

**IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY**

**LONG ITCHINGTON: HOLY TRINITY**

**JUDGMENT**

- 1) In July 2016 I authorised the grant of a faculty for the reordering of Holy Trinity, Long Itchington. That reordering involved the removal of the existing pews and their replacement with chairs. Although I authorised the introduction of chairs in place of the pews I declined to allow the introduction of the upholstered Alpha A1LSE chairs for which the Petitioners had sought permission. Instead I directed that the faculty provide authority for the introduction of unupholstered chairs. As I explained in my judgment at that time (*Long Itchington, Holy Trinity* [2016] ECC Cov 7) I reached that conclusion in the light of the guidance provided by the Church Buildings Council and with the benefit of submissions from Historic England and the Victorian Society together with the advice of the Diocesan Advisory Committee. In short I concluded that the objectives which the Petitioners sought to achieve by removal of the pews could be achieved through the introduction of unupholstered chairs and that such chairs would have a lesser impact on the special significance of this Grade II\* listed church than would the introduction of upholstered chairs. On the material before me at that time the use of upholstered chairs could not be justified because it involved greater harm to the special character of the church than was needed to achieve the objectives of the reordering.
- 2) The Petitioners have applied for amendment of the faculty. They seek amendment such that the faculty will authorise the introduction of LAMU chairs. These are wooden chairs with an upholstered seat pad and an upholstered back pad but with that upholstered back pad being in a wooden frame. The Petitioners propose that a dark stain be applied to the wood and that the colour of the upholstery be Nappa Sanghera, that is a red albeit one which to my eyes appears to be a red with brown or ochre tones as opposed to a more vibrant red colour.

3) The Petitioners seek that amendment following a lengthy period of assessment and consultation. They have consulted with the Diocesan Advisory Committee, the Acting Archdeacon Pastor, and the congregation. There have also been discussions with the Victorian Society. That period of assessment caused the Petitioners to accept the unsuitability of the Alpha A1LSE chairs which they had originally proposed. However, the Petitioners contend that the assessment also revealed difficulties in the introduction of wholly unupholstered chairs. Those difficulties related in part to cost. Well-designed high quality unupholstered chairs are available. Such chairs are both comfortable and attractive. Sadly, they are also rather more expensive than other chairs. The Petitioners considered the possibility of one of the well-known high quality unupholstered chairs but concluded that the cost of such a chair would be prohibitive and that it would not be possible on financial grounds to replace the pews with such chairs. They then conducted a survey of the worshipping community in which other chairs were trialled. One of those was an unupholstered chair which was of good appearance. That was found to be uncomfortable by many of those who had tried it out. Moreover, at least some of the more elderly or infirm members of the congregation perceived the seat of the chair to be slippery and had concerns about their safety in using it.

### **Procedural Matters.**

- 4) I gave directions on 6<sup>th</sup> January 2018. I concluded that although it was questionable whether the proposed amendment was a substantial one for the purpose of Rule 20.3 (2) it was appropriate that the most closely interested parties be given full opportunity to express their views. I directed that the Victorian Society be invited to become a party opponent to the amendment application. The Society declined that invitation but did provide written representations which I have taken into account. I requested that the Diocesan Advisory Committee consider the matter further and I received a helpful report setting out that Committee's views and I noted the fact that Historic England had input into the Committee's deliberations.
- 5) I concluded that it was expedient to determine the matter on the basis of written representations and an unaccompanied site visit. The Petitioners consented to

that course and made further written submissions. In addition I have had the benefit of a report from the Acting Archdeacon Pastor supporting the amendment application.

### **The Submissions.**

- 6) The Victorian Society explained that it remained of the view that entirely unupholstered seating remained “by far the most appropriate form of replacement seating in the context of historic church buildings.” However, it acknowledged the work which the Petitioners had put into seeking to achieve a compromise solution. In the light of that the Society would not object to the proposed seating subject to the qualifications I will set out below. The Society remained of the view that the proposed chairs lacked the qualities of the existing pews but accepted that they were “better adapted to historic churches than much of the seating available commercially”. The Society did, however, contend that a dark stain should be applied to the wood (a provision which the Petitioners have accepted); that the upholstery should be confined to the seat pad; and that colour of the upholstery should be as “recessive” as possible. In the last regard the Society suggested the use of “Sandvale” fabric which is a beige or oatmeal colour. The Society said that this would fit in better than the proposed colour with the “autumnal tones” of the “characterful” tiled floor.
- 7) The Diocesan Advisory Committee accepted that the proposed chair was appropriate in terms of style for an ecclesiastical setting and welcomed the wooden frame. It agreed with the Victorian Society and the Petitioners that a dark stain should be applied to that wood. However, the Committee felt that the upholstery should be limited to the seat pad leaving the back in wood. This was to avoid the upholstery fabric dominating the appearance of the church’s interior. For the same reason the Committee supported the view of the Victorian Society that the upholstery should be of a beige or a similarly recessive colour.
- 8) In response to those representations and advice the Petitioners say that the views of the congregation were that seats with upholstered backs as well as seat pads would be more comfortable than chairs which had upholstered seat pads and wooden backs. In that regard they also contend that the appearance of seats in wooden frames but with upholstered seats and backs would be more attractive

than those which were only partially upholstered. They say that as the church is entered from the rear the existence of upholstery on the backs of the chairs would make little more difference to the appearance of the church than would be made by partially upholstered chairs. In respect of the proposed colour they contend that the existing church fittings are red as are some of the tiles in the floor. It is the Petitioners' contention that the proposed colour will be more compatible with the existing colours in the church than would be upholstery in beige or a similar "recessive" colour.

- 9) In his submission commending the Petitioners' application the Acting Archdeacon Pastor contended that the upholstered rear of the seats would not, in his assessment, have "any noticeable detrimental effect on the character of the church" and that he saw "no advantage to be gained by having plain wooden seat backs."

### **The Site Visit.**

- 10) On my site visit I noted that the floor tiles in the nave were of three colours: black, a brownish red, and a very light brown or fawn colour. My impression was that those colours were present roughly in the proportions of 1:1:2. The church contains a considerable quantity of red furnishings. Thus the carpet in the chancel and pulpit and around the lectern is red. The runners on the current pews and the hassocks are red. There is a cushioned kneeler at the altar rail which is red. In addition there are red elements in some of the stained glass although most of the glass is plain and either clear or light green in colour.

### **Analysis.**

- 11) The first question is whether it is just and expedient for the faculty to be amended. In addressing that question I must continue to have regard to the approach laid down in *Re Duffield: St Alkmund* [2013] 2 WLR 854 as modified in *Re Penshurst: St John the Baptist* (2015) 17 Ecc L J 393. It follows that I must continue to consider the impact on the special character of this Grade II\* church. I must consider whether the benefits to be obtained by the proposed works justify the harm to the special character of the church and I must only permit works

which cause the minimum amount of harm to that special character compatible with achieving the objectives which have been found to justify any such harm.

- 12) In my earlier judgment I concluded that the proposed use of upholstered seating would involve a degree of harm to the church's special character going beyond that which was necessary to achieve the benefits which justified the removal of the pews. Has there been a change in circumstances such that a different assessment should now be made?
- 13) Since my earlier judgment the Petitioners have undertaken further consideration of the suitability of various chairs and the practicability of introducing the same into Holy Trinity. It is noteworthy that the further work has led to an acceptance on the part of the Petitioners that the chair which they had previously sought to introduce was unsuitable for this church. They have accepted the desirability of the chairs which are introduced having wooden frames. The Petitioners have also investigated the cost of high quality unupholstered chairs and the suitability of less costly unupholstered chairs. It is noteworthy that the Victorian Society acknowledge that time and energy have been committed to seeking a compromise solution and this has caused the Society to modify its previous stance.
- 14) I have concluded that it is just and expedient to authorise an amendment to the faculty. I am satisfied that the previous restriction whereby the faculty only permitted the introduction of wholly unupholstered chairs would result in the works authorised by the faculty not being carried out. The Parochial Church Council would not be able to fund the acquisition of high quality unupholstered chairs and those unupholstered chairs which could be afforded would not be acceptable because of the concerns of the worshipping community as to their comfort and safety. The result would be that the pews would remain in the church and the benefits which I found justified the harm which would be caused to the church's special character would not be obtained. In those circumstances I have concluded that the introduction of chairs with an element of upholstery is the minimum that is necessary to achieve those benefits. This, in turn, means that such introduction is permissible because it does not involve more harm to the church's special character than is necessary to achieve the requisite benefits. I

have double checked this conclusion by considering afresh the *Duffield, St Alkmund* questions. In doing so I am satisfied that the degree of harm likely to be caused to the church's special character is justified in the light of the limited extent of that harm and the benefits to be obtained and the fact that for the reasons just stated those benefits cannot be obtained by works which would be less harmful to that special character.

- 15) It follows that the faculty will be amended to permit the introduction of seats with an element of upholstery. I now have to consider the colour of upholstery which will be permitted and the extent of upholstery which is appropriate. In these regards the *Duffield: St Alkmund* approach remains relevant. I have to be conscious of the church's Grade II\* listing and have to be careful to confine the permitted works so as to ensure that the permitted works are such as cause the least harm to the church's special character which is compatible with achieving the necessary benefits.
- 16) The Victorian Society and the Diocesan Advisory Committee contend that the amended faculty should permit upholstered seat pads but that the backs of the chairs should not be upholstered. The Petitioners contend that the wooden frames on the chairs mean that the appearance of the church when viewed from the west end will not be materially altered. In my judgment that is overstating the position. A person looking from the west end of the church towards the chancel will, indeed, see the wooden frames but will also see the upholstered backs of the chairs. The visual impact of the back pads when viewed from the front of the church will be reduced by the presence of worshippers in the chairs but the upholstered back pads will still be visible. The contention which has more force for the Petitioners in this regard is the point that if it is accepted that upholstery is acceptable by reference to the benefits of having comfortable seating then there is an element of artificiality in saying that the upholstery should be limited to the seat pad. The Petitioners can say with force that once it is accepted that there should be a degree of upholstery the additional comfort provided by upholstered back pad outweighs the modest additional visual impact.
- 17) The impact of the upholstered back pads will be tempered by the wooden frames but there will be an impact. I take account of that impact and also of its tempering

by the wooden frames. I also take account of the general agreement that it is acceptable for there to be an element of upholstery here. I also take account of the strong feelings which have been engendered by this issue in this church. The latter is a consideration to which I cannot and do not attach a great deal of weight but it is nonetheless a matter to be taken into account. It is intended that the purchase of the new chairs be funded at least in part by donations from the worshipping community (and it is hoped others). In those circumstances where matters are finely balanced it is appropriate to have regard to the views of that community as an indication of the kind of chairs for which support by way of donation is more likely to be obtained.

- 18) The arguments here are finely balanced and I have not found this aspect of the case an easy one. However, I have concluded that as the chairs are to have wooden frames and those frames are to have a dark stain applied to them the additional visual impact of upholstered back pads though real will be modest. That additional impact is outweighed by the benefits to be obtained and by the fact that such chairs are the clear preference of the worshipping community after what I accept has been careful consideration of the alternatives. Accordingly, I will authorise chairs with upholstered back pads. I repeat that the point was in my judgment finely balanced such that if, for example, this church had been listed Grade I rather than Grade II\* the balance might well have fallen the other way.
- 19) I have found the question of the colour of the upholstery rather easier to determine. I am conscious of the considerable expertise of the Diocesan Advisory Committee and of the weight to be given to their views on matters of aesthetic judgement. I am also conscious of the considerable experience which underlies the submissions of the Victorian Society on such matters. I am, however, entitled to take account of the impressions I formed on my site visit and in that regard I note that the Victorian Society's submissions are made without that Society's representatives having had the benefit of such a visit. I have no doubt that it is appropriate for the Petitioners to be allowed to introduce chairs with upholstery in the shade of red which they propose. As I have stated above the church already contains a quantity of soft furnishings in red many of those will remain after the reordering. In addition although a brownish red is only one of the elements in the

tiling it is present and is a significant element. Upholstery of the proposed red colouring will fit more readily with those elements than would upholstery in beige or oatmeal or a similar colour. Indeed, given that I have authorised upholstered back pads the use of a recessive colouring for them would in my judgment have detracted more from the character of the church and would have given a more domestic appearance than the proposed red upholstery.

- 20) In those circumstances I direct that the faculty granted in 2016 be amended to permit the introduction of LAMU chairs with wooden frames stained in a dark colour (such as medium oak or a darker shade) with upholstered seat and back pads with upholstery in the proposed Nappa Sanghera colour. I also extend the time for performing the works authorised by the faculty to 30<sup>th</sup> April 2019.

STEPHEN EYRE  
HIS HONOUR JUDGE EYRE QC  
CHANCELLOR  
29<sup>th</sup> April 2018