



***Faculty** – Unlisted, modern, north Oxford suburban church, built by N. F. Cachemaille-Day between 1956-8 – Proposal to create an extension to the north side of the church, and to carry out extensive works of repair, renovation and refurbishment to the main church building – DAC recommending proposals for approval – 20<sup>th</sup> Century Society raising certain objections but not electing to become a party opponent – Faculty application unopposed – Whether harm would be caused to any significance of the church – Relevance of potential future listing – Faculty granted*

**Application Ref: 2024-101149**

**IN THE CONSISTORY COURT**  
**OF THE DIOCESE OF OXFORD**

Date: Trinity Sunday, 15 June 2025

**Before:**

**THE WORSHIPFUL CHANCELLOR HODGE KC**

**In the matter of:**

**St Mary, Headington**

**THE PETITION OF:**

**The Reverend Canon David Bird**  
**(Assistant Minister and Project Director)**

This is an unopposed petition determined on the papers and without a hearing.

No objections were received to this petition.

The following case is referred to in the Judgment:

*Re St Alkmund, Duffield* [2013] Fam 158

## JUDGMENT

### *I: Introduction*

1. This is an unopposed online faculty application, dated 13 April 2025, and made by the Reverend Canon David Bird, the church's assistant minister and the appointed director of this project, at the request of the minister and the Parochial Church Council, for faculty approval: (1) to create an extension to the north side of the church, accommodating a vestry and two WCs; and (2) to carry out extensive works of repair, renovation and refurbishment to the main church building, together with associated external works, in accordance with the document entitled '*Scope and Specification of Workmanship and Materials*', dated October 2024, and prepared by BW Architects Limited.

2. This church building is an unlisted, modern church building in the north Oxford suburb of Barton, an over-spill development near Headington, just to the north of the A40 Ring Road, in the north-east of the City of Oxford. The church building is a late, modernist work by Nugent Francis Cachemaille-Day, built between 1956-8. Although not presently listed, the parish, their architect, and the Diocesan Advisory Committee are all acutely aware of the church's architectural significance. They expect the church to be listed in coming years. The church is not situated within a conservation area.

3. The petition notes that works to this church are long overdue. The urgency of the work has been notified to the DAC, notably because large pieces of concrete have fallen from the ceiling inside the church. The parish wish to proceed with the works as quickly as possible so as to make the most of the clement summer weather for the repair of the areas of the side aisle roof which are most affected by the deterioration in the condition of the concrete. The total cost of the works is estimated to be in the order of £900,000. It is thought that they will take some 40 weeks to complete. Whilst they are being carried out, it will be necessary to hold public worship in another building. The Bishop of Oxford has already given his permission for divine service to be performed, and the sacrament to be administered, in the Blue Room (Community Hall) of the Barton Neighbourhood Centre until 26 August 2026.

4. Although this is not a listed church building, and there is no opposition to this petition, I am delivering a formal written judgment because this church building is a late work by the distinguished modernist architect, N. F. Cachemaille-Day, which may well be listed in the future; and because the 20<sup>th</sup> Century Society have raised certain objections to the proposals, although they have not elected to become a party opponent.

5. Since this is an unopposed faculty petition, which needs to be disposed of urgently, I am satisfied that it is expedient in the interests of justice, and in furtherance of the overriding objective of the Faculty Jurisdiction Rules 2015 as amended (the **FJR**), for me to determine this application without a hearing, and on the basis of the written and illustrative material that has been uploaded to the Online Faculty System, and is available to the court. Doing so will save

expense, and will enable the court to deal with the case proportionately, expeditiously and fairly. In determining this faculty application, I have had regard to the consultation response from the 20<sup>th</sup> Century Society, and the helpful reply from one of the diocese's church buildings officers.

*II: Revised statement of needs*

6. The revised statement of needs notes that in 2017 – in fact this was in 2020 - a faculty was granted which would have massively changed the profile of this church, as viewed from the Green Road roundabout which leads into the Barton estate. That design has now been abandoned because it would have proved prohibitively expensive, and would have changed the profile of Cachemaille-Day's original design '*beyond all recognition*'. The PCC therefore resolved to think again. They have tried to formulate a more realistic, and sympathetic, project which will meet the needs of the parish for the next 50 years, whilst also being affordable. One key factor has been that, following the condemnation, and demolition, of the former church hall in 2017, the church has had no accessible toilets or facilities for catering for small group activities, such as work with children. The parish have also needed to address problems with the building identified in recommendations in the quinquennial inspection report. These have led the parish to decide to repair and renovate the church building, and to add a small and unobtrusive extension in the north-west corner, to include a kitchen, an accessible toilet, and a revamped vestry and office. In addition, the parish intend to modernise and improve the west entry door by adding accessible ramps and a new entrance lobby. Some of this work is urgent in order to address the condition of the church roofs and the consequent ingress of water. The present proposals involve a modest extension to the existing church building, and its refurbishment and upgrade, leaving scope to construct a separate building at a later date on the site of the old church hall that could then be used in conjunction with the church.

*III: Statement of Significance*

7. According to the statement of significance submitted with this faculty application, St Mary's church was consecrated in 1958, but there has been a congregation on the Barton estate since at least the 1930s. Services were previously held in a nearby farmhouse, a local primary school, a Nissen hut, a former builder's hut, and at the Barton Community Centre. The cost of building and furnishing the church was approximately £17,000, of which £5,000 was raised by parishioners.

8. Barton and Sandhills Parish is located on the north-eastern edge of Oxford, separated from the rest of the city by the A40 ring road. Built in the 1930s, this road separated the old Barton village from Headington. Following the 2<sup>nd</sup> World War, the area of Barton was considered to be a good area in which to build social housing. The church building is located beside the Green Road roundabout on the A40, which currently affords the only road access from Oxford into Barton. In 2015, work began on the Barton Park Estate which, although within the parish of St Mary's, Headington, does not relate easily to the church.

9. St Mary's stands on a large parcel of land, approximately 2,170 square metres in area, which had been provided to St. Marys Church in perpetuity by Oxford City Council, on the understanding that it was to be used for the ecclesiastical purposes of that parish. There is no churchyard, but a pleasant, green area surrounds the church which makes a significant contrast to the urban landscape round about.

10. The main church building was designed by the architect Nugent Cachemaille-Day, who was responsible for designing over 60 other new church buildings during his lifetime. His desire, and his drive, were to bring contemporary places of worship onto new estates. He was regarded as revolutionary in his designs, being influenced by neo-classic, modernist, and German brick-expressionist architecture. There are many grander, and more significant, examples of Cachemaille-Day's churches around the UK. Although it was built on only a limited budget, the church building is a striking, landmark feature at the entrance to the Barton estate, on Bayswater Road. The building is constructed from brick, concrete and wood; and it has yellow glass windows, and a small chapel with stained glass windows. The original plans which Cachemaille-Day produced were not fully carried out as the necessary funds were not available. However the present substantial church building is very much as designed by him. The building is in a poor condition, and needs major renovation. However, the shell is iconic, and it stands proudly at the entrance to the Barton estate.

11. In the main, the parish consider that the church will be unaffected by the proposed works as these mainly take the form of renovating the existing church building. There will be a small extension in the north-west corner, which will increase the area occupied by the vestry and the priests' toilet to include new facilities which will enhance the ability of the building to be used by the community, and will make it more comfortable for the groups who are now using the church.

12. There is no particular significance attaching to the area that will be affected by these works. The existing floor plan already has a slight extension which accommodates the existing vestry and priests' toilet; and this will be extended out by only approximately another five metres to allow for toilets, a kitchen, and a vestry with storage. The extension will have no impact on the principal views of the church as it will be on the north side, which is off Edgecombe Road, rather than the more public views from Bayswater Road. The extension is very small compared with the new buildings that were authorised by the earlier faculty, which were much larger in their impact and effect.

13. The PCC and the congregation are said to be very pleased to see the possibility of keeping the church building basically as it is now, but with the addition of a kitchen and accessible toilet, which are much needed. After consultation within the parish, there has been no adverse comment on the changes to the church building. The unanimous opinion has been that people do not consider that the present proposals will adversely affect the existing church building; rather, they will enhance it.

*IV: Consultation with the 20<sup>th</sup> Century Society*

14. As part of the pre-application consultation process, one of the diocese's church buildings officers consulted the 20<sup>th</sup> Century Society. In his response, dated 21 March 2025, Gus Wray, a caseworker for the Society, advised that Nugent Francis Cachemaille-Day was one of the most notable British ecclesiastical architects of the 20<sup>th</sup> century. He was a prolific architect, both in the pre- and post-war periods. He was renowned for his economy, being possibly the only church architect of his day who regularly came in under-budget. The writer observes that the restrained nature of Cachemaille-Day's churches does not detract from their importance; rather, it is a defining feature of his work. The church of St Mary is a largely unaltered, post-war church by Cachemaille-Day. It occupies a prominent position in Barton, at the mouth of Bayswater Road. It displays Cachemaille-Day's skill in designing a church with landmark presence and

simple, but beautiful, internal spaces produced on a budget. The use of the triangular piers on the nave, with clerestory windows in the bays in-between, is symptomatic of Cachemaille-Day's 20<sup>th</sup> century interpretation of gothic forms. The simplicity of the church's exterior, and the strength of its plan, form, and mass, gives it a very strong eastward focus. There is a great sense of movement and drive encapsulated in the symmetrical form of the building.

15. Moving on to address the proposals, in relation to the roof the Society comment that the movement and power of the church derives from the simplicity of its form and eastward '*prow*'. The proposed addition of roof vents would break up the strong outline of the building's roofline. The roof vents are shown on the elevations as square boxes, mounted over the ridge of the roof, with pyramidal tops. While the Society are convinced of the need for vents, their form and design do not seem to have been considered. The Design and Access statement mentions the roof-mounted cross as helping to "*aid legibility of [the church's] ecclesiastical nature*". Care must be taken to ensure that this cross remains legible. The Society have no objection to the repair and replacement of the roofing.

16. Concerning the proposed church extension, the Society agree that its proposed location is more suitable than other alternatives, as it does not detract from the liturgical layout, and is on the least prominent elevation, in an area with lower significance. However, the extension, as proposed, disrupts the symmetrical form of the church; it transitions from the appearance of an ark, breaking through waves, to a more lumpish form. It is the Society's belief that the cladding of the proposed extension is not suitable, as it implies a continuation of the existing form. The extension should have finishes which distinguish it, and make explicit the distinction between the existing and the new. It is the opinion of the Society that if the extension can be read explicitly as a later, and ancillary, addition to the extant fabric, the strength of the existing massing, form, and symmetry will still be legible. It would be an advantage if the extension could also be set away from the host building by way of a link.

17. The Society question whether the current engagement of the angled square columns with both the interior and exterior of the clerestory level will be retained on the inside with the addition of the insulation that is proposed. Drawings showing the effect of the additional insulation on these columns, and on the window reveals, would be useful. The Society comment that it is also unclear what the impact of the proposed secondary glazing will be on the existing yellow glass windows. More information is needed. They comment that secondary glazing should not be installed to the stained-glass windows of the chapel.

18. One of the diocese's church buildings officers responded by email dated 7 April, asking for some clarity on a couple of points to help resolve the best way forward.

19. Regarding the extension, the officer pointed out that the DAC had consulted the 20<sup>th</sup> Century Society concerning the previous development scheme for St Mary's church in 2018. The scheme had consisted of new extensions to the north, south, and east of the church, which were planned to accommodate extensive community facilities. The parish had also proposed energy efficient features, such as solar panels, secondary glazing, and a ground source heat pump, as well as internal alterations, and the renovation of the vicar's and choir's vestries. In 2018, Claire Price, of the 20<sup>th</sup> Century Society, had visited the church to give feedback on the proposed development. She had commented that "*a key architectural feature of the church is its utilitarian exterior, and any extension should avoid fussy design features and should use a carefully considered palette of materials. It would be important to retain the 'factory' aesthetic and the projecting east end of the building.*" The parish

gained faculty permission for that development in 2020 but decided not to go ahead with the project. Instead, they chose to focus on the immediate needs of the community, and to address the severe signs of deterioration in the building. Their new application was said to aim to meet these immediate needs, and consequently the scale of the extension has been greatly reduced.

20. The advice previously received from the 20<sup>th</sup> Century Society had informed the design approach for the new extension. Consequently, the proposed extension reflects the simple and unadorned forms of the original church building. The extension is proposed to be positioned on the less visible, north side of the church, on the footprint of a clergy room wing which formed part of Cachemaille-Day's 1955 architectural plan. Within the Society's present feedback, the DAC has noted a contradiction to the 20<sup>th</sup> Century Society's feedback in 2018. The current response states:

*It is our belief that the cladding of the proposed extension is not suitable, as it implies a continuation of the existing form. The extension should have finishes which distinguish it and make explicit the distinction between the existing and the new. It is our opinion that if the extension can be read explicitly as a later and ancillary addition to the extant fabric, the strength of the existing massing, form and symmetry will still be legible. It would be positive if the extension could also be set away from the host building by way of a link.'*

21. This advice is said to contradict the comments previously given to the parish by the 20<sup>th</sup> Century Society in 2018, which had asked for a 'factory aesthetic', very much in keeping with the architectural forms of the church. The DAC have reviewed the current scheme and believe that the current design approach is appropriate for the building and its setting. The DAC are of the view that any addition that would create an obvious contrast to the original church would visually work against Cachemaille-Day's minimalistic concept of the building and its simple forms. Although not listed, the parish and the architect are very aware of the church's architectural significance and they expect the church to be listed in coming years. They are said to have great respect for Cachemaille-Day's design; and they have chosen to add to the church in a minimal way, which is sympathetic to his original design.

22. Addressing the roof vents, the officer explains that the ventilation system has been revised from the previous Passivhaus vent system to an opening Velux vent system, coloured to match the roof tiles. The Velux ventilation will be much more subtle than the Passivhaus system, and will not break up the strong outline of the building's roof line. The drawings reflecting the change in the ventilation system had only been uploaded onto the Online Faculty System on 17 March 2025. The officer apologised that these drawings had not been made available at the time of the initial consultation request. The writer acknowledges that the angled pillars, which are visible internally and externally, are an important feature of Cachemaille-Day's design. She confirms that the pillars would be retained at their existing size and angle. It is not proposed to add insulation to the internal columns.

23. In light of the information and design rationale provided, the officer asked whether the 20<sup>th</sup> Century Society would be content to defer to the advice on the DAC in this instance. Should they wish to discuss the matter in more detail, the writer was happy to set up a phone or Teams call to discuss the project. I am informed that the church buildings team have received no response to this email. Nor have the 20<sup>th</sup> Century Society responded to the special notice that has been given to them.

V: Planning consent

24. On 17 February 2025 (under Reference No: 24/02027/FUL), Oxford City Council, as the local planning authority, granted full planning permission (subject to conditions) for the

*Erection of a single storey extension to north elevation. Alterations to fenestration and associated infilling of opening. Installation of roof lights and ventilation to plant cupboard. Alterations to access and landscaping. Provision of bike storage*

VI: Views of the Diocesan Advisory Committee

25. The DAC have recommended these proposals for approval by the court. They advise that they are not likely to affect the character of the church as a building of special architectural or historic interest, or the archaeological importance of the church building, or any archaeological remains existing within the church building or its curtilage. In the DAC's opinion, the parish's explanation of how they have had due regard to net zero guidance in formulating their proposals is adequate. The DAC note that all heating proposals have been omitted from the current application; and they record that these should form part of a separate application.

26. In their Notification of Advice, dated 13 April 2025, the DAC record that objections have been raised by 20th Century Society which have not been withdrawn. The DAC give the following as their principal reasons for approving the proposals despite these objections:

*The DAC have reviewed the current scheme and believe the current design approach is appropriate for the building and setting. The DAC are of the view that any addition that creates an obvious contrast to the original church would visually work against Cachemaille-Day's minimalistic concept of the building and its simple forms. Although not listed, the parish and the architect are very aware of the church's architectural significance and expect the church to be listed in the coming years. They have great respect for Cachemaille-Day's design and have chosen to add to the church in a minimal way which is sympathetic to his original design.*

VII: Notice

27. The usual public notices were duly displayed between 10 April and 10 May 2025 (inclusive). No objections have been received in response to these notices.

28. When the petition was first referred to me, I directed, on 15 May 2025, that special notice of this application was to be given to the 20<sup>th</sup> Century Society under rule 9.1 of the FJR. The deadline for responding to this notice has now passed without anything further being received from the 20<sup>th</sup> Century Society.

VIII: Legal framework

29. Since St Mary's church is not a listed building, the court is not strictly required to have regard to what have become known as the Duffield guidelines (named after the decision of the Court of Arches in the leading case of Re St Alkmund, Duffield [2013] Fam 158), as explained and expanded in later cases. Rather, the ordinary presumption in faculty proceedings in favour of leaving matters as they are applies. Although the burden always rests with the petitioner, this presumption against change can be rebutted more or less readily depending upon the particular nature of the proposals. Nevertheless, given the general recognition that this unlisted church building may achieve listed status in the near future, I consider that I should not altogether

ignore the principles that would apply had this church already attained the status of a listed building. I should therefore take into account:

(1) The degree of harm that these proposals, if implemented, would cause to the significance of this church as a building of special architectural or historic interest; and

(2) Whether the petitioner has demonstrated a clear and convincing justification for his proposals, in terms of any resulting public benefits which would outweigh any such harm.

In doing so, I have to bear in mind:

(3) That the burden rests on the petitioner to demonstrate a sufficiently good reason for making any changes to this church building.

(4) That the more serious the harm, the greater the level of benefit that will be required before the proposed works can be permitted.

(5) Whether the same, or substantially the same, benefits could be obtained by other works which would cause less harm to the character and significance of this church building.

IX: Analysis and conclusions

30. I am satisfied that these proposals will cause no harm to the appearance, the setting or any significance that attaches to this church building. I agree with the assessment of the church buildings officer assigned to this case, which has been endorsed by the DAC, that the parish's present design approach is appropriate for this church building, and its setting. I consider that any external addition to the church building that would create an obvious contrast to Cachemaille-Day's original designs for the church would visually work against his minimalistic concept of the building, with its simple lines and forms. I accept that the parish and their architect have great respect for Cachemaille-Day's designs; and that they have chosen to add to his church in a minimalist way, which is sympathetic to his original design.

31. I consider that I am entitled to have regard to the alternative to the present proposals, for which I granted faculty consent on 7 August 2020 (under Reference: 2017-009544). These included *'the extension of the church building to the north, south and east to provide extensive community facilities'*. I recognise that the time for completing these works – 7 July 2024 – has now expired; and that, because of their massive cost, there is no present prospect of them ever being implemented. I acknowledge that I had included a condition whereby detailed design drawings and specifications of the works were required to be submitted to, and approved by, the DAC, and then only after consultation with the 20<sup>th</sup> Century Society, who had the ability to apply to the court to amend or set aside the faculty if they were in substantial disagreement with the details of any approved drawings or specifications. I also recall that in my brief, summary reasons for granting the faculty, I stated that:

*The very full and detailed combined Statement of Significance and Needs makes a powerful case in support of these ambitious and imaginative proposals and explains why they will be in keeping with, and advance, Cachemaille-Day's vision to provide a place of worship with the best facilities in one of the most deprived parts of the City of Oxford and advance this growing church's worship and its mission to reach out to, and serve, its local community by upgrading the church's existing facilities to a suitable standard for work with children, the disabled and the elderly, and providing the flexibility to allow a range of uses. Any resulting*



*harm to the appearance and the significance of the church building has been kept to the minimum possible; it will be moderate and is far outweighed by the considerable benefits that will result in terms of the church's worship and mission within the local community.*

Nevertheless, I cannot ignore the fact that this court has already authorised alternative proposals which were likely to cause more, albeit still only moderate, harm to the significance of this church building than the more moderate proposals now being promoted by the parish.

32. I am satisfied that the justifications, in terms of addressing deficiencies in the physical condition of, and the facilities offered by, this church building that contributed to the grant of the earlier faculty are still present, and in even more acute form. The present proposals will still serve to advance the church's worship and mission in this largely deprived local community.

X: Disposal

33. For these reasons, I grant a faculty in the terms sought. It will be subject to the following conditions:

(1) If they have not already done so, the parish are to notify their insurers before any works commence or (if works have already commenced) as soon as possible after the grant of this faculty; and they are to comply with any recommendations or requirements that their insurers may make or impose.

(2) The parish are to comply with the conditions contained within the full planning permission granted by Oxford City Council on 17 February 2025 under Reference No: 24/02027/FUL, subject to such variations as may be permitted by the local planning authority, and approved by the court.

(3) The parish and their contractors are to follow the diocesan guidelines for electrical installations and maintenance in churches

34. I will allow **12 months** from the grant of the faculty for the completion of the works.

*David R. Hodge*

The Worshipful Chancellor Hodge KC

Trinity Sunday, 15 June 2025

St Mary, Headington from the east



View of the north elevation

