

IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD

ST. BARTHOLOMEW, TONG

JUDGMENT

- 1) The church of St Bartholomew in Tong has a Grade I listing. That is a mark of its national importance. The church dates from 1260 but in its current form is largely the result of rebuilding undertaken in 1410 with some further late Victorian works to the interior. The interior of the church contains Fifteenth Century oak choir stalls with misericords; a Jacobean pulpit; and one of the finest groupings of medieval tombs and effigies in the country. For current purposes it is relevant to note that the church's exterior appearance remains largely that of the Fifteenth Century rebuilding and is itself of national significance.
- 2) Since 2015 the Priest in Charge, Prebendary Pippa Thorneycroft, and the Parochial Church Council have been engaged in the "Tong Twenty Twenty" project. This is an ambitious project which has involved a number of works of reordering and restoration. Those works have had the objectives of making the exterior of the church watertight and fitting the interior and the church as a whole for the Twenty-First Century.
- 3) In the course of the project the court has approved sundry works. It is of note that the various proposals have been developed over time and that there has been close cooperation between those involved on the ground in the parish (the priest in charge and the Parochial Church Council together with their architects and other advisers) and the Diocesan Advisory Committee, Historic England, the Church Buildings Council, the Society for the Protection of Ancient Buildings, and the Victorian Society. That cooperation has included a number of site visits. The work has been done in phases and initial proposals have on occasion been modified to take account of the views expressed by the various external bodies. The material put forward in support of the proposals has frequently been of the highest quality. As a consequence of this the general thrust of those proposals has had the support of the interested heritage and conservation bodies although

reservations have been expressed about various matters of detail. The approach which has been taken could serve as a model of how to secure the future of a highly listed church while at the same time having regard to its national significance.

- 4) In my consideration of the current application I have found both the national significance of the church and the approach which has been taken to the various works to be relevant.

The Current Application.

- 5) In December 2019 I approved a further tranche of the works. This tranche included the installation of glass doors outside the existing wooden doors at the entrance from the south porch. That element of the works was intended to make the entrance more welcoming and was associated with the creation of a space near the entrance where some of the historic artefacts associated with the church could be displayed. The glass doors were to be closed but the existing oak doors would as a consequence be open all day.
- 6) Those proposals had been supported by the Diocesan Advisory Committee and the Church Buildings Council. The Victorian Society had chosen to make no comment and Historic England had expressed itself content to defer to the Diocesan Advisory Committee on this issue. The Society for the Protection of Ancient Buildings had expressed some concerns about the glazing and position of the new doors but it was apparent that the Petitioners had gone some way to address those concerns and the Society's main concern was as to works affecting the pews which were part of the same tranche of works.
- 7) The specification which was put forward at that time and approved involved the glass doors being in a lining timber frame measuring 60mm by 100mm and fixed into the surrounding stone with paired patch hinges and with oak bar handles. The glass was to have images of three knives (for St Bartholomew) and of a *fleur de lys* (for the Blessed Virgin Mary) etched into them.
- 8) These works started in the Spring of 2020. That was, of course, shortly after the onset of the Covid-19 pandemic and the imposition of restrictions to address that pandemic. One consequence of that was that the architects' practice which had

been engaged in the project furloughed the conservation architect who had been working with the Petitioners and her role was taken by other architects who did not know the church.

- 9) In June 2020 the contractors engaged to install the doors and frame began work. They reported to Preb Thorneycroft the advice of the manufacturers of the doors to the effect that the specified lining frame would not be strong enough to hold the glass doors. It also became apparent that the detail of the stone moulding was such that the proposed lower hinge would have little to support it. In the light of that Preb Thorneycroft accepted the advice of the architects' practice and the contractors that the appropriate course was to install a thicker frame and for there to be floor socket fixings with a bottom bar rail rather than the originally specified lower hinge. On that basis a thicker frame was installed being 90mm by 95mm rather than the specified 60mm by 100mm. In addition the floor sockets were installed. The glass doors have not yet been installed but the frame and sockets are in place.
- 10) Preb Thorneycroft accepts that she should have consulted the Diocesan Advisory Committee and the Registry about the changes to the specification and should have sought the court's approval for the modification modest though she believed them to be. She does, however, note that she was acting on the advice of the contractors and architects in the circumstances of the early stages of the response to the Covid-19 pandemic.
- 11) It is in the light of those matters that Preb Thorneycroft and the churchwardens apply for amendment of the faculty to authorise the works which have been actually undertaken.
- 12) The Petitioners seek two further amendments to the faculty.
- 13) The first is for the specified oak bar handles to be replaced by stainless steel handles. This is because the Petitioners have been advised by the contractors engaged to install the door that oak handles are likely to become greasy and will be difficult to clean. They believe that although stainless steel handles will also become greasy through use they will be easier to clean than wooden ones. The

Petitioners confirm that if the Diocesan Advisory Committee were to express strong opposition to this they would not press for this amendment.

- 14) The second amendment sought relates to the symbols on the glass doors. The faculty provided for these to be etched onto the glass. The Petitioners seek an amendment providing for the symbols not to be etched on to the doors but for the symbols to be attached by way of a printed film applied to the doors. I have understood this to be akin to the application of a transfer. The Petitioners explain that this is because at the time of the original petition they had not realised the cost of etching the non-reflective glass which will add nearly £8,000 to the cost of the project. The Petitioners seek permission for the proposed images of knives and a *fleur de lys* but point out that the principal purpose of having any image on the doors is that of ensuring that those approaching realise that the doors are there and do not walk into them inadvertently. In the light of that they would be content with other symbols which achieved the same result and they refer to a Greek key pattern or a row of circles as other options which could be adopted.

The Procedural History.

- 15) I sought the advice of the Diocesan Advisory Committee and asked that Committee to consider the matter as if it was addressing a petition to install doors in the form which the Petitioners now sought. That Committee said that it did not recommend the proposed works. The Notification of Advice set out the Committee's "principal reasons" for its position in clear but comparatively short terms. I invited the Committee to provide such expanded reasoning as it wished to supplement that in the Notification of Advice but the Committee confirmed that it did not wish to expand on the views already expressed.
- 16) In light of FJR rule 20.3 (2) I considered whether the proposed amendments would constitute a substantial change in the authorised works. In my judgement that question was finely balanced. However, I concluded that even if the amendments would be a substantial change it was not necessary to require further public notice or notice to any amenity society or similar body. That was because in the light of the stance of the Diocesan Advisory Committee I was satisfied that the potential arguments against the proposed amendment would be available to me even without such notice.

17) I was satisfied that it was appropriate to deal with this matter on the basis of written representations and the Petitioners were content with that course. They have provided written submissions the thrust of which I have summarised above and these were supplemented by photographs showing the current appearance of the porch with the frame in place but awaiting the installation of the glass doors.

The Reservations of the Diocesan Advisory Committee.

18) The Committee characterised the door frame which had been installed as “far too heavy”. It was said to be “too dominant visually” and to be such as to cause a “higher degree of aesthetic impact on the immediate setting” (sc a higher degree of impact than the specified frame). It was suggested that the position could be improved by “trimming [the frame] back to the initial design” or by painting the frame so as to blend in with the masonry. However, it was noted that some members of the Committee had reservations about each of those mitigations.

19) The Committee did not express a view on the use of floor socket fixings instead of the previously specified lower hinge and I do not understand that aspect of the matter to be controversial.

20) Turning to the door handles the Committee remained of the view that the better course was for the originally specified oak handles to be installed in preference to the stainless steel ones for which the Petitioners now seek permission.

21) The Committee did not express a concluded or reasoned view about the proposal to use images in printed film rather than etched into the glass but instead expressed regret at what it described as inconsistencies in the information which had been provided in this regard. It is unfortunate that the Committee did not feel able to express a view on merits or otherwise of the proposal for the symbols I have described above to be applied by way of a film rather than by way of etchings.

Discussion and Conclusions.

22) My power to order the amendment of a faculty derives from rule 20.3 and I may order amendment if I am satisfied that it is “just and expedient” so to do.

- 23) The first and most important consideration is that St Bartholomew's is a highly listed church of national importance. It follows that particular care must be taken in considering any alteration to this church. In determining this matter I have had regard to the principles set out in *Duffield, St Alkmund* and the need to ensure that changes affecting the significance of this church are the minimum necessary to achieve the objectives of preserving the church and fitting it for the future. In respect of the current matters I am also conscious that the works relate to the principal entrance into the church and so will be visible to all those attending there.
- 24) I also have to be conscious of the expertise of the members of the Diocesan Advisory Committee and of that Committee as a collective body. As chancellor I have to make the ultimate decision but in doing so I must remember that my judgement in matters of aesthetics is neither a trained nor a professional one whereas the members of the Committee do have training and experience in such matters. In this case the Committee has chosen to set out its advice in comparatively short terms. I do not criticise that and I suspect that it is because the members of the Committee regarded the position as clear or felt that there is little that can be said by way of expansion of the assessment that the frame is too large. It does, however, mean that I do not have the benefit of a detailed explanation or reasoning.
- 25) It is to be noted that the principle of glass doors in a frame has been established. The issue now is the size of the frame.
- 26) In absolute terms the differences are modest being the difference between the specified dimension of 60mm and the as-built dimension of 90mm. The difference is, accordingly, 30mm on each side of the doorway. This is, indeed, a small amount though I have again to remember the highly listed status of this church and that it is apparent that the members of the Diocesan Advisory Committee regard the additional 30mm of frame as making the difference between the frame being acceptable and it being "too heavy".
- 27) In my judgement the explanation of how the frame came to be installed and the history of the project to date are both of marked significance in this case. The

frame was installed in the course of the works being undertaken during the early stages of the pandemic with the change in conservation architect to which I have already referred. The priest in charge was confronted with the situation in which the contractors were advising her that the specified frame would not be strong enough to hold the glass doors and it was in response to that advice that she authorised the installation of a frame where the relevant dimension was 30mm greater than that specified. That step was taken, moreover, in the context of a project where over a number of years the Petitioners had taken scrupulous care to engage with all relevant bodies and to obtain approval for alterations. I am entirely satisfied that the installation of the unauthorised door frame was not an attempt to steal a march or to present the court with a *fait accompli* nor was it an indication of a disregard of the need for proper authorisation. It was rather a response to a particular difficulty which had arisen on the ground which was seen as requiring a very minor change. The contrast between those two categories of case with the current matter being in the latter category weighs heavily in my assessment of the questions before me. The approach which it would have been appropriate to take might well have been very different if this had been a case where the actions on the ground showed a deliberate disregard for the requirements of proper authorisation for works to a Grade I church.

28) In the light of those considerations I turn to the particular elements of the proposed amendment.

29) The frame and socket fixings are in place. To my inexpert eyes the photographs show a frame which is quite large for the doorway and which is readily visible against the masonry. However, I suspect that its presence and size would be very much less likely to be noticed by a person who was not looking out for it unless they had a particularly sensitive eye for such matters. I am conscious that I was looking at the photographs aware of the Diocesan Advisory Committee's assessment that the frame was too heavy. Not only is the frame now in place but it was the view of the manufacturers of the glass doors that the specified and approved frame would not be strong enough to hold those doors. That is a significant consideration.

- 30) I am satisfied that to refuse permission with the effect that the current frame would have to be removed would be a wholly disproportionate response even when account is taken of the Grade I status of this church. Indeed if the manufacturers' assessment is right (as I must assume is likely to be the case) it would have the consequence that the doors as envisaged could not be installed.
- 31) I am not persuaded that it would be appropriate to require the frame to be trimmed back to the approved dimensions or to some unspecified intermediate position. It seems to me that this suggestion fails to take account of the manufacturers' concerns that the frame would not bear the weight of the glass doors. I do, however, find that it is appropriate to adopt the suggestion of the Diocesan Advisory Committee that the frame be painted so as to blend in with the surrounding masonry as much as possible.
- 32) Accordingly the faculty will be amended to permit the retention of the door frame and the floor socket fixings but subject to a condition that the frame is to be painted so as to blend as closely as possible to the appearance of the masonry. The Petitioners are to consult the Diocesan Advisory Committee in that regard and in the event that they seek to paint the frame in a manner which does not have the approval of that Committee the matter is to be referred back to the court for further directions.
- 33) The Petitioners are not pressing for the stainless steel door handles in the light of the Diocesan Advisory Committee's objections and I refuse the application in that regard.
- 34) I am satisfied that it is appropriate for there to be images of knives and of a *fleur de lys* on the glass doors. The question is whether they should be etched into the doors or appear as the result of the application of a film to the doors. I have already noted that the Diocesan Advisory Committee did not express a final view on this matter even after I invited expansion of its reasoning. I have no doubt that the etching of the images would result in a better quality of result. Although the primary purpose of the images is to ensure no one walks into the glass they will appear at the entrance to a Grade I church. Regardless of the listing the images are to appear at the entrance of a building erected to the Glory of God and for

that reason alone it is important that they are of high quality. I note the additional cost. In that regard I am conscious of the burdens on those maintaining a Grade I church in a rural parish and I see the force of the Petitioners' contention that the higher quality of appearance which would result from etching does not justify an additional sum of £8,000. Against that I reflect that the sum of £8,000 is a modest one in the context of the overall cost of this project.

35) Balancing those considerations I am satisfied that it is appropriate to permit the proposed amendment to allow the application of a film containing the proposed images but only after a final further effort has been made to obtain funding for the etching of the images. Accordingly, it will be a condition of the faculty as amended that the images are only to be applied by a film after the Petitioners have made a renewed effort to obtain funding, whether by donation or grant, specifically for the additional cost of the etching of the images. In the event that such funding has not been obtained by 1st November 2021 the images may be applied by way of a film.

STEPHEN EYRE

HIS HONOUR JUDGE EYRE QC

CHANCELLOR

18th June 2021