

In the Norwich Consistory Court

In re: Postwick All Saints

This Petition is brought by the company WiSpire Limited (“WiSpire”) on behalf of Postwick All Saints church, in order to seek approval to the erection of WiFi transmission equipment on the tower of the church, to facilitate broadband reception in the area and to provide photographic security protection for the church roof. The transmission equipment itself is a small sized object, as are the receivers.

Objections were registered by a number of different individual objectors and also by a Charity named Electro-sensitivity-UK, an organisation devoted to protecting the interests of those who describe themselves as sufferers of electro-sensitivity. None of the objectors wished to become Parties Opponent in the proceedings but submitted extensive statements and reports which they wished the court to take into consideration as written representations.

The first question which arises is that of the sufficiency of “interest” to bring an objection. Only one of the persons registering dissent in person was a parishioner of the church, but the remaining objectors could not be said to have any specific interest in the application. Each had submitted a “general interest” in the effect of electro-sensitivity on the population as a whole, but not in relation to any church in the Diocese, including the present one, nor indeed any church in the country in general.

It is likely that there will be further similar applications relating to other churches in this Diocese, and whilst this cannot be said to be in any way a representative action, since not all the other applicants are in common agreement, or indeed as yet known to the Court, nevertheless the Court took the view that the matters to be decided would be reflected to a greater or lesser extent in a number of different situations. It would be convenient, therefore, in spite of there being some doubt about the legality of the “interest” of those objecting, to treat their objections “de bene esse”, as having possible relevance beyond the scope of the present application.

The “Objectors” consisted of the authors of a number of individual letters who felt that the effects of the radiation emitted from the transmission equipment would be deleterious to their and others’ health. In addition two local people attended and gave evidence, one in support of the application and one against, the latter on grounds similar to those contained in the afore-mentioned letters. The vast bulk of the objections however were presented in the form of either learned papers, or discussion documents, often attached to lists of other scientists’ findings, and a report of the European Parliament as to its concerns about electromagnetism and its effects in mobile phone technology and broadband distribution.

Whilst the Court read with interest the various references and opinions and took them into account, at no stage was it possible to carry out any evaluation or testing of such views in evidence. Many of the views referred to were those of persons whose research was not capable of being questioned or examined as to detail. Assertions were made which were no doubt honestly believed, but in the view of the Court did not go beyond the realm of the possible, falling rather short of the definite. The Court, in an effort to be even-handed in approach, attempted to test the points raised by the

Objectors, by way of questioning of the “live” witnesses which the Petitioner had called in the Hearing. None of the Petitioner’s witnesses was inclined to move from their evidence when confronted with the Objectors’ arguments.

The evidence of Dr Azadeh Peyman

Dr Peyman was able to give evidence, together with a visual display, of the levels of radiation which would be emitted from a transmission unit of the type proposed, making it clear that the cautionary warnings from the Health Protection Agency and the World Health Organisation were definitive in setting safe emission levels for all sources of electromagnetic radiation, including televisions, mobile phones, WiFi routers and other similar units. She was able to describe the levels of exposure that are considered safe, and described to the Court the various bodies and organisations which have the duty of protecting users and others from the harmful effects of artificially generated electromagnetic radiation.

She was also able to describe tests carried out in laboratory conditions. Her conclusion was that there was no consistent evidence that there is any risk to the population, and that emissions from this transmitter would be well within the guidelines. She referred to the lack of any material from the European Scientific Committee on Newly Identified Conditions, a body tasked with monitoring emerging risks to the public from new technologies.

Dr Peyman was asked by the Court for her comments on the reports produced by the “Objectors” as to the possible non-thermal damage from such radiation. (Each of the Petitioners’ experts had been directed to be aware of the contents of the Objectors documentation in advance) She maintained that whilst there had been some studies which had considered non thermal effects, none of them had been vindicated, and that there were far more published papers supporting the view that there were no material non-thermal effects arising from the type of low intensity electromagnetic radiation under consideration. She indicated that there was no evidence “so far” to show danger. On the topic of the World Health Organisation’s recent categorisation of low intensity electromagnetic radiation as a possible carcinogen, she accepted that this was relatively recently stated, but was of the view that this largely related to mobile phones rather than WiFi, and that in any event the risk was very small and far from definite. The energy level of emissions from WiFi were said to be a fraction of the emissions involved in the operation of mobile phones. She further maintained that schools make extensive use of WiFi, with transmitters actually in the schoolroom, and that at the levels prescribed, in her view, there was no danger. She conceded that the “learning” on the subject covered a wide spectrum of view, but that the bodies charged with the protection of the public disagreed with the plethora of reports and views produced by the Objectors.

The Court found the witness to be clear, honest and credible, having an extensive knowledge of her subject and being persuasive in its delivery. The Court found it possible to rely upon and accept her evidence.

The evidence of Dr James Rubin.

Dr Rubin is a Senior Lecturer at Kings College London and is the author or co-author of a number of reports on the topic of the effects on the population of electro-magnetism. He gave evidence as to

the condition referred to as electro-sensitivity, which is claimed by some sufferers to be the result of exposure to electro-magnetic radiation.

Dr Rubin accepted that there were a number of people who believed themselves to be so affected, and had no doubt that they had suffered the effects complained of. He questioned however, the link between the equipment and its emissions and the "condition".

His evidence was that there were many studies dealing with the question, examining the many devices which might be said to help to cause it. These included different types of lighting, power lines, noises in trains and so on. The condition is self reported, and the symptoms were generally subjective and not capable, in his view, of being empirically tested.

Dr Rubin was able to explain to the Court a number of tests which had been carried out in order to research the question of whether the link between the devices and the condition actually existed. His experiments (together with other colleagues) featured the exposure of sixty sufferers from electro sensitivity and sixty non-sufferers to double blind testing with a sham element in the test. The results of his research project had indicated that there was no causal link between electrical activity and the symptoms suffered by the test participants.

He and his colleagues had also reviewed in 2005 some 31 published scientific papers on this topic, seven of which had suggested a link between electrical activity and the symptoms of electro sensitivity. Of those seven, in 2 cases it had proved impossible to replicate the results, 3 papers had statistical problems and two were mutually contradictory, so that their result was of no value. He had subsequently reviewed a number of similar studies, and in none of the studies is it possible to find any robust evidence that electromagnetic radiation caused the effects complained of. Even when sufferers were convinced of the link, deliberate deception studies had shown that even after the cables had been disconnected, (without the patient's knowledge), the patient remained convinced of the link. In his view, the symptoms suffered (which he accepts are genuine) are the result either of a different condition, or the belief in the condition coupled with the self diagnosis may have had a convincing effect on the sufferer, and/ or may be symptomatic of some other undiagnosed physical or mental condition.

The Court asked Dr Rubin to comment on the European Parliament's concerns in the report produced by the Objectors, and his view was that he had seen no serious research to support such a stance and, in his view, the study appeared to disclose a political motive. The effect of this report had been simply to cause the public to believe in the condition and to begin the process of convincing self diagnosis. He was aware of no General Practitioner who had any experience of such a discrete condition as electro-sensitivity.

Dr Rubin had taken part in many research projects and was well able to describe the scientific processes. The Court found his evidence convincing and clear. The Court therefore accepted his evidence that there was no robust evidence that electromagnetic radiation at the proposed levels would create a risk to health.

CONCLUSIONS

Having accepted the evidence of the two experts for the Petitioner, the Court then had to attempt to come to conclusions about the submissions of the "Objectors." The Consistory Court, like any other court, can only come to conclusions on evidence and proof. The views of others, however genuinely held, which do not take the matter under consideration beyond the bounds of the realm of anxious possibility only, can never be substituted for evidence and proof which is positive in nature and capable of evaluation. In this case the views and reports produced by the Objectors from many different sources were not available for cross examination or evaluation. The Court therefore had to decide which evidence it preferred. The Court concluded that it preferred that of the live evidence of experts in their field, whose testimony the Court was able to examine and evaluate, and went on to accept.

I THEREFORE GRANT THE FACULTY PRAYED FOR

SUBJECT TO :

1. Any conditions imposed by the Diocesan Advisory Committee
2. Any recommendations made by that body in writing as to its implementation
3. A condition that should there be any advice from any Government Body or Government Advisory Body that the limits of electromagnetic emissions require reduction, these directions must be followed. In addition, should the World Health Organisation or the Health Protection Agency issue safety instructions as to the use of WiFi Transmission equipment, these instructions must be followed as a condition of this faculty.

COSTS

The normal rules should apply that

- a) The petitioning Company WiSpire should pay the costs of its own experts and witnesses
- b) That the Petitioning Company WiSpire shall pay the Court costs of the Hearing, according to the fixed fees allocated in the relevant Fees Order, such fees to be taxed by the Registrar.

His Honour Judge Paul Downes

Chancellor

27th September 2011

APPENDIX

The Court received and considered letters, statements, papers and documentation from the following:

Professor Denis Henshaw

Ms Charlotte Philcox

Electro-Sensitivity UK (Mr Geoff Simmons)

Ms Tully Wakeman

Ms Diana Hanson

Dr Sarah Starkey

Ms Julia Taylor

Miss V Lyrae (whose letter was received out of time but considered)

Other live witnesses included Mr Denis Eley and Ms Susan Allport, and also Mr Peter Freeman (from Freeclix), and their evidence was taken into account in this Judgement.

Mr David Broom, Deputy Diocesan Secretary presented the case for the Petitioner and gave evidence as to the question of the advantages to the Church of the proposed installation. His evidence included contributions from Mr Michael Clark of the Health Protection Agency.

The Court was assisted by the Registrar Mr Stuart Jones and his assistant Gill Hadlum.

The Archdeacon of Norwich, The Venerable Jan McFarlane represented the Church of England.