

In the matter of St Luke, Middlestown

1. The petitioners in this matter are (1) Rita Cranswick and (2) the Revd John Geary who are, respectively, churchwarden and priest-in-charge of St Luke, Middlestown. By a petition dated 2 October 2017, they seek a faculty: “to dispose of existing pews (18 in total) and replace with approximately 100 chairs (timber with red upholstery)”.
 2. A Notification of Advice from the DAC dated 2 October 2017 did not recommend the proposal. Its principal reasons were stated as follows:
 - (1) the proposed chairs are known to be heavy and difficult to stack and would not be an adequate solution to the problems described in the Statement of Needs, which states that the church needs to be cleared of the pews for several large events each year, and that their heaviness makes them difficult to move,
 - (2) replacing the pews with dark red upholstered chairs would be detrimental to the light levels and appearance of the church interior.
 3. An extract from the minutes of the DAC meeting on 12 September 2017 amplifies these reasons. It records that the photographs show:

“pleasant, light-coloured pews which enhanced what could be a dull interior and there was some concern that replacing the pews with dark red upholstered chairs would be detrimental to the light levels an appearance of the church interior.”
- The minute also suggested that the parish might consider placing the pews on castors. Should that not be practical, the DAC suggested less heavy wooden stacking chairs and commended a guidance note from the Church Buildings Council. The DAC was divided: 3 favoured the proposal, 7 were against and one abstained. Hence, by a majority, the decision was one of “non-recommendation”.
4. On 30 November 2017, I directed consultation with the Church Buildings Council under r 9.7 of the Faculty Jurisdiction Rules 2015, to provide a second independent opinion from outside the diocese as to possible alternatives to the particular chair selected by the parish. Regrettably, the specific basis of my request for advice was not included in the Form 12 or covering letter from the Registry leading, perhaps inevitably, to the CBC’s anodyne response in its letter of 21 December 2017 which simply stated “as this church is unlisted, this is not a matter that the Council would advise on”.

5. I did not consider it necessary or proportionate to consult the CBC a second time, and in the interim I had made arrangements to pay a site visit to the church. I did so on the afternoon of Saturday 3 February 2018. I was accompanied by the Registrar, and met both petitioners at the church. For reasons which will become apparent, I also visited the neighbouring church of St Andrew, Netherton of which the second petitioner is also priest-in-charge. We were met there by Mrs Margaret Strong, churchwarden. I wish to express my thanks to all of them for taking the time and trouble to show me round the respective churches.
6. As already remarked in correspondence from the CBC, St Luke's Middlestown is an unlisted building. The original 1877 church, on a different site, was demolished in 1969. The present building was erected in 1974 and, to be candid, it is bland and inelegant. Its interior resembles a utilitarian community hall. A sense of the sacred is achieved by a simply ordered chancel with a fine crucifix, by a stone font retained from the former church, by well-crafted Stations of the Cross and by some carefully presented stained glass. The building is beautifully cared for and obviously well-loved. The same can be said of St Andrew, Netherton. Those responsible for the two churches deserve considerable praise for their stewardship of their places of worship.
7. The pews were introduced into the church at the time of its construction. They came from another building, the identity of which is not retained in the collective memory of the parish. It may well have been a chapel. The pews were painted their current yellowish colour by inmates from a young offender institution, the governor of which attended the church. The pews were originally a darker brown as is apparent from the chipped and tired paintwork.
8. The pews have little traction on the parquet-style floor and tend to slide if pushed. This is potentially dangerous. The seating section is narrow and the backs are low making them decidedly uncomfortable, particularly for those of a larger frame as I can testify. Whilst they are prone to slide by accident with relative ease, they are difficult to manhandle systematically to clear the entire hall when on the occasions during the year when an open space is needed.
9. The issue of replacing pews with chairs has achieved some prominence in the Consistory Courts of late, and in the church and wider media. The Guidance issued by the Church Buildings Council under section 55(1)(d) of the Dioceses, Mission and Pastoral Measure 2007, is of considerable assistance but I find myself in concurrence with Chancellor Bullimore in considering that the CBC somewhat overstates the position when it observes, "The standards of good practice set out in the guidance should not be departed from unless the departure is justified by reasons that are spelled out clearly, logically and convincingly": see *All Saints with St John's, West Burnley* [2017] ECC Bla 6.
10. Recent consistory court decisions, such as *Re Holy Trinity Long Itchington* [2016] ECC Cov 7, and *Re St Mary Magdalene, Ashton upon Mersey* [2016] ECC Chr 1, have addressed what has been characterised as the seemliness of comfy chairs in the

house of God. But those, and the litany of other similar cases, have had as their primary focus the application of the *Duffield* approach [2013] Fam 1, where changes to a listed building are concerned. The issue has generally been the extent to which the removal of high quality bespoke pews, introduced as a key element of a major Victorian re-ordering, and the introduction of free-standing chairs (whether upholstered or un-upholstered) will harm the significance of the church as a building of special architectural or historical interest.

11. This body of case law, however, has no relevance here: the church of St Luke, Middlestown is unlisted. It has no special architectural significance and, constructed in 1974, no historical interest either.
12. I have the misfortune to find myself in respectful disagreement with the DAC in this matter. I wonder whether perhaps the DAC's ultimate conclusion might have been different had its membership visited the church as I did. They would have seen for themselves the simple barn-like structure of the unprepossessing building or how light floods through the bank of large clear glazed windows which face the road. This was evident even in the fading light and the grey and drizzle of a late afternoon in February. Members would also have experienced the discomfort of the utilitarian pews and the danger posed as they are free to slide.
13. As to the proposed replacement chairs, they are manufactured by the Rosehill Furniture Group. The design the parish has in mind is a stacking chair which has a rack beneath the seat for a kneeler, bible or hymn book. I understand that the preferred fabric is Advantage Cranberry AD005, a swatch of which was made available for my site visit.
14. One reason for this choice of chair is that it was precisely the design introduced into the sister church, St Andrew, Netherton, in 2013 pursuant to faculty granted by Deputy Chancellor Morgans in the Consistory Court of the Diocese of Wakefield. In the intervening five years, the Diocese of Wakefield has been assumed into the newly-created Diocese of Leeds. However, I note two features from the earlier matter. First that St Andrew, Netherton is a grade II listed building, and secondly that the DAC of the Diocese of Wakefield recommended the removal of pews and the introduction of the Rosehill chair, albeit with a fabric colour more neutral than that originally proposed by the parish. Although the Victorian Society had expressed some concerns, it ultimately did not object to the proposals.
15. Whilst there is no formal doctrine of binding precedent in the giving of DAC advice, and the creation of the Diocese of Leeds has led to institutional changes in both the DAC and the Consistory Court, fairness requires that similar cases are treated with a level of consistency. More particularly, the experience of St Andrew, Netherton amounts to a practical stress-testing of the Rosehill chair. I have seen how the chair has worn well and provides welcoming and seemly seating when in traditional rows, but also is adaptable for gathering round the font or for informal worship or group meetings. They can also be used at tables for parish and community meals. I heard

from Mrs Strong how they can be moved with ease, and I took the opportunity to lift, stack and unstack some myself. They are infinitely easier to handle than the second-hand pews introduced at St Luke, Middlestown.

16. Where changes to unlisted buildings are concerned, the Court is not required to adopt the regimented *Duffield* approach. Instead the petitioners have to satisfy the Court to the civil standard (namely on the balance of probabilities) that a faculty should issue for the particular works proposed. The Court takes into account all relevant features including the advice of the DAC. Whilst considerable weight must always be afforded to the expertise and experience of the DAC in the exercise of its statutory duty to advise the Court, a Chancellor cannot fetter his or her discretion by routinely rubber-stamping any and every Notice of Advice which the DAC produces. The Chancellor's function is independent of the diocese and is exercised having regard to all relevant material, and all applicable law.
17. Section 1 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (soon to be re-articulated as section 35 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018) states:

“Any person or body carrying out functions of care and conservation under this Measure or under any other enactment or rule of law relating to churches shall have due regard to the role of a church as a local centre of worship and mission.”
18. The duty in relation to care extends just as much to unlisted churches as it does to those of recognised heritage value. But this is not some nebulous statutory duty which exists only in the abstract. On the contrary, it is real and must be rooted in communities. Worship and mission is where the faithful engage with one another and with the unchurched. What I detect in both St Luke, Middlestown and St Andrew, Netherton are devoted volunteers, ministered to by a committed house for duty priest-in-charge, using their time and talents to the glory of God and in the service of the local community. So often the best can become the enemy of the good. Across the diocese parochial resources – both human and financial – are limited. However, in this instance I am in no doubt that both are being wisely harnessed in the careful and prayerful proposal which is now before the Court. I therefore have no hesitation in granting this faculty.
19. The additional costs, to include a correspondence fee for the Registrar, must be paid by the parish and discharged in full before the works are undertaken. For the future I hope that the congregations at St Luke Middlestown will, in the words of hymnodist George Duffield, “Stand Up for Jesus” but also sit down in comfort.