

Neutral Citation Number: [2025] ECC Swk 3

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

IN THE MATTER OF ST JOHN THE EVANGELIST, HURST GREEN

AND IN THE MATTER OF A PETITION BY MS CATHY BOOTH AND REVD SUE BOSLEY

JUDGMENT

1. This is the petition of Ms Cathy Booth and Revd Sue Bosley. Ms Cathy Booth is the churchwarden of St John's, Hurst Green and Revd Sue Bosley is the Team Vicar of Oxted (which includes St John's, Hurst Green). Mr Henk van den Berg is the other churchwarden; although he is not a petitioner, he fully supports the petition. I visited the church on 30 April 2025 and met the petitioners and Mr van den Berg. I am grateful to them for their welcome and the help that they were able to give me. The petition seeks permission to remove the plinth from the font and to reposition it slightly to one side at the west end of the church.
2. Although no-one has decided to become a party opponent, thirteen people have written objecting to the proposals. The DAC support the proposals.
3. St John's is an attractive and much-loved church. Designed by John Oldrid Scott and consecrated in 1913, in 1962 it was extended to the west and church rooms added on the northern side. Despite its quality it is not listed.
4. The font, designed by Scott, also dates from 1913. It has a traditional stone plinth, extending on one side to form a platform for the officiating minister. Extensive research has not identified where the font was positioned before the extension; it is now positioned in a central position at the west end of the nave within the extension, near the main entrance. (One guesses that when the church was extended it was simply moved an appropriate distance further to the west). It is directly in front of the west door of the church, although it is separated from it by a lobby. The west door is not in fact used as the entrance to the church but a door to the south; someone attending service will enter by the south door and the lobby, turning sharp right in front of the west.
5. Last year there were 13 baptisms at the church, all infant baptisms. Although there is no reason why a baptism might not take place in the context of the main Sunday service, the preference of the parents of the children being brought to baptism was for a service outside the main service; a preference which the Church respected¹.
6. The genesis of the project was the possibility of the provision of a community hub (with significant funding from Surrey County Council) within the church building. The core idea behind this was that the church should be used more for community events. In its current position the font inhibits the use of the space at the west end of the church; if it is moved a little to one side, this will provide

¹ Although, speaking generally, very often parents are encouraged to bring their children to baptism in the context of the main Sunday service, there is a potential issue with this if there are a significant number of baptisms. Historically the large number of children being brought to baptism precluded those baptisms taking place in the main Sunday service.

additional usable space. In the event the funding was not available, but the PCC still want to encourage community use of the church, which moving the font would facilitate.

7. At the same time, the PCC have become increasingly concerned about the health and safety hazard presented by the plinth. People do trip over the plinth from time to time; and, although it has not happened, the PCC are concerned that someone who trips might then fall against the sharp edges of the plinth. To mitigate in respect of this particular aspect of the hazard that the plinth presents, a padded cover has been made for the plinth.
8. I have said that St John's is an attractive church. Its attractiveness is enhanced by the fact that it contains two pictures of outstanding quality by John Hayward². One, which depicts Mary with the infant Jesus, hangs on the wall at the south-west end of the nave. It is proposed that the relocated font should be positioned in front of this picture, making an attractive ensemble and giving the picture (which is evidently very appropriate when viewed in the context of baptism) an enhanced significance.
9. I think that it is helpful first to deal with the Health and Safety aspect of the proposal. This is a bit of a puzzle. If the font and the plinth are a safety risk now, they always have been; but it is only recently that the issue has, in the light of experience, been perceived to be so serious that something has had to be done about it. The emphasis which has been placed by the petitioners on the health and safety aspect of the matter has caused some concern to the DAC – there are, after all, many churches with fonts on plinths. The DAC is not equipped itself to consider, save in general terms, health and safety issues: it sounds a note of caution in authorising proposals on the basis of health and safety without clear evidence. As it happens, Ms Booth was (before her retirement) a Fellow of the International Institute of Risk Management and a chartered member of the Institution of Occupational Safety and Health and keeps up to date with health and safety matters. The PCC and I have both benefited from her advice on this aspect of the matter.
10. The assessment of acceptable risk is not an easy matter, particularly if potential alternative options for addressing the risk while retaining the hazard have objections attached to them – such as roping off or (in this case) providing padding. The padding in the present case is certainly (albeit in a modest way) unattractive. However I think that, in the present case, the hazard that plinth presents (at whatever level it is assessed) is something of a red herring, at least as a determining factor. It would be perfectly possible to keep the font in its current position but, in doing so, to remove the plinth. I cannot tell of course what the PCC would do if I were to reject the current petition but it does seem to me that it is likely that it would present a new petition to do just that.
11. Against this background, the reasoning of the PCC thus proceeds in this way. We would like, it says, to free up space for community use at the west end of the church. We need to address the health and safety aspect presented by the plinth by its removal. If we are going to spend a substantial sum on removal of the plinth, it is appropriate to move the font to a better location in terms of our use of space. The new location will link the font with the picture in an appropriate way, emphasising the significance of each. In the often-used phrase, *what is there not to like in this?*

² (1929 – 2007). Hayward is better known as a maker of stained glass.

12. As is so often the case, there **is** something not like – a downside to a proposal – and although those objecting have raised a number of points, I think that it is this that lies at the heart of their concern³. The font at the moment is at a central point at the west end of the nave. Architecturally this creates a visually attractive focus; in terms of what the font is actually used for it gives it an appropriate emphasis in an appropriate place - not just near the principal entrance to the church (as Canon F4 requires) but centrally located with reference to it. Accordingly if the font is relocated, something of value is lost. In practical terms what is not lost is the focal point that the central position of the font would supply if baptisms regularly took place in the main Sunday service and the congregation turned itself to look backwards to what was happening at the font and/or processed there: as noted, baptism usually take place in a discrete service.

13. It is very usual in cases of this kind to apply the so called *Duffield* guidance i.e. the guidance given by the Court of Arches in *In re St Alkmund, Duffield*⁴. This advice as to weighing benefit against harm is specific to buildings that are listed as being of special architectural or historic interest – which, of course, St John's is not. However the second *Duffield* question addresses the situation where there is no harm to the listed building; in which case it is apparent the Court approaches the matter on the same basis as if the church were unlisted. Thus I do derive assistance from the second guideline as it is articulated:

... 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: see Peek v Trower (1881) 7 PD 21, 26–28, and the review of the case law by Bursell QC, Ch in In re St Mary's Churchyard, White Waltham (No 2) [2010] Fam 146, para 11.

14. Unpicking this, there is a burden upon the Petitioners to demonstrate the case for change, the burden of proof being upon the balance of probabilities. Where there is no harm at all, any material justification of a change will suffice; if there is some harm it must be weighed against that material justification. I think that what constitutes justification and what constitutes harm are at large; that is, any relevant matter may constitute justification or harm.

15. Every case needs to be looked at on its own unique facts. I think that in the circumstances, the benefit that flows from moving the font (namely the space it opens up at the back of the church coupled with the improved safety) is justification which outweighs the limited harm. The font will continue to be near the principal entrance to the church in accordance with Canon F4. Accordingly it is appropriate that a faculty should issue.

16. A faculty is a permission. It cannot and does not **require** the works that it authorises to be carried out. Accordingly I need to add this. The PCC have decided that it is appropriate to move the font and by an almost unanimous vote⁵. Nonetheless it seems to me that a decision **not** to move the font (against the background of no doubt seeking permission to remove the plinth) would have been a reasonable one.

³ They also are concerned about the cost of the work. I am confident that those who object to the cost of the work would be less concerned if what was proposed was a project that they believed in i.e. that the objection about the cost flows from the underlying objection to the project itself and is not an altogether free standing concern. In the scale of things the cost is not a huge amount (c£5,000) and the PCC is the best judge generally of the wisdom of its expenditure.

⁴ [2015] Fam 158.

⁵ The vote was 15 – 1.

17. Two observations are appropriate in the light of this.
18. First, what I have said provides context for the situation at St John's. The proposal to move the font is one that has divided the congregation. Although those on each side of the argument have expressed themselves with restraint, respecting the views of those with whom they disagree, the situation that arose was an unhappy one. It is also unhappy that a matter like this inevitably takes some time to be decided. It is trite to say that in circumstances like this, some people are bound to regret the decision that has been made. What I hope is that they will not be upset by it. I hope that this judgment engaging as it does with the issues in some detail will enable everyone to see why I have reached the decision that I have; why reaching a decision was not straightforward; and why the objections that I have ultimately not accepted were reasonable ones. This appreciation may make it easier for the Church to put this disagreement behind it and move forward.
19. The second observation goes back to the law. I can see that it can be argued that if it is not necessary in the circumstances to move the font, the evidence adduced by the Petitioners does not sufficiently overcome the presumption of things as they stand. In my view, speaking broadly, this is a matter of judgment in each case. More specifically where two reasonable courses present themselves to a PCC, the choice between them is best made by the PCC and not the Chancellor. The PCC is closer to the issues on a daily basis and its judgment is entitled to respect.
20. Finally, the DAC have raised the question as to whether a stone mason should be required to be instructed to carry out the skilful job of moving the font. In the particular circumstances I do not think that this is necessary. The Petitioners have a quotation from a trusted local builder who has supplied a method statement and they are confident that he will do a good job. The work is to be completed to the reasonable satisfaction of the Church's Inspecting Architect.
21. I am grateful for help I have been given in deciding this case from the Petitioners and the DAC and, indeed, from the clarity of the objections. This is a lively parish where all sorts of good things are planned and I wish it well for the future.

PHILIP PETCHEY

Chancellor