

IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD

4242

DARLASTON: ST LAWRENCE

JUDGMENT

- 1) The church of St Lawrence in Darlaston is a late Victorian church with a Grade II listing.
- 2) The Team Rector, Revd Elizabeth Jones, and the two churchwardens petition for a faculty permitting the installation of new audio visual system. The main features of the proposed system are a retractable screen positioned above the chancel arch and a projector mounted on a fixed stand in the balcony.
- 3) The worship in the church is a mixture of traditional services and services which are more contemporary in approach. The numbers attending the latter type of service are growing. At such services the words for hymns are projected on to a screen along with other material. The church currently uses a portable screen and a portable projector with the latter being mounted, when in use, on a flower stand in the third row of pews.
- 4) The Petitioners' justification for the proposed alteration is twofold. They say, first, that a fixed screen and projector will be safer than the current arrangement which involves the movement of equipment and the stretching of leads across the church. In addition they say that material projected on to the screen, which will drop into the archway when in use, will be more readily and comfortably visible to those in the congregation.
- 5) The Petitioners propose that the housing for the screen be painted the same colour as the wall to which it is fixed. They say that this will minimise the visibility of the screen when it is not in use. They also say that the screen will not normally be used at those services where there is a traditional style of worship.

- 6) The Diocesan Advisory Committee has recommended approval of the petition and has certified that the proposed works are unlikely to be cause a material alteration in the appearance of the church. It has also certified that the proposed works are unlikely to affect the special significance of the church. I agree with that assessment of the likely impact of the proposed works on the church's special significance. The recommendation of the Diocesan Advisory Committee follows the making of a site visit and discussions with the Petitioners. Those discussions had led to modification of the Petitioners' original proposal and in particular the Petitioners no longer seek permission for additional screens fixed to the nave piers.
- 7) I note that the Petitioners do not appear to have submitted either a Statement of Significance or a Statement of Needs to the Diocesan Advisory Committee and that Committee appears to have considered the matter without having had such information. This is contrary to **Rule 4.3** of the **Faculty Jurisdiction Rules 2015**. Those proposing alterations to listed churches should provide such documents and the Diocesan Advisory Committee should require their provision. However, the documents are not required as part of the Petition and **Rule 20.2** in any event provides that a failure to comply with the Rules does not render proceedings void. In light of the fact that the Diocesan Advisory Committee's advice followed a site visit and in light of the detailed submission which Elizabeth Jones has provided following the objection which I will consider below I will determine this Petition notwithstanding that omission.
- 8) The Petition is supported by the Parochial Church Council which passed a resolution approving the seeking of a faculty. Eleven members of the Parochial Church Council voted in favour of the resolution and none opposed it although two did abstain.
- 9) A letter of objection was sent by Ms. Karen Eccleston. This was supported by a petition signed by twenty-six people. Ms Eccleston was a longstanding member of the Parochial Church Council (it is not clear to me whether she is still a member of that Council). She is also a longstanding worshipper in the church and is on the electoral roll. The signatories to the petition of objection are almost all either parishioners or electoral roll members and they include a number of people

who play or who have played an active part in the life of this church community. Ms. Eccleston makes a number of points as follows.

- a) Ms. Eccleston suggests that with changing technology there will come a time sooner or later when the screen has to be replaced and she expresses concern that there will be damage to the fabric of the church when the screen is removed.
 - b) Ms. Eccleston says that the screen or rather its housing will be visible even when not in use. She says that the chancel arch is a prominent feature of the church and contends that the effect will be "*aesthetically displeasing*".
 - c) Ms. Eccleston wonders whether the light from the East window will mean that material projected on to the screen will not in fact be visible. I can discount this argument immediately. I am satisfied that the Petitioners have obtained proper advice and that the screen, if permitted, will be installed by specialists who have already assessed the church. Accordingly, I proceed on the basis that if permitted the screen will be capable of being used for its intended purpose.
 - d) Ms. Eccleston says that it is a ground of objection that when in use the screen will block the congregation's sight of the East window. This is combined with the contention that the screen will be obtrusive when in use.
 - e) Finally, Ms. Eccleston questions the need for the proposed works. She contends that the need identified by the Petitioners can be adequately met by the use of a portable screen and projector.
- 10) Ms. Eccleston has confirmed that she does not wish to become a party to these proceedings but that she does wish her letter of objection to be taken into account in my consideration of the case and I will do so. Although the Registry Clerk has written to all those signatories to the petition of objection whose address could be identified none of them expressed a wish to become a party to the proceedings.

The Applicable Legal Approach.

11) I have already said that St. Lawrence's is a Grade II listed church. Accordingly, I must have regard to the approach laid down in *Duffield: St Alkmund* [2013] 2 WLR 854 as modified in *Re Peshurst: St John the Baptist* (2015) 17 Ecc L J 393. It is the assessment of the Diocesan Advisory Committee that the proposed works will not constitute a material alteration in the appearance of the church and that they will not harm its special significance. Although Ms. Eccleston and the others who object to the proposed works contend that the appearance of the screen and its housing will be unsightly they do not suggest that the church's special significance will be harmed. This means that I do not have to conduct the exercise of assessing the degree of harm to that significance and balancing that against the justification for the proposals. Instead I have to assess whether the Petitioners have shown a reason for the proposed change which is sufficiently strong to overcome the ordinary presumption that in the absence of a good reason change should not be permitted. In making that assessment I must take account of the matters raised by Ms. Eccleston and the other objectors.

The Views of the Parishioners.

12) There is an unfortunate division of opinion between the members of the community worshipping at St. Lawrence's. It is clear from Ms. Eccleston's letter and from the petition of objection that a number of those actively involved in the life of this church are unhappy with the proposed works. I take account of the fact of that division of opinion. I have no doubt from the tone of the correspondence that Ms. Eccleston and those who signed the petition of objection have genuine concerns and are motivated by a desire to preserve the beauty of this church dedicated to the Glory of God. However, it is clear that the overwhelming majority of the Parochial Church Council support the proposal. The members of that Council are the elected representatives of the parishioners and so I must proceed on the basis that the proposals are supported by the majority of the parishioners.

Assessment of Aesthetic Considerations.

13) Criticism is made of the appearance of the screen and its housing. My decision as chancellor has to take account of the aesthetic effect of the proposals. However, I have to be very conscious that the assessment of aesthetic

considerations is a matter on which tastes can legitimately differ. It is also a matter in respect of which I, as chancellor, have no special qualifications or experience. It is for that reason that I am advised by the Diocesan Advisory Committee, a body whose members have expertise in and experience of assessing such matters. Here the Diocesan Advisory Committee has recommended approval of the works and that recommendation must carry particular weight when considering questions of aesthetics.

The Justification for the Works.

- 14) I have concluded that a proper and prima facie adequate justification has been put forward for the proposed works. The type of service at which congregation numbers are growing is one where projection onto a screen is an important element in the service. It is clearly appropriate that there be a screen and projector for use in such services. If there is to be a screen then a properly positioned and mounted screen and projector are clearly preferable to the use of a portable screen and projector. I am satisfied that the proposed fixed screen and projector will be an improvement on the current arrangements both in terms of visibility (and hence functionality) and of safety. The assessment by the Diocesan Advisory Committee that the proposed works will not amount to a material alteration in the appearance of the church combines with the justification to show that the case for granting the faculty sought has been made out subject to the particular issues raised by way of objection.

- 15) In assessing the justification for the works and their impact on the church's appearance it is relevant to note that the Petitioners have abandoned parts of their original proposal. As explained above the Petitioners originally intended that there should be screens on the nave piers but modified the proposal by dropping this element thereof after concerns were expressed by the Diocesan Advisory Committee. This is significant because it shows the Petitioners being willing to modify the works to minimise the effect on the appearance of the church. Not only does that enable me to accept that the Petitioners are taking a responsible and sensible approach in the formulation of their proposals but it also supports the implicit contention by the Petitioners that the works currently proposed

represent the least interference with the fabric of the church which is compatible with achieving the desired objective.

Analysis of the Objections.

16) Ms. Eccleston says that there will be a risk of damage to the fabric of the church if the screen and its housing are removed at some point in the future. This consideration cannot carry any weight. I will proceed on the basis that the screen and housing will be properly installed (a proper specification has been drawn up and the proposals approved by the experts on the Diocesan Advisory Committee). I have no reason to believe that removal of the screen and housing at some point in the future will inevitably cause damage, let alone significant damage, to the fabric of the church. The way to prevent such damage will be for appropriate conditions to be imposed if and when a future application is made for permission to remove the screen and housing. The court will at that stage be able properly to protect the fabric of the church.

17) It is said that the screen and housing will be aesthetically displeasing even when not in use. In essence the contention is that the presence of the housing above the chancel arch will be unsightly. I have already said that this is a matter on which opinions can legitimately differ. I accept that the housing will be visible to some extent. I also accept that there will be some people who will notice the housing more than others and who will regard it as being unsightly. However, I have to take account of the fact that the Petitioners intend to take steps to minimise the visibility of the housing. I come back to the expert assessment of the Diocesan Advisory Committee and to the support for the proposal from the majority of the Parochial Church Council (and so, I must conclude, the majority of the parishioners). In those circumstances the fact that some people will find the presence of the housing unsightly cannot be a material consideration. I must proceed on the basis that the impact on the appearance of the church will be modest and that it will be regarded by most as outweighed by the benefits being obtained.

18) Ms. Eccleston says that when in use the screen will block the East window. It is right that some blocking of that window when the screen has been lowered from its housing for use during services is inevitable. There is bound to be some

obscuring of the visibility of that window with almost any use of a screen and projector. I am not aware of any legal or theological reason why it is inappropriate to install a screen which obscures the visibility of a part of the church (whether the East window or any other part) when in use. Accordingly, this ground of objection carries no weight.

19) Ms. Eccleston and those objecting to the proposed works suggest that the need for a screen can adequately be met by the use of a portable screen and projector. I have already indicated that I accept the contention of the Petitioners that use of a screen and projector which are fixed and properly mounted is preferable both in terms of functionality and in terms of safety to the use of portable alternatives. There is a need for the use of a screen and the current use of a portable screen and projector is a second best approach to meeting the needs of worship in this church. It is not appropriate to require the use of a second best approach where the better approach can be implemented without a material effect on the appearance of the church.

Conclusion.

20) It follows that the Petitioners have set out a proper justification for the proposed works. The impact on the appearance of the church will be modest and the benefits to be obtained by the proposed works are sufficient to overcome the presumption against change. For those reasons the faculty sought is granted.

STEPHEN EYRE
HIS HONOUR JUDGE EYRE QC
CHANCELLOR
12th June 2016