

Neutral Citation Number: [2020] ECC Swk 1

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

IN THE MATTER OF THE CHURCH OF ST MICHAEL AND ALL ANGELS, BLACKHEATH PARK

AND IN THE MATTER OF A PETITION BY THE REVD SANDY CHRISTIE, THE REVD TIMOTHY AJAYI AND DAVID HAWKETT

## JUDGMENT

### Introduction

1. Except perhaps for a few climate change deniers, everybody takes climate change with ever increasing seriousness. In the last year, that process was highlighted by the prominence achieved by the campaigning of Greta Thunberg. Scarcely a day goes by without the issue being mentioned in the news bulletins in one context or another. The issue is seen as intrinsically important; and a particular concern is that, despite this, the action (or sufficient action) that is needed to address the problem is not being taken.

2. Against this background it is not surprising that the Church of England and the Diocese of Southwark have highlighted the importance of the issue.

3. The Archbishop of Canterbury, the Most Revd Justin Welby, has said

*Reducing the causes of climate change is essential to the life of faith. It is a way to love our neighbour and to steward the gift of creation.*

4. The Church of England has an environmental campaign called *Shrinking the Footprint*. It says:

*We believe that responding to climate change is an essential part of our responsibility to safeguard God's creation. Our environmental campaign exists to enable the whole church to address - in faith, practice and mission - the issue of climate change.*

5. At the Synod in July 2019, the Diocese voted unanimously to work towards becoming an Eco Diocese. The Bishop of Kingston, the Rt Revd Dr Richard Cheetham said:

*There is a growing and deepening awareness, and massive scientific evidence, that the environment and climate change is one of the biggest issues of our time. For Christians, our response to this is not simply a moral one, but it springs out of our whole understanding of how we see our place in the universe – our relatedness to God, the world, each other, and all of God's creation.*

### The proposal

6. I have before me an unopposed petition by the Revd Sandy Christie, the Revd Timothy Ajayi and David Hawkett whereby they seek a faculty for the installation of floodlighting to the church of St Michael and All Angels, Blackheath Park. Mr Christie is the Vicar of Blackheath Park and Mr Ajayi is his curate; Mr Hawkett is the Secretary of the PCC. It is usual for one of the petitioners to be a churchwarden but it is not a requirement and evidently Mr Hawkett is an entirely appropriate person to be a petitioner. Mr Ajayi is a petitioner because he has been nominated by the PCC to lead on the

floodlighting project. The PCC unanimously approved the project at a meeting on 12 February 2019. Planning permission was granted on 10 October 2019<sup>1</sup>.

7. The equipment will be state of the art, which means that it is designed to minimise energy consumption. The lighting to the tower and spire will be effected by narrow beam spotlights which will minimise light pollution and energy consumption. The lighting will be controlled by an automatic time clock system which will allow for graduated attenuation of light levels so that, as the sky darkens, light levels can be effectively reduced to save energy. It is proposed that at the end of the evening only the spire will remain illuminated before being turned off. By the terms of the planning permission, the lighting must be switched off by 11 pm.

8. St Michael and All Angels, which is listed Grade II\*, is a remarkable and attractive building. Designed by George Smith in an individual Gothic style and built in 1828 - 1830, the tower and spire at its east end is known as the "Needle of Kent".

9. The Vicar and PCC take shrinking the footprint very seriously and, in the context of proposals for re-ordering the church, have been able significantly to reduce their energy consumption. The parish is on a green tariff.

### Consideration

10. Against the background of the increasing importance of climate change and the strength of the Church of England's policies about it, I was concerned as to whether it was appropriate to grant permission for the installation of new floodlighting and I asked the Petitioners as to how they would justify it; and the DAC for its views of the matter<sup>2</sup>.

11. That concern may be simply articulated. The installation of floodlighting will add to the carbon footprint; floodlighting is not something which is necessary; the fact that only a comparatively small amount of electricity will be used is not a justification. However each of these propositions requires further consideration.

12. First, it is not obvious that the proposal will add to the carbon footprint. If the electricity supplied is on a green tariff, so that it will have been sustainably generated, on the face of it the carbon footprint will not be added to.

13. This is not an altogether straightforward subject. In fact, as I understand it, purchasing on a green tariff does not mean that the electricity is generated sustainably but that its consumption is matched by the purchase of renewable energy used elsewhere in the system. This is not quite a distinction without a difference because there is a finite amount of energy generated by renewables which will always go to reduce the proportion of electricity generated by non-renewables. Thus the DAC advise me that the floodlighting will deplete the total amount of renewable energy available to the National Grid. Whether this does or does not add to the carbon footprint would seem to depend on whether at all relevant times there is in the National Grid a surplus of non-renewable energy. Although conceivably this might be the case in respect of the small amount of electricity used by the floodlighting, it seems to me that, if it were the case, almost any individual proposal could be justified as not adding to the carbon footprint (its energy demands would be likely to be small compared with the amount of energy generated for the National Grid). My conclusion is that the floodlighting proposal will add to the

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<sup>1</sup> The local planning authority in considering the planning application would have particularly had in mind issues relating to light pollution. No concerns about this were expressed by local residents about light pollution in the context of the faculty application. I am told that when tests were carried out in connection with the design of the floodlighting, the church's residential neighbours were invited. The feedback from this large gathering was overwhelmingly positive and supportive of the project.

<sup>2</sup> I have also had the assistance of the Archdeacon of Lewisham and Greenwich, the Ven Alastair Cutting.

carbon footprint, albeit that by purchasing its electricity on a green tariff, the church is encouraging the use and development of green energy.

14. Second, as regards the absence of necessity for the floodlighting, there is of course no requirement that work must be necessary before a faculty is granted for it. However if any harm arises from a project, what one looks for is public benefit, outweighing the harm and providing justification for it<sup>3</sup>. I entirely accept, as the parish and DAC argue in this case, that floodlighting a church may be regarded as a public benefit. In this particular case it will enhance the appreciation of this fine church. In terms of the church as a local centre for worship and mission, the benefit may be less tangible but I do not think it is unreal. Accordingly it may be argued that the public benefit offsets any harm that may arise by virtue of an addition to the carbon footprint. I am bound to say that I do not find the argument altogether convincing. How one views the matter must necessarily depend, to a degree, on how important one considers it not to increase/to shrink the carbon footprint. However, as a generality, no-one questions the importance of these objectives. That, of course, must provide context for any off-setting public benefit. It seems to me that, although that benefit is real, it is not obviously of such weight to outweigh the harm.

15. In this context, I have had pressed upon me other examples. There may be all sorts of church development projects which add to the carbon footprint: obvious ones are the construction of a new church or the extension of an existing one. I think that the difference between proposals such as these and floodlighting proposals is that their justification is much stronger.

16. There is also the case of existing floodlighting. It seems to me that a church having invested in the provision of floodlights, it is likely to be reasonable to continue to use them. Nonetheless I imagine that churches that do have floodlights will, from time to time, wish to consider whether to continue to use them. The issues involved will be similar to those before me but not identical. They will, of course, be for the incumbents and PCCs concerned and not for me.

17. Third, the fact that only a small amount of energy will be used is obviously a material matter. Nonetheless in this sort of context the smallness of the amount of energy used (and hence the smallness of the harm) is not the sort of knock down argument it might be elsewhere; it invites the response that if churches should be shrinking the footprint, there should not be any increase; or to put the point in a slightly different way, any increase is a serious matter<sup>4</sup>.

18. I hope that it is helpful to analyse the arguments in the way that I have done in the paragraphs above. However the reservations that I have expressed may be summarised by saying that all that the Church has said about environmental issues may sound hollow if when it comes to a difficult decision it does not seem to apply.

19. Having set out my reservations, I recognise that others, although just as concerned about the issues involved, may reach a different conclusion on how the balance should be struck. Thus the Vicar and PCC have pursued these proposals while always having in mind the importance of green issues. Likewise the DAC and Archdeacon, equally cognisant of those issues, recommend them to me.

20. I am also particularly aware that, although I have drawn attention to the strength of the Church of England's pronouncements on green issues, what I have highlighted is general and says nothing specific about floodlighting. **There is however one specific document on floodlighting and I should refer to it. This is a Guidance Note *Floodlighting* issued in 2012 by the Church Buildings Council.**

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<sup>3</sup> See *In re St Alkmund, Duffield*, a case where this approach was applied by the Court of Arches in respect of harm which may arise where a church which is a listed building is altered.

<sup>4</sup> It is appropriate in this context to consider general off-setting proposals. It would no doubt be possible for any increase in the carbon footprint to be calculated and off-set. But the objection can be made that the off-setting could happen anyway, and that the increase ought not to be happening in the first place.

21. First and foremost, it envisages that a floodlighting scheme may be appropriate:

*... it can be an important tool in ensuring the visibility and longer term sustainability of the church building in the community.*

22. The Guidance gives good advice about the design of schemes which will, incidentally, reduce energy costs.

23. More generally it says

*... it is important that given the Church of England's target of 80% reduction in carbon footprint by 2050 parishes should think carefully what they want to achieve and how else it could be done without embarking on a floodlighting programme.*

24. I am not sure in what circumstances the author of this guidance thought that it might be appropriate for a parish not to pursue a floodlighting scheme. I draw from the document that in the CBCs view floodlighting may be appropriate and that there is no blanket objection to such schemes.

25. If there were clear policy guidance that floodlighting schemes were generally inappropriate or which set out criteria against which they were to be assessed, I would attach weight to such guidance. Potentially I can see that, in the light of it, it might be appropriate not to permit a scheme. As it is, I do not think it is appropriate for me to refuse permission for the scheme. As matters stand, reasonable people may evidently take different views as to the competing weights of benefit and harm in circumstances where there is no firm guidance. Moreover, I think that if one were to object on the basis that the harm is significant, I think that one would be bound to say that the harm is **intrinsically** modest. What is being said is that, in the circumstances – the importance of global warming, of taking a clear stand on the issue and so on – intrinsically modest harm is significant. Although it seems to me that this is a reasonable approach to take, it does not represent the usual way in which harm is analysed in faculty cases. It seems to me that there is analogy here – albeit not exact – with the approach the Court takes to questions involving the expenditure of money. Sometimes someone may object to a faculty on the basis that the money involved would be better spent on something else e.g. church missions. That concern may be an entirely rational one and, indeed, properly made. However, except in extreme cases, the Court will not examine the judgment that has been made as to funding. It is another matter in which two views are possible and there is no objective means of deciding between them.

26. Having decided to grant the petition, I do not think that it is appropriate to impose conditions about the use of green energy or requiring carbon off-setting. Given my general approach, these are matters appropriately left to the Petitioners. As I have noted, the parish is already on a green tariff. I do require that the work be completed to the reasonable satisfaction of the Church's Inspecting Architect.

27. Subject to that one condition, I direct that a faculty should issue as prayed.

### **Concluding remarks**

28. I am grateful to the help that I have been given by the Petitioners, the DAC and the Archdeacon. I do not think that anyone finds these matters easy and I have been greatly assisted by their submissions. As I indicated in directions which I gave earlier, I would not have refused to grant a faculty without giving the Petitioners the opportunity to make oral representations to me; in the event this did not prove to be necessary.

29. The Diocesan Environment Working Group will want to consider this judgment. At an earlier stage of my consideration of these proposals I ascertained that it was not its role to give me advice on specific proposals; that role remained with the DAC. The direct implications for the future of this

judgment would seem to be that parishes should carefully consider the effects on the carbon footprint of the installation of floodlighting but that, having done so, the decision on whether to install it is a matter for them. Potentially some Diocesan guidance might be helpful but whether the Working Group feels it appropriate for it to give it is of course entirely a matter for it to decide.

PHILIP PETCHEY

Chancellor

22 January 2020