

Neutral Citation Number: [2022] ECC Ely 4

In the Consistory Court of the Diocese of Ely

In the Matter of a Faculty Petition

The Church of St Leonard in the Parish of Southoe

Application for a Faculty for Internal Reordering and Other Work

PRELIMINARY MATTERS

1. Reverend Canon Annette Reed and the Churchwardens of Southoe are the Petitioners; there is no Party Opponent but objections to the proposed works have been received from Mr Chris Faux, from a second objector who has withdrawn his objection, but in doing so indicated that his notification of withdrawal "...in no way reflects a waiving of rights that apply elsewhere under non-Diocesan statute." Historic England, SPAB, the Victorian Society and the Diocesan Advisory Committee ("DAC") have made representations about the works.
2. St Leonard's is a Grade I Listed building. The nave and chancel of the present church are principally 13th century with 19th century alterations to the 16th century clerestory. The south aisle and north chapel are late 15th or early 16th century. The very fine south porch has been restored.
3. The Electoral Roll increased to 37 in 2020. Pre-Covid, the church held a monthly service on a Sunday afternoon with an attendance of 15-20 people; festival services attract at least 50 people. Southoe Village is expanding with new families moving in and the PCC wished to explore the options for new facilities in the church to restore it to its traditional role of offering community space for the village, alongside carrying out repairs. Its location just off the A1, with little access from other directions, has created a feeling of isolation for those without their own transport.
4. A survey of the village in 2018 identified a real need and enthusiasm for an expanded community centre. Although Southoe has a village hall, it is small with a very restricted kitchen space. Expansion on that site was the obvious answer and would have involved demolishing and rebuilding, or extending, the present hall. Neither are feasible because the surrounding land is owned by Oxford University who are not prepared to release any land for development.
5. Although it began its researches in 2019, the Southoe and Midloe Community Hub Project was formally established in the summer of 2020. It is the hard

work of the Petitioners and many others which has led to the scheme now proposed.

6. In their responses the community saw a need for a venue where the following could be held: regular coffee mornings; a toddlers play group; pop up cafes; a community choir venue; film shows; dances; a keep fit centre, a meeting place for the elderly and isolated; quiz nights; history presentations and a permanent local history exhibition; lunches for the elderly, isolated and vulnerable; family parties; modest day conferences; an internet hub and hirings to groups outside the village. Whilst I judge these to be aspirations rather than that they will all take place if the application succeeds, it identifies a hunger for a community centre within the church where such events could happen.
7. The community appreciates that the church must remain a place for prayer and calm, an ongoing place of worship, and available for occasional offices at times of need and celebration. That is reflected in the plans which leave the chancel untouched.

THE APPLICATION FOR A FACULTY

8. The application for a faculty involves repairs, the reordering of the nave, aisles and tower and in particular:
 - (a) In the tower: the removal of the oil boiler and its brick enclosure and the introduction of a flower sink, two WCs, with a new staircase and ringing floor above, with glazed balcony with a screen to the nave arch;
 - (b) In the westernmost bay of the north aisle: an enclosed kitchen pod, with panelled partition walls to the height of the column capitals and a serving hatch to the nave;
 - (c) At the east end of the north aisle: the relocation of the coffin lid;
 - (d) On the east wall of the north aisle and the southeast corner and along the south wall: the installation of cupboards;
 - (e) The removal of all the pews and their replacement with timber, un-upholstered chairs, with the font to be moved a short distance to the east of its present location and with the base set into the floor;
 - (f) The removal of the timber pew platforms throughout and the installation of underfloor heating below an Ancaster buff stone floor whilst retaining the red and black tiles to create a level surface throughout. The porch is to be re-layed to create level access;

- (g) New lighting inside and installation of 19 solar panels to the south slope of the nave and south aisle roofs; the installation of an Air Source Heat Pump (“ASHP”), and
 - (h) The laying of new services for water and sewage.
9. As a result of consultation and recommendations from the amenity societies and the DAC, the proposals have gone through various iterations. Leaving to one side the objections put forward by Mr Chris Faux, all the proposals now put forward are, with the exception of the kitchen pod, acceptable.
10. Turning to Mr Faux’s objections, they can be summarised as follows: :
- (a) The development will ruin this beautiful place and will not attract the forecasted events or numbers of people predicted.
 - (b) The funding for the project is not supported by the village and is in any event flawed. The estimate of £300,000 seems to be based on the costs of the development of Little Paxton church and a lot of finger in the air guesses. There are no quotations to back up the estimate and funding is dependant on speculation that grants will become available. There should have been full costings available before any vote was taken on the project and certainly before any work is done. There should be a 10-15% buffer against a rise in costs.
 - (c) Southoe has a very small congregation compared to Little Paxton. The 15 regular attendees at St Leonard’s will do their best to support the hub project but it will not lead to the large donations given at Little Paxton. Mr Faux is concerned that if the project continues without any solid support, the community could be left with a half-ruined church.
 - (d) Removing the pews and replacing them with chairs is a good idea so long as people then use the space. The promotion of the church as a place for the type of events set out in §6 above is to live in cloud cuckoo land. No-one who is not a member of the congregation would consider using a church for a child's birthday party; the age demographic will not favour its use for such parties. Most of the other events take place in the Village Hall which is charged out at £2 less an hour than that proposed for the church. He questions whether social gatherings with a licenced bar should be held in a church
 - (e) Putting in lavatories would consume the funds raised and, in any event, the lavatories in the village hall could be used as they are at present.
11. Mr Faux is not completely against the Hub Development if he felt the facilities would be regularly used. He asks that, before the church is ruined and left in a state of no turning back, evidence should be provided to the community to

show how the hub project will progress, with a detailed costing and timescales that are reasonable.

12. Mr Faux sent in further objections on 27th February 2022. He largely restated his previous objections and reasoning. He submitted that no costs have been presented because he believed there were no figures. There seems to be no structure or project plan available for the community to see, because he believes none exists. As to the ASHP, whilst it may be environmentally sound, the running costs would be astronomical and far more than the cost of oil. He again question the availability of funds from outside of the village. He urges that the approach should be “cost it, fund it, build it. He again challenged the assumptions about community use.
13. He urges that this plan should not be allowed to proceed without guaranteed funding and a detailed project plan, that the community can see and agree.
14. The Petitioners responded to the objections raised by Mr Faux in various documents and in particular in a response dated 25th March 2022:
 - (a) The PCC and Hub planning group have worked tirelessly with the architect and the DAC to create a flexible meeting area and preserve the finest architectural aspects of the church building. Neither the Victorian Society nor Historic England object to the pews coming out.
 - (b) The meeting on 4th October 2019 was organised to discuss the prospects of creating a community space and the general repairs to the church. The majority of those present supported the dual approach of creating a community space and carrying out the repairs which are vital to sustain the integrity of the building and the fabric in the best order. Whilst about six were sceptical about aspects of the project, the majority have subsequently supported the hub project and repairs being carried out in tandem. This was a highly successful meeting which kept the village informed of proposals. The community has had a big say in what is proposed; they have held open meetings, sent out flyers updating the process, used the community WhatsApp Group, created the Hub Facebook Page and used the village email grapevine and village FB page. They have a permanent visual display in church about the project.
 - (c) They secured money for carrying out the repairs and funding from the Common Barn Wind Farm Community Benefit fund through TCI.
 - (d) Giving St Leonard’s additional purpose as a flexible meeting space will secure the future of this precious historic building and greatly enhance the village which has no public facilities apart from the small village hall. They are not in competition with the village hall; the chair of its

Management Committee is also a member of the Hub Committee and fully supports the project, as does the Parish Council.

- (e) They remain optimistic that the building will attract a lot of use from villagers and from groups in neighbouring communities. Whilst Mr Faux might not use the church for a children's party, there are others who will and they have in mind that young families are moving into the area. A licensed bar in the church from time to time will only add to the flexibility of what can be offered. The experience at Little Paxton was that it takes time for the use of the building to grow. Little Paxton is now fully booked during the week.
 - (f) As to funding, it is their understanding that £15,000 would be available each year for the next 25 years, being the life span of the wind turbines in Southoe, from TCI. To obtain a second grant from the CBWFCF, in July 2021 they produced a paper looking at estimated costs and suggested sources of income and which was accepted by the panel as evidence of their research. They have been able to use the second grant from CBWFCF to introduce a new water supply into the churchyard and to develop the interior Hub plans to allow them to apply for a faculty.
 - (g) They cannot receive accurate costings, until they have been granted a faculty and then employed a Quantity Surveyor. They have a grant to cover that cost. Meanwhile they have relied on an estimate provided by their architect which they believe to be realistic.
 - (h) As with Little Paxton, they believe that most of the money for the project will come from outside grants and not local funding.
 - (i) The introduction of two toilets, one with disabled facilities, has been a must for many parish churches over the past years. It is highly inappropriate to expect people to use a village hall which is a five minute walk away and not always open.
 - (j) They do not intend to start work until funding is secured.
15. I have seen the projected costing and funding strategy prepared in July 2021 by the architect. In my judgment it is sufficiently detailed to provide a basis for understanding the costs involved and the possible sources for funding, I doubt in the present financial climate that it is possible to assess the final costs with pinpoint accuracy and even in the last 8 months the cost of building materials has significantly increased. Mr Faux is right to be anxious about costs but he cannot expect anyone to provide actual costs until the faculty has been granted. In terms of other projects I have seen, it is clear to me that a more than usual amount of work has been done to assess the costs.

16. Similarly, there is no certainty over what funds will be available for the project. I note that the architect has put in a figure of £90,000 from the National Lottery. That may be achieved or it may be wildly optimistic; National Lottery funds are having to be used to cover an ever expanding need at a time when government funding for sport and for wider community projects is reducing or non-existent. The Petitioners are right to undertake that they will not begin any phase of work until the funds to carry out the work have been secured.
17. I understand why Mr Faux has deep concerns about the viability of the project and he has been right to raise them. However I am satisfied that the Petitioners have taken exceptional steps to keep the community informed about the project in the hope of taking the community with them on the path to a successful completion of the project. The Petitioners have taken appropriate steps to look into costs and funding.
18. As to whether the church will be used for all the purposes which the community has suggested is speculative. Experience not only in Little Paxton but elsewhere in the diocese has shown that the availability of a large space within a village with lavatories and a kitchen does result in the space being used. The alternative is that the building is left being used by a small number of villagers for a short time each week and, over time, may become impossible to support. I have no doubt that most of the village, and that might include Mr Faux, would prefer to see their church survive and thrive rather than to fall into disrepair and face closure.
19. As to Mr Faux's concerns about the installation of an ASHP, in line with their Fifth Mark of Mission, the Petitioners remain committed to the introduction of a carbon reducing system of heating whilst accepting that a new oil fired boiler may be a cheaper option. They undertook a substantial amount of further work on this aspect including obtaining advice from Bawden Burrows, the DAC heating advisor, who has looked at the proposed capacity of the ASHP and the projected figures and is happy with the scheme. They have decided to position the ASHP at the DAC's preferred location. They have also done further work on whether underfloor heating ought to be installed and have concluded that it is appropriate as a secondary source of heating when required.
20. in my judgment the Petitioners are right to take this opportunity to install a greener alternative to an oil fired boiler. Whether or not Mr Faux's calculation that oil is a cheaper alternative still holds good in April 2022, the Church of England has undertaken that its buildings will be carbon neutral by 2030. Unless steps like this are taken there is no hope of fulfilling this target.

Christians have an obligation to protect the environment whether or not that involves an additional cost.

THE PRINCIPLES TO BE APPLIED TO THE GRANT OF A FACULTY

21. Before considering the first of the Duffield Questions, in accordance with In Re St John the Baptist, Peshurst, I must first decide what is the special architectural and/or historic interest of the church as a whole. I have taken as my starting point in relation to answering the relevant Duffield Questions that this is a Grade 1 Listed building and so listed because it is a building of architectural interest. Perhaps its most outstanding feature is the carved south doorway which was carved, probably, in about 1100 and will be unaffected by the proposed works.
22. In considering whether I should grant the Faculty I have followed the guidance laid down in In Re St Alkmund, Duffield:- would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest? It is accepted, and I accept, that it would result in harm.
23. I must therefore go on to consider how serious would the harm be; how clear and convincing is the justification for carrying out the proposals and, finally, bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building, 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 rôle as a place of worship and mission) outweigh the harm.
24. The amenity societies accept that there is a clear and convincing justification for carrying out the proposals and there will be a public benefit consistent with its rôle as a place of worship and mission which outweighs the harm. I have considered Mr Faux's objections to the alterations within the church but do not find them to be sufficiently strong so as to overwhelm justification for the proposals and the public benefit.
25. Leaving the kitchen pod and the loss of the tower archway to one side, I do not consider that the proposals will cause serious harm to the architectural significance of the building. It follows that I will grant a faculty for all the works with the exception of the final design of the kitchen hub. At one stage there was a plan to carpet the floor. I believe that has been dropped but, for the avoidance of doubt, the faculty does not include the laying of permanent carpet which would be inappropriate in the setting of this church.

THE KITCHEN HUB

26. The only realistic place for the kitchen hub is in the north aisle abutting the tower. That is not contentious, nor is the dimensions of the pod an issue. The Petitioners want an enclosed kitchen with partitions on the north, east and south side. The east side of the partition will stop short of the north wall but will be in line with the centre point of one of the windows in the north wall. The height of the walls and ceiling will not be much above door height, creating, it would seem, a somewhat claustrophobic area. The height is dictated by the need to make an enclosed pod as unobtrusive as possible.
27. Despite the efforts made by the Petitioners to redesign the kitchen hub to lessen its impact, it does not find favour with Historic England, SPAB or the Victorian Society. The DAC expressed concern about it but have, by a majority, agreed to support the design.
28. As a result of the objections to an enclosed kitchen hub the Petitioners looked again at whether they needed to have an enclosed area or whether, as has been suggested, an open kitchen area could be installed. Having given it much thought and having consulted local residents the Petitioners were convinced that an open serving arrangement would be neither practical nor aesthetically pleasing; they also had significant concerns from a health and safety perspective. They considered that there was a need for an enclosed kitchen with full cooking facilities where meals could be prepared and cooked and then served through a serving hatch. To be preparing food in full view of people in church would not be advisable in terms of noise and cooking smells.
29. They believed that it was much safer to have an enclosed space to work in when there are small children playing in church at, for example, a tots and carer's session and they want to be able to secure the kitchen when a wider group of people will be using the church.
30. In order to lessen its impact they have redesigned the hub to feature panelling with the partitions painted a light grey. The design also introduces some restrained detailing at the top of the partitions, picking up on the main features of the adjacent arcade capitals. They sought to resolve a further issue over the positioning of the sink but were unable to make any other configuration work effectively.
31. The Petitioners believe that the very full Statement of Needs explains why they feel a kitchen pod is the very best solution for this project which was fully approved by all those residents who attended the second open meeting, and a majority of the DAC supported this approach.

32. Historic England accept that there is a clear and convincing justification for the installation of a kitchen pod but they have serious concerns regarding the visual impact of it; both within the north aisle itself in relation to the archway leading to the tower and also the extent to which the north aisle window and door would be obscured when viewed from the nave. They would be supportive of unenclosed kitchen facilities in the same location, but would not be supportive of the proposed blocking up of the tower archway, an early feature of high significance within this grade I listed church. In addition, they have serious concerns regarding the visual impact of placing kitchen units in front of the historic archway.
33. When consulted for a second time after the Petitioners had made amendments to the design Historic England remained of the view that the proposed full height, enclosed kitchen pod would not be an acceptably contextually sensitive solution. They did not consider the proposed painted panelled pod walls, in lieu of the plain boarding previously proposed, had achieved the aim of mitigating the overly intrusive visual impact of the pod.
34. SPAB did not support the enclosed kitchen pod believing that the visual impact of the kitchen pod is unnecessarily harmful and could be reduced with further thought. The same facilities could be provided within the footprint proposed without enclosing them and this would avoid the substantial visual harm that would be caused by removing the beautiful early tower arch from view. The awkward relationship between the pod and the aisle window behind, which would be largely obscured, would also be avoided. They sought a much more robust justification for an enclosed facility as opposed to an unenclosed one as well as evidence in substantiation of the need.
35. The Victorian Society found the provision of a kitchen to be acceptable in principle but shared in this instance SPAB's concerns over how a kitchen pod would harm the definition of the tower and its arch within the aisle, as well as the door and window in the aisle's north wall. If an unenclosed kitchen is explored, it is essential that all appliances, including the sink and tap, can be hidden from view when not in use.

CONCLUSION ON THE ENCLOSED POD

36. From the computer-generated image of the enclosed kitchen pod (0391-1-35a), and from the general descriptions that I have of it, I am not at present satisfied that the clear and convincing justification for carrying out the proposals and the public benefit consistent with its rôle as a place of worship and mission outweighs the harm caused to this Grade I building by the installation of an enclosed pod.

37. The nave is not large and the impact of having the tower and the second archway enclosed is likely to have a significant effect on the building as a whole.
38. I am not sure that the arguments as to why an unenclosed pod would be impractical nor aesthetically pleasing are made out on any of the grounds put forward when taking into account the size of the church, the type of kitchen equipment that, according to the plans, is to be installed (which looks to be domestic rather than professional cooking equipment for the preparation of large scale meals) or whether the enclosed pod structure together with the serving hatch shutters will produce a soundproof and odourless (how ever efficient the extraction fans may be) church area over that which would be achievable with an unenclosed kitchen pod.
39. Experience elsewhere suggests that by choice complex meals will not be prepared on site either by a professional catering company or by volunteers but prepared elsewhere with final heating and preparation being carried out in the pod kitchen. Health and Safety issues and security from theft does not require the pod to be fully enclosed but may dictate the height of the wall around the counters and the provision of locks on the cupboards. The height of the wall may allow the worksurfaces, taps and other kitchen items to be out of view.
40. In the additional information provided in December 2021 the Petitioners go so far as to submit that without the enclosed kitchen there is serious doubt that the project will proceed at all. I am surprised that the Petitioners have come to such a conclusion when there are many churches which have open kitchens and which have not found it an impediment to a successful conversion of the church for community use. It is a matter for the Petitioners whether they wish to proceed with the scheme in the absence of an enclosed pod.
41. I have considered the loss of the tower archway. I have taken account of the latest research which found an entry in "An Inventory of the Historical Monuments in Huntingdonshire (London, 1926), pp. 239-242" where the tower is described as of late 16th-century date with a doorway in the east wall "probably modern, with square jambs and four-centred head of two plain orders." Whether it is correctly described as modern, it is a doorway without carving and not of sufficient importance such as to, in itself, be a bar to an enclosed kitchen pod being installed any obscuring of this feature could be reversed at a later date if required.

DECISION

42. The care which the petitioners have taken to consult to this stage has necessarily taken a great deal of time, and I commend them for their approach. Too much delay can be fatal to such projects which need to maintain momentum. For that reason I will grant a faculty for all the works requested including a kitchen pod of the dimensions identified on the plans, but with a final decision being made as to whether the kitchen pod is to be enclosed or unenclosed. This will also allow the Petitioners to move forward to obtain funding for the project and more precise estimates of cost from a Quantity Surveyor.

43. Before deciding on this issue I want to visit the church, not to take evidence and without either the Petitioners or any objectors present other than to allow me access, but to see with my own eyes what the real impact of an enclosed kitchen pod would be. If the DAC Secretary is available on the day of my visit I would welcome his attendance in case I need assistance on dimensions or to be reminded of any of the more intricate details of the pod. I would also find it very helpful if someone could mark on the floor (chalk or string or similar) the outline of the pod. I can then make a decision. This I may be unable to do before the end of May 2022.

44. I impose the following provisos to the grant of the faculty:
 - (a) No building work is to begin until it is fully funded or there are firm undertakings that the money will be forthcoming. If the works are to be split into two or more phases, then it is sufficient that that phase is fully funded.

 - (b) Either planning permission is obtained from the relevant local planning authority or they indicate in writing that permission is not required. A copy of the documentation must be lodged with the Registry.

 - (c) No building work is carried out on the kitchen pod until a final decision is made by me as to whether it is to be enclosed or unenclosed.

 - (d) The full specification for all works is to be approved by the DAC before the work is tendered and in particular the following details must be agreed before work starts: large scale drawings of the detail of the panelling of the partition walling to the kitchen must be approved once the final design of the pod is approved; the details of the ventilation ducting from the kitchen once the final design of the pod is approved; the detailed design of the recess for the ASHP; the choice of the replacement chairs; the choice of stone for the new areas of flooring, if

Ancaster is not available when required, and the detail of how the threshold to the south door is to be altered when its existing construction is known.

- (e) If any archaeology or articulated remains are found, work in that area must cease and the Registry and the DAC's archaeologist must be informed.
- (f) The work to provide a safe access platform at belfry level in the tower should take place before the installation of new facilities in the base of the tower due to the difficulty in erecting internal scaffolding.

45. I will liaise with the Registry as to the date of my visit.

His Honour Judge Leonard QC
Chancellor of the Diocese of Ely
5th April 2022