

IN THE CONSISTORY COURT OF THE DIOCESE OF LIVERPOOL
PARISH OF WIGAN ST MICHAEL AND ALL ANGELS CHURCH OF ST MICHAEL AND
ALL ANGELS

JUDGMENT

INTRODUCTION

1. This case concerns the petition for a faculty by the Priest-in-Charge and churchwardens to install a buffet counter and toilet facilities within the church. The proposal has the unanimous support of the Parochial Church Council. Further, I am satisfied that the means exist to fund the project.
2. The proposal in principle has the support of the Diocesan Advisory Committee. English Heritage, as statutory consultees, opposed the plan but, as will appear, have now accepted it in principle. However, there remains a crucial disagreement over details between the DAC and EH which the Court is required to resolve.
3. There are no parties opponent to this petition, EH having declined to seek that status. All parties have agreed that this matter should be resolved on the documentary evidence. I agree that that is a proper approach but on 12th September 2012 I carried out a site visit. In attendance was the Priest-in-Charge, the architect and a parishioner. The architect demonstrated the proposals and answered questions from me.

THE CHURCH OF ST MICHAEL AND ALL ANGELS

4. The church was consecrated on 25th April 1878 by the Bishop of Chester. It had been designed and built by George Edmund Street (whose most famous work is the Royal Courts of Justice in London). It is listed as Grade II*. It is neo-gothic in form and design and whilst Pevsner describes it as 'not a major work', it is undoubtedly aesthetically pleasing. Some additions were made by way of vestry and Lady Chapel and in 1919 a wooden screen was erected (by way of memorial) between chancel and nave. Otherwise the church remains today much as it was then, other than updating the chairs.
5. There are many pieces of stained glass particularly in lower level windows. Their creators are unknown but, with one exception, may well have a common origin. The exception is the window in the northwest corner which is involved in this petition and which is a memorial window. The general quality of the stained glass may be said to be pleasing without being outstanding.

THE PROPOSAL AND ITS DEVELOPMENT

6. In terms of facilities, the church was stark. There were no lavatories (recourse had to be had to a neighbouring building) and no catering facilities. This, unsurprisingly, came to be seen as inadequate. Tea, coffee and drinks were served from a table in the

northwest corner but that had potential safety implications. Hence the development of this proposal to install a buffet bar and disabled accessible lavatory in the northwest.

7. The scheme had (and retains) the support of the PCC and the congregation. The DAC were prepared to approve the scheme but insisted on the design having a 'lobby' area so that the WC area did not open directly onto the church. That could be accommodated within the proposals and was, of course, an unsurprising requirement.
8. Given the listing status of the building, both EH and the Victorian Society required to be consulted. The latter had no observations to make whereas the former registered an objection. Initially the principal objection was to venue, EH contending that a better situation would be in the current vestry area.
9. In the event, EH came to accept that the proposed northwest corner was the only practicable site, a view with which I entirely agree. Moreover, EH acknowledged the general benefits of the scheme and made some proposals for improvement which again could be accommodated in the design. The sole remaining issue related to the 'lobby' in the WC 'pod'.
10. In my judgment it is unnecessary for the Court to deal in detail with anything other than this outstanding issue. All other matters are now uncontentious and in any event should in my view be approved on their merits.

THE ISSUE IN THIS CASE

11. The issue may be simply stated: whether or not the WC area or 'pod' should contain a 'lobby' and 'cubicle' or should simply be left as one area. In order to understand how and why this issue arose, it is necessary to describe the area and the proposals in a little more detail.
12. It is now common ground that the 'pod' should be enclosed by a wall that extends from floor to roof of the church. The buffet bar will run at right angles to the wall parallel to the existing north wall of the church. This can be seen on the plan to be annexed to the faculty. Thus the focus of the Court's enquiry is the area of the northwest corner enclosed by the new wall creating this 'pod'.
13. Central to this enquiry is the stained glass window which will become enclosed and thus no longer visible from the body of the church. The window is a three light window of neo-gothic early English design. It is in memory of one Annie M Holmes. Its creator is unknown but is not the same person as for the other stained glass in the church. It is a window of pleasing quality. Attempts have been made unsuccessfully to trace any member of Annie Holmes' family. I share the DAC view that all reasonable enquiries have been made.
14. The issue arises because the creation of a 'lobby' and cubicle will significantly impair the visibility of the stained glass window to be seen as a whole whereas that will remain possible if the area within the 'pod' stays undivided. It is therefore necessary to look at each scheme and to consider whether any further modification in design will assist.

THE DAC PROPOSAL

15. It is accepted by all that, all other things being equal, the creation of a lobby would be desirable. It is a conventional requirement intended to address issues of noise, smell, privacy and so forth. Such a proposal must of course accommodate building regulation requirements for a disabled - accessible WC in terms of minimum space required. That was to be dealt with by enclosing a cubicle within the 'pod' area. The cubicle would extend along the north and west walls from the northwest corner. The main pod wall would serve as the cubicle's back wall but a new wall would have to be created on the south side with a door opening into the lobby area. The exigencies of space would mean, however, that that wall would connect with the west wall at the join between the second and third mullions of the stained glass window (as viewed from the 'pod' door) and would thus seriously detract from its visibility as a whole. This was inevitable not only because of space but because of the need to have some natural light in the cubicle.

THE EH PROPOSAL

16. It is not difficult to see why EH remained unhappy with the scheme. Whilst they recognised the general desirability of a 'lobby', they contend that in these circumstances it comes at too great a price to the quality of a Grade II* listed building. There are means of addressing issues of noise and smell which could be implemented and, of course, that is so.

A MODERATING PROPOSAL

17. The view of the petitioners and PCC and congregation is that they wish to get on with the scheme one way or the other. However, their architect has advanced a further proposal in the hope of meeting the reasonable aspirations of both approaches. As it has emerged late on in the proceedings, it has the formal approval of neither the DAC nor EH. What it comes to is this: ending the new cubicle wall a little short of the window and then returning the new wall to the north wall. That would improve the visibility of the window and natural light to the cubicle could be provided by glazing the upper part of the returned wall. It would remain the case that visibility would be impaired (although only partly) for any one standing at the 'pod' door but by moving to the left they would have an unobstructed view of all three mullions but, of course, only at an angle. The third mullion could still only be seen square on from the WC cubicle.

DISCUSSION AND CONCLUSION

18. It is apparent this case involves a clash of two legitimate and reasonable aspirations which are in the present context ultimately irreconcilable and require a choice. The basic approach is against change in a listed building unless a clear case is made. However, in this case, all parties acknowledge that the case for change has been made, it is only implementation that is in dispute. Moreover, none of these changes are irreversible. It follows that in my view the Court has two duties: first, to make a decision for otherwise there is unhealthy and unwarranted stalemate; and secondly, to make a decision that strikes the best balance between the need properly to implement an agreed scheme and the need to preserve a not insignificant feature of a Grade II* listed church.

19. I have given this case my closest attention conscious of the issues at stake. In the end I have concluded that I should grant a faculty based on the architect's moderating proposal described above. The essential reason is that it strikes, in my judgment, a fair and proper balance between the legitimate aspirations advanced. I would wish to preserve the concept of a lobby as it greatly assists in issues of privacy and personal confidence; on the other hand, the window should as far as possible remain capable of being seen as a whole. The solution is not ideal but, in my judgment, better than the others available.
20. One final comment: this scheme will enclose a memorial plaque to Joseph Timmins which reasonably ought to be moved. This will require a faculty but is not presently part of this petition. I have indicated that I would approve of its removal and if the petitioners and PCC can promptly agree a relocation site, I would allow this petition to be amended so as to give effect to that relocation. Subject only to that, I propose to grant a faculty on terms that would effectively implement this Judgment.

A FACULTY WILL BE GRANTED UPON CONDITIONS:

1. That the works are carried out as indicated in architect drawing no. 10 and annexed to this faculty and that they are in conformity with the terms of this Judgment.
2. That a photographic record of the window "square on" is made and is available in the church building.
3. Work done in twelve months of faculty.

MARK HEDLEY

Chancellor

18th September 2012