

of the required funding in place before the funding condition could be varied. The device of permitting a modest start to the work was not a proper way for the court to, in effect, extend the secular planning permission. Therefore, and save with respect to the boundary wall, amendment of the funding condition was refused. [DW]

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Re St Michael and All Angels, Berwick

Chichester Consistory Court: Hill Ch, 30 November 2021

[2021] ECC Chi 9

Stay on petitions pending appeal

It is axiomatic that, as a general rule, where permission to appeal has been sought in respect of the dismissal of a petition, no further petitions concerning the church in question should be considered by the consistory court until that application has been determined and, if permission is granted, until judgment has been given in the subsequent substantive appeal. In this case, the petitioners had applied for permission to appeal a decision of the deputy chancellor and in the meantime brought a further petition. The chancellor had stayed the second petition, with liberty to apply to lift the stay; the petitioners had now made such an application.

The present petition (for an extension for lavatory facilities) was discrete from the petition under appeal (for the removal of pews), it was uncontroversial and it would be compromised by the loss of Lottery funding if delayed until the conclusion of the appeal. These were sufficient reasons to depart from the general norm, in the interests of justice. Accordingly, the stay would be lifted. [DW]

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Re A redundant church bell

Oxford Consistory Court: Hodge Ch, 29 December 2021

[2021] ECC Oxf 11

Faculty – church bell – amendment – risk of theft

This petition concerned a 1630s treble bell in a Grade I listed mediaeval village church. A previous faculty had authorised remedial works to a ring of three bells. It was subsequently discovered that the treble bell was irreparably cracked and unfit for use; however, a replacement 1760s bell had been sourced.

The Parochial Church Council (PCC) decided it wished to put the newer bell to use in the tower and to display the 1630s bell at ground level in the church.

The Diocesan Bells Advisor declined to support the petition, owing to concerns that the bell might be stolen. He was not persuaded that the security measures proposed by the churchwarden would be sufficient, and instead elected to support only the display of the bell on an upper floor in the church's bell tower. The ground-floor proposal otherwise had the approval of the PCC, the diocese's senior church buildings officer and the church's insurers.

The chancellor considered that, notwithstanding the genuine concerns of the bells advisor, the bell should be placed on display for the congregation and visitors to appreciate now its original function had become exhausted. Accordingly, and to give the petitioners some flexibility, he granted a faculty for its display on an upper floor or (at the choosing of the PCC from time to time) properly secured at the foot of the bell tower.

In doing so he was guided by the importance of preserving heritage in churches without undue regard to individual feelings or an artefact's 'practical use', expressed in such cases as *re St Lawrence, Wootton* [2015] Fam 27. The chancellor also carefully examined *re St Helen's, Brant Broughton* [1974] Fam 16, upholding a decision to require the retention of a valuable painting despite the fact that it was vulnerable to theft.

The judgment was published in anonymised form to avoid the identification by future potential thieves of the church in which the bell is situated. [Jack Stuart]

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Philip Bialick v NNE Law Limited

Employment Tribunal, 6 January 2022

[2022] UKET 2405912/2020

Orthodox Jew—obligation to work on high holy day—disadvantage—indirect discrimination

In February 2020, Mr Bialick, an Orthodox Jew who worked as a litigation executive, booked a day's leave on 9 April 2020—one of the days during Passover on which work is forbidden. It was NNE's practice that its case-handler employees were not allowed to be away from their office for more than two weeks (a policy of which he was unaware); because he had been absent through sickness in the immediately preceding fortnight, his line manager told him to attend on 9 April even though it was a pre-booked holiday. When booking his leave, he had not told NNE that he needed the dates to observe a religious holiday but had simply asked for annual leave and was granted it—and it was NNE's policy not to inquire into reasons. The