

In the Consistory Court of the Diocese of Chichester

Re St Mary Magdalene, Wartling

Judgment

1. On 17 April 2012 the priest and churchwardens of the parish of St Mary Magdalene, Wartling petitioned for a faculty for the replacement of the choir stalls in the chancel. It is their intention to remove and dispose of the existing dark oak Victorian choir stalls and replace them with modern short, light beech and upholstered pews in order to increase the available space and improve flexibility of worship in the chancel. The proposed pews are to be upholstered in a neutral fabric to match the riddel curtaining and can be arranged in either 'choir' or 'chapel' format.
2. Despite some earlier confusion, it has been made clear that the petitioners do not seek permission to remove or dispose of the two Bishop's chairs currently in the chancel. Instead those chairs will be relocated to the west end of the church where they will be put to good use. No issue arises from this.
3. On 2 July 2012 the DAC issued a certificate recommending the works without proviso. Neither English Heritage, the Georgian Group nor the Church Buildings Council had any comment to make in relation to the proposals and instead deferred to the views of others. Public Notice has been displayed as well as a notice in a local newspaper. These have elicited no objection. The Victorian Society was also consulted in relation to the works. Although it has decided not to become a party opponent in these proceedings, it has expressed, through Mr Tom Ashley, strong views that the existing pews should be refurbished and repaired rather than replaced. Those views are expressed in Mr Ashley's email of 13 March 2012 and his letters of 18 April and 14 November 2012. It is asked that I take those views into account when reaching a decision in this matter and I do so.

Background

4. St Mary Magdalene, Wartling is a Grade I listed church dating from 13th century, although records indicate that an earlier church existed on the site. As is so often the case, the building has developed over the centuries with significant 14th, 15th and 16th century elements present. The chancel pews are Victorian, as are the box pews in the Nave.

5. The PCC have been considering the replacement of the chancel pews (which are described as mean, in poor condition, uncomfortable, partially wormed and split) for almost three years. It seems that the congregation is small for some of the services within the church (such as early morning or mid-week communion and evensong) and it has long been felt that the smaller and more intimate space provided by a more flexible arrangement in the chancel would suit such services well. The current arrangement is perceived as cramped and uncomfortable and it seems seldom used.
6. The petitioners' description of the pews is supported by the DAC Archaeological Advisor who has described them as 'of little merit'. The Victorian Society themselves have described the pews as 'not very distinguished examples of 19th-century fittings' and 'not the features of the greatest significance in the Grade I listed church'. I note that although the nave and north aisle box pews are mentioned in the church's listing document, the chancel pews are not. There is no plan to remove the box pews.
7. I hope that I do the Victorian Society no disservice in summarizing their objections thus: Whereas the pews themselves are not the most significant of fittings, they make a valuable contribution to the character of the church, in particular in lending a coherence to the chancel. Further, it is argued that the petitioners have not provided any convincing argument as to the necessity of the proposed changes and that any concerns relating to the poor condition and comfort of the existing pews can be addressed by their refurbishment and the use of cushions rather than their removal and replacement. Finally, it is argued that the replacement with upholstered pews is shortsighted in that they will wear in a way that wooden pews do not, thereby committing future generations to a cycle of replacement.

The decision

8. In determining this petition I have regard to the guidance provided by the Court of Arches in its recent decision of *Re St Alkmund Duffield* (1 October 2012). In that case, at paragraph 87 of the judgment, the court set out a new framework or guidelines for the determination of cases such as this by inviting chancellors to ask themselves the following 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 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."

9. Although it is a Grade-I listed church, in my view it cannot be said that the implementation of these proposals would result in harm to the significance of the church of St Mary Magdalene, Wartling as a building of special architectural or historic interest. It seems that all agree that the chancel pews in themselves are of no great merit or significance and as such it is hard to see how their disposal can harm the significance of the building. The dispute appears strongest in relation to the issue of what should replace the pews. I have seen no evidence in relation to the viability and costs of refurbishing these pews, but given their apparent condition and quality I can see force in the petitioners' decision to replace rather than refurbish them.

10. I accept the Victorian Society's argument that the chancel pews should contribute to the coherence of the church as a whole and the chancel in particular. The colour of the replacement pews wood and upholstery is very important in this respect. The upholstery colour is agreed as one matching the riddel curtaining. The colour of the wood has been the subject of some discussion with the DAC, who recommended pale oak as a colour which would relate well to the fine heron lectern and be much lighter in the small space. I have regard to the fact that members of the DAC have had the significant advantage of a site meeting at the church. I have made it a condition of the faculty that the colour of the wood for the replacement pews should be in pale oak or some other colour agreed with the DAC.

11. Given my answer to question 1 above, it seems that I must go on to address guideline number 2 in *St Alkmund, Duffield*. Here I find that the petitioners have rebutted the ordinary presumption against change. The flexibility they seek and the particular uses to which they wish to put the chancel of their church seem to me to fit entirely with their duty under section 1 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 to have due regard to the role of the church as a local centre of worship and mission. Their desire to enhance the intimacy of worship and bring into use an, until now, rarely used part of the church, thereby bringing worshippers closer to the sanctuary is a good enough reason to rebut the ordinary presumption.

12. Given my answers to numbers (1) and (2) above, questions (3), (4) and (5) do not arise. If I am wrong about question (1) above, such that relevant harm would be occasioned by the proposals, it is clear to me that the seriousness of any harm is very slight such that the justifications given show a benefit which would outweigh any harm identified.

13. It follows from the above that I am satisfied that a faculty should issue in this case subject to the condition set out above about the colour of the wood. There is however, another condition which I impose in this case.

The PCC

14. When I first saw the papers in this matter they included a minute from an emergency meeting of the PCC confirming their desire to pursue a faculty application in this matter. It has become clear that that meeting was convened without the appropriate notice. I have since been provided with minutes of PCC meetings going back almost three years confirming ongoing discussion about the issue and a resolution to pursue a replacement of the chancel pews. Various options have been discussed during that time. It is not clear from those minutes that the PCC have finally resolved to pursue a faculty application in relation to the pews in the terms set before me. I suspect that this is as a result of incomplete minuting, but I have nevertheless required that the petitioners should file at the Registry a copy of a minute of a properly convened PCC meeting confirming the PCC's support for the current petition prior to commencement of any works (and this includes the commissioning of the replacement pews).

15. In conclusion I order that a faculty for the proposed works shall pass the seal subject to the following conditions:

- a. No works shall be commenced until the petitioners have filed at the Registry a copy of a PCC resolution confirming the PCC's support for the replacement pews as proposed;
- b. Prior to commencement of any work a full written and photographic record of the layout of the existing chancel pews shall be made and shall be kept with the parish records;
- c. The wood colour of the replacement pews shall be pale oak or such other colour as may be agreed with the DAC;
- d. Any funds raised in the disposal of the chancel pews shall be used to defray the cost of the new pews;
- e. The works shall be executed under the direction of Peter Pritchett;
- f. The works shall be completed within twelve months of the issue of the faculty or within such extended time as may be allowed.

Ruth Arlow
Deputy Chancellor



23 December 2012