

**DIOCESE OF SHEFFIELD
In the Consistory Court**

Her Honour Judge Sarah Singleton QC
Chancellor

In the matter of St Thomas and St James, Worsbrough Dale concerning the grant of a license and installation of a mobile telephone mast and associated equipment in the Church Tower

Judgment

1. St Thomas Church Worsbrough is a grade 2 listed church constructed on a hill in Worsbrough Dale in the late 1850s. It was consecrated and opened in 1859. It is a thriving church which has had strong links to the local community throughout its history. The parish has recently merged with the parish of St James in Worsbrough Bridge.
2. The petition before me for consideration is not opposed. It is for permission to grant a twenty year licence to Net Coverage Solutions Ltd (Net) to permit the installation and maintenance of a mobile telephone antennas and dishes in the tower of the church. All costs are to be met by NET.
3. The PCC met and agreed to enter into negotiations with NET on 18th January 2016. One member voted against the proposal; their objection was based upon the pastoral implications of facilitating the use of mobile telephones that can be used to transmit material that is both unlawful and immoral. The PCC also debated and considered the possible health implications of such an installation.
4. The relevant amenity societies (The Victorian Society and Historic England) have been informed of the proposal and have no comment to make about it.
5. The proposal will generate much needed income for the Parish. From the documents it would seem that initially £5000 per annum was proposed by Net although the draft License agreement now includes a sum of £6000 per annum. The parish have had advice during the negotiations with NET from a solicitor with relevant expertise and I take that fact and the increased annual fee set out in the draft licence as the required evidence that the fee negotiated is as generous as could be achieved.
6. The installation of this equipment inside the church tower where its presence would be invisible and entirely unobtrusive will obviate the need for a visible mast and antenna in an alternative location in the neighbourhood. Furthermore the installation will improve the amenities of the community by improving the quality of mobile telephone signal in the area. Whilst there is a risk that mobile telecommunications are misused as outlined above, there can be no question that improving the ease with which people can communicate and use telephones and the internet is of benefit to the local population and community.
7. The DAC considered and recommended the approval of the proposals at their meeting in May. They recommended provisos to that approval which I have included in my directions. I need not set them out here seriatim. In particular the DAC wished to ensure that the license agreement permitted a shutdown of the masts in case of emergency and access to the upper

levels of the tower as and when necessary; my reading of the licence would tend to suggest that these matters are already included but, for the avoidance of any doubt, compliance with these, what might be termed "contractual" provisos can be evidenced by an open letter from NET or its solicitor confirming that the DAC provisos as to these matters are already intended by both parties to be within the meaning of the terms of the licence and identifying the clauses which are relevant. I think they are included in the Grantee's covenants in the draft licence but there may be other clauses which are pertinent and should be identified. If I am wrong the provisos stand and will need to be met with an amendment to the proposed license before the project goes ahead. The PCC have accepted the DAC provisos and propose to instruct their solicitor to consider and act on them.

8. I can find no document in the papers sent to me confirming that the Public Notice requirements have been completed and my decision and directions are based upon this having taken place with no objection having been communicated to the Registry.
9. Although this is the first such application I have considered in the Diocese of Sheffield it would seem that they are relatively commonplace across the country and that possible bases of objection have been considered in the Court of Arches. So far as the possible danger to health the following statement has been approved by the Court:-

In the absence of compelling evidence of a real risk to human health as a result of transmitting radio waves up to the levels set by the UK Government... it would be wrong to adopt lower guidelines for a base station just because it happens to come under the jurisdiction of the consistory court in addition to planning requirements.¹

This statement is in accordance with the scientific research papers included in the documents submitted to me.

10. So far as the risk that material transmitted as a result of the installation might contain unlawful or immoral subject matter, the Court of Arches has also considered this and decided that it is not a sufficient basis on which to refuse a faculty.²
11. Having considered the foregoing I am of the view that the advantages of the installation proposed as set out in earlier paragraphs markedly outweigh the arguable disadvantages and, subject to there having been no objection received at the Registry I make the directions directing a faculty be granted accordingly. Should an objection have been or be received because, contrary to my expectation, the public notice requirements have not yet been complied with then this decision should be suspended whilst I consider the objection.

Sarah L. Singleton

Chancellor

31st July 2016

¹ Hawes, St Margaret [2003] 1 WLR 2568, Ripon and Leeds CCt, para 84; approved in Bentley Emmanuel [2006] 1 Fam 39, Court of Arches at para. 50

² Chingford ST Peter and St Paul [2007] 1 Fam 67, Court of Arches