

**IN THE CONSISTORY COURT  
of the DIOCESE OF LIVERPOOL**

St Thomas the Martyr, Up Holland

**JUDGMENT**

**Introduction**

1. St Thomas the Martyr is the parish church for the village of Up Holland in West Lancashire. It is a beautiful grade 1 listed mediaeval church occupying a position near the centre of the village. It was founded at the beginning of the 14<sup>th</sup> century but it was not until the beginning of the 19<sup>th</sup> century that the church became a parish church. The chancel, together with the ornate furniture with which this current petition is concerned, was re-ordered in the late 19<sup>th</sup> century, whilst the furnishings elsewhere within the nave are of varying ages. As a working church the current layout was designed by Sir Basil Champneys, the celebrated Victorian architect.

2. When this petition was first presented, I requested an opportunity to visit the church to acquire a better understanding of what was proposed. Essentially it was concerned with the removal and repositioning of the screens on either side of the chancel steps, and their relocation on the east wall of the church adjacent to the high altar, as well as some alterations to the choir stalls. It was not clear from the photographic evidence how the proposed relocation was to be managed.

3. Accordingly, on Thursday 5<sup>th</sup> September 2019, I visited St Thomas, and met with two of the petitioners, the Priest-in-Charge, Reverend Paul Lock, and one of the churchwardens, Mr Dennis Roughley. Helpful explanations were provided, and I was able to discuss with the petitioners some of the concerns which have been raised by the amenity societies.

4. I now propose to provide this short judgement in respect of the faculty which is sought. No indication has been given that any of the amenity societies, who have not provided formal objections as such, wish to become involved as parties opponent, nor is a hearing requested.

**Nature of the proposals**

5. The two relevant carved screens abut either side of the chancel steps. Whilst not particularly tall, perhaps at head height standing in the nave, and mid-waist height for those at the higher chancel level, they clearly create an obstruction to a line of sight for members of the congregation sitting in the pews, unless they are positioned right at the very edge of a central

pew. Expressing concern about the heritage of the church building, and the need to preserve insofar as possible historic furnishings, it is proposed that these screens be repositioned against the east wall, on either side of the high altar but set slightly behind the riddle posts. They will not be screens as such, in this position, but more akin to wall panels, although a reminder of the heritage and visible to all those within the church, without providing any view obstruction.

6. Further, the choir stalls contain two rows on each side, both restricting the space available within the chancel area. Whilst the chancel is not particularly far away from the sanctuary, it is clear that the currently carpeted area has limited adaptive use other than as a means of passage to the sanctuary for the priest celebrating the Eucharist. The front stalls, on either side of the chancel, which have been described as children's choir stalls, have an ornately carved frontage, and sitting on top of this frontage is a raised book rest, which for all intents and purposes would obscure the view of children and possibly adults participating in the choir and sitting in the front row. The intention is that the timber from the choir stalls will be removed, on each side, and the frontage panels repositioned in front of the rear choir stall. This will enable, say the petitioners, the wood to be recycled and used to construct a new and movable altar which can be placed in the now wider space available within the chancel.

7. The old cast-iron heating pipes which lie underneath the children's choir stalls will be removed by a specialist contractor. The present red carpet which runs from the front of the nave up the chancel steps and throughout most of the chancel will be removed, exposing the stonework, and some of the hidden memorials underneath. The carpet in the sanctuary will be replaced.

8. Thus with the screens removed, the choir stalls repositioned and the chancel widened, not only will there be an opportunity for greater participation by members of the congregation in the Eucharist celebration, as the new altar will now be far further forward, but also the space acquired within the chancel will enable greater use of the church, perhaps by community organisations for concerts celebrations etc. Currently this is not possible.

9. I understand that the works are to be funded by a specific bequest.

### **Concerns expressed by the amenity societies**

10. There has been consultation of the Society for the Protection of Ancient Buildings (SPAB), the Victorian Society, and Historic England. Whilst the latter have requested plans, an indication was provided by them that they would not require further consultation in relation to the faculty application. Joanne Needham from SPAB commended the manner in which the proposed reordering had been presented. Whilst deferring to the Victorian Society in relation to the repositioning of the screen, her concern was that this would result in an awkward juxtaposition, diminishing the significance of the original design intentions of the earlier and later works. She was also concerned about the effect of heat from the flat panel radiator on the east wall on the screens. It was suggested that the PCC should consider an alternative arrangement to

recycling of the wood from the choir stalls, including the commissioning of new furniture for the altar, to allow them to “*add their own meaningful layer to the buildings history*”.

11. Mr Hughes of the Victorian Society echoes the concern of SPAB at the relocation of the screens to the east wall of the sanctuary. He refers to the fact Champneys’ suite of furnishings was an attractive and unusual feature, but integral to the internal design. He regrets the removal of the screens, and he is not convinced of the need. He appreciates the rationale for the removal of the choir stalls, but would prefer the timber not to be “*disposed of*”. He would prefer the carpet to be removed throughout the chancel and the sanctuary.

12. Although the petitioners have not responded directly to these concerns, at my meeting with them, Rev Lock informed me that it was intended to provide a form of plasterboard which would be covered with decorative cloth between the panel radiator and the screens to avoid any heat damage.

### **Legal approach**

13. Permission will usually be granted for a faculty if the court can be satisfied that the proposed works will not affect the character of the church, as a listed building, in terms of its architectural or historic interest. Churches will often want to consider internal layout re-ordering to enable greater participation in worship for their congregations and to adapt to changing cultures and different generational ideas as well as making the space more versatile, but this cannot be achieved by a wholesale disregard to heritage. The consistory court must undertake a balancing exercise.

14. Guidance has been provided for the approach to be taken by the Court of Arches in **Re St Alkmund, Duffield [2013] Fam 158**, which approach is now followed almost invariably.

- (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] 7PD 21 26-8**, and the review of the case law by Chancellor Bursell QC in **In re St Mary’s White Waltham (no2) [2010] PTSR 1689** at para 11). Questions 3, 4 and 5 below do not then 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, 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 I or II\*, where serious harm should only exceptionally be allowed.*

## **Determination**

15. There is no doubt that the screens were integral to the original Victorian design, and intended as a form of separation between the congregation and the priestly celebration of the Eucharist. Removal of the screens even with a repositioning against the east wall constitutes a level of harm to the significance of this church building. I would regard the level of harm as low to medium, on the basis that the screens are being retained, and are visually available to future generations, even if not in the original position. Insofar as the present high altar is unlikely to be used for the celebration of the Eucharist, I do not regard the juxtaposition suggested by SPAB as presenting any justifiable concern.

16. The removal of the children's choir stalls again constitutes a measure of harm, on the same basis, that is that the furnishings were integral to the intention of the architect when the church was established as a parish church. However, in this instance the harm in my judgment, is of low level.

17. It is then necessary to address the justification if such internal reordering is to be allowed. This requires a consideration of the benefits of removing the screens and the front choir stalls set against the harm, as I have assessed it, to the significance of the church as a building of architectural and historic interest. In this case, in my judgment, the balance is tipped overwhelmingly in favour of granting the faculty. The petitioners presented a convincing case in relation to the participation of the congregation, which is largely elderly and increasing in frailty, doubtless some with hearing and visual problems, in the most important aspect of the worship for this church, being the Eucharistic celebration. Few will be able to see what is going on, even if the liturgy can be heard through the acoustic loop system. The proposed alternative, of having an altar, movable, within the centre of the chancel, with a wider perspective for the congregation, is sensible, and serves the needs of a modern church. There have been significant changes in the cultural approach to worship since Victorian times. The separation of the priest from the congregation is not mission-centred, and likely to alienate many, particularly with dwindling numbers, whereas perhaps 150 years ago when the structure was first designed, this would have been entirely acceptable.

18. As I have indicated, the removal of the front choir stalls represents only low-level harm, which is easily outweighed by the benefits of having a wide chancel, which can provide a multiplicity of alternative usages, as well as a better visual aspect for the congregation. The chancel can be used as a platform for concerts, presentations et cetera, and represents a potential source of alternative income to provide for the upkeep of this splendid old church, without which it is likely to decay.

19. Two minor matters remain. It seems to me that there is no real disagreement about the carpet. The petitioners propose removal of most of it. Carpet will be retained in the area of the sanctuary. In so far as there has been carpet in that position for many years, I do not see its retention (and perhaps replacement by a new carpet once the works have been completed) as in any way representative of harm.

20. In respect of the re-use of the choir stalls, it is clear that they are not to be disposed of, as believed by Mr Hughes of the Victorian Society. The reuse of these frontages has I believe been sensitively considered. This is not a case of recycling timber for packing purposes, but the actual use of old and attractive oak panelling which will provide a compelling reminder of the heritage of the Victorian furniture when re-used within the new altar. It is likely to be less obtrusive, or clash with the other Victorian fittings than would a newly constructed movable altar.

21. In the circumstances, I am prepared to grant the faculty that is sought. The only condition is that the works once commenced, are completed with 3 months.

His Honour Judge Wood QC

Chancellor of the Diocese of Liverpool

9<sup>th</sup> September 2019