

## Neutral Citation [2017] ECC Bla 3

### In the Consistory Court of the Diocese of Blackburn

Re: Barton St Lawrence (Church Code 603212)

On-line application no 2016-002180

### JUDGMENT

1. This petition dated 19 July 2016, presented by Rev. Stephen Cooper and the wardens, seeks permission to re-order the chancel area of this Grade II Victorian building, which was erected around 1896 and replaced a building of 1850, by removing and disposing of the rear choir stalls and replacing them with the front stalls, carrying out some modifications to enlarge the leg-room available, making good any exposed tiles and laying carpet across the widened chancel aisle to match the nave aisle carpet.
2. There is an Aided primary school in the village, and the petitioners seek to make the use of the church by the children more convenient and effective and also increase the possibilities of using the building for concerts and community events. *'The space needs to have flooring covering suitable for young children sitting on it, sometimes for lengthy periods during activities or performances.'*
3. The Victorian Society objected to the covering of Minton tiles in the chancel by carpet, and completed a Form 5 on 7<sup>th</sup> October 2016. The Society has asked that the matter be determined on the basis of the documentation available. I am willing to do that having looked at the papers. By an email to me, Mr Cooper has confirmed his willingness to adopt that procedure. I also have his response to what the Victorian Society say in Form 5. This matter is plainly suitable for resolution by written representations, and I so order.
4. Subsequently, with my approval, Mrs Sophia Laird, on behalf of the Victorian Society made representations to me, to which Mr Cooper responded on 7th November 2016.
5. There are helpful sketches and plans of the proposals, as summarised above, (that is, for the more modest second scheme, I should make clear, rather than any extension of the chancel level into the nave). I also have photos of the chancel as it is, and as proposed. At the moment the whole area is very full and crowded, and the central aisle relatively narrow. After the changes the area will be much more open. However the black and terracotta coloured tiling, which is visible to a certain extent on the photos, would be obscured by the proposed carpet.
6. Consultation has taken place with Historic England and the Victorian Society. The former did not offer any comments, the proposals being below the level of impact of the proposals set out in the *Faculty Jurisdiction Rules 2015*, where they would wish to have an input. The Victorian Society did not wish to oppose removal of the rear stalls,

although they *'regretted'* the decision, but did object to covering the *'handsome Minton tiles'*, which added character and interest to the chancel area. Removable carpet or mats could be used when children were sitting in the area. The completed Form 5 dated 7<sup>th</sup> October, relies on the matters in their earlier letter (summarised above), and does not I think introduce any further argument, save for the possible damage to the tiling arising from the overlaying carpet.

7. Mr Cooper in an email of 7<sup>th</sup> October challenged the view there is no *'public benefit'* in carpeting the area, and relies on health and safety considerations, which I summarise as follows:
  - ) The mats suggested could slide on the polished tiles and create the potential for trips and falls, which could cause injury
  - ) Mats or temporary covering would need to be removed, and might not lie flat, and produce extra trip hazards at the edges
  - ) There would be manual handling risks in moving a heavy roll of carpet
  - ) Trips or falls could be worsened in their effects as they would occur at the top of the chancel steps

Mr Cooper and the PCC rely on advice in this regard from the deputy churchwarden, Michael Calcutt, who is a member of the Health and Safety Executive. He also points out that the tiles are to an extent damaged, and contends repairs might not achieve an acceptable match.

8. Mrs Laird responded in a full email on 31<sup>st</sup> October.
  - ) Anti-slip strips could be applied to rugs and mats.
  - ) Smaller mats would not need to be rolled up and larger ones could be stored so as not to generate trip hazards.
  - ) A large moveable carpet would not need to be moved often.
  - ) Health and safety issues need to be addressed in a proportionate way in historic buildings. Visual qualities can easily be spoiled when seeking to eliminate minor risks. Chancel steps create some risk in themselves.
  - ) Matching old tiles can be done effectively by specialist firms. Avoiding the expense of so doing, and the inconvenience of moving mats, is the prime reason for the proposed carpet being introduced. That is not a good reason for impoverishing the appearance of the interior.
  - ) Fixing a carpet to the floor would be likely to do further harm. Underlays can trap moisture and cause damage to historic floors.
9. Mr Cooper responded seriatim to these various points on 7<sup>th</sup> November, with my permission. He contended also that the proposal *'is about supporting the future life, mission and ministry of St Lawrence's Church in a world of changing demands and expectations.'* The petitioners are not seeking to remove the tiles, but cover them, as they have been for much of their history. The church building as a whole will remain with a Victorian feel.

10. I do not think that setting out the points in response to Mrs Laird that Mr Cooper makes, will add helpfully to the overall picture. He contests each of them. There is a danger that a modest proposal, about which reasonable people may disagree, will be lost in a mass of contested detail. It is plain there is a difference of perspective, leading to differing views on the best way forward.
11. The proposals were considered by the DAC as long ago as July 2016 and recommended them subject to '*Minton tile preferred to carpet. Carpet used as a temporary option on such occasions when the children are sitting in the aisle.*' The DAC thus go along with the Victorian Society.
12. The proposals as a whole will in my judgement affect the character of this listed building. The test (or framework or guidelines) within which the court is **required** to come to decisions about proposed alterations to listed buildings is set out in paragraph 87 of the decision of the Court of Arches (the ecclesiastical court of appeal) in the case of *Duffield, St Alkmund* in a series of questions:
  - 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 assumption 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 1 or 2\*, where serious harm should only be exceptionally be allowed.**

### 13. Assessment

I am satisfied that the proposed changes to the seating will have low significance. The covering of the tiling by carpet will have somewhat greater significance, but still not anything approaching moderate harm. Also the reasons put forward as the justification for doing this work, are to my mind convincing. Making old buildings more user-friendly, especially for children, is much needed, and the greater general use (ie for other purposes as well) that can be made of the chancel thereby, is to be applauded. Also, although I understand the viewpoint of the DAC and Victorian Society, about the use of moveable mats or carpet, I believe that it underestimates the real inconvenience of bringing in and removing such coverings as and when needed. That will tend to militate against the use of the changed space to the fullest extent.

### 14. Conclusion

In the result, **I approve the proposals set before me, and a faculty will accordingly issue.**

However the **following conditions** will apply:

first, any underlay is to be breathable and not such as to cause moisture to gather

second, the petitioners are to undertake careful repairs to the Minton tiles with specialist contractors, not only where required by reason of alterations to the seating, but also where damage has occurred by reason of age or otherwise

third, the work is to be completed within 12 months or such further period as may be allowed.

John W. Bullimore  
Chancellor

16<sup>th</sup> February 2017