



2. The font shall stand as near to the principal entrance as conveniently may be, except there be a custom to the contrary or the Ordinary otherwise direct; and shall be set in as spacious and well-ordered surroundings as possible.
3. The font bowl shall only be used for the water at the administration of Holy Baptism and for no other purpose whatsoever.'

The court considered that the proposed portable font did not fulfil either the letter or the spirit of the Canon. A loose bowl, kept in storage and brought out occasionally, ran a high risk of being used for other purposes, and did not properly recognise the importance of baptism. There needed to be a good quality font used solely and exclusively for baptism which, if moveable, still must be permanently visible in the church.

That part of the petition was dismissed.

doi:10.1017/S0956618X24000425

Re St Mary, Stalbridge [2024] ECC Sal I & 2

Salisbury Consistory Court: Willink Dep Ch, 22 February and 8 April 2024

[2024] ECC Wor 3

Net zero guidance – replacement oil boiler – offsetting conditions – deliberate disregard of faculty jurisdiction – penalty

David Willink

Barrister, Lamb Chambers, London, UK

Before the July 2022 amendment to the Faculty Jurisdiction Rules which removed a like-for-like replacement of an oil-fired boiler from List B, the PCC resolved on such a replacement for their church's defunct boiler. However, before the work was undertaken, the Rules were amended to require a faculty for such a replacement, and to require the Diocesan Advisory Committee to advise the court on whether the petitioners' explanation of how they have had due regard to the Church Buildings Council's net zero guidance was adequate. While the petitioners had taken some steps to justify the decision they had taken by reference to the net-zero guidance, the DAC's pre-petition advice was that the petitioners' explanation was not adequate, and the grant of a faculty was not recommended. Nevertheless, the petitioners issued the petition; but before the petition could be considered, and in the knowledge that such a course was unlawful, the petitioners procured the installation of the new boiler.

The court considered the meaning of 'having due regard to guidance', and adopted the interpretation applied in *Re All Saints, Scotby* [2023] ECC Car 3, that it required the guidance to be given great weight, and to be followed unless there were cogent reasons for not doing so. In the present case, it was unanswerable that the guidance had not been followed; but the distinct chronology constituted a cogent reason for that failure.

Considering the matter afresh, with the benefit of additional material on the cost of alternatives which had not been available to the DAC, the court was satisfied that a new oil-fired boiler was the only practicable and affordable heating solution available to the petitioners; and granted a confirmatory faculty. The faculty was subject to a condition that CO₂ emissions from fossil fuel must be subject to accredited offsetting; and the court set out the meaning of 'accredited' and a means by which the offsetting requirement could be calculated. Because the new boiler was capable of being converted to run on non-fossil fuel, and it was only intended as a temporary solution before a more environmentally friendly solution could be developed, the faculty would permit the use of the boiler for only five years. In considering any application to extend that period, the court would consider whether the boiler had by then been converted to non-fossil fuel, and the evidence of compliance with the offsetting condition.

In a separate judgment, the court addressed the unlawfulness of the petitioners' actions. The petitioners had written to the diocesan bishop and others announcing their intention to proceed in the absence of lawful authority, and expressing frustration at the Church's legal processes. The incumbent's evidence was that, had the recipients responded to that letter with advice as to what could or could not be done, there might have been a different turn of events. However, given that the letter was written on the same day that the installation of the new boiler was commissioned, the court considered that suggestion was fanciful.

The court considered that the contractors were not entirely blameless, in that they failed to ask for confirmation of the authority for the works they were to undertake. The court reiterated that contractors should always, invariably and without fail obtain a copy of the relevant faculty (or other authorisation) before they commence any works in a church.

The court concluded that, in the light of the sustained and serious way in which the conduct of the incumbent and the PCC fell short of what was required of them by the faculty system, some sanction was appropriate. The court would (subject to the views of the DAC) make an excluded matters order, depriving the parish of the benefit of List B authorisations for two years. Finally, the court recorded that it had paid no regard to a letter written to it by the local MP, urging a particular approach to the court's deliberations. Such an attempt by a member of the legislature to influence the judicial decision of an ecclesiastical court was as inappropriate as it would be in the case of a civil or criminal court.

doi:10.1017/S0956618X24000437