

Re All Saints, Odiham

Judgment

1. The Associate Rector and Churchwardens of this Grade I listed church have petitioned for a faculty permitting a substantial re-ordering of its interior. The proposals essentially comprise the removal of all of the nave and aisle pews and pew platforms, the making good of the nave floor to match the existing floor and the installation of a replacement heating system made up of panel radiators and a nave trench heating system. The church has no associated church hall and is seeking to adapt its building for use for both worship and community and church-based activities.
2. As a result of the various statutory consultations and public notices which have taken place a number of objections and concerns have been raised about the proposals, including formal objections by Mr John and Mrs Helen Fleming, who have been involved members of the congregation of this church for more than 35 years. Upon their becoming Parties Opponent in this case Chancellor Clark indicated that the matter was not suitable for determination on the basis of written representations and directed that a hearing date should be listed. The matter came before me at a hearing in the church on 6 July. Neither the Petitioners nor the Parties Opponent were legally represented at the hearing. I am grateful to all concerned for the respectful and dignified manner in which they conducted themselves and for the restraint and clarity with which the parties' clearly strongly held, though opposing, views were presented.

Background

3. The church of All Saints is a large and ancient parish church. Although the earliest parts of the building date from the early thirteenth century, it is clear that there has been a place of worship on this spot since before Norman times. The church is made up of a chancel, nave and west tower, all embraced on both sides to their full length by substantial aisles. The east ends of the aisles are now,

respectively, the north Lady Chapel and the south priest's and choir vestry.

4. As is so often the case, the building has developed over the centuries. The majority of the building was built progressively from the thirteenth to the fifteenth centuries. The tower was remodelled in the seventeenth century. In the nineteenth century the interior of the church underwent reorderings which included the introduction of the fixed pine pews which are the subject of this petition.
5. The proposals with which I am concerned are part of a much wider scheme of change to this building which has been in contemplation and under way for well over ten years. Earlier changes have been completed including: the introduction of toilets and a church office in the south west corner of the church; the creation of kitchen facilities in the north west corner; the installation of an impressive new organ gallery and pipe organ in front of the west tower arch; the careful design and implementation of a new lighting system; and the replacement of the failing boiler with two new modern boilers.
6. At the beginning of the hearing it was apparent that there were concerns both about the proposed nave trench heating system and the removal of the pews. Certain other ancillary proposals (such as the introduction of additional storage and more minor changes to the heating provision) were not disputed. By the end of the hearing it had become clear that, subject to the imposition of sensible and agreed conditions, there were no longer any objections to the heating proposals. The only remaining issue between the parties was the removal of all of the nave and aisle pews with the consequent changes to the flooring. I will, therefore, concentrate in this judgment on the issue of the removal of the pews. I am satisfied that a faculty should be granted in relation to the other items, being undisputed, subject only to the extent that they are dependent upon the changes to the seating.
7. The removal of the nave and aisle pews has been part of the proposals under discussion since before 2003 when the first of three public meetings was chaired by the then Archdeacon of Winchester. A sub-committee of the Parochial Church Council was formed to pursue the proposals. Various circumstances arose in the intervening years which have caused the project to be delayed, not least two changes of minister and the failure of the pipe organ and the consequent programme of fund raising and works which then took priority over the changes to the heating and seating arrangements. Nevertheless, on 26 January 2016 the Petitioners issued a petition seeking permission for the proposed works, having obtained a Notification of Advice from the Diocesan Advisory Committee dated 7 January 2016 which recommended the proposals for approval.

Consultation with and advice of the professional bodies

8. The Petitioners have consulted Historic England, the Society for the Protection of Ancient Buildings and the Victorian Society about the proposed works. The advice of the Church Buildings Council has also been sought.
9. When the papers in this matter first came before me it was clear that the Local Planning Authority ought also to be consulted under paragraph 4 of Schedule 2 to the Faculty Jurisdiction Rules 2015. I am grateful to the Registry clerk, as, I am sure, are the parties to these proceedings, for her efficiency in ensuring that the necessary notice and information was provided promptly to the LPA in such a way as to enable their early response. I am equally grateful to the LPA officer for the prompt response provided, avoiding the need for any delay in determining this petition, and to the parties for their indication at the hearing that they did not require further time to consider the LPA's response.
10. The views of the various professional bodies differ significantly from each other. As already indicated, the DAC, after a visit to the church, recommended the proposed works for approval, subject to two minor comments. Equally, Historic England visited the church building in November 2015 and is content with the proposals. In its response to the consultation Historic England has suggested that "[t]he proposals for the new heating system are neat and unobtrusive and the new seating of a high quality" and that "the pews are of limited heritage value". Historic England conclude that "the harm to the architectural character of the interior is therefore likely to be relatively low".
11. The Victorian Society does not share Historic England's view. In response to the most recent consultation (having been consulted on the project in 2006) it stated that it would normally oppose complete removal of mid-nineteenth century nave seating "on principle" except where a very firm justification can be provided. It accepts that the affected pews are "not exceptional in design" but argues that they remain the principle visible legacy of the 1850s restoration of the building and as such should not be removed without good reason. At a time when the parish were considering an external extension to the building, the Victorian Society suggested that the retention of some or all of the pews as moveable seating could provide adequate flexibility. It was suggested that an Options Appraisal should be produced by the parish to accompany the Statement of Need on the basis that the justification provided by the Petitioners for the harm to the building was inadequate.
12. The Society for the Protection of Ancient Buildings has been consulted. It is content with the heating proposals and defers to the Victorian Society in relation to the pews, whilst observing that

“removing all of the pews from the church” will have a serious aesthetic impact on the building. It suggests that consideration be given to the retention of a bank of pews “as a memory of them”.

13. The LPA notes both the merits of the proposed scheme and the impact of the loss of the pews. It urges a close examination of the justification for the proposals. Like SPAB, it concludes that if the justification is found to be convincing, consideration should be given to the retention of a representative example of a discrete number of pews from this period.
14. The Church Buildings Council’s advice was sought on the recommendation of the DAC. The CBC visited the church on 11 December 2015, having been consulted previously on the wider proposals in 2004. Subject to some minor observations, the CBC was content that the proposed heating system was appropriate. It was the Council’s view that it would not object to the removal of the pews in principle provided that a strong case was made justifying their removal. It formed the opinion that the Statement of Need was insufficiently robust to justify the changes and encouraged the parish more clearly to articulate the reasons for its proposals. It was highlighted that most of the uses contemplated by the parish could be achieved simply with the removal of a section of pews from the west end or aisles of the church and the parish were encouraged to provide evidence of interest from future users of the building and to undertake an analysis of the differing options available including partial removal of the pews.
15. None of the bodies consulted have chosen to become formally involved in the proceedings, nor did they accept an invitation to attend the hearing.

Public consultation

16. There has been some criticism by the Parties Opponent of the manner in which the Petitioners have consulted and communicated in relation to their plans. The suggestion is made that the Petitioners have dismissed the concerns of some of the amenity societies and of individuals without proper consideration and that the level of consultation has been inadequate. I make it clear at this stage that I do not find any substance in those criticisms. The statutory framework for applications of this type requires consultation with certain statutory bodies and the display of public notices. Not only have the Petitioners complied with those formal requirements but have made substantially greater efforts in consulting and informing relevant parties about their plans.
17. They have held the three public meetings referred to above, have published numerous articles about the plans in the parish newsletter

and Sunday pew sheets, have given updates at most Annual Parochial Church Meetings and, from the evidence placed before me at the hearing, have clearly directly consulted with many and various community bodies. The suggestion that the Petitioners should have written individually to each person registered on the electoral roll of the parish is unduly onerous and not supported in law.

18. It was also suggested that an entry in the February edition of the parish newsletter announcing that the DAC had “approved” the proposals may have misled parishioners into believing that the PCC had obtained final consents for the works such that it was too late to raise any objection. I am mindful of the fact that the Public Notices inviting objections were still on display at the time the newsletter was published. Further, the newsletter article refers to the need to “apply for faculty approval from the Chancellor” and to the fact that the works are “[s]ubject to receiving the full faculty approval” and draws readers’ attention to the Public Notices and the plans displayed within the church. In those circumstances I am satisfied that the entry referred to is unlikely to have caused parishioners to have misunderstood the position and thereby miss the opportunity to object to the Registrar.
19. Furthermore, it is clear that the Public Notices did elicit objections. On 9 February 2016 Mr and Mrs Fleming, the Parties Opponent, wrote to the Registrar raising concerns about the proposed works, as did Mr John and Mrs Carol Lambert. I am aware that the Petitioners arranged meetings with the objectors to discuss their concerns. I have seen notes of those conversations. I do not know whether that contact has set Mr and Mrs Lambert’s minds at rest to any degree, but they have chosen not to become Parties Opponent in this case. Nevertheless, their objections (which substantially mirror those of Mr and Mrs Fleming) have not been withdrawn and I have taken full account of them in determining this petition.
20. The objections of Mr and Mrs Fleming and Mr and Mrs Lambert to some degree reflect the concerns already identified by the Victorian Society. I can, I hope fairly, summarize their views thus:
 - a. The removal of the pews will be unnecessarily harmful to the aesthetics and ambiance of the church and will remove a key part of the history and character of the building;
 - b. The replacement of the pews with chairs will make it difficult, for those who choose to, to kneel to pray and will be unsafe for those whose physical frailty means that they need to pull themselves up on the pews to stand.
 - c. The metal framed stacking chairs (which are to be stored at the west end of the church for use only in the event of very large congregations) will be visually intrusive;

- d. The retention of a block of pews should be considered, with flexibility adequate to the need of the parish being achieved by the removal of only some of the pews. Differing views have been expressed about whether a block of pews should be retained in the aisle(s), the east end of the nave or the centre of the nave. Mr and Mrs Fleming have also suggested that any retained pews could be made moveable to further increase flexibility.

21. Both the Flemings and the Lamberts have made reference to others in the parish who share their views in objecting to the complete loss of the pews in the nave and aisles. Whereas I accept that there may well be others who share their views, the fact remains that none of those others have chosen to raise those concerns within these proceedings. Not only were Public Notices displayed inviting such comments, those notices were also publicised in the parish newsletter. In light of this I find that I cannot attach any real weight to those objections which are said to be held by others. I do not know the number or basis or detail or strength of any such objections. Those who wish their views to be taken into account by the Consistory Court must ensure that those views are communicated in a clear and unambiguous way if they are to be given proper weight.

22. Bearing in mind the views and concerns outlined above, I must determine whether a faculty should pass the seal in this case.

The *Duffield* guidelines

23. In *Re St Alkmund, Duffield* [2013] Fam 158 the Court of Arches set down what have become known as the *Duffield* guidelines. Those guidelines assist in the determination of petitions such as this one and take the form of a list of questions, namely:

- “ 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 presumption 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 exceptionally be allowed.” (*para 87 of the judgment*).

I will address each of these questions in turn.

Harm

24. *Would the proposals result in harm to the significance of the church as a building of special architectural or historic interest?*

I am satisfied that the proposed changes would result in some harm to the significance of this Grade I listed building. The nave and aisle pews are a substantial and visible part of the 1850s reordering and their loss would affect both the historic interest of the building and have a real impact on the aesthetic and architectural interest.

25. *How serious would the harm be?*

Although harm would be caused by the proposed works, I agree with the conclusion of Historic England that that harm would be relatively low. It is agreed by all concerned that the nave and aisle pews are simple and unremarkable in style and quality. Historic England describes them as of “low significance”. The rationale behind SPAB’s suggestion that a bank of pews should be retained is that that bank would serve “as a memory” of the pews, and presumably, more widely as a memory of the nineteenth century reordering. That also seems to be the basis for the LPA’s recommendation that a “representative example” of the pews be retained. It is clear to me that a substantial memory of the nineteenth century reordering will remain in the church in the form of the east end of the building. It is made up of the substantial Lady Chapel (which is fully furnished with Victorian pews) the chancel and the vestry, all of which in large part reflect the Victorian contribution to the significance of this interior. The Lady Chapel will continue to be used for weekly 1662 Prayer Book services and as a place for private prayer and reflection. Those parts account for approximately one third of the area of the building. The two large west galleries which will remain were also significantly adapted as part of the nineteenth century changes. I note that the views of the Victorian Society, SPAB and the LPA expressing concern about depewing the interior were made without having visited the church, and possibly without appreciating how substantial a part of the Victorian furniture and scheme will remain within the church.

26. *When assessing the impact of the loss of the pews on the significance of the building I also have regard to the relative importance of the 1850s reordering to the building’s listed status. None of the Victorian*

furnishings are referred to in the listing entry despite a number of other furnishings being listed and Pevsner simply refers to the church having been “[r]ather harshly restored by *Woodyer* (1850-1) and *Colson, Farrow and Nisbett* (1897)”. Whereas the listing entry is not, of course, an exhaustive description of the significance of the building, I have had the benefit of the views of the Victorian Society in relation to that part of the building’s history and it seems to me in this particular case that the Victorian pews affected by these proposals do not form a highly significant element of the building’s special interest. They are simple in design and their contribution to the building’s significance is found principally in the structure and character which they add to the interior.

27. The Petitioners in this case propose that the nave pews are to be replaced by 176 solid oak chairs which will remain in place for most services and whilst the church is ‘at rest’. They will occupy the same space as the current nave pews (as demarcated by the new trench heating grilles) in orderly rows. The quality of the chairs chosen matches the high listing of the building and their placement will go some way to retaining the structure and order provided by the current pews, thus minimize the harm caused by their loss. The stacking chairs which the Petitioners propose to introduce are to be used only when the number of people present require the extra seating. They will otherwise be stored on trolleys out of sight behind moveable noticeboards at the rear of the nave.

Justification

28. *How clear and convincing is the justification for carrying out the proposals?*

The CBC, SPAB, the Victorian Society and the Party Opponents have all expressed concern that the Petitioners have failed to justify the proposed works. It is suggested that the flexibility desired by the Petitioners can be achieved by less harmful measures and with the retention of at least a bank of pews, whether fixed or moveable.

29. It is clear to me that Mr and Mrs Fleming are right when they say that the majority of the activities, both secular and church-based, for which the Petitioners are seeking to use their building could be accommodated without the complete removal of the nave and aisle pews. Additional space could be made available for many of those activities by the removal of just the aisle pews or flexible worship and concert arrangements could be accommodated by the retention of the aisle pews but the replacement of the nave pews with chairs. It was for this reason that I asked the petitioner, Mr Scard, directly which activities were planned which required the ability to move *all* of the seating. Mr Scard provided me with a careful list of approximately 40-45 occasions per annum when the parish would be likely to need entirely flexible seating. These included approximately monthly

worship “in the round” for the new and growing congregation of the 11.15am informal Sunday service, the Easter passion play, the harvest supper, the church fete, wedding and baptism receptions, school concerts and services, joint benefice events (All Saints being the largest church building in the benefice) and the hugely successful Christmas tree festival as well as musical events and concerts hosted by various identified local community groups. Evidence was provided by a number of community groups and stakeholders confirming their desire to use the re-ordered church. These events do not necessarily require the complete removal of all seating, but instead often require the ability to arrange the seating in a varied and flexible way.

30. At the hearing Mr and Mrs Fleming argued that the desired flexibility could be achieved by retaining a bank of pews but adapting them to make them moveable. They were unable to say which bank of pews should be retained and in the papers before me various suggestions have been made: that the aisle pews should be retained and the nave pews replaced; that the nave pews should be retained; that some of the pews should be removed from the rear of the nave to allow for choirs and orchestras under the new organ loft; that some of the pews at the front of the nave should be removed to allow for musical and dramatic contributions to worship.

31. I am mindful of the fact that it is not for the Parties Opponent to be creating an alternative proposal: this is the Petitioners’ application and the burden of proving that a faculty should pass the seal lies squarely on their shoulders. The existence of alternative schemes form part of the Court’s balancing exercise in considering whether the Petitioners have discharged that burden. As I said in the recent case of *Re St Peter Mancroft, Norwich* (Norwich Consistory Court, 15 April 2015):

“I am, of course, not enjoined to decide whether the petitioners should be pursuing any of the alternative proposals which have been mooted; rather I am asked to consider whether the merits of *this* petition mean that a faculty should be granted. Nevertheless, one factor in deciding whether to grant a faculty is the question of whether alternative, and potentially less harmful, options have properly been considered by the petitioners.”

32. I am satisfied that the detailed plans for mission and outreach in this parish will provide a substantial public benefit, both in terms of the growth of the worshipping community in this place and of the service to its community. The Archdeacon of Winchester spoke eloquently in support of the Petitioners of his experience of reordered churches without exception being used even more widely than is initially anticipated. It is relevant that the increased use is also likely to produce an increased income for the maintenance of this beautiful and significant building which will contribute to the securing of its future. The question remains whether that benefit can be achieved in

a less harmful way and whether, in any event, that benefit outweighs any harm caused.

33. It is clear to me that at least the majority of pews will need to be removed if the Petitioners are to be able to serve their community in each of the ways they have planned. The aisle pews will need to be removed to provide space for many of the planned activities, including the After School Kids club and other children's work, Alpha meetings, various existing and planned exhibitions and festivals and the simple gathering for coffee between Sunday services in comfort. If the nave pews are to be retained, the rear nave pews would need to be removed to make space for the choir and orchestra if the parish is to make the most of the concert opportunities provided by its strong musical tradition, high quality and attractive new pipe organ and gallery and excellent acoustics. Equally the front nave pews would need to be removed to provide an appropriate area for dramatic and musical contributions to services, including those for the local schools. The remaining central block of nave pews, surrounded by the oak chairs which have been chosen, would look anachronistic and anomalous in this large church with its wide aisles; to use the words of the Associate Rector: to keep a bank of pews at the side of the church "would look bizarre".
34. The evidence I have seen and heard suggests that adaptation of the pews to make them moveable would be possible but not straightforward. A substantial foot would need to be added to give them the required stability. Additional strengthening may well be needed as well as some rebuilding of those pews along the walls and adjoining the central pillars. The Petitioners have made enquiries of the PCC at Pershore Abbey where similar adaptations were made to their pews and have been advised that the pews are difficult to move and unstable in their positioning. The Petitioners have concluded that even the retention of some moveable pews would hinder the flexibility they are seeking and would provide no real benefit. I tend to agree. Any remaining pews will be awkward and bulky to move and store. The Parties Opponent have raised concerns about the logistics of moving the seating if chairs are introduced and this problem would be far greater if the moveable seating was the pews. Overall, the Petitioners are seeking to replace unremarkable pews with high quality seating which the Petitioners hope will serve this church for "100, 200 or more years", to use the words of Mr Scard. They are seeking to introduce a seating arrangement which, whilst the church is at rest, will provide a welcoming aspect which nevertheless retains the structure provided by the current pews.
35. Concern has been expressed about the reduced seating capacity that will be brought about by the proposed changes. It is clear that the chairs provide a broadly comparable capacity to the existing pews when everyone is seated comfortably, although additional numbers

could be accommodated in the pews if there is a large congregation and people “squeeze up” to make space for others. I am satisfied that the use of the two large west galleries which each have six long benches and, where occasionally necessary, the loan of benches from the local schools will provide adequate seating for those relatively rare occasions when a very large congregation needs to be accommodated.

36. The Parties Opponent have also raised concerns about the stability of the chairs and whether they will be suitable to allow for frailer members of the congregation to pull themselves to standing. I had the opportunity to sit on one of the chairs at the hearing and am satisfied that they are sufficiently stable to offer such support, particularly when they are linked together, as they must be when in rows of four or more. Further, the Petitioners have made it clear that some of the chairs will have arms which will provide a much safer means of support than pulling on the back of the seat in front. Provision will also be made for those who wish to kneel to pray by the retention of some of the large hassocks which are currently used in the pews.

Balancing of harm and public benefit

37. *Will any resulting public benefit outweigh the harm?*

There is a strong presumption against harmful change to Grade I listed buildings. As stated above, I have come to the view that the harm to the significance of this building from the proposed changes is relatively low. Unremarkable pews are to be replaced by chairs of excellent design and quality which will give a high quality but welcoming atmosphere to the church. To use the words of the DAC local planning authority member, “the quality of the proposals match [the building’s] Grade I status”. A substantial visual record of the Victorian contribution to the interior of this church is to be retained in the pewed Lady Chapel, the chancel and the priest’s and choir vestry as well as in the impressive west galleries. The decision not to retain a block of pews in the nave or aisles will ensure a visual unity to the new scheme which would otherwise be disrupted.

38. The public benefit which the proposals will provide is significant. This is a church which is seeking to use its building to grow its worshipping congregation and serve its community. It has already made real progress towards those goals and these proposals will further the effective use of this building as a centre of worship and mission in Odiham. I am entirely satisfied that that public benefit will outweigh the harm in this case.

Determination

39. It will be clear from the foregoing that I have determined that a faculty should pass the seal in this case. There will be a number of

careful conditions included in the faculty in order to ensure that the proposed works are delivered to the high standard intended by the Petitioners. Those conditions will include conditions addressing a number of concerns raised by the Parties Opponent, in particular in relation to the visual impact of the heating installation.

40. This is a project which has been under consideration and in preparation in this parish for well over a decade. It was clear at the hearing and on the papers that not all of the proposals are supported by all in the parish. Nevertheless, it is clear that there is much support for the purposes of the PCC. I am particularly grateful to Mr and Mrs Fleming for the dignity and generosity of their arguments. They will, no doubt, be disappointed by this result but I hope that they will gain some comfort from the increased clarity in the detailing of the proposals as set out in the conditions to the faculty which their contribution has occasioned. It is my earnest hope that all concerned in these proposals will now be able to move forward in a spirit of Christian fellowship to enable this church to continue to fulfil God's purpose in this parish.

41. As is usual in such cases, the Petitioners shall bear the Court costs occasioned by this petition.

The Worshipful Canon Ruth Arlow
Deputy Chancellor of the Diocese of Winchester

14 July 2016