

Neutral Citation No [2019] ECC Yor 7

In the Diocese of York

In the Consistory Court

The Parish of Aldbrough

The Church of St Bartholomew

1. On the 5th September 2019 the Rev Anne White, Priest in Charge, Christine Longstaff and Kath Moore, Churchwardens, all of the church of Aldborough, St Bartholomew presented a proposal to the DAC for the

1. Repositioning of the font and removal of its plinth;
2. The removal of eight pews from the north aisle to create a usable community space.

2. The proposals had been considered by the DAC at its meeting on the 3rd September 2019. The minute of their meeting reads as follows:

Due to the close proximity of the font to the rear pews, its plinth caused a tripping hazard (and one corner already bore warning tape to prevent this). The plinth was not original to the font and therefore the Committee had no objection to its removal, and the re-positioning of the font was also perfectly reasonable. The church building was the only social and community space within the village, with such activities as Messy Church taking place there regularly, so removing the north aisle pews would provide much needed community space. Once the pews were removed the under floor space could be examined; it was possible that the floor joists had been deteriorating as the floor appeared to be subsiding. Was there a possible issue with ground water? A good deal of carpentry work would need to be carried out, cutting out the pews up to the dividing side panel and making good, and the Committee felt that the details of this should be approved by the inspecting architect before any work commenced.

3. Having considered matters fully, the DAC recommended the proposals, with a proviso that "The procedure for the removal of the pews and the subsequent making good must be agreed with the Inspecting Architect before work commences."
4. The matter was then referred to me via the Online Faculty System on the 24th September 2019. I considered the material before me. On the 29th September 2019 I considered that the Petitioners had made out a case for their proposals and I directed that subject to the relevant display of public notice and no objection being received a faculty should pass the seal until further order. I allowed 9 months for completion of the works.
5. I was also aware that Historic England had been consulted and that a reply from them was awaited and so I imposed 2 conditions on the grant of the faculty, namely:

1. The faculty shall not issue until the response from Historic England has been received indicating that they have no significant issue regarding the proposal. If they raise issues then the matter shall be referred back to me for further directions.
 2. The procedure for the removal of the pews and the subsequent making good shall be agreed with the Inspecting Architect before the work commences.
6. Following the DAC meeting, this being a Grade II* listed church and the DAC having ticked the box on the Form 2 to indicate that “In the opinion of the Committee the work or part of the work proposed is likely to affect the character of the church as a building of special architectural or historic interest” the petitioners were advised that they should consult Historic England (HE), which they did.
7. HE replied on the 18th September 2019. The letter noted that “The Statement of Significance does not describe the pews or the font, either in terms of their fabric, age, how they may contribute to the character of the interior, or whether or not they form part of an important phase of C19 re-ordering. We note that although the church has C11 origins it was considerably rebuilt in the late C19. It is therefore not possible to assess the impact that removing the pews and re-siting the font could have on the historic character or historic interest of the church.” The letter went on to say that they did not wish to comment in detail on the proposal but wished to draw to my attention and that of the DAC to these issues so that they could be considered. They added “As always, there is a need for the balanced approach to weighing any harmful impacts against the public benefits of the alterations proposed.” They then referred to the guidance on these issues on their website.
8. Those guidelines do no more than explain the questions that I must pose and answer in the light of the decision of the Court of Arches in *Re Duffield: St Alkmund* [2013] 2 WLR 854. That case requires the following questions to be addressed in respect of alterations to listed churches.
- a) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
 - b) If not have the Petitioners shown a sufficiently good reason for change to overcome the ordinary presumption that in the absence of a good reason change should not be permitted?
 - c) If there would be harm to the significance of the church as a building of special architectural or historic interest how serious would that harm be?
 - d) How clear and convincing is the justification for carrying out the proposals?
 - e) In the light of the strong presumption against proposals which will adversely affect the special character of a listed building will the benefit outweigh the harm?
- In considering the last question the more serious the harm the greater the level of benefit needed before proposals can be permitted. Further serious harm to a church listed as Grade I or Grade II* should only be permitted in exceptional cases.

9. The letter from HE eventually found its way to me on the 15th October. I was aware that the DAC was meeting that afternoon and so I sent a request for them, if at all possible, to consider the issues to which HE had referred, and to advise me accordingly.

10. I received the following email from the DAC secretary on the 17th October:

"I drew the Committee's attention to the content of the letter from Historic England.

The font was described in the listing entry and in Pevsner as a C15 octagonal stone font said to have been brought from the Church of Saint Hilda, Cowden Parva, now lost to the sea. Members agreed that:

1. The font plinth was not original to the font and therefore its removal would have no impact on the font's significance.
2. The repositioning of the font would have no impact on its significance or on the character of the interior of the building as a whole; the font in its present position was a trip hazard and it would only be moved 24", enough to remove the hazard but not enough to make any visual difference to the character of the building's interior. There was insufficient available space for the font to be roped off, and hazard warning tape which had been used had not been seen by some elderly visitors. The parish had clearly considered various options and the solution proposed seemed to be the most sensible.

The church itself was rebuilt in 1870-1. The pews were of pine and of no intrinsic significance.

1. Form 2 indicated that in the opinion of the Committee the work proposed was likely to affect the character of the church because *all* the north aisle pews were to be removed. However, as the church was well pewed, the impact of the removal of the north aisle pews would not be great. The parish had demonstrated a clear need for an open space. The church was the only community facility in the centre of the village and was being used more and more for community activities, especially Messy Church. The narrowness of the aisle was a problem and some of the pews were sinking, probably as a result of rotting floor joists. Removing the pews would create extra space and allow the architect to investigate the underfloor problem.

11. I am very grateful to the DAC for interposing this onto what will have been a very busy agenda and for providing me with such clear advice.

12. I also have the benefit of a number of photographs which were uploaded to the online system with the petition. I am satisfied that I am able to form a proper judgement on these matters from the material now before me without the need for either a site visit or any form of hearing.

13. Parts of this church are very old. There is a C11 sundial with an Anglo-Saxon inscription "Ulf ordered the church to be built for himself and for Gunware's souls." The lower part of the tower is early C13, as are windows to the north and west. There is a C14 priest's doorway on the south side with reused zigzag in the arch. The north chapel arch is also C14. Between the chancel and the north chapel is a tomb chest and ornate effigy of a lady c1360. The font is C15 but according to Pevsner (see DAC advice above at paragraph 9) is not original to this church.

14. The font is situated at the west end of the church in the centre of the rear cross aisle. It is located on a plinth which has no particular historic significance.
15. The photographs show the problem the petitioners face in that there is very limited space to manoeuvre around the font whether crossing the church on a north-south axis or coming out of or going into the centre aisle. It poses a tripping hazard which they are concerned to ameliorate.
16. The PCC resolution is in the following terms:

“A quote of £800 has been obtained from Everinghams the stonemasons to remove part of the plinth and £1000 to remove all of the plinth and move the font. It was agreed that a faculty application is to be made for health and safety reasons we have asked the Churchwardens to have the plinth removed in accordance to advise (*sic*) given by the Architect and re-position font in same place but further back or slightly to the North of its current position to avoid the heating pipes.”

17. I am satisfied that the removal of the plinth and the moving of the font will have no appreciable impact on the historic character or the historic interest of either the font or the church and that in those circumstances there is no balancing exercise to carry out.
18. I turn next to the pews. These are pine pews that have no intrinsic significance in themselves. There are eight of them. The side aisle is between the pews and the north wall and is very narrow. The remainder of the church will remain fully pewed if this proposal to remove all those pews, investigate if there are any underfloor problems requiring attention and then to make good the floor and use the open space created for events including “messy church” and community activities. As this is the only community building in the village and there is increasing demand for its use such removal would make the space even more useful to the villagers.
19. Again I have considered the impact of removing a full aisle of pews. On the face of it that might seem to be something that would have a significant visual impact. A church that was fully pewed will inevitably appear different from one where a whole aisle of pews has been removed. However my focus must be on loss to the historic character or interest of the church. I am quite satisfied that there will be none. The pews have no such character or interest in themselves. They are not mentioned either in the listing details or in Pevsner. Their contribution to the 1870-71 William Perkin rebuilding is minimal. The loss of the north aisle pews will have no impact on the historic fabric and fixtures other than to make them more visible and more appreciable in their own right. I have in mind particularly the north chapel arch, the tomb chest and effigy beneath it and windows on the north side.
20. In all these circumstances I am satisfied that any visual loss is more than outweighed by the needs the parish has identified for space that can be used flexibly for activities, whether those of “messy church” or other village social activities.
21. I understand that there have been no objections following the giving of Public Notice. I remain satisfied that the petitioners have made out their case for these

proposals. There is therefore no reason for not affirming the direction I gave on the 29th September that a faculty pass the seal until further order. There will now be only one condition, namely that the procedure for the removal of the pews and the subsequent making good shall be agreed with the Inspecting Architect before the work commences. I will still allow 9 months for completion of the works.

Canon Peter Collier QC
Chancellor of the Diocese of York.

23rd October 2019