparent welcome area and linking structure, together with the plain, pale coloured materials, would ensure adequate subservience to the listed building. The church would continue to exert its “*muscular Gothic*” character identified in the listing description. Whilst the design of the proposed hall has its own strength, I would describe this as delicate, rather than muscular, and I find that the listed church would continue to be obviously the more important building. Subject to what I shall say below about landscaping, I conclude that there would be adequate “breathing space” for the church.
36. It follows from my findings above that I do not consider that the proposed new structure would result in harm to the significance of the church as a building of special architectural or historic interest. The view from Cottenham Park Road along the entrance path is currently undistinguished and disappointing, terminating in a rather untidy area of left over space at the western end of the path, with the unattractive hall, half hidden behind the line of cockspur trees, edging the path to the south. This important aspect of the church’s setting would, in my view, be enhanced by the proposal. I also believe that the historically significant interior of the church would be enhanced by removing the internal glass porch which, to my mind, disrupts the internal layout and is of inferior quality to the Victorian features mentioned in the listing description.
37. At the site visit, I asked for sections of the realigned path to be prepared and I am grateful to the Petitioners’ architect for doing so. As a result, I am satisfied that the proposed levels are acceptable. I am, however, concerned about the suggested landscaping on the northern side of the path. The proposed species – cockspur - is not of a large or spreading habit and I understand the design intention of creating an avenue. Nevertheless, I consider that this detail would be somewhat crowded and fussy, detracting from the strong line of the church’s south elevation when viewed from Cottenham Park Road and when passing along the entrance path. Condition 11 of the Planning Permission requires full details of a landscaping and planting scheme to be approved by the Local Planning Authority prior to commencement of development. Whilst the proposed new trees are shown on drawing A1030H, which is one of the plans

incorporated into the Planning Permission by virtue of Condition 2, the matter should be capable of resolution by means of a non-material amendment application.

38. My answer to the first Duffield question is, therefore: No. Consequently, questions 3, 4 and 5, which only arise in the event of a finding of harm, do not need to be addressed.
39. I shall, however, deal briefly with the merits of the proposal under Duffield question 2. The proposal would, in my opinion, bring many advantages. I have already referred to what I see as the environmental enhancements for the setting and internal layout of the listed building. I also regard the tremendous improvements in disabled access and facilities as a very important aspect of the proposals. The current hall is, for all practical purposes, inaccessible by wheelchair users and, for those who are able to enter the building, it is tired, uninspiring and damp smelling. Reprovision with well planned, high quality, inclusive and comfortable facilities will offer much better accommodation for church functions and community activities alike. All of these benefits are of significance, both for the life and mission of the church and for the wider public.
40. I therefore propose to grant a Faculty in respect of Petition 2912, subject to conditions covering duration, insurance, bats, treatment of any human remains and deletion of the three new proposed cockspur trees.
41. Petition 2913 is ancillary to 2912. It seeks authorisation for the transfer of the land on which part of the new structure is to stand from the ownership of the incumbent to that of the PCC.
42. The land to be transferred is part of the unconsecrated curtilage of this consecrated Church, hence the need for a Faculty.
43. I append the draft Agreement providing for the now authorised land transfer to this Judgment. It provides for the necessary rationalisation of titles to enable the construction of the proposed hall and vicarage and for the funding of the project by the Diocesan Board of Finance. The Board will also supervise the building contract and implementation of the project. The agreement between the parties is conditional upon the grant of the Faculties now sought.
44. I am satisfied that the proposed Agreement is properly drafted and appropriately makes provision for the necessary arrangements to enable this worthy project to be implemented. I therefore direct that the necessary Faculty be issued.



MORAG ELLIS QC  
Deputy Chancellor



DATED \_\_\_\_\_ 2015

THE REVEREND RICHARD LANE

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THE PAROCHIAL CHURCH COUNCIL OF CHRIST CHURCH WEST  
WIMBLEDON

-and

THE SOUTH LONDON CHURCH FUND AND SOUTHWARK DIOCESAN BOARD  
OF FINANCE

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DRAFT AGREEMENT (subject  
to condition precedent)  
for transfer and development of land  
adjacent to Christ Church West Wimbledon

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Ref: PCEMJ17.826

THIS AGREEMENT is made the

day of

2015

BETWEEN THE REVEREND RICHARD LANE Incumbent of the Benefice of Christ Church West Wimbledon in the Diocese of Southwark ("the Incumbent") (1) THE PAROCHIAL CHURCH COUNCIL OF CHRIST CHURCH WEST WIMBLEDON in the Diocese of Southwark ("the PCC") (2) and THE SOUTH LONDON CHURCH FUND AND SOUTHWARK DIOCESAN BOARD OF FINANCE of Trinity House 4 Chapel Court Borough High Street London SE1 1 HW (Company no 236594) (Charity no 249678) ("the Board") (3)

#### WHEREAS

- (1) The land shown hatched blue ("the blue land") and hatched green ("the green land") on Plan 1 annexed together comprise the site and curtilage of the existing Church Hall of Christ Church West Wimbledon and is vested in the Board as Diocesan Authority on behalf of the PCC pursuant to the Parochial Church Councils (Powers) Measure 1956 ("the 1956 Measure") and registered at HM Land Registry under title number SGL753996
- (2) The land shown hatched brown ("the brown land") on Plan 2 annexed is currently part of the unconsecrated curtilage of the Parish Church of Christ Church West Wimbledon ("the Parish Church") and is vested in the Incumbent in right of his benefice and is part of the land registered at HM Land Registry under title number SGL753990
- (3) It is intended that the existing Church Hall should be demolished and that the blue land the green land and the brown land should be redeveloped by way of the construction of a new Parsonage House on the green land ("the Parsonage Works") and a new Church Hall on the brown land and the blue land ("the Church Hall Works") (the Parsonage Works and the Church Hall Works being together referred to as "the Development")
- (4) The parties have applied for planning permission for the Development which was granted by the London Borough of Merton on the 11<sup>th</sup> March 2015 under reference FP/14/P4689 ("the Planning Permission")
- (5) For this purpose it is intended that the green land should be transferred to the Board (free of the current beneficial ownership of the PCC) pursuant to Sections 14(1)(a) and 13(1)(d) of the New Parishes Measure 1943 ("the 1943 Measure") and that it should accordingly vest (without further conveyance or assurance) in the Incumbent in right of his benefice pursuant to Section 16(1) of the 1943 Measure.
- (6) In consideration of the transfer referred to in the preceding recital the Board has agreed to pay to the PCC the sum of £1.1 million which is intended to be applied towards the

cost of construction of the new Church Hall and released by the Board by way of stage payments in accordance with the provisions of this Agreement

- (7) Subject to the obtaining of the requisite Faculty (upon which this Agreement is conditional), the Incumbent has agreed to transfer the brown land free of valuable consideration to the Board to be held by the Board on behalf of the PCC pursuant to the 1956 Measure
- (8) The parties have agreed to use all reasonable endeavours to co-operate with and assist each other in bringing the proposed redevelopment to satisfactory completion and to act at all times in good faith

### **NOW IT IS AGREED THAT**

1. Subject to fulfilment of the condition precedent set out below and in consideration of the sum of ONE MILLION AND ONE HUNDRED THOUSAND POUNDS (£1,100,000.00) to be paid by the Board as provided below the PCC agrees to the transfer of the green land to the Board pursuant to the provisions of the 1943 Measure as the site of a new Parsonage House to be vested in the Incumbent in right of his benefice and the Incumbent agrees to transfer the brown land to the Board as Diocesan Authority on behalf of the PCC pursuant to the 1956 Measure
2. This Agreement is conditional upon the grant by the Consistory Court of the Diocese of Southwark within a period of six months from the date hereof of a Faculty authorising the transfer of the brown land by the Incumbent to the Board free of valuable consideration and in accordance with the provisions of this Agreement ("the Condition")
3. The Incumbent and the PCC agree to take all reasonable steps to apply for the Faculty and expeditiously to pursue such application
4. The Incumbent and the PCC shall keep the Board informed as to the progress of the application and shall forthwith notify the Board in writing on the grant of the Faculty and provide the Board with a copy of the Faculty
5. In the event of the Condition not being fulfilled within the said period of six months this Agreement may be terminated by written notice given by the Incumbent and the PCC or their solicitors to the Board or its solicitors or by the Board or its solicitors to the Incumbent and PCC or their solicitors
6. Upon service of any such notice this Agreement shall cease and determine but without

prejudice to any antecedent rights or obligations

7. The [Standard Conditions of Sale (5<sup>th</sup> Edition) ]("the Standard Conditions") shall apply to this Agreement as if incorporated in it but only insofar as they are not inconsistent with its express terms
8. The prescribed rate of interest for the purpose of the Standard Conditions shall be 4% per annum above the base rate for the time being of Barclays Bank PLC
9. The PCC and the Board shall not be required to transfer or procure the transfer of the green land to any person or body other than the Board (free of the beneficial interest of the PCC) or the Incumbent
10. The Incumbent shall not be required to transfer the brown land to any person or body other than the Board as Diocesan Authority on behalf of the PCC under the 1956 Measure in accordance with the Faculty
11. Completion of the transfers of the green land and the brown land shall take place within twenty eight days of the Condition being satisfied (which date for the avoidance of doubt shall be deemed to be the date on which the Board or its solicitors is notified in writing by the Incumbent and PCC or their solicitors of the grant of the Faculty) and the consideration monies shall be retained by the Board for application in accordance with the provisions below
12. The transfers of the green land and the brown land shall be in the form attached to this Agreement
13. Vacant possession of the green land shall be given on completion and the Board shall have licence and authority to enter the blue land and the brown land following completion for the purpose of demolishing the existing Church Hall and carrying out the Development
14. The Board shall act as employer in entering into a JCT form of contract with the Building Contractor (the requisite form of which shall be agreed in advance with the PCC such agreement not to be unreasonably withheld or delayed) in respect the Development

15. The Board shall consult the PCC and the Incumbent during the carrying out of the Development with regard to the ongoing costs position of the Development in the context of the budget for the Development and in particular shall consult and liaise with a contract administrator ("the contract administrator") to be appointed by the PCC
  
16. The Board shall seek the consent of the PCC to the following.-
  - a. Any works beyond the agreed specification for the Church Hall Works;
  - b. Any projected cost overrun beyond the budget agreed between the Board and the PCC for the Church Hall Works;
  - c. Incurring professional costs in connection with the Church Hall Works beyond those already agreed with the PCC at the date of this Agreement
  - d. Any variation to the design of the Church Hall Works as permitted by the Planning Permission
  
17. The contract administrator shall act on behalf of the PCC in procuring stage payments in respect of the part of the Development comprising the new Church Hall (which the Board agrees to pay out of the consideration monies held by it and/or any agreed loan monies) and shall arrange the making of such payments against certificates issued by the architect supervising the Development on behalf of the Board
  
18. In the event of the cost of the Church Hall Works exceeding £1.1 m the Board shall if requested by the PCC fund a loan to the PCC not exceeding £200,000 for a period of up to ten years subject to payment of interest at the relevant Diocesan loan rate from time to time
  
19. For the avoidance of doubt the Board shall be responsible for the cost of the Parsonage Works and shall not be required to pay any interest to the PCC on the consideration monies retained by it following completion or on any balance of such monies
  
20. The Board shall pay the reasonable and proper legal costs and surveyors' fees of all the parties to this Agreement in connection with its negotiation preparation and completion subject nevertheless to the following provision
  
21. In the event of the sale of the green land pursuant to this Agreement not being completed (for whatever reason) and the Development not being carried out and the green land (with or without the blue land and/or the brown land) being sold to a third party within five years of the date of this Agreement the PCC shall reimburse the Board

in full in respect of the fees paid by the Board pursuant to the above provision

22. The parties to this Agreement shall act in good faith at all times in respect of its provisions and shall take all reasonable steps to cooperate with and assist each other in procuring the satisfactory and timely completion of the Development
23. In the event of dispute between the parties arising out of the provisions of this Agreement which the parties are unable to determine between themselves such dispute shall be referred to the Chancellor for the time being of the Diocese of Southwark and shall be determined by the Chancellor or as he or she may direct The decision of the Chancellor shall be final
24. The parties confirm that they have acted in accordance with the provisions of Sections 117-121 inclusive of the Charities Act 2011 so far as applicable to this Agreement
25. The provisions of this Agreement shall where applicable remain in effect notwithstanding completion of the land transfers and shall not merge on completion

**AS WITNESS** the hands of the parties or their duly authorised signatories on the above day and date

.....

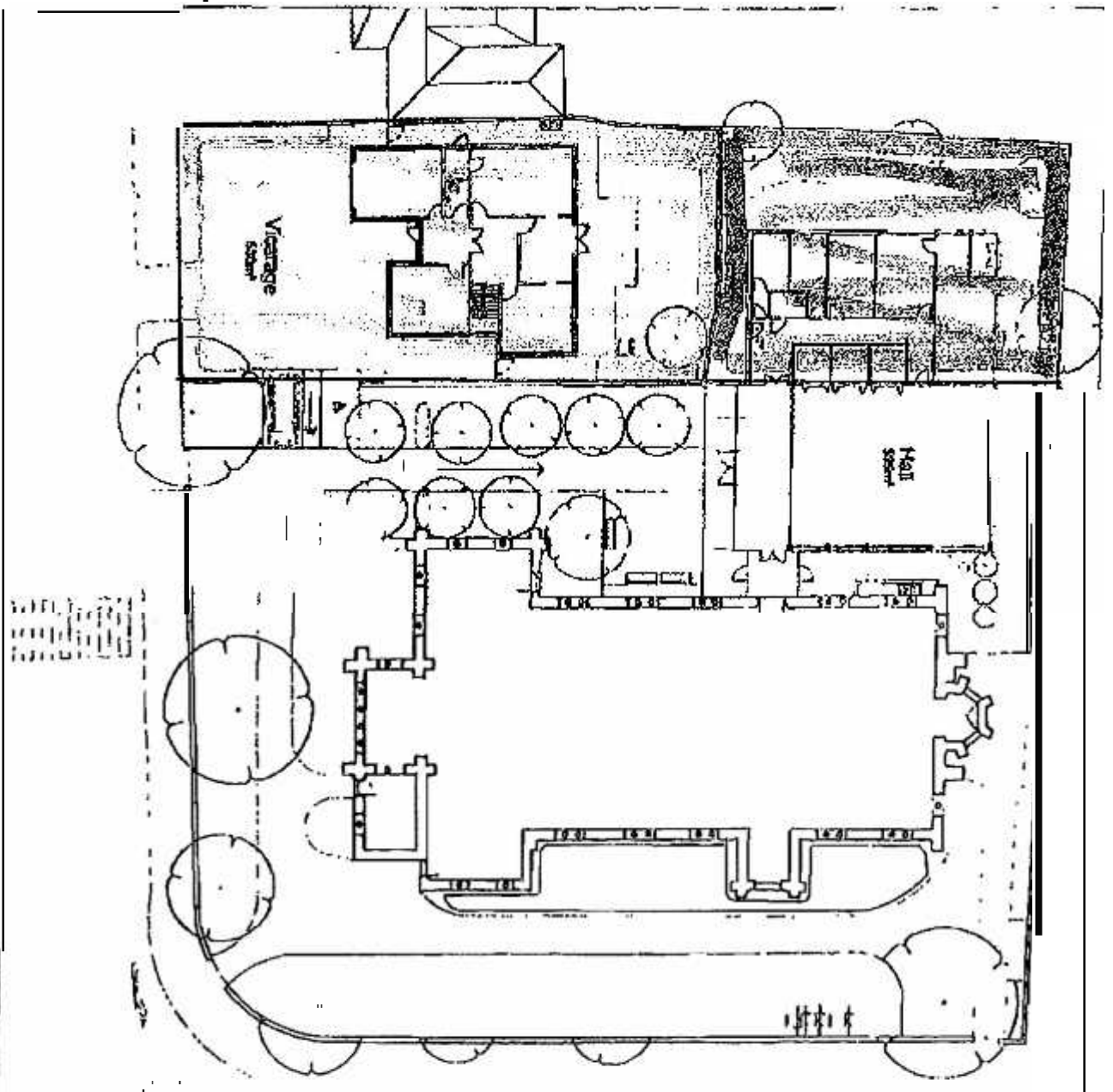
\_\_\_\_\_ the Incumbent

.....

For and on behalf of the PCC

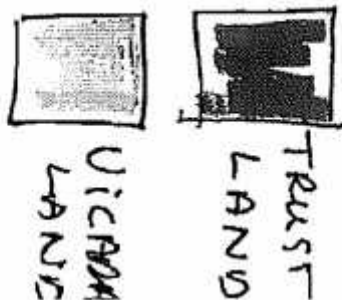
.....

For and on behalf of the Board



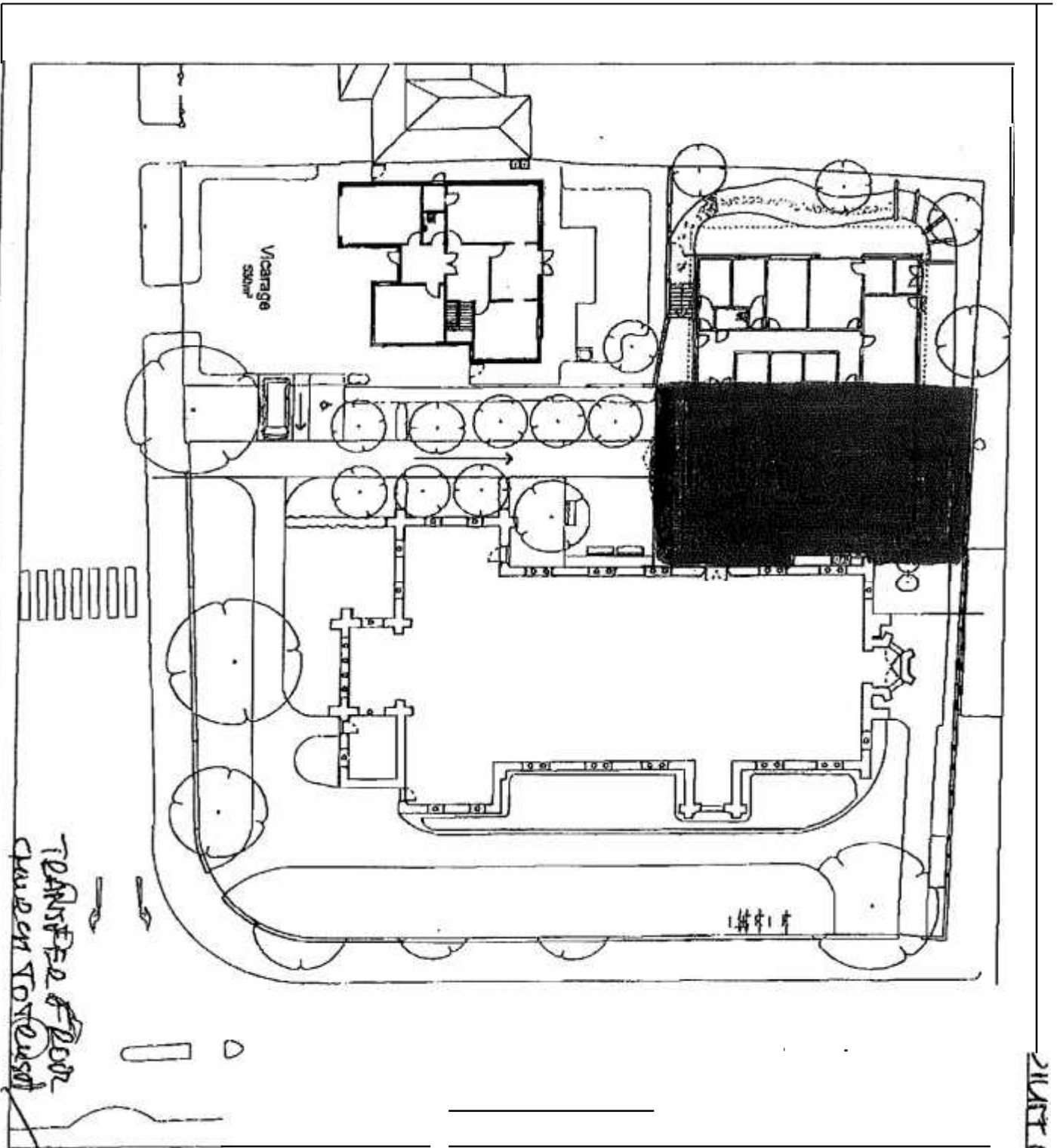
TRANSFER DR.  
TRUST TO VICARAGE.

KEY




GC-A	
27 Avenue St. London, W1P 2AA	
CHRIS OSWALD	
DETAIL DESIGN	
11803	
1:250	05/27/15





PLAN 2

 TRUST LAND

BENCHES

<b>GC-A</b>	
27 Blandford Road, London W12 8AB	
Tel: 020 899 6100	
Fax: 020 899 6101	
Chris Church	
DETAIL DESIGN	
Site Plan Development	
Project No.	A1803
Drawn by	AS
Scale	1:250
Date	05/07/15