

3 August 2015

In the Consistory Court of the Diocese of Leeds
(West Yorkshire and the Dales)

15-61C

In the matter of Skelmanthorpe, St Aidan

Judgment

1. This matter has a somewhat unfortunate and convoluted procedural history which I will need to relate in a little detail. A petition dated 10 February 2015 was lodged with the registry. Completion of the Schedule of Works or Proposals had been overlooked and this section was blank. It has subsequently been filled out in manuscript. In summary, the works comprise the construction of an extension at the west end of the south elevation to provide a lobby, toilets and kitchen and the relocation of the font.

2. The church of St Aidan is a grade II listed building located within Western Skelmanthorpe conservation area. The building dates from 1894 and was built to a design of George Frederick Bodley (1827-1907), a renowned Victorian architect. The Statement of Significance notes that it was only partially completed. The provenance of the early Norman font lies in High Hoyland, for whose church it was sculpted in 1080 AD. Discarded in the eighteenth century, it had become used as a cattle trough, before being recovered and donated to St Aidan's when it was under construction.

Planning permission

3. Planning permission was sought from Kirklees Council on 25 February 2015. It was duly granted although only the front page was included in the papers submitted to the registry on which the date of grant does not appear. The description of the permitted development reads as follows:

'Erection of single storey extension, internal alterations and alterations to the car park (Listed Building within a Conservation Area)'

Diocesan Advisory Committee

4. The DAC issued a Notification of Advice on 10 March 2015 recommending the works. The Notification indicates that storage will be installed at the west end of the nave and moveable screens will be fitted to create a marked differentiation between the nave and the narthex. It refers to an 'external leaf of stonework' to match the west elevation, with cut stone dressings. The entrance canopy timbers are to be of oak, stained to match the interior roof trusses.

English Heritage

5. The DAC Notification records that English Heritage (now Historic England) was consulted and had no comment. There is an email dated 25 November 2014 which was included amongst the papers submitted with the petition indicating that the proposed works would not 'fall within our remit to comment'.

The Victorian Society

6. The position with the Victorian Society is more complicated. There had been correspondence with the Victorian Society but the content was such that I could not be satisfied that it had 'no objection or no comment to make'. Accordingly, I had no option but to direct special notice be given. Mistakenly, I referred to FJR r 8.1 as opposed to r 8.3. Unfortunately this error was not picked up by the registry when my direction was communicated to the Victorian Society, but I do not consider that anyone was misled or prejudiced by the mistake.
7. The response of the Society was an email of 20 May 2015 from Mr Tom Ashley into which was cut and pasted the content of an earlier email dated 4 December 2014, sent to the secretary of the DAC. The position of the Society was supportive of community use of the church building, with no objection in principle to the reordering of the west end or the extension to the south. It was particularly appreciative of the aspiration for 'de-cluttering' the interior. It emphasised that the ultimate acceptability would turn on the specifics of the design and the material to be used: as ever, the devil was in the detail.
8. As for the font, there was no objection in principle to its relocation to the central axis of the nave. There was a need, it was said, that any new base to the font was designed so as to give it honour and prominence and to harmonise with the late Victorian architecture of the church. The ancient treasure of the font, the email continued, should continue to seem like 'a natural outgrowth of the Victorian building'.
9. Following the December email, further drawings were received by the Society although it claimed not to know which was the preferred option for the parish. Whilst the Society approved the proposed material, it felt that none of the designs for the base responded to the Victorian architecture. However despite these misgivings, the email continued that the Victorian Society did not wish to object formally.
10. The Society also received a revised Statement of Need, and in consequence was persuaded as to the justification for the extension on the site. The email of 20 May continued, however, 'no detailed drawings have been supplied of the proposed extension so we are not in a position to comment further on its design'.
11. An email string supplied to me suggests that Mr Ashley was supplied with a Design Statement at the same time as the Statement of Need on 10 March 2015, but I have found it impossible to establish whether detailed drawings of the extension were ever supplied to the Society.
12. This unsatisfactory state of affairs perhaps reinforces the importance for parishes in taking the driving seat when consultation is taking place. The inspecting architect (who ought to be experienced in these matters) can coordinate the process or the PCC could appoint a project manager to steer through both the planning and the

faculty process. I am not sure that it is a wise use of scarce DAC resources to handle the consultation process, especially now the diocese is so large. It can create confusion, misunderstandings or duplication of effort, and it could serve to distance a church community from its own project leading to a feeling of helplessness or disempowerment. In this particular instance, quite a lot of time has been taken up in trying to establish what was seen. Every parish should keep a detailed record of what it sent and when to every consultative body approached. This would avoid any confusion at later stages in the faculty process. The onus is on petitioners to prove their case and this includes demonstrating not merely that there has been consultation but that the consultee body has indicated that it has no objection or comment to make, absent which special notice will have to take place.

13. In the light of the uncertainty as to whether the Society had seen all the necessary paperwork, I had to consider whether its email of 20 May 2015 constituted a letter of objection for the purposes of r 9.3. In view of the broad level of support which it contained, I came to the conclusion – on balance – that it did not and accordingly did not direct that written notice under r 9.3 be given to the Society.

Church Buildings Council

14. By letter dated 16 January 2015 the CBC expressed support in principle for what was proposed in relation to both the extension and the public notice, and was content to defer to the DAC on matters concerning specific details.

Response to public notice

15. I understand that no letters of objection have been received at the registry following public notice.

The law

16. Notwithstanding that this petition is formally unopposed, it relates to a Grade II listed building and it is incumbent upon the petitioners to prove their case, particularly as certain issues have been raised by the Victorian Society.
17. Adopting the framework and guidelines commended by the Court of Arches in *Re St Alkmund, Duffield* [2013] Fam 158, a series of questions needs to be addressed whenever changes are proposed to a listed building. The starting point is a strong presumption against change and a significant burden lies on petitioners to rebut it.

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

18. The opinion of the DAC recorded in its Notification is that the proposal 'is likely to affect the character of the church as a building of special architectural or historic interest'. I respectfully concur, but consider that the level of harm would be low. All that is proposed is a modest lean-to extension, a sensibly reordering by tidying up the interior and the provision of facilities, and the repositioning of the font.

How serious would the harm be?

19. As stated above the harm would not be significant.

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

20. The Statement of Needs is cogent and convincing. All the bodies consulted are satisfied that the case is well made by the petitioners.

Will the public benefit outweigh any harm?

21. It is readily apparent that the public benefit would outweigh such harm as might result.

Conclusion

22. I am satisfied that a faculty should pass the seal and I so order .

23. In the circumstances outlined, and because I am of the view that the Victorian Society has not engaged with the parish as fully as it ought and therefore forgone its opportunity to comment on the materials proposed for use in the extension, I do not require further consultation in this regard. There has been adequate scrutiny already. However, on the discrete issue of the 'merger' of the Norman font with the Victorian interior in its proposed location, my understanding is that option 2 on drawing 2956(0-)04 is what is pursued within this petition. The drawing in my papers has an annotation to that effect endorsed with the date 12 February 2015. I merely invite the petitioners, and the inspecting architect, to have regard to 'lack of alertness' evident in the design of the plinth to the details of the Victorian building and the Norman font. I will look favourably on any revision to option 2 which addresses this concern and accordingly I invite the petitioners to respond to this invitation before commencing work.

The Worshipful Mark Hill QC
Chancellor

3 August 2015