

In the Consistory Court in the Diocese of Liverpool

Sir Mark Hedley, Chancellor

re-: Christchurch Eccleston

Judgment

1. Christchurch Eccleston was built in 1838 and is a listed grade II building. By a petition dated 14th of April 2013 the vicar and church wardens on behalf of the PCC seek a faculty to execute a number of works of reordering. Essentially these comprise partial removal or shortening of pews; levelling of floor to improve access; installation of accessible WC; installation of “brew facilities”; installation of a glazed screen to create meeting/creche area; installation of new heating system as per expert specification; relocation of font to south transept.
2. During the course of these matters, the church has consulted with English Heritage, the Victorian Society and the Church Buildings Council. As a result of those consultations, a number of matters of controversy have arisen. Substantial negotiations have taken place and in the end the Church Building Council has maintained opposition to the proposals in relation to the pews and the underfloor heating. The Victorian Society has not maintained at any opposition. English Heritage, whilst not maintaining any opposition, have invited me to consider carefully the question in relation to the pews.
3. The proposals have the unanimous support of the PCC and no hint of dissension has come from any member of the congregation. I am satisfied that a faculty should be granted without further enquiry in respect of all matters except the pews and the underfloor heating. I am satisfied that the church has made an appropriate case in respect of all such matters and have satisfied the requirements of the heritage bodies in those respects. The balance of this judgment is accordingly concerned with the pews and underfloor heating.
4. Furthermore two other aspects of the outstanding matters are uncontroversial. It is accepted that it is proper to remove certain rear pews so as to create space to facilitate glazing and the provision of an accessible WC. Moreover, it is accepted that a new heating system is entirely justified and the controversy is over the actual proposals and their consequences. I accept that these matters are properly uncontroversial and do not propose to refer to them further in this judgment.
5. I propose to deal first with the question of the pews. The existing arrangement can be seen from the plan numbered 6823. (01) 01. English Heritage in their letter of 9 November 2012 say as follows – “our main concern in this respect is the impact of the proposal to remove several sections to the

front back and sides of the original pews which constitute an almost complete unaltered set of early Victorian seating. This would fundamentally alter the character and appearance of the interior and on the basis of the information provided, we question the necessity of these works and suggest that there may be alternative ways of achieving the aims and laudable ambitions of the PCC for the church in a less harmful way.” It is right to say that a number of amendments have indeed been made to the proposals and in their final form they appear in the plan numbered 6823. (04) 02. The position of English Heritage is now set out in their letter of 1 July 2013. There they say – “we acknowledge that some justification for the proposals has been made and also some amendments to mitigate the harm to the significance of the church interior which is due to removal of early Victorian pews and glazing of the under gallery space. We consider that some harm to the significance will still occur, however in the light of the proposed amendments and the justification for the proposals we consider the harm less than substantial. We would therefore ask the diocese to weigh the harm caused against the other public benefits of the proposal...”

6. The Church Building Council maintained their opposition on the basis that they do not support the shortening of the pews although they recognise that the current proposals do seek to maintain the unusual arrangement at the front of side on pews. They make this further comment – “the Council felt that the stated need to improve circulation and meet health and safety requirements for evacuation was not substantiated by the attendance figures provided by the parish: they state that the congregation rarely exceeds 55 people for any one service, a number that could comfortably be accommodated in the few rows of pews at the front of the church.” Of course, that begs the very question raised by the Church in its justification namely the need to make the church the more attractive so that a greater number of people would attend. This seems to me admirably to illustrate the tension in these cases between a stewardship of the past for delivery to the future and the requirements of modern pastoral concern to the actual people living at the time.

7. The proposals are justified on the basis that a greater degree of circulation is required and that those with pushchairs and those in wheelchairs should be able to form part of the congregation with out being isolated because they are unable to fit in with the current arrangement of pews. The proposals as finally made do not in fact involve a shortening of pews but a removal of certain full length pews and the moving back of the pews with the side on pews attached. There is of course some removal of side on pews in number but the original arrangement is preserved conceptually. These proposals and the justification for them are supported by the Archdeacon in his representations. I have inspected this church and it is apparent to me that it is essentially well maintained with a real understanding of its unusual features that give rise to the listing and I am satisfied that within the constraints of their essential aspirations, the church has made a serious attempt to accommodate the issues raised by the heritage bodies.

8. How then is the court to approach the matter in the light of these facts? I have read and considered with care the judgment of the Arches Court of Canterbury in the case of *in re-‘St Alkmund, Duffield in the diocese of Derby*. That decision is, of course, binding effectively on me. The case is factually different in that it involved the removal of the screen in a grade 1 listed church. However, the approach to reordering in a listed building was authoritatively set forth. In deference to the matters raised in paragraph 16 (ii) I should state that I have resolved to deal with this case

under Rule 26 of the Faculty Jurisdiction Rules on the basis of written representations. Those who oppose (namely the heritage bodies) wish to do no more than make written representations and the applicants have made it clear that they are content to rely upon written representations. I am satisfied that proper justice can be done in this case on that basis and accordingly this judgment is prepared on the basis of those written representations.

9. I have no doubt that the implementation of these proposals will have a real impact on the significance of this church in particular in relation to the reordering of the pews. Moreover I am satisfied that that impact could be properly characterised as harm. I tend to share the view of English Heritage that the harm cannot, however, be considered substantial. Nevertheless, in the light of the matters raised, I think they require consideration. The justification is related to a desire to open up that part of the church so as to make movement, and in particular movement for those with pushchairs or in wheelchairs, more convenient and practicable. In my experience there is a strong modern trend to accommodate the needs of wheelchair users and young families in the church setting. This is the more so where, as here, the church comprises the sole building available to the PCC. I must express a profound sympathy with that aspiration. That sympathy is undiminished where, as here, there have been real attempts to accommodate the views of the heritage bodies. On the other hand, I fully respect the anxieties raised as this setting of pews is not only unusual but is also original.

10. Having reflected with care on this, I am satisfied that notwithstanding the harm that will be caused to the significance of this church, the justification advanced by the applicants ought to succeed. I was very conscious on my inspection of the difficulties of movement that were being described. I think the proposal as presently drawn will provide sufficient evidence of the original formation for that to be appreciated by visitors to the church. I propose to direct that a photographic record should be made of the present arrangement and that the pews so removed should be stored for at least five years so that, were there second thoughts, they could be accommodated.

11. I turn then to the question of the heating. The debate here is really about whether there should be underfloor heating. The applicants' advisors have put this forward as the most efficacious scheme. Contrary proposals have been made by the Church Building Council. What lies at the heart of this dispute is the need to remove all pews whilst underfloor heating is laid. The anxiety is that the pews, and therefore fixings, would be damaged during the course of any such work particularly where, as is contended here, it is not necessary. Were such work to be undertaken, the Church Building Council is anxious that advice is obtained from an expert. The response of the applicants is that this work has had to be undertaken in the past, has been done by careful voluntary labour and has not resulted in any damage. Moreover, they say, since the works will have to be contracted to someone with experience of listed buildings, that anxiety can in any event be met in the course of ordinary contractual terms.

12. There is in any event a need to level the flooring which will in itself result in the movement of pews. I am satisfied that that particular piece of work needs to be done. Having considered this matter carefully I am of the view that the applicant should be entitled to fit the heating which they are advised best meets the needs of their particular building. It seems to me that the objections of the heritage bodies should be met by conditions and not by the refusal of a faculty. It is crucial that

no damage is done in the course of this work and it may be that the choice of contractor will meet that particular difficulty. However, I propose to direct that the contractor, when selected, and the supervising architect shall consider before the work is undertaken whether further advice is needed in respect of the removal of the flooring. If it is, they are to seek such advice. If it is not, they are to inform the Registrar of that decision and the reasons for it. On that basis I am satisfied that the faculty should include the laying of underfloor heating.

13. Accordingly I propose to grant the faculty sought on the basis of the proposals contained in the drawing numbered 6823. (04) 02. I propose to impose conditions that the provisos to the DAC approval shall be complied with; a photographic record shall be made of the current arrangements and a copy placed with the parish records and a copy supplied to the Registrar; the pews so removed shall be stored for at least five years; the condition in relation to the employment of an expert assessment of the removal of the pews; and a time limit of two years on the faculty. I am not quite clear whether the church is in a position to proceed with the new lighting proposals. If they are, they may be included in the faculty but, if they are not, they may be excluded from this faculty but with liberty to apply to amend the faculty by their inclusion in due course.

14. I would like to conclude this judgement by expressing my gratitude to the heritage bodies for their contributions in this case. I am also impressed, if I may say so, by the care which the applicants and the PCC have taken to accommodate those views whilst maintaining their essential aspirations. As I have indicated, this is at a well looked after church and I am grateful for the considerable time and energy that has been expended in trying to resolve the tension between the preservation of a fine church and its development to meet current pastoral needs. I can only hope that this decision will be of further assistance in that resolution.

MARK HEDLEY
26th September 2013