

**IN THE CONSISTORY COURT OF THE DIOCESE OF LIVERPOOL**

**IN THE MATTER OF ST MATTHEW AND ST JAMES, MOSSLEY HILL**

**Sir Mark Hedley, Chancellor**

**JUDGMENT**

1. This is an application in respect of substantial work, including a major re-ordering, proposed to be done in respect of this church which is listed as grade II\*. The work involves repairs to the tower, a substantial internal reordering, significant work in and extension to the church hall and external works which relate to the infrastructure. There have been a number of private objections to the reordering together with a substantive objection from the Victorian Society. None of those who have objected have sought to become Parties Opponent; nevertheless I propose to treat this as a contentious application and to give full weight to those objections in my consideration.
2. I undertook a personal inspection of the church on 24 July 2015 which I found both helpful and informative. In accordance with the request of the applicants, I propose to resolve this matter on the basis of written submissions. I am satisfied that the applicants have been able fully to state their case and that the objectors have had all reasonable opportunity to set out their views in the detail that they would wish. In all the circumstances I am satisfied that I have all the necessary information and evidence to enable a determination to be made.
3. Mossley Hill church (as this building is generally known) was consecrated on 23 June 1875. It is built on what has been described as "...one of the finest church sites in the kingdom". The church is built in the 13<sup>th</sup> century Gothic style of sandstone quarried locally. It contains a "Father Willis" organ of very high quality. In 1922 a memorial chapel was added at the north-east corner. Very little has changed in its external appearance since its original consecration.

However, it was the victim of serious bomb damage during the Second World War which had a major impact on the building. A completely new roof was required and a new wooden floor was laid and the building was re-consecrated in 1952. Various works since then have been undertaken under the authority of faculty in 1975, 1989 and 2005.

4. It is necessary to say something in more detail about the pews. They were extensively damaged or entirely destroyed by the bombing. Some wood was salvaged from the original pews and was used to make some replacement pews. Most of the pews in the church, however, were new in 1952. Prior to that the church had had pews although the memorial chapel had originally had chairs for which pews had at some stage been substituted. In the church now all the pews in the central nave were new in 1952; most of the pews in the side aisles comprise reconstituted wood from the original damage although some of those are new as well. The centre aisle pews are made in oak whereas the side aisles are salvaged wood, oak ends with some new pitch pine wood. The front pew on either side bears carvings to the front which differentiate them from all the other pews. The pews are not permanent in that they are not fixed to the floor. It should be added that there are choir stalls in the chancel which are quite separate from the pews in the nave and side aisles and they are not affected by these proposals.
  
5. It is necessary to set out the works that are now proposed which fall into four categories. First, there is proposed repair work to tower pinnacles and other high level repairs as detailed by the inspecting architect. Secondly, it is proposed to remove and dispose of all existing pews and replace them with stacking chairs; to refinish the wood block flooring; to install a single story free standing timber structure to contain the vestibule, toilets, kitchen facilities, store and lighting/sound console to the West End of the church with provision for electrical, lighting, fire detection and ventilation systems; to replace the existing timber doors from the church hall to the church with new frameless glass doors; to install new lighting in the church. Thirdly, it is intended to replace the existing link from the church hall to the church with a new fully glazed link; create a new entrance vestibule; new disabled toilet and baby change facilities; create a new single story extension to the rear of the existing

building containing toilets, kitchen, copy bar and store together with an enlarged entrance hall with access to a new terrace facing the memorial garden; upgrade the electrical lighting fire detection, heating and ventilation systems; install new doors, sanitary ware, fittings, finishes and general redecoration. Fourthly, external works are required to create a new vehicle access drive and a new exit gateway to be formed in the existing sandstone boundary wall on Mossley Hill Road; to create new foot paths and paved terraces around the church hall; to install new external lighting.

6. It is proposed that this work is done in two phases: first, the internal works and those involving the tower; and secondly the hall and the external works. Planning permission has been obtained in respect of the external works subject to conditions acceptable to the applicants. The required finances are substantially in place but it is financial pressure that requires the work to be done in two phases.
7. On 31 March 2015 the DAC formally recommended the works and proposals for approval by the court. English Heritage have been consulted and they responded by letter of the 20 March 2015. It may be helpful to set out the central paragraph of their advice –

“We consider the proposed extension and reuse of the church hall acceptable, subject to any potential archaeological issues and mitigation being resolved before works commence. We understand from our discussions via email that the internal West end pod will not now obstruct the West window, but will be drawn back to respect this, within the space, important feature. In the light of this amendment to the proposal we consider the pod also acceptable, subject to high quality materials and finishes. The total removal of pews in this case is not within our remit to comment on since they are not fixed and therefore not part of the listed building.”

It follows that the proposals have the support both of the DAC and English Heritage. It is now necessary to turn the considered the objections.

8. It is important to note that the objections are both focused and limited. The Victorian Society seeks to object both to the removal of the pews (and replacement with chairs) and also to the creation of a “pod” at the West End which is the description that has come to be applied to the “single story free standing timber structure” of the Petition. All the other objections, which come from private members of the congregation, relate solely to the removal of the pews. None of the other works proposed are in contention and accordingly the balance of this judgment focuses on the controversial proposals, since I share the view that in principle all the other matters are acceptable and, subject to appropriate conditions, should be authorised by faculty.
  
9. The Victorian Society, in their response of 24<sup>th</sup> of March 2015, make it clear that they object both to the disposal of the pews and the installation of the pod at the West end. They put in issue the history of the pews and comment that the present arrangements contribute positively to the - “formal, axial arrangement of the interior, as well as its general richness and overwhelmingly Victorian character.” They point out that many original pews survive and comment - “the clearance of the pews would therefore be hugely damaging to the significance of the building’s interior.” They dispute that the need for space and flexibility has been demonstrated and assert - “that the upholstered chairs proposed to replace the pews would be wholly inappropriate in a historic building of this significance.” Whilst they make it clear they will often accept the insertion of pods, they claim that in this case the need for it has not been established asserting that the church hall is large and, once refurbished, will - “provide facilities that undermine the case for inserting a bulky and visually intrusive structure within the main body of the church.” Although they have said they would provide a fuller response in due course, none has been forthcoming despite further requests for information made by the Registrar. In the circumstances I regard it is reasonable to conclude that they have nothing they wish to add to their original observations.
  
10. I turn to the private objectors. They are concerned solely with the question of the removal of pews. The essential grounds relate to the impact on the character and nature of the building as it was originally, and after the 1952 re-

ordering, but it is also said that a greater number can be seated with the use of pews and that the expensive replacement cannot be justified. It is important to say that the question of expense is not one for the Chancellor but is solely within the province of the APM. Those who have written letters are Mr and Mrs Barclay, Mr and Mrs Hine, Mr Porter and Mrs Howden. I have read each of those letters with care and will take the points raised into consideration in my deliberation.

11. I should at this point outline the law which I am bound to apply. It is accepted that all the work for which authorisation is sought cannot be undertaken without a faculty and further that having regard to the grade II\* status of the church, a strong case will need to be made for change. These matters have been considered in the Arches Court of Canterbury in the case of **In Re St Alkmund, Duffield**. That decision is effectively binding on me and in paragraph 87 of the judgment there is set out a framework of questions which should govern the approach of chancellors in individual cases – (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 the first question 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 nature of the proposals. (3) if the answer to the first question 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 the listed building, will any resulting public benefit outweigh the harm? In answering this question, the more serious the harm, the greater will be the level of benefit needed before the proposal should be permitted.

12. The case for the applicants is clearly set out in their Statement of Need and in a further document entitled Response to the Objections which was provided under cover of a letter dated 28<sup>th</sup> of June 2015. The latter document is concerned only with the objections that have been raised and to which I have made reference. The general case remains for the need to have maximum flexibility and it is pointed out that these proposals have been subject to very

Careful consultation within the church, and have had the consistent and overwhelming support of the PCC and that many other members of the congregation have spoken favourably about them. It is accepted that the removal of the pews will have a significant impact on the nature and character of the church. It is desired to accommodate that by having chairs of high quality (now found in many churches which are listed) which will ordinarily be set out in a traditional forward facing way. The number of chairs plus those held in reserve will enable the biggest congregation to be seated. The point is further made that moving pews is extremely difficult and liable to cause superficial damage to the floor.

13. I have also had regard to a document prepared by the architects under cover of a letter dated 5th of May 2015. This makes the point that effectively the pews were new after the re-consecration in 1952, albeit that some old material had been incorporated. In dealing with the events of 1952, proper research has been made into contemporary records and minutes and I am satisfied that the assertions made are factually sound. The document then deals with the need for flexibility and observes that English Heritage did not feel comment was called for since the pews, not being secured to the floor, were not part of the listed building. Importantly this document deals with the Victorian Society's objections to the pod at the West end. This has to be read in the context of works already lawfully been carried out at the West end and this amounts to an extension, albeit a significant one, of work that has already been done. I have all those matters clearly in mind as I approach my decision.

14. There is no doubt that a perfectly reasonable case can be made on both sides of this argument. It represents the inevitable tension between the stewardship obligations of the applicants to hand on to the next generation that which they have received from the past and the need to provide a church which accommodates the liturgical and pastoral needs of the present so as to enable the church to function effectively and to be able to grow. There is, as I have indicated, a presumption against change which in a grading of this nature will be significant. I have further accepted that the proposals will have a significant impact on the Victorian character of the church; on the other hand I also

accept not only that that arrangement of pews was effectively created in 1952 but also that the choir stalls and chancel area are not to be the subject of any change.

15. I have reflected on these matters with great care. I am very grateful to the conservation societies for the care they take in these matters even where, as here, they do not necessarily speak with one voice. I am further aware that the private objectors are themselves committed, long-standing members of the congregation whose views are worthy of the closest attention. On the other hand I cannot avoid the fact that the leadership of the church and the great majority of those who have expressed an opinion are firm supporters of the proposals now being advanced in this Petition. There have been a number of contested cases involving the removal of pews from Victorian churches in this diocese over the last few years. Clearly each case has to be determined on its own facts and material amongst those will be whether or not the pews were effectively original to the building itself. In this case they clearly were not although the concept of pews no doubt was.

16. In the end I am satisfied that the case for change has been effectively made. I acknowledge that that change will have an impact, a significant impact, on the nature and character of a Victorian church. I am, however, satisfied that the benefits that are potentially available significantly outweigh that detriment and that the interests of this church in terms of its remaining a living entity for generations to come requires change rather than no change. The proposals have proper regard for the dignity of the building (as is the case in many cathedrals which have chairs rather than pews as the principal means of seating) and I am satisfied that the materials which have been shown to me are of a sufficient quality and standard which will ensure that that is the case.

17. I am further satisfied that the case for the pod is made out in terms of the overall needs of the church viewed as a whole notwithstanding the extensions to the church hall to be authorised by faculty in this matter. Given the works that have already been undertaken in that area, I am not convinced that the impact will be very significant on the character of the building, although some impact is undoubtedly established. It seems to me that what is sought to be

done in that pod is precisely what is done in a large number of churches at the present time in order to make the experience of worship effective as well as congenial.

18. In all the circumstances, notwithstanding the care with which the objections of been advanced, I am satisfied that the case has been made out for change not least because the change proposed takes proper account of the splendour and dignity of this remarkable parish church. I am therefore prepared to grant the faculty sought for the whole of the works prescribed noting that they are to be done in two phases. That leaves for my final consideration the question of the conditions to be imposed at on the faculty.

19. I propose to impose the following conditions -

- there shall be strict compliance with any condition imposed by the planning permission or by the insurers;
- a photographic record of the building before any work is begun shall be made and a copy deposited with the church records;
- any proceeds of sale shall be applied to church funds in the defraying of the costs of the work hereby authorised;
- before entering into a building contract, the applicant shall certify to the Registrar that 90% of the cost incurred under that contract is either in the bank or pledged to the church;
- the front pew in each of the two side aisles shall be retained (and stored or placed as the applicants think fit) and shall not be disposed of without further order of the court;
- the works hereby authorised shall be completed within a period of 18 months from the date of this faculty;
- there shall be liberty to apply in respect of any of the above conditions. A word of explanation is required in respect of the retention of two pews. The faculty will authorise the disposal of all of the pews (except, of course, those in the choir) but the two pews identified are probably constructed of wood that significantly predates 1952 and carries significant carving both to the side and to the front. In my view they should not be disposed of, should the applicants wish so to do, without a

specific case being made in respect of them on which I would welcome the advice of the DAC.

19. I appreciate the considerable amount of work that is being put into this matter by a significant number of people not all of whom were in agreement with one another. I am grateful for that work and express the hope that, whether pleased or disappointed by this decision, all those involved will now be able to work and worship together in the future.

**Mark Hedley**

30<sup>th</sup> July 2015