

Neutral Citation Number: [2018] ECC Der 3

In the Consistory Court of the Diocese of Derby, and

In the Matter of Bamford and Derwent: St John the Baptist, and

In the matter of a petition dated 2nd April 2018 for the removal and disposal of 4 pews.

JUDGMENT

1) This petition is presented by the Rector, Rev'd Judith Davis, and Ernest Mather and Carol Cotton, the churchwardens. Mr Mather has had responsibility for dealing with the petition. The four pews, which the parish want to remove and dispose of, are located two at each side of the main aisle, as shown on the annotated plan. The proposal was supported by the PCC unanimously at its meeting on 19th September 2017.

2) St John's was built around 1859 – 1860 to designs by the noted Victorian architect William Butterfield. The pews and internal fittings, even down to very small items like hinges, were designed by him also. This is the only church by Butterfield within the Diocese of Derby, (which covers almost the same area as the County). The church has a listing of Grade II* and is thus of considerable historical and architectural importance. It stands within a conservation area. The justification put forward by the petitioners for the removal is to provide a larger space '*for nave communions and village events, eg concerts*'. Although not mentioned within the petition, it is apparently intended to extend the present carpet over the small area of floor exposed by the removal.

3) The DAC considered the petition at its meeting on 23rd April and recommended the proposals for approval by the Court, although they also recorded their view that the work was likely to affect the character of the church as a building of special architectural or historic interest. This view is doubtless a result of the listing category, and the importance of the church as an example of Butterfield's work, but the work proposed is modest in extent, and the removal of 4 pews in a Grade II church - as opposed to the Grade II* listing applicable here - would be unlikely to lead the DAC to such a judgment.

4) The consultation that has taken place is adequate and realistic. Advice has been sought from *Historic England*. Contact was initially made with *The Victorian Society* in November 2017, when they asked for further information. Mr Mather indicates this was supplied in January (and I have that correspondence), after which no further contact had been received by the time the papers came to me shortly after 6th July. In view of the importance of the church, and the fact it fell clearly within the Society's remit, I asked that further efforts be made to obtain definitive advice from the Society. This was received by email from Mr James Hughes, one of its officers, on 14th August.

5) The church was *originally* constructed with nave, chancel, north aisle, and vestry to the north-east. The pulpit stands at the northern side of the chancel arch, and an organ was placed against the east wall of the nave on the north side. The font is in the south-west corner of the nave. The main entrance is at the north side of the west wall. The church was built of coursed and squared grit-stone, with ashlar dressings and an ashlar spire at the west end rising above the tower to a total height of 33m, so providing a notable landmark. The *Statement of Significance* indicates the church is approximately 25m by 8m. The pews are arranged in three blocks. Those against the north wall are shortest in length; those in the centre are the longest and incorporate the 5 pillars or piers marking the division between the nave and north aisle. The pews against the south wall are of an in-between length. It appears from a floor plan of the 1920's or 1930's, and photographs sent to me, that the rows within the three blocks, when considered in their north-south orientation, are not strictly aligned. I am told the walls of the chancel narrow inwards, (presumably towards the east), thus altering the perspective and creating an illusion of greater height and length. The choir pews are thought to be later, possibly introduced around 1930, and they do not match the pew design in the nave.

6) Over the years a number of alterations have been made to the interior. A narthex and choir vestry were created at the west end around 1923, and this involved a small extension at the south west corner. A toilet was added within the choir vestry in 2008. In the 1930's another organ was placed in the original clergy vestry, and a Lady Chapel created in the north aisle. The north aisle was partially screened in the 1950's to provide a clergy vestry, but recently this has been converted into a kitchen area. The high altar has been moved westwards from its original position against the east wall, so the celebrant can face the congregation. However the present practice is to use the Lady Chapel altar in the centre of the nave on a temporary basis for the main Sunday Communion service, which assists the elderly members of the congregation, as they do not have to ascend the steps up to the sanctuary. As a result of these various changes (or possibly for other reasons) a number of pews have been removed over the years, including two from the eastern end of the central block and north aisle, probably when the Lady `Chapel was created, and three from the eastern end of the southern block, as well as 4 pews from the western end of the north aisle. Despite this there are many rows remaining: 8 in the north aisle, 11 in the centre, and 11 against the south wall.

7) The four pews it is proposed should be removed, are numbered 1-4 on the annotated plan. Mr Mather suggests that their layout differs slightly from the 1920's plan with pew 4 actually touching the pillar incorporated within that row. That is confirmed by some of the photos. I have photos of the area to be affected. The pews have a simple design with a raked back and a single supporting piece for back support. The front pews do not now have any pew fronts, although these were shown on the earlier plan available. The listing description refers to the pillars (alternately circular and octagonal), and the roof, pulpit, communion rail, the font and the '*low simple pews*', and confirms all the fittings are by Butterfield. At some time carpeting has been introduced in the aisles and front of the nave up to the two steps into the choir area. The carpet is in a warm peachy-pink colour.

8) In correspondence with Mr Hughes back in January, Mr Mather describes the pews as '*most uncomfortable to sit on for any length of time; they are good to look at but not designed for comfort*'. This is not put forward as part of the justification for removing the 4 pews, and I make clear that I do not treat it as such. The justification relied on is purely to create more space, plainly to provide better conditions for those – like the schoolchildren – who will be using the building for worship and other activities.

8) The *Statement of Needs* indicates that removal of the 4 pews, two on each of the central aisle, would make the use of the nave altar easier if there were a little more space. Also the report following a visit by the DAC in August 2017 mentions that the removal would allow space for greater use by the school and wider community, young people's work and concerts. Mr Mather confirms this in correspondence with Mr Hughes and indicates the concerts are by the local primary school, and the larger space will also help for their Christmas celebrations.

9) *Public Consultation.*

At the outset, I note that as the DAC considers the proposal involves alteration to the Grade II* church to an extent likely to affect its character as a building of special architectural or historic interest, and so the proposal has appeared on the diocesan website, in accordance with Rule 9.9 of the Faculty Jurisdiction Rules 2015. The Registrar has received no objections or comments following that, or the ordinary Public Notices.

10) *Historic England* provided advice back in January. They considered that the pews made a strong contribution to the overall significance of the church. The proposed removal would therefore be harmful, thus requiring '*clear and convincing justification*', but they acknowledge that there is limited space at the front of the nave to allow for flexible use. As the majority of pews are to be left they have no objection to the removal, and are content to defer matters to the DAC in respect of '*disposal details*'.

11) The *local authority* in an email of 4th May also consider the harm caused by removal would be '*less than substantial*', and they do not wish to depart from the views of Historic England.

12) *The Victorian Society* describes the interior as '*exceptional, coherent and a largely intact example*' of the work of William Butterfield. Mr James Hughes on the Society's behalf assumes the chancel pews are also his, as the layout corresponds with the original plan; I consider the evidence from the parish indicates they are later. He believes the removal proposed '*could result in a harmfully excessive reduction of the important historic seating. In particular, we consider the loss of the pew labelled 4...to be problematic, and believe that the north-eastern freestanding arcade pier should serve as the natural (architectural and aesthetic) limit of any pew removal. The removal to storage of the pews 1, 2 and 3 would be acceptable as long as the pew labelled 4 is retained in situ.*'

13) Mr Hughes also comments that the carpet is too extensive and it should be removed from the chancel, nave and aisle, *'which would greatly enhance the character and appearance of the interior'*, and would be a heritage benefit offsetting loss of the three pews.

14) Mr Mather picks up on aspects of Mr Hughes reply in an undated response, but it is plainly later than 14th August. He considers it odd to characterise an interior that has undergone as many changes as *'largely intact'* (as compared with the architect's original design). Plainly there has been some 'nibbling' at the edges over the years to accommodate some changes, but there is still a substantial body of the original pews in place, which must give a clear indication of Butterfield's vision for the interior, through what in many ways is the most visible part of the fittings he designed. The PCC nonetheless wished to press for removal of 4 pews. Further after lengthy consideration, they have concluded it is impracticable to store the pews, even though this was apparently insisted on when pews were removed under an earlier faculty. They wish to sell them and believe there will be ready buyers locally.

15) The test (or framework or guidelines) within which the court is *required* to come to decisions about proposed alterations to listed buildings is set out in paragraph 87 of the decision of the Court of Arches (the ecclesiastical court of appeal) in the case of *Duffield, St Alkmund* 2013 Fam. in a series of questions:

- 1) *Would the proposals, if implemented result in harm to the significance of the church as a building of special architectural or historic interest?*
- 2) *If the answer to question (1) is 'no', the ordinary assumption in faculty proceedings 'in favour of things as they stand' is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals (see **Peek v Trower** (1881) 7 PD 21, 26-8, and the review of the case-law by Chancellor Bursell QC in **In re St Mary's, White Waltham (No 2)** {2010} PTSR 1689 at para 11). Questions 3, 4 and 5 do not arise.*
- 3) *If the answer to question (1) is 'yes', how serious would the harm be?*
- 4) *How clear and convincing is the justification for carrying out the proposals?*
- 5) *Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building (see **St Luke, Maidstone** at p.8), will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm?
In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade 1 or 2*, where serious harm should only be exceptionally be allowed.*

This provides a structured and logical method of coming to a conclusion.

16) *Discussion and decision*

As to Questions 1) and 3), I am satisfied the damage to the significance of this listed building by the proposed removal can only be characterised as 'low'. The justification is made out in principle. The need for more space within the area of the central pews and those against the south wall is demonstrated. However, having looked at the plans and photographs, it is plain to me that the pews are not aligned in those two areas, and to remove pew 4 (even given that it abuts the pier) will provide very little extra space. I accept Mr Hughes's judgment that the appropriate 'stopping place' for the removals in the centre is the rear of the relevant pillar. That is a view adopted by an architect member of the DAC when asked to comment on the Victorian Society's advice; I agree with it

17) ***I therefore only authorise removal of pews 1, 2 and 3 on the plan. However I also authorise disposal of the removed pews, as I see no point in retaining them until some unspecified time in the future. It is unrealistic to believe they will ever be put back and there is no convenient or free place to retain them safely and securely. I authorise the tidying up of the new area revealed by the removal with a similar carpet. Time for carrying out the work is 3 months.***

18) I note Mr Hughes's comments on the extent of the carpet as it now is within the building. I must assume this was laid subject to a faculty, with advice being tendered by the DAC. There is no express mention of carpet in the petition, though technically permission should have been sought to introduce even this small area, but it was doubtless seen as a very minor ancillary issue. This is not a situation where I can, or would wish to, require removal of carpet in other parts of the building as a sort of ransom for acceding to this request.

Let a faculty issue accordingly.

John W. Bullimore
Chancellor
10th September 2018