

CASE NOTES

EDITED BY RUTH ARLOW

Barrister, Deputy Chancellor of the Dioceses of Chichester and Norwich

AND WILL ADAM

Rector of Girton, Ely Diocesan Ecumenical Officer

Re Church of the Blessed Virgin Mary, Hambleton

Derby Consistory Court: Bullimore Ch, November 2008

Re-ordering – font – position

A faculty was granted for the re-ordering of the interior of an unlisted building to include a new heating system, disabled access, the re-positioning of the font, removal of some pews and the installation of a small kitchen unit for tea-making. The petitioners had originally petitioned for the division of the interior of the building by means of a sliding screen but this part of the petition had been withdrawn after discussions with objectors. The chancellor was satisfied, notwithstanding complaints to the contrary, that the publication of public notices and the opportunities afforded by the Faculty Jurisdiction were sufficient to allow complaints to be heard. The faculty to re-position the font at the front of the church was granted, notwithstanding the provision of Canon F1 that the font should be as close as conveniently possible to the principal entrance and on the basis that, as baptisms generally happen during public worship, the new position was more convenient for the congregation. [WA]

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Re St Mary, Atherstone

Coventry Consistory Court: Gage Ch, November 2008

Re-ordering – conservation – heating – funding

The heating system of this Grade II* listed building had failed, rendering it impossible to hold services during winter months. The petitioners sought a faculty for the installation of a new system, along with other conservation works, major interior works and the installation of a wheelchair lift, kitchen and lavatory. The project would cost in the region of £3 million and would enable the division of the interior of the building to provide a number of component rooms for use by community organisations. The church is of

considerable historic interest and, while there were no formal objections, English Heritage, the Victorian Society and the Church Building Council had all expressed reservations during the consultation process. The chancellor found that the petitioners had discharged the burden of showing that the works were necessary and that the necessity outweighed the adverse effect on the building. However, the archdeacon raised concerns about the cost of the scheme and the difficulty of raising sufficient funds. The chancellor ruled that, prior to the works commencing, the petitioners should provide the court, via the registrar, with a certificate with evidence from a quantity surveyor as to the cost of the scheme and evidence that adequate funding was in place at the time. [WA]

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Re St Nicholas, Nuneaton

Coventry Consistory Court: Gage Ch, December 2008

Extension – removal of pipe organ

The incumbent and PCC sought to re-develop a Grade II listed former school within the churchyard, link this to the Grade I listed church by means of a newly constructed foyer and re-order the interior of the church. There were no objections to the first part of the scheme and planning permission had been obtained. A faculty was granted for the works to the school, the construction of the foyer and the siting of a car park within the churchyard, with the proviso that any disturbed remains be re-interred and the burial site recorded. There were three objections to the internal re-ordering, primarily concerning the disposal of the existing pipe organ and its replacement with a digital organ. The space left by the removal of the organ would provide for a new vestry. The Diocesan Advisory Committee had recommended removal, against the advice of its specialist adviser, on the basis that there was no reasonable alternative site for the vestry in the re-ordered church. The chancellor applied the *Bishopsgate* questions, concluding that in all matters save that of the organ the test of necessity had been successfully shown and that this necessity outweighed the adverse effect on the building. On the organ, the chancellor held that it was a fixture rather than a chattel and, as such, applied the same principles to his decision on this question as to the other matters. He held that the petitioners had not shown sufficient weight of necessity and encouraged the petitioners to find a suitable alternative site for a vestry within the re-ordered complex of buildings. [WA]

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