

Neutral Citation Number: [2023] ECC Car 3

Application Ref: 2022-076380

IN THE CONSISTORY COURT OF THE DIOCESE OF CARLISLE

IN THE MATTER OF CROSBY-ON-EDEN, ST. JOHN THE EVANGELIST

Determined on the papers and without a hearing

JUDGMENT

Delivered on 13 August 2023

A. Introduction

1. By a Petition dated 2 May 2023 Jackie Davies and Dianne Hampson (both of whom are Churchwardens) and the Reverend Stephen Roberson (Vicar) seek a faculty authorising certain works (“the Proposal”) at St. John the Evangelist Church, Crosby-on-Eden, namely:
 - (a) The provision of ramped access; and
 - (b) The creation of a WC and kitchenette facilities.
2. The Petition has attracted a number of written objections. None of the objectors has opted to become a party opponent. Nonetheless, I have taken the objections into account in reaching my decision.
3. This judgment explains why I have decided to direct that the faculty should be granted, notwithstanding those objections. The condition mentioned in paragraph 33 below will attach to the faculty.

B. The Church

4. The following description of the Church is taken from Paul Grout Associates' thoughtful and most interesting Design, Access and Heritage Statement:

"St John's Church in Crosby-on-Eden is a delightful Victorian building designed in 1854 by Robert William Billings (1812-1874) in an interesting and idiosyncratic interpretation of the gothic style. The unusual tower with its tall lucarnes and over-sized crockets is unique and eye-catching. There are many original details which combine to form a highly significant building which defies its modest Grade II listing and it has remained largely unaltered over the years."

5. The Church stands at the edge of the village of Crosby-on-Eden, on an elevated site. It replaced a complete medieval church that was demolished to make way for the present building.
6. The Design, Access and Heritage Statement observes that in his design for this Church Robert Billings "... created a playful and exuberant building which Pevsner described as 'rather naughty'. The tower is an architectural tour-de-force which has impressed critics down the years."

C. The Proposal

7. As I have already noted, there are three elements to the Proposal.
8. The first is the erection of a single storey extension to house a WC. The extension has been designed so as to make a relatively minor addition to the Church, and to do so (again to quote from the Design, Access and Heritage Statement) "... in a way that Billings himself might have approved had these needs been put to him in his original brief".
9. The second part of the Proposal concerns the creation of a kitchenette at the west end of the Church, beneath the balcony. This space is to be created by the removal of three pews.

10. Thirdly, a new permanent ramp is proposed to lead up to the main entrance door. Access is presently made up two steps.
11. The Petitioners' case is that the Proposal responds to an identified need for a WC at the Church, and will improve access for those with mobility difficulties. At the moment it is considered that the lack of toilet facilities is off-putting for many people who might otherwise visit the Church. It is also felt that opportunities for finding enhanced use of the Church, for example as a concert venue, are being stymied by the lack of a WC.
12. Similarly, the Petitioners highlight that the Church might easily lend itself to use by the neighbouring village primary school, if the proposed WC and kitchenette were to be installed. For now, the lack of those basic facilities is taken to be a deterrent to such use.
13. The Petitioners overall aim is to create a modern parish church, adding to the various public facilities already available in the village, and helping it to thrive as a vibrant place to live. By offering welcome and hospitality at the Church in a way that is not currently possible the aim is to challenge the secularity of the local area.
14. The Proposal has the support of the PCC, which at a meeting on 7 June 2022 voted by a majority of 7 to 3 in favour of the works.

D. Planning Permission

15. The PCC has already obtained planning permission for the proposed works. That consent is subject to a number of conditions, including in particular (condition 6) a requirement for the preparation of an archaeological watching brief.

E. Consultation

16. As part of the planning process the views of a number of statutory bodies and amenity societies were sought. Not all responded, and none opposed the Proposals.

Indeed, Historic Buildings and Places described the design approach as being “*just right*”.

17. The Church Buildings Council supports the Proposal, recognising that in its view there is a clear need for these works to be done. The Council adds “*The Council supports internal access to WCs, and is supportive of the location and design of the proposed extension; it is a well thought through and carefully designed scheme, based on a rationale which recognises and responds to the architectural significance of the building.*”

F. Diocesan Advisory Committee

18. The DAC unanimously recommend the proposals for approval subject only to a proviso that the details of the cabinetry for the kitchenette should be delegated to the Archdeacon for approval. The DAC concurred with the planning permission requirement for a condition for a written scheme of investigation and an archaeological watching brief for both the extension and associated drainage solution.
19. In its formal Notification of Advice the DAC stated its opinion that the Proposals were unlikely to affect:
 - (a) The character of the church as a building of special architectural or historic interest;
 - (b) The archaeological importance of the church; or
 - (c) Archaeological remains existing within the church or its curtilage.

G. Objections

20. Four written objections have been received to the Proposals as a consequence of public notice being given of the petition. They have been submitted by Paul Booth, Wendy Booth, Lesley Nattrass and M. Bell.

21. The gist of the objections, which are strongly expressed, is that:
- (a) The proposed extension is unsympathetic with the beautiful and eccentric design of the Church;
 - (b) The proposed kitchenette and WC are unnecessary;
 - (c) The works are unnecessary given the typically small attendance at services; and
 - (d) The removal of pews to make space for the kitchenette will reduce the available seating for weddings and funerals.
22. I have also read a letter from one of the Petitioners, Dianne Hampson, in response to these objections. In summary, she makes the following points:
- (a) The proposed new extension has been carefully designed to be in sympathy with the existing building.
 - (b) The Proposal is to create basic facilities for the Church, not otherwise reliably or conveniently available to visitors, members of the congregation, or, indeed, the clergy.
 - (c) The Church is the only public building in the village that was unaffected by the floods of 2005 and 2015. The Petitioners wish to be able to respond to any future flood event with appropriate facilities.
 - (d) The Petitioners do not consider that the use of portable toilets would be in keeping with the aesthetics of the church and churchyard, or be a good economic proposition in the long run.
 - (e) While it is conceded that regular congregations at the church are reducing in size, the majority of the PCC consider that the proposed improvements are a necessary step to reverse that decline by attracting those who are presently deterred by the absence of toilet and catering facilities.
23. It is also pointed out that with the benefit of a WC and kitchenette it would be possible to open the church to the hundreds of people that pass by while walking the

Hadrian's Wall trail. This could generate extra income for the Church by attracting donations or through the sale of light refreshments.

H. Discussion

- 24.. In considering the objections raised to the Proposals I bear in mind that the burden of proof rests on the Petitioners to show that the suggested works are desirable. This is because it has long been settled that “*All presumption is to be made in favour of things as they stand*” (Peek v. Trower (1881) 7 P.D. 21 (Court of Arches) per Lord Penzance).
25. In the first place it is objected that the proposals will result in harm to both the church and its surroundings.
26. This application therefore engages the series of questions identified by the Court of Arches in the case of *Re St. Alkmund, Duffield* [2013] Fam. 158 at paragraph 87 (and see *Re St. Peter, Shipton Bellinger* [2016] Fam. 193 at paragraph 35). The questions are:
- (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 not, have the petitioners shown a sufficiently good reason for change to overcome the ordinary presumption that in the absence of a good reason change should not be permitted?
 - (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 that there is a strong presumption against proposals which will adversely affect the character of a listed building, will any resulting public benefit (including matters such as liturgical freedom, pastoral well being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the

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

27. Having considered the plans submitted by the Petitioners, and taking into account all of the matters set out above, my decision is that the implementation of the Proposals would not result in harm to the significance of the church as a building of special architectural or historic interest.
28. In coming to this decision I have particular regard for the views of the DAC. I also consider that the strong support for the Proposals given by the Church Buildings Council and Historic Buildings & Places is important. Indeed, Historic Buildings & Places go so far as to describe the Design, Access and Heritage Statement as *“exemplary”* and write that while it *“admits the supreme sensitivity of the charming eccentric building ... we believe that the design approach adopted is just right”*. I respectfully agree with that. I also fully agree with them that *“The new extension is low-key, small and contextual – a classic example of ‘keeping-in-keeping’”*.
29. I also find that the Petitioners have made out a sufficient case to overcome the ordinary presumption that in the absence of a good reason change should not be permitted.
30. In my judgment the rationale behind the Proposals as stated by the Petitioners is cogent and convincing. The creation of a WC, kitchenette and improved access will support a modern use of the Church both by the worshipping congregation and the wider community: who reasonably expect such facilities.
31. I consider that the Proposals, which have the support of the majority of the PCC, are underpinned by a persuasive case for putting the Church to improved use, consistent with its role as a place of worship and mission. For the reasons stated by the Petitioners in response to the objections, I respectfully disagree with the Objectors regarding the necessity for the proposed works, and find that the Petitioners have

presented a sufficiently good case to demonstrate that these changes to the Church building are indeed necessary.

G. Direction

32. For these reasons I direct that the faculty sought shall issue. In my judgment the Petitioners have discharged the burden of proof that rests on them.
33. The faculty shall be subject to the condition that details of the cabinetry for the kitchenette shall be approved by the Archdeacon in writing before works commence.
34. Had it not been for the planning condition concerning an archaeological watching brief I would have imposed such a condition myself. As it is, I consider that the existing planning condition is sufficient for that purpose.

JAMES FRYER-SPEDDING

Chancellor

13 August 2023