

**Neutral Citation Number: [2018] ECC Pet 1**

**DAVID PITTAWAY QC**

**CHANCELLOR OF THE DIOCESE OF PETERBOROUGH**

**IN THE CONSISTORY COURT OF THE DIOCESE OF PETERBOROUGH**

**IN THE MATTER OF A FACULTY PETITION**

**ST DENYS 'S CHURCH, RAVENSTHORPE, NORTHAMPTONSHIRE**

## **JUDGMENT**

### **Introduction**

1. The Petition seeks the authorisation for a schedule of works for re-ordering at St Denys, Ravensthorpe, Northamptonshire in accordance with a revised specification prepared by Mr John Barker, chartered building surveyor, in 2017. The proposals were first considered by the DAC in April 2014. Following a visit by the DAC to the church, the Petitioners were advised to prepare detailed Statements of Significance and Need, which were completed. Final drawings and specification were submitted to the DAC in September 2015, and the DAC confirmed that they should be circulated to the amenity societies for advice. Following advice from Historic England and the Church Buildings Council, the Petitioners amended the plans and requested a visit from the Diocesan Organ Advisor, regarding the replacement of the pipe organ. In March 2017 the Petitioners submitted an updated specification and drawings, which was recommended by the DAC, who issued Form 2 in October 2017. The provisional estimate cost of the proposed works is £75,000. If granted, the Petitioners anticipate that funds are in place for the project to be completed in 2018.

2. There are two objectors to the petition, Mr John Mott and Mr John Matts. There are also a large number of letters supporting and objecting to the proposals, 19 in favour and 15 against, which I have considered in reaching my decision. I do not propose to record in any detail the content of the letters but there is a clear division between those who are in favour of and those who are against the proposals, including the removal of the organ, which was only installed in 1975. The substance of the criticisms is contained in Mr Mott and Mr Matts' Particulars of Objection. There is also criticism of the level of communication between the Petitioners and the parishioners regarding the proposals. It is evident from the large bundle of correspondence I have seen that these proposals, although relatively modest in scale, have caused considerable dissension within the parish, which is to be regretted.
3. Pursuant to Part 14 of the Faculty Jurisdiction Rules 2015 I asked whether the parties agreed to the determination of this Petition by way of written representations, which the Petitioners and the two objectors, Mr Mott and Mr Matts, agreed to.

### **Historical Background**

4. St Denys's Church is believed to be about 800 years old and is constructed largely from local brown ironstone. An extract from *Peovner and Cherry, The Buildings of England: Northamptonshire* 1973, at page 384 gives a detailed description of the church. In summary, the nave was constructed at the end of the 13<sup>th</sup> century with the clerestory added in the middle of the 15<sup>th</sup> century, at which point the pitch of the roof was altered. The chancel was demolished and replaced in 1808 and rebuilt again in 1878. The rest of the church underwent extensive restoration in 1878. Overall the interior of the church has a relatively plain appearance, reflecting the agricultural history of the village. The wooden rood screen is believed to date from the 15<sup>th</sup> century with the decorations on the top of the screen being removed in about 1550. The East stained-glass window was designed and installed by Christopher Webb in the 1930s to commemorate the Dykyns family. The organ was built in 1975 by Laycock and Bannister and came from the church at Long Buckby Wharf in 1975.

Various alterations were made to the organ on installation, including a modern case for the upper part, which was completed in the mid-1980s.

## **Proposals**

5. The proposals are in respect of the north and south aisles. The structure of the church internally and externally is to remain unaffected. As set out above, the proposals have been developed since 2014 in consultation with Mr John Barker, chartered building surveyor, and Mr Peter Clements, DAC organ advisor.
  
6. The proposals can be summarised as follows: (1) the construction of a disabled WC and baby changing area in the northwest corner of the north aisle, (2) the construction of an adjacent servery, (3) the disposal of the existing pipe organ in the North-West aisle and partial removal of two short pews to allow the installation of a new digital organ between the servery and the tower, and (4) the removal of a dais and levelling of the floor in the south aisle, replaced with stone. There are also associated external works, including access to the church and the construction of appropriate drainage for the WC and servery.

## **Objections**

7. Following on from earlier correspondence, objections were received by Mr Mott, dated 5<sup>th</sup> January 2018, and Mr Matts, dated 10<sup>th</sup> January 2018, on similar grounds. In differing degrees, they object to the location, size, accessibility and use of the WC and the servery. Mr Mott objects to the access and circulation of space in the servery area, the absence of proper disabled access to the church, the duplication of the function of the Village Hall, and the lack of dialogue between the Petitioners and the DAC. Mr Matts objects to the position of the WC partially blocking the North-West window, the position of the WC next to the servery, the difficulty of access to both the WC and servery, the removal of circulation space and flexible usage of the north aisle, and the replication of facilities already provided for on a larger scale in the Village Hall. He also objects to the proposals not providing for the concealment of the electric cables, or the introduction of ducting for the internet on the north path, the absence of

provision for the storage of chairs, or heating for the south aisle, before the new stone floor is laid.

8. The Petitioners' Reply confirms that the location of the WC and servery has been considered and discussed from the earliest stages by the Petitioners, Mr Barker and the DAC. The area of the church proposed to be used for the WC and servery was identified by DAC members and representatives from the amenity societies who were not in favour of the use of the south aisle; amongst other reasons, it would have required the re-siting of the Great Chest, which is fragile. The location chosen recognised the constraints of a historic building. The location of the WC was considered to be discrete with ready access to new external drainage, a cesspool in the churchyard. The casing for the WC will sit in front of the North-West window without the window being blocked up. It will not affect the view from the churchyard because the ground falls away outside the church. The removal of the current casing for the pipe organ adjacent to the North-west window will return light from the window to the central part of the nave. The size of the servery was considered suitable for both large and small occasions allowing space for 2 to 3 people to work and providing sufficient storage for 50 cups or mugs. The option of a mobile servery was considered and rejected as impractical, with uneven stone slabs. There is already discrete storage available for chairs. The ducting for electricity and internet alongside the new north path has now been agreed. There is no requirement for additional heating in the south aisle, with the current hot-air heating system heating the rest of the church. The Village Hall facilities were not considered an appropriate alternative facility. It is situated two roads away from the church and is under separate management.
  
9. The Church Building Council and Historic England observations on the original proposals have been taken into account in the revised proposals. Neither objected to the revised proposals and are prepared to rely upon the DAC's consideration of the proposals.

## Law

10. In respect of the proposals the relevant questions are contained in paragraph 87 *In re St Alkmund, Duffield* [2013] Fam 158 (Arches Ct):

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

*2. If the answer to question (1) is “no”, 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, 26-8, and the review of the case-law by Chancellor Bursell QC in In re St Mary’s, White Waltham (No 2) [2010] PTSR 1689 at para 11). Questions 3, 4 and 5 do not arise.*

*3. If the answer to question (1) is “yes”, how serious would the harm be?*

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

*5. Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building (see St Luke, Maidstone at p.8), will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or 2\*, where serious harm should only exceptionally be allowed.”*

## Decision

11. The conclusion that I have come to, based upon the written material before me, is that the proposed scheme does not cause harm to the significance of the church as a building of special architectural or historic interest. I have gone on to consider whether the status quo should be maintained. I am satisfied that the proposals are part of a well-thought out scheme to provide the church with facilities suitable for a modern church community and should be approved.

12. In my view, there has been considerable dialogue between the Petitioners and parishioners. There is attached to the response prepared by the Petitioners a chronology of the consultation process, which I am satisfied has been extensive. I refer to a limited number of the engagements which have taken place. In particular, the Petitioners' representatives attended a Parish Council meeting in February 2016 to outline the proposals and answer question from villagers. The plans were put on display in the church in March 2016 for the parishioners to view the drawings and ask questions. The proposed new digital organ was installed for a weekend in April 2017 to enable parishioners to hear it in use at a service. As recently as January 2018, the Petitioners met the two objectors to discuss their concerns.
13. I do not accept that the availability of the same or similar facilities in the village hall negates the necessity for a WC and baby changing area and servery in the church. I consider that the location, size and accessibility of the WC and servery has been carefully thought out and is proportionate to the likely requirements within the church for both large and small occasions. It takes into account the constraints of suitable available space within the building. I do not consider that the partial obscuring of the west window causes harm to the building. The visible works will be tastefully finished internally in a suitable wooden style to blend with the church, as shown on the plans. From outside the presence of the pod containing the WC and baby changing room will not be visible through the North-West window because the ground in the churchyard, as shown on the photographs, falls away.
14. I am informed that Mr Clement, the DAC Organ Advisor, does not consider that the existing pipe organ is of any particular historical or musical merit. Although, I recognise that the loss of any pipe organ is likely to raise strong opinions, I see no particular merit in retaining this particular organ where its removal will be necessary to allow the WC and servery to be constructed. The position of the proposed new digital organ will be in a suitably discrete location surrounded by old pews. I am informed that one of the organists has already indicated that he would prefer to play the proposed digital organ.

15. In these circumstances, I am prepared to grant the faculty in accordance with the recommendation contained in DAC Form 2 subject to the condition that (1) the works are undertaken in accordance with the revised specification prepared by John Barker in 2017 as referred to in DAC Form 2, (2) the arrangements for the disposal of the pipe organ shall be considered by me before its disposal, and (3) the Petitioners shall comply with the brief prepared by the Diocesan Archaeological Advisor, if so advised by the Diocesan Advisory Committee, at the Petitioners' expense.

**Costs**

16. The normal rules should apply and the Petitioner shall pay the court costs according to the relevant Fees Order.

David Pittaway Q.C.

Chancellor

June 2018