

In the matter of St Michael and All Angels, Berwick

Introduction

1. St Michael and All Angels, Berwick, is a grade I listed church in the South Downs National Park, between Lewes and Eastbourne. The building is of 13th-century origin and underwent extensive restoration in the mid-19th century, but its most striking feature dates from the Second World War.
2. This is the scheme of paintings on plaster panels, lining the nave and chancel walls, executed in 1941-42 by Duncan Grant and Quentin and Vanessa Bell, then resident at nearby Charleston. As has been observed by Sir Nicholas Serota, Chair of Arts Council England and former Director of the Tate, this is *“the only example in the country of the complete decoration of the interior of an ancient rural parish church by twentieth century artists of repute”*. According to Sir Nicholas, this decorative scheme is of *“national and even international importance”*.
3. Quite rightly, those responsible for the church have been assiduous in pursuing a programme for the conservation of these paintings. In parallel, proposals have been developed to improve the church’s facilities and decorative order. Collectively, these proposals were included in a petition for faculty dated 21 August 2018, but received by the Diocesan Registry on 13 December 2018. The petitioners are the incumbent, the Rev’d Peter Blee, and the church wardens, Ms Linda Hallums and Mr John Lewis.
4. The schedule of proposed works set out in the petition is as follows:

“Conservation of the Grant/Bell scheme of wall paintings and works associated with provision of a better environment for their survival, including:

a. Stripping of the church roof tiling

b. Insulation of the roofs with a multifoil insulation

c. Retiling of the roofs

d. Replacement of the asbestos cement ceiling panels with non-asbestos board

- e. Replacement of the floor in the nave and aisles with new floor incorporating Jupiter underfloor heating and finished with hard tiling*
- f. The addition of new convector radiators to the chancel and vestry*
- g. The running of new heating pipes across the churchyard from the ground source heat pump plant room into the church (said plant room being outside the consecrated area)*
- h. Improvements to the draught-stripping at the north and vestry entrances*

Other improvement works to the church to include:

- j. The insertion of a tea-point and accessible W.C. in the base of the tower*
- k. New drainage across the churchyard to a treatment plant outside the consecrated area*
- l. A new water supply to the church taken across the churchyard*
- m. The erection of a screen and door and the reintroduction of organ pipes in the tower arch*
- n. The installation of a new digital organ and speakers*
- o. The decoration of stained rafters to the side aisles*
- p. The introduction of audio-visual equipment*
- q. The decoration of the reredos by Julian Bell (descendant of Vanessa and Quentin Bell)”*

5. The same specification of the proposed works appeared in the Form 4A public notice that was on display from 5 December 2018 to 2 January 2019.
6. There are two important qualifications to the list of proposed works that would not have been apparent to a reader of the public notice.
7. First, in providing its input on the proposals, the Victorian Society had expressed concern about the proposed removal of the red and black 19th-century floor tiles (as set out in its email of 19 October 2018). In response, the petitioners confirmed that they would be content to retain the current tiles to the maximum possible extent, and to replace any tiles that could not be reused on a like-for-like basis. Item (e) from the list of proposed works therefore needs to be read subject to that commitment.
8. Secondly, while items (m) and (n) from the list of proposed works concern the organ, it should be noted that faculty had already been granted for the removal of the organ (faculty 0894, dated 21 November 2018). The current faculty addressed proposals for consequent modifications, but did not seek permission to remove the extant organ.

9. As I say, however, neither of those two qualifications would have been obvious to a reader of the public notice. This has given rise to a considerable degree of confusion as regards some of the objections to the current petition, to which I turn below.

10. Before I do so, it is relevant to record that:
 - (1) The Victorian Society did not wish to become a party opponent to this petition.

 - (2) Nor did the Church Buildings Council (“CBC”). Instead, the CBC made some valuable and detailed recommendations about the painting conservation process. It did not support the use of the case from the organ (which is intended for removal pursuant to the separate faculty referred to above) to screen the new digital organ, and was critical of the visual effect of the intended relocation of organ pipes. I return to these issues concerning the organ below. For now, however, I record that the CBC indicated that it did not wish to be a party opponent.

 - (3) The Society for the Protection of Ancient Buildings (“SPAB”) urged the petitioners to utilise the services of an expert in environmental monitoring, such as Mr Tobit Curteis (who has indeed been involved with these proposals throughout), but otherwise raised no concerns.

 - (4) Historic England considered the proposals, supplemented by a site visit to the church in October 2018. It raised no concerns.

 - (5) The South Downs National Park Authority also expressed no concerns about the proposals.

 - (6) The Diocesan Advisory Committee (“DAC”) engaged in detailed and constructive dialogue with the petitioners’ inspecting architect, Mr Richard Andrews. While it made a number of recommendations, the DAC recommended the proposals for approval by the Court in October 2018. Once

objections surfaced, I asked the DAC to revisit its position in light of those objections and the petitioners' responses thereto. The DAC did so, and reached the views summarised in its minute of March 2019.

The objections

11. In January and February 2019, however, the Diocesan Registry received a total of five letters of objection to the petition. The first was from Ms Deborah Gage (letter dated 31 December 2018 and received by the Registry on 7 January 2019). This objection was just out of time (the public notice period having run until 2 January 2019), but I had no hesitation in directing that it be treated as in time, not least given the Christmas and New Year bank holidays.
12. Four further letters of objection were then received in February 2019, from (i) SAVE Britain's Heritage, (ii) Dr. Wendy Hitchmough (Senior Lecturer, Art History, University of Sussex), (iii) Dr. Alan Powers (Hon. FRIBA, FSA, Chairman, Twentieth Century Society 2007-2012) and (iv) Richard Shone (Author, *The Bernick Church Paintings*, Towner Art Gallery, 1969).
13. In an attempt to consolidate and manage these strands of objection expeditiously, I made directions dated 26 March 2019, which I need not recite here. In summary, I am satisfied that the letters of objection from all five objectors (Ms Gage plus the four referred to in the paragraph above) should be taken into account, notwithstanding that they were submitted after the end of the public notice period on 2 January 2019. I am also satisfied that all objectors have received or been offered access to all relevant documents and information about the proposals so as to assist them in making informed representations. In the event, nobody wished to be a party opponent. All objectors confirmed that they were content for the Court to determine the petition, taking into account their letters and subsequent emails, as well as additional input from the petitioners and the DAC.

The faculty granted on 12 April 2019

14. During my consideration of the input from the various parties as outlined above, the petitioners informed me that they needed this petition to be determined urgently, for the

purposes of securing their envisaged grant from the National Lottery Heritage Fund (“NLHF”), i.e. if faculty was to issue, the NLHF needed to have confirmation of the same by 15 April 2019 in order for the relevant funding to be confirmed.

15. I expressed some concern about this point arising rather late in the day, and about a very substantial petition being made shortly before Christmas on such short deadlines (particularly if, as indeed happened here, objections were raised in the interim). Nonetheless, given the importance of the NLHF funding to the proposals – including for the conservation of these exceptionally important paintings – I was content to proceed on that basis. I was satisfied that all objectors had confirmed that they had said everything they wished to say.
16. I duly considered the papers and was content to grant the faculty, subject to conditions, dated 12 April 2019. A copy of that faculty is enclosed with this judgment. I indicated at the time that my reasons for granting that faculty would follow. They are set out below.

Reasons

17. The schedule of proposed works (set out above) contains numerous items. All have been considered, including by expert organisations, and a number of the proposed works have attracted no criticism at all, and indeed have attracted support (in particular from the DAC). I therefore conclude that, subject to the specific points of objection and qualification below, faculty should be granted for the proposed works.
18. The more contentious points before the Court, and my conclusions on those points, are as follows:
 - (1) Flooring: like the Victorian Society, a number of the objections concerned the flooring. As the DAC recorded in its minute from March 2019, *“the Victorian tiles were an important component of this significant interior and that the DAC would prefer the appearance of the floor to remain the same, reusing the original floor tiles so far as possible, replacing others on a like-for-like basis, and laying the tiles out in exactly the same configuration”*. I very much agree, and the petitioners accepted the same.

- (2) Seating: a number of the objections were directed at contemplated changes to the pews and chairs currently in use in the church. The current petition, however, is not concerned with any changes to seating or related furniture at all. This objection does not arise for consideration here, though the petitioners will no doubt be mindful of these objections when contemplating any future proposals as regards seating in the church.

- (3) Draught-stripping of the north door: Ms Gage in particular expressed concern about the adequacy of the north door in terms of the control of air flowing into the church, which can have a material impact on the condition of the paintings over time. This is a valid and thoughtful observation, but I agree with the DAC that the petitioners' proposed approach is within the range of adequate solutions to this issue. In its minute of March 2019, the DAC said that it was "*content to recommend the proposals for approval on the basis that expert advice on conservation issues and control of the environment had been sought from Mr Tobit Curteis in developing the proposals and it was felt that the advice received had been carefully considered and taken into consideration*". Like the DAC, I am content that Mr Curteis will guide this aspect of the works so as to ensure the maximum feasible protection of the paintings from air flowing through the north door.

- (4) Facilities in the base of the tower: the petitioners propose to use this space for a WC and tea-serving point. There were some objections about the appropriateness of this location for such facilities, with an extension into the churchyard being urged as a better approach. I do not uphold that objection. If well executed, extensions can work very well in such settings, but they are much more expensive and – as the DAC has rightly pointed out – they entail complications such as breaking through medieval wall fabric and disturbing an area of the churchyard. In any event, I am concerned with the proposal as advanced by the petitioners, and having considered the input of the DAC and the organisations referred to above, I am content that the petitioners' proposal as regards facilities in the base of the tower is appropriate. By reference to the tests in *Re St Alkmund, Duffield* [2013] Fam 158, my view is that these particular works will cause no harm to the significance of this church.

- (5) Reredos piece commissioned from Julian Bell: some of the objections here were to the relocation of the *Supper at Emmaus* painting from its original location as an altarpiece to elsewhere in the church. That, however, took place in the early 2000s, again under a previous faculty, and this does not arise for consideration here. The current proposal is for a new altar piece by the artist Julian Bell. I recognise that new art works – particularly those intended as altar pieces – will generally not receive unanimous support. There is room for divergence of views.

I am satisfied, however, that faculty should be granted in these circumstances. Nobody has argued that the new piece will cause harm to the church's significance, and the specialist consultees have raised no objections. In any event, I give some weight to the apparent desire for artistic continuity (Julian Bell is a descendent of Vanessa and Quentin Bell), and in any event the new work will be on removable wooden panels. It is realistic to think that, like its predecessor piece, it could be relocated if the weight of views about its suitability changes over time.

- (6) Organ and organ pipes: as I have indicated above, some of the objections were to the removal of the existing organ – but that has already been determined under a previous faculty, and I cannot revisit that point here. On the footing that the existing organ will be removed, I agree with the petitioners and the DAC that it is appropriate for a digital organ to be installed so as to continue the tradition of organ music.

The petition also proposes the retention of organ pipes to provide (a) a measure of screening, and (b) a visual (if inauthentic) sense of continuity with the previous organ arrangements. This issue is more finely balanced. The CBC does not support this aspect of the proposals, and I note that its position accords with its general guidance on the replacement of pipe organs with digital organs. Nonetheless, I recognise the petitioners' desire to retain some sense of visual continuity with the pipe organ and, having considered the proposals, my view is that – on the facts of this case – the proposed retention will not cause harm to the significance of the church, in *Duffield* terms. Thus,

while the point is marginal, I am prepared to grant a faculty for this aspect of the proposals also.

- (7) Conservation arrangements: understandably, a number of the objection letters were at pains to stress that conservation work on the paintings should not inadvertently cause them harm (a point made by Dr Hitchmough in particular). Again, however, I am content that a wide range of expertise has been brought to bear on these proposals and, like the DAC, I see no basis for concluding that the petitioners' approach puts the paintings at risk. I note that one objection alleged that, pursuant to previous works, wiring for lighting arrangements had been affixed to some of the painting panels – but I am satisfied that this is simply incorrect as a matter of fact.

I also note the suggestion from SAVE Britain's Heritage for the DAC to appoint an independent and permanent advisory committee as a compulsory consultee for any proposals about the ongoing management and conservation of the interior of the church. I share the view that, given the significance of this church interior, any works for its conservation or amendment should draw on as wide a range of input and expertise as possible. I do not, however, see any basis for imposing a requirement for a permanent standing committee to that effect in these circumstances.

19. For those reasons, I grant the faculty enclosed with this judgment.
20. I wish to thank all of those mentioned in this judgment that have provided very thoughtful and proportionate input into this matter, whether by way of support, suggestion or criticism. This thanks extends not only to the consultees and statutory organisations, but also to the DAC for its careful analysis and to the individual objectors and SAVE Britain's Heritage.
21. The petitioners will no doubt ensure that the expertise of Mr Curteis and of their inspecting architect, Mr Andrews, are brought to bear on all aspects of the execution of these works. I also respectfully urge the petitioners to ensure that any future proposals for conservation work or changes to the church (including its furnishings) are drawn to

the attention of all of those mentioned in this judgment, so that the widest possible pool of views and expertise can help shape the evolution of this important church.

22. As is the norm for Petitions with no Party Opponent the costs, including the additional costs incurred by the Registry, are to be borne by the Petitioners.

ROBIN HOPKINS

Deputy Chancellor

13 June 2019