

Neutral Citation Number: [2024] ECC SEI 3

IN THE CONSISTORY COURT OF THE DIOCESE OF ST EDMUNDSBURY AND
IPSWICH

In re Kersey, St Mary

JUDGMENT

1. This is a petition by Rachel Wells, Churchwarden and Linda Newbigging, PCC secretary for a confirmatory faculty for;
 - a. The temporary installation of a modern shrine/prayer station/prayer bowl,
 - b. The temporary removal of the altar along the north wall 'until the prayer bowl is moved',
 - c. To move the screen from the north wall,
 - d. To 'produce display (sic) artwork explaining the shrine history',
 - e. To replace the glass in the sedilia window with lead light quarries and include red, white and blue centre panes with the etching 1953-2023 to commemorate the late Queen Elizabeth's 70th Jubilee,
 - f. To remove the glass from the squint window,

2. It is clear that the shrine was first discussed in 2018 and installed in March 2020. I have not been given the courtesy of the dates that the other unlawful alterations were made. With regard to the Petition I am only told;

“It is not clear to the PCC exactly when or why the faculty was put on hold, but we regret that we did not pursue this until recently and apologise that we are now asking for retrospective permission.”

It is indeed deeply regrettable that yet again a petitioner has proceeded with matters unlawfully. Bearing in mind the ‘shrine’ has now been installed for more than 4 years, I am also surprised that the petitioners have not indicated how long these ‘temporary installations’ are intended to be in place.

3. Fortunately, the alterations made could be reversed if I do not give retrospective permission for them.
4. The Church is Grade I listed and the current Church largely dates from the 14th Century. The Petitioners note;

In 1464 Pope Pius II granted an Indulgence because he “.....learned that to the parish church of St Mary in Kersey, called of Pity, there was a great resort of the faithful on account of the infinite miracles, which by the merits and intercessions of the same Virgin had been wrought daily by Almighty God at a certain image of her in the said church”

The Indulgence gave three and three-quarter years’ remission from purgatory to all who “....visited on the feasts of the Annunciation and Nativity of the Virgin, from the first to the second vespers and gave alms for the enlargement and restoration of the said church”. This indulgence would have been a means of raising additional funds for the church in order to complete the work on the bells, nave, hammer-beam roof and porches.

5. The purported justification for the introduction of the shrine/prayer bowl is set out in the petitioners statement of needs;

The idea of the Shrine was first discussed in 2018 following the arrival of Rev Jackson. The PCC had been concerned for some time about the dwindling numbers of regular worshippers and the lack of engagement from our Parishioners. We wanted to try to build a church for the future. The vision was to re-hallow the ancient Shrine and install a temporary prayer bowl, inviting visitors to place a pebble into the bowl and to take away a pebble – in the hope of returning in the future. We now encourage people to write a prayer card.

The PCC was excited by this vision of linking this modern Shrine and prayer bowl with the historic Pilgrim trail and ancient Shrine. We anticipated this would attract more people to our church; not only as visitors but as potential worshippers; giving those unused to attending church an ‘accessible’ route to contemplation, prayer and eventually to worship. It is felt by the PCC that the sheer number of prayer cards used demonstrates that this is being achieved.

Objections

6. There are two objectors who have chosen not to become parties opponent. The first is Ian Hatrick. He objects for a number of reasons;
 - a. He says that the linking of the modern shrine with the pilgrims pathway for people who might be thinking of joining the church community are too tenuous. He also finds the reference to the Papal indulgence assured by the Pope in 1464 to be inimicable to Trinitarian worship,

- b. The shrine is a disproportionate size to its setting and he queries the qualifications and experience of the fabricator,
 - c. He criticizes the setting of the shrine and criticizes the aesthetics of the associated 'temporary art installations'.
 - d. He criticizes the uncertainty of the Petition which speaks about the prayer bowl being 'temporary',
 - e. He criticises the suggestion that a shrine should be considered more important than the 'Samson chapel' on the basis that there has been a chapel on that site since the building of the North Aisle, that is before the shrine was consecrated,
 - f. He queries whether the lay Rectors have been consulted,
 - g. He is concerned that the number of visitors will overwhelm the church and overstretch the volunteers.
7. His proposal is to scale back the bowl to a size that would fit in the niche where Our Lady of Pity was housed.

8. The second objector is Neville Whittell. His objections read, in full;

I have been a member of the congregation and bellringer of St Mary's since 1972 and most of this time a member of the electoral roll.

I object to this application on the following grounds.

As the Church is listed for its historic and architectural interest. This large dish would look out of place and do not fit in with the genre of the church.

The alter (sic) should not be moved from its rightful and traditional place at the east end of the Church.

The installations of the metal frame above the dish will only make the whole thing look more out of place.

9. There is also a letter of support from a parishioner stating how welcome and 'comforting' she finds the alterations.

The amenity bodies

10. Historic England were the only body to make any submissions. They stated:

I can confirm that we would not have any objection to the reordering and renewal of glazing. The relocation of the part of the former rood screen base previously placed against the north wall does not seem to be necessary to create room for the prayer bowl and reordering of the space, but the parish have stated that this has been done to remove it from the source of damp at the base of that external wall. This is a sensible precaution and we do not oppose its relocation, but hope the parish take this opportunity to assess the condition of the screen and the need for conservation works as well as the causes of the damp. Ultimately, if this can be successfully addressed in future it might be possible to relocate the screen somewhere closer to the east end of the chapel where it might be better appreciated as part of the focus of worship.

Discussion

11. The test I have to apply is that set out in re St Alkmund, Duffield:

(1) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?

(2) If the answer to the question (1) is 'no', the ordinary assumption in faculty proceedings 'in favour of things as they stand' is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals (see

Peak v Trower (1881) 7 PD 21, 26-28, and the review of the case law by Chancellor Bursell QC, in *In re St Mary's, White Waltham (No.2)* [2010] PTSR 1689 at para 11). Questions 3, 4 and 5 do not arise.

(3) If the answer to question (1) is 'yes', how serious would the harm be?

(4) How clear and convincing is the justification for carrying out the proposals?

(5) Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building (see *St Luke, Maidstone* [1995] Fam. 1 at 8), will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm?

12. I have read the objections with care and note that most of them are to the aesthetics and size of the shrine (I mean no disrespect to the objectors for summarizing them thus). I reject Mr Hatrick's objection with regard to the Papal indulgence. There is no suggestion that any visitor to the church will benefit in this way at all. I accept his criticism of the description of the installation as 'temporary', but do not accept that is sufficient reason to reject this petition. I also note that one of Mr Hatrick's objections (the number of people visiting the church) is, in fact, an overwhelming endorsement of the proposed changes.

13. I appreciate the objections that Mr Whittell makes with regard to the aesthetics but cannot use those as a reason to reject this petition. I can reassure him that, as this is a petition only for a temporary removal of the altar, there is every reason to suppose that it will be returned to its original spot.

14. I grant this petition as prayed with regard to the prayer bowl and the associated artwork on the basis that any harm is both slight and temporary. I am satisfied that the removal of the glass to the squint and the restoration of etched glass to the sedilia is an improvement to what is currently in place. The following conditions apply:

- a. The installation of the prayer bowl and the removal of the altar will be permitted for 5 years from this date,
- b. The petitioners are actively to consider relocating the rood screen so that it might be used to enhance worship

14th August 2024

Justin Gau
Chancellor