

In the matter of Holy Trinity, High Hurstwood

Judgment

1. In this petition, the priest-in-charge and churchwardens of Holy Trinity, High Hurstwood, seek a faculty for the following works or purposes:

The disposal of 16 benches, the introduction of Alpha SB2M upholstered chairs; the installation of a screen and projector at the front of the church; the provision of a live link with the crèche; the installation of three metal gates outside to create a safer space for children; and the provision of key safe. The current proposals include the retention of 6 benches, 2 wardens' benches, and 2 frontals with quatrefoils (which would be relocated to the rear of the nave and placed in front of the wardens' benches).

2. The petition is formally unopposed, although representations have been made during the consultation process from the Victorian Society. When cited under r 9.3 of the Faculty Jurisdiction Rules 2015 (as amended), the Society declined to become a Party Opponent, but summarised their continuing concerns in a letter of 18 May 2021, which supplements earlier representations (i) in an email of 24 June 2020 from Mr James Hughes directed to the secretary to the DAC, and (ii) in an email of 24 February 2021 from Mr Conor McNeill addressed to the Reverend Mark Ashworth, priest-in-charge.
3. Special citation under r 9.3 was also made of the Local Planning Authority and Historic England. Neither responded.
4. On 26 May 2021, I invited the views of the petitioners on the disposal of the matter on written representations under Part 14 and made certain directions in the event that such a course was followed, since, in my opinion, it would be expedient so to do. They included allowing the parish six weeks to lodge their written representations comprising all the information they wish the Court to take into account, and to respond to the matters raised by Victorian Society. The parish was reminded that the burden of proof lies on them as petitioners, and was pointed to the *Duffield* framework which the Court adopts when determining whether or not to grant a faculty.
5. By email dated 15 June 2021, the petitioners indicated they were content to have the matter determined on written representations and attached a document in answer to the Victorian Society's letter. In a separate document, the petitioners made certain representations concerning the application of the *Duffield* framework.

The church building

6. Holy Trinity Church is Grade II listed. The Listing statement reads as follows:

1870-71, principal benefactress Lady Catherine Vernon-Harcourt; clock tower 1903; vestry 1935. Coursed, tooled, stone with ashlar bands and dressings, upper part of clock tower timber-framed with pebble-dash

infill; plain tile roof with decorative bands. 3-bay nave with north aisle, south-west porch raised as clock-tower, large gabled south-east window, and gabled bell-cote at east end. Apsidal chancel with north vestry. Large vestry addition to west end. In early English style, having: chamfered plinth; offset buttresses; stepped roll-moulded sill-string; chancel impost band; pointed-arched doors and windows, those of nave with hoodmoulds and the principal nave windows having plate-tracery; ashlar coping to verges; metal rainwater pipes with decorative, dated, hoppers. Nave: large west window and gable chimney. South side: 3-stage porch/clock tower has angle buttresses; hollow-moulded entrance with large lantern over; two chamfered windows above; a clock face and louvres to 3 sides of upper stage; and pyramidal roof with vents and decorative ridge tiles. Inner door, up 4 stone steps, has double board door with decorative strap hinges and nail-head decoration to corbelled arch of moulded architrave. Bellcote has 2 bells in pointed-arched openings with attached columns and quatrefoil over and Celtic cross finial. North side has Caernarvon-arched door and windows. Chancel: six chamfered lancet windows; decorative iron cross. Interior: 2-bay aisle arcade; corbelled dwarf columns support chancel arch. Nave roof has collared scissor-braced trusses with corbels to rafter supports; ribbed, decoratively-painted, chancel vault. Elaborate stone reredos with 3 tessellated niches; decorative iron balusters to altar rail; glazed and encaustic tiles to sanctuary steps. Octagonal font. Bench pews, the easternmost having panelled front and top-rail pierced with quatrefoils.

A good-quality rural church of 1870.

The petitioners' case

7. The Statement of Significance has been carefully prepared by the parish's inspecting architect and is illustrated with good quality photographs, such that I do not consider it necessary to visit the church in order to determine the petition.
8. Equally, the Statement of Need is persuasive and comprehensively argued. It has been through several iterations, the most recent being in January 2021. It makes reference to increasing the size of congregations upon receipt of a grant from the Strategic Development Fund. It lists planned activities which currently cannot be achieved because the interior of the church is so considered insufficiently flexible, with details of a 'spatial audit'. This includes the involvement of a small orchestra, the work of the holiday club, parish lunches, messy church breakfast, Trinity Toddlers, school services and music groups, youth groups and local arts festivals. Mention is also made of liturgical flexibility, including the occasional deployment of a nave altar.
9. The particular benches are said to present a danger as there is no lumbar strut and thus a large gap exists at the back through which toddlers and young children may fall and injure themselves. The parish has conscientiously considered – and rejected with sound reasons – the suggestions from the Victorian Society that an additional wooden rail be added or a trolley deployed to move the benches.

Diocesan Advisory Committee

10. The DAC issued a Notification of Advice following its meeting on 11 March 2021. It recommended the proposal with a minor proviso. It had conducted a site visit as long ago as March 2019, the notes of which are included in the court papers. In stating its reasons for such a recommendation, notwithstanding the observations of the Victorian Society, the DAC incorporated by reference the relevant Minute from its meeting, from which I derive the following:
 - i. The DAC was very supportive of the parish's plans, noting that the project had been designed to support the mission and growth of the church and would be funded by a Strategic Develop Fund grant from the Church Commissioners.

- ii. The DAC noted that "...the parish are doing fantastic work and the church is growing and thriving. The Committee continued to be supportive of the aims of the parish and the overall scheme, noting that the main purpose of replacing the pews with chairs would be to enable the parish to move the furniture around more easily to accommodate different church and community events and activities."
- iii. The DAC considered that an additional back strut for each pew would not substantially improve their safety when used by small children, would be difficult to incorporate and would add to the weight of an already very heavy piece of furniture.
- iv. The Committee was not convinced that the use of trolleys would be of any practical assistance as the heavy benches would have to be partially lifted on to the trolley in order to move them and, due to their length, probably two trolleys would be needed per bench.
- v. The DAC considered that the PCC had made a case for removing 16 benches because they would not be able to achieve a large enough space for activities if more pews were retained.
- vi. The parish have selected the Alpha SB2M chair, which is a metal-framed chair, and would be upholstered in Nappa Adobe fabric. The DAC noted the Church Buildings Council's guidance on seating favoured wooden, non-upholstered chairs for historic church settings. The Minute states: "Although the DAC has an obligation to have due regard to the CBC guidance, and does generally steer parishes towards non-upholstered chairs for listed buildings, members agreed that they would like to support the parish's choice of an upholstered, metal-framed chair in this instance". While some members continued to express a preference for wooden-framed chairs, the majority were content to support the metal-framed chairs as these were what the parish had chosen and would be cheaper and lighter than a wooden-framed equivalent. The chairs would have a lifespan of approximately 20 years.
- vii. The DAC was content in principle to recommend the proposal for a screen but with a proviso requiring more details about the fixings and the motorised device mentioned.

Archdeacon

11. The Court has had the benefit of a letter from the Archdeacon of Hastings, the Venerable Dr Edward Dowler. He reports that Holy Trinity is one of the small number of parishes in the diocese which has benefitted from the investment of the Strategic Development Funding: a grant having been awarded in 2017. The project aims for the congregation to double in size through reaching into the local community and neighbouring school with organised events and activities at the church.

Holy Trinity is developing and strengthening the ministry at the church school and therefore growing natural links with local families. The parish is also extending its musical provision, both choral and contemporary. These missional initiatives mean that the church building is frequently used for different services and activities, both by the congregation and the local community. The current faculty application to replace pews with chairs will enable the church to have vastly improved flexibility of layout to match the needs of each activity. It will also significantly reduce the effort of setting up between activities: the constant moving around large pews does indeed cause me some safety concerns. Moreover, the pews themselves are not suitable for children to sit on, as they have a very large gap at the back which a child could easily slip through.

I hope it will be clear that I believe that this faculty application will help the church to achieve the aims of the SDF project. Indeed, it would seem slightly perverse for the church to be awarded a large amount of grant-funding but to be simultaneously prevented from doing that which the grant funding enables since, if the faculty is not granted, Holy Trinity's mission in the community will be limited and therefore its potential for growth held back.

The Victorian Society

12. The Court takes fully into account the written observations of the Victorian Society. Its standing as an amenity society and the considerable expert knowledge with which its opinions are freighted means that the Court will always afford considerable weight to the Society's views even when it is not a party to the proceedings.
13. Its letter to the Court of 18 May 2021 asserts that Holy Trinity, Hurstwood is of special interest to the Victorian Society.

It is a charming church by the distinguished architect Ewan Christian and a building which displays a consistent high quality of detail, proportion and fittings. In typically restrained language the listing entry describes it as a 'good quality rural church of 1870'. Whilst the proposals may not seek to permanently alter the fabric of the building they will strike at the heart of its significance. By introducing jarring additions such as upholstered chairs and a highly visible projector screen the harmony of the interior will be diminished, and by removing a substantial number of benches, specifically mentioned within the listing entry, the significance of the building will be harmed. Whilst the Society appreciates the proposal to retain some benches and the frontals, more could still be preserved whilst still allowing the parish to fulfil its needs.

14. The Victorian Society's objection to upholstered chairs is powerfully made, with slightly more muted concerns expressed with regard to the screen and projector, and some limited comments with regard to the metal gates.

Assessment – the Duffield framework

15. It is unnecessary to rehearse the well-known provisions of the Duffield framework, which have been addressed in the most recent written submissions of the petitioners. I can take the matter reasonably shortly.

Harm

16. The removal of these pews, and to a lesser extent the audio visual installation, will cause a degree of harm to the significance of Holy Trinity as a building of architectural and historic interest. However, I consider that the level of harm to be overstated by the Victorian Society, whose observations do not sit easily with the listing statement or with the DAC's view, expressed in the note of its site visit, that 'the pews did not seem to be particularly significant'.
17. Taking all the evidence into account, the level of harm can best be described as moderate. Whilst undoubtedly this is 'a good quality rural church' built under the hand of architect Ewan Christian, there have already been losses and adjustments to the suite of internal furnishings which are good but not exceptional. However, and I shall return to this shortly, the introduction of upholstered chairs (as opposed to wooden ones), would considerably increase the seriousness of the harm.

Justification

18. The petitioners have provided substantial justification for these proposals based upon mission, worship and outreach. I remind myself of section 35 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018.

35 Duty to have regard to church's purpose

A person carrying out functions of care and conservation under this Measure, or under any other enactment or any rule of law relating to churches, must have due regard to the role of a church as a local centre of worship and mission.

19. The provision of Strategic Development Funding undoubtedly recognises the community at Holy Trinity as growing and vibrant. Whilst I appreciate the force and sentiment of Dr Dowler's representations in this regard, his 'perversity' argument cannot be dispositive of the petition. Were the grant of Strategic Development Funding to be sufficient, without more, to justify the grant of a faculty, this would circumvent the careful balancing of heritage and mission under the ecclesiastical exemption and the faculty jurisdiction.
20. I consider that the justification for the removal of these 16 benches is clear and convincing. The petition is advanced on the basis that the parish agreed to retain 6 benches, 2 wardens' benches, and 2 frontals with quatrefoils. This decision appears to have been so as to appease the Victorian Society.¹ However, the Court can only determine the matter on the basis put forward by the petitioners. It cannot speculate on how the matter might have been decided had the proposal been less timid.

Balancing exercise

21. Thus we come to the final element of the Duffield guidance, namely: '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?' which must be answered in the context of the heavy presumption against change, albeit not the enhanced protection afforded to buildings listed grade I or II*.
22. For reasons which emerge from the foregoing discussion, the balance comes down in favour of the removal of the benches and their replacement with chairs. I do not consider this to be a close or borderline case. The petitioner's justification, which I have merely summarised in this judgment, is cogent and overwhelming. The worship and mission of this church will undoubtedly decline were the proposals to be refused. The pew benches are unsafe, cumbersome, and no longer appropriate for the liturgical or other uses of this thriving Christian community. The submissions of Mr Ashworth on this matter are particularly compelling as it is he who has been largely responsible for the heavy lifting in the past.

¹ Mr Ashworth's written submissions include the following: 'The amended proposal to keep the frontals will keep a dark and unwelcoming feel to the church if they are moved to the back of Holy Trinity. We do not want to do this but felt forced to consider this concession to the Victorian Society'. Towards the end of that document he hints at the Court considering what he calls "our original proposal", but there was no application to amend the petition and the works/proposals remain as quoted in paragraph 1 of this judgment, as drafted by the petitioners. The Statement of Need records that 'In the light of the Victorian Society's request ... the PCC in July agreed to amend our faculty application and keep 6 smaller benches and the two warden's benches whilst removing 16'. It was on that basis that the statutory consultations have taken place, and that was how the petition was presented to the Court.

23. However, and this is a significant qualification, whilst the evidence clearly supports the replacement of the benches with chairs, it does not, in my assessment, justify the introduction of upholstered chairs. The CBC guidance on this is clear and must be given appropriate weight (although I leave open the question of whether it constitutes ‘statutory advice’ within the technical meaning of that term as applied in planning and other cases). Fabric on the seat and the back of chairs tends to give historic churches a domestic appearance unbecoming of sacred space, even when the church is put to additional community uses. The previous deployment of fabric runners on the benches is of marginal relevance. I do not consider that arguments regarding *aquaclean* technology or the periodic replacement of the seat pads once they become worn are sufficient to overcome the strong and principled objection to upholstered chairs.
24. There are many varieties of wooden chair which are affordable and appropriate for a church of this type. A light colour would not be objectionable. Whilst I note that the DAC was narrowly persuaded to recommend upholstered chairs in this instance, its reasoning is neither clear nor compelling, and I have come to the opposite conclusion for the reasons given. Rather, I find myself in respectful agreement with the Victorian Society’s view, cogently expressed in Connor McNeill’s email of 24 February 2021: ‘Even if one were to accept the clearance of most or even all the church’s benches, the justification for the chair proposed remains absent’. The burden of proof in this matter rests with the petitioners and they have not discharged it.
25. Thus far, I have said nothing regarding the audio visual element of this petition, as it was very much a secondary consideration. To the extent that there is a difference of view between the Victorian Society and the petitioners, I consider that those of the petitioners should prevail. Whilst this proposal has been under consideration, the Covid pandemic has caused a wholesale reappraisal of the use that churches make of screens and projectors, including, but not limited to, the livestreaming of worship. Reducing the volume of printed paper is a worthy environmental aim, and one which should be encouraged. A condition will ensure that the Court’s prior approval is sought and obtained for the siting and fixture of these items so that the impact to the historic fabric of the church is kept to a minimum. Similarly, the arguments of the petitioners in favour of the metal gates (the least contentious element of this petition) are sufficient to justify permission being granted.

Alternative means

26. Adopting the practice commended in *Re St Peter & St Paul, Aston Rowant* [2019] ECC Oxf 3, I ask myself whether the proposal could be achieved in a less harmful manner. I have rejected the suggestion that an additional back rail be fitted to each bench or that a trolley with wheels be used. However, it is implicit from the balancing exercise that I consider that the petitioners’ proposals can be achieved in a less harmful manner, namely by the introduction of un-upholstered chairs.

Disposal

27. It follows that a faculty may pass for the seal for the proposals set out in the petition but only on condition that the replacement chairs are of wooden (or wood and metal) construction and that work is not to commence until a specific design has been approved by the Court after consultation with the DAC. A further condition would prevent the projector

and screen from being installed until their siting and means of fixture have similarly been approved.

28. If agreement to conditions along those lines is not forthcoming from the petitioners within 28 days (or such extended period as the Court may allow), the petition will stand dismissed.

29. Irrespective of the outcome, the costs of this petition will be paid by petitioners.

The Worshipful Mark Hill QC
Chancellor of the Diocese of Chichester

12 July 2021