

In the matter of St John sub Castro, Lewes

Judgment

1. This is an unopposed petition for a further phase in the reordering of a Grade II listed church which dates from 1840. The proposed works comprise:
 - i. the provision of a gallery at the west end of the nave, creation of meeting rooms, rearrangement of existing galleries and construction of stair access at north east end;
 - ii. removal of staircase to northwest and provision of cloak rooms;
 - iii. modification of staircase to southwest to include provision of lift access.
 - iv. replacement of heating system;
 - v. adjustment to west entrance;
 - vi. disposal of a Frans Floris painting.
2. I gave directions requiring special citation of the Church Buildings Council, Historic England, the Victorian Society, and the Society for the Protection of Ancient Buildings (the later solely in respect of the sixteenth century painting). Regrettably neither the Church Buildings Council nor the Society for the Protection of Ancient Buildings responded. The Victorian Society elected not to become a party, but requested the court to take into account its written response to the petitioners. Historic England similarly wished the court to have regard to the content of its letter of 9 September 2016, in which it articulated its particular objection to the removal of a cantilevered staircase, which it reiterated in an email of 14 November. I afforded the petitioners the opportunity to comment on the observations of these consultees, and Historic England in particular, which they did in a helpful note from the inspecting architect dated 8 December 2016.
3. The proposal is part of an ongoing series of reordering about which the parish, through their highly experienced inspecting architect, have consulted widely, comprehensively and timeously. It is possible to trace how the parish has responded sensitively wherever possible in order to accommodate the specific observations and objections raised by various interested parties.
4. The Court has the benefit of a Design Statement from the inspecting architect, a Statement of Significance, a Statement of Needs and an Environmental Sustainability Statement. I need not rehearse the contents of documents which are models of clarity of their type. Reference is made to a community audit in 2013 and the impressive list of community groups which make use of the church site, and the mission of this church alongside two other churches in the town, as part of a pastoral initiative entitled Project Trinity. The roof and walls of the church have been brought into good repair with the assistance of Heritage Lottery Funding. The re-ordering has been staged in three phases. The first comprised a number of minor changes to allow a congregation to be planted. This was completed pursuant to faculty. The second phase, which forms the subject matter of the current petition, comprises changes to maximise the building's potential for both sacred and a variety of secular purposes. A third,

more ambitious, phase could provide residential accommodation in the church tower to help secure the financial viability of the premises.

5. Project Trinity will create a single parish with three church buildings, working collaboratively to ensure economies of scale and unity of vision. St John's now has a growing congregation, but is compromised in the delivery of a full children's and youth ministry. The Statement of Need convincingly explains why changes are needed and how they will serve the mission and witness of the church to the glory of God and in the service of the community. It makes its case in terms of liturgical need, open contemporary worship, a multi-purpose nave finished in timber, a lobby, lift and staircases for ease of access, a kitchen and coffee area, administration rooms and office reception, cloakrooms, accessible facilities and baby change. The remodelling of the galleries will provide additional accommodation and tiered seating for concerts etc, and which may at some future date allow for the creation of new meeting rooms.
6. The listing statement says little with regard to the interior; it merely refers to galleries on simple columns on three sides and short apsed chancel and tie-beam wagon roof. It also makes mention of a painting, which it describes as 'Christ and the Children, Venetian, circa 1600'.
7. In determining this matter, I adopt the convention practice of applying the *Duffield* questions as subsequently finessed in *Shipton Bellinger*.

Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?

8. In its Notification of Advice dated 24 October 2016, the DAC recommended the proposals, noting that in its opinion, the work is likely to affect the character of the church as a building of special architectural or historic interest. This is undoubtedly correct. Historic England makes particular mention of the loss of one of the cantilevered staircases in the tower which it describes as,
 'part of a symmetrical arrangement with the opposite stair that is a simple but elegant integral feature of the tower connecting to the galleries'.
9. Historic England's letter of 9 September states, 'we therefore advise that that the removal of this staircase should only take place if the DAC is satisfied that a clear and convincing has been made out for its removal'.
10. It is not particularly helpful for one consultative body to express its views as being conditional upon the opinion formed by another. This is particularly the case when the balancing exercise of necessity properly vests in the consistory court not the DAC. It is implicit in its Notification of Advice of 24 October 2016, that the DAC was so satisfied, thus Historic England's objection fell away. However, they sought to revive it in their email of 14 November 2016.

How serious would the harm be?

11. Whilst there would undoubtedly be harm, in my assessment it would not be completely serious. There would be a loss of symmetry but little which would impact upon the significance of the church as a building of special architectural interest (and arguably none in respect of special historic interest) whether by reference to the specific matters mentioned in the listing statement or looking at the building holistically.

How clear and convincing is the justification for carrying out the proposals?

12. Rarely have I seen so thorough and convincing a justification for a proposal as here. The mission of the church has been considered with care and energy for the entire town of Lewes and this proposal has seen the renaissance of a church which was in decline. The vision for a building which serves the worshiping needs of a growing congregation, and which provides facilities for a mix of worthy secular uses, not least as a concert venue is clear, it is being implemented as part of a larger policy, supported by the diocese, and has the very best professional advice from the inspecting architect. The case is overwhelming.

Will the resulting public benefit outweigh the harm?

13. Historic England deferred to the DAC on this balancing, then sought to row back when it apparently disagreed with the DAC's conclusion. However well-informed the DAC's advice, it is the chancellor who is charged with the assessing whether harm to a heritage can be justified in furtherance of the mission and witness of the church. Whilst I note that the bar may be somewhat lower with a grade II building (as here) as opposed to I or II*, this is a case where even the more stringent test might have been satisfied.
14. A civic building needs to be fit for purpose. This proposal, whilst safeguarding the sacred use of the church (which remains paramount) facilitates a variety of activities including quality concerts and the provision of hot meals to hundreds of people. The footfall will be substantial. The public will only be attracted to the building if circulation space and toilet facilities are adequate and of a quantity and quality to complement the ambition of the project. Anyone who has queued for the toilet during the interval of a concert will readily appreciate the importance of provision for the most basic of human needs. It would be foolish in the extreme to compromise the success of this project by scaling down this aspect. I am satisfied on the evidence before me that the parish and inspecting architect have explored all the alternatives before coming to their carefully reasoned conclusion. I accept without hesitation the petitioners' submissions that the public benefit would undoubtedly outweigh such harm as would be occasioned to the building.
15. In relation to the painting, however, this is properly described as a church treasure the disposal of which will require more detailed consideration. I would refer the petitioners to the guidance I gave in *Re St James the Great, Flockton* [2016] ECC Lee 4 at paragraph 36. Much of this has been touched on in the papers submitted with the petition but not in sufficient detail having regard to the rigour of the approach advocated by the Court of Arches in *Re Wootton, St Lawrence* (14 April 2014). Rather than allow this discrete matter to delay the determination of the petition (for which an overwhelming case has been made), I will order a

faculty pass the seal, but will expressly reserve the issue of the painting which will be determined by me upon hearing further representations, including whether I should hold a hearing in open court as the Court of Arches commends in cases of this type. In the meantime the painting should be stored safely and securely within the church premises, properly protected from risk of damage to the satisfaction of the inspecting architect until further direction of the court.

The Worshipful Mark Hill QC
Chancellor of the Diocese of Chichester

13 December 2016