



Saint Mary, Hornsey Act 1969

CHAPTER I

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ELIZABETH II



1969 CHAPTER i

to provide for the demolition of the church of Saint Mary, Hornsey, and for the erection of a new church in place thereof; to authorise the use for other purposes of parts of the site of the existing church and adjacent lands; and for purposes incidental thereto.

[30th January 1969]

WHEREAS the existing church of Saint Mary, Hornsey (hereafter called "the existing church"), in the London borough of Haringey, was completed in the year 1889 upon being consecrated on the 2nd November, 1889, became parish church of the parish of Saint Mary, Hornsey (hereafter "the parish") in place of a former church then standing on scheduled land:

And whereas the parish is an ancient parish and the former parish church, which was erected in or about the year 1830, and replaced previous churches dating back to the fourteenth century, was demolished in the year 1927:

And whereas there are now adjacent to the existing church a churchyard and other land including—

- (a) a tower believed to have been constructed in the year 1500, and subsequently enlarged in the early part of the nineteenth century, which forms the remains of previous parish churches; and

(b) a garden of remembrance laid out in the year 1951 by public subscription:

And whereas no burials have taken place in the said churchyard since the year 1892:

And whereas the existing church and adjacent land (hereinafter called "the scheduled land") are vested in fee simple in the incumbent for the time being of the benefice of the parish, the present incumbent being the Reverend Philip Edgar Brassel:

And whereas the site of the existing church and the curtilage thereof was vested in the incumbent for the time being of the benefice of the parish in the year 1888, that part of the scheduled land which lies immediately to the south of the existing church was vested in the incumbent in the year 1890, and no human remains are known to be interred in those parts of the scheduled land, but the remainder of the scheduled land (comprising the sites of the churchyard, mediaeval tower and garden of remembrance referred to above) has been vested in the incumbent for many centuries and the precise limits of the ancient churchyard are not now known:

And whereas the existing church has become structurally unsound by reason of subsidence of the soil on which the foundations are constructed, could not be effectively reinstated without large and disproportionate expenditure, and might well prove incapable of reinstatement without complete dismantling and reconstruction:

And whereas it is expedient that provision should be made for the demolition of the existing church and the construction of a new church and other accommodation as in this Act provided:

And whereas it is expedient that, upon the consecration of such a new church, the church should become the parish church of the parish:

And whereas it is expedient that such provisions as are contained in this Act with respect to the sale, leasing, use, and disposition of the scheduled land and the removal of human remains, should be enacted:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the Right Reverend and Right Honourable the Father in God, Robert, by divine permission Lord Bishop of London, has consented to the provisions of this Act and the parochial church council of the parish have unanimously approved the promotion of the Bill for this Act:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Saint Mary, Hornsey Act 1969. Short title

2.—(1) In this Act, unless there be something in the subject Interpretation. of context repugnant to such construction—

“the benefice” means the benefice of the parish;

“the bishop” means the Bishop of London for the time being, and during a vacancy in the see of London includes the guardian of the spiritualities thereof;

“the borough council” means the council of the London borough of Haringey;

“the diocese” means the diocese of London;

“the existing church” means the existing church of Saint Mary, Hornsey;

“the fund” means the London Diocesan Fund;

“the incumbent” means the incumbent for the time being of the benefice or, during any period when the benefice is vacant, the bishop;

“the mediaeval tower” means the existing tower on the scheduled land forming the remains of previous parish churches;

“the new church” means a new church to be erected on the pink land for use as the parish church of the parish in place of the existing church;

“the owner” means the person in whom the scheduled land or any part thereof is for the time being vested;

“the parish” means the parish of Saint Mary, Hornsey;

“the parochial church council” means the parochial church council of the parish;

“the pink land” means so much of the scheduled land as is shown coloured pink on a plan marked “Plan of the scheduled land” signed in triplicate by the Right Honourable the Lord Merthyr the Chairman of the Committee of the House of Lords to whom the Bill for this Act was referred, one copy of which has been deposited at the office of the Clerk of the Parliaments, House of Lords, one in the Private Bill Office of the House of Commons and one at 1 The Sanctuary in the city of Westminster, being the office of Messrs. Lee, Bolton and Lee, the solicitors to the incumbent;

“ the scheduled land ” means the land described in the schedule to this Act including the mediaeval tower, existing church and land adjacent thereto respectively.

“ the specified date ” means the date upon which the bishop gives his certificate that satisfactory temporary arrangements have been made for public worship for parishioners of the parish pending the construction and consecration of the new church.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment including this Act.

Maintenance of mediaeval tower, demolition of existing church and erection of new church.

3.—(1) The mediaeval tower shall continue to be maintained in situ by the parochial church council.

(2) From and after the specified date the incumbent may cause or permit the existing church to be demolished and the materials thereof to be sold or otherwise disposed of as he thinks fit.

Provided that before any part of the existing church is demolished the incumbent shall arrange for the removal of memorial stones or plaques therein or thereon, and any other relics from previous parish churches of the parish contained therein, which shall be preserved and installed in the new church or dealt with in such manner as the incumbent and the parochial church council, with the approval of the bishop, may direct.

(3) The incumbent and the fund shall use their best endeavours to procure the construction and completion of the new church so as to enable it to be made available for public worship before the expiration of a period of three years from the specified date.

(4) No licence or faculty of the consistory court of the diocese shall be necessary for the exercise of the powers conferred by the performance of the obligations imposed, by subsection (2) of this section.

Disposal of parts of scheduled land and application of proceeds.

4.—(1) For the purpose of the preservation of the mediaeval tower, and the erection of the new church and the other buildings and accommodation referred to in subsection (3) of this section, the incumbent shall retain such interests in such part or parts of the scheduled land as may be requisite.

(2) Subject to the provisions of the foregoing subsection, and after the specified date the incumbent may sell, lease or otherwise dispose of the scheduled land, or any part thereof, for such price or consideration, in such manner and upon such terms as the fund may think fit.

(3) All moneys received by the incumbent under the last preceding section or this section shall be paid to the fund and shall be applied by the fund in or towards the costs of—

(a) the demolition of the existing church and the removal, preservation and re-installation or other dealing with memorial stones, plaques and relics pursuant to subsection (2) of section 3 (Maintenance of mediaeval tower, demolition of existing church and erection of new church) of this Act;

(b) the removal and re-interment or cremation of human remains and the removal and re-erection of monuments and tombstones pursuant to section 8 (Removal of human remains from scheduled land) of this Act;

(c) the erection of the new church, which shall be constructed in accordance with plans, specifications and particulars approved by the incumbent, the parochial church council, the diocesan advisory committee and the Church Commissioners for England;

(d) if the incumbent and the fund think fit, the construction of a parsonage house for the incumbent to a design and specification approved by the incumbent, the diocesan dilapidations board and the Church Commissioners for England;

(e) the construction of such other buildings and accommodation for use in connection with the benefice or the activities of the parish as the incumbent and the parochial church council, with the approval of the fund, may think fit;

(f) the provision of a replacement for the existing garden of remembrance, on the scheduled land;

(g) the diversion of footpaths under the provisions of section 7 (Diversion of footpaths) of this Act;

(h) the preparing, applying for, obtaining and passing of this Act or otherwise in relation thereto incurred by the fund under section 10 (Costs of Act) of this Act;

The balance (if any) of such moneys shall be applied by the fund for such ecclesiastical purposes within the parish as may be determined by the fund and as the bishop may from time to time approve.

On the date upon which the new church, having been approved by the Church Commissioners for England as suitable to be the parish church of the parish, is consecrated, the new church shall be the parish church of the parish.

If pursuant to paragraph (d) of subsection (3) of this section a parsonage house is constructed on the scheduled land on the completion that house shall, for the purposes of the

1938 No. 3.

Parsonages Measure, 1938, or any statutory modification re-enactment thereof, become the house of residence for incumbent.

Discharge of trusts, &c., and saving for private rights.

5. As from the specified date (which date shall be recorded in the parish register) the scheduled land shall be freed discharged from all trusts, uses, obligations, disabilities, restrictions whatsoever (including the effects of consecration which immediately before the specified date attached thereto under ecclesiastical law or otherwise, and from all rights interests of any person who is an executor, administrator, or relative of any deceased person whose remains are interred in the said land or any part thereof, and from all other trusts, obligations, disabilities and restrictions whatsoever which attached thereto immediately before the specified date by reason of the said land or any part thereof having been or formed the site of a church or the enclosure of a church, or having been used or set apart for the interment of human remains:

Provided that nothing in this Act shall operate to prejudicially any private right or easement (not being a right in respect of a grave) over the said land or any part thereof which attached thereto immediately before the specified date.

Power to use scheduled land for other purposes.

6. Notwithstanding anything contained in any enactment, subject to the provisions of this Act, it shall be lawful at any time after the specified date to use, deal with or dispose of the scheduled land, or any part thereof, for any purpose in like manner as if that part thereof had ever been or formed the site of a church or the enclosure of a church, or been used or set apart for the interment of human remains:

Provided that—

- (a) the pink land shall not be used for the erection of any buildings other than the new church and the other buildings and accommodation referred to in section (3) of section 4 (Disposal of parts of scheduled land and application of proceeds) of this Act;
- (b) if the exercise of the powers conferred by this Act involves any interference with the existing garden of remembrance on the pink land a replacement therefor shall be provided by the incumbent on the pink land laid out so as to provide, so far as circumstances permit, facilities for the public as good in all respects as those provided by the existing garden of remembrance.

Diversion of footpaths.

7.—(1) In this section—

“existing footpath” means an existing footpath across scheduled land;

"substituted footpath" means a footpath provided in substitution for the whole or any part of an existing footpath.

(2) If at any time after the specified date the incumbent and the fund desire, for the purpose of effecting any development of the scheduled land, to divert an existing footpath or part thereof they may make a substituted footpath to replace the same.

(3) (a) Upon completion of a substituted footpath to the reasonable satisfaction of the borough council the council shall forthwith issue to the incumbent a certificate to that effect (which certificate shall not be unreasonably withheld) and upon the issue of such certificate any rights of passage then subsisting over the existing footpath or part thereof which the substituted footpath replaces shall be extinguished and the substituted footpath shall become a footpath subject to the same rights of passage, and maintainable by the same authority or person, as such existing footpath or part thereof.

(b) Any dispute as to whether a certificate has been unreasonably withheld by the borough council shall be determined by an independent surveyor (acting as an expert) to be appointed by agreement between the incumbent, the fund and the borough council or, in default of agreement, by the President of the Royal Institution of Chartered Surveyors.

(1) Before the owner begins to use any part of the scheduled land for any purpose likely to involve the disturbance of human remains he shall give notice of his intention to remove, or cause to be removed, from that part of the scheduled land, the remains of any deceased person found interred therein by publishing a notice once in each of two successive weeks in a newspaper circulating in the London borough of Haringey with an interval between publications of not less than six days, and shall display like notice in a conspicuous place on that part of the scheduled land and such notice shall have embodied in it the substance of subsections (2), (3), (4), (5), (6), (7) and (8) of this section.

Removal of human remains from scheduled land.

(2) At any time within two months after the first publication of such notice, any person who is a personal representative or relative of any deceased person whose remains are interred in that part of the scheduled land may give notice in writing to the owner of his intention to undertake the removal of such remains, and thereupon he shall be at liberty without any faculty for the purpose, but subject as hereinafter mentioned to any regulations made by the bishop, to cause such remains to be removed to and re-interred in any consecrated burial ground or cemetery in which burials may legally take place (but in the case of a churchyard, only with the consent of the incumbent of the benefice concerned) or be removed to and cremated in any crematorium.

(3) If any person giving such notice as aforesaid shall satisfy the owner that he is such personal representative relative as he claims to be, the question shall be determined by the application of either party in a summary manner by the registrar of the consistory court of the diocese who shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.

(4) The expenses of such removal and re-interment or cremation (not exceeding in respect of remains removed from any one grave the sum of fifty pounds) shall be defrayed by the owner, such expenses to be apportioned if necessary equally according to the number of remains in the grave.

(5) If within the aforesaid period of two months no notice as aforesaid shall have been given to the owner in respect of the remains in any grave, or if after such notice has been given the person giving the same shall fail within one month to cause such remains to be removed in compliance with the provisions of this section, and with any regulation of the bishop, the owner, without any faculty for that purpose, shall remove the remains of the deceased person and cause them to be interred in such other consecrated burial ground or cemetery in which burial may legally take place as, subject to the consent of the bishop, the owner thinks suitable for the purpose (but, in the case of interment in a churchyard, the previous consent of the incumbent of the benefice concerned shall also be required) or cremated, such crematorium as the owner thinks suitable for the purpose.

(6) Upon any removal of remains from the scheduled land a certificate of removal and re-interment or cremation shall be sent to the Registrar General by the owner giving the dates of removal and re-interment or cremation respectively and identifying the place from which the remains were removed and the place to which they were re-interred or cremated showing the particulars of each removal separately.

(7) Any monument or tombstone relating to the remains of any deceased person removed under this section shall, at the expense of the owner, be removed and re-erected at the place of re-interment or cremation of such remains or at such place as the bishop may direct on the application (if any) of such personal representative or relative as aforesaid or failing such application on the application of the owner and the owner shall cause a record to be made of each monument and tombstone taken from the scheduled land under this section containing—

(i) a copy of the inscription on it; and

(ii) if it is intended to preserve the monument or tombstone, a statement naming the place to which it has been taken

and shall deposit a copy of the record with the Registrar General.

Provided that it shall not be necessary for the owner to re-erect a monument or tombstone if the owner and the incumbent consider that, by reason of its ruinous condition, it is unsuitable for re-erection and any such monument or tombstone may be disposed of in such manner as the incumbent, subject to the faculty jurisdiction within the diocese, may direct.

(8) The removal of the remains of any deceased person under this section shall be carried out to the reasonable satisfaction of the Secretary of State.

9. The provisions of the Town and Country Planning Act, 1962, and any restrictions or powers thereby imposed or conferred in relation to land, shall apply and may be exercised in relation to any land notwithstanding that the development thereof is or may be authorised or regulated by or under this Act.

Saving for town and country planning.

1962 c. 38.

10. All the costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act or otherwise in relation thereto shall be paid by the fund.

Costs of Act.

Section 2.

SCHEDULE

DESCRIPTION OF LAND REFERRED TO IN THIS ACT

A piece of land in the London Borough of Haringey, containing 131,185 square feet or thereabouts, situated at the corner of Church Lane and the High Street, and bounded by a line commencing at a point along the eastern boundary of the site at the north-east extremity of No. 26 Church Lane, and proceeding in a north-west direction along the southern boundary of the footpath from Church Lane to the north-west corner of the rear garden of No. 26 Church Lane for a total distance of 121 feet 8 inches or thereabouts, thence in southerly direction along the rear boundaries of Nos. 24 to 26 Church Lane to meet the southern boundary of No. 24 Church Lane at its south-western extremity thereof for a distance of 95 feet 4 inches or thereabouts, thence in a south-westerly direction to meet the rear boundary of No. 23 Church Lane at the northern extremity thereof for a distance of 8 feet or thereabouts, thence in a westerly direction along the rear boundaries of Nos. 7 to 12 Ferrestone Road for a total distance of 129 feet or thereabouts, thence in a northerly direction along the eastern boundary of the footpath from Temple Road for a distance of 4 feet or thereabouts, thence in a westerly direction across the footpath to meet the eastern boundary of No. 1 Temple Road at the south-eastern extremity thereof for a distance of 19 feet 3 inches or thereabouts, thence in a north-westerly direction along the eastern boundary of No. 106 High Street for a total distance of 375 feet 2 inches or thereabouts, thence in an easterly direction across the northern entrance to the footpath from the High Street for a distance of 8 feet 3 inches or thereabouts, thence in a northerly direction towards the High Street for a distance of 25 feet 6 inches or thereabouts, thence in an easterly direction along the High Street for a distance of 16 feet 9 inches or thereabouts, thence in a northerly direction for a distance of 2 feet 1 inch or thereabouts, thence in an easterly direction for a distance of 58 feet 6 inches or thereabouts, thence in a southerly direction for a distance of 2 feet 3 inches or thereabouts, thence in an easterly direction to the entrance to the garden of remembrance for a distance of 6 feet 6 inches or thereabouts, thence in an easterly direction across the entrance to the garden of remembrance for a distance of 10 feet 10 inches or thereabouts, thence in an easterly direction for a distance of 9 feet 3½ inches or thereabouts, thence in a southerly direction for a distance of 4½ inches or thereabouts, thence in an easterly direction for a distance of 99 feet or thereabouts, thence in a southerly direction for a distance of 1 foot 2 inches or thereabouts, thence in an easterly direction for a distance of 33 feet 3½ inches or thereabouts, thence in a generally south-easterly direction to the main entrance of the church for a distance of 7 feet 9½ inches or thereabouts, thence in an easterly direction across the entrance to the church for a distance of 37 feet 6 inches or thereabouts, thence in a south-easterly direction for a distance of 13 feet or thereabouts, thence in a south-easterly direction along Church Lane to the side entrance of the church for a total distance of 65 feet 5 inches or thereabouts, thence continuing in a

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—cont.

...th-easterly direction across the side entrance of the church for a
...nce of 9 feet 1 inch or thereabouts, thence continuing in a south-
...direction along Church Lane to the entrance to the drive for a
...tal distance of 62 feet 11 inches or thereabouts, thence in a south-
...sterly direction across the entrance to the drive for a distance of
...feet 11 inches or thereabouts, thence in a generally southerly direction
...along Church Lane to a further entrance to the drive for a total distance
...of 97 feet 11 inches or thereabouts, thence in a southerly direction
...across the entrance to the drive for a distance of 9 feet or thereabouts,
...thence in a southerly and south-westerly direction to the footpath from
...Church Lane for a total distance of 151 feet 7 inches or thereabouts,
...thence in a south-westerly direction across the footpath for a distance
...of 9 feet or thereabouts, to the point of commencement, and including
...the existing buildings situate on the said land.



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