

In the Consistory Court of the Diocese of Chichester

Re St John the Baptist, Southover

## Judgment

1. On 15 June 2010 the Rector and Churchwardens of the parish of St John the Baptist, Southover petitioned for a faculty for the relocation of a number of gravestones from within their churchyard to the periphery wall to create a useable space for gatherings within the churchyard. Subject to minor provisos which can be accommodated, the DAC supports the proposals. The Church Buildings Council (CBC) and the Society for the Protection of Ancient Buildings (SPAB) object to the proposals. English Heritage has no comments to make and the Public Notice has produced no objections from within the community.
2. Upon invitation, SPAB has indicated that it does not wish to make formal objections but wishes to have its views taken into account. I have taken account of those views, as expressed in its letter of 12 April 2010, in reaching this determination. I have also taken account of the advice of the CBC in its letters dated 30 June 2010 and 26 January 2011, the views of the DAC and the documentation submitted by the petitioners in support of the petition.

### Background

3. St John the Baptist, Southover is a Grade I listed church located in a conservation area on Southover High Street. The congregation of the church is growing and the number of services held is increasing. In order to maintain a strong sense of community within the growing church and to enrich church life the PCC seeks the facility to host whole church and community events on site. To further this end they seek permission to move a number of memorials from the western end of the churchyard to be relocated to the nearest place on the perimeter wall. The graves themselves will not be affected by the proposals. It is intended that the cleared area would be laid to grass with aromatic shrubs and a bench being placed in the area to the north of the path to form a 'Prayer Garden'.
4. The area in question has been chosen for a number of reasons: it has a relatively low density of memorials compared to other parts of the churchyard; none of the listed tombs within the churchyard are within this area; it has better pedestrian and disabled access than other areas;

and it adjoins the garden of Church End (a property housing the church office and church community meeting rooms) such that the two spaces could be used together when holding church and community events.

### The objections

5. SPAB and the CBC have raised a number of objections to the proposals and I trust that I do them no disservice in summarizing them thus:
  - a. The proposals will harm the character of the churchyard and damage its amenity for those not involved in the life of the church seeking a place of tranquility;
  - b. The facility sought by the parish could be obtained whilst retaining the headstones *in situ*; and
  - c. Lichen may be affected by the removal of the headstones.
  
6. The petitioners respond to these objections by saying that a very small proportion of the churchyard area will be affected by the proposals, namely 22 out of 288 grave markers and 8% of the area. Further, the affected area is screened from most of the rest of the churchyard by the Church rooms and the Church itself. Thus, they say, the proposals will not have a significant impact on the character and amenity of the churchyard. The Rector also notes that in his eight years as Rector he has not seen any visitors to the relevant part of the churchyard who were not part of the worshipping community. It is argued on behalf of the petitioners that the proposals are in fact intended to increase, rather than limit, people's access to the churchyard, including the quieter more undisturbed area to the south and east.
  
7. The petitioners also submit that it would not be possible to use the area as they propose whilst retaining the headstones *in situ*. They cite pastoral sensitivities about children playing around the gravestones and health and safety concerns about tripping. It is certainly clear from the photographs I have seen that the area in question is uneven and some of the smaller headstones would indeed present a tripping hazard. The petitioners also state that it would not be possible to put up protection against inclement weather if there was insufficient clear ground.

### The decision

8. In determining a faculty application the Court of Arches has prescribed an approach which consistory courts are to follow, namely the application of those questions now commonly referred to as the '*Bishopsgate* questions'<sup>1</sup>. I now apply those questions.

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<sup>1</sup> *Re St Luke the Evangelist, Maidstone* [1995] Fam 1 confirming the approach of the Chancellor Cameron in *Re St Helen, Bishopsgate*, 26 Nov 1993, London Cons Ct (unreported)

9. *Have the petitioners proved a necessity for the proposed works either because they are necessary for the pastoral well-being of the parish or for some other compelling reason?* In this context necessity has been held to mean “something less than essential, but more than merely desirable or convenient; in other words something which is requisite or reasonably necessary”<sup>2</sup>. I find that the petitioners have discharged this burden. Given the increased number of services taking place at the church (indeed a further Sunday morning service has been introduced since this application was made), the need to foster relationships and a sense of community and belonging within the church community has become more important. The garden space they seek is intended to be used both to further this aim in creating an area for whole church gatherings and to provide a facility for use in wider community outreach. I accept the petitioners’ arguments that to make use of the space as they propose without moving the headstones would significantly hamper the use of space in the manner they describe.
10. *Will some or all of the works adversely affect the character of the church as a building of special architectural and historical interest?* In my view the proposed works would not adversely affect the character of the church. The parish is simply proposing the moving of a limited number of memorials in a small and discrete area of the churchyard to their nearest location along the perimeter wall. The overwhelming majority of the churchyard will be unaffected by the proposals.
11. In relation to the concerns raised about potential damage to lichen, the CBC (which raised the concerns) is unable to say to what extent the headstones have lichen on them, but observes that moving the stones is likely to damage any lichen. I note that some of stones have no lichen at all whereas others have lichen on them. Given the evidence that headstones which were moved two years ago to similar locations along the perimeter wall have lichen which continues to grow well on them I am satisfied that this concern does not affect the outcome of my decision.
12. In light of my conclusion above there is no need to consider the third of the *Bishopsgate* questions.
13. In conclusion I order that a faculty for the proposed works shall pass the seal subject to the following conditions:
- a. For the avoidance of doubt, no work shall be undertaken affecting grave 87 as marked on the plan attached to the Statement of Need;

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<sup>2</sup> *Re St John the Evangelist, Blackheath*(1998) 5 Ecc LJ 217, Southwark Cons Ct

- b. Prior to commencement of any work a full written and photographic record of the existing and proposed location of the affected memorials shall be made and shall be kept with the parish records;
- c. There shall be an archaeological watching brief maintained in relation to any work on the brick built box tomb;
- d. The type and setting of any bench to be fixed in the area affected by the proposals shall be agreed between the petitioners and an architect member of the DAC, or in default referred back to the Deputy Chancellor for further directions;
- e. The works shall be executed under the direction of the Revd Steven Daughtery;
- f. The works shall be completed within six months of the issue of the faculty or within such extended time as may be allowed.

Ruth Arlow  
Deputy Chancellor

28 February 2011