

JUDGMENT

1) This petition of 22nd December 2015 seeks permission to replace stolen lead flashing from the perimeter of the roof of this Georgian church, with Ubiflex, which is made up of reinforced aluminium mesh and a mixture of other non-metallic materials. It comes in long rolls of quite a small width. This is a Grade II* listed building built at some time in the early or mid 1700's, although there seems to be an unusual degree of uncertainty about the details of its history. It stands within a conservation area. For over 40 years the parish has been part of a United Benefice with Ashbourne. There is no priest at present, and the application is being handled by Sir Andrew Walker-Okeover, one of the wardens, on behalf of the PCC. The proposal *'will then afford us sufficiently long enough to raise money for a permanent solution whilst protecting the fabric of the church in the interim'* (Statement of Needs).

2) There is an unhappy history of lead thefts from the roof, no less than four such attacks having taken place. In January 2011 Derbyshire Dales District Council granted planning permission for a stainless steel roof covering (parts of which can be seen on the photos supplied to me), but with lead flashings, following an earlier theft. It is these flashings that have now been stolen. The local authority required planning permission to be sought 5 years ago, because stainless steel represented a material alteration to the character and appearance of the building. Dr Mark Askey, a Conservation Officer with Derbyshire Dales, takes the view the replacement of the stolen flashings is a smaller and more discreet component of the overall roof covering, and the Authority would not require further planning approval to be sought. It would defer to the views of Historic England and the DAC as to the acceptability of Ubiflex.

3) I believe that temporary protection was put in place around the perimeter of the roof following the most recent theft, but this has apparently not been entirely successful in making the building weather-tight. An update from Sir Andrew in May, indicates that there is an outbreak of dry rot, which requires urgent treatment. I have no further knowledge of this than already indicated, but it will add to the worries that the parish has, and will also add to the costs of repair and maintenance the congregation is facing.

4) The quotation from Midland Roofing to remove any remaining lead and install Ubiflex around the perimeter is for £7886 plus VAT. Alternative quotes have been obtained for lead, stainless steel and zinc from Norman and Underwood. Each is subject to a basic sum of £9723 plus VAT for scaffolding and *'welfare and storage facilities'*. In addition, for the various materials, lead on a like-for-like basis would be £6042, stainless steel £6864, and zinc £6970, all with VAT on top. Perhaps surprisingly, the cost of replacement lead is cheapest, but nonetheless would work out at £19000 or so. There is a limit on insurance cover of £7500, which I believe is general, rather than imposed specifically on St Mary's. It nonetheless leaves a significant shortfall against replacement costs with any of the metal replacements, whereas as against Ubiflex, there is a much smaller 'gap'.

I am told that the church architect, Mr Mark Parsons, of Anthony Short and Partners, supports the use of Ubiflex, although I have seen nothing in writing to confirm that.

5) The basis of the application is essentially two-fold. It is recognised that the best and most acceptable solution here, would be to replace the stolen lead, on a like-for-like basis. Stainless steel or zinc would be acceptable alternatives, as being less attractive to thieves. However, the parish say lead is not a sensible or reasonable course to pursue. It is too attractive to thieves, as experience has shown. It is simply an invitation to further depredations by those out to make a few pounds at immense cost and worry to the church and its congregation. Secondly, this is a small and financially pressed church family, with very limited resources. Those will stretch to cover the cost of Ubiflex, but none of the other possibilities. Something needs to be done to provide a more permanent solution, and if not ideal, then at least this is affordable at the present time, it will provide an adequate level of protection, it is not dissimilar to lead in appearance, and is said to come with many years' guarantee, which will enable fund-raising to cover the cost of other or better solutions.

6) The **DAC** clearly gave anxious consideration to the proposals, before deciding *not to object* to them. That they were troubled, is clear from comments on the Notification of Advice, and from correspondence sent to me involving the DAC. The Committee, whose members will be more familiar with the church and its setting than I am, considered the building '*is exceptionally difficult to protect – to alarm the building is neither cost effective or viable*'. That confirms views expressed by Sir Andrew, and although consideration must always be given in such cases as these to the protective measures that could be taken to allow traditional materials to be used for replacement, it has to be recognised that those are not always going to be possible and effective in isolated areas or particular situations. Clearly the DAC take that view in the instant case, as '*the building is especially vulnerable owing to its location and ease of access onto the roof.*' The Committee recognised that (Ubiflex) '*is not an ideal solution*', but '*for pastoral and financial reasons thought it the most acceptable: the alternative would be closure or other ineffective temporary measures.*' I ought to say that I do not accept that closure is inevitable if the proposed work is not approved, and although I understand why the Committee has been influenced by the evidence and argument put to them as to the parish's financial position, it seems to me, with respect, that such a balancing exercise has to be for me to make. Their responsibility, which they have carried out, is to say whether the route proposed is acceptable and sensible in building terms.

7) No objections have been raised on exhibition of the **Public Notices** at the church, or the **Rule 9.9** process of putting the proposals on the website.

8) There has been the required consultation with the relevant amenity bodies. I have dealt with the position of **Derbyshire Dales** already, in the context of the need for planning permission.

SPAB did not respond to the consultation notification that was sent to them.

The Georgian Group was ready to leave things with the DAC, but thought that security measures could be taken to reduce the risks of further thefts, and rather doubted that if Ubiflex were used on a temporary basis, as the petitioners suggest, that metal would ever be re-instated.

9) **Historic England's** letters of 10 February and 8 August 2016 are before me, together with Sir Andrew's response of 12 August, who rather dismisses their points as a standard or stock reply with no regard to the specific circumstances, and further complains that the writer has not acknowledged his repeated conversations with her or other HE staff members. HE has decided not to become a formal objector to the proposals, but has asked under Form 5A that I take their letter of objection into account in reaching my decision. That I gladly do. HE does not support or encourage the use of Ubiflex on this church, having considered the technical data. It does not have proven longevity. They are concerned about the fixing method and sealant, and the implications for the historic fabric, although these are not further specified. They also refer to the possibility of security measures being adopted.

10) In their later letter, they contend they have not been contacted by the parish following their pre-application advice. As I say, Sir Andrew strongly contests that. They say they have consistently opposed the use of plastics such as Ubiflex, and repeat their position about the desirability of using metals, with their much longer lifespan. This is a better long-term investment. In exceptional cases where for instance there is no longer a functional congregation or PCC, (or) it is at risk of closure and (there is) a need to find money for re-covering the roof following theft, support for a non-traditional solution might be justified. They do not know if that is the case here, although plainly, that is the major part of the parish's justification for what they propose.

11) As is well known, government has in the recent past made generous funds available for grants towards the repair of the roofs of listed places of worship. Such grants have been available over two quite short periods, I believe, and although of immense benefit to the churches that have been able to access them, Sir Andrew understands that this scheme is really for like-for-like repairs, rather than non-traditional solutions. Be that as it may, there is no grant scheme in place at the moment.

12) **CONCLUSION and DECISION**

a) It is clear that the petitioners, DAC and certainly HE do not see Ubiflex as the best solution to the present pressing problems at St Mary's. On that they are agreed. That is not in any way to disparage this well-known product in the roles for which it is advertised, for flashings and so on. It is accepted by all those in the present proceedings that it not ideal and not to have the benefits that would be afforded by lead, or other metals, in terms of longevity or investment value. It is nonetheless capable in my view of doing the job required for a period of some years, to enable fund-raising to take place to cover another more traditional answer. While I may share the doubts expressed by one of the consultees as to

the likelihood of that outcome arising, there is the very present problem that the building needs to be made weather-proof, not least to enable the present outbreak of dry-rot to be dealt with.

b) I am satisfied the parish simply does not have the financial resources, and will not do so for quite some time, inevitably uncertain, to fund the costs of stainless steel or zinc for the perimeter of the roof. Steps must be taken now as a matter of urgency. Questions of the longevity of the proposed solution, or its value as a long-term investment, are to my mind secondary to the immediate problem. That has to be addressed or any hope of this church remaining as a functioning place of worship, will be put in jeopardy within a short period if not months, then certainly a small number of years, as the fabric continues to deteriorate.

c) I agree that there is no justification in replacing the stolen lead with lead, even if that were affordable. However much that would be best, sometimes the point is reached where such a course has to be seen as futile. The history of theft at this church would make the stoutest heart falter. Again, I accept the DAC view, confirming the petitioner's contention, that the situation here, means that security measures cannot provide a useful way ahead to prevent or at least effectively diminish, the risk of further theft.

d) Ubiflex will not present a problem in terms of visible change to the appearance of the building.

e) I bear in mind the *Duffield* guidelines. The effect on this Grade II* building of using Ubiflex instead of lead or another metal for repairs to the roof, is in my judgement on the low side of moderate. Its adoption is necessary by reason of the urgency of the need to carry out the repairs and safeguard the building for the future. The parish simply cannot afford the much heavier costs – well over double - that other remedies would require, especially as the costs of Ubiflex will be largely met by the insurance pay-out.

f) In my view the parish have justified their proposals for St Mary's. Questions of what has been allowed at other listed buildings in the vicinity, as mentioned by Sir Andrew, have not weighed with me. Every case has to be looked at separately, and there can be no argument '*it has been allowed there, therefore it should be allowed here*'.

13) **I DIRECT that**

-) A faculty will issue, but only until further Order.**
-) I allow 12 months for the work to be completed.**
-) However, the parish is to report to the Registrar (and the then Chancellor) in writing before the end of 2020 as to the progress made in regard to fund-raising in respect of the roof.**

14) The Registrar will please identify a citation for the judgment.

John W. Bullimore
Chancellor
7th September 2016