

NEUTRAL CITATION [2016] ECC BIR 1

IN THE CONSISTORY COURT AT BIRMINGHAM

IN THE MATTER OF THE CHURCH OF ST PHILIP THE EVANGELIST, DORRIDGE

---

## JUDGMENT

---

1. By Petition for Faculty initially dated the 27<sup>th</sup> February 2014, Reverend Duncan Hill-Brown, Vicar, Mrs Heather Tomson, Church Warden, and Mr Derek Timms, Church Warden, of St Philip the Evangelist Dorridge seek authority for the total demolition of the church and hall and their replacement with a new multipurpose church centre and hall. After consultation with the DAC and various statutory bodies, the Petition was amended in terms of the details of the proposed re-development and the final scheme proposed was submitted to the Registry under cover of the letter of the 9<sup>th</sup> March 2015 by the architects employed by the Parish to draw up the scheme. Planning consent has been given for the present scheme by Solihull Metropolitan Borough Council on the 27 July 2015 and, as was to be expected, they have attached a number of conditions to the grant of planning consent, all of which, I am told, are acceptable to the PCC. Consent was given to the demolition of the church by the Right Reverend David Urquhart, Bishop of Birmingham on the 23<sup>rd</sup> December 2015.

2. The appropriate Heritage Bodies have been consulted and whilst they have been concerned to ensure that all avenues short of total demolition have been explored, the only written objections have come from Mr Tim Bridges, Secretary of the Victorian Society. In addition the Registry has received a number of objections from Parishioners, namely Mr G R Diver, Mr John Stevens, Mrs Margaret Stevens and Mr Robert Wooldridge.
3. All objectors have been invited to become Parties Opponent but have declined. The Parish and all objectors have indicated that they are content that I deal with the matter without receiving oral evidence on the basis of the written documentation before me.

#### St Philips Church Dorridge

4. Dorridge owes its identity as a village to the construction of the Great Western Railway and the line from Birmingham to London in 1842. The community built up so that by 1865 there were calls for the erection of a church in the village and in July 1873 the then Vicar of St Giles' Church Packwood made an appeal for funds to erect a chapel of ease to St Giles in the village on a plot of land near the Railway Station. An appeal sought £825 to build a "gothic, brick church, to accommodate 135 persons." The architect's plans were to enable the trustees to enlarge the church at a future period. The architects, Payne and Talbot oversaw the building of the church at a cost of nearly £1,000, the original plan having been reduced in size to accommodate only 120 people. The work was completed in 1878 and was dedicated on the 19<sup>th</sup> November of that year by the Bishop of Worcester.
5. In 1894, in response to the still increasing population in Dorridge, an appeal was launched for the enlargement of the church, land was given by the son of the donor of the original plot of land and JA Chatwin was appointed to be the architect. Chatwin's original design was for a whole new church to be constructed of sandstone at a cost of some £5,000 to £6,000. Building commenced in 1896, the foundation

stone being laid by the Bishop of Worcester on the 14th July of that year. Chatwin's new chancel and chancel aisle (i.e. the Lady Chapel) organ chamber and vestries were built and simply attached to the existing brick nave after the original brick chancel was demolished. Chatwin's proposed tower and nave were never constructed and Bishop of Worcester dedicated the church on the 6th June 1897.

6. By the mid-1950s St Phillips had become surrounded by housing development and in 1966 when Dorridge was made a full Parish the PCC gave an undertaking that the church would be enlarged at a convenient time as the church authorities considered the seating capacity of 172 insufficient for the Parish. In 1967 plans were drawn up for a new church hall to be built in the grounds, the construction of which was begun in 1969. By the late 1960s a new vicarage had been built on part on the church yard and a car park had been established. Between 1985 and 1992 a linking structure was built between the nave and the church hall in order to create an entrance foyer.
  
7. As a result of the various alterations, it is apparent on examination that the church is visually rather incoherent because of the differences in style and materials between Payne's 1878 brick nave and the Chatwin's 1896 stone chancel, an incoherence compounded by the linking of the church to the 1969 church hall. In the Statement of Significance (3.1.2) the visual aspect is described as follows:

*"The plainness and simplicity of the nave, and its narrow internal volume, speak of its origins as a chapel of ease for a new and developing suburb. The more accomplished chancel and side chapel reflect a different status. .... However the two elements together are significantly incongruous in appearance, both internally and externally".*

I regard that as an accurate description. It is clear that the two principal parts are architecturally mismatched and neither of them accord very well with the modern additions.

8. The 1896 chancel is however, in my judgement, a significant piece of architecture even though it is clear that at the west end it is unfinished. The stained glass window at the east end and the window commemorating the war dead to the south are important. The carvings at the springing of the arches, representing a crown and a bible, are significant and the choir stalls, the pulpit and screen are fine examples of Chatwin's design. There is a marble and alabaster reredos which is significant and generally the chancel has a much finer appearance than the somewhat utilitarian nave. Indeed the nave is described in **Pevsner and Wedgwood** (second edition) as "small and poor".
  
9. The work of Chatwin made him one of the most significant Victorian architects in Birmingham although the significance of his work at St Philips was inevitably diminished by the fact that his original plan was not finished. It is noteworthy that in contrast to much of Chatwin's other work, St Philip is not a listed building.
  
10. I find that the church has some, but limited local historical interest in reflecting the development of the settlement around it. The chancel has local architectural interest both because of the identity of the architect and because of the furnishings and windows, but this interest is also limited because of the unfinished nature of the work and the manner in which his Chancel was attached to the nave. From the records held by the church, this was never meant to be a permanent arrangement. On my first visit to the church it was explained to me by the Vicar that the understanding of the Parish is that the nave when erected was meant to last for some 50 years. It is of course a tribute to the craftsmanship of the Victorians that it still stands some 150 years afterwards. What is significant is that it was never intended to be permanent and the plans to develop the church were never finished.

## The Proposals

11. The Petition seeks the total demolition of all the existing buildings that are on the site.

The Petition seeks permission to erect a completely new design which will incorporate a worship space, an entrance foyer, a church hall and attendant offices. Consideration was given by the architects in the proposals for the retention of the existing Chancel which, by common accord, has significantly more architectural merit than the remainder of the church buildings. The architects contend that to retain the Chancel would leave the congregation with a building as flawed as the existing one.

- i. If the main worship area includes the space within the retained Chancel then a linear form of seating will continue to constrain worship to a traditional form.
- ii. The larger mass of the new "nave" will impact negatively on the retained Chancel and will be difficult to resolve elevationally.
- iii. Should the Chancel be retained purely as a side chapel then the new worship space will be enlarged and impact negatively on the building line in Manor Road and the existing trees.

The proposed new design creates a more compact worship space but with the option of spilling out into the adjacent cafe to create 72 additional seating spaces. By keeping the hall and worship spaces separate, the design allows concurrent use of facilities and retains a level of "spirituality" about the interior of the worship space. The worship space is to be shaped around the retained east window and references the forms and roof trusses of the existing building. I am told "elevationally the re-designed worship space employs a bolder, gabled form creating a more distinctive external appearance which projects its use more positively. The traditional material palette and forms make a connection to the complex's context and the church's heritage as a humble 19th century chapel of ease."

### Statement of Needs

12. The aim of the Parish, which has provoked this Petition, is that they have adopted the "each one reach one" approach with the aim of doubling the size of the congregation. The basis of the Petition is that the church buildings as they presently stand do not assist in achieving the same and indeed the state of the buildings positively hinder the same.
  
13. It is apparent from the evidence that for at least 20 years, since the visit of Bishop John Boston in 1996 the Parish has known that the building has required extensive modification and more recently substantial repair. His view as expressed was that the church building was "becoming increasingly dysfunctional to the growth of the church therefore to its mission". When the church was full he felt that "the church feels crowded and is liturgically difficult to manage". He commented that it was difficult to create an appropriate atmosphere of worship when youth services were held in the hall and felt that the need was for a re-modelling of the church rather than a "modest adaption".
  
14. In order to achieve what was suggested the Parish undertook a market survey. It was apparent that those over 65 were less troubled about the present configuration than those less advanced in age. The groups particularly dissatisfied were children's group leaders, parents of children and new comers to the church.
  
15. In 1998 a viability study was undertaken and two options were presented to the Parish. The first option was to demolish and re-build all but the stone sanctuary, the Lady chapel and the vestries. The second option was to demolish the nave in front of the hall and re-build the new areas. Neither of these options were entirely satisfactory given the increasing links that the church was developing with the pupils

of St James' School, Bentley Heath and the need for a worship space more suitable for children.

16. In 2003 a further group was set up to examine the situation and a scheme of general refurbishment and expansion was adopted by 2005. This involved the refurbishment of toilet facilities and some additional storage but the cost of £162,000 caused a negative reaction amongst the Parishioners and a realisation that to spend such sums on "papering over the cracks" would not be appropriate.

17. In 2005 the DAC were first involved as the Parish sought advice from them about the scheme. The DAC have been involved since that date although were not consulted between 2007 and 2013 whilst the proposals were being put together. Since then they have been regularly consulted.

18. Further surveys were carried out in 2005 and 2009; in 2008 the Parish acquired an adjacent property, 6 Manor Road. By 2008 it was apparent that the best way forward to achieve the aims of the Parish was to demolish the existing structure and re-build. On the 10<sup>th</sup> January 2011 the PCC voted by a large majority to opt for total site demolition although inevitably there were concerns about whether the likely cost represented the most appropriate way of forwarding the church's mission.

19. Estimates were obtained and it appears that the likely cost of the scheme will exceed £3 million. At my visit on the 23<sup>rd</sup> February 2016 in company with the Registrar we were told that some £900,000 had already been raised and in addition the property at 6 Manor Road has been sold with a likely sale price of £705,000. What was accepted at that meeting is that unless the funds are guaranteed no work could commence to demolish the church buildings and in my judgment that is a practical and common sense position.

20. The most recent figures that have been provided to me are that the approximate number attending the principal service on Sunday is 180 with the largest group being those between 35 and 50, mostly with families with school age children. That is a significant statistic if, as I am told, the present configuration of the church inhibits the Parish's mission to young people. The seating capacity of approximately 250 is on several occasions per year exceeded, visibility and audibility in the church remain very poor in many parts and a continual direct line of sight between service leaders and congregation is impossible at well attended services. There are repairs needed for the main hall building and the architect's survey of the chancel and nave reveal that there is considerable cracking to the chancel area with subsidence causing a problem. I have been provided with a list of the specific issues which cause the Parish concern and they include problems with vandalism, car parking, lack of space, problems with office accommodation, inflexibility of use, poor disabled access and water ingress in the current youth area. It appears that the current youth area is unusable as the tanking/water proofing has failed and the floor level is below the water table.

21. From my visits to the church I accept the submissions of the Parish that something needs to be done. The present configuration is not satisfactory if the aims of the Parish are to be achieved. I have approached this matter upon the basis that total demolition is the last option to be considered and should only be considered when all others have been rejected. I have had to consider whether the present building can be reconfigured without total demolition to achieve the aim that the Parish want and in particular whether it is possible to retain the Chancel as part of a reconfigured scheme. I am satisfied that the Parish have explored all alternatives and that I am therefore faced with the stark alternative of leaving things as they are or allowing the Petition which would result in total demolition.



## 22. The Views of Those Consulted

### a. The Bishop

Bishop David has given his consent as I have indicated earlier in this judgment.

### b. The DAC

At their meeting on the 14 October 2014, whilst expressing regret about the need to demolish the existing buildings, the DAC raised no objection to the Petition, provided that the Parish produces a full picture inventory of the contents and important fabric of the current church building and identify which items would be retained in the new building and which will be disposed of, for agreement by the Bishop following consultation with the DAC.

### c. The Church Buildings Council

They have made suggestions about the preservation of some of the items in the chancel and those suggested have been incorporated into the most recent submissions. They raise no formal objection.

### d. Solihull Metropolitan Borough Council

Planning consent was granted on the 27 July 2015 giving permission for the demolition of the church centre buildings and the construction of a new worship space and community centre with associated landscaping. They impose certain conditions which I shall not repeat in this judgment in any detail as I will annex a copy of the full planning decision notice to the judgment. However I draw particular attention to condition 17.

*The historic fabric and features to be salvaged and re-used in the new building as approved shall all be carefully removed and stored before reuse in the building in accordance with the details on the ground floor plan and with the Design and Access statement. For avoidance of doubt these are stained glass window in eastern elevation to be built into the southern side of the proposed worship space, the stained glass window in the southern end to be built into the internal wall of the*

*vestry, fragments of the stained glass window at the west end of the nave will be reused as art installations throughout the proposed community centre (sic).*

*No development shall commence on the site until a photographic record of the building has been obtained in accordance with the brief to be first agreed in writing by the Local Planning Authority. The record shall be deposited with the Warwickshire County Council Archive Information and Advice Team and the Solihull Library Local History Service prior to (occupying the site for development).*

#### **e. The Victorian Society**

By response dated the 12 April 2015, their view is that the demolition of the locally listed building is not acceptable. The locally listed building consisting of nave, chancel, lady chapel and vestry should be retained in its entirety and incorporated within any proposals for development of the site. However should consent be granted they would wish to be consulted about the future of the Victorian and Edwardian fixtures and fittings in the building and they express the hope, which I find to be entirely appropriate, that these should be retained within the replacement church, in particular the stained glass windows, the Chatwin chancel fittings and the font. For reasons that I have already given such partial integration in any new scheme would not be possible but the incorporation of the items they perceive as of significant value will, in my judgment, need to be addressed in any re-development.

### **23. The Lay Objectors**

#### **a. Mr G R Diver**

Mr Diver has been worshipping at the church since 1988 and has been a senior sides man and member of both the PCC and the Deanery Synod. He makes a valid point that the notice of the Petition was not appropriately displayed. I am satisfied on the evidence before me that that defect was now been remedied. Of more importance is the fact that he says that the existing building must be preserved for future

generations and he calls into question the need for expansion given the apparent decline in the number of worshipers. He accepts that the hall requires "a bit of TLC but not a re-build". He also makes a valid point about the sustainability of the project in financial terms.

**b. Fiona Beet**

She would wish the chancel east window Lady chapel to be preserved as they are treasures, believes that the fall in numbers does not justify an increase in capacity and that the money to be spent on the new building would be better spent in deprived areas of the Diocese.

**c. Mr and Mrs JA Stevens**

Mr Stevens has a substantial connection with St Philips having worshiped there since 1982, having been a member of the PCC, Deanery Synod, a Church Warden and Treasurer in the 1990s. Falling numbers suggest that the scheme is not necessary and they are very concerned about the escalating costs and the difficulties of raising money. In essence they say that demolition is not necessary.

**d. Robert Woolridge**

Mr Woolridge has been responsible for the very fine oak panelling in the chancel. He points out the merit of the east window, the choir stalls and the clergy desks together with the pulpit which he describes, and I agree entirely, are a "gracious and sympathetic design". He is somewhat modest in not mentioning his panelling work which I also believe to be "gracious and sympathetic". He points out that the church hall could be developed separately from the church itself. He accepts that a larger floor space for the nave could be beneficial.

24. What is apparent to me is that all of the objectors are motivated by genuine concern about the future of the Parish and for the preservation of the fabric of the church whilst at the same time recognising that there are at least some short comings in the present configuration. It seems to me that they are entirely justified in inviting me to

consider whether the scheme represents "good value for money", whether it is necessary given failing congregations and whether the destruction of some, in my judgement, fine artefacts is necessary. They are right to have these concerns; however, provided as much as possible of the fabric can be preserved and moved into the new building, provided I am satisfied that the new building will enable the decline in numbers to be reversed by providing a more attractive worship space and provided I am satisfied that the scheme cannot even start unless all funds are guaranteed to enable the work to be completed without placing an intolerable burden on future generations then their objections are significantly catered for.

### The Law

25. Any Petition to demolish a church is governed by the Care of Churches of Ecclesiastical Jurisdiction Measure 1991 as amended by The Church of England (Miscellaneous Provisions). At paragraph 13 (2) this provides that the 1991 Measure shall be amended as follows:

1. A Court shall not grant a Faculty for the demolition or partial demolition of the church, except as provided in this section;
2. Subject to sub section (4) below, a Court may grant a Faculty for the demolition of the whole or part of a church if it is satisfied that another church or part of the church will be erected on the site or curtilage of the church or part of the church, or on part of the site or curtilage, to take the place of the church or part of the church.
3. (4) The Court shall not grant a Faculty under sub section 2. unless the person bringing proceedings for the Faculty has obtained the written consent of the Bishop of the Diocese concerned to the proceedings being brought.

26. I find that the pre-conditions necessary to grant the Petition are satisfied; the proposal is that a new church should replace the existing church and the consent of the Bishop has been obtained.

27. My approach as to whether on the merits I should grant the Petition is guided by the Judgment of the Arches Court of Canterbury. In *Re St Alkmund, Duffield* the court pointed out the necessity for obtaining planning consent (and in this case planning consent has been granted) and at paragraph 87 suggested approach that I should take:-

1. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historical 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 special 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 be particularly the case if the harm is to a building which is listed Grade 1 or 2 where serious harm should only be exceptionally allowed.

## My Findings

28. St Philip is of course not a listed building although it is regarded as significant in the scheme maintained by the Local Authority. It is also highly significant to the congregation who worship there. I accept the evidence before me that although parts of the church are of significant architectural interest, taken as a whole it is not in the first rank of churches in Birmingham in terms of its architectural merit and is the product of various accretions. It does not seem to me therefore that this is a building of special architectural or historic interest and thus I have to apply the ordinary presumption in Faculty proceedings in favour of things as they stand. I bear in mind that its original anticipated life was 50 years although the Chancel was obviously designed for more permanent use. However the subsequent addition of more modern structures which are significantly less valuable in architectural terms has diminished the overall aspect of the site. I find that it is only the Chancel that might come within the category of special architectural or historic interest but on balance I find that it does not. I am reinforced in that view by the fact that St Philips is not a listed building. The significance, such as it is, rests more with the windows, furniture and other artefacts than the building itself and I do regard it as important that in so far as it possible these items should be preserved and incorporated into any new development.

29. I am satisfied on the evidence that if I left things as they stand there would be very limited opportunity for developing the mission of the church and the state of the buildings would require significant investment; even with that investment the problems identified over a number of years by the Parish would remain. In particular I am concerned about the cracking in the Chancel and the subsidence which is likely to result in significant financial demands in the future. I believe that if the Petition was rejected, I would be preventing the Parish from developing their mission in expanding the congregation and reaching out to the local community. I do

respect the views of the objectors but having visited the church on two occasions with my Registrar I am unable to see how a piece meal redevelopment would answer the problems that are readily apparent on inspection. I accept that the problems identified by the Parish are real and are a significant brake on the development of their mission in the community. There seems to be two stark alternatives: either I leave things as they are or I permit the demolition of the church and the building of a new set of buildings in accordance with the plan submitted. It seems to me that to leave things as they stand would be to condemn the church to eventual decline whereas to grant the Petition would be to give the church an opportunity of moving forward into the 21st century with renewed vigour and in an environment which would be attractive to all age groups. I find therefore that the need to enable the church to develop its mission rebuts the presumption of "leaving things as they are". That is not a realistic option.

30. However that does not mean that all that is present needs to be disposed of. The objectors and the Heritage Bodies point out the significant value of the various windows and church furniture contained principally in the chancel and I would wish those charged with the design of the new church to submit to me, after consultation with the DAC, proposals as to how they can be incorporated into the new scheme. I think particularly of the stained glass windows, the choir stalls, the panelling to the organ, the font and reredos. I would therefore make the grant of the Petition conditional upon that being done.

31. It is also essential that the fears expressed by the objectors are allayed so far as the financial situation is concerned. It must be a condition precedent that before any work is done which will alter the appearance of what presently exists, the funds for the project have to be secured. From my discussions with the representatives of the Parish I do not believe that is likely to be controversial but it seems to me that it is appropriate that I should impose a condition that the Parish provide a financial report to me so that I can assure myself that what is proposed is affordable and sustainable before any work commences.

32. Accordingly I grant the Petition and issue a Faculty subject to the following conditions:-

1. The Parish liaise with the DAC as to the way in which the items that I have highlighted in this judgment can be incorporated in the new design and in default of agreement the matter to be referred back to the Chancellor.
2. A full financial report to be received by the Chancellor dealing with the affordability of the project before any work commences.
3. The conditions imposed by Solihull Metropolitan Borough Council in the grant of their planning consent, a copy of which is annexed to this judgment, shall be complied with.

Signed .....

A handwritten signature in black ink, appearing to read 'JMH Powell', written over a dotted line.

JMH Powell QC Chancellor of the Diocese of Birmingham

Dated 15 March 2016