

**CHELL: ST. MICHAEL AND ALL ANGELS**

**JUDGMENT**

- 1) The church of St. Michael and All Angels is unlisted and was built in 1925. On 16<sup>th</sup> February 2007 a faculty was granted authorising the removal of all the pews in the nave and their replacement by chairs and carpeting. That faculty was issued pursuant to a direction of Coates Ch made on 31<sup>st</sup> January 2007. The petition had been issued on 28<sup>th</sup> November 2006. There had been no objection to the petition and the Diocesan Advisory Committee had recommended approval.
- 2) The faculty provided that the works should be completed within six months from the date of the faculty or such further period as the Court should allow. In fact the works were not performed in that period and have still not been performed. I am informed that this was because of difficulty in raising the necessary funding.
- 3) In the Spring of 2011 the Petitioners sought an extension of time for performing the works. In light of the passage of time since the faculty had been granted the Petitioners were required to display a fresh public notice in respect of the matter thereby giving an opportunity for objection.
- 4) The notice was displayed from 29<sup>th</sup> April 2011 to 27<sup>th</sup> May 2011 and resulted in a number of objections. Some of the objectors chose not to become parties, simply inviting the Court to take account of their letters, but a number did. There are nine party objectors<sup>1</sup> and fourteen non-party objectors. There is a petition bearing fifty-one signatures supporting retention of the pews.
- 5) It is said by the faculty petitioners that not all of those who signed the "Save our Pews" petition were parishioners or on the electoral roll of the

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<sup>1</sup> They are Mr. Mark Shepherd, Mrs. Dawn Shepherd, Mrs. Susan Gibson, Mr. Richard Gibson, Mr. Neil Gibson, Mr. Martin Gibson, Miss. Jill Gibson, Mr. Paul Leighton (supported by his wife Catherine Leighton who has not become a party), and Mrs. Joan Taylor.

church. However, it is clear that a number of those objecting both formally and informally are actively involved in the life of St. Michael's. Thus Mr. Leighton is currently churchwarden having served as such since 2009 and Mrs. Leighton was formerly the treasurer and a PCC member (indeed it is possible that she still is – the documents are not clear on this point).

- 6) I wish to commend the spirit in which the issues in this case have been approached by both those supporting and those opposing the removal of the pews. I have already said that the objectors include persons deeply committed to and supportive of the life of St. Michael's. It is noteworthy that many of the objectors have expressed gratitude and support for the work of Revd Stephen Pratt as vicar of St. Michael's. They have also expressed regret at the division in a "*loving and welcoming*" church community. Moreover, both those supporting and those opposing the removal of the pews have expressed the need for all to "*work together for the good of the Kingdom of God*" once this issue has been resolved.
- 7) The Petitioners and each party objector have consented to the matter being heard on the basis of written representations. I agree that the case is suitable for such a determination. I have received and considered detailed Statements of Case from the party objectors and from the PCC Secretary, on behalf of the Petitioners.

**Site Visit.**

- 8) I made an unaccompanied site visit to the church on 18<sup>th</sup> June 2012. During that visit I sat on various pews and considered the interior of the church. In appearance the pews have no particular or unusual qualities. They struck me as fairly simple and workmanlike pieces of furniture albeit possessing the quality of having been made to the Glory of God and used in His worship. They were far from being the most comfortable of seats, but equally they were not as uncomfortable as very many pews. I also noted that they do not bear cushions and a point made by some of the objectors is that the application of pew cushions would greatly increase the comfort of those using them.

### **The Petitioners' Case.**

- 9) In their original Statement of Need the Petitioners set the proposals in the context of a continuing programme of works “*to upgrade and modernise St. Michael’s Church for worship and mission to today’s society*”. Reference was made to works which had been undertaken to fit new heating and lighting and to install a raised platform area bringing the communion table nearer to the congregation. The replacement of the pews was seen as being the last element in this process. It was said that flexible seating was a “*must*” for worship, mission activities, and community use. It was also said that the state of the pews and of the floor meant that a number were unstable.
- 10) In responding to the objections the Petitioners have explained that the original motion to seek a faculty to remove the pews was approved unanimously by the District Church Council on 18<sup>th</sup> September 2006. However, when the question of seeking to proceed with the authorised works and to obtain an extension of time came before the Parochial Church Council on 28<sup>th</sup> February 2011 the outcome was much more finely balanced. There were nine votes in favour and seven against with one abstention. The Petitioners explained that the installation of central heating means that the pews are no longer fixed to the floor. They also explain that money has been collected expressly for the purpose of installing chairs and would have to be returned to the donors if the works were not to proceed. The Petitioners explain that there have been fifty-four donations from named individuals showing the strength of support for the proposal (the Usual Sunday Attendance of the church being 65 – 70).
- 11) The Petitioners also point out that some of the current objectors have donated money for chairs. However, I regard this as another indication of the spirit of the debate and of the commitment of the objectors to the work of St. Michael’s rather than in any way undermining the force of their objections. The donations were made in the context of the faculty to remove the pews and to install chairs having been granted. The making of the donations reflects well on the objectors as indicating that despite their

personal preferences they were prepared to contribute to furthering the work of the church.

### **The Objections.**

- 12) The objectors (party and non-party) have expressed themselves in a variety of ways but the following points are put forward by some or all of them as reasons for resisting the removal of the pews:
- a) The pews have been present for a long time and have historic value. Some of the objectors refer to the pews having been present for more than 100 years. Given that the church was only built in 1925<sup>2</sup> this period seems unlikely but the substance of the point is the longstanding presence of the pews and their rôle as a symbol of the continuity of the church's life. This point is coupled with reference to appearance of the pews. In essence it is said that they contribute to the traditional appearance of the church which is particularly valued by those attending weddings or similar occasional services.
  - b) The pews are structurally sound and so replacement is unnecessary. It is said that the current instability could be remedied and the pews be made more comfortable by the application of cushions.
  - c) The pews are easier to maintain and clean than chairs would be. This is said to be of particular significance in that there are problems with the roof of the church leading to dust incursion.
  - d) It is said that pews are easier for the elderly to use in that they can support themselves on the pews. It is also said that there is more risk of accidents with chairs.
  - e) A number of objectors contend that the money to be spent on removing the pews and installing chairs could be better spent on other aspects of the church's work.

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<sup>2</sup> It may, however, have replaced an earlier structure in the context of the "125 Years of Mission in Chell".

- f) As to the presence of chairs enabling community use the objectors say that there are chairs and ample space in the church hall and that this could be used for community activities.
- g) Some of the objectors point to their longstanding involvement in St. Michael's. They explain that it has been the scene of important events in their family life and spiritual development referring to weddings, baptisms, confirmations, and the like. This is not an insignificant factor. A continuity of appearance in a church helps those concerned to recall those events and to draw comfort and spiritual encouragement from them. Moreover, the physical symbols of the church's continuity with past worshippers and past acts of worship point to an important element in the church's life and are not to be lightly removed or altered.

**The Applicable Principles.**

- 13) Technically I am determining not the grant of a new faculty but rather whether to extend the time for performing the works authorised by an existing faculty. However, in the light of the period of time which has passed since the grant of the faculty and of the extent of the objections raised I have concluded that it would be appropriate to approach this question as if I were deciding afresh whether or not to grant a faculty for the works in question. In doing so one of the factors which I will take into account in favour of the Petitioners is the approval given by Coates Ch. Although that approval was given in the absence of objections it demonstrates that Coates Ch regarded the works as worthy of approval – a decision which is material in support of the proposed works.
- 14) This church is not listed and so those seeking to make a change in it do not have to satisfy the "Bishopgate" requirements. Nonetheless, the burden is on those seeking to change the furnishings of a church to show that there is a good reason justifying the proposed change. This requirement arises from the matters set out at paragraph 11 (g) above detailing the value and importance of continuity in the physical appearance of a church.

15) A number of the objectors have asserted that it is not appropriate to spend church funds on replacing the pews in a time of financial stringency or that there are other matters on which those funds should more properly be spent. In respect of such issues I adopt the approach taken by Briden Ch in ***Re St. Catherine's Montacute*** 15 CCCC no. 23 where he said:

"The issue here is whether the Consistory Court, in the exercise of the faculty jurisdiction, will place any fetter upon the way in which Parochial Church Councils manage their assets . Section 4(ii)(a) of the Parochial Church Councils (Powers) Measure 1956, replacing a similar provision in the Parochial Church Councils (Measure) 1921, vested in the council control of:

"The financial affairs of the church including the collection and administration of all moneys raised for church purposes and the keeping of accounts in relation to such affairs and moneys"

The Council is answerable to the parishioners, who are free to discuss the financial affairs of the parish at the annual parochial church meeting, and who through their votes govern the lay composition of the council. In addition there is a mandatory requirement for an auditor, acting as watchdog in relation to the finances at the council's disposal. It is through these processes, rather than the exercise of the faculty jurisdiction, that regulation should take place. Were the law to be otherwise, the proper functions of the council, the parishioners and the auditor would be usurped, while the Consistory Court would find itself dealing with administrative matters wholly outside its judicial function .

For these reasons the settled practice of the Court is to refrain from interfering with decisions reached by Parochial Church Councils in accordance with their rules of procedure as to how parochial funds are to be applied. In considering whether or not to grant a faculty the Chancellor or Archdeacon will want to know whether funds for the intended project are available, lest the purpose of the faculty is defeated through lack of resources. There may be other exceptional circumstances in which the proposed manner of funding will affect the decision whether to grant a faculty. But it is not a ground for interference that a Parochial Church Council decides one call on its assets to be more pressing than another."

16) There can be legitimate differences of opinion as to the best use of parochial funds and as to the most pressing calls upon those funds. Save in exceptional cases it should be the PCC and the parishioners rather than the consistory court who determine the application of parochial income. Accordingly questions of the most appropriate use of parochial funds are not normally relevant to the issue of whether or not a faculty should be granted for particular works.

17) The views of a majority of the PCC and of the parishioners are a relevant, indeed an important, factor but they are not conclusive. The Court always retains a discretion. A current majority of a PCC, even a majority of the current worshippers in a church, cannot require permission to be given for works which are not acceptable in the view of the Court. The weight to be given to the majority view remains significant even where there is a division of opinion, but that weight is inevitably reduced where, as here, it is clear that opinions are closely balanced.

18) It follows that I have to decide whether a case for this change has been made out which can point to benefits of sufficient weight and importance to justify making a change with the disadvantages inherent in any change and to justify overriding the objections made in this particular case.

### **Conclusions.**

19) The delay in implementing the faculty granted by Coates Ch makes it hard to conclude that there is a pressing or urgent need for the proposed alteration. Similarly, it is relevant that there is a close balance of opposing views in the PCC on this subject. I have already explained that it is for the Petitioners to show a good reason for change and that the proposed reason must be weighed against the merits of continuity.

20) I have already explained that contentions that the money to be spent on chairs could be better spent elsewhere are not relevant. In addition I can attach little weight to the suggestions that pews are easier for the elderly to use or that their maintenance will be easier than for chairs. There are many readily available chairs which are safe, easy to use, and easy to maintain. The current pews are of no significant historic or aesthetic interest.

21) The principal arguments against the change are those based on the benefits of continuity and on the pleasing appearance of the church in its current state. Against those arguments I must take account of the wishes of the majority of the PCC; the recommendation of the Diocesan Advisory Committee; and the fact that Coates Ch regarded the works as

appropriate. In addition emphasis is placed on the flexibility both for worship and for community use which will follow from the installation of chairs in place of the pews.

22) I have to balance the competing factors. Flexibility is a very important consideration and a real benefit to the life of the church both in terms of worship and mission<sup>3</sup>. The existing pews are fixed and static. They restrict considerably what can be done in this church. The presence of good quality seating would enable different seating arrangements for different services and different forms of worship. Such flexibility can enhance both the quality of worship and assist in mission. Moreover, the use of churches for concerts and similar performances is to be encouraged. It is part of the life of a church as serving its local community. Pews act as a disincentive to such events whereas chairs provide a flexibility in lay out which can facilitate such events. I am conscious that the church hall can be used for community events but it would be a benefit flowing from the installation of chairs that they could also take place in the church itself.

23) In the light of all those factors but with particular emphasis on the benefits of flexibility I have concluded that it is appropriate to allow the pews to be removed and chairs installed.

24) Accordingly, I will extend the time limit for performing the works to 29<sup>th</sup> March 2013.

25) However, in the light of the passage of time since the faculty was granted and also in the light of the objections now received I have concluded that it is just and expedient pursuant to **Rule 33 (2)** of the **Faculty Jurisdiction Rules 2000** to amend the faculty by adding two conditions.

26) The first relates to the desirability of minimising the adverse impact of the change on those who would otherwise benefit from continuity in the

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<sup>3</sup> This and the following points were made cogently by Bishop Ch in *Re Epworth St Andrew* (2012).



appearance of this church. Accordingly, conditions shall be imposed on the faculty that:

1. The Petitioners shall not commence the works until they have:
  - a) caused a photograph of the church in its current configuration to be taken professionally.
  - b) Provided a copy of the same free of charge to those objectors (both party and non-party) who request one.

2. The Petitioners shall after the completion of the works:

- a) Cause a copy of that photograph to be displayed in the church.
- b) Provide at cost a copy of the photograph to any such other person who requests one on or before 4.00pm on 7<sup>th</sup> September 2012.

27) The second relates to the continuing improvement in the quality of chairs for use in churches and to the need to ensure those which are installed are of the highest quality. Accordingly, a condition shall be imposed that:

3. The works shall not commence until the Petitioners have:
  - a) Caused the PCC to consider afresh the questions of the make and design of the chairs to be installed.
  - b) Thereafter referred the PCC's choice to the Diocesan Advisory Committee.
  - c) Received either the Diocesan Advisory Committee's confirmation that the chosen chairs are appropriate or this Court's permission to proceed with the installation notwithstanding the Diocesan Advisory Committee not having so confirmed.

STEPHEN EYRE  
CHANCELLOR  
21<sup>st</sup> June 2012