

In the Diocese of York

In the Consistory Court

The Parish of Coxwold

The Church of St Michael

1. By a petition received in the Registry on the 10 October 2011 the petitioners seek a faculty:

1. to remove four pews from the west end of the nave beneath the gallery, the doors and panelling to be salvaged for reuse;
2. to introduce a new disabled accessible WC into the north-west corner, new cupboards into the south-west corner, and a kitchen into the base of the tower;
3. to introduce a new upper floor into the tower with a balustrade to the west window and a new access door in the tower arch partition;
4. to introduce a new foul drainage system on the site of the former underground boiler-house in the north-west re-entrant angle; and
5. to reduce the base of the font by removing one step;

all as per the specification by Peter Gaze Pace, Chartered Architect, dated September 2011, together with associated drawings numbered 9 to 14 inclusive, 16C, 17A, 18C and 19B.

2. The church of St Michael is a Grade I listed building. Accordingly English Heritage were consulted by the petitioners and they had no objections to the proposal.
3. SPAB had been consulted by the architect about the Georgian aspect of the proposal and it had responded by telephone saying that it had no comment on that aspect.
4. The architect had not advised the petitioners that the Georgian Group (GG) should be consulted.
5. The proposal was considered by the DAC which recommended the proposal subject to two provisos, namely

- 1 The architect should ensure that the construction of the new tower floor would allow the creation of a bell-trap, should one be necessary in future.
- 2 Any excavations must be subject to an archaeological watching brief.
6. I was advised by the DAC that this is one of only two significant Grade I listed Georgian churches in the Diocese. Because the proposal involved a significant amount of work beneath the gallery, the DAC suggested that it would be appropriate for the GG to be consulted in relation to that aspect of the proposal.
7. The minute of the DAC meeting read:

The Archdeacon observed that the present proposals were the culmination of ten years consideration by a thoughtful PCC, and were not being lightly undertaken. It was noted that English Heritage had no objections to the scheme, and members suggested that the Georgian Group should be consulted on the effect of these proposals on the area beneath the gallery. The Committee noted that a detailed Statement of Significance had been provided by the architect, and commended the intention to re-use almost all of the Georgian joinery in the new works.
8. I therefore directed that that under Rule 13(3) of the Faculty Jurisdiction Rules 2000 (FJR) the GG be notified of the proposals in the usual manner.
9. The GG replied on 2nd November 2011. In that letter they had said that they did not believe that a strong justification for removal of the box pews had been provided to date. The letter stated that the trustees unanimously agreed “that proposed removal of box pews would be damaging to the quality and significance of the church’s interior and were mindful of the guidelines of the CBC that ‘there is a(n) overwhelming presumption against the removal of pre-Victorian pews, in particular box pews’. Given the outstanding quality and completeness of the eighteenth century fixtures and fittings within the church they believed that any significant and detrimental intervention within its fabric should only be contemplated as an option of last resort.”
10. They proposed that a separate free standing toilet structure be built within the large churchyard. They believed such a new building could be constructed “without significantly damaging the setting of the church or the character of the wider conservation area.” They considered that a similar structure in St Mary the Virgin, Ingestre in Staffordshire would be a useful model for such an approach.
11. They suggested a meeting to discuss this further, acknowledging that their objection would come as a great disappointment to the parish.
12. They also suggested that SPAB should be consulted about the works to the tower. That was done and SPAB replied by letter dated 15th November saying that

“The Society is sympathetic to the parish’s needs for a fully accessible WC and we have no objection to the principle of the proposals, either those within the nave or those within the tower, indeed, given the location of the organ it seems to be a good use of the tower space”.

SPAB commented about the pews that they

“wish to record our regret at the loss of the two south west pews which we do not believe is critical to the success of the body of the proposals.”

13. Following on the receipt of the objection from the GG, the GG was informed of the potential routes under rule 16 of the FJR 2000 and by a letter dated 8th February 2012 it chose to become an objector and filed a Form 4 set of objections in which its objections were said to be:
 1. The proposal to remove box pews would be damaging to the significance and to the appearance of the interior of this grade 1 listed place of worship.
 2. Installing a toilet beneath the gallery would have a detrimental impact on the appearance of the church's interior.
 3. Other potentially less damaging ways of providing the required facilities have not been adequately explored, and therefore the need to undertake the proposed works has not been satisfactorily demonstrated.
14. Both the petitioners and the GG have indicated that they would be content for this matter to be dealt with on written representations.
15. I visited the church on the 27th September 2012 to view the church. I was accompanied by the Registrar. Present were the two churchwardens on behalf of the petitioners, Mr James Darwin who is the senior case worker for the Trustees of the GG and also present was the Secretary to the DAC, Mr Phil Thomas.
16. The church is situated at the north west end of the village and is set on an elevated position on the south side of a road known as Thirsk Bank. The churchyard extends south of the church on a descending slope with open views over the countryside to the south. There is a fine brick path which was laid in 1992 and which descends down through the churchyard. It was given by the Armitage family, for many generations the owners of a local brick making company, in memory of Mrs Mildred Armitage who lived in the village. It is a very attractive setting and prospect.
17. It was readily apparent to me that there is not anywhere in the churchyard that a new and free standing structure could be built that would be able to accommodate the toilet facilities that the petitioners say they need. That particular suggestion was not repeated in the later

communications from the GG.

18. One of the other suggestions made by the GG was that the Hearse House might be suitable for the purpose. The Hearse House is a structure at the west end of the churchyard
19. I was able to see the Hearse House. Its name indicates its original purpose. Now it is used for storage, including a grass cutter and other churchyard equipment. It would not be easily accessible from the church, including by disabled persons, and work would need to be done to make the pathway safe in all weathers. However in my judgment it is not really appropriate to have a toilet facility separate from the church requiring adult supervision for visits by children.
20. It had been suggested that there was a possible alternative location inside the church namely in the boiler room which is off the tower. Given that the proposal is for a wheelchair accessible toilet there are again real problems in making that possible as the boiler would then need to be relocated. The cost of that would be very significant and there was no other obvious place for it to go.
21. I was satisfied after my visit that there was no real alternative place for the location of a disabled accessible toilet other than in the NW corner of the church as proposed by the petitioners.
22. I was also satisfied that there was a need for such a facility. Indeed there has never been any challenge to that aspect of the petitioners' case.
23. How then should I approach the making of the decision as to whether to permit the proposal to proceed?
24. I have begun this judgment by looking at the issue of need and possible alternative ways of meeting that need. That of course is the classic way that chancellors have approached dealing with petitions for development in a church which if permitted would have an adverse effect on the building as one of special architectural or historic interest. That is the approach encouraged in the case of *Re St Helens Bishopgate* (1993) 3 Eccl LJ 256.
25. The Court of Arches has recently decided the case of *in re Duffield, St Alkmund*. In its judgment the Court revisited the '*Bishopsgate* Questions' and gave some guidance as to how chancellors should approach the issue of permitting works to be done which will to some extent damage the heritage asset whether that be the special architectural interest or the special historic interest of the asset.
26. The Court suggested that Chancellors may be helped by addressing the following questions:

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 then 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 well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade 1 or 2*, where serious harm should only exceptionally be allowed.
27. It therefore is important for me to assess the damage or loss that would result from permitting this work to take place.
28. There are references to a Saxon church in Coxwold in the 8th century. One would assume that it was built on this site. Certainly a Norman church was built on this site which was replaced by a church built between 1420 1430 in the Perpendicular style. The current nave, west tower and south porch were built at that time. The octagonal tower is unusual. Laurence Sterne was vicar of the church from 1760 to 1768 and is famous as the author of the novel “Tristram Shandy”. In 1774 the chancel was rebuilt to the designs of Thomas Atkinson. The box pews and the pulpit are all believed to be 18th century, as are the altar rails and the royal arms of George II.
29. As we walked around the church it was very interesting for me to hear the discussion that took place between Mr Thomas and Mr Darwin. Mr Thomas was clearly intrigued by the fact that in the early 20th century Hodgson-Fowler undertook a restoration of the church and Mr Thomas was quite convinced that significant aspects of the woodwork do in fact date from his time.
30. Prior to the Hodgson-Fowler restoration, the pew backs and sides were about 18 inches higher than at present. They were reduced to their present size by the joiners taking off wood from the bottom of the pews. At the same time the pulpit was reduced from being a "three decker" by the removal of the bottom deck.
31. The chancel was rebuilt in 1774 by Thomas Atkinson and it is probable that the unusual horse-shoe shaped altar rail was installed at this time.

This delightful feature is in regular use at Communion and is said to give a sense of togetherness to the congregation as they gather at the communion rail.

32. In 1960 the present screen wall was erected at the west end of the nave enclosing the staircase and boiler house. That work involved the loss of some pews.
33. It is therefore apparent that the ensemble of furniture is not as it was when originally designed and introduced. There have been some significant alterations to meet what I assumed were judged to be practical requirements at various stages, most notably at the start of the 20th century.
34. What remains however is a significant representation of fittings and furnishings of the Georgian period for which the village through its association with Sterne is well known.
35. So what will be the damage caused to this heritage asset? First this will not be the first alteration to what was put in during the 18th century. That does not of course mean there will not be further loss or damage but the fact that significant alterations have already taken place is a factor for me to weigh in the balance.
36. Second, the number of pews that will be lost will be only four in number at the west end of the nave. Two to the north side where the new toilet will be positioned and two to the south side where new cupboards will be positioned. The intention is to use the wood from the pews in the new construction thus retaining and reusing the original timber and also ensuring that the style of the panelling remains consistent throughout the church.
37. At the present time there is a free standing bookstand in front of the two pews on the south side. The appearance in that area by the entrance door is somewhat cluttered and untidy and there is no real view of the panelling of the pews when looking back from further east in the nave. The suggestion by the GG is that those pews might be retained even if those on the north side make way for the toilet. In my judgement that would not be an attractive solution. It would defeat the object of creating some space as you enter the church, space in which you can stand and take in the very attractive view looking down the nave where the eye immediately catches sight of the wall which divides the nave from the chancel and in which there is a chancel arch through which one sees the unusual communion rail and the sanctuary. Over the arch are the royal arms and on the north side is the pulpit and to the south side are some box pews. If having progressed down the nave one turns and comes back towards the west end – the eye is the caught by the gallery and the modern organ dominant at its centre.

38. In my judgment this further modest re-ordering of the west end will result in some small historical loss in that the pew layout at the west end will no longer be as originally designed. However the essential features of the church will be unaffected and there will be a proper space to stand and enjoy them on first entering the building. The re-use of the timber from the pews in the new construction will ensure that the overall character is retained even in the newly ordered west end.
39. The impact on the architectural heritage is likewise in my judgement small and for the same reasons.
40. Against those small losses I must set the benefit to the public of introducing a disabled accessible toilet where currently there is no toilet facility. The Statement of Need states that

“The PCC has been concerned for some time about the poor facilities at the church. Increasingly clergy and congregations travel a distance to services which has highlighted the need for a toilet. Additionally there is a need for some space to socialise after services and to improve the coffee making facilities. Finally the PCC want to have suitable room for their and others’ meetings.”

The latter two elements are of course catered for by the developments in the area under and at the mezzanine level in the tower.

41. However although the objections focus on the toilet element of the proposals, they cannot be seen in isolation. The concept of ‘going to church’ is no longer seen as arriving a moment or two before the service starts and leaving immediately the blessing is pronounced. The expectation at St Michael’s, as in many if not most churches now, is that the service will be followed by an opportunity to ‘share fellowship’ as people have refreshment and talk with one another. Many will have travelled some distance to be there and there is a clear need for space and for toilet facilities. Additionally, of course if the church is to be used by others in the community then it is necessary to provide such facilities. All of this is recognised as an integral part of Christian worship and mission.
42. I therefore have no hesitation in concluding that although there will be a small loss to this historical and architectural heritage asset, the loss will be far outweighed by the benefit to the community both that of the church and also the wider society that will flow from the changes to the layout of the west end and its fittings and furnishings.
43. I therefore direct that a faculty shall pass the seal until further order.
44. The DAC provisos will be conditions to the faculty (see para 5 above).
45. This being an opposed petition and the Objectors having behaved responsibly in the conduct of their case, it falls upon the Petitioners to pay the additional costs incurred in an opposed petition. These will be

assessed by me in due course on being presented with the details of the additional work by the registrar.

Canon Peter Collier QC
Diocesan Chancellor

3rd January 2013