

IN THE CONSISTORY COURT OF THE DIOCESE OF LEICESTER

CHANCELLOR BLACKETT-ORD

CHURCH OF ALL SAINTS, COSSINGTON

IN THE MATTER of A PETITION FOR A FACULTY FOR THE CONSTRUCTION OF
A TWO-STOREY EXTENSION TO THE CHURCH

Wednesday 1 August 2012

Lammas Day

JUDGMENT

1. I have before me a Petition dated 7 June 2010 and presented by the then Rector and Churchwardens of Cossington. It seeks faculty permission for several matters including the construction of a two-storey extension on the north side of the Church to provide two large meeting-rooms, a vestry office, plant room, kitchen, WC, stairs and entrance lobby. At the request of the petitioners I am dealing with it on paper. There are no formal objectors.
2. The application is part of a wider proposal which is intended to give the Church its own meeting-room and kitchen facilities and toilets, and also to provide the village with a community hall and the church school with a classroom large enough to satisfy modern requirements, which means slightly more than 50 square metres in area.

3. The project as a whole came together in about 2003 when a questionnaire was circulated in the village of Cossington which invited views upon the prospect of renovating and possibly further developing All Saints Church. The village responded enthusiastically. One of the questions was "How would you like any proposed extension to look?". 150 of the replies answered "sympathetic to the age and appearance of the current Church" and 40 answered "modern in design". I mention this as mere background, rather than suggesting that in any way the wishes of the villagers on this matter are binding either on the PCC or the Petitioners or this Court.
4. The plan came into existence at a time when the Church itself was suffering a most unfortunate structural problem for which (I believe) those responsible for its maintenance could not be held responsible. Rising damp had caused a complete structural breakdown under the floor surface of the nave and tower. There was nothing for it but to close the Church for services whilst excavation exposed the sub-floor and allowed it to dry out.
5. The proposals came before the DAC and by early 2009 the then DAC secretary, Claire Strachan, had sensibly suggested that the works to the Church should be divided into phases:
 - (a) removal of woodwork and other vulnerable artefacts and actual repair to the damp problem;
 - (b) the installation of a better drainage system, a new floor and replastering of walls;
 - (c) re-ordering the interior of the church, with removal of the pews;

- (d) “phase 3... creation of a new North door and construction of two-story extension”.
6. The project as a whole was complicated and I need not give its history, which has been sketched out in two previous directions orders of my own that I will refer to below. Suffice to say that we are now concerned merely with phase 3.
 7. Plans for the proposed northern extension dated 16 October 2009 prepared by Martyn Jones of MJA Architects had been the result of considerable input from interested parties. Planning permission was granted on 18 December 2009. The matter was considered by the DAC on 15 March 2010, and a DAC certificate recommended them (subject to certain provisos) on 30 November 2010. The DAC stated its opinion that the work proposed was likely to affect the character of the Church as a building of special architectural or historic interest.
 8. On 6 July 2010 English Heritage expressed some fairly forthright opposition to the scheme.
 9. The matter came before me as Deputy Chancellor on 16 May 2011 when there may have been some confusion as to what had been approved or not approved in relation to the other parts of the project. I had visited the church and I directed that the phase 3 works should be advertised and notified to English Heritage, the local planning authority, SPAB and the Victorian Society.
 10. All Saints, Cossington, is a typical Medieval village church in that it is said to be of twelfth-century origin but has clearly grown by accretion with much thirteenth and fourteenth-century work. This overall gives an “Early English” tone to the building. It received a general restoration in 1864-5 which Pevsner’s

Buildings of England (Leicestershire and Rutland) describes as “dull”. Nonetheless the Church merits its Grade II* listing. From the outside its stonework is rough rubble. It is not small for a village population of about 450; the nave and aisles are approximately 40 feet long and the chancel 29 feet. The Church is approached from the east, across a large churchyard, and is currently entered from the south door. The north door has long been walled up, as in many Medieval churches. The eastern aspect of the Church is remarked upon by Pevsner thus:

“Grand five-light east window with intersected tracery broken at the top with a big quatrefoil circle.”

This chancel window is the dominant feature of the Church to anyone approaching it. On each side of it, set back, are the east windows of the north and south aisles, which are of identical shape although smaller and simpler in their tracery.

11. The questionnaire which had been circulated in the village in 2003 described the scheme as “a proposal for a modest extension to the north of the building, to be accessed by the north door which is currently walled up.”
12. At what stage the project ceased to be “modest” is not clear to me and does not matter. But the present (2009) plans propose an extension which is large. It is to be the same length as the nave, almost the same width of the nave (excluding the aisles), and will be on two floors, so that the apex of its roof will be higher than the highest point on the side-aisles of the Church, although not as high as the nave roof, which is above a clerestory.

13. When I first saw the plans for the proposed extension it seemed to me that they were disappointing, particularly as regards the all-important east side which is the side from which it will be viewed on approach, and especially as it is envisaged that the entrance to the Church will no longer be through the south porch but through the new entrance lobby between the Church and the main part of the proposed northern extension.
14. The proposed access into the entrance lobby is given a small right-angled triangular porch roof, which (I have mentioned) will be prominent because it is intended to be the principal entrance to the Church. The shape and angles of this porch are at odds with the lines of the existing roofs. It is more suited to a community hall than to an architecturally important church. More prominent is the window of the east facade of the proposed extension itself. This is a large single two-storey window of slightly gothic appearance. It has a flattened pointed-arch top, and a heavy lateral transom slightly less than halfway up its height, at the height of the upper floor inside, which the window reveals. Its vertical glazing bars are two only. This contrasts badly with the delicate curves of the stonework in the three early English windows on the east facade of the Church. As if to emphasise the contrast, the proposed window has a label or eyebrow above it along line of the top of the pointed arch, as if to emphasise that the shape of the arch is like nothing else nearby.
15. The windows on the other sides of the extension are of a very simple rectangular design, domestic in effect but rather random in their positioning. The quoins are to be limestone, rather neat, with a slightly Georgian effect.

16. The result is a substantial building with a mixture of architectural details which relate neither to each other nor to the church to which it is intended to be attached. It is not the “modest extension to the north” that had been suggested in 2003; nor could it be described as “sympathetic to the age and appearance of the current Church”, which was the desire of most of those who answered the 2003 questionnaire.

17. The matter came back before me in September 2011 and I had to reach a decision how the Petition was to proceed. At that time there was no formal objection to it. On the other hand, both the Society for the Protection of Ancient Buildings and English Heritage had expressed their dislike of the proposed extension. The letter from SPAB dated 16 August 2011 comments that they had previously urged the parish to consider an alternative scheme which would “reduce the need for the size, scale and mass of an extension”, and they continued:

“There does not appear to have been any change to the scale, size and mass of the extension and, accordingly, we reiterate our view that the proposed extension is disproportionate in scale to the existing Church and therefore damaging to the character and setting of a Grade II* listed church. The Society previously raised questions about the use of granite for the walling and suggested a more modern approach to the language of design, questions which appear to have been ignored...”.

English Heritage wrote on 23 August 2011:

“We therefore remain unconvinced that the proposed linked extension is the best solution for this Church under the circumstances and we would urge the Chancellor to consider returning the proposal to the PCC for further consideration of all the options. We remain of the view that the impact of this extension is so harmful that Faculty should not be granted”.

18. Mr Stephen Castleman, who is chairman of the Friends of All Saints Church and a churchwarden, wrote to the Registrar after those letters were received and gave

his comments and answers on them. His central point is made towards the bottom of his second page and I quote it:

“A village survey carried out a few years ago concluded that the overwhelming priorities were:

- to renovate the Church and extend it to create a facility for community use
- provision for toilets, disabled access and car parking;
- any extension should be sympathetic to the age and appearance of the existing building”.

19. In my Second Directions Judgment dated 29 September 2011, I stated that I was wholly sympathetic to these aims, but that my concern was how it was intended that they should be achieved.

20. It may be permissible for an extension to a church to be used either for secular purposes which are not incompatible with Christian use, or for purposes which can be regarded as part of the mission of the church because they bring outsiders in to church.

21. I am encouraged in this view by the statement of Cameron QC Ch in Re Saint Mary-Le-Bow, London (2001) 1 WLR 1507 at 1511:

“The primary purpose of any church is use for the purpose of worship. Ancillary rooms used as vestries, parish offices, crèches, children’s rooms etc are all used in connection with the primary purpose. Where there is additional space... it is understandable and reasonable for a minister with his/her churchwardens and PCC to contemplate permitting an outside body or bodies to use that space on commercial terms...”.

22. I am unaware whether, in the present case, any consideration has been given as to legal arrangements that might be made with the school or with other outside

users of the rooms proposed in the northern extension. But I do not anticipate that there would be such difficulty with that question for it to raise a doubt in my mind whether permission ought to be refused for the use of the rooms for the secular (or partly secular) purposes which are proposed for the present northern extension. The use of the building is not the problem.

23. My difficulty, at the time when I was giving my Second Directions Judgment on 29 September 2011, was that I was troubled by an extension of this appearance and size being attached to this particular listed church in the manner intended. But there were no formal objectors at all, and the reasons for opposition advanced by SPAB and English Heritage were not very particularised. In those circumstances, I did not think it right that I should simply decide the Petition then and there on the available evidence.
24. In my Second Directions Judgment I therefore asked that SPAB and English Heritage should be a little more specific in their objections, and that the Petitioners should then have an opportunity to reply. I also gave notice to the Petitioners of my own particular concerns. I did so in these terms:

“It is right that I should make the Petitioners aware of what my concerns are.

- (a) If there is to be a northern extension (and I see no objection to this in principle) then it must be no larger than is necessary. The present proposal for two large meeting-rooms one above the other is in addition to the proposal to re-order the Church so as to “increase the seating capacity to over 150” to quote Mr Castleman. Perhaps there is a need for all this additional space, but I have not been told what it is. Probably that is because there is no “statement of needs” in support of the present Petition. Although Mr Castleman’s letter goes a long way to justify the proposals in general terms, I do not believe that I have any evidence as to why such a larger structure is proposed. If there is a proposed arrangement to share the Church extension with secular use, I need to know what it is.

- (b) My second concern is as to the outward appearance of the extension building. I agree with Mr Castleman (to quote him again)

“any extension should be sympathetic to the age and appearance of the existing building”.

But I also find myself very sympathetic to SPAB and English Heritage where they suggest that the proposed extension fails in this regard. Inevitably my present view of it is from plans only, and I do not intend to revisit the Church until I need to make a final decision on the Petition. But I must say that the elevations shown on the plans are disappointing in appearance, and they could be said to be unworthy of a building of the quality of All Saints, Cossington. Is my perception distorted because the architect’s elevation showing the exterior of the east end of the chancel appears to show the chancel roof as steeper than is in fact the case? This needs to be checked”.

25. In paragraph 12 of my Directions Judgment of 16 May 2011, and in paragraph 70 of my Second Directions Judgment of 29 September 2011, I invited the Petitioners to state whether they would like an oral hearing or whether they wanted me to deal with the matter on paper. In paragraph 16 of the second of these Judgments, I further stated:

“I strongly advise the Petitioners that they obtain professional advice as to what evidence they need in order to satisfy what has come to be called the *Bishopsgate* test for alterations to church buildings. I emphasise that they must ensure that I have been given in writing all the points that they wish me to take into account”.

26. After I have given my Second Directions Judgment, the Registrar duly wrote to English Heritage, the local planning authority, SPAB and the Victorian Society. The most complete reply is from the English Heritage East Midlands Region Historic Buildings Adviser Helen Ensor dated 2 November 2011, and I make no apology for quoting from it at length:

“As you know we have serious misgivings about the proposal for a two storey extension at this church, both in terms of its size and impact on important views of the north elevation. We feel that, as proposed, it will dominate the setting of the church and that due to elements of its design will appear as a poor-quality

structure when set against the stonework and architectural detailing of the church. New structures in close context with highly graded listed buildings or within Conservation Areas should, in terms of the accepted principles of 'good design', respect their context. This can be achieved in various ways and does not necessarily call for 'pastiche' design but can result in an overtly modern building of high design quality. Design principles as set out in national and English Heritage policy and guidance speak of the need for the bulk, height and massing of a new building to avoid dominating important listed buildings or views if (*sic*) them in their setting. Additionally the language of the building's architectural details – in particular the window and door openings and the use of quoins – can either complement the existing context or appear jarring and at odds. It is our contention that the proposed two-storey building is too large and high and employs design details – particularly the windows and doors and the linking element to the church – which are out of character with both the immediate setting of the church and the wider village location..

Scale of the new building

We remain concerned that the design of the proposed two storey extension fails to adequately respect the sensitive historic context. In particular the bulk, height and massing appears to be in competition with the historic church. For example, the ridge height of the linking element should be considerably reduced so that it is more obviously lower than the parapet of the north aisle. Given that there is a void over the linking entrance there appears to be no good reason for the ridge to be so high (the stairs could be pushed into the extension). However, more fundamentally, the eaves of the main part of the new building are almost at the same height as the north aisles and it is this height which leads to a visual confusion and an impression that the new building is competing with the church and dominating its setting. We question the need at all for a second storey and feel that were the space within the church itself used more effectively the second storey could be omitted altogether.

The width of the new extension almost matches that of the nave/chancel, whilst it extends the entire length of the north aisle. These dimensions exacerbate the feeling that the new building seeks to be very prominent when standing in the churchyard and would dominate the setting of the church. We also feel that the linking element is too deep as it covers two of the three medieval windows in the north aisle and this adds to the built-up feeling on the site and the impression that the church is being overwhelmed.

In our view the size of the extension should be considerably reduced in order to overcome this appearance of dominance, and both the overall height, footprint and size of the linking/entrance element should be reduced.

However, we realise that if space which is needed is lost from any new building it will need to be found elsewhere in the church. This is the reason that we have been pressing for a spatial audit of the church itself to try and understand what

space is available, what it is being used for and how best to organise the church so that the scale of any new building is kept to a minimum. Since last writing about the extension we have been consulted on proposals to remove all of the pews from the church – we cannot understand why, if such a fundamental re-ordering of the church is being considered, the opportunity is not being taken to consider transferring elements of spatial requirement from the proposed new building into the church or why there is such an apparent reluctance to consider re-ordering the church in such a way so that some of the functions contained within the proposed new build are instead housed within the church itself. In our view in the absence of such a study there cannot be sufficient justification for the size of the extension as currently shown.

Architectural language

The design of the window and door openings is, in our view, particularly unsatisfactory. In our view, the east window of the new building is a rather poor attempt at a simplified form of ecclesiastic language which devalues the C14th east window of the church. This is exacerbated by the thickened transom with the floor running behind.

The remainder of the windows and doors simply bear no relation to anything around it and the result is a building with a rather commercial feel. The treatment of the north side of the first floor (which is blank) and the north side of the ground floor (two windows placed asymmetrically towards the eastern end) is, in our view, particularly unsatisfactory. It may be that windows have been omitted due to planning constraints but blind windows could have been included to balance the elevation.

The use of quoins introduces an unexpected Classical motif to the design which we feel contributes to a rather jumbled architectural language. The mixture of Classical coins [*sic?*], ‘ecclesiastic’ east window, modern entrance porch and square modern windows is visually confusing and leads to a building which is simultaneously large and prominent but also somewhat incoherent.

Conclusion

If the principle of an extension is accepted, there is a clear opportunity to design a building which responds appropriately to its context by respecting the heritage of the site, using an appropriate architectural vocabulary and employing materials which continue the long tradition of vernacular architecture. This precludes neither a building of overtly modern character nor a building which draws on a scholarly understanding of architectural history, but it should respect the primacy of the church as the most important building on the site and should aim to avoid dominating its setting in terms of height, scale and massing.”

27. I saw much force in all of this. So I looked forward with interest to seeing the reply which I had invited from the petitioners.

28. The reply took the form of a document which I believe came into existence at the very end of 2011 or very early 2012, but which is unfortunately unsigned and undated. It deals with various objections that I have mentioned above, and I will call it "the Reply".

29. Although it was not signed, the Reply speaks on behalf of the Petitioners, in that it answers the question about a paper hearing in these terms:

"We would request a paper hearing, as we cannot justify the expense that an oral hearing would inevitably incur".

On the other hand, it seems to have been composed by an entity called "the Cossington Project Group (henceforth "CPG")" and the relationship of this entity with the Petitioners is not stated. I assume that it is either a sub-committee of the PCC, or has the authority to make submissions on behalf of the PCC.

30. The Reply is disappointing because I had been at pains, in my Second Directions Judgment, to explain that I was concerned only with the phase 3 works, namely the proposed extension, and that my concerns about this were not so much about the use for which it was intended, as to its size and appearance. It is therefore unfortunate that the Reply concentrated on the question of the need for facilities and seemed to avoid the critical question as to the size and appearance of the proposed extension.

31. Towards the bottom of the second page of the document we are told this:

"The strong feeling of the CPG is that the project stands or falls in its entirety. If the project is not approved in its entirety then there is neither the appetite locally nor the financial ability for any single part of it to be undertaken. This has always been the view of the CPG..."

“We are therefore glad in this document to be able to restate the case for the whole project, to outline our understanding of what has and has not been achieved and to set out the case for the Chancellor the DAC for the whole Cossington project”.

32. I believe that it is not until the tenth page of the Reply that it returns to the matters that had been stated as of concern by English Heritage and me. I quote from near the top of page 10:

“The size of the extension has been chosen most carefully, and the 50.4 metres squared stipulated by the Local Authority has been of paramount importance. Thus as Viv Hawes, then Head Teacher of Cossington Church of England Primary School, said in her letter of support of 6 April 2005, “We would use an additional room, providing it was large enough for a class group. The LEA suggest a room of at least 50.4 square metres (exclusive of cloaks and storage).” Those who have objected to the proposed size of the extension have never engaged with this key factor. The extension is not for the benefit of the church alone, but also for the benefit of the village of Cossington and wider community and for the benefit of the Church of England Village Primary School.

“(2) The outward appearance and elevation of the proposed extension have been changed considerably as the CPG took advice from various expert bodies.

“The first plans for an extension to the north of the church buildings were drawn up on 6 January 2005 by Martyn Jones...”

(There followed a history of the development of the plans up to December 2009).

To continue

“It was, therefore, with some dismay that we read Chancellor Blackett-Ord’s comment that “the elevations shown on the plans are disappointing in appearance”. Throughout 2005, 2006 and 2007 the plans were changed several times in order to accommodate expert advice and opinion. However, there is no appetite within the CGT to return to the drawingboard concerning them some five years on, especially given that planning permission has been granted and re-affirmed by Charnwood Borough Council.

“We believe that the plans are both pleasing and appropriate, especially as the finish will be in Mountsorrel pink granite. If the necessary Faculty Permission is not granted, as well as feeling enormously let down, the CPG will not seek to

resubmit plans, as a huge amount of time, money and hard work have already been put in. The whole of the project would, as a result, not go ahead”.

33. It seems to me that this Reply (which I have carefully considered in full although I have only quoted a little) hardly addresses the concerns that both English Heritage and I expressed, namely why such a large extension was proposed, and how the appearance and detailing of the proposed building could be justified. Those two questions interlink. I still do not know why a parish of around 450 persons requires a church which needs a meeting-room for 150 and a full-size school classroom as well as substantial seating in the Church itself. If there is a case for this, then the question arises whether it is suitable for such a substantial structure to be attached to a Grade II* listed church. If the answer is yes, then an architectural design of the very highest quality will be required.
34. I consider that the law relating to the granting of faculties for alterations to churches have been declared by the Court of Arches in Re Saint Luke the Evangelist, Maidstone (1995) Fam 1. In that case Sir John Owen, the then Dean of the Arches, stated that the court, when deciding specific appeals, would give general guidance. He said¹

“We consider that in deciding upon alterations to a church a chancellor should have in mind...(ii) where a church is listed there is a strong presumption against change which would adversely affect its character as a building of special architectural or historic interest. In order to rebut that presumption there must be evidence of sufficient weight to show a necessity for such a change for some compelling reason...(iii) whether a church is listed or not a chancellor should always have in mind not only the religious interests but also the aesthetic, architectural and the communal interests relevant to the church in question”.

¹ (1995) Fam 8C

He continued by quoting with approval the judgment of Sheila Cameron QC in Re St Helen's Bishopsgate (unreported) 26 November 1993 which had identified three questions to be addressed on an evaluation of the evidence:

- “(1) Have the petitioners proved a necessity for some or all of the proposed works, either because they are necessary for the pastoral wellbeing of St Helen's or for some other compelling reason?
- “(2) Will some or all of the works adversely affect the character of the church as a building of special architectural and historic interest?
- “(3) If the answer to (2) is yes, then is the necessity proved by the petitioners such that in the exercise of the court's decision a faculty should be granted for some or all of the works?”.

35. I consider that in the present case the Petitioners have not proved “a necessity” for an extension of the size proposed. If I were to be wrong about that, I would further hold that in my judgment, even if the extension was “necessary”, a faculty should not be granted, because its particular size and appearance will damage the Church in its churchyard setting both aesthetically and architecturally and any “necessity” for it is insufficient to justify this.

36. I would add four further matters.

37. First, a construction which is awkward or even unsatisfactory may be permitted if it is temporary. The more permanent it is, the less readily will it be allowed. The extension which is proposed in this case is likely to survive for centuries. We owe it to those who will worship in All Saints in future centuries, as well as those who contributed to the building of the Church in the past, that any extension of the church is of the highest aesthetic and architectural merit.

38. Secondly, I have mentioned that the CPG has stated that if the present proposal is not allowed, “there is no appetite within the CPG, to return to the drawingboard”. I find this statement unfortunate. The Church needs toilet and kitchen facilities. I would expect that the PCC would want to put forward proposals for a scheme which will take into account the concerns I have expressed in this Judgment. The DAC will, I know, be happy to advise.
39. Thirdly, I appreciate that those who have supported the present scheme will be disappointed by this Judgment. I owe them an apology that it has taken me some months to give it, but this is because I wanted to visit and inspect the Church again, and because I wanted to take the unusual step of discussing it orally with a full meeting of the DAC.
40. Fourth, it has been urged upon me from many sides, that the present scheme has been a very long time in gestation and a great deal of work has been put into it. I agree, but I cannot give much weight to this fact. I must take a long-term view of what is best for All Saints and its future congregation. As was stated by Cameron QC Ch in St Mary Le Bow, London²

“[*The Minister and churchwardens*] are under a duty to obtain a faculty in respect of any alteration in the use of part of the church. They are trustees of the building during their time in office and the responsibility for taking a long-term view of the proposals rests with the Chancellor, who has been described in the past as a “disinterested authority”³ in the sense of bringing an objective and wider perspective to a proposal than can realistically be done at parish level”.

41. If there is a lesson to be learnt from this case, it is that petitioners should treat seriously the opposition of English Heritage or the amenity societies. Of course

² (2001) 1 WLR 1507 at 1511H

³ Nickalls v Briscoe (1892) P 269 at 283

this Court frequently disagrees with those bodies. But where they express strong objection, petitioners must realise that their scheme is at risk, and should consult with their architectural advisers accordingly. I know nothing of what architectural advice the petitioners or the CPG may have been receiving, and deliberately I do not ask. But the architect ought to have warned them that this scheme might fail. Major works to historic buildings require professionals who are experienced and specialist in that field.

42. I therefore reject the part of this Petition which has been called “phase 3”, namely the construction of the two-storey extension to the north side of the Church to provide two meeting-rooms, offices, kitchen and WC.
43. I do so on the grounds of the size and appearance of the proposed extension, so it is possible that a new and different scheme for any extension might possibly succeed.
44. If the Petitioners wish to make any application in relation to this Judgment, I direct that they do so in writing to the Registrar within 28 days after this Judgment is sent to them, and that the order be not sealed until after that date.

Mark Blackett-Ord
Chancellor
Date:

IN THE CONSISTORY COURT OF THE DIOCESE OF LEICESTER

CHANCELLOR BLACKETT-ORD

CHURCH OF ALL SAINTS, COSSINGTON

RE A PETITION FOR A FACULTY FOR THE CONSTRUCTION OF A TWO-
STOREY EXTENSION TO THE CHURCH

Wednesday 1 August 2012

Lammas Day

JUDGMENT

Registrar to the Diocese of Leicester