

Re All Saints, Filby

Judgment

1. The rector, churchwarden and PCC Secretary of this parish seek a faculty permitted the reordering of this Grade II* listed village church. The reordering includes the removal of pews from the north and south aisles and the augmentation of toilet and kitchen facilities within the church.
2. English Heritage, the Society for the Protection of Ancient Buildings and the Church Buildings Council have all been consulted about the proposed changes. All are content with the intended works. The Diocesan Advisory Committee ('DAC'), in a Notification of Advice dated 10 April 2014, has recommended those works.
3. The Victorian Society has also been consulted about the works and had raised objections to the removal of the aisle pews. On 12 September 2014 I directed that the Victorian Society be specially notified of the petition, giving them the opportunity to become a party to the proceedings should they so wish. They have responded by stating that they do not wish to become a party to the proceedings, but asking that I take their written representations into account in determining the petition. I do so.
4. In addition to the above, the public notices and wider public consultation in this case have elicited objections from a number of individuals, some of whom, but by no means all, are parishioners.

Background

5. All Saints Church, Filby is a medieval church standing on the site of a much older building, of which nothing now remains. It stands on a hillock overlooking the surrounding countryside. The church is used for regular Sunday worship on three Sundays out of four. Other services also take place, such as Easter, Christmas, harvest, weddings, baptisms, funerals, Mothering Sunday and Remembrance Sunday. It is also used for other events such as school events, occasional concerts and Filby-in-Bloom celebrations.
6. Sadly, the size and age profile of the current congregation has given rise to concerns that there will not be a viable worshipping community which survives this generation unless a new generation of worshippers can be attracted to the church. In order to address this concern, the

church (in the sense of the people, rather than the building) has taken and is taking steps to reach out to those in its community who do not attend the formal worship which is currently offered.

7. Approximately five years ago efforts were made to assess the possibility of using the church hall as part of this outreach. The hall was in such a state of disrepair that it was felt uneconomical to repair and in January 2013 it was sold. It was decided that the proceeds of sale and the energies of the congregation should instead be applied to adapting the church building for use in its mission and outreach.
8. A significant achievement of the congregation's efforts is the creation of a new monthly Messy Church congregation of between 40 and 70 (and sometimes up to 80) people. The petitioners say that the limitations of the current building increasingly mean that it is difficult to carry out this ministry effectively. They also say that those limitations impact upon the wider potential uses for the church building within this community.
9. The existing kitchen and toilet facilities are both fitted within the north porch, the external door of which has been closed up. There is only one toilet, which is not accessible to the disabled, and the kitchen facilities are cramped. It is proposed that the current kitchen and toilet within the north porch will be removed and that instead the north porch will house two toilets, one of which will be accessible to the disabled. The floor will be lowered to ensure accessibility. More substantial kitchen facilities will be placed within the area at the west end of the north aisle which is enclosed by oak screens and currently accommodates the vestry. A new vestry will be created at the south side of the west end of the church using oak screening similar to that of the existing vestry.
10. There are no objections to the works to the kitchen and toilet facilities nor to the basic redecoration also proposed. The impact on the fabric of the building from these works will be minimal and all agree that the need for these new facilities is manifest. I am content that a faculty should pass the seal in relation to these unopposed works. I pause to note that any such faculty is permissive rather than mandatory. The petitioners say that if they are not able to undertake the additional works which are the subject of dispute, then there may be no need for the augmented kitchen and toilet facilities. They state that that need is contingent upon the wider use of the building anticipated as a result of the contested works. It will be for the petitioners to decide whether they wish to go ahead with the improved toilet and kitchen facilities in the event that a faculty for the additional contested works is refused.
11. As well as the uncontested works set out above, the petitioners seek faculty permission for the removal of most of the pews from the north and south aisles of the church. They intend to retain a small number

of those pews and turn them through ninety degrees such that they line the side walls of the aisles. The central block of nave pews is to be retained unaltered. The petitioners argue that the building is currently heavily pewed and that the consequent limitations of space and flexibility means that it has become difficult to run their monthly Messy Church services. They are anxious to foster this new and growing ministry and state unambiguously that unless the membership of the worshipping congregation is renewed, the church will die. They wish, also, to create a more flexible space within the church in order to accommodate some of the church events which would previously have taken place in the church hall, such as the harvest lunch.

12. The petitioners also seek permission to construct cupboards in the north and south aisles, reusing the paneling of the aisle pews where possible, for the storage of stackable chairs and tables in the event that permission is given to remove the pews from the aisles. Although there is no direct objection to this part of the proposals, on the basis that the cupboards would only be needed in the event that chairs were to replace the aisle pews, I have treated this aspect of the works as part of the opposed works.
13. An early proposal to relocate the font nearer to the south door is no longer pursued as public consultation revealed a strong consensus against such relocation.

The objections

14. As mentioned above, the Victorian Society have raised concerns about the proposed removal of the pews from the south and north aisles. In two letters dated 7 February 2011 and 16 April 2012 (confirmed in their email of 11 November 2014) they state that the aisle pews make a positive contribution to the interior of the church, represent an important phase of the history of the building (namely the nineteenth century restorations) and the bench ends are attractively detailed. The Victorian Society argues that the needs identified by the petitioners do not justify the removal of the aisle pews and describes that removal as "regrettable".
15. As well as the concerns of the Victorian Society, objections have been received from a number of individuals. Firstly, in 2011 letters were sent to the DAC at the time that their advice was being sought by the petitioners. The statutory Public Notice was displayed between 24 April and 28 May 2014. In May 2014 a publication called the Filby Flyer was distributed in the parish (and possibly more widely) inviting "anyone not just Filby residents" to write to the Diocesan Registrar with comments or to register an objection in relation to the proposal to remove the aisle pews. Presumably as a result of this publicity, the Registrar received a total of 32 letters representing 20 families. An

undated petition, received at the Registry in May 2014, which appears to have been on display in Filby Post Office, has also been submitted to this Court. It contains 38 signatures representing approximately 30 families. Perhaps unsurprisingly, many of the names on the petition are the same as the names in the letters received at the Registry. I am told that only one of the people who wrote to the Registry is a regular worshipper at All Saints Church.

16. The Registry contacted as many of the objectors as it was possible to identify from the documents received (at least one of the letters was anonymous), offering them the opportunity to choose between becoming a party opponent in these proceedings and simply leaving their written representations to be taken into account by me in determining the petition. Only two responses were received; one asking that his written representations be taken into account and one (an apparent signatory to the petition) stating that she had not objected to the proposed works and asking that her name be removed from the petition.
17. It is right to observe at this stage that I treat the objections raised by way of public petition with significant caution. The difficulty with public petitions is that the Court can never be certain about the basis upon which a signature has been appended to the petition. It is not possible to know what has been said to a signatory. In this particular case I note that the petition refers to the "remov[al of] the side chapel on the South side of the church". This is not part of the proposed works (although I note that the metal railings in that chapel are to be removed). It is far from clear to me whether those who signed the public petition are objecting to the removal of the pews, the removal of the chapel or both. This caution was heightened to near alarm when one of the only signatories who responded to the Registry's correspondence in this matter insists that she did not object to the proposed works at all and wishes her name to be removed from the petition. I do not think that it has made a difference to the outcome in this particular case, but I pause to note that, in my view, public petitions can rarely, if ever, hold great evidential value before this Court. Public petitions will usually, at best, demonstrate no more than a general sense of some public concern or dissatisfaction to the Court.
18. Although a number of the objectors are not parishioners, and some seem to have only limited links to the church (such that their standing in these proceedings might be questionable), the concerns raised by all of the objectors are broadly the same. As such I take account of all of the concerns raised on the basis that they are raised by those residing within the parish as well as others. I trust that I do the objectors no disservice in summarizing the concerns raised thus:

- a. Removal of the pews will damage the atmosphere of the church as a place of worship, and render the building akin to a café or hall;
- b. It is important to preserve continuity in the historic and traditional nature of the building;
- c. The additional space is not needed as the village has been fundraising for the erection of a new community centre. Activities such as Messy Church could take place there;
- d. The removal of the pews would reduce the seating capacity of the church;
- e. The use of moveable chairs as aisle seating for special events such as weddings would mean that those occupying those seats would not feel part of the congregation;

19. In response to these various concerns the petitioners have provided an eloquent letter dated 7 October 2014 restating the reasons behind the proposed changes and addressing the objections raised. In particular the petitioners make the following points:

- a. The side aisles are in poor condition; the floor needs renewing and the pews need repairing in order to make them safe. This would cost a considerable amount of money;
- b. The size of the congregation, even for special events such as Easter and Christmas, means that it comfortably fits within the central block of nave pews. The congregation only uses the side aisles when the school comes to the church and on possibly one or two other occasions each year.
- c. In any event, the seating capacity of the church would be substantially unaffected by the use of chairs for larger events and the flexibility of chairs would mean that the 'blind spots' created by the substantial pillars could be avoided;
- d. The re-ordering of the church is not for the purposes of competing with the proposed new community centre as a social venue, but rather to give flexibility to accommodate those aspects of church life and worship which are constrained by the physical limitations of the current building, such as Messy Church and harvest lunches;
- e. The current proposal to retain the central block of pews strikes an appropriate balance between the need to meet the current and future mission needs of the church and the need to preserve its history and reflective atmosphere.

The law

20. In *Re St Alkmund, Duffield* [2013] Fam 158 the Court of Arches set down a new framework or guidelines for the determination of petitions such as this one. That framework took the form of a list of questions, namely:

“ 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 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 (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 I or 2*, where serious harm should only exceptionally be allowed.” (*para 87 of the judgment*).

Harm

21. Would the proposals result in harm to the significance of the church as a building of special architectural or historic interest? I find that the proposed changes *would* result in such harm. In particular, the removal of the pews from the north and south aisles of the church would have a significant impact upon the aesthetic quality of the interior.

22. That said, I am not convinced that the harm caused would be serious. There is an extent to which ‘harm’ is a subjective concept. Differing views exist in this case. It was clearly the view of the DAC that the church was at present “rather over-furnished and therefore to take out the aisle pews would be a good thing”. On their initial visit to the church one member expressed the view that “the present building is visually over-pewed and the removal of some (or even all) of these would improve the building greatly”. The Archdeacon described the overall feel of the church as “cluttered and dark”. The DAC encouraged the parish to consider greater or even complete removal of the pews. No doubt mindful of the views of local people, the petitioners have chosen to retain the central block of nave pews in order to preserve the ambience appreciated by those parishioners who enjoy a more formal style of worship, without compromising the need for flexibility and space.

23. In assessing the seriousness of the harm to the building's significance I have particular regard to the fact that the fabric of the building itself will remain almost entirely untouched by the proposed changes. At no point has it been suggested that these particular aisle pews are of any particular merit or significance (although there are clearly some handsome carved panels, which will be preserved within the church as part of the new vestry and cupboards) and as such it is conceivable (although admittedly unlikely) that pews could be reintroduced into the aisles of this church should a future congregation desire it. In that sense at least, the proposed works are reversible.

Clear and convincing justification

24. In answering number four of the *Duffield* questions, I find that there is a clear and convincing justification for the proposed works. Under section 1 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 those in this parish carrying out the function of care and conservation of this church must have "due regard to the role of the church as a local centre of worship and mission". This parish is to be affirmed for the manner in which it has embraced the Diocesan mission of being *Committed to Growth*. The building of a new monthly Messy Church congregation of the size achieved is testament to the efforts made to engage with those in its community beyond the people who attend usual Sunday worship. This is the epitome of mission. The space which any Christian community uses for worship must always adapt to the needs of successive generations and, as the petitioners have acknowledged, if a new generation of worshippers is not attracted to services, there risks being no worshipping congregation at all in Filby in twenty years' time. Thus would the redeeming work of Christ be compromised in this place.

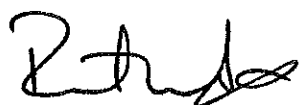
25. I pause at this point to note that it is apparent from the papers before me that there are those amongst the objectors who are concerned that Messy Church is something akin to children 'messing around' in church. I hope it will reassure those people to understand that Messy Church is simply a new form of church service. It was created by the Anglican charity the Bible Reading Fellowship and is interdenominational, popular and well established both in the UK and internationally. It is for all ages and involves the exploration of biblical themes through the use of creative activities, an act of worship and the sharing of food.

26. In light of all of this, and of the recent loss of the church hall to the congregation, it is clear to me that there is a real need in this parish for greater space and flexibility within their church building to accommodate the ministries which they have in place and to develop new ones. The changes would produce a tangible public benefit in meeting these needs and, given the limited nature of the harm caused

to the significance of the building, I find that that benefit would outweigh any harm caused.

27. Accordingly, I direct that a faculty shall pass the seal pass the seal, subject to the conditions set out below:

- a. No works shall be commenced until the petitioners have filed at the Registry written confirmation that:
 - i. 80% of the funding for the works is promised or in place;
 - ii. the positioning of cable routes and equipment has been agreed in writing with the church architect
- b. The groundworks shall be monitored by an archaeological contractor in accordance with the advice of the Norfolk Historic Environment Service;
- c. Any surplus soil shall be re-deposited on consecrated ground;
- d. The contractors should be instructed to cease works immediately and notify the architect if any traces of wall painting are discovered;
- e. The electrical works shall be carried out only by an NICEIC approved/ECA registered contractor;
- f. All cables must be painted to match the background colour;
- g. The works shall be executed under the direction of Ruth Blackman; and
- h. The works shall be completed within 24 months of the date of this faculty or within such extended time as may be allowed.



Ruth Arlow
Chancellor

20 November 2014