

Saint Paul, Portman Square, Saint Marylebone Act 1964

CHAPTER xxi

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ELIZABETH II

1964 CHAPTER xxi

An Act to provide for the demolition of the church of Saint Paul, Portman Square, in the metropolitan borough of Saint Marylebone; to authorise the sale of the site thereof and the lands appurtenant thereto and the use for other purposes of the said site and lands; and for other purposes incidental thereto.

[16th July 1964]

WHEREAS the church of Saint Paul, Portman Square (hereinafter called " the existing church ") in the metropolitan borough of Saint Marylebone is believed to have been originally built in or about the year 1779 and thereafter was used for many years as a private chapel:

And whereas in the year 1870 the existing church was substantially rebuilt and little now remains of the original edifice:

And whereas the existing church was consecrated on 24th January, 1901, and thereupon became the parish church of the parish of Saint Paul, Portman Square, Saint Marylebone (hereinafter called " the parish "):

And whereas there are appurtenant to the existing church small parcels of land (hereinafter called " the appurtenant lands "):

And whereas upon the consecration of the existing church the freehold of the site of the existing church and of the appurtenant lands became vested in the rector for the time being of Saint

Marylebone and, by a conveyance dated 16th March, 1964, the said freehold was conveyed by the present rector, the Reverend Frank Coventry, to the Church Commissioners for England:

And whereas by virtue of the said conveyance and of the New Parishes Measure, 1943, and the Church Property (Miscellaneous Provisions) Measure, 1960, the said freehold is now vested in the incumbent for the time being of the benefice of Saint Paul, Portman Square, Saint Marylebone (hereinafter called " the benefice "), the present incumbent being the Reverend Prebendary Colin Causton Kerr (hereinafter called " the incumbent "):

And whereas the existing church, although included in the list of buildings of special architectural or historical interest deposited with the London County Council under the provisions of section 32 of the Town and Country Planning Act, 1962, is not the subject of any order restricting its demolition:

10 & 11 Eliz. 2 c. 38.

And whereas the parish has no parsonage house or accommodation for other clergy nor is there any church hall maintained for use in connection with the activities of the parish:

And whereas the assured sources of income of the parish are inadequate and the benefice has an endowment of only two hundred and thirty pounds per annum:

And whereas it is expedient that the incumbent should be authorised to arrange for the sale of the site of the existing church and the appurtenant lands and, after the construction and consecration for public worship of a new church to replace the existing church as parish church for the parish, to demolish the existing church and that provision should be made for the application of the proceeds of such sale in defraying the cost of the said new church and of other buildings for use in connection with the parish and the benefice and in making other suitable provision whereby the future upkeep of the new church and other buildings may be assured and the financial resources of the parish and the benefice may be augmented:

And whereas, although no part of the existing church or the appurtenant lands is known to have been used for the interment of human remains, it is expedient that provision should be made, as in this Act contained, for dealing with any such remains as may be found therein:

And whereas the Right Reverend and Right Honourable Father in God, Robert, by divine permission Lord Bishop of London, has consented to the provisions of this Act:

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

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 Paul, Portman Square, Saint Marylebone Act 1964. Short title.

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

" the appurtenant lands " means those parts of the scheduled land not comprised in the site of the existing church;

" 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 existing church " means the parish church of Saint Paul, Portman Square, Saint Marylebone situate on the scheduled land;

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

" the new church " means such new church as may be erected within the benefice for use as the parish church for the parish in place of the existing church;

" the parish " means the parish of Saint Paul, Portman Square, Saint Marylebone as for the time being constituted;

" the parochial church council " means the parochial church council of the parish;

" the scheduled land " means the lands described in the schedule to this Act comprising the site of the existing church and the appurtenant lands;

" the specified date " means the date upon which the new church, having been made available for public worship, is consecrated;

" the trustees " means the trustees appointed by section 4 (Trustees for certain purposes of Act) of this Act.

Demolition of existing church.

3.—(1) The incumbent may at any time after the specified date cause or permit the existing church to be demolished and the materials thereof to be sold or otherwise disposed of as he may think fit:

Provided that the incumbent shall, at such time before the specified date as he may think fit, arrange for the removal from the existing church and the installation in the new church of—

(*a*) the memorial stones or plaques and other memorials then within the existing church; and

(*b*) unless the parochial church council shall otherwise direct, the organ in the existing church together with all equipment and furniture ancillary thereto.

(2) No licence or faculty of the consistory court of the diocese of London or other or further authority shall be requisite for the exercise of the powers conferred, and the performance of the obligations imposed, by this section.

Trustees for certain purposes of Act.

4.—(1) The following persons, that is to say:—

the incumbent;

Henry Samuel Ruttle;

Stanley Eley; and

Thomas Henry Stewart Burns;

shall be the trustees for the execution of the trusts, powers and duties conferred and imposed on them by this Act.

(2) The trustees shall fill any vacancy occurring by death, resignation or otherwise among the trustees by the appointment of a fit lay person or person in holy orders according as the vacancy is in respect of a lay trustee or a trustee in holy orders but the trustees may at all times and notwithstanding the existence of any vacancy in their number exercise all or any of the powers of this Act unless reduced below three in which case they shall not exercise any of the powers of this Act except that of appointing a new trustee.

Sale of scheduled land and application of proceeds.

5.—(1) The incumbent may sell the scheduled land or any part thereof for such price or consideration, in such manner and upon and subject to such terms and provisions as the incumbent may think fit:

Provided that the incumbent shall not exercise the powers of this subsection before the specified date otherwise than by way

of a contract for sale which will not prejudice or affect the continued use of the existing church for public worship until the specified date.

(2) The incumbent shall pay or cause to be paid to the trustees the proceeds of any sale effected under the powers conferred by subsection (1) of this section and all moneys received by the trustees shall be applied in discharge of the costs, charges and expenses of and in connection with—

(*a*) the acquisition of a site for the new church and other buildings referred to in paragraph (*b*) of this subsection;

(*b*) the construction and furnishing of a new church, a parsonage house, curate's accommodation and other buildings or accommodation for use in connection with the new church or the activities of the parish, and the obtaining of any necessary licence or faculty of the consistory court of the diocese of London;

(*c*) the removal of human remains (if any) pursuant to section 8 (Removal of human remains from scheduled land) of this Act;

(*d*) the demolition of the existing church pursuant to section 3 (Demolition of existing church) of this Act, including work of dismantling and all other ancillary work;

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

and any remaining balance shall be held by the trustees upon trust to apply the same for ecclesiastical purposes within the parish.

Discharge of trusts and restrictions affecting scheduled land.

6. As from the date on which the incumbent exercises his power of sale over the scheduled land or any part thereof, the scheduled land, or such part thereof as may be sold, shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions whatsoever (including the effects of consecration) which immediately before the said date attached thereto under ecclesiastical law or otherwise and from all rights and interests of any person who is an executor, administrator or relative of any deceased person whose remains are interred in the scheduled land or such part thereof as may be sold, and from all other trusts, uses, obligations, disabilities and restrictions whatsoever which attached thereto immediately before the said date by reason of the scheduled 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.

Power to use scheduled land for other purposes.

7. Notwithstanding anything contained in any enactment, but 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 no 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.

Removal of human remains from scheduled land.

8.—(1) Before any work of demolition or construction is begun on the scheduled land, or any part thereof, the incumbent shall give notice of his intention to remove, or cause to be removed, from the scheduled land the remains of any deceased person found to have been interred therein by publishing a notice once in each of two successive weeks in a newspaper circulating in the metropolitan borough of Saint Marylebone, with an interval between publications of not less than six days, and shall display a like notice in a conspicuous place on the scheduled land, and such notice shall have embodied in it the substance of subsections (2), (3), (4), (5), (6) and (7) of this section.

(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 the scheduled land, or any part thereof, may give notice in writing to the incumbent 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 reinterred 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.

(3) If any person giving such notice as aforesaid shall fail to satisfy the incumbent that he is such personal representative or relative as he claims to be, the question shall be determined on the application of either party in a summary manner by the registrar of the consistory court of the diocese of London 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 reinterment (not exceeding in respect of remains removed from any one grave the sum of twenty-five pounds) shall be defrayed by the incumbent, such sum 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 such notice as aforesaid shall have been given to the incumbent 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 incumbent, 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 burials may legally take place as, subject to the consent of the bishop, the incumbent 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.

(6) Upon any removal of remains from the scheduled land, a certificate of removal and reinterment shall be sent to the Registrar General by the incumbent giving the dates of removal and reinterment respectively and identifying the place from which the remains were removed and the place in which they were reinterred showing the particulars of each removal separately.

(7) The removal of the remains of any deceased person under this section shall be carried out under the supervision and to the satisfaction of the medical officer of health of the metropolitan borough of Saint Marylebone.

Saving for town and country planning.

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.

Costs of Act.

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 incumbent.

SCHEDULE

Section 2.

DESCRIPTION OF THE SCHEDULED LAND

All that piece of land in the metropolitan borough of Saint Marylebone containing 8050 square feet or thereabouts and now forming the site of the church of Saint Paul, Portman Square, together with lands and vaults appurtenant thereto, bounded on the north by Nos. 18 and 20 Baker Street and Nos. 43, 45, 47 and 49 George Street, on the south by Robert Adam Street, on the east by No. 27 Robert Adam Street and by the rear premises of No. 43 George Street, and on the west by Baker Street.

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