

IN THE CONSISTORY COURT OF THE
DIOCESE OF PETERBOROUGH

RE: ST. MARY WOLLASTON

PETITION No: 3829

1. This is a Petition dated 4th February 2007 to reorder the Parish Church of St. Mary Wollaston Northamptonshire in the Diocese of Peterborough. The Petition is brought by the Vicar and Churchwardens with the wholehearted support of the PCC and other parishioners. The Parties Opponent are (i) the Church Buildings Council (CBC) (previously the Council for the Care of Churches) and (ii) English Heritage. Both Parties Opponent appeared at the Hearing and gave evidence. Mr. J. Goodchild, Casework and Law Officer of the Church Buildings Council, appeared for CBC. Mr. Frank Kelsall appeared for English Heritage.

2. I ruled at the start of the Hearing that the discrete issue before the Consistory Court was that part of the Petition seeking a faculty for "removal of all pews and platforms in the nave and replacement by 130 chairs". That arose in this way. For about 8 years since 2000 the PCC have wanted to reorder the nave of the church. This involved, amongst other matters, removal of the pews. Initially this was supported by the Diocesan Advisory Committee (DAC) in 2002 but in later years they have not supported removal of the pews. On the last occasion when the Petition was before them (9.9.2006) the DAC opposed removal of the pews but the vote was 4/3 against with 2 abstentions. Some 6 members of the DAC were not present at that meeting.

3. It was apparent from the DAC Certificate (15.9.2006) that there was a large measure of agreement between the PCC, DAC and Parties Opponent as to what should be done at the west end of the church. But the area of dispute was the question "Should the pews be removed, or should they stay?" In view of the contents of the DAC certificate dated 15.9.2006 it was apparent that the substantive issue between on the one hand the PCC and on the other

the DAC, CBC and E.H. was whether the pews should be removed. If the answer is yes, the proposals for the west end, the balcony and the whole of the floor will take one form. If the answer is no, then the proposals for the west end, the balcony and the remaining floor will take a different form. Properly preparing either one of those proposals will be expensive. It would be a waste of money to prepare two proposals when one of them is certain to fail.

4. Mr. Goodchild, for CBC, argued that the Petition should fail because of the lack of information provided. He relied on the decision of Sheila Cameron Ch. in St. George the Martyr, Holborn: Diocese of London; June 1977. The Chancellor (as she then was) said:

“A scheme . . . involving alteration to the fabric and furnishings of a listed church requires to be properly prepared by an architect or surveyor, so that all bodies which have a legitimate concern about the proposal can see exactly what is involved.

For the benefit of other parishes in the future I make it quite clear that plans in support of a major scheme of alteration of a listed church will have to be prepared in sufficient detail to enable me, and the bodies concerned with conservation, to understand easily what the details of the proposed work are.”

5. Although Cameron Ch. is now Dean of the Arches, I am not bound by that first instance decision. It is of course of considerable persuasive authority. But Ch. Cameron was not dealing with two different possible alterations but with one proposed scheme. Here I am asked to consider whether removal of the pews is to be permitted. That does not require detailed plans to enable other parties to see exactly what is involved. The detail and quality of their responses to this proposal show that they know precisely what the proposal is.

6. I consider that it would be wasteful of financial resources to require two different schemes to be fully prepared in these circumstances. I have not had difficulty in understanding what is in issue. Deciding that issue as a preliminary issue saves time money

and resources. I am therefore not able to accept Mr. Goodchild's argument that this is a case of "indicative approval". It is a decision on a preliminary issue.

7. I therefore ruled at the start of the Hearing that I would decide the discrete issue of whether a faculty should be granted for removal of the pews.

THE CHURCH

8. The Church of St. Mary Wollaston is a listed building graded 2*. It is unusual in shape. The altar is at the end of a long apse which leads from the bell tower. The organ and its console are on the south side of the bell tower. A vestry is to the north of the bell tower. The internal stonework of the bell tower is novel. It is in horizontal stripes of dark and light stone. This is discoloured by age. It could usefully be cleaned. It could also be properly lit to illuminate this attractive stonework.

9. To the west of the bell tower is the nave. The original nave collapsed on 13th November 1735. Rebuilding was completed in 1739. The new nave is Georgian. It is supported by 4 Tuscan columns proportionately spaced within the nave. The pews in question surround these columns. There is a wide aisle leading from the west end doors. Above the internal doors at the west end is a balcony. Underneath the north side of part of the balcony is a kitchen with a serving hatch. There is no similar room to the south of the balcony. At the sides of the nave are platforms for pews. These originally supported pews which have since been removed. There are 2 side aisles in addition to the central aisle. On the central side of each side aisle are the pews with which I am concerned. On the external wall sides there are redundant pew platforms. The PCC want to remove these. It is not suggested by any Party Opponent that they should stay. In any subsequent faculty application that will not be an issue.

10. The windows on each side of the nave are tall and thin with a semi-circular top. They are glazed with cathedral glass. This means that they are opaque so that light is admitted but

nothing outside can be seen. In any re-ordering consideration might be given to re-glazing these windows with clear glass.

11. The nave presently has a cluttered look with various chairs tables and other furnishings placed on the side aisle pew platforms. The re-ordering is expected to deal with this.

THE PEWS

12. These are not the original box pews installed when the nave was re-built in 1739.

13. By 1894 box pews were regarded as unfashionable. In many churches they have been removed. In Wollaston the box pews were then removed and have been replaced with open pews. A reputable local company used wood from the old box pews to build open pews. They used the doors from the box pews as pew ends. The original door numbers remain on these pew ends. Those numbers are not in numerical order, and the number on one end of a pew is different from the number on its other end. No reason is known for this scattering of numbers. Dr. Brandwood, an architectural historian with a profound knowledge of churches and their fittings, was called as a witness by EH. I am indebted to him for his report and for his evidence both of which were clear, succinct and helpful. In his oral evidence he suggested that a reason for the random numbering could be that this parish wanted to avoid any suspicion of superior position in their church and they therefore allowed random numbering of the pew ends. But in the absence of any evidence, I am not able to make a finding on this issue.

14. The pew ends are oak with raised and fielded panels. The oak backs of the pews are nearly vertical. The seats are pine, and thought to be new in 1894. The quality of the joints in the woodwork is not high. The height of the backs of the pews is 36" (92cm). The length of the seat is 13.5". I contrast this with the length of the seat of the chairs (front of upright to front of seat) which is 16.5". The width of the squab (cushion on the modern chair) is 14.5".

15. The PCC complain that these pews are most uncomfortable to sit in for a service. The reason for this discomfort is a combination of short seat, near vertical back, and the height of the back. One newcomer to the church complained that the pews were uncomfortable when completing her "welcome" card. I sat in several pews. I found them most uncomfortable. But Mr. Goodchild said that he found the pews comfortable. It is pointed out that the length of the seat can be increased by adding a piece to it. Some softness could be added by providing cushions. I add that it might have been suggested that those with bad backs could bring back supports to assist them.

16. It is however the mid 18th Century ends which are the most significant feature of the pews. These ends are in very good condition. They retain their original numbers. There are no other numbered pews in the 11 similar churches in Northamptonshire viewed by Dr. Brandwood.

17. Dr. Brandwood observed that there are only 4 churches in Northamptonshire with contemporary fixtures which remain substantially Georgian churches.

18. I am not able to accept the weight of that observation for the following reasons. Firstly, the original box pews of 1739 have been removed. Secondly, the present pews are an 1894 re-build using only the doors and the backs of the 1739 pews. Thirdly, those doors are not used as doors but have been converted to be pew ends. Fourthly, the seats of all these pews are not from 1739 oak but from 1894 pine.

19. The re-built 1894 pews have acquired a patina of age and the ends have both an architectural and a historical context. But they are not original pews from the 1739 building.

20. To take account of the architectural and historical context of these pews it is proposed by the Petitioners that they will be transferred to the re-built gallery, so that they will not be lost from this church.

THE LAW

21. In *Nickalls v. Briscoe* 4C (1892 p.269 at 283) Lord Penzance, Dean of the Arches, said:

“The sacred edifice has a future as well as a past. It belongs not to any one generation, nor are its interests and condition the exclusive care of those who inhabit the parish at any one period of time. It is in entire conformity with this aspect of the parish church that the law has forbidden any structural alterations to be made in it, save those which are approved by a disinterested authority in the person of the Ordinary whose deputed discretion and judgment we are here to exercise today.”

I adopt that reasoning.

22. In *Re: St. Helen's Bishopsgate* (unreported 26.11.93) what are now familiarly called the “Bishopsgate Questions” were set out by Cameron Ch..

“(1) Have the Petitioners proved a necessity for some or all of the proposed works, either because they are necessary for the pastoral wellbeing of St. Helen's or for some other compelling reason?

(2) Will some or all of the works adversely affect the character of the church as a building of special architectural and historic interest?

(3) If the answer to (2) is yes, then is the necessity proved by the Petitioners such that in the exercise of the Court's discretion a faculty should be granted for some or all of the works?”

This series of questions was approved by the Court of Arches in *St. Mary the Virgin, Sherborne* (Court of Arches) 1996 Fam. 63.

23. In *St. John Evangelist Blackheath* George Ch. said that “Necessary” means:

“Something less than essential but more than merely desirable or convenient; in other words something that is requisite or

reasonably necessary.”

It is important to recall that the Court of Arches said, in St. Mary the Virgin, Sherborne, that:

“We do wish to stress the fact that with listed buildings the presumption is so strongly in favour of no alteration that the first question which must be asked is: are the alterations necessary?.”

Wiggs Ch. dealt with that range of “necessity” which is between “convenient” and “essential” in Re: All Saints Burbage, Diocese of Salisbury 14.2.07. He said (at paragraph 76):

“One element of “necessary” concerns pastoral wellbeing; and when considering this I do give some limited weight to the degree of opposition. There has clearly been understandable bitterness within the village and a feeling that a relatively small number of active church members (although it may well be a majority within that membership) is determined to enforce change upon a much-loved village feature. To allow that change would not make for pastoral wellbeing in its wider sense.”

I point out that that is the reverse of the situation in Wollaston. The proposal to remove the pews has been supported by the whole of the PCC for 8 years. There is no suggestion of any word of opposition within the worshipping community. There is no opposition whatsoever from the wider community.

NECESSITY

24. The evidence concerning necessity was here extensive. The Vicar, Reverend Adrian Morton arrived in Wollaston in February 2004. He then found the proposal to remove the pews had been started about 4 years before. In giving his evidence of necessity he took into account the following factors. (i) There are poor sightlines caused by the position of the substantial Tuscan columns in the middle of the pews. This is compounded by the impressive and very wide central aisle. In one of the early photographs I saw that benches had been placed across this aisle to enable more people to sit in the centre of the nave. (ii) The pews,

he said, are “particularly uncomfortable”. I have pointed out that Mr. Goodchild disagreed with the Vicar on this, and my own experience of sitting in these pews is that they are peculiarly uncomfortable. The back is both high and nearly perpendicular. The seat is short and horizontal.

25. Miss Neal is a young Sunday School Teacher who suffers MS and needs to use callipers. She cannot use the pews, but she is able to use a chair. In the course of the Hearing she put a chair beside a pew. But she feels left out, not wholly part of the worshipping community and marginalised. I found this evidence to be compelling. Though understandably nervous about giving evidence, she spoke with moderation, with clarity and with a warm smile. It was clear that being excluded from the seating for the rest of the congregation was a cause of continuing disappointment to her.

26. I also observed another lady present at the hearing who used a wheelchair to get into the church. She was able to transfer from it to sit in one of the pews.

27. The Vicar referred to the height and rigidity of the pews. They are 3ft. high. So large numbers of young children are not able to see out of the pews when standing on the floor. To be able to see out they would have to stand on the seats. It is discouraging enough for parents to look after children in church. Trying to control children using the seats on which to stand, and to walk along, during the service compounds the problem. For the parts of the service that matter to children the adults are seated. Children find a way to see past them when chairs are used. But they cannot see past a 3ft. high pew back, unless they stand on the seat.

28. The Vicar said that the pews prevented the church being used for community purposes during the week. This issue is peripheral to worship. The church is there for the worship of God, so I do not regard this point as carrying significant weight.

29. He said that the pews “reduce our ability to worship effectively during services”. I regard this as an important point which carried substantial weight. The modern styles of worship are different from those familiar to previous generations. People expect to be nearer to the Holy Table for communion and to be able to see the celebrant. At other services the worshippers want to be part of the worship and not mere observers.

30. The Vicar’s evidence on this was supplemented by the evidence of the Archdeacon of Northampton, the Ven. Christine Allsopp. She is a member of the DAC and voted for the proposed alterations involving removal of the pews when that vote was 4/3 against, with 2 abstentions. I point out that no member of the DAC attended to give evidence in support of their decision. The Archdeacon addressed the issue of necessity by referring to the following matters. First, it is important that the priest leading the worship can see the children. If they are concealed beneath the pews this is difficult if not impossible. This need is so that the children can be involved in the worship. Second, she spoke of the Diocesan Vision which is to build communities which are worship centred and mission shaped. She said that these pews frustrated both objectives.

31 She also spoke of “café style” church. This is where groups of people gather around tables, usually with refreshment, when worship can be less formal, with greater discussion, with input of the Gospel and with comment. This, she said, cannot be done with these pews or with any fixed pews. I am not wholly able to accept that because removal of the pew bases in the side aisles will provide room for such worship. But this would, in my judgment, not be satisfactory. It would be to emphasise that such worship is second rate, sent to the side aisles, and deprives people of the interchange between contiguous tables. “Café style” worship is modern and innovative. It may become popular, or it may not achieve what its proponents hope for. But in my judgment it is an important modern style of worship. Churches need to be able to provide this for lively, growing parishes with young families and young people, in particular those in their late teens and early twenties. This is such a parish.

32. The Archdeacon said “Where churches are fortunate enough to have children (in the congregation) they struggle with pews. It is not always an issue, but it is an issue here”.

33. She chairs the Diocesan Board of Education. They gather together children from Church Schools for combined worship at Candlemas. She said “We’d never use this church”. This was because the pews made the worship difficult for the children.

34. Canon Bruce Ruddock is the Canon Precentor of Peterborough Cathedral and the Diocesan Liturgical Officer. His churchmanship is towards what some would call the High Church. He said that he is a traditionalist. He also has a good regard for the evangelical tradition. During a period of sabbatical leave he visited many evangelical churches. In his statement he said (p.96 (vol. 2) at para. 6):

“I believe that not only would the mission of St. Mary’s be greatly strengthened and enriched through having a flexible open space for worship in the nave, but also the church building would be more aesthetically pleasing were the pews to be removed.”

In evidence he said;

“The pews give a dour heaviness”.

He added “without pews you can do very imaginative new liturgies; in Holy Week for example, you can do movement”.

He agreed that nothing in “Common Worship” says “chairs not pews”. In visiting churches without pews he had seen how pews restrict the church’s ability to conduct worship. “I am a traditionalist at heart and I often support the Georgian Society and the Victorian Society”. But he considered that these pews are not valuable examples of their kind. This is because they are re-built from parts of the original box pews and are not the original box pews. “I see this area (he indicated the nave) as completing what’s up there (he indicated the bell tower and the apse).” He made clear that he was not supporting making the nave into an auditorium.

(He gave by way of example Holy Trinity, Brompton or St. Helen's Bishopsgate.) "It's a better sacred space if it is freed of its dour heaviness".

35. Mr. Goodchild gave evidence on necessity. In essence he considered that removing the pews was not needed and that this was because all the objections could be overcome or reduced by other means. Comfort can be improved by some physical alterations. Lengthening the seat could be done. Cushions could be provided. Sight lines did not affect many worshippers. I consider that on this latter point he is right. He is however not able to overcome the height of the pews and the obstacle to worship, especially for children, which they present.

36. On necessity, I prefer the evidence of the 3 priests who gave evidence for the following reasons. Their role is to lead worship. Each came from a different background and tradition. Each favours pew removal in this church because worship for families with children will then properly be possible. Canon Ruddock goes further. This is because he regards these pews as detrimental to the church. Second, each of the priests is to a greater or lesser extent familiar with this church, the people of this parish and its increasing congregation. The Parties Opponent lack this knowledge. Thirdly, the needs expressed by the priests coincide with the needs expressed by the congregation of Wollaston and with local opinion. I deduce this latter point from the lay evidence and from the lack of objection from any parishioner, whether church member or not.

37. I am therefore satisfied that the Petitioners have established that there is a pastoral need for the removal of these pews. I therefore turn to whether removal of the pews will adversely affect the character of the church as a building of special architectural and historic interest.

ADVERSE EFFECT ON THE CHARACTER OF THE CHURCH AS A BUILDING OF SPECIAL ARCHITECTURAL AND HISTORIC INTEREST

38. It is accepted that removal of the pews will affect the character of the church as a building. The issue here is whether it will “adversely” affect the church.

39. The evidence is conflicting. Mr. Goodchild (CBC) and Mr. Kelsall (EH) and Dr. Brandwood each said that removal of the pews would adversely affect the character of the church as a building of special architectural and historic interest. They pointed to the historic context of these unusual pews, the fact that, though once common, such pews are now rare, especially locally; and that pews were a major component of the 1737 re-building.

40. Mr Goodchild, Mr Kelsall and Dr Brandwood laid emphasis on the quality of the pews. In my judgment they overstated the case on this point. These pews are not of high quality. They are rebuilds, the joints are not of a good quality and the seat is constructed of pine and not of the original oak. Additionally, the pew ends are the doors of the original box pews. The numbers on the pew ends are of historical interest. But I regard all of these matters as substantially mitigated by the PCC’s proposal to reinstall some of these pews in the new gallery. They will not be lost to history and no doubt the church guide and notices in the gallery will point out the historical context and original position of these rebuilt pews.

41. The original pews were once part of an ensemble which included the font, the pulpit, the western gallery and the squire’s pew. But none of these remain as they originally were. The present font is on a small wheeled base. The pulpit has been reduced from three tier to one. The western gallery has been altered in 1955 and the squire’s pew has been removed and altered. It follows that the ensemble has long since gone.

42. The position of the pews on the stones of the floor is also favourably commented on by Dr. Brandwood. He is supported in this by Mr. Goodchild and Mr. Kelsall. I do not regard the point as having great weight. This is because the pews against the walls of the church have already been removed, leaving their bases. And the pattern on the floor, so far as it is

significant, remains. Dr. Brandwood said in his report: “(the seating. . . , their ends and the stone floor shows) present day people just how very different things were in the past in terms of how churches were arranged and worship conducted”. The past must sometimes give way to the present and concede a little to the future. Where, as here, there have already been substantial alterations to the original Georgian structure and contents the original co-ordinated quality of the church furnishings has been lost. And what is now proposed by the PCC is likely to go some way to re-establishing the original quality of this important Georgian building.

43. It was argued that the Tuscan pillars show that the architect intended there to be pews. I do not find it possible to deduce this conclusion. The absence of pews will reveal the full majesty of these Tuscan columns and set them in a proper position within the nave.

44. Canon Ruddock considers that removal of the pews would be advantageous to the character of the church. “It is a better sacred space if freed of the dour heaviness” (provided by the pews). This is an active living parish church. Its interior has been substantially altered at least once since it was rebuilt in 1739. It was built as a sacred space and that is part of its architectural interest. But I accept that removing the present, replacement, pews adversely affects the historic interest. These replacement pews, with their numbered ends, are part of the historical context of the building. Changes occur within a church as with any building. And historic context in my judgment includes all the changes which have been made to bring the church to its present situation.

45. Nevertheless, I do not regard the historic and architectural interest of these replacement pews as a substantial matter. This is for 2 reasons. The first is that these pews are not original but were rebuilt only in part from the 1739 oak pews and in part using pine for the seats. The second is that the PCC’s intention is to retain these pews in the new gallery. So to that extent the historical and architectural interest is protected.

46. In balancing the conflicting evidence I find that the removal of the pews adversely affects those interests in the church. But in the circumstances this is to a moderate extent.

That conclusion is supported by the fact that over the last few years no visitor has recorded that he came to see the pews nor even that the pews were of any interest to him. If there was any significant historical or architectural interest in these pews, I would expect to see that evidenced other than in the Grade 2* listing. But in that listing the pews are wrongly listed as 18th Century. They are in fact late 19th century.

47. In finding that the adverse effect is moderate but not substantial I place weight on Canon Ruddock's evidence. He considered that removal of the "dour heaviness" would improve the historical and architectural interest.

EXERCISE OF DISCRETION

48. The Petitioners have proved necessity for the reasons set out above. I have also found that there is some adverse affect on the special and historical architectural interest. I have therefore to consider exercising my discretion as to whether a faculty should be granted for removal of the pews.

49. I am satisfied that the nature, extent and weight of the necessity is substantial. The adverse effect is mitigated by the fact that the proposals involve removing the pews to the new gallery so that they are available to be seen by future generations. Taking these matters into account, I find that the adverse effect is moderate but not substantial. I therefore conclude that the Petitioners have proved that the necessity contended for is established and that the architectural and historical interest is not sufficient to defeat the Petition on this issue.

50. I therefore declare that on the preliminary issue a faculty shall issue in respect of a re-ordering to include removal of the pews and replacement of them with chairs.

CONDITIONS

51. The faculty is subject to the following conditions. These are required so that fully prepared plans are provided for the re-ordering of the nave.

(i) No implementation of this faculty is to be carried out until a faculty has been granted for the re-ordering of the nave in accordance with this faculty.

(ii) This faculty lasts until 1st July 2009. If no application for a faculty to re-order the nave has by then been lodged in the Registry, application to renew this faculty will be considered only if substantial reasons for delay are provided.

COSTS

52. As is usual, the costs of the court will be paid by the Petitioners. I make no order as to costs in respect of the Parties. No party was legally represented.

FURTHER CONSIDERATIONS

53. I draw attention to the following matters when re-ordering is considered.

(i) A holistic approach should be adopted. Piecemeal alterations would not be acceptable.

(ii) An estimate of cost together with evidence of the availability of such funds will be required.

(iii) It is a probability that if money has to be raised a condition would be imposed that no work be started until half the money needed to be raised is in hand or irrevocably promised. The parish had a bequest of £100,000. If the work cost £150,000, the condition would require £25,000 to be raised before work could start.

(iv) Consideration could be given to replacing the obscured glass in the windows.

(v) Cleaning the stonework in the bell tower and in the vestry should be provided for as well as lighting to the interior part of the bell tower.

(vi) I have not yet granted a faculty to remove the pew bases from the side aisles. As this is not contentious, it can be dealt with in the re-ordering faculty.

(vii) In order to deal with the matter the present Petition could be amended to include the re-ordering now contemplated insofar as this may be necessary.

(viii) It is important that the wider parish remain informed of the re-ordering. Public Notice would not by itself be sufficient for such significant works. There should be regular notices in the Parish Magazine of what has happened at this Hearing, and what is intended for the future together with how far the process has got.

CONDUCT OF THE HEARING

54. All the evidence was heard on Thursday 30th October 2008 starting at 10am and finishing at 5pm. This included the Petitioner's opening statement together with the closing argument of each of the 3 parties. It is a testimony to the ability and reasonableness of all involved that the Hearing was completed in one day. The 2 trial bundles came to a total of some 275 pages.

55. I pay tribute to all the people involved in the Hearing. Several had sharply differing views. But each put forward their views and gave their evidence with a courtesy and understanding which was admirable. Each understood that others held a different view and that this opposing view deserved respect. This attitude enabled the various issues which arose to be dealt with in one day – albeit a long court day. It has also saved costs.

GEORGE PULMAN Q.C.

DEPUTY CHANCELLOR

14th November 2008