

particularly by providing them with historical education about the Battle of Trafalgar. The Commissary emphasised that her judgment was not intended to set any legal precedent or to provide encouragement to other parishes to dispose of treasures. [Alexander McGregor]

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### **Re Holy Trinity, Folkestone**

Canterbury Commissary Court: Ellis Com Gen, 28 March 2013  
*Memorial windows – installation – Duffield questions – harm*

In considering a petition for the installation of a series of six stained glass windows in memory of a person who had been married in the church, the Commissary General observed that where a such a proposal involved an addition to or adornment of the church it was not necessary for the petitioner to establish ‘exceptionality’ in respect of the character or service of the person to be commemorated: *Re St Mary, Longstock* [2006] 1 WLR 259. As the church was a listed building the proposal was to be assessed in accordance with the framework of questions articulated by the Court of Arches in *Re St Alkmund, Duffield* [2013] 2 WLR 854. The answer to the first of those questions – would the proposals if implemented result in harm to the significance of the church as a building of special architectural or historic interest? – was no. There were good reasons in favour of the proposal and a faculty would be granted. [Alexander McGregor]

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### **Re St Augustine, Kilburn**

London Consistory Court: Seed Ch, 2 April 2013  
*Telephone masts – planning permission – external appearance*

A faculty was sought to erect nine telephone masts in the tower bell chamber of this Grade I listed church. The application was the same as several others in the diocese, of which two also concerned the same local authority planning department. The work proposed replacing lead-covered oak louvres with GRP replicas, a process approved by both English Heritage and the Victorian Society on condition that the original louvres would be reinstalled when the masts were removed. Notice of the work was given to the planning authority, although it was thought that no planning application was required as there was no material change to the building’s appearance. No reply or request for a planning application was received in

the 28-day notice period. Only one objection to the works was received by the prescribed deadline; many others came after the expiry of the notice period. The objections related to the consultation process and health concerns about the masts. In response to the campaign against the masts the local authority requested a further 28 days to consider the proposals, well outside the statutory notice periods. They then proposed to lodge an objection in the faculty proceedings arguing that the works required planning permission as they would detract from the external appearance of the building. Considering whether the works would materially affect the external appearance of the building and thereby its character, it was found that viewed from street level the replacement louvres 30 feet above would have no material effect on the church's appearance. The plan to reinstall the original louvres would guard against the risk of the appearance changing because of different weathering of the GRP. It was also found that the same authority had previously allowed precisely the same works to other churches with no objections or requirement for planning permission. They had only been able to object to the works out of time because of the extended notice period necessitated by the faculty process. Both secular and ecclesiastical cases were considered in concluding that there was no evidence to substantiate fears about health risks from the masts. The faculty was therefore issued on the basis that the works were exempt from the planning authority's jurisdiction. [Catherine Shelley]

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### Re St George, Benenden

Canterbury Commissary Court: Ellis Com Gen, 2 April 2013

*Ringling chamber – handrail – emergency faculty*

Access to the ringing chamber of this church was up a narrow, uneven, spiral staircase with only a rope down the central column of the staircase to hold onto for support. The bell tower housed a twelve-bell peal that attracted visiting ringers. The tower captain installed – on an 'experimental basis' and without a faculty – a polypropylene handrail, masked by whipped rope, round the outer edge of the staircase. The design of the handrail was contentious within the parish. No agreement could be reached between the rope handrail and a cast iron alternative. A fixing of the handrail came loose and the Archdeacon petitioned for the emergency removal of the handrail for health and safety reasons. Granting the emergency faculty for removal of the unauthorised rail the chancellor recognised that the design of the rail remained contentious. She directed that a faculty petition be lodged and that if an alternative petition were also to be lodged the applications would be considered