



Appeal Decision

Site visit made on 7 October 2011

by Roger C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MIL

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 October 2011

Appeal Reference: APP/K1128/A/11/2150769

St Petrox Church, Castle Road, Dartmouth

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Black (St Petrox Church PCC) against the decision of South Hams District Council.
 - The application (reference 15/1924/10/F, dated 12 August 2010) was refused by notice dated 11 October 2010.
 - The development proposed is the "erection of protective railings to east and south moats at the church".
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Decision

1. The appeal is dismissed.

Main issues

2. I have concluded that there are two main issues to be determined in this appeal. The first is the effect of the proposed railings on the appeal building and its setting. The second, in the light of that, is whether they are necessary, in the interests of health and safety.

Reasons

3. St Petrox Church is sited on a steep cliff at the entrance to the estuary of the River Dart, where the natural harbour has been used since historic times and its entrance has been protected by fortifications since at least the middle ages. Dartmouth Castle has been extended and altered over the centuries and parts of the late medieval structure immediately adjoin the church. The Castle itself is now in the care of English Heritage and St Petrox Church lies within its historic walls, in a scenic location.
 4. St Petrox Church is a parish church which probably dates from the late twelfth century but was rebuilt and enlarged in 1641. It is constructed of local limestone and slatestone rubble that is mostly rough cast, though it is exposed on the tower. The church is particularly important and is listed (Grade I) as a building of special architectural or historic interest but it is subject to the Church of England Faculty procedure, whereby listed building consent for the proposed alterations is not required.
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5. The church is not aligned precisely east to west, though for the purposes of this decision I refer to the main elevations by reference to their notional north and south orientations (notwithstanding the reference made in the application and appeal to the "east and south moats"). The east end of the church, in fact, stands high above the courtyard area associated with the entrance to the Gun Tower of the Castle.
6. The "moats" to which the appeal relates are now protected by temporary plastic fences, in response to concerns arising, apparently, from children falling or jumping into the narrow moat on the south side of the building (and, presumably, its continuation along the eastern face of the vestry which projects on the south side of the building).
7. These "moats" have been created along the north and south faces of the church (either side of the nave and aisles) in order to improve the building's resistance to damp and are evidently an important construction feature. They are, in effect, narrow trenches which prevent the passage of moisture between their stonework outer faces and the wall of the church and are barely wide enough to permit regular maintenance, by clearing out any accumulated debris that might permit moisture to bridge the space. The stonework which forms the external face of the "moats" is mostly topped with grass though part of the stone wall is exposed along the eastern end of the south "moat".
8. The area adjoining the north side of the Church is a part of the graveyard and does not lead to any other part of the grounds. By contrast, the larger area to the south of the Church is laid to grass and is used more generally as an open area of grass, crossed by a poorly constructed, narrow concrete path. A more formal path skirts the area, leading from the English Heritage reception point and the southern part of the Castle to the Gun Tower. Users of this path are protected from the adjacent drop by a stone wall, topped by stones on edge that obviously discourage climbing.
9. As the drawings clearly show, the appeal proposals involve the protection of these "moats" by the erection of metal railings, to prevent children or others from falling or jumping into them. The design for the proposed railings is a conventional and appropriate pattern for use in the historic setting, in a simple style.
10. Nevertheless, the proposed railings would have a major impact on the listed building itself and its setting in the context of Dartmouth Castle. They would cause real harm to the historic environment, by intruding on the present uncluttered setting of the lateral elevations and the context of the church. The new railings would, inevitably, detract from the architectural composition of the historic church and from the plain character of the churchyard in which it is set. The proposed railing along the south elevation of the church would be especially intrusive in views from above.
11. Even so, I do not believe that the design could be improved upon, if railings are needed. Nor do I believe that an alternative grille design could be practical, because of the effect that the fixings would have on the integrity of the church fabric.
12. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes certain obligations on those considering whether to grant

planning permission for development that affects a listed building or its setting. In such cases it is necessary to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

13. That statutory framework is reinforced by 'Planning Policy Statement 5: Planning for the Historic Environment', which promotes an integrated approach to the historic environment so that policies apply to all "heritage assets" whether they are buildings, monuments, sites or landscapes. The Statement points out the need to protect what is "significant" about an asset (in terms of its historic, architectural, archaeological or artistic interest) rather than protecting everything for its own sake. This enables a proportionate response to change to be made but it also requires each case to be considered on its own merits.
14. The objective of protecting the historic environment is reinforced by policies in the Development Plan, notably Policy DP6 in the Adopted Development Policies of the Local Development Framework.
15. Hence, I have concluded that the scheme before me would conflict with policies that are aimed at protecting the historic environment and that the railings ought not to be allowed unless the health and safety considerations that have been raised are sufficient to outweigh the harm that has been identified. I turn to that issue, therefore.
16. On the north side of the church, the area is used essentially by those tending the graves there or who are otherwise engaged in activities related to the church. I accept that such people would have a good understanding of the existence of the "moat" on this side of the church. Moreover, this "moat" is interrupted by buttresses along the length of the wall as well as being very narrow. In the circumstances, I am convinced that this "moat" in its current condition does not represent a significant risk to health and safety.
17. On the south side of the church, the potential for public access is markedly greater, because of the location of the access to the Gun Tower for visitors who may be unfamiliar with the Castle grounds. Moreover, the open grass in front of the church may be inviting for children's play.
18. The area around the Castle has many examples of paths, roads or open spaces where hazards are unprotected or poorly protected (by low walls), where the land falls away or there is a steep change of level. The "moats", by comparison, are not deep and they represent a more limited danger. Besides, I believe that the edge of the "moat" on the south side of the church could be better marked, as suggested in the representations, for example by suitable low level planting or by stones set on edge (to discourage children from climbing), to reduce even this risk.
19. In consequence of all this, I am also convinced that the very limited health and safety concerns which have been raised should not be given excessive weight in their context and that they do not justify the harm that would be caused to the setting of the historic church and the Castle by the erection of the proposed railings along the south face of the church.

20. At St Petrox Church, the nature of the surroundings is such that normal care needs to be taken by visitors, especially those with children, and it is plain that not all hazards can be eliminated in such a locality. In this case, I am convinced that the harm that would be done to the historic setting by the proposed railings outweighs the benefits of the project, notwithstanding the health and safety concerns which have been raised, and I have concluded that the scheme before me ought not to be allowed. Although I have considered all the other matters that have been raised in the representations, I have found nothing to cause me to alter my decision.

Roger C Shrimplin

INSPECTOR

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