

ECCLESHALL: HOLY TRINITY

JUDGMENT

- 1) The church of The Holy Trinity in Eccleshall is an important Grade I listed church. The Petitioners and the Church Buildings Council both cite Pevsner's description of it as "*one of the most perfect C13 churches in Staffordshire*".
- 2) The Petition sought a faculty for removing the lead from the roofs of the nave, south porch, and south aisle of the church and replacing it with Kemperol V120. Kemperol is a fibre glass reinforced felt material. I have no reason to doubt the Petitioners' assertion that it has been used on the roofs of important secular buildings but it is neither a traditional nor a well-tested form of roofing for historic churches.
- 3) Following the Diocesan Advisory Committee's recommendation as considered below the Petitioners have applied to amend the Petition and to confine the proposed re-roofing to the roofs of the south aisle and south porch.
- 4) There is no party opposing the Petition but there have been a number of expressions of opposition and concern which I will take into account and which are set out below.
- 5) In addition to considering the various submissions I have made an informal and unaccompanied site visit.

The Roofs at Holy Trinity.

- 6) Holy Trinity is a large church set a little way off the road and surrounded by a churchyard containing some large trees. The roofs of the nave and south aisle are of a low pitch and are set behind substantial parapets. It is common ground that the nave roof is not visible other than from above. The porch and south aisle roofs are said by the Church Buildings Council

to be visible from both of the approaches to the church from Main Street. Andrew Capper, the church's architect, says that only the upper section of the south aisle roof is visible from anywhere in the town. The impression I formed following my site visit was that the extreme upper parts of the roof over the south aisle can be glimpsed behind the parapet from the outer edges of the churchyard but that this roof does not contribute materially to the overall appearance of the church.

- 7) The roofs of the south porch and south aisle are markedly lower than that of the nave. It is apparent that gaining access to the nave roof from ground level would be a difficult exercise. Conversely there are a number of low points which could be readily accessed from ground level and from which access to the roofs of the south porch and south aisle could be effected with comparative ease.
- 8) In May 2012 there were two separate incidents in each of which part of the lead covering the south aisle roof was removed. The Vicar sought permission to remove the lead on the roofs and replace it with Kemperol as a matter of urgency. It was apparent from the tone of James Graham's e-mail that the repeated thefts and the anxiety about further thefts were placing considerable strain on the incumbent, churchwardens, and those caring for this church. In response I made it plain that I was not prepared to authorise the replacement of lead by any other material save for terne-coated stainless steel without proper consideration through the process of a faculty application. However, I did authorise the removal of the lead on the roofs to the extent that theft was felt to be imminent. I note that the Church Buildings Council has expressed its concern about this decision saying that it went beyond what was required to address the needs arising from theft.
- 9) In fact the Parochial Church Council did not find it necessary to act upon that licence. There have been no further thefts and the lead remains in place save as to about 13m<sup>2</sup> of the roof of the south aisle.

10) That portion of the south aisle roof was initially protected by temporary covering. However, that covering did not prove effective to keep out the elements and in June 2012 it was discovered that water ingress was occurring. In those circumstances I authorised the application of Kemperol on a temporary basis to those parts of the south aisle roof from which lead had been stolen. However, I made it clear that such permission was without prejudice to the approach which was to be taken to the faculty petition. Thus at paragraph 8 of my Note of 18<sup>th</sup> June 2012 I said:

“In the particular circumstances here of the risk of damage to the fabric of the church from the insufficiency of the temporary roof covering and the PCC’s desire to move forward with Kemperol I am prepared to authorise the application of Kemperol to the roofs of this church.

However, I wish to emphasise the following matters:

a) I am not prejudging the outcome of the faculty petition. I will determine that petition on the basis of the material obtained and the submissions made in the course of the petition. In particular I will take account of the advice of the Diocesan Advisory Committee and any representations from English Heritage or the amenity societies. It may be that the faculty seeking permission to apply Kemperol will be granted but it equally may well be that it will be refused.

b) In determining the petition I will not regard the fact that Kemperol has been applied to the roofs pursuant to my licence as being a relevant factor. In particular the presence of Kemperol on the roofs pursuant to my licence will not operate as an argument in favour of granting the petition to apply Kemperol.

c) The Court reserves the right to require the removal of the Kemperol covering and its replacement with a different material. The PCC needs to be aware that if it chooses to apply Kemperol in advance of the determination of the faculty petition it is running the risk that it will be required to remove that material and replace it with a different roof covering.”

- 11) Thus I will treat the fact that part of the roof of the south aisle currently has a Kemperol covering as irrelevant to my decision.
- 12) The alarm system protecting the roofs has been upgraded and there has been no further theft of lead at this church.
- 13) Mr. Capper has provided a breakdown of the comparative costs and likely lifespan of alternative roofing materials. It would cost £100,000 exclusive of VAT to recover the roofs of the porch and south aisle with lead and a lead roof would last for eighty years or so. To use terne coated stainless steel would cost £50,000 and would also give a life expectancy of eighty years. The use of Kemperol would cost £33,000 with an estimated life expectancy of thirty to forty years (though only the period of twenty years would be guaranteed).

#### **The Submissions.**

- 14) The Petition as originally framed sought permission to replace all the lead on the roofs of the nave, south porch, and south aisle with Kemperol. The Petition was considered by the Diocesan Advisory Committee on 24<sup>th</sup> July 2012. That Committee concluded that the works would materially alter the appearance of the church. However it recommended the works subject to the proviso that the Kemperol replacement be confined to the south aisle and south porch roofs and that the nave roof remain leaded. That was the decision of nine of the eleven members present at the meeting. However, two members opposed any use of Kemperol.
- 15) Following the recommendation of the Diocesan Advisory Committee the Petitioners sought to amend the Petition to remove the application in relation to the nave roof. I accede to the amendment and so I only have to consider the re-roofing of the south aisle and the porch.
- 16) The Petitioners have put forward a number of arguments in favour of replacing the lead roofs with Kemperol. They boil down to the following points:

- a) It is said that there remains a real prospect that there will be a further theft of lead from the roof of the porch or south aisle. The removal of the lead and the ending of the consequent risk of theft are said to be likely to bring a number of benefits. Thus the value of the lead will be preserved and the church will be saved from further expense. It is also said that there will be benefits in terms of maintaining public goodwill and of being able to recruit church officers together with the related benefit of those officers being able to perform their duties without undue concern about the risk to the roofs. In essence it is said that if lead remains on the roof the need to be on the guard against theft and to be alert to the need to replace stolen lead will be a burden on public goodwill and on the enthusiasm of potential church officers. A related but distinct point is that there is a risk that if lead is stolen from these roofs there will be damage to the interior of the church from the ingress of the elements. It is said that one of the benefits of using a different material is to remove that risk.
- b) It is said that the "*planned re-roofing would be entirely reversible*". Reversibility is, of course, a relevant consideration but in fact the Petitioners are making a slightly different point. They say "*after the twenty to forty years' life of the Kemperol roof it is reasonable to anticipate that improved non-metal versions for roofing will be available and also that further advances will be made to safeguard roof materials against theft.*" So the argument is not really that the proposed re-roofing is reversible. It is not being suggested that the Kemperol if applied should be removed before the end of its natural life. Thus the point is that the natural life of Kemperol is both finite shorter than that of other potential materials. In addition the position in respect of available roofing materials may well be different at the end of that natural life. The underlying point is that in the context of the lifespan of Holy Trinity there will only be a short period with Kemperol on the roof and it may well be that matters will be different when the roof comes to be replaced. Kemperol is not being put forward as a short term expedient but it is one which will be reviewed in the foreseeable future.

c) The Petitioners also say that the relevant roofs are only visible to a limited extent and that the application of a Kemperol roof covering will not detract from the "*visual impact and grandeur*" of the church.

17) The Petitioners set out at some length their reasons for wishing to apply Kemperol rather than terne coated stainless steel. However, those reasons are based on the information provided by (and the views of) Mr. Capper. They come down to this. It is accepted that terne coated stainless steel has a comparable life span to lead but it is more expensive than Kemperol. The steel is said also to be potentially attractive to thieves. In terms of appearance it is accepted that Kemperol has a different appearance from lead. In Mr. Capper's words "*the texture and colour of lead cannot be fully replicated by Kemperol*". However, with Kemperol "*the roof would have rolls and would have the dull grey general colouring of lead*". Conversely it is said that terne coated stainless steel "*has a more machine look*". Although it would be a "*reasonable imitation for lead*" nonetheless "*visually Kemperol looks better*".

18) The church is insured with Ecclesiastical Insurance and the Petitioners have provided a copy of the insurers' strong recommendation that the lead be replaced with material less attractive to thieves.

19) Eccleshall Parish Council has written supporting the Petition. Indeed the letter from its clerk says that the Council wishes to express "*strong support*" for the proposed re-roofing. In essence the letter echoes the Petitioners' submissions that there is a benefit in having a roof made of material which is not attractive to thieves. In addition the Council expressly says that it does not believe that the use of Kemperol would devalue or degrade the appearance of the church building. The Local Planning Authority is Stafford Borough Council and its Senior Conservation Officer has written saying that there are no objections to the use of Kemperol on the roof of the south aisle.

20) I have already said that the Diocesan Advisory Committee has recommended approval. That is a powerful factor. I do not overlook the

fact that two members of the Committee opposed the use of Kemperol. That opposition is a relevant factor but markedly less significant than the support given by the substantial majority of that Committee.

- 21) There has been no response to the public notice nor to an advertisement placed in a local newspaper.
- 22) Neither English Heritage nor the Society for the Protection of Ancient Buildings has chosen to make any comment on the Petition. This is despite the Registry having written to both bodies in August 2012 and again in November 2012.
- 23) However, there have been important representations against the Petition. The Victorian Society did not wish to be made a party to the Petition. It expressed sympathy for the position of the Petitioners and accepted that it was reasonable to say that the lead here was easily accessible to thieves. Nonetheless, it expressed the strong view thatterne coated stainless steel rather than Kemperol should be used as a replacement and supported this view by reference to the English Heritage Guidance Note "Theft of Metal from Church Buildings".
- 24) The Church Buildings Council also expressed opposition to the proposed use of Kemperol. The key points appearing from Janet Gough's letter of 5<sup>th</sup> September 2012 are:
  - a) The installation of the roof alarm should be regarded as potentially effective in removing or minimising the risk of theft. I add that the fact that there has been no further theft since May 2012 might be thought to support this point.
  - b) The current roofs are structurally sound.
  - c) Kemperol with a guaranteed life span of only twenty years is "*not appropriate*" for a church of the quality of Holy Trinity. This is because the visibility and appearance of the roof is not the only consideration

and “the use of a traditional roofing material that is known to last [is] most appropriate”.

- d) The Council was of the view that the appropriate course would be to leave the lead in place until it comes to the end of its natural life. The Parish would then be able to evaluate the position in the light of the history of the use of the alarm and any improvements brought about by developments in the technology for securing lead roofs and legislative changes.
- e) It is not clear to me what the Church Buildings Council was proposing should be done in respect of that portion of the roof from which the lead has already been removed by thieves.

#### **The Approach to be Taken.**

- 25) The consequences of lead theft and the debate as to suitable alternative roofing materials have been addressed by a number of my fellow chancellors. In particular substantial judgments have been given by Hill Ch (Bexhill: St. Michael and All Angels – Chichester Consistory Court November 2011); Mynors Ch (Bromsgrove: St. John the Baptist – Worcester Consistory Court December 2011); and Commissary General Ellis (Eastry: St. Mary the Blessed Virgin – Canterbury Commissary Court November 2012).
- 26) I have already mentioned the English Heritage Guidance Note “Theft of Metal from Church Buildings”. In addition the Church Buildings Council’s Note “Materials For Roofing That Are Used Or Considered As Alternatives To Lead” provides valuable guidance.
- 27) Moreover, given that important listed status of Holy Trinity I have to have regard to the approach laid down by the Court of Arches in ***Re St Alkmund, Duffield.***
- 28) The position in summary is that the Petitioners have to show a good reason for such changes as they propose taking particular account of the significance of the church as a building of special architectural or historic



interest and the need for the benefits of any change to outweigh any harm to that significance.

- 29) In considering roofing materials I must take account of the very substantial benefits of lead and of terne-coated stainless steel as roof coverings. Those benefits are both aesthetic and practical. The practical benefits stem from the proven longevity and effectiveness of those materials. They combine with the aesthetic benefits in that roofs covered in lead were typically designed to be so covered. It follows that they will both look better and be better protected if covered in lead or a similar material. Moreover, the retention of lead or an equivalent material is more likely than its removal to be consistent with the architectural and historic significance of the building. It follows that the Consistory Court should be alert to those benefits; should seek to promote the use of such materials; and should be cautious where the use of an alternative material is proposed.
- 30) If the Court's recognition of the benefits of lead and terne coated stainless steel is to be more than just a pious utterance the Court must be prepared to reject petitions for the use of other forms of roofing where that is inappropriate no matter how strongly particular petitioners wish to have a different form of roofing. That does not, however, mean that there has to be an invariable insistence on the use of lead or steel. As indicated by Mynors Ch in Bromsgrove: St. John the Baptist account has to be taken of the nature and location of the roofs in question. Account must be taken of their vulnerability to thieves and their actual contribution to the appearance of the church in question. If the situation is such that a proper case is made out for using a material other than lead or terne coated stainless steel then the choice of material is a matter where weight is to be given to the judgement of the particular Parochial Church Council provided always that the proposed covering is adequate.

### **Conclusions.**

- 31) I must emphasise that I only have to consider the Petition in relation to the roofs of the south aisle and south porch. I am no longer concerned with

the roofing of the nave and it may well be that different considerations would apply if I were to be concerned with that roof.

- 32) I do have to address two questions. The first is whether it is appropriate to permit the removal of the remaining lead from the roofs of the south aisle and south porch. The second is, if such removal is to be permitted, should replacement of the lead by Kemperol be allowed.
- 33) I do not overlook the importance of Holy Trinity historically and architecturally nor do I overlook the real benefits of lead as a roof covering. I must give due weight in particular to the advice of the Church Buildings Council and to the fact that opinion was divided in the Diocesan Advisory Committee. Nonetheless the recommendation made by the majority of that Committee is a very powerful consideration.
- 34) I have concluded that it is appropriate to allow the remaining lead to be removed from these roofs. I am satisfied that notwithstanding the installation of an alarm and the absence of any attack since May 2012 the roofs are particularly vulnerable to theft. It was obvious to me on my site visit that gaining access to these roofs would pose no difficulty at all to someone of even moderate agility. Although the church is not isolated it is set apart from the nearby houses and potential thieves could expect to be reasonably safe from casual observation. That being so there is very considerable force in the Petitioners' concerns about the adverse effects flowing from the fact that there is part of the roof which is vulnerable. I accept that these roofs are barely visible and do not contribute significantly to the appearance of the church. That being so the benefits of removing the lead and so removing or minimising the risk of an attack outweigh the disadvantages which would follow from such removal. The approach advocated by the Church Buildings Council would amount to requiring the Parochial Church Council to "wait and see" whether there was to be a further attack. I have concluded that would not be appropriate. There have already been two separate instances of theft and the lead has gone from part of the roofs. The retention of the existing lead would involve an element of risk and uncertainty with consequent stress which would be

highly undesirable both in terms of the life of the church community and also in terms of ensuring the protection of the interior of the church. It is legitimate for the Petitioners to say that there is a problem which needs to be addressed now before the roofs are further damaged at a time chosen by thieves rather than by the church community.

35) If the lead is to be removed should its replacement with Kemperol be permitted or should the Court require the use of terne coated stainless steel? I have found this aspect of the matter more difficult. Kemperol is if not an unknown quantity certainly not a roofing material with established credentials in such settings. Terne coated stainless steel is a generally accepted alternative to lead. Although more expensive than Kemperol the difference is not great and such steel would have a markedly longer lifespan than Kemperol. I am influenced by the approach of Mynors Ch in Bromsgrove: St. John the Baptist with a measure of appreciation being given to the judgement of the Parochial Church Council. Here the Petitioners have explained their reasons for preferring Kemperol with the principal one being the view that Kemperol has a better appearance and one that is similar to that of a lead roof. Those are not obviously inappropriate views particularly given the recommendation of the Diocesan Advisory Committee. In those circumstances I am able (though it is a close run thing) to accept that the preference for Kemperol is a permissible exercise of judgement by the Parochial Church Council and to authorise its use.

36) I am, however, going to impose conditions to take account of the fact that the Petitioners are to some extent experimenting and to ensure that a record is kept of the outcome of that experiment. Accordingly, echoing the approach taken by Hill Ch in Bexhill: St. Michael and All Angels I will require that:

- a) The church architect shall report on the state of the installation on the first anniversary of the completion of the works.

- b) There shall be an express reference to the performance of the Kemperol roofing in each subsequent quinquennial report.
- c) Copies of these reports are to be lodged with the Diocesan Advisory Committee and to be provided by the Parochial Church Council to the Church Buildings Council, English Heritage, the Victorian Society, or the Society for the Protection of Ancient Buildings on request by any of those bodies.

STEPHEN EYRE  
CHANCELLOR  
28<sup>th</sup> February 2013