

In the Consistory Court of the Diocese of Lichfield

Re St Mary, Stafford

Judgment

1. By a petition dated 24th June 2010, the Rector, the Vice Chair of the Parochial Church Council and a member of the Parochial Church Council of St Mary, Stafford seek a faculty to remove the existing Victorian wooden entrance door and replace it with a new door, to install a new set of doors on the outer arch of the entrance porch, to relay the existing stone paved path to the door, to remove the modern store at the South West corner and replace it with a new disabled toilet, to install a new screen to screen the toilet area, to install new freestanding purpose made furniture, to re-form and re-order screens in the vestry area, and in the North West corner of the church to remove ten existing pews and create an exhibition area.
2. St Mary's is a grade 1 listed building. The petitioners have engaged Horsley Huber Architects Ltd, experienced ecclesiastical architects, to draw up its proposals and have drafted a detailed Statement of Significance and Statement of Needs.
3. The proposals have been subject to statutory scrutiny in the usual way:
 - i) consultation with the Diocesan Advisory Committee led to a certificate of recommendation dated 16th September 2010, with the proviso that three child pews are to be kept as examples;
 - ii) by letter dated 1st November 2010, the Church Buildings Council indicated that the proposed works all appeared to have been well planned and not to be controversial in the Council's view: it supported the granting of a faculty in the terms sought;
 - iii) by letter dated 24th November 2010, the Society for the Protection of Ancient Buildings, deferred to the Victorian Society in relation to the faculty sought;
 - iv) by letter dated 17th December 2010, the Victorian Society stated that it objected to the proposal to remove the existing Victorian wooden entrance door and replace it with a new door, whilst recognising that "some alterations may be necessary to improve access to the Church"; its reason being that it is a "fine piece of joinery and the ironwork, both decorative and functional, is especially good": it asked that its letter be taken into account by the Chancellor when the case was considered;
 - v) by e-mails dated 5th November and 21st December 2010, the Ancient Monuments Society expressed its concern about the removal of the door, suggested that if the proposed glass doors are installed the existing door could then be permanently pinned open in welcome when the Church is available for worship or visits and indicated that it wished to endorse the sentiments of the Victorian Society on the issue of the door;

- vi) by letter dated 1st December 2010, English Heritage indicated that it was happy with the proposals;
 - vii) by an e-mail dated 1st December 2010, Stafford Borough Council indicated that it would not be making any representations in this case; and
 - viii) by letters dated 15th February 2011 and 5th March 2011 the Staffordshire Historic Buildings Trust expressed its concern in respect of the proposed removal of the entrance door and its hope that the wrought iron gates at the outer entrance to the South porch are retained.
4. Following the public notice of these proposals, extensive press coverage of the plans, which have been on display in the church, a public meeting and consultation and detailed consideration, the only proposal to which there is now objection is in respect of the proposed removal of the entrance door and its replacement with a new door in English oak as the original but with two opening leaves and glazed vision panels. It is agreed that the wrought iron gates are to be retained and re-sited.
 5. In response to the public notice of these proposals four letters of objection were received at the registry. The writers of these letters were each informed in a pro-forma notice from the registry, sent pursuant to rule 16(3) of the Faculty Jurisdiction Rules 2000, that they may either leave the court to take their letter into account when determining the petition or become a party to the proceedings by serving written particulars of objection in Form 4.
 6. Mr Neil Thomas set out his particulars of objection in Form 4: this is dated 5th November 2010. He described himself in a letter dated 1st October 2010 as a regular worshipper at St Mary's, as on the electoral roll, although not living within the parish and as one of the team of stewards who keep the church open for visitors. Since then, in subsequent documents sent to the registry, Mr Thomas has made it clear that his only objection is now to the removal and replacement of the South door. He has, in the course of his correspondence with the registry, made it clear that he consents to the matter being determined on written representations and signed a document confirming that consent on 7th April 2011.
 7. The authors of the other letters of objection each elected for me to take their letter into account. I do not propose to identify each individual correspondent within this judgement, but their names are recorded at the registry, as are copies of their letters, the contents of which have been fully considered by me in reaching my conclusions in this judgment. I have taken the same course with the letters which were sent to Mr Thomas and which he has included with the material which he has submitted in support of his objection. In essence, the authors each wish for the door to be retained in view of its historical and architectural significance.
 8. In addition, thirty letters of support were received in or forwarded to the registry and, again, I do not propose to identify the authors or rehearse their specific content in this judgment. In essence, they each recognise the historical and architectural significance of the door but suggest that it is necessary for it to be replaced.

9. I have also been provided with a petition bearing the names, addresses and signatures of 107 members of the congregation of St Mary's who collectively signed in support of the faculty application and in particular "the replacement of the South West door with one that affords better access for disabled people and people with pushchairs". I have taken note of the petition and the number of signatures it bears, although it carries only limited weight as it addresses only the issue of access to the Church.
10. For present purposes it suffices to say that local opinion is divided, albeit with the majority of those who have written letters doing so in support of the proposals. The petitioners provided a detailed written response to the matters raised in relation to the removal of the door and its replacement and consented to the matter being determined on written representations if such a course commended itself to the court, which in the circumstances it does.
11. I have carefully considered the two ring binders which contain all the material which relates to this faculty application. In addition I have visited the church and was thus able to see for myself the door and the location of the other proposed changes. As I have already indicated, there is only one disputed issue which remains for my decision and even in relation to that matter the passage of time has ensured that further discussion and consultation has reduced the matter which I am asked to consider still further.

The Petitioners' Case:

12. The petitioners rely upon a Statement of Significance, a Statement of Need and upon subsequent statements submitted in accordance with directions given by the Chancellor. In the Statement of Needs it is stated that in 2009 St Mary's received 14,000 visitors to the church during the week, as well as many others for special and civic services, in addition to those who attended Sunday and weekday worship. The South West main door is described as large and cumbersome and it is apparent that the Church has been considering how to deal with it since October 2008, not least as it is the only usable door into the Church. For the majority of those who steward the Church it takes two people to open it fully and most of the time access is gained through a narrow gateway, lower than average height with a step: this is frequently referred to in the papers as a "wicket gate". The present situation is described as most unsatisfactory, as it means that access is difficult for ambulant people and almost impossible for anyone who is disabled or who has a child in a pram or pushchair. The Statement sets out that "if the main thrust of our work and our mission is to make St Mary's more accessible then dealing with the door is of prime importance for us. Two doors that could be easily opened would improve accessibility greatly. The glass panels that it is proposed are to be placed within the new double doors would give an added view and "transparency" from outside the church". The Church is endeavouring to increase the number of parents and children in the congregation and to make the Church not only more accessible but also more welcoming. The safety of visitors is also clearly an important consideration.

The Views of the Objectors:

13. Mr Thomas, in his carefully presented documents, makes it clear that no one should object to making St Mary's more welcoming and accessible, especially to disabled people. In his final submissions, dated 25th June 2011, he recognises that the Church welcomes a growing number of visitors and that there were 16,253 in 2010. He applauds the majority of the proposals, which he describes as addressing "the practical needs of today's congregation, worshippers and visitors to St Mary's, while showing due regard to the historic and architectural importance of the fabric". He commends the same approach to me, in resolving the disputed matter of how the existing South door should be treated.
14. Mr Thomas, in his written submissions, sets out the historic importance of the South door. He states that he is supported in his view of the provenance of the door by the Reverend Michael Fisher, an architectural historian and author of the official guidebook to St Mary's, although he acknowledges that Father Fisher does not share his opposition to the removal and replacement of the door and considers it to be purely functional and of no great historical or architectural merit. Mr Thomas accepts that it is functional but submits that that does not affect its importance as a part of Sir Gilbert Scott's restoration of a grade 1 listed building.
15. In dealing with "the alleged need to remove and replace the South door" Mr Thomas makes it clear that it is no part of his case that the way the door is used at present is satisfactory. He, however, contends that all the shortcomings can be overcome by changing the way the door is used and by additional measures. It is accepted that the "cat flap", as he graphically describes the "wicket gate", presents an obstacle to disabled people, particularly those in wheelchairs, to parents with young children in prams, pushchairs and buggies and that it is too narrow to permit easy access. Further, he accepts that the door is not suitable for being opened and closed repeatedly during the day. Mr Thomas's proposal is, therefore, that the door should be kept open when the church is open to the public, as is already common practice when the weather is fine during the summer. He supports the petitioners' proposal for glass doors to be introduced in the outer entrance to the porch and suggests that they "will go a long way to solving the problem of heat loss during the winter months". He disagrees with the petitioners' argument that a single glazed barrier would not be sufficient for comfort and energy efficiency during the cold weather.
16. In summary, therefore, Mr Thomas contends that no need exists to remove the South door in order to make the church more accessible to disabled people or others. It is his submission that, if the faculty is granted enabling the outer entrance to the porch to be glazed, as is proposed and which he supports, it would be unnecessary for the existing door to be removed and replaced as the wooden door could simply be left open when the church is open to the public and that this would obviate the difficulties in relation to access, the unwelcoming nature of the door and the difficulties in relation to opening and closing it.

The Petitioners' Response:

17. In response to this proposal the petitioners make it clear that since a meeting of the congregation held on 13th October 2008 they have continued to look at ways of making the church building "a better tool for mission" and more accessible to more people. In their written responses the petitioners indicate that they have considered other alternatives to removing the door and have spent time as a planning group, with the architect and with the Diocesan Advisory Committee in discussing alternatives. It is contended that Mr Thomas's suggestion that fixing glass doors to the outside of the porch will enable the church to keep the large door open all the time is "totally unrealistic". Reliance is placed upon the architect's advice about the necessity for the provision of a draught lobby (a buffer between cold external temperatures and the heated interior of the building) and it is contended that it is not a practical proposition to leave the door open, even with glass doors on the outside, as the cost of heating St Mary's is enormous already and would be "unbearable" if the door was to be left open. It is further argued that if the door was open all the time, with just glass doors out onto the thoroughfare, the church would lose the security and privacy that is at times required. It is contended that to have new doors which open easily will give easier access, better security and greater heat retention.

The Balancing Exercise:

18. This petition, in common with all petitions concerning significant alterations to listed churches, must be evaluated in the context of a heavy presumption against change. The onus of proof lies with the proponents of change. The burden is not readily discharged. The practice of the consistory court is to follow the so-called *Bishopsgate* questions as expressly approved by the Court of Arches in *Re St Luke the Evangelist, Maidstone* [1995] Fam1.

(1) Have the petitioners proved a necessity for some or all of the proposed works either because they are necessary for the pastoral well-being of the parish or for some other compelling reason?

19. Necessity is a broad concept. It embraces more than merely unavoidable repair work and includes works "necessary for...pastoral well-being ...or for some other compelling reason" (*Re St Helen, Bishopsgate* (1993) 3 Ecc.LJ 256). In *Re St John the Evangelist, Blackheath* (1998) 5 Ecc.LJ 217, *Southwark Consistory Court*, Chancellor George QC (as he then was) ventured that 'necessity' and 'necessary' in the context of the *Bishopsgate* questions meant 'something less than essential, but more than merely desirable or convenient; in other words something that is requisite or reasonably necessary'.

20. The word 'necessity' should not be taken in isolation as an abstract concept, rather it should be read in its clear context which imports the wider concept of pastoral well-being or some other compelling reason. Seen in this way, the meaning and effect of the *Bishopsgate* approach is readily comprehensible, continuing to impose a high standard of proof on those who seek to discharge

the presumption against change applicable in the case of all listed buildings, yet admitting of factors concerning the role of the church as a local centre of worship and mission. This is central to the operation of the faculty jurisdiction in consequence of the overriding consideration set out in section 1 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991.

21. In relation to the first question there is no doubt in my mind that the petitioners have made out a case of necessity. The content of the Mission Action Plan and legislation for the provision of facilities for the disabled weigh heavily in making churches fit for purpose in the twenty-first century. I have been impressed by the measured and sincere way in which the petitioners have articulated the need to provide appropriate and flexible facilities for the mission and witness of the church community, having particular regard to accessibility and the needs of the disabled and youngsters and families. I am also satisfied that the proposal has been formulated in the light of a holistic evaluation of the use of the entire church building in the course of which other alternatives have been given such consideration as they deserve. Mr Thomas's proposal, that the door is not removed but left open whenever the church is open following the installation of the glass doors, deserves careful consideration. On analysis, however, it does not seem to me that this is an appropriate solution when the issues in relation to the heating of the church, security and privacy are taken into account.

(2) Will some or all of the works adversely affect the character of the church as a building of special architectural and historical interest?

22. The answer to this second question is self-evidently in the affirmative.

(3) Is the necessity proved by the petitioners such that in the exercise of the court's discretion a faculty should be granted for some or all of the works?

23. Having reflected on all the material before me, I am satisfied that the proven necessity is such as to outweigh such adverse effect and that a faculty should be granted. In doing so, I am fortified by the detailed assessment given to the proposals by the DAC and English Heritage. I have given particularly careful consideration to the objections from the Victorian Society and the other highly qualified organisations which I have listed earlier in this judgment. It is, however, clear on analysis that the historical and architectural significance of the door has been the quite natural consideration of these organisations, rather than the practical considerations for the church in the twenty-first century. Mr Thomas is to be commended for balancing these two factors and it is in the light of these that he made his suggestion of leaving the door open whenever the church is open. In doing so, he recognised the practical matters which have weighed heavily with the petitioners and which he supports.

24. English Heritage, in its letter, recognised that the proposed replacement of the South West door has "generated some local controversy". It acknowledged that "this proposal would entail the loss of the existing 19th-century door, which probably dates from the Scott restoration of the church in the 1840s",

but pointed out that the door has subsequently been altered by the insertion of a low wicket door in slightly differing style and finish, cutting through the original scroll hinge and cill rail damaging both the visual and structural integrity of the original work. In practical terms the low height and narrow width of the wicket door make it both inconvenient to use and an inauspicious entrance into the imposing interior of the historic church. It accepts that this door "does not speak of the sense of welcome and accessibility which the Church seeks to offer today". The letter recognises that St Mary's has considered a wide range of options seeking to retain or adapt the historic door in some form but that none of these have proved realistic either practically or visually. English Heritage is persuaded by these arguments and therefore does not object to the replacement of the existing door with the new part glazed door. It considers that "this retains many echoes of the 19th century door in its design and construction while in its two leaf form and narrow glazed panels it will provide a workable modern access into the church".

25. The Reverend Michael Fisher, an architectural historian, to whose view of the South West door Mr Thomas referred in his submissions and who he described as the acknowledged expert from whose works he has derived most of his knowledge, does not consider the door to be, by itself, of any great historical significance. He describes fitness for purpose as one of Sir Gilbert Scott's guiding principles in the restoration of the interior of St Mary's and points out that since the completion of Scott's restoration many changes have taken place there involving the modification or replacement of furnishings and structural items dating from his time, in order to adapt the building to changing liturgical needs, but in a sensitive way.
26. In his letter in support of the proposed changes he states that the "existing South door has served its purpose well for the past 166 years and is clearly showing signs of wear. It is unlikely that Scott would have any qualms about replacing it, as he himself replaced what was there in 1842. To object to its removal, simply because it was part of Gilbert Scott's restoration is not a very cogent argument. As I have said, its purpose was, and is, purely functional. I would be the last to deny the significance of Gilbert Scott's pioneering restoration work at St Mary's, but it represents only one epoch in the history of the building. In carrying out his work, Scott, guided by the liturgical principles of the Camden Society and the Oxford Architectural Society, replaced features which reflected the fashions of the 18th century just as the post-Reformation era removed furnishings of the mediaeval period. While treasuring what has gone before, the present age needs also to make its statements, both aesthetic and practical, in furthering the Church's mission to the community which it serves". He describes the proposed new double doors as both practical and convenient, the design as good and not at all out of keeping with the porch. In his opinion it would be more detrimental to the scheme as a whole if the existing door were not be replaced with something better, given that the purpose of the scheme is to enhance both the appearance and practical value of the west end of St Mary's, which was also one of Gilbert Scott's objectives in the 1840s.

Conclusion:

27. It therefore follows that a faculty will pass the seal. It will be subject to the following conditions:
- i) that the South West door is to be retained by the Church in view of its historical and architectural significance; careful consideration is to be given to whether there is somewhere in the Church where it can be displayed or failing that as to how and where it is to be stored;
 - ii) that the carved ends of the pews which are removed are retained and displayed;
 - iii) that the three child pews are to be retained, as recommended by the DAC;
 - iv) the wrought iron gates are to be retained and re-sited near to the entrance to the church; and
 - v) that trial holes are to be dug before work commences in relation to the drains to establish the ground conditions.

Her Honour Judge Sybil Thomas
Deputy Chancellor of the Diocese of Lichfield
23rd November 2011.