

**IN THE CONSISTORY COURT OF
THE DIOCESE OF ELY**

IN THE MATTER OF A FACULTY PETITION

THE CHURCH OF ST MARY THE GREAT WITH ST MICHAEL CAMBRIDGE

HISTORY AND PRESENT PURPOSE

1. It is likely that there was a church on the site of St Michael's in the 11th Century although records only date back to 1217. The present church was built as the college chapel for Michaelhouse College which was founded in 1324. For a period in the 14th century the chapel was shared by Gonville Hall. The 15th century misericords which line the north and south walls came from King's Hall chapel in 1550 when it was demolished. After a fire in November 1849, which destroyed the ceiling, restoration work was carried out to the design of George Gilbert Scott by the Cambridge artisan, Frederick Leach. A second phase of the work to remodel the chancel involved the provision of a new east window, a reredos, a communion rail, a pulpit, the lowering of the floor to create steps up to the altar and, as a consequence, steps down from the nave, geometric tiles on the lowered floor, and the introduction of a row of north/south facing pews in front of the misericords. These works were carried out under the direction of George Gilbert Scott Junior.
2. Because of the size of the congregation, the church was united with St Mary the Great in 1908. A major reordering of the Nave was completed about 8 years ago which has created a thriving café and well-designed meeting rooms. It is separated from the chancel by glass which reaches up to approximately two-thirds of the height of the arch which separates the two. The Chancel and the Hervey de Stanton chapel remain as places of worship, being used for more intimate services better suited to St Michael's than to St Mary the Great. St Mary the Great also use St Michael's as their church hall on Sundays. The chancel is also used as an exhibition space, for concerts lectures, and other social events.
3. Plans have been advanced to develop a pioneer ministry, with the help of a grant from the diocesan growth fund, with a minister on placement to encourage weekday activities, and to be there to welcome the many visitors to this historic building. The church believes that the proposed changes will substantially assist their aim and allow the space in the chancel to be used more flexibly.
4. The church is a Grade 1 listed building.

THE APPLICATION FOR A FACULTY

5. The church seeks a faculty to allow the removal of the Victorian pews and the return to the original floor height to create a larger space in the chancel for the many activities which take place there, and to allow for other functions which at present they have to turn away. The present layout with collegiate seating is unsuited to many of the activities which presently take place or which they would like to accommodate in the church where the obvious focal point is the east end of the church. Further, the space in the centre of the chancel is too narrow to allow for any east facing seating on a reasonable scale or to provide a sufficient area in which to circulate if an exhibition is being held there. The alterations will allow them to remove the ramp down from the chancel which will improve the look and layout of the building.
6. Whilst the income from such events could be used to further the work of the church, it is not the foremost reason for the reordering; it is a desire to be able to use the building more effectively for the community which the church serves which drives this application.
7. They intend to purchase 40 Howe 40/4 chairs which could be used to provide east-facing seating. The plans show that the space freed up by the removal of the pews would allow for up to 70 seats to be placed in the chancel.
8. The petitioner acknowledges in the Statement of Significance that the fixtures and fittings of the Victorian period are of high significance and, if the faculty is granted they intend to make use of the pews elsewhere within the church or within St Mary the Great.

VIEWS OF HISTORIC ENGLAND AND THE VICTORIAN SOCIETY, AND RESPONSES THERETO

9. Historic England has been consulted and has raised queries and made suggestions in relation to the proposed works; it has not registered any objection to the project. In an email dated 4th January 2017 it hoped that "...this advice is useful and allows the project to progress." On 18th April 2017 a letter was sent to Historic England by Cowper Griffith Architects dealing with the matters which had been raised. No further response has been made by Historic England.
10. The Victorian Society also responded on 4th January 2017 and objected to the proposals which they assessed would cause serious harm to the character of the church. They point to the handsome floor and decorative poppy heads which remain a set piece within the chancel. The letter described them as follows:

"As the only remaining historical fittings in the church, these pieces are of a high significance. The committee was dismayed to see proposals which would remove the majority of the historic fittings from the chancel and disrupt the arrangement of the space."

11. The Society was not convinced of the need for the alterations. A more sophisticated ramp could replace the present one which would be a more proportional response to access requirements rather than raising the floor. The removal of the pews would significantly alter the appearance of the space and comfortable seating can be provided by the use of cushions. The committee felt that there was insufficient justification for the need for a larger circulation space or that the financial situation of the church was in jeopardy. The committee felt that there was no evidence of lost revenue as a result of the church being unable to hold some events.
12. As a result of the Victorian Society's objection the Registry wrote to them asking if they wanted to become a party opponent. They did not and were content that I should take their written submissions into account when making my decision. There have been no other objectors to the proposed alterations.
13. Because of their concerns that there was a lack of evidence of need, I asked the petitioner to provide me with some evidence that events had been turned away because of the limited space available in the chancel. In a letter dated 19th April 2017 Canon Dr John Binns, on behalf of the petitioner, set out a list of 14 varied events which have had to be turned away since October 2016 because of the layout of the chancel. This cannot include those organisers who may have thought of using the church but rejected it on grounds of space without making contact. In my judgement that list provides strong evidence that the church is unable to fulfil its rôle in the community in Cambridge.
14. In the same letter Dr Binns responded to the points raised by the Victorian Society:
 - (a) He rejected the suggestion that they planned to remove the majority of the historic fittings from the chancel and pointed to the fact that the misericords together with the prayer desks in front of them and the Tudor benches were to be retained. In considering this response I have taken into account my reading of the Victorian Society's submission, namely, that it was referring to the historical Victorian fittings, where the altar rail and pulpit were removed some years ago, rather than generally.
 - (b) The proposals did not amount to a disruption of the space but a return to the larger space available before the Victorian alterations took place. The aesthetic appearance of the chancel would thereby be enhanced.
 - (c) The present ramp causes difficulty in circulation. It sits ill with the beauty of the rest of the chancel.
 - (d) They are not motivated by increased revenue but by a desire to achieve the goals of the Michaelhouse Centre which is to further Christian religion particularly through education and the arts,
15. In its Notification of Advice dated 7th December 2016 the DAC recognised that the work proposed was likely to affect the character of the church as a building of special architectural or historic interest but nevertheless recommended the works subject

to details of the underfloor heating system being provided for further recommendation.

16. I asked the DAC to provide any comments it may have based on the objections of the Victorian Society. The DAC reconsidered the matter in a meeting on 21st March and a member of the DAC had taken the trouble to revisit the church in advance of the meeting. The DAC agreed that the floor space was at present very limited, allowing little space for children to sit in the chancel at services designed for them, and with the ramp disrupting the area available to them. Other events for which the church is used require people to sit collegiately. The DAC accepted that the fittings are of high significance but identified that there was no proposal to dispose of the majority of them. It is a single row of stalls which is to be removed and their desk fronts moved back to serve the misericords.
17. The floor is of much less significance, consisting of stone and quarry tiles with limited encaustic tilework in front of the sanctuary step. They accept that the raised floor will have an impact on the appearance of the chancel which they considered more than justified by the amount of useable space created and the opportunity to remove the intrusive accessibility ramp.

THE POSITION IN LAW

18. In considering whether I should grant the Faculty I have followed the guidance on the development in the interpretation of “the Bishopsgate Questions” laid down in In Re St Alkmund, Duffield [2013] Fam 158:-
 - (i) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
 - (ii) If the answer to question (i) is “no”, the ordinary presumption 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 Questions iii, iv and v do not arise.
 - (iii) If the answer to question (i) is “yes”, how serious would the harm be?
 - (iv) How clear and convincing is the justification for carrying out the proposals?
 - (v) Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building, 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 this question, 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 I or II*, where serious harm should only exceptionally be allowed.

19. Further assistance has been given by the Arches Court of Canterbury as to how the Duffield Questions are to be interpreted in *In re St John the Baptist, Peshurst* (9th March 2015). Having set out the five Duffield questions, the judgment continued:

“22. We make four observations about these questions:

- (a) Question (1) cannot be answered without prior consideration of what is the special architectural and/or historic interest of the listed church. That is why each of those matters was specifically addressed in Duffield paras 57-58, the court having already found in para 52(i) that “the chancellor fell into a material error in failing to identify what was the special character and historic interest of the church as a whole (including the appearance of the chancel) and then to consider whether there would be an overall adverse effect by reason of the proposed change”.
- (b) In answering questions (1) and (3), the particular grading of the listed church is highly relevant, whether or not serious harm will be occasioned. That is why in Duffield para 56 the court’s analysis of the effect on the character of the listed building referred to “the starting point...that this is a grade I listed building”.
- (c) In answering question (4), what matters are the elements which comprise the justification, including justification falling short of need or necessity (see Duffield paras 85-86). That is why the document setting out the justification for the proposals is now described in rule 3.3(1)(b) of the FJR 2013 as a document “commonly known as a “statement of needs”” (italics added), in recognition that it is not confined to needs strictly so-called.
- (d) Questions (1), (3) and (5) are directed at the effect of the works on the character of the listed building, rather than the effects of alteration, removal or disposal on a particular article.

DECISION

20. Having considered the Duffield questions, I have come to the following conclusions:

- (a) This is a grade 1 listed building. I accept the conclusion of the DAC that the proposals, if implemented would result in harm to the significance of the church as a building of special architectural or historic interest.
- (b) In considering how serious the harm would be, I judge that its status as a Grade 1 listed building owes as much, if not more, to its medieval origins and Tudor importance than it does to the alterations made in Victorian times. That said, in considering the harm I must do so looking at the building as it now is. I consider that the impact of the Victorian works is seen most significantly in the east window, the reredos and the roof. Whilst the poppy heads of the Victorian pews are noteworthy in themselves, I do not judge that removal of the pews themselves or the

raising of the floor would cause serious harm to the significance of the building overall.

- (c) As I have set out in §13 above, I find that there is a strong justification for carrying out the proposals. I add to that the difficulties presented in holding a service involving the young where the floor space is so limited.
 - (d) Bearing in mind the strong presumption against proposals which will adversely affect the special character of a listed building, I have considered whether the resulting public benefit, the 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 my judgment they do because, having found the harm caused by the alterations to be comparatively slight, I am satisfied that the benefit to the church and community outweighs the harm to this Grade 1 listed building.
21. Any objection raised by an amenity society has to be given great weight and careful consideration, and I am grateful for their submissions in this case. The objections raised prompted me to make a visit to the church to assess their objections and the potential effect of the proposals. Whilst they may be disappointed by my decision, they may derive some comfort from the fact that the roof, the outstanding reredos and the east window stand testament to the Victorian alterations designed by George Gilbert Scott and George Gilbert Scott Junior.
22. I will grant a faculty for the proposed alterations and for the purchase of the Howe 40/4 chairs, and I will give 15 months for the work to be completed.
23. I make the following conditions:-
- (a) If it has not yet been done, the details of the underfloor heating system are to be provided to the DAC for further recommendation
 - (b) The eventual storage place for the Howe chairs (when not in use) is to be agreed with the DAC. There is an alternative plan to store them in the Hervey de Stanton chapel rather than behind the reredos. Their storage needs careful consideration and must not be allowed to detract from the beauty of the building.
 - (c) The Victorian pews are to be used in either St Michael's or in St Mary the Great. The poppy heads, rather than the pews themselves, are too good and important to be disposed of. It may be possible to reuse the poppy heads on shortened pews or in some other imaginative way. Any proposals should be agreed with the DAC.
 - (d) The Victorian floor should remain intact and protected below the new floor in such a way as to allow the change in floor level to be reversed and

for the tiles to be exposed. A record of their existence, a plan showing their position and, in particular, the depth below the surface of the present floor at which they lie, and a photographic record should be entered in the church archive.

24. Only in the event of a disagreement between the petitioner and the DAC need any of the above matters be referred back to me.

His Honour Judge Leonard QC
Chancellor of the Diocese of Ely
29th May 2017