[2017] ECC Roc 4

IN THE CONSISTORY COURT OF THE DIOCESE OF ROCHESTER

Re: ST BARTHOLOMEW OTFORD

JUDGMENT

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1. By a petition dated 1st December 2016, the petitioners, the Reverend Richard Mark Worssam, Vicar, and Mrs Margaret Ruth Lidbetter and Mr Russell James Edwards, Churchwardens of the Parish Church of St Bartholomew, Otford, Kent, have applied for a faculty to authorise the works that are described in the petition as;

(i) removal of the temporary nave platform, and its replacement with a deeper platform and steps, to be finished in stone, extending across the whole width of the church;

(ii) introduction of removable handrails to the steps;

(iii) removal of the low stone wall to the chancel;

(iv) removal of the concrete plinth in the Lady Chapel, with making good of the flooring

(v) cleaning, by a conservator, of the existing stones in the Lady Chapel;

(vi) lowering of the Lady Chapel reredos to suit the new floor level;

(vii) addition of lockable casters to the existing Lady Chapel altar table so as to enable the same to be moved to the new nave platform when required;

(viii) removal of six pews and adaptation of a seventh pew at the east end of the nave and south aisle, and relocation of existing pew frontals

(ix) introduction of two retractable projector screens at the east end of the church; one fixed to the east face of the chancel arch, and the other fixed to the east face of the beam above the Lady Chapel (both to be out of sight when not in use), and installation of projectors in the nave and south aisle;

(x) works of adaptation to the existing lectern;

(xi) improvements to the existing heating system;

(xii) improvements to the lighting at the east end of the church;

(xiii) introduction of a bookcase at the west end of the nave;

(xiv) raising the height of the existing chandeliers;

(xv) removal of paint from the stonework around the windows and the base of the arcade piers, together with stonework repairs, and internal redecoration.

2. The petition records that at its meeting on 16th November 2016, the Parochial Church Council (the P.C.C.) passed, by a majority of 14 to 1 of those present and voting, with no abstentions, a resolution approving the proposed works. There are 18 members of the P.C.C.

3. The total cost of the works involved is likely to be in the region of £192,454.00. There is available £108,824.00 from grants and fund raising, £33,237.00 from gifts and legacies, and £50,393.00 from funds accumulated or set aside by the P.C.C. Thus the actual raising of funds is not a matter of concern.

4. The Diocesan Advisory Committee (the D.A.C.) issued a Notification of Advice dated 23rd November 2016, which recommended the proposals for approval by the Court, subject to certain minor provisos which are not contentious. The D.A.C. opined that the works or part of them were not likely to affect the character of the church as a building of special architectural or historic interest, and/or the archaeological importance of the church, and/or archaeological remains existing within the church or its curtilage.

5. The church is Grade 1 listed, having been built in or around 1050 and restored in 1863.

6. The D.A.C. recommended consultation with Historic England, the Victorian Society, the Society for the Protection of Ancient Buildings (S.P.A.B.) and the Church Buildings Council (the C.B.C.), which has been carried out.

7. Ms Liz Pollard, Assistant Inspector of Historic Buildings and Areas for English Heritage (as it then was), by letter dated 12th June 2013 stated, "I have... visited the church and am content that the proposed scheme within the east end of the nave and the Lady Chapel will have minimal impact on the significance of the building. We therefore have no objections to the proposed reordering..." She went on to make some useful comments. I note, in passing, that she described the proposed removal of six pews as being "of

little significance." In an email dated 21st January 2014, dealing with the proposed screens and lighting scheme, Ms Pollard said; "It all seems very sensible and in our view will have very little impact on the significance of the church. On this basis we are content with the proposals and have no further comments to add." Finally in an email dated 15th November 2016, dealing with proposed amendments to the scheme, Ms Pollard said; "I can confirm that we are content with the scheme in its current form. We therefore defer to the D.A.C. on the currently proposed reordering scheme..." I have dealt with the stance of the D.A.C. in paragraph 4 above. It is thus clear that Historic England, having fully engaged in the consultation process, have no objections to what is sought.

8. The Victorian Society in an email dated 12th August 2013 from their then Churches Conservation Adviser, Mr Tom Ashley stated; "The Victorian Society has no objection to the proposed works. On all aspects of the application affecting fabric or furnishings pre-dating 1837 we defer to the Society for the Protection of Ancient Buildings....." For their part, S.P.A.B., in a letter dated 31st October 2016, from Ms Catherine Cullis, their then Churches and Cathedrals Officer South, made it clear that they had no objections.

9. Mr Jonathan Goodchild, the Senior Churches Officer of the C.B.C. in a letter dated 10th May 2013 wrote; "I am happy to confirm that we will defer to the D.A.C. in consideration of these works." That view was repeated in a later email dated 28th October 2016 in respect of proposed amendments.

10. The Public Notices produced a number of objections which are set out in written form in Tab B of the hearing bundle before me.

11. Because of the number of objections received, on 14th February 2017, I indicated that I intended to visit the church and to hold an informal meeting attended by the petitioners and any objectors who might wish to attend. The purpose of the meeting was to enable me to see the church and its layout for myself, to gauge feelings, and to explore the options with all concerned. I directed that my visit was not to be an evidence collecting or decision making exercise, save that thereafter I would be making further directions if necessary. I visited the church on Sunday 5th March 2017. Having heard what a number of the congregation had to say, I gave further directions on 9th March 2017 relating to the filing of evidence, and giving any objector a further opportunity to became a formal party opponent to the petition if he/she so wished. Finally, on 19th April 2017, I further directed that I would hold a Consistory Court at the church on 16th June 2017, and gave a last opportunity for any interested persons to become parties opponent. I also requested that the Archdeacon be represented so that I might have the benefit of his views.

12. In the event no one sought to be joined as formal parties opponent. Doubtless there were good reasons for this, but what it meant was that I did not have the advantage of hearing the evidence of any objectors on oath, nor of having such evidence tested in cross examination. A number of objectors attended the hearing, but I was unable to take evidence from them because they had declined the opportunity to be joined. Likewise I was unable to permit them to cross examine the petitioners or their witnesses, or to make their own submissions. I have, though, read and taken into account the content of the letters of objection sent to me. The Archdeacon (the Venerable Clive Mansell, since retired) was represented by Counsel, Miss Caroline Daley, and she had the opportunity of

speaking to the objectors. Miss Daley made it clear from the outset that the Archdeacon supported the proposals contained in the petition. At the end of the evidence, which she did not seek to challenge, she confirmed that the Archdeacon had not altered his position.

13. The petitioners were represented by Counsel, Mr Philip Petchey. I heard evidence from Mr Worssam, Mrs Dawn Hallam, Dr William Lattimer, and Mr James Ford, each of whom had provided their evidence in chief in statement form as directed. I found their evidence relating to the need for the congregation to be able to see what was going on in a service, for the use of chairs which can be put out when needed for large events, such as weddings, funerals, carol services, school harvest festivals, Easter Communion and the like, and stacked or stored when not in use, for the desirability of the replacement of the temporary platform with a permanent one, for the use of audio-visual equipment, for improved lighting and heating facilities, and for more space in the chancel, to be persuasive and compelling. I accept the evidence put forward by the petitioners.

14. St Bartholomew's, Otford, like numerous ancient churches, has undergone many changes over time, the most obvious of which was the substantial reordering and restoration carried out in 1863, under the Gothic Revival architect, G.E. Street. Thereafter, the organ was installed in 1913, and electric lighting only in 1967. In 2007 an extension incorporating meeting rooms, offices, and lavatory facilities was opened.

15. Thus the starting position is that there are no heritage objections, no problems over funding, and the D.A.C. and Archdeacon support the project.

16. I do not propose to set out in any detail the needs for the proposed works. They are dealt with in depth in the Statement of Needs accompanying the petition. Moreover, no one has suggested that the works are not needed, though their precise extent has been queried.

17. As I have said above, St Bartholomew's Otford is a Grade 1 listed building. In determining the petition I have to have regard to the framework of guidance provided by the Court of Arches in; **Re St. Alkmund Duffield 2013 Fam 158 at paragraph 87;**

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

(ii) if the answer to question (i) is "No," the ordinary presumption in faculty proceedings "in favour of things as they stand" is applicable, and can be rebutted more or less easily, depending on the particular nature of the proposals....

(iii) if the answer to question (i) is "Yes," how serious would the harm be?

(iv) how clear and convincing is the justification for carrying out the proposals?

(v) bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building....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?

In answering question (v), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will be particularly the case if the harm is to a building which is listed Grade 1 or 11*, where serious harm should only exceptionally be allowed

18. The church is a Grade 1 listed building. Only 2.5% of listed buildings are listed as Grade 1, and they are of exceptional interest.

19. Bearing in mind the stance of the amenity bodies and of the D.A.C., I have considerable reservations as to whether what are known as the Duffield Guidelines are engaged at all. For my part, I do not consider that they are. However, against the possibility that I am wrong here, I find that the proposals, if implemented, would not result in harm, or significant harm, to the church as a building of special architectural or historic interest.

20. Thereafter, I am wholly satisfied that the petitioners have made out their case to the effect that the proposed changes will result in greater liturgical freedom, pastoral wellbeing, involvement of the congregation, opportunities for mission and use of the church generally. The proposed changes will allow modern and flexible worship facilities, to include the likes of Messy Church, flexibility with seating for "special occasions," better connection and communication between the presiding minister and congregation, better opportunities for music, and better heating and lighting to be introduced. Each and every one of those is required. Individually and collectively they are needed pastorally, for mission, and for the benefit of the public ("special occasion" services, music concerts and the like); in short they will make the church more usable and friendly. The petitioners have clearly discharged the burden that lies on them here.

21. At the heart of the objections is the question of money. To some, the proposals do not represent good use of or value for money, to others a more limited proposal costing less would have been a better option, whilst others feel that the money could or should be spent better elsewhere. There is, of course an inter-connection and overlap between the above.

22. I have no doubt that the objectors are sincere and genuine in their beliefs. However, the evidence before me does not support the first two grounds of objection, and so I reject them.

23. Superficially it might seem that an argument to the effect that money would be better spent on, say, mission rather than a building has merit. Closer examination reveals this not to be the case. In the first instance the works proposed are, and I have so found, intended for mission purposes. Next, fund raising has been engaged in for the precise purpose of meeting the costs of what is sought. Thus people have given and/or raised money for the specific purpose of these works, if approved. It would be wholly wrong for me, or indeed anyone else, to suggest that such sums should be spent on other causes. Finally, and conclusively, in my judgement, is the argument advanced to the effect that ultimately decisions about financial priorities are ones for the P.C.C. and not, save in the most egregious of cases, for the Chancellor or the Court. In my judgement Hill Ch. correctly stated the position in **In re St Richard, Aldwick, Unreported Consistory Court of the Diocese of Chichester 3rd December 2014,** when he had this to say:

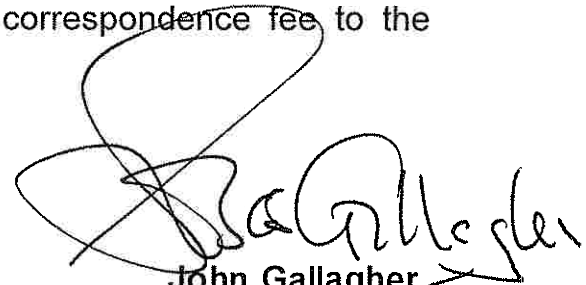
"P.C.C.s are elected decision-making bodies charged with the stewardship of church buildings and their contents. They are custodians of parish finances. It would be a usurpation of their

function were the Consistory Court to act as a supervisory or appellate body reviewing their decisions. Provided the P.C.C. acts in good faith and within its statutory competence, this Court will not interfere with the decisions it comes to on a local basis as to the prudent use of its funds."

24. Accordingly, I reject, in their entirety, the financial arguments advanced.

25. I propose to allow this petition, subject to the following conditions, namely, that there is compliance with the three provisos contained in the Notification of Advice dated 23rd November 2016 from the D.A.C. I am content for the petitioners' Counsel to draw up an appropriate Order for my approval to reflect this.

26. In the premises, and subject to what I have said above, I am wholly satisfied that these works are required and are appropriate, and I direct that the petition be allowed, and that faculty issue subject to conditions. The petitioners are to be allowed 12 months from the date hereof for the completion of the works. The petitioners must pay the Registry and Court costs of and incidental to the petition in the normal way. There shall be a correspondence fee to the Registrar in a sum as I direct.



John Gallagher
Chancellor
27th July 2017