

IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD

ST CHAD: PATTINGHAM

JUDGMENT

- 1) The church of St Chad in Pattingham has a Grade II* listing. Parts of the church date from the Twelfth and Thirteenth Centuries but its current internal arrangement is substantially the result of an extensive Victorian restoration.
- 2) The Vicar and churchwardens petition with the support of the Parochial Church Council seeking a faculty for the introduction of a votive candle stand; the removal of nine pews; and the introduction of chairs in the place of the pews. The pews are moveable and not fixed and five of them are currently in the Lady Chapel and four in the nave. The Petitioners wish to replace those in the Lady Chapel with Alpha A1LSE chairs. The proposed chairs have wooden frames with upholstered seats and backs. The Petitioners propose that the upholstery match the colour of the pew cushions which are placed on the pews which will remain in the nave and aisles of the church.
- 3) I can deal immediately with the proposed introduction of votive candle stand. There is no objection to this and all those consulted agree that such introduction is appropriate in principle and that the particular candle stand proposed is of a suitably high standard for this listed church. In those circumstances it is appropriate for that part of the works to be authorized. As will be seen the question of the chairs is rather more difficult.

The Procedural History.

- 4) The Diocesan Advisory Committee certified that the proposed works would affect the special character of the church and did not recommend approval in the circumstances I will describe below. Reservations were also expressed by Historic England, the Victorian Society, and the Ancient Monuments Society but none of these bodies chose to become parties to the proceedings. There was no response to the public notice.

- 5) I concluded that it would be expedient to determine the matter on the basis of written representations subject to the necessary consent. The Petitioners consented to this course and provided a response to the observations of the Diocesan Advisory Committee and of the other bodies I have just mentioned.

The Representations.

- 6) The Petitioners explain that the Lady Chapel is used for private prayer but also for meetings of small groups and for worship by such groups. The pews are large and occupy most of the space in the Lady Chapel while their presence is not conducive to the use of that chapel by those small groups. Although the pews are not fixed their size means that they cannot be moved easily and that even when moved they inevitably take up space either in the Lady Chapel or in the main body of the church. The Petitioners contend that their replacement by chairs would enable small groups to sit in different configurations and to use the space in the Lady Chapel more effectively than is the case at present. I will set out below the Petitioners' arguments as to why the Alpha A1LSE chairs are suitable.
- 7) The Diocesan Advisory Committee accepted that a sound case had been made for the removal of the pews and for their replacement by chairs. However, it concluded that the proposed chairs are unsuitable because the large proportion of them which would be upholstered would make them a dominant and discordant feature in the church. The Committee expressed this view on a provisional basis and deferred a final decision to give the Petitioners an opportunity to engage with the guidance provided by the Church Buildings Council on seating in churches.
- 8) The latest iteration of the Church Buildings Council's guidance dates from October 2018 and is an expansion of earlier guidance to the same general effect. The guidance sets out a number of reasons both practical and aesthetic why the Council believes that use of upholstered seating is not normally appropriate in a church (or certainly in a listed church). It explains that the Council "generally advocates the use of high quality wooden chairs (i.e. unupholstered) and pews where seating is necessary" and says:

“The Council’s experience is that wooden chairs have the greatest sympathy with historic church environments, present the best value for money with long life-spans, and that a well-designed, ergonomic wooden chair can provide as much comfort as an upholstered design.”

- 9) It is of note that the guidance makes reference to a variety of different types of unupholstered chairs which are to be regarded as well-designed, comfortable, and suitable for use in churches.
- 10) The Petitioners responded to that deferral in the terms I have set out below. The Diocesan Advisory Committee concluded that the Petitioners had in reality neither engaged with the Council’s guidance nor addressed the Committee’s concerns about the visual impact which the chairs would have. In those circumstances the Committee did not recommend approval.
- 11) Historic England accepted that a sound case for the removal of the pews had been made provided that they were to be replaced by suitable chairs. However, Historic England took the view that the proposed chairs are unsuitable for this listed church as they are too secular in character and not in keeping with the church. The representations from the Victorian Society and the Ancient Monuments Society echo those of Historic England. Both those bodies agree that the replacement of the pews by chairs is potentially acceptable but say that this is contingent on the replacement chairs being suitable for this church and both regard the proposed chairs as unsuitable.
- 12) The Petitioners responded to the Diocesan Advisory Committee’s initial concerns by saying that despite having considered the guidance from the Church Buildings Council they still believed that the proposed chairs were “the most appropriate” and that they would “enhance and not detract from the significance and tradition of the building.” Three reasons were given for that view namely that:
 - “the seat material and padding provides more comfort than simply a wooden chair;
 - the cloth matches that on our pew cushions, and so provides a coordinated feel within the church;
 - the chair design’s simplicity is perfect for a country church.”
- 13) In addition the Petitioners pointed out that chairs of this kind were in use in other churches in the Lichfield diocese and elsewhere.

14) In their further submissions the Petitioners again placed emphasis on the use of chairs of this kind in other listed churches saying that in their view such use has enhanced rather than detracted from the appearance of those buildings. They pointed out that the proposed upholstery would be the same colour and of a similar material to the pew cushions which are placed on the pews which will remain in the church. They assert that “upholstered chairs provide more support and comfort than unupholstered chairs” and that in unnamed other churches unupholstered chairs “give a stark appearance and ... do not appear welcoming, comfortable and inclusive.” It is of note that although the Petitioners have given details of churches where chairs of the proposed kind have been installed they do not spell out what particular kinds of unupholstered chair have been considered nor the form which the assessment, if any, of those chairs took.

The Applicable Principles.

15) I have already said that St. Chad’s is a listed church and that the proposed works will lead to an alteration in its appearance. Therefore, the approach laid down in *Duffield: St Alkmund* [2013] 2 WLR 854 is to be applied and the following questions addressed:

- a. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
- b. If not have the Petitioners shown a sufficiently good reason for change to overcome the ordinary presumption that in the absence of a good reason change should not be permitted?
- c. If there would be harm to the significance of the church as a building of special architectural or historic interest how serious would that harm be?
- d. How clear and convincing is the justification for carrying out the proposals?
- e. In the light of the strong presumption against proposals which will adversely affect the special character of a listed building will the benefit outweigh the harm?

- 16) In considering the last question I have to bear in mind that the more serious the harm the greater the level of benefit needed before proposals can be permitted. I also have to bear in mind that serious harm to a church listed as Grade I or Grade II* should only be permitted in exceptional cases.
- 17) As I explained in *Re St Chad, Longsdon* [2019] Ecc Lic 5 at [11] in applying the *Duffield* guidelines the court has to consider whether the same or substantially the same benefit could be obtained by other works which would cause less harm to the character and special significance of a church. If the degree of harm to the special significance which would flow from proposed works is not necessary to achieve the intended benefit because the desired benefit could be obtained from other less harmful works then that is highly relevant. In such circumstances it would be unlikely that the petitioners could be said to have shown a clear and convincing justification for proposals which would, ex hypothesi, cause more harm than is necessary to achieve the desired benefit.
- 18) In that case I also explained, at [14], the way in which the guidance of the Church Buildings Council is of relevance in terms which are equally applicable here saying:

“I need not for the purposes of this judgment engage in an assessment of the precise nature of the weight to be attached to the Church Buildings Council guidance on seating. At the very least that guidance is an indication of the considered view of the Council and of the factors to be taken into account when decisions are made on the suitability of particular seating. It was open to and legitimate for the Diocesan Advisory Committee and Historic England to take that guidance into account when forming their own views on the Petitioners’ proposals.”

Analysis.

- 19) I am satisfied that a convincing and adequate case has been shown for the proposed removal of the pews from the Lady Chapel. The Petitioners have demonstrated that the pews hinder uses of that part of the church which are highly desirable. Those uses would be facilitated by the introduction of chairs. Moreover, it is the common stance of the Diocesan Advisory Committee, Historic England, the Victorian Society, and the Ancient Monuments Society that it would be possible to introduce chairs of a kind which would enable those benefits to be achieved without unacceptable harm to the special character of the church. In the light of that if appropriate chairs were proposed the court

could be satisfied that the benefits to be derived from the introduction of such chairs would outweigh the harm to the church's special character.

20) Can that be said of the currently proposed chairs? The question is whether they are the least harmful way of achieving the desired benefit of facilitating the use of the Lady Chapel by small groups for worship and meetings. The arguments put forward by the Petitioners are not persuasive in this regard.

21) The fact that chairs of this kind are present in other churches, even other listed churches, is of little assistance here. Each church is different and the circumstances surrounding the proposed changes to a particular church are unlikely to be replicated precisely in another church. That means that the argument that because chairs of a particular kind are present in other listed churches they should be allowed in this church can carry only minimal weight.

22) The Diocesan Advisory Committee took the view that the Petitioners had failed to engage seriously with the guidance from the Church Buildings Council. I agree with that analysis. The Petitioners' contention that upholstered chairs are more comfortable and welcoming than unupholstered chairs is put forward as a matter of bare assertion with nothing further by way of reasoning or analysis. It is of particular note that there is no attempt by the Petitioners to consider the range of seating identified in the Council's guidance as potentially suitable for use in churches let alone to explain why that would not be appropriate in the current case.

23) The proposed chairs with upholstered seats and backs would have a marked impact on the appearance of this church by way of the introduction of a large expanse of coloured upholstery. I accept that the introduction of such a quantity of such material would strike a discordant note and would thereby harm the special character of the church.

24) It is of note that there are pew cushions on the pews which are currently in place in the body of the church and which will remain there. The upholstery on the proposed chairs matches those cushions. There is considerable force in the Petitioners' contention that the upholstered seats of the proposed chairs are a replication of the appearance of the existing seating in the body of the church.

The photographs which have been provided by the Petitioners demonstrate that those viewing the church as it currently is will see extensive areas of coloured fabric. The upholstery on the seats of the proposed chairs would have a greater visual impact than the pew cushions but only to a limited extent. The difficulty comes not principally from the upholstery on the seats of the proposed chairs but from the upholstery proposed for the backs of those chairs. It is that element which marks a step change from the appearance of the rest of the church where there is fabric in the form of cushions on the pews but where the backs and sides of the pews are of unupholstered dark wood. It is that element which means that the introduction of the proposed chairs would strike a discordant note by way of the presence of large and readily visible areas of coloured fabric. That discordant effect would not have been struck by chairs with upholstered seats but unupholstered backs. Indeed it is of note that the photographs provided by the Petitioners showing the use of upholstered seating in listed churches include photographs of chairs with upholstered seats but unupholstered backs.

25) However, the Petitioners seek a faculty for the introduction of a particular chair with an upholstered seat and an upholstered back. That would have an adverse discordant impact. The united view of the Diocesan Advisory Committee, Historic England, the Victorian Society, and the Ancient Monuments Society is that the desired benefit could be achieved by the introduction of other chairs which would not have such an adverse impact. The Petitioners have failed to give any persuasive explanation as to why that view is said to be wrong. Indeed as noted above their own photographs show instances where chairs with a lesser extent of upholstery have been used. In those circumstances the case for the proposed chairs has not been made out because the Petitioners have not shown that they are the least harmful way of achieving the desired benefits.

26) It follows that a faculty cannot be granted for the Alpha A1LSE chairs and that it is not appropriate to authorize the removal of the pews until suitable replacement seating has been identified.

27) However, it is right to take account of the fact that all are agreed on the appropriateness of the use of chairs rather pews in the Lady Chapel provided

that the chairs to be introduced are suitable. Moreover, in that regard I am satisfied that the Petitioners have made a compelling case that the introduction of a limited element of upholstery would not cause unjustifiable harm to the special character of this church. The strength of that case comes not from the Petitioners' generalized rejection of unupholstered seating but, as explained at [24], from the presence of upholstery in the form of pew cushions on the existing pews throughout the church. Thus chairs with upholstered seats but unupholstered backs would potentially be acceptable in this church if they were of an otherwise appropriate type.

28) I am conscious that a degree of caution is needed because the Petitioners have proposed a particular type of chair and because the advice of the Diocesan Advisory Committee and the responses from Historic England and the amenity societies have addressed that type of chair. Nonetheless the material before me makes it clear that chairs with a more modest element of upholstery would be appropriate. I am satisfied that the course I am about to set out causes no injustice to Historic England or the amenity societies given that they did not choose to become parties to these proceedings and given that I have been able to make a full assessment of their view as to the appropriate seating.

29) In those circumstances the faculty as sought is refused. However, a faculty may issue forthwith for introduction of the proposed votive candle stand. Moreover, I authorize the grant of a faculty without further reference to me for the removal of pews and their replacement by either such unupholstered chairs (and in that regard I invite the Petitioners to consider again the types of chairs identified in the Church Buildings Council's guidance) or such chairs with upholstered seats but unupholstered backs as in each case shall be confirmed as otherwise appropriate by the Diocesan Advisory Committee. In the event that the Petitioners and the Diocesan Advisory Committee are unable to agree upon appropriate seating within those parameters the matter is to be referred back to me but I anticipate that in such circumstances I would require the Petitioners to proceed by way of a fresh petition.

STEPHEN EYRE

HH JUDGE EYRE QC

CHANCELLOR

15th March 2020