

[2023] Ecc Yor 3

IN THE CONSISTORY COURT OF THE DIOCESE OF YORK

IN THE MATTER OF: ST HELEN'S, THORGANBY

JUDGMENT

1. There has been a church on the site of St Helen's church, Thorganby since around 1228 and the present church is Grade I listed, recognising its national importance. The building features a mid-14th century chancel-arch and a limestone tower dating from the 15th century. The remainder of the church was rebuilt in brick in the 1700s and a restoration project was undertaken in the 1950s.
2. By a petition dated 16 June 2023 the priest-in-charge, the Reverend Jackie Doyle-Brett, and a PCC member, Stephen Fell, seek a faculty for the introduction of a wall-plinth mounted projector and a remote-controlled electric projector screen above the pulpit. The petition works also include the raising of the ceiling light fittings and replacement of the existing bulbs with LED bulbs.
3. The petition is supported, although not unanimously, by the PCC (the vote in favour of petitioning for a faculty was carried, but there were two abstentions). The DAC's Notification of Advice recommends the proposed works.

Objections received

4. Following public notice, the Registry received letters of objection from three objectors: Mr Clegg, Mrs Garnham and Mr Vickers. All three have been confirmed by the Registry as "interested persons" within the meaning of rule 10.1(1) Faculty Jurisdiction Rules 2015 (as amended) (the "FJR") and the Registry has contacted each of them under rule 10.3(1), asking for their election between becoming a party opponent or not. All three objectors made no reply within the FJR mandated timeframe explained to them clearly by the Registrar and are therefore deemed to have elected not to become party opponents. Nonetheless, their letters of objection are to be taken into account in reaching a decision on the proper outcome of the petition before me and I have given them all careful attention.
5. Mrs Garnham (a PCC member) and Mr Vickers both make the same complaint, namely that the introduction of the screen and projector on a permanent basis would look "*totally out of place*" in the interior of this Grade 1 listed building (Mrs Garnham also makes a number of helpful observations about the attendance at and use of the church, which I consider further below). Mr Clegg also "*does not agree with the proposal in principle given the status of the church itself*" but chooses to make a further and more refined objection, namely that the proposed positions of the screen and projector are out of keeping with the interior. He goes on to suggest that positioning the equipment behind the centre of the archway immediately behind the pulpit would be more appropriate as it would then be out of sight when not in use.

6. I have given very thoughtful consideration to each of these views as I have deliberated over the correct outcome in this case and I am most grateful to each of the objectors who have taken the trouble to consider the plans and express their views so cogently. Their love for and interest in the church is evident and I have borne in mind the important points they have raised.

Attendance at and use of the church

7. I am informed, by the Statement of Significance submitted by the petitioners in support of their petition, that the church is currently used on the first Sunday for evening prayer, each second Sunday for a Family Worship service, each third Sunday for Holy Communion and every fifth month for a “United 5” service. I am told, and accept, that there are also community events such as also an annual flower festival, Harvest Festival event, and cake stalls for the community, and that festival services are also held - including Christingle, carol and Easter Day services. Mrs Garnham, in her letter of objection, suggests that this is not an accurate summary of the present use of the church, suggesting that in fact the numbers attending services are diminishing, that the flower festival is not held every year and that family services have faded out.
8. However, where evidence of the type before me relating to use and attendance is provided on an impressionistic, rather than truly scientific, measured basis, there is room for some divergence of opinion. In assessing this, I note that the Petitioners very fairly observe that the current congregations of evening prayer and holy communion number less than ten people, whilst also going on to explain, importantly, that the Family Worship service has a much larger congregation – most recently numbering fifty two people. Having considered the evidence before me I am persuaded by, and so find that, the formal evidence provided by the petitioners in support of their contentions as to the church’s use is correct in its fundamentals, even if some of the services and attendances wax and wane in terms of numbers or regularity of occurrence. I am also persuaded that the gravamen of the petitioner’s point is well made, namely that the community value the church’s contribution to the village and the fact that it provides regular services for people to attend.

Basis for seeking the petition

9. The reason the Petitioners have brought this petition relates to the fact that the Family Worship service uses a projector, projector stand and screen and that these are regarded as “*vital to the smooth and effective running of the Family Worship service*”. (I should add that this point is uncontroversial and none of the objectors have raised any suggestion that the projector and screen are anything other than key elements of successful Family Services at this particular church). At present, there is a temporary set up of the relevant equipment, which is seen as a potential hazard. The stand has to be placed in the aisle and the screen is, it is said, balanced precariously in the pulpit. With little or no change, the current Family Worship team say that they will find it challenging to continue with the services, as the current set up is, it said by the Family Worship team, an “*accident waiting to happen*” and that the equipment raises a risk of causing an injury. I note that Mrs Garnham, in her letter of objection, strongly disagrees with this, and this is considered further below.

Duffield consideration

10. Because this is a change to the interior of a Grade 1 listed church, and one which will change the interior appearance¹ of the church, careful evaluation using the *Duffield*² questions is designed to guide my decision-making and accordingly I have applied careful thought to this question using that framework.
11. The *Duffield* questions are (in summary) as follows: (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 question 1 is “no”, the ordinary presumption 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;* (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 the strong presumption against proposals which will adversely affect the special character of a listed building, will any resulting public benefit outweigh the harm³?*
12. I have considered each of these questions (as applicable) as follows:

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

13. The interior of the church has a traditional pewed layout and a calm, light and plain appearance. The official Historic England listing of this church refers to the interior as follows: “*double-chamfered, round chancel arch on chamfered piers. Otherwise plain. Probably late C17 octagonal font with lead lining. Wooden plaque of 1821 recording benefactors. Victorian coat of arms on painted wooden plaque.*” The majority of the features singled out for special mention as contributing to the church’s significance in the listing are not impacted at all by the proposed introduction of projector and screen. However, the very helpful mocked-up technical drawings of the presentation of the proposed installations indicate that the screen, when open, will partially cut across the archway.
14. Despite this impact when the screen is open, the fact that the screen will be closed for the majority of the time, except when in use during specific services, and that only a very slim, discreet colour matched bar will be visible at other times, plus the fact that the works have no permanent impact on the fabric of the building (a point considered in greater detail below) mean that I do not consider that these works will harm the significance of the building⁴.

Duffield question (3): if the answer to question 1 is “yes”, how serious would the harm be?

¹ Although not, as I find and set out in more detail throughout this judgment, its character.

² *St Alkmund, Duffield* [2013] Fam 158; together with the guidance on interpretation of the *Duffield* questions given by the Court of Arches in *St John the Baptist, Penshurst* [2015] Court of Arches (Rochester) para 22 ff.

³ In answering question 5, the more serious the harm, the greater the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or II*, where serious harm should only exceptionally be allowed.

⁴ In this case amenity bodies have not been consulted, on the basis that the proposed works are not of such an extent as would be likely to affect the character of the church as a building of special architectural or historic interest.

15. If I am wrong in my conclusion that there is no harm to the significance of the building in this case, then consideration of question 3 is required⁵.
16. The works are described in documents before me as “permanent”, due to the fixed nature of the fastenings, the fact that the projector and screen will be attached to the wall at all times rather than packed away and stored as the current arrangement is (NB the projector screen will be closed and retracted to a slim bar, rather than open to the full extent of the screen, when not in use). However, it is important, in terms of assessing harm to significance, to consider that “permanent” in this sense is a different usage to “permanent” when it that word is used to convey the causing of unalterable changes to, or to the loss of, historic fabric. In this case, no such changes are proposed. The attachment of the projection and screen equipment are changes that are capable of being reversed without ill effects to the fabric of the church.
17. I entirely understand the concerns of those who have written with objections that the introduction of the equipment will be conspicuous and that placing modern technology on a fixed basis into an interior which is otherwise, in broad terms, unmodernised and traditional, might present a harmful visual juxtaposition. Yet it is unquestionably the case that the blending of well-designed modern and functional equipment into traditional spaces happens very often and works extremely well without detracting from the historic interest of the fabric or the spiritual and sacred atmosphere of the interior. I find that this is such a case. I am satisfied that the slim and discreet design of the equipment proposed renders it appropriate in the proposed setting, and that it is unobtrusive in terms of appreciating the character and features of the interior of this church (and I am supported in this by the conclusions of the DAC, drawing on its extensive expertise and experience).
18. Furthermore, I am pleased to note the careful evaluation of the options that has, I find, been undertaken in this case, with alternatives being given thoughtful consideration. For example, a free standing screen positioned in the middle of aisle (rather than a fixed screen positioned as proposed) was considered, but ruled out on the grounds of safety and lack of practicality given then movement and interaction of the Family Service. Other iterations of design, location and methods of affixing the equipment have been given careful consideration with the input and expertise of the DAC, and found to fall short of meeting the needs of the Petitioner or the aims or minimising impact on the interior. Those alternatives considered have included using an alternative of a large TV screen instead of the proposed projector screen; hanging the projector screen from the roof; siting the screen on poles away from the wall without a cassette. I note also that Mr Clegg’s suggestion of positioning the equipment behind the centre of the archway immediately behind the pulpit has also been given specific consideration. Because the archway is wide and low, siting the screen in the location suggested by My Clegg would have the undesirable effect of obscuring the band (located in the chancel area) and impeding the area where much interactive discussion takes place. If, as is hoped and planned by the Petitioners, the equipment comes increasingly into use during Holy Communion, this proposed alternative location would also hide the altar and sanctuary, which is evidently entirely unsatisfactory.
19. All of the foregoing options have been given most careful attention in conjunction with the DAC, the Archdeacon and the design team of the proposed contractors. Following a number

⁵ NB Assuming I am wring in my conclusions, then question 2 is covered in conjunction with question 5, below.

of design iterations, I am satisfied that a design has been arrived at which minimises the impact on the interior.

20. For the reasons above I conclude that, if I am wrong in relation to my primary conclusion under question 1 of *Duffield*, then the level of harm to significance by the proposed designs is, in any event, very low.

Duffield question (4) how clear and convincing is the justification for carrying out the proposals?

21. There are two strands to this question (which, again, arises only in the event that I am wrong in my primary conclusion): the first is whether there is any need for replacement of existing AV arrangements. The second is the question of what, if any, enhancement to the church the proposed works will bring.
22. As to the first question, I note that Mrs Garnham, in her letter of objection, strongly disagrees with the concerns expressed by the Family Worship team, namely that they will find it challenging to continue with the services under the current set up as it is an “*accident waiting to happen*” and that the equipment raises a risk of causing an injury. Rather Mrs Garnham regards the existing arrangement as perfectly satisfactory and she observes that she does not know “*where the “dangerous” remark comes into it.*” This has prompted the Petitioners to provide the Court, helpfully, with greater specificity as to the dangers and hazards presented by the existing temporary arrangement of screen and projector. In particular: the positioning of the portable screen in the pulpit requires an arrangement of kneelers to balance it; the projector, located in the aisle, results in leads and cables having to be covered up in an unsatisfactory manner and, in the course of a very interactive service such as an all-ages Family Service inevitably is, there is an obvious and concerning trip hazard risk posed by this sort of arrangement.
23. Taking all of these factors in the round, I am persuaded, on the balance of probabilities that the risks and problems described are real and do indeed present potential health and safety risks which it is important for the church to address.
24. Statement of Needs provides that “*The church needs suitable, up to date audio visual equipment, in order to facilitate the current Family Worship services and future community use.*” Further evidence from the Petitioners provides “*We have a benefice strategic plan that is very much based upon the Diocesan Strategic Vision of Living Christ’s Story*”, which includes having a church that is fit for the 21st century, which is inclusive, accessible and creative. A church where a mixed ecology model that includes digital transformation is the norm. From 2015-2019 attendance at Thorganby declined by 53%. It is not a church that has not only halted the decline but is growing – this is very much down to the family service and a willingness of the majority of the PCC to embrace change, including technology”.
25. It is trite that in order to develop, grow attendance and thrive as a church community, open-mindedness and creativity as to the presentation of services and other forms of engagement is vital. Although there has been some challenge in this petition to the accuracy of numbers attending services and the frequency of activities engaged in at this church (and I have dealt with this point above), the point of broader application is that, even if such challenges to

stated attendance levels are correct⁶ it is plainly no answer to that to say that this means that nothing should be done. Fairly basic avenues of improvement, such as better and more appropriate AV systems, are a simple and effective means of supporting a broader spectrum of worshipping styles, enhancing accessibility and embracing modernity to the benefit of the church. In this case there are the funds available and the willingness by the majority of the PCC to inject the necessary vision and energy into following up on the introduction of the proposed equipment to give it, in my judgment, the maximum potential of success.

26. Given the foregoing I am satisfied that the Petitioners have, in this case, provided very clear and convincing justifications for the proposed works.

Duffield question: (5) bearing in mind the strong presumption against proposals which will adversely affect the special character of a listed building, will any resulting public benefit outweigh the harm?

27. It is apparent that the materials before me clearly evidence that the proposed works will support the church in its mission, enhance its offering to its existing congregation and assist it in developing its attendance. All of this will help the church in moving towards a position where it continues to flourish and thrive.
28. Separately there is the more limited, but no less important, point that it is plainly of significant public benefit to remove the public safety hazards which I have found (above) to exist under the present arrangements. This is also true of the aesthetic impact of the proposals: it is not satisfactory for such a lovely and important church to maintain the current Heath Robinson arrangements.
29. I am satisfied that benefits identified by the foregoing points factors outweigh the low level of harm I have found to exist in this case. Any presumption against the works is therefore amply rebutted⁷.

Conclusion

30. I am satisfied that a faculty should be granted in this case, for all of the reasons set out above.
31. The faculty is, therefore, granted subject to the following conditions:
- 31.1. The projector screen cassette shall be white or cream in colour.
 - 31.2. The equipment supplier shall confirm in writing to the parish that the new equipment is PAT-compliant at the time of connection and should offer a risk-based frequency of future PAT inspection as required by the IET Code of

⁶ And the accompanying points regarding diminishing attendance and lack of interest in using the proposed equipment because of the existence of a thriving village hall

⁷ For the avoidance of doubt, and in order to avoid duplication, these reasons apply equally to rebut the ordinary presumption in faculty proceedings "in favour of things as they stand" under question 2 of *Duffield* in the event that my original conclusion (under question 1) that these proposed works will have no negative impact on the significance of this church is correct.

Practice for In-Service Testing of Electrical Equipment, 5th edition 2020, to be recorded in the church's PAT Register.

- 31.3. An accredited electrician shall confirm that the wiring between the system source (13A socket or connection box) and the new apparatus satisfies the Wiring Regulations, Regulation 521.10.202, particularly concerning the prevention of premature collapse of cables in the event of a fire and that there is adequate segregation of circuits generally, and accessible local isolation.
32. The time for completion of the works shall be eighteen months.
33. It only remains for me to thank all those (including the polite and thoughtful opponents in this case) who have been involved in giving this most careful thought, from every angle, and to wish the church enjoyment and success in using their new equipment.

Lyndsey de Mestre KC

Chancellor of the Diocese of York

7 September 2023