

In the Consistory Court of the Diocese of Newcastle

In the matter of the Church of Jesmond, Holy Trinity

JUDGMENT

1. Holy Trinity church, Jesmond, is Grade II* listed church constructed out of stone and completed in 1922. It is Decorated Gothic in style and the high quality of craftsmanship and design was remarked upon by Pevsner. By petition dated 21 September 2021, the petitioners seek the court's permission to alter the flooring in the baptistry situated in the west end of the church, elevated above but looking directly down the length of the nave. As part of the same project, they wish to facilitate the mounting of boards on the three walls surrounding the font upon which to mount display boards. There is also a proposal for new lighting in association with these plans.
2. For the greater part there is no controversy with the generality and all but one of the details of the proposals but that difference between the petitioners and the DAC has required determination by the court.
3. Given that it is a relatively modest difference, as I will explain, I should begin with an apology for the delay in providing the court's decision. It is my practice, wherever possible, to make a personal visit to a church where the petition is subject to dispute and see for myself how the proposal will impact on the present situation. For reasons of security the church is kept locked when not in use and it has proved difficult to find a convenient time to make the visit: I am indebted to Mr John Clarke, the recently retired church warden who has taken the lead on this petition, for kindly opening the church specially for me today and affording me the chance to see first hand the area which will be affected.
4. The font itself is formed out of Barton fossil stone, stands on a square base and was made by Beall and Son of Newcastle. There is a ceiling suspended oak font cover made by W.D. Gough. It has three tiers and is finished with a fleche. It is intended to be lowered and raised on demand by virtue of a counter balance mechanism: there is currently a problem with the mechanism and it is in a fixed position at about 1.9 m above the floor which is inconvenient for taller persons. The DAC rightly attributed some significance to it and, whilst some thought had been given to its removal, the DAC's objection to this has been accepted. I understand that when scaffolding is

erected for decorating purposes, it is to be hoped that the fault can be identified and rectified.

5. The font itself stands on a hexagonal plinth constructed of grey stone which itself stands 150 mm above a floor comprising more of the same grey stone which itself is a single step up from the nave, contrast being provided by the latter's oak floor. The baptistry is rectangular measuring 3.8 m wide and 5 m deep. The plinth dominates such that it occupies approximately one third of the overall floor area and the distance between the north, west and south walls is just 0.6 m.
6. The petitioners point to the limitation on the number of persons who can gather in the baptistry for baptisms caused by the hexagonal plinth as justifying their proposal to level the floor by the construction of a raised timber floor occupying the entire baptistry, encircling the plinth on which the font stands. An additional step will be required from the nave: thus, anyone entering the baptistry will have to mount two steps, rather than one as presently, but, having done so, there will be free movement around the whole baptistry and the hazard of people on the edge of the font plinth inadvertently missing their footing and falling will be eliminated. The new floor will sit on the stone floor without damaging it. It will be readily reversible. It will conceal current unsightly exposed pipes feeding the central heating radiators, pipes that it has not been possible to conceal without damaging the stone floor. An access point will be retained for the central heating system. None of this is controversial and the DAC recommend it for approval.
7. The petitioners' intention is to cover the baptistry floor, in its entirety, with carpet tiles. Whilst the DAC favoured a timber finish, as did the Victorian Society, it acknowledges that the position is reversible and the petitioners point out their wish to maintain the current contrast between the baptistry and nave floors. The DAC's objection to carpet tiles has been withdrawn: it was pointed out, and the DAC appear to have accepted, that the advantage of carpet tiles is that they:
 - (i) will maintain the current contrast in material, texture and finish;
 - (ii) can be of colour that matches the stone has been identified;
 - (iii) are easily removable and would not damage the floor beneath unlike continuous fitted carpet which would require adhesive or gripper rods;
 - (iv) are commonly used in non domestic settings;
 - (v) give good sound absorption on a suspended timber floor;
 - (vi) will afford easy access to services concealed by the suspended floor.

8. However, the DAC has also expressed a preference for the carpet to be restricted to the new raised floor, leaving the grey stone floor of the hexagonal plinth exposed.
9. The petitioners maintain that their plan is a better and more appropriate one. Their views are set out in a detailed letter from Mr Clarke, a retired architect, to the DAC. They include:
 - (i) the fact that the nosing to the plinth has a radius. This will prevent there being a neat butt joint at the point where the tiles meet the stone plinth;
 - (ii) in turn, there will be a recess that will create a potential trip hazard as well a place for dust to gather which will be difficult to clean;
 - (iii) the fact that within a relatively small area, two different floor finishes with a distinctive joint has the capacity to cause confusion and, possibly, difficulties for those with impaired vision or cognitive difficulties.
10. It is acknowledged that the changes proposed will affect the character of the church as a building of special architectural or historic interest. In seeking to change the status quo, the burden of proof rests with the petitioners, the PCC having approved the plan unanimously. The principles explained by the Court of Arches in *Duffield, St Alkmund* [2013] 2 WLR 854 as further explained in *Re Pneshurst, St John the Baptist* [2015] 17 Ecc LJ 393 apply and require the court to address the following:
 - (i) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural interest?
 - (ii) If not, have the petitioners shown a sufficiently good reason for change to overcome the ordinary presumption that, absent a good reason, change should not be permitted?
 - (iii) If there would be harm to the significance of the church as a building of special architectural interest, how serious would that harm be?
 - (iv) How clear and convincing is the justification for carrying out the proposals?
 - (v) In the light of the presumption against proposals which will adversely affect the special character of a listed building, will the benefit outweigh the harm?

11. The DAC acknowledges that the character of the building will be affected albeit acknowledge that the work will be entirely reversible whatever the outcome of the difference in respect of the dispute in question.
12. The court is satisfied that the petitioners have demonstrated a sufficiently good reason for change in that the proposal will greatly increase the available space as well as safe access to the area of the baptistry. Photographs I have seen of large numbers of members of the congregation gathering within this area illustrate the point clearly. The court questions, for example, the ability of a wheelchair user to access this area given the very limited space around the plinth. The danger of misjudgement of the plinth edge during the course of a baptism seems very clear.
13. The harm is of a very transient order. No structural changes are proposed. The entire project is wholly reversible without any last adverse effects.
14. The justification for the change is, in the court's judgment, clear and convincing.
15. The benefit of widening safe participation in baptism, a core part of the church's mission, is self evident.
16. The court is wholly satisfied that the petitioners have made out their case.
17. Appropriate advice has been sought from the Church Buildings Council, Historic England, the Victorian Society and the Twentieth Century Society. The Victorian Society alone has expressed its opposition to carpet at all but the DAC has not adopted that approach in approving it in principle.
18. Having considered the arguments advanced and had the benefit of a site view, the court acknowledges that the argument in favour of covering, as opposed to leaving exposed, the stone plinth is finely balanced. The court suspects that the risk of a trip being created, or unmanageable dust gathering in whatever gap may exist between the edge of the plinth and the carpet tiles, is of relatively low order. Whilst there is a radius on the nosing of the plinth, it is a very small one indeed. Set against that, the court accepts that the advantages of a single uniform surface covering the whole baptistry floor are likely to benefit those of limited mobility, particularly as this will remain a relatively modestly sized area. Not mentioned by either the petitioners or,

specifically, the DAC would be the loss of the hexagon which is a distinctive feature of the baptistry. It is, of course, a loss against which the mitigating measure of using two contrasting colours thereby picking the hexagon out could serve to remind of that particular feature.

19. In the final analysis, being finely balanced, the court acknowledges the wishes of the parishioners via the PCC and that, in its judgment, is determinative. Accordingly, a faculty will issue as prayed to include the covering of the hexagonal plinth. The request for the notice boards and new lighting require no separate comment.

20. I direct that, in order to facilitate access to this area, the church have available a ramp to assist wheelchair users and others of restricted mobility to gain access to the baptistry.

21. Finally, without making it a condition, I urge the petitioners to give consideration to acknowledging the presence of the hexagonal plinth by using contrasting tiles (they could be a sufficiently lighter or darker shade of grey to create the contrast and need not involve the use of another colour altogether).

Simon Wood

His Honour Judge Simon Wood

Chancellor

22 December 2021