

### Re St Mary the Virgin, Ashford

Court of Arches: George, Dean, September 2010

*Leave to appeal – re-ordering – ecclesiastical exemption – funding*

The Dean of Arches dismissed an application for leave to appeal against the grant of a faculty by the Commissary Court of Canterbury for a major re-ordering of a grade I listed church (noted at (2010) 13 Ecc LJ 120), the proposed appeal having no real prospect of success and there being no other compelling reason why the appeal should be heard. The Commissary General had not erred in his approach to the *Bishopgate* questions. In respect of a further ground of appeal that the grant of the faculty represented a ‘threat to the status of the ecclesiastical exemption’, the Dean held, ‘The continuance of the ecclesiastical exemption, so far as the Church of England is concerned, depends on the conscientious fulfilment by all concerned, including Diocesan Advisory Committees and Chancellors, of the difficult task of balancing the pastoral well-being of its churches with the need to protect the best of the heritage, to be conducted within the guidance given by its appeal courts and paying heed to policies and practices applied in the secular system, as well as to the church’s particular needs’. The Commissary General had applied an approach that was entirely consistent with that which the secular authorities apply to listed buildings. In respect of a ground of appeal concerned with whether the proposals would achieve funding, the Dean held that the question of funding was ‘largely irrelevant, save that it is best practice not to grant faculties for schemes with no chance of implementation within a reasonably defined timescale’. [Alexander McGregor]

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### Re St Barnabus, Erdington

Birmingham Consistory Court: Cardinal Ch, September 2010

*Re-building of fire-damaged church – relevance of planning permission*

The grade II listed church had been closed as unsafe after very significant damage was caused in an arson attack. The vicar and churchwardens now petitioned for a faculty for the rebuilding and restoration of the church. The plans re-oriented the building so that the main entrance would be on the High Street rather than a side street as previously. They included substantial additional facilities including an extension to house significant additional space to be used for community activities. With minor conditions and observations, the petition was supported by the DAC, English Heritage and the Church Buildings Council. Planning permission had been granted. The