

IN THE CONSISTORY COURT

of the DIOCESE OF LIVERPOOL

In the matter of All Saints Church, Rainford, Merseyside

JUDGMENT

1. This is an application for a retrospective faculty to display illuminated symbols on a church tower at certain times of the year. Whilst it is not formally opposed, objections have been raised because of the disturbance and light pollution caused by these symbols on the north-west elevation of the tower.
2. In the circumstances, I provide this full judgment, having considered the papers, given directions, and visited the church to see the displays for myself.

Background

3. The parish church of All Saints lies in the heart of Rainford, a village which is situated between St Helens and Ormskirk and within the county of Merseyside. The village is described as an urban island surrounded by large-scale farming which stretches onto the Lancashire plain. Such a description should not detract from the fact that Rainford is steeped in history going back many centuries with an industrial as well as an agricultural heritage, and currently a thriving community with a population of approximately 8000. There are several public houses and local businesses, and whilst there are a number of older properties and more historic buildings clustered around the centre, much of the housing is comprised in the more modern estates around the edge of the centre.
4. The church itself is a grade II listed building which was constructed in 1878 to an Aldridge and Deacon design with the early 20th century chapel designed by Austen and Paley. Together with the later tower which was added in 1903 it is of sandstone construction with ashlar dressings and bands. The Historic England official listing describes the tower layout as follows:

“The tower has low diagonal buttresses; octagonal bell stage with square pinnacles in angles; louvred bell openings; embattled parapet and pyramidal roof. Round stair turret has projecting octagonal top stage with cornice and pyramidal roof.”

5. Because of the general low lying nature of the landscape and surrounding terrain, the central location in the village and the prominence of the church and the tower, the tallest structure which can be seen from the Rainford bypass, the church acts as something of a beacon to the inhabitants of Rainford. It was with this in mind that the PCC and the incumbent of All Saints shortly after the pandemic lockdown chose to use the four faces of the tower at the height of the louvres which were adjacent to the belfry and the bellringing mechanism, to place, on a seasonal basis, temporary illuminated symbols as part of their mission outlook. These comprised a star during the season of Advent, (from Advent Sunday to Candlemas) poppies around Remembrance Sunday (from 1st November to Advent Sunday) and significantly crosses for the season of Lent (from Ash Wednesday to Ascension Day). On such a basis there would be illuminated symbols for 180 days of the year. It is to be noted that the church is floodlit with low-level sodium lighting picking out the interesting architectural and historic features. This was the subject of a previous faculty grant (and presumably, if required, local planning consent) and has not attracted any complaints or unfavourable comments. I have not been made aware of the history of the floodlighting.

6. It is not entirely clear when the illuminated signs were first erected. The statement of needs suggests that in the Christmas period of 2019 stars were first positioned on the belfry elevations to celebrate the Christmas message in the light of the *“Follow the star”* national Church of England campaign. Because these stars were well received, and as the coronavirus lockdown was implemented, with churches being shut to the local community, a decision was made by the parish to expand the illuminated symbols, using not only the stars, but also illuminated poppies to commemorate Remembrance Sunday. In early 2021 with the church still closed, a decision was made to use the belfry elevations to display the illuminated crosses, and thus a pattern was established of season round temporary signage, which lit up at dusk and was switched off, or went off on an automatic timer, at about 11 pm.

7. However there had been no consultation with the DAC, the Archdeacons, or the planning authority, and a faculty was not initially applied for. It is said, and I accept unequivocally, that this was not a deliberate act of defiance or even a careless disregard for the correct procedures and ecclesiastical law, but a genuinely held belief that as temporary signs advertising the mission of the church, such formalities were not necessary.

8. On each of the years that the crosses were displayed, a complaint was received from a local resident, Mr Banks, centred on the light pollution and the general disturbance caused by the crosses. He lives in The Avenue, which is a street in a small housing estate to the north-west of the church, approximately 400-500 m away, with his back garden facing the tower. However there were no other complaints from any other member of the community, and such comments as were received were favourable and complimentary. I will return to Mr Banks' complaint, and the objections which he has raised, shortly. It was considered by the church that with the

inability to gather a congregation because of lockdown rules, these symbols provided good conversation starters and central to the mission of the church. On the return to the church building, a decision was made to continue displaying the Christmas stars, the poppies and the crosses on the same seasonal basis.

9. I understand that at some point, possibly because of a complaint which was directed to Archdeacon Spiers, it came to the attention of the diocese and the DAC that the correct procedures had not been followed, although the Archdeacon was supportive and encouraging of the purpose for the displays. Through the Registry in early 2024 I was informed of the position. There was a clear concern that this may have been another potential flouting of the faculty jurisdiction in the light of a recent experience involving a parish only a few miles away where unauthorised works had been carried out. At this point, whilst I did not consider this to be an egregious breach, in the light of the objection which were then crystallised from Mr Banks, I directed that the displays were taken down until a full faculty application was made, and the matter could be considered in detail.

Planning implications and involvement

10. Following the initiation of the faculty application process, the parish involved a planning consultant, Landor, to consider the local planning controls which might impact on the temporary illuminated displays. I understand that this was partially in response to some of the complaints which had been made by Mr Banks, but in any event it would have been within the purview of the DAC in their provision of advice on the faculty. Mr Landor formed a preliminary view that the display of the illuminated symbols most likely constituted an advertisement to be considered under the Town & Country Planning (Control of Advertisements) Regulations 2007 notwithstanding that the displays were only illuminated on a temporary basis. However, this may still have required express consent. He said this:

“The Regulations specify types and locations of advertisements that are excluded from control and 9 classes that have deemed consent. In my opinion the illuminated cross does not fall in to any of the categories that are defined as excluded from control or for which deemed consent exists. Therefore, it is our conclusion that if the illuminated signage is displayed from the belfry, albeit for temporary periods, then express consent may be required.”

11. Thus he sought the advice of the planning officer, and in the event that listed building consent was required expressed the view that the illuminated signs did not harm the designated asset taking into account size and temporary nature in the display.

12. This advice was provided in a response dated 14 June 2024. The planning officer, Miss Vo, after considering the applicable policies, believed that the broad principle of the development proposal was acceptable, and whilst acknowledging that listed building consent was covered by the faculty application process, nevertheless pointed out that any alteration to the

exterior of a building required planning permission. In relation to the “advertisement” nature of the displays, they were considered in the context of layout, appearance, design and local amenity. There are two significant aspects of the planning advice of Miss Vo. In respect of heritage impact it is said:

- Visually, it is not unusual to illuminate church buildings or parts of those buildings to highlight the presence of the church within communities. Whilst these temporary illuminated elements are separate, they are not considered to appear out of character with the purpose of the church and the level of illumination does not appear to be overly dominant or detrimental to the significance of the church.
- The fixing of the structures appears to involve no fixing or damage to the fabric of the Listed Building. Therefore, any impact is solely limited to the visual aspects of their installation.
- On this basis, the illuminated objects are not considered to cause any substantive harm to the significance of the Listed Building, and no heritage objections are raised.
- It is recommended that as part of any future application, the written statement should include more details of the schedule or periods for installation throughout the year.
- Whilst the church shares its wider setting with other designated listed buildings, the impacts of the illuminated elements on the tower would have no effect on the appreciation and significance of those assets.
- Whilst visible from key views in the Conservation Area, it is also not considered that the structures would appear overly prominent and do not detract from the special interest of the Conservation Area.

13. In relation to neighbouring amenities, the comment is as follows:

“The nearest properties to the site is the Rainford Parish Church Hall to the east, no.31, no.35 and no.37 Church Road to the northeast, the Grade II Listed Golden Lion public house to the north, and the Rainford Guide Headquarters to the south. The structures within the church are sufficiently distanced over 30m away from these neighbouring properties. Whilst they are illuminated, they will be of static illumination. The structures will also only be erected for temporary periods throughout the year (as detailed above) and would be timed to turn off at 23:00pm. Given that the structures are also located within the belfry of the church at a significant height, the impact in terms of light disturbance is also deemed to be minimal and would be no greater than the existing streetlights along Church Road. **The structures impact upon neighbouring amenities is therefore, likely considered to be acceptable in accordance with Policy LPA02 and LPD01 of the Local Plan and the NPPF.**”¹

14. Accordingly, despite the provisional view of Mr Landor, the planning officer indicated that planning permission would be required, although the principle of the illuminated structures was considered to be broadly acceptable. Of course this was not a formal planning permission grant, and it was made clear in the response that the matter would be considered in greater detail in the event of a full planning application. It was indicated the material which would be required should an application be made.

15. A decision was made by the parish that a full planning application should be costed, with all the requisite material to support it, although it is my understanding that the application has

¹ My emphasis

currently been put on hold pending, as is the usual practice, this faculty application. Clearly, if the faculty were to be refused, there would be little point in the incurrence of almost £4000 in fees to obtain planning permission.

Visit

16. It was clear to me that a decision could not be made on the faculty application without a site visit. This was arranged for 24th February, to take place at dusk, so that the symbols could be illuminated and I could see for myself the impact which they were having on the surrounding area and any effect on the fabric of the church. I met two representatives of the parish² and went up the tower to the bellringing floor level. The intention had been that I would ascend to the belfry and consider the position of the symbols (the Christmas Star and a cross had been illuminated). On establishing that an ascent to the belfry required four separate ladders, and in the absence of a specific risk assessment (not to mention my own footwear and general discomfort at heights) I declined the invitation. However, I was able to establish the systems which were in place or could be put in place to ensure the general safety of the electrical installation and the method of switching on and off at certain times in the event that the faculty was granted. Of more importance, I had the opportunity to walk around the neighbourhood, and to consider how the illuminated cross appeared from different inspection points. In particular I visited the garden of a parish member (Mr Rigby) which was on the same road, (the Avenue) and where the gardens face the same direction as Mr Banks. I enclose in the photograph appendix as figure 4 the image of the North West elevation which faces the gardens, and where it can be clearly seen through the trees, although it should be noted that this was on 2.5 times magnification.³

The illuminated symbols

17. Whilst the faculty application includes all three symbols, the focus has been on the cross because of the specific objections that have been raised. This is approximately 1m high, and 0.6m wide, and contains 150 low voltage LED lights. To fix the crosses into position, climbing rope has been used at several points of contact through the open louvres, and lashed to the handrails inside the belfry. There are no permanent fixings, and thus the displayed symbols are in this sense temporary, and capable of being removed when the ropes are untidy. It is said that they are secure, even in high winds.

² Mr Rigby and Mr Burgess

³ This was taken on my iPhone

The objections

18. Although Mr Banks and his wife have provided written complaints at different points in time, starting in 2021 when the crosses were first erected, including e-mail correspondence with the incumbent, it seems to me that the substance of their concerns is contained within the most recent document entitled “objections” which represents a response to the special notice served by the Registry at the beginning of this year. It is a comprehensive, well researched and helpful document which sets out in considerable detail the nature of Mr Banks’ objections, and makes a number of allegations concerning the compliance with ecclesiastical law and health and safety responsibilities. I have carefully considered this document, and although I do not propose to address every detail within it, I pick out the salient points.

19. In the **first** objection, Mr Banks makes the overarching submission that when illuminated the crosses create obtrusive light pollution, which may not have a particularly deleterious effect on Church Road in the immediate vicinity of the tower where there is street lighting, but from the vantage point of his rear bedrooms the brilliant white LED light source created a significant glare which is not mitigated in any way. This theme is continued in the **second** objection where he discusses the impact which it is having on the health and well-being of his extended family, including grandchildren who are reluctant to come and stay, and whose mental health has been disrupted.

20. In the **third** objection, Mr Banks addresses the “statutory guidance” (as he describes it) provided by the CBC in relation to floodlighting, and lighting on church buildings which specifically discourages light pollution or overspill towards neighbours. He also refers to the Institute of Lighting Professionals (ILP) which imposes specific requirements to reduce obtrusive light, which includes the colour and the intensity of the light source. It is understood that Mr Banks has a professional background in electrical engineering/inspection and clearly has some knowledge in this area. If there had been compliance with guidance and requirements by these two bodies, it is said that the brightness of the LED lights would have been properly mitigated.

21. His **fourth** objection is that insufficient justification had been provided for the illuminated crosses to interfere with the amenity and quiet enjoyment of his family. Although the parish had referred to a wish to join the *follow the star* campaign, this fell short of the establishment of any need which should be paramount in circumstances where the illumination was causing disturbance. In relation to the **fifth** objection, reference is made to a consistory court case heard before Justin Gau Ch in the diocese of St Edmundsbury and Ipswich, **In re Chelsworth, All Saints [2024]**, where the parish had applied to *amend* a faculty in relation to church floodlighting which was said to cause increased light pollution and disturbance to those who lived close to the church. The faculty was refused, with the Chancellor identifying the issue of “neighbourliness” as a significant reason for that refusal. The existing floodlighting, however, remained.

22. In addition to these five objections, Mr Banks raises issues of health and safety with a potential risk to the public on the basis that the lights have and will be erected by unskilled volunteers. He submits that climbing rope method of fixing is inappropriate, and that in the event of a fire in the church or the tower these would present a hazard to firefighters. Further, the height of the installations (16m) would imply that anyone involved in working on the lights would need to be “competent” persons with the relevant training in health and safety.

Electrical inspection

23. Following my visit to the church, I provided some brief directions which were to be dealt with before I arrived at my decision on the faculty. I directed that the petitioner should have an opportunity to respond to the detailed objections provided by Mr Banks, and also that an updated electrical safety inspection report dealing specifically with the belfry electrical installation should be provided. This has now been complied with, and although there was a full safety inspection in 2022, a specific test has been carried out in relation to the belfry which confirms that it is satisfactory and that no risk is presented. Further, because of the issue raised by Mr Banks in respect of the use of extension leads from the belfry socket, it has been indicated by Mr Burgess on behalf of the parish that a spur will be installed if this court were to so direct on the grant of any faculty.

Discussion

24. When a consistory court is called upon to determine a faculty application, the usual considerations will be focused upon the preservation of the heritage assets in the light of proposed changes, invariably permanent, to the fabric of the church building, and it will be necessary to deal with objections which challenge the *impact* on the historic or architectural features, balancing out the seriousness of that impact with the benefit which the changes would provide for the church in its mission, community role etc, following the so-called **Duffield** criteria. The present case is different, although a balancing exercise remains, because the heritage impact from the illuminated signage is negligible (or virtually non-existent on the assumption that it is a temporary display) and in a sense the court is being required to address an issue which would more comfortably be dealt with in the civil courts in a litigated private nuisance action, or within the scope of a planning application, where policy requirements include the need to consider unacceptable harm caused to surrounding residential areas. Those entrusted with determining planning applications have the expertise to measure factors such as light pollution and amenity disturbance which is not possessed to any great extent by this court.

25. However, I am prepared to acknowledge that the jurisdiction of the Chancellor, and the discretion which is exercised in determining an application for a faculty is a broad one, and it should take into account factors such as light disturbance and amenity disruption for those who are affected by the adaptations which the church wishes to make. Certainly Justin Gau Ch had

no difficulty in the case of **Re Chelsworth** in applying sensible considerations which allowed for the impact on a close neighbour to proposed changes in lighting.

26. Accordingly determining this faculty application I have given careful consideration to the amenity disruption which has been caused by the illuminated symbols, and the complaints which are made by Mr Banks and his family.

27. I should first address briefly the fact that the symbols had been displayed unlawfully for a significant period. As this court has recently indicated⁴, churches which pay scant regard to the faculty jurisdiction or blatantly proceed to carry out works without the authority of the consistory court can expect little indulgence, and quite likely the refusal of a retrospective faculty. However, as I have pointed out above, I do not regard the petitioner's actions in this instance as coming within such a category. These were public displays and within the knowledge of the Archdeacon. There is no particular description within lists A or B in the schedules to the Faculty Jurisdiction Rules which cover the works involved. As soon as the parish became aware of a potential difficulty, and at the request of the Registry the illuminated signs were removed and a faculty application was pursued. I am prepared to accept that this was an innocent breach of ecclesiastical law and not one which should impinge upon the merits of a faculty grant.

28. It is also important to acknowledge that if the parish obtains this faculty, that is only the first step in securing permission to display the signage. Planning consent, as indicated, must be applied for, and whilst this has been prepared, the process has not yet formally been initiated, for obvious reasons. The impact from illuminated signage is something in respect of which a planning authority purportedly possesses expertise, and certainly more than this court, and any objector will have every opportunity to raise arguments of excessive light pollution on the application. Although Ms Vo has currently provided positive comments in her advice letter, it is only to the effect that the proposals are "*broadly acceptable*" and it is clear that she has not taken into account Mr Banks' complaints.

29. I turn now to those complaints, and consider the objections in turn. In relation to the first objection, Mr Banks is quite right to point out that the viewpoint from his property is different to that which would be obtained in Church Road at ground level. I accept that looking out of his rear windows, and without having any regard for the time being to foliage from trees or bushes, there is a direct line of sight to the tower and the crosses are not only easily seen, but relatively bright. There is no evidence, on the other hand, that the illumination from the crosses creates such an intensity or glare that it cannot be blocked out by the use of curtains or blinds. In many respects how light is perceived in these circumstances will be subjective. In other words those who have a particular sensitivity might regard it as particularly disturbing. However, the fact that the illuminated crosses can be seen (depicted clearly in the photograph which I was able to take) does not mean that they are necessarily polluting or obtrusive.

⁴ **St Thomas the Martyr, Upholland [2024] ECC Liv 2**

30. There is no doubt that Mr Banks is genuine in expressing his concerns, and it is important that they are not dismissed out of hand, but in terms of degree I find it difficult to accept that these crosses are so excessively bright or obtrusive that the peaceful quiet enjoyment of his property cannot be achieved several hundred metres away across what appears to be parkland or open space beyond the public house. To some extent the absence of any other form of lighting, including street lighting which would be illuminated at the front of The Avenue properties, and what would otherwise be simply a dark swathe, appears to exaggerate the prominence of the display.

31. The second objection significantly overlaps with the first, and although I acknowledge what is said by Mr Banks about the deleterious impact upon the well-being and mental health of his family, it is difficult to interpret this as anything other than an extremely subjective reaction, which has perhaps been exacerbated by the frustration of having to repeat his complaints over the years, when the displays are illuminated.

32. In relation to the third objection, it seems to me that any particular excessive light pollution when measured against established standards will be a matter for the consideration of the planning authority who have the means and the expertise to measure this. The CBC *guidance* is just that, and does not provide any regulatory framework within which a church is obliged to operate. In any event, the guidance is clearly directed to floodlighting considerations, in situations where many listed buildings wish to highlight their interesting historic features for the benefit of the surrounding environment.

33. Mr Banks raises an interesting point in respect of the subjective impact on his amenity balanced against the **need** for the illuminations. (Objection 4) The petitioner, it is said, has expressed that the erection of the illuminated signs is based upon a **wish** to promote its mission. It is quite right that there are other methods by which the church could fulfil its mission. However, in my judgment, whilst it could never be said that missionary work, including evangelism and advertising seasonal events in the Christian calendar needs to be done in a particular way, a parish must be afforded a broad degree of flexibility and discretion, provided it acts within the law. Undoubtedly there is a balancing exercise which has to be carried out when this court is considering the factors which might count against the grant of a faculty, but I do not regard the expression of “wish” as opposed to “need” as carrying any significant weight.

34. In respect of the fifth and final objection, it seems to me that Mr Banks is justified in pointing out a requirement of neighbourliness. Insofar as he seeks to draw a parallel with Chancellor Gau’s decision, it seems to me that there are a number of features which distinguish that case from the present one. Most significantly, the complainant who was affected by the alteration in the church floodlighting lived in a property that was immediately adjacent to the church, only a few metres away, and whose property provided a means of access, at least in part, to the church grounds. There is no obvious comparison with Mr Banks’ property which lies on an estate of similar housing and in an urbanised area of the village of Rainford. Nevertheless I

accept that neighbourliness considerations cannot be ignored. However subjective is the response of Mr Banks and his family to what they perceive as obtrusive light pollution, the fact remains that they believe themselves to be genuinely affected by the illuminated signs. These are factors which the church should not ignore out of respect for, and in its missionary witness to all its neighbours, not just those who are impressed by the illuminations, and not least because of the gospel exhortation of Christ towards neighbourly love.

35. However, this is a matter for the petitioner in its mission and community interaction. From the point of view of the faculty consideration, in my judgment it must be significant that the complaint of Mr Banks and his family is the only one in response to the illuminations. This has not been a campaign which has encompassed a number of residents in a similar position, and therefore I conclude that whilst genuine, it is highly subjective and based upon consequences which are difficult to rationalise.

36. In terms of health and safety implications, it seems to me that there is no obvious risk or danger that is presented by the proposed installation. Clearly if it is to be continued, the petitioner will have to comply with any requirements imposed by its insurer. There has been a recent electrical inspection, upon my direction, and I am satisfied that the installation has been safely managed, and that there are no risks from electrical input and output. Whilst the potential for the collapse of the illuminated signage were a fire to be started may exist if the connections to the structure are with climbing rope, it seems to me that this is such an unlikely eventuality that it can be ignored. Again, however, it may be a matter to be considered by the insurer.

Conclusion

37. In all circumstances I have come to the conclusion that this faculty for the seasonal display of the illuminated can be granted for the periods requested. It is regrettable that the proposed display has caused upset to one particular neighbour and his family and whilst in my judgment their objections are not sufficient to preclude the granting of a faculty, it would not be appropriate to ignore their concerns altogether. I propose to restrict the permitted timings of all the displays from dusk until 10:30 pm, save that there will be an exception in relation to the stars to allow for their illumination on Christmas Eve in the event that the church holds a communion/mass after that time, where there will be an extension to 30 minutes after the conclusion of any service.

38. I also make two conditions of the faculty grant. First that planning permission is formally sought for the necessary consents, with any application to be initiated within 4 weeks of the faculty issue, before the displays are illuminated. The second is that a fused spur will be established within the belfry to enable electrical connection, with the elimination of any extension leads.

39. Whilst the parish may wish to act on this faculty grant and switch on the illuminations in the near future, (i.e. after planning consent application) steps should be taken to ensure that this is permissible in the context of planning requirements, which may allow for retrospective consent.

40. The petitioners shall pay the fees for this faculty application, as directed by the registry.

His Honour Judge Graham Wood KC

Chancellor of the Diocese of Liverpool

20th March 2025

APPENDIX OF PHOTOGRAPHS



Fig 1. One of the four crosses and the LED driver/transformer



Fig 2 Image showing church with illuminated star on North West and North East elevations



Fig 3. View from The Avenue