

Telecommunications

THE CONSISTORY COURT THE DIOCESE OF BRADFORD

Petition Ref 11/44.

The Church of St.James in the Parish of Thornton

JUDGMENT

- 1 This is a Petition for a Faculty for the installation of telecommunication equipment in the Church of St James in the Parish of Thornton and to enter into an agreement with Vodafone Limited for the operation of the equipment. The Petition also relates to further associated matters. The Petitioners are Revd. Andrew John Greiff ,the Priest in charge, Mr Kevin Watt, Chairman of the buildings sub committee and Mr Steve Stanworth, Churchwarden .The PCC resolution on page 12 of the Petition has not been completed but I have seen the relevant section of the minutes of the PCC meeting held on 12th July 2011 where it is recorded that there was a unanimous vote in favour of seeking a faculty to install telecommunication equipment. The Diocesan Advisory Committee who have considered the proposals recommend their acceptance .Listed Buildings Consent and Planning Permission have been granted .English Heritage has been consulted and has not wished to comment.
- 2 There have been no formal objections to the proposals but I have read the emails from Councillor Malcolm Sykes and Mrs Victoria Wood and the replies thereto from the Archdeacon of Bradford. There was criticism of the public consultation process, in certain quarters, but I find that criticism to have been ill-founded. There were apparently 2 public meetings and the proposals were publicised in the press and via newsletters .I consider this to be quite sufficient in the circumstances. A large number of local people have signed a petition in apparent opposition to the proposals but none, so far as I am aware, have done any more than that. I am satisfied that it is appropriate to determine this Petition without a hearing.
- 3 The concerns which have been expressed and which are invariably felt in these cases are about the impact of the installation upon the health and wellbeing of those [particularly, children and the elderly] living in

close proximity to the Church. There are also concerns that the appearance of the church will be adversely affected and that the history of the church will be lost when the timber stairs within the spire are removed. The Church is also accused of putting the financial considerations before the concerns of the community.

4. So far as my approach to this Petition is concerned, it has become accepted law that it is for the petitioners to show that there is good reason why a faculty should be granted and, once the issue of whether it involves risk to human health has been raised, it is for the petitioners to satisfy me that the grant of a faculty will not give rise to a real or significant, as opposed to a fanciful risk to human health.(see *Re St. Margaret Hawes and Holy Trinity Knaresborough* [2003] 1 WLR 2568).
- 5 The Statement Of Need establishes, in my judgment, that there is good reason for a faculty to be granted. Churches are important buildings which each generation is under a responsibility to maintain. It is not a question of putting money before any other considerations. The fact is that in order to fulfil its role in society a church needs money and there is nothing objectionable, in my judgment, in a church receiving financial assistance by taking rent for a commercial undertaking that is consistent with its role as a local centre of worship and mission.
- 6 In relation to the health issue, I fully understand the nature and extent of the concerns sincerely felt by anyone in relation to these matters. Any question of risk involving health, particularly children's health, is an emotive one . However, I have to decide this issue dispassionately and on the basis of the relevant scientific evidence which is currently available.
- 7 In *re St. Margaret Hawes and Holy Trinity, Knaresborough* , Judge Grenfell, Chancellor of the Diocese of Ripon and Leeds, undertook a comprehensive review of the scientific evidence then available, having heard oral evidence from experts called on behalf of both the petitioners and the objectors. Put shortly, for the reasons which are set out fully in his judgment, Judge Grenfell resolved the "health issue" in favour of the petitioners. Both the expert called on behalf of the petitioners and the expert called on behalf of the objectors agreed that there is no risk to health from thermal effects of radiowaves transmitted from a telecommunication antenna. Where they differed was that the petitioners' expert adopted the Government guidelines, whereas in the words of Judge Grenfell the objectors' expert, [Dr. Hyland] made no secret of the fact that he regards his task as being to promote the case for lower levels

unless and until it can be shown that there is no risk of any thermal effect from radiowaves. Judge Grenfell came to the conclusion that "if Dr. Ryland's theories are right, then nothing short of a complete ban on the use of mobile phones would suffice". Subject to any reliable evidence which has since emerged, I am bound to be influenced by Judge Grenfell's conclusions which were based on the evidence both in chief and in cross-examination of experts in the field.

- 8 The petitioners are entitled, it seems to me, to take advantage of the fact that despite the proliferation of telecommunication installations and the continuing monitoring of emissions from base stations for which telecommunication companies are responsible, and the fact that the Government undertakes audits of mobile phone base stations, especially those in the vicinity of hospitals and schools, no evidence has emerged which points to any increased risk to the health of those living in close proximity to a telecommunications base station.
- 9 There is no compelling evidence of which I am aware which indicates that the proposed installation will pose a real, as opposed to a fanciful, risk to the health of people, young or old, living or working within the vicinity of the church. Such research evidence as there is does not show that exposure levels from living near to mobile phone base stations are likely to pose a risk to health. Despite the burgeoning use of mobile phone technology and the greater time within which to study its effects, a recent report by the Independent Advisory Group on Non-Ionising Radiation still concludes that the research published since the Stewart report does not give cause for concern. Probably of greater concern is the protracted use of mobile phones by young people, but that is a quite different matter. Accordingly, I am satisfied by the available evidence that the grant of this faculty would not give rise to a real risk to human health.
- 10 So far as other aspects of the proposals are concerned I find that the antennae will be visually unobtrusive and the ancillary works which will of course be paid for by Vodafone Ltd are necessary and appropriate. I note that Mrs Wood bemoans the removal of the "timber stairs within the spire", whereas the Statement of Need describes them as "steep and unsafe" and identifies their removal and replacement with a hooped access ladder and new hatch as a major benefit to the church.
- 11 This licence to install and operate telecommunication equipment will generate much needed income for the church. The installation will enhance the mobile phone network to the benefit of the wider community. In the exercise of my discretion, I grant this faculty. I have been through the document entitled

"Heads of Terms Rooftop". It is very different from the model licence agree which was approved by the Archbishop's Council or use between a parish and GS4 and which I believed to have become standard in these cases regardless of the telecommunication company involved. I should be grateful if the Diocesan Registrar could make sure that the licence which is drawn up in this instance, contains the sort of safeguards which are necessary to ensure that there is direct monitoring of emissions, compliance with current safety standards and with any more stringent requirements which may be imposed in future in the light: of further research.

- 12 I therefore grant this faculty on condition that an appropriate licence is prepared and or approved by the Diocesan Registrar for the petitioners to enter into. In the event of any problems or disputes as to the terms of the licence agreement these should be referred to me . Could the Diocesan Registrar also make discreet enquiries as to whether £6000 per annum is a reasonable annual payment for Vodafone to be making. .In addition I impose the following condition to which the faculty in Re Emmanuel Church, Bentley [2006] 2WLR 1068 was also made subject:

"all parties to the licence and any assignee or sub-licensee thereof shall observe and perform its requirements as if they were conditions of the faculty"

John Walford
Chancellor