

**Neutral Citation Number: [2022] ECC Lei 2**

**10 June 2022**

**In the Consistory Court of the Diocese of Leicester**

**In the matter of St Christopher, Ellistown**

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**Judgment**

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*Introduction*

1. The addition of a porch over the west door is proposed at St Christopher, Ellistown, a church in North West Leicestershire. This is an unlisted Victorian church, built in 1896 and designed by Goddard, Paget and Goddard.
2. The village of Ellistown is growing and regenerating after a period of deprivation following the closure of local pits. The Statement of Need refers to “*a new energy within the village*”, to recent investment by the parish council for children and young people and to significant success through hard work of, and investment in, the ministry of St Christopher’s to reconnect it to what had become a diminished congregation and a changed community. However despite these successes and growths, the village continues to lack facilities for the community, and I note that the vicarage and church hall of St Christopher’s were sold off in the 1980s.
3. It is against that background that some internal re-ordering has been successfully undertaken over the past few years, providing a much needed, flexible space for worship and community activities. One side-effect of completing the various works is that the PCC now faces financial challenges. In particular major fundraising efforts have been successfully undertaken to raise money for the collective elements of the phased redevelopment of the church, but the amounts raised have now been substantially used up, leaving a limited remaining budget with which to approach the porch works that are now proposed. Those raising money have found it difficult to access funds for an unlisted church and the PCC also faces the element of costs relating to VAT, which some forms of work to

listed churches do not attract. These issues are currently being made particularly acute by the rising costs of building works and materials. It is also the case that the time and energy of the PCC, who have worked very hard on fundraising, is required to be split between three church buildings within the single parish of Higglescote with Doninton-le-Heath, Ellistown and Snibston, and the other two (listed) churches in the parish require some focus following the efforts expended on Ellistown leaving less in terms of available resources for further fundraising. None of this is to suggest that corners are being cut in the petition that is before me. But understanding the constraints within which the petitioners are working to achieve their aims is an important part of understanding the full context of the application.

4. The materials supporting the petition set out a number of needs which the petitioners seek to address by the introduction of the proposed porch. Key amongst these are the following:
  - 4.1. Access is currently through the large, heavy oak double west doors which have been re-opened following the conversion of the existing porch entry-way to accommodate a toilet and new kitchen. The intention is to enhance the west doorway to provide a more easily accessible entry point than presently exists, including the easing of access to the church for those with disabilities;
  - 4.2. The PCC also wishes to introduce the porch in order to make a statement to the local community (the entrance gives onto the main road and is visible to pedestrians and passing traffic) and provide a more welcoming entrance;
  - 4.3. The doorway, as it stands, is draughty. Until its recent re-opening as the main entrance way, draught prevention has been achieved by use of a heavy curtain over the existing door. This is inefficient and unsatisfactory. The proposal of the porch offers protection from the weather and the minimisation of draughts in the church.
5. The period of public notice has been completed and has elicited no objection. In addition to the public notice there have been consultations with Historic England (which did not consider it needed to be notified and expressed no views on the proposed works), the Ancient Monuments Society and the Victorian Society. Objections have been raised by the Ancient Monuments Society and the Victorian Society, although neither has sought to

become a party opponent. As set out below, I have taken the points they have raised into consideration in reaching my decision on this matter.

#### *Ancient Monuments Society (the “AMS”)*

6. The AMS expressed its views by email dated 9 August 2021. These disclose that the Society is concerned by the proposed design of the porch, which it describes as “...so much bleaker as an architectural statement than the present exposed door”. It considers that it will make less impact than the current entrance which it considers “...is marked as something special by two carved floral spandrels and a layered archway in stone and brick either side of the door.” It further considers that the introduction of an unaligned<sup>1</sup> double set of doors and a proposed ramp would increase difficulty of access for the disabled and elderly and others facing mobility issues, whereas the existing level entry way does not pose such difficulties. In order to reduce the heat loss and draughts associated with the existing oak doors the AMS suggested that an internal storm porch would be more effective.

#### *The Victorian Society*

7. On 18 August 2021 the Victorian Society emailed its objection to the proposals. Although it did not necessarily object to the idea of adding a porch in principle, the Society gave its trenchant opinion on the design: “...what is proposed is, I’m afraid, a banal and entirely unsatisfactory response to the brief and the qualities of the building.” It stated that it considered the church to be “likely of listable quality”, displaying a rare degree of refinement and a high quality of detailing, qualities which are evident in the existing south portal. In order to match this the Victorian Society considered that a better quality design would be required and that alternative solutions (including an internal structure as suggested by the AMS or even no structure at all) should be considered.

#### *Responses to Comments*

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<sup>1</sup> NB the designs have since been altered in response to this, as set out further below.

8. In response to the comments of the AMS and the Victorian Society the Petitioners reviewed the proposals. On 4 November 2021 the Petitioners wrote, making the following key observations in response:

8.1. The PCC considered the possibility of an internal porch but this option was impractical. The impracticality arises because the existing doorway is very large and would necessitate a similarly large internal structure to accommodate it. This would compromise the existing stepped entrance to the Vestry immediately to the right of the existing door and the adjacent, protruding curved steps to the Chancel;

8.2. The PCC have thought carefully about the design and construction of the new porch. Three architect-designed options were provided, with full drawings, plus costings for each iteration provided by a contractor. The option chosen, and upon which the petition is founded, represents a compromise in design terms which arose as a result of the need to balance the overall design with affordability;

8.3. In light of the comments received from the AMS and the Victorian Society the PCC instructed the architect to amend the design. The revised design is a more modest one but one which relies heavily on the incorporation of original features and materials. It incorporates an original window and the re-use of lintels, Ellistown bricks with their original markings donated by the local brickworks for the construction of the church for the mining community, plus original slates. As per the original design, the existing timber doors and doorway with the architectural details drawn out for comment by the AMS are to be retained and will be visible when entering the church;

8.4. In the PCC's view, as well as supporting a sound environmental aim in the reuse of original materials, these amendments are in keeping with the local culture of "make do and mend". This, it is felt, is likely to have more appeal than a grander design which might be viewed as too extravagant by those who live in the community and attend the church.

9. The DAC has also considered the objections that have been raised. It concluded that the Victorian Society's comments appear to be based, in part, on an inaccurate reading of the proposals. The DAC's comments also referred to the fact that the PCC, with the minimal

resources at its disposal, have put forward the best proposals that it can afford, including the re-use of brickwork to make the proposed porch as complimentary as possible to the existing structure.

### *Discussion*

10. I consider that the correct approach in this case is “...*not simply to concentrate upon the effect of proposed works upon the fabric or appearance of the church in isolation, but to consider the proposals in the context of and taking full account of the role of the church as a local centre of worship and mission.*”<sup>2</sup> In doing so I have regard to the fact that the burden of proof lies on the petitioners to justify the proposed changes.
  
11. I have also had regard to the fact that although not a listed church, St Christopher is plainly a fine building with interesting features. The helpful appraisals by the AMS and the Victorian Society point out a number of refined features (including the detailing of the church’s design, the thoughtful use of brick and bond and of sandstone in archheads, the floral spandrels and the layered stonework of the west doorway). The Statement of Significance refers to the fact that “*The church is now one of the few buildings in Ellistown of architectural interest*” and the Victorian Society suggests that the church could be considered of listable quality.
  
12. The fact remains, though, that the church is unlisted and as such is not to be treated as if it were listed by application of the enhanced considerations directed by the Court of Arches in *Duffield*<sup>3</sup> and subsequent cases. However this does not mean that I should ignore any potentially adverse impact on the church’s significance and appearance. Rather, a good reason must be shown for a change which will affect its appearance<sup>4</sup>. Accordingly, I must consider the impact which there will be on the appearance and significance of the church and determine whether the benefit resulting from the change is of sufficient substance to outweigh that impact.

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<sup>2</sup> *Maidstone, St Luke* [1995] Fam 1, Court of Arches.

<sup>3</sup> *Duffield, St Alkmund* [2013] Fam 158

<sup>4</sup> *Meir Heath, St Francis of Assissi* [2013] Lichfield

13. With this approach in mind, I have carefully reviewed all of the evidence before me, drawing particular assistance from the following:

13.1. The emails from the AMS and the Victorian Society;

13.2. The response (dated 4 November 2021) to those emails supplied on behalf of the PCC;

13.3. The Statement of Significance and Statement of Need (these documents, in addition to the assessment of relevant features of the church, provide nuance relevant to the local area and the church's history and role in the community);

13.4. The various iterations of designs which have been produced together with internal photographs which explain why the use of an internal storm porch is impracticable given the size and location of the retained west doors; the letter of response sent on behalf of the PCC on 4 November 2021, which I find reveals a considered and balanced approach to the comments made by the consultees and a responsiveness to the points raised; and

13.5. The Report of the Advisory Committee for the Care of Churches dated 23 September 2021 (the "Site Visit Report") setting out the findings of the Archdeacon of Loughborough and the Diocesan Disability Advisor from their visit to the church and inspection of the area intended for the porch. All of the conclusions and findings which follow are drawn from the foregoing evidence.

14. In terms of assessing the impact there will be on the appearance and significance of the church by the addition of the porch, based on the evidence I have highlighted above I am satisfied that any such impact will be minimal:

14.1. The final iteration of proposals before me are in keeping with the architecture of the church, the character and spirit of the place and people it serves (this has, in part, been achieved by the amendment of proposals to reflect valid points of concern raised by the AMS and Victorian Society);

- 14.2. It is true that the PCC are operating under budgetary constraints which has led to the choice of a plain and simple design. However, the proposed design of the porch does not detract from the fairly modest architecture of the church as it stands;
- 14.3. The designs and photographs I have been provided with (and which are not challenged by any objections) show that the porch will not protrude in an ostentatious way from the exterior of the church, but rather will merge with the Chancel as it juts out from the Nave;
- 14.4. I accept the views of the PCC, as set out in the petitioners' letter dated 4 November 2021, that the combination of simplicity and re-use of local materials serves to maintain the character of the building and indeed enhances its special character. This special character, it is contended by the PCC with whom I agree, is as much due to the local materials used in the fabric of the building and which are now to be reflected in the porch, and the historic and community value of the building as it is to the architectural design of the building.
15. I also accept the evidence provided by the Petitioners, and not gainsaid by any comment or observation against the proposals, that the introduction of the porch will result in benefits to the ministry and the future and longevity of St Christopher in Ellistown, including easier access to the re-vamped worship space and easier access to coffins from hearses at funerals. The increased visibility of the entrance by the addition of the porch and the glazed outer doors is also felt likely to encourage people to enter.
16. It has been suggested by the AMS that a further, environmental, reason given for the works, namely the protection from draughts and prevention of heat loss caused by the inefficient oak doors, is not persuasive because an internal porch would provide better draught and heat loss protection. However, the internal solution does not work for the reasons set out elsewhere in this judgement. Despite their preference for another solution I note that it is, nonetheless, accepted by both the AMS and the Victorian Society that a porch will have the environmental benefits identified.
17. In terms of accessibility, I am satisfied that:

- 17.1. The difficulty of access caused by the original non-alignment of porch and original oak doors has been successfully resolved in the new design;
  - 17.2. Because the area of the porch will extend away from the building into the wider footprint of the church grounds, the area to be used for access will cover an area (abutting the existing L shaped access path) which drops a level. The proposal for the ramp is sensible and provides greater accessibility by ameliorating the difference in paving heights;
  - 17.3. The proposed design features glazed external doors which reflect both the need for greater visibility and a welcoming feel to the entrance of the church, but also the accessibility need for open visibility to assist users, reflecting the advice provided by the Diocesan Disability Advisor.
18. The foregoing matters amount, in my judgment, to important benefits to the mission of this church in a growing, recovering and increasingly engaged community. The heat loss improvements, too, strongly support the church's commitment to the environment. These combined benefits are of sufficient substance to outweigh any negative impact that there might be felt to be on the appearance and significance of St Christopher.
19. It follows that I am satisfied that the proposals are justified and I will, accordingly, grant the faculty sought.
20. In doing so I note:
- 20.1. The Local Planning Authority granted planning permission in 2020 and confirmed that Building Regulations do not apply. Two planning conditions (relating to approval of materials and to tree protection measures) have since been discharged;
  - 20.2. A satisfactory method statement already exists relating to how nearby trees covered by Tree Preservation Orders will be protected;



- 20.3. That foundations will be needed for the works, but the Statement of Significance indicates that as there have not been any burials there ought to be no risk of disturbing human remains. However, in order to deal with the possibility that some remains may nonetheless be encountered, the grant of faculty is conditional upon the Diocesan standard archaeological conditions relating to discovery of articulated and disarticulated remains (as well as a separate condition requiring a record of the works to be kept in the log book).
21. Given that there are presently difficulties being experienced in some workforce and supply chains, I will direct that the time for completion of the works is 24 months.
22. In accordance with the practice of the court the Petitioners shall pay the costs of this application.

**Lyndsey de Mestre QC**

**Chancellor of the Diocese of Leicester**

**10 June 2022**