

stance on ecological issues and seeking to conserve energy resources' amounted to a necessity for this purpose. The chancellor rejected EH's argument that the proposals would have a significant negative impact on the appearance of the church. The proposals would have an impact, 'but not a disastrous one' and the proposals were not irreversible. As to the third of the *Bishopsgate* questions, the chancellor said that he was persuaded that the proposals 'do not do as great damage' as had been suggested and that the plans were 'sound and well thought out'. The grant of planning permission was not determinative but it was persuasive. A faculty was granted subject to conditions. [Alexander McGregor]

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St Michael and All Angels, Withyham

Chichester Consistory Court: Hill Ch, April 2011

Sale of paintings – redundancy

The minister and churchwardens of the parish sought a faculty for the sale of a set of four fourteenth-century Italian paintings that had been gifted to the church in 1849. The paintings were provisionally valued at between £1 million and £1.5 million and had been housed at a museum for 14 years. There was little meaningful connection between the paintings and the parish, they were not currently in use and nor was there any realistic prospect of them returning to the church. The sale was commended by both the diocesan advisory committee and the Church Buildings Council. The chancellor summarised the law as expounded in *Re St Peter, Draycott* [2009] Fam 93, acknowledged that the burden of proof rested on the petitioners and recognised the above factors militating in favour of a faculty. Although there was no dire financial emergency within the parish, the parish only covered its annual expenditure each year by digging progressively more deeply into its reserves. The faculty was granted. [RA]

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Re St Michael, Tilehurst

Oxford Consistory Court: Bursell Ch, April 2011

Deceased infant – teddy-bear-shaped memorial – pastoral considerations

The petitioner, whose child had died aged six months, sought a faculty permitting the introduction of a memorial, the central section of which would incorporate a detailed teddy bear embracing its top and side. The grave was situated in a part of the churchyard primarily used for children's and babies' burials. A number of memorials that did not comply with the churchyard regulations

had already been introduced, though there were no other teddy-bear-shaped memorials. Despite recognising the very strong pastoral considerations involved, the chancellor held that the petition had to be decided in a wider context. Previous petitions seeking to introduce teddy-bear-shaped memorials in the diocese had been refused. If the proposed memorial were allowed, not only would that be a precedent for other such memorials but other grieving parents elsewhere in the diocese would be hurt and aggrieved by the decision. The chancellor applied the reasoning of Tattersall Ch in *Re St Andrew, Dacre* (2011) 13 Ecc LJ 119: an applicant's own assessment of what was a worthy memorial could not weigh heavily in determining what should be permitted; otherwise there could be no effective system of regulation of memorials in churchyards. A memorial could not be justified simply because it was said that it would meet the pastoral needs of the deceased's family. The petition was accordingly refused, the chancellor indicating that he would permit a small, coloured engraving of a teddy bear in one of the bottom corners of a normally shaped memorial, were the petitioner to seek permission for that. [Alexander McGregor]

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R (on the application of the parent governors of Cardinal Vaughan School) v Roman Catholic Archbishop of Westminster and another

Court of Appeal: Rix and Smith LJJ, Sir Richard Buxton, April 2011
Schools – foundation governors – appointment

Paragraph 5 of the governing instrument of a Roman Catholic voluntary aided maintained school required that two foundation governors should, 'at the time of their appointment, be eligible for election or appointment as parent governors'. The parent governors of the school challenged the decision of the Archbishop of Westminster in appointing four new foundation governors, none of whom was eligible for election or appointment as parent governor. The Archbishop had not renewed the appointment of two foundation governors who were parents of current pupils at the school. Paragraph 10 of Schedule 1 to the School Governance (Constitution) (England) Regulations 2007 provides as follows:

- 10 (1) ... the governing body must appoint as a parent governor—
 - (a) a parent of a registered pupil at the school;
 - (b) a parent of a former registered pupil at the school; or
 - (c) a parent of a child under or of compulsory school age.
- (2) The governing body may only appoint a person referred to in subparagraph (1)(b) or (c) if it is not reasonably practicable to appoint