

IN THE CONSISTORY COURT OF THE DIOCESE OF ST ALBAN'S

IN THE MATTER OF: ST MARY, WATFORD

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JUDGMENT

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1. The church of St Mary, Watford has a Grade 1 listing (it is one of only two Grade 1 listed buildings of national importance in Watford, and the oldest building in the town). It is of composite character, with much of its fabric dating from the mid-15<sup>th</sup> century, but retaining significant material from the 13<sup>th</sup> century, and with east and south chapels dating from slightly later. In the 19<sup>th</sup> century, works carried out in 17<sup>th</sup> and 18<sup>th</sup> centuries were substantially overwritten or replaced by works to the interior (including the replacement of box pews and galleries with the present oak pews with carved ends) undertaken by George Gilbert Scott in 1848 and then to the exterior by J.T. Christopher in 1871. There have also been works since then (for example, in 1877 the replacement of steps to the High Altar in marble; the introduction of the reredos in 1879; the introduction of glass screens and the removal of pews in the late 20<sup>th</sup> Century).
2. Besides the interest provided by the fabric of the building, it is also of particular relevance that the church occupies a place of great significance within the community, both as the civic centre of worship in an multi-ethnic, urban environment which has undergone rapid social change and as a centrally placed building used as a focal point by the community for diverse social purposes, ranging from concerts by the Purcell School of Music to public meetings and social initiatives for the homeless. It should be noted that the church does have a "church centre" attached to the main building, which offers some flexible space which may be used for some events. However, it appears that many of the important events the church offers take place within the church itself and that the use of the main church building, as opposed to the hall, is intrinsic to the success of those events (whether acoustically or spiritually).

## The Petition

3. By a Petition dated 19 September 2016, the Incumbent and churchwardens, with the support of the Parochial Church Council, seek a Faculty for substantial internal reordering. The main elements of the proposed works are:
  - (1) Removal of pews from the nave and aisles (retaining elements elsewhere in the church);
  - (2) Removal of 20<sup>th</sup> century fronts of choir stalls;
  - (3) Alteration and removal of around half of remaining choir stalls and re-ordering of the Chancel;
  - (4) Levelling floor of nave and aisles;
  - (5) Re-flooring to chancel and Haydon Chapel and raise dais ensuring wheelchair access to east end, chancel, Haydon and Essex chapels and offices behind north transept;
  - (6) Installation of underfloor heating in nave, aisles chancel and Haydon Chapel;
  - (7) The introduction of new lighting and enhanced AV facilities;
  - (8) The provision of new storage areas for musical instruments and other items under organ pipes and in south vestry;
  - (9) Removal of walls at the west end of the nave aisles and installation of glass screens and doors;
  - (10) Redecoration throughout.

## Background and procedural history

4. The changes proposed are significant and the matter has, understandably, been the subject of much detailed correspondence from a number of sources. The Petitioners have also provided detailed and thoughtful responses to the points raised variously for consideration or by way of objection to the proposals from time to time.
5. For the purposes of understanding the full spectrum of interests to be considered in reaching a decision in this difficult matter, I set out the procedural history and identify key meetings and correspondence here. It has not proven easy to stick to a straight chronology given the variety of responses and the time taken by some of the consultees in this process. Accordingly the history follows a timeline where possible but seeks, more

pressingly, to draw some order out of the voluminous and protracted process to date so as to achieve an understanding of what has been considered in arriving at the current version of the proposals before me.

6. Proposals to modify the church seating and to introduce underfloor heating appear to have been under consideration for some considerable time (since at least 2008). By a letter dated 1 July 2008, the Victorian Society objected to an initial plan to remove pews; this initial plan did not proceed. Further plans appear to have been considered in or around 2010, and by 2014 had crystallised sufficiently to allow the DAC to visit the church and review them in situ. A detailed site visit was made by members of the DAC on 19 December 2014 which generated advice by the DAC on site, and appears to have led to the extensive changes proposed (in subsequently modified form) in the petition before me today.
7. A further DAC site visit was undertaken on 2 June 2015. This visit was particularly noteworthy for two reasons: (i) a representative from Historic England was also in attendance at the visit and (ii) out of the meeting came the suggestion that a report on the existing woodwork from a respected expert such as Dr Charles Tracy should be commissioned. The parish did so and Dr Tracy's report has been extremely helpful in assisting me in my understanding of the merits and importance of the nave and chancel timber furniture. One further DAC site visit took place thereafter, on 21 June 2016, where additional detailed thinking about the proposals was undertaken. It follows that the DAC has been closely involved with the development of the parish's thinking on the proposals it makes to the interior of the church.
8. Following its attendance at the DAC site visit on 2 June 2015, Historic England wrote to the Petitioners' architect on 15 July 2015, setting out at considerable length a number of objections to the proposals as formulated at that stage, drawing particular attention to its view of the deleterious effect that removing 19<sup>th</sup> century pews from the nave would have on the church's significance.
9. Some initial modifications were made to the parish's plans following Historic England's letter and receipt of the Report of Dr Tracy dealing with the significance of the furniture. The initially modified version of plans was supplied for the first time formally to the

DAC and, chronologically, the next moment of significance was therefore the consideration on 14 July 2016 by the DAC of the Petitioners' formal proposals. In its Notification of Advice dated 15 July 2016 the Diocesan Advisory Committee recommended approval of the works<sup>1</sup> but certified that the works were likely to affect the character of the church as a building of special architectural or historic interest. I agree with that assessment of the likely effect of the works.

10. The fact that the plans had taken account of and been modified following the 2 June meeting, and after receipt of Historic England's letter of 15 July 2015, and Dr Tracy's report, was reflected in further correspondence to Historic England dated 20 July 2016, in which the Petitioners advised Historic England that the DAC had recommended the plans as modified. The modifications were supplied to Historic England for comment ahead of submitting a Faculty Petition. However, nothing further was heard from Historic England until 20 January 2017.
11. In or around October 2016, and therefore after the DAC's initial consideration of the proposals, further modifications were proposed taking account of points raised by that stage by another consultee, the Church Buildings Council, writing on 30 September 2016. The CBC had broadly approved much of the initially modified proposals but suggested additional refinements and alterations to them. The further modifications subsequently made to the proposals in light of those suggestions included the reinstatement of frontals for the chancel rear choir stalls which are now to be retained (to be formed by re-using some carved pew fronts and backs from the nave), and the raising of the pulpit to the height of the dais. These further modified proposals, accompanied by revised plans, were considered by the DAC on 17 November 2016 and its recommendation of them was recorded in an email from the DAC Secretary, dated 18 November 2016.
12. The CBC, at around this time, indicated that it did not have any further comments on the scheme and were content to leave matters to the DAC for consideration.
13. The further modified proposals had meanwhile also come before the Chancellor on 29 October 2016. Directions were given, amongst others, that these proposals should be put

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<sup>1</sup> Subject to its ability to review floor finishes (which it has subsequently seen and recommended – email from the DAC dated 20 March 2017) and confirmation from the project architect that the details of the proposed ramp comply with Building Regulations regarding disabled access requirements.

before Historic England, which they were on 14 November 2016. Nothing having been heard, a special citation was ordered by the Chancellor on 16 December 2016. Time for responding was extended at Historic England's request in mid-January 2017 and a detailed response (declining to become a Party Opponent) was set out in a letter dated 20 January 2017. This was responded to in detail by the Petitioners on 27 January 2017. Historic England requested that its comments be taken into account in reaching a decision on the petition.

14. In reaching my decision I have indeed taken account of the written objections and concerns raised in correspondence by Historic England, and also those of Watford Borough Council, another consultee which responded, following a period of silence after initial contact about early plans in 2008 and a subsequent invitation to respond to initially modified proposals dated 20 July 2016. Pursuant to a direction I gave in March 2017 that the Local Planning Authority should be given special notice under rule 9.3 of the Faculty Jurisdiction Rules, Watford Borough Council wrote a detailed letter of objection dated 30 March 2017, to which I have had regard in reaching my decision in this matter.
15. Aside from the consultees identified above, the Victorian Society has also been consulted. It has elected to become a Party Opponent to the proceedings. As touched on above, the Victorian Society had been involved in responding as a consultee to previous plans for the church, including the removal of pews, to which it objected, from as early as 2008. Upon being consulted upon the parish's later plans in July 2016, the Society provided a letter outlining its concerns and objections on 6 July 2016 and, further to my direction, was subsequently provided with a summary of modifications to the proposals to date on 9 March 2017.
16. On 28 March 2017 the Victorian Society formally objected to (a) the proposed reordering of the chancel and (b) the lack of replacement seating details in the modified petition. The grounds of objection were given as follows (and elaborated on in an accompanying letter):
  - (1) *"The unacceptable level of detail regarding the proposed replacement seating"*;
  - (2) *"The lack of justification for the removal of chancel seating, the most decorative and handsome examples of historic seating in the church"*.

17. The parish responded to the formal objections on 10 April 2017, providing (amongst other information) details of the Howe 40/4 chairs which are intended to replace the nave pews.
18. By its detailed letter dated 5 June 2017, the Victorian Society has now withdrawn its objection to the replacement of the nave pews on the basis of lack of detail regarding the replacement seating. Its objection to the reordering of the chancel remains on foot. The Petitioners responded with further detail to the objections regarding the chancel reordering aspects of the petition on 16 June 2017.
19. On 27 June 2017, the Victorian Society objected by email to a temporary re-ordering licence (which it said it had not previously been made aware of)<sup>2</sup> which granted permission for the removal of pews from the chancel. There have, in fact, been two Archdeacon's licences. The first was granted on 16 October 2015 and permitted the removal of two 20<sup>th</sup> century fronts of choir pews on both sides of the chancel. The second was granted on 18 February 2016 and gave permission for the temporary reordering of a row of pews in the chancel. The Victorian Society enquired whether the DAC had been consulted as to such licences. Based on information supplied to me showing the architect, Mark Eddison at MEB Design, writing to the DAC on 9 October 2015 and 15 February 2016 respectively about these changes, I find that it has been. The Victorian Society further objects to the licences having been granted at all on the basis that the changes did not amount to minor re-ordering.
20. The Victorian Society's objection to, and request for rescission of, the temporary re-ordering licence(s) came at a point so proximate to judgment being given in the matter as a whole that the outcome of the petition will obviate, in practical terms, any need to deal with this as a separate matter. I therefore decline to do so. However I note that the very comprehensive Statement of Needs prepared by the Petitioners in June 2016 did refer in detail to both Archdeacon's licences and the outcome of the experiment with chancel space that those licences facilitated. It is, therefore, difficult to see on what basis it is suggested that the existence of the Archdeacon's licences has only recently come to light.

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<sup>2</sup> There is no provision within the Faculty Jurisdiction Rules 2015 to object to an Archdeacon's Licence for Temporary Re-Ordering, nor are Archdeacons obliged to notify amenity bodies of their issue

21. For the avoidance of doubt, the Petitioners and the Party Opponent have been consulted and have given written consent to this Petition being disposed of by way of written representations only (pursuant to rule 14 of the Faculty Jurisdiction Rules).

The applicable principles

22. I have already said that St Mary's is a listed church. The proposed works will lead to a marked alteration in its internal appearance. Therefore the approach laid down in *Re Duffield: St Alkmund* [2013] 2WLR 854 as modified in *Re Penshurst: St John the Baptist* (2015) 17 Ecc L J 393 is to be followed, 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 not, have the Petitioners shown a sufficiently good reason for change to overcome the ordinary presumption that in the absence of a good reason, change should not be permitted?
- (3) If there would be harm to the significance of the church as a building of special architectural or historic interest, how serious would that harm be?
- (4) How clear and convincing is the justification for carrying out the proposals?
- (5) In the light of the strong presumption against proposals which will adversely affect the special character of a listed building, will the benefit outweigh the harm?

23. In considering the final question I must bear in mind that the more serious the harm the greater the level of benefit needed before proposals can be permitted. I also have to consider that serious harm to a church listed as Grade I or Grade II\* should only be permitted in exceptional cases.

The Petitioners' contentions as to the benefit of the proposed works and the need being met

24. The Petitioners make a number of points in a thoughtful and comprehensive Statement of Needs (dated June 2016) as well as in the many detailed responses which have been provided to the comments and objections raised by consultees. The following is a high-level summary of the key points raised by the Petitioners:

- (1) There is a need for a more flexible main worship space. This is primarily to be achieved by the removal of pews from the nave. Removal of nave pews would allow for flexibility of worship space to better facilitate activities, allow for flexibility to accommodate different styles of worship which take place at various services offered by the church and, importantly, to decrease rigidity and increase flexibility and allow for greater informality where that is appropriate, which would align worship with mainstream culture - something which is especially noted at St Mary's with its congregation drawn principally from the town centre. There are also features of the existing rigid pews which pose other important difficulties such as the lack of accessibility for wheelchairs and those of impaired mobility and a restriction on capacity which is felt particularly strongly at busy services and other occasional events. A careful review of different options for the nave pews was undertaken in the Statement of Needs, and as a result the outcomes proposed are that some of the pews are to be retained and relocated and to retain and reuse a selection of the distinctive carved backs and ends of the pews. I am also pleased to note that the Petitioners have been careful to engage with experts in matters of heating and acoustics, both of which would be affected by the removal of pews, and have provided feedback from consultants on these points which indicate (i) the need for replacement heating following the removal of the pews (underfloor heating is proposed) and (ii) an overall neutral (once *de minimis* impact of removal is balanced against other factors including the presence of people in the nave space) impact on acoustics;
- (2) There is a need for a better location for smaller services of worship. The Haydon Chapel is currently used for this purpose but is not centrally located, is required for other purposes and has no suitable focus. The Essex Chapel is a very beautiful and atmospheric space, but its restricted area, low ceiling and rather enclosed feeling make it not universally suitable for intimate worship. The chancel presents as a more suitable alternative location and, until the grant of Archdeacon's licences, had been unused. However its space is limited by the choir stalls and it requires a new lease of life. The two Archdeacon's licences have allowed for successful experiments to be conducted in the space available which has led to the conclusion that the removal of the independent choir stalls from the chancel creates a cleared environment suitable for intimate worship in smaller groups and enlivens the chancel by allowing for focus on the reredos, High Altar and east window. It is not proposed to remove fixed

stalls from the chancel as they are necessary to preserve finely carved Victorian screens behind them. The proposal is that the interest of carved choir stalls with distinctive poppy heads and bespoke carvings by a previous vicar depicting his curates, bishops, flowers and animals are to be preserved by relocation of some of these pew fronts to the Haydon Chapel;

- (3) The church lacks a welcoming entry point. It is proposed that improvements to the West end of the church and facilitation of free movement between the north and west doors of the church will provide such a space;
- (4) Creation of an area to store tables, chairs and musical instruments is required and a lockable storage space is proposed beneath the organ pipework;
- (5) There are a number of other, more general issues arising which the church seeks to address through its proposed renovations. These include the inaccessibility of the church for wheelchair users due to the differences in level between the various chapels, the chancel, the dais and the altar end; the lack of comfort and practicality in existing seating (which is convincingly reported upon by the Petitioners and supported by independent evidence from users of the church, including members of the congregation and the Purcell Music School), lighting, sound and heating arrangements; lack of cohesion and consistency in the fabric and furnishings which contributes to difficulties in focussing the message which the church wishes to project to its community.

#### Opposing views of Party Opponent

25. The Victorian Society's letter of 6 July 2016 is taken up principally with its objection (at that time) to the removal of the nave pews. I have already noted above that, by its detailed letter dated 5 June 2017, the Victorian Society has now withdrawn its objection based on a lack of information regarding the replacement of the nave pews, following the provision of details of the intended replacement with stackable, wooden Howe 40/4 chairs.
26. The other matter raised in the letter of 6 July 2016 is an objection to the removal of the choir stalls from the chancel on the grounds of their quality, significance (depicting former clergy of St Mary's) and contribution to the richness and character of the chancel. It is said that the Haydon Chapel and the Essex Chapel offer sufficient space for intimate worship without the need to remove choir stalls from the chancel.

27. The formal objection (rule 10.3 Faculty Jurisdiction Rules) provided by the Victorian Society on 28 March 2017 was accompanied by a letter giving further details on the points of opposition. Leaving aside points made in respect of a lack of detail regarding proposed replacement seating for pews to be removed from the nave (which objection is now withdrawn), the 28 March 2017 letter reiterates the points made on 6 July 2016 regarding the removal of the chancel choir stalls, emphasising in particular the availability of alternative chapel venues for smaller services.
28. The most detailed of the Party Opponent's responses is found in its letter to the Registry dated 5 June 2017. In that letter the Victorian Society explains in helpful detail:
- (1) Its reliance on Dr Tracy's analysis of the importance of the rare early Gilbert Scott Gothic furnishings which, in the chancel are of "*great interest and significance*";
  - (2) The visual richness that the chancel fittings bring to, and which enhance, the church's interior;
  - (3) The structure and gravity which the chancel choir stalls add to the church's medieval fabric;
  - (4) That the proposals involve the covering over of an attractive Minton tiled floor;
  - (5) None of the above changes is justified where the Haydon and Essex chapels provide suitable small worship spaces. The clearance of the nave and aisles, combined with the use of the church centre and chapels would free up such a lot of space and provide significantly more flexibility for the church's stated purposes that the argument that the chancel should also be cleared is not justified on the facts.
29. On 27 June 2017, following further responses from the Petitioners, the Victorian Society emailed the Registry regarding the Archdeacon's licences, which point I have dealt with earlier in this judgment. As far as the petition is concerned, it was said in that email that the Society had little further to add. It did not consider that the church's latest response adequately addresses its concerns and added that the church's proposed retention of choir stalls elsewhere in the church fails to recognise that the fittings were designed for a particular space and are an intrinsic part of this most significant area of the building.

## Views of others

30. The role of the CBC in the development of the Petitioners' thinking in these proposals has already been referred to. In addition to consulting the CBC and the Victorian Society, the views of Historic England have also been provided, as have the views of the Local Authority.

### *Historic England*

31. Historic England's response to the further modified proposals was provided on 20 January 2017. The following are the key elements of its comments:

- (1) The existing 19<sup>th</sup> century ordering forms one of the principal components of the church's significance and the proposed reordering would cause that to be lost and would be harmful;
- (2) The removal of the nave pews would have the most profound effect, given that they are of good quality and are an early embodiment of the transformation of St Mary's from late-Georgian style to a renewed medieval style which subsequently became the norm amongst Anglican parish churches. Reliance is placed upon Dr Tracy's report and his conclusion that the pews (or "benches") are an integral part of a "*historically important set of church furnishings by England's foremost and pioneering Gothic Revival architect*";
- (3) It is felt that retaining pews or ends of pews will not sufficiently offset the undoing of the 19<sup>th</sup> century reordering that will be caused by the removal of the nave pews;
- (4) The proposals contain plans to repave the nave and aisles with stone flags (there is also a plan to install underfloor heating in the church) in place of the existing stone, concrete and wooden flooring in these areas. Historic England accepts that it would be appropriate to renew the floor as part of a general reordering of the church if the nave pews/benches are removed whilst cautioning that historic ledgers should be retained and sympathetically positioned;
- (5) It is accepted that the introduction of a new dais of solid oak strip flooring, extending the level of the chancel into the nave, would have minimal visual impact and it is recognised that such work would be essential to the church's objectives;
- (6) In so far as the proposed alterations to the chancel are concerned, and in particular the removal of the choir stalls, Historic England's view is that the choir stalls are of

*“limited interest in themselves”* but there is concern that the removal of the front stalls would erode the coherence of the chancel’s furnishing. In addition to these concerns in the chancel, the proposed raising of the chancel floor, concealment of Minton tiles and re-covering of the floor with timber (where the nave and aisles are to be repaved in stone) is expressed to be inappropriate given the church’s character and eroding of the coherence of the space. (On this point I note that in subsequent correspondence with Historic England (dated 27 January 2017) the parish explained that the chancel floor covering (which will retain the original tiling underneath) is in fact intended to be tiles, not wood, and that the tiling is to be decorative and in keeping with retained frontals and side screens. I further note that, at its own request, the DAC has been supplied with details of all of the intended floor coverings for the proposals and has recommended these.)

32. I am grateful to Historic England for the measured presentation of its comments. In its conclusion Historic England emphasises that the contribution made to the significance of the church by the present 19<sup>th</sup> century ordering, which would be lost under the proposals, is high. Accordingly the harm that the proposals entail to the significance of the church is substantial. It is felt that further refinement of the plans could reduce the degree of harm to be caused, but it is also recognised that the principal objectives of the church would be unlikely to be achieved if such refinements were introduced. It is also recognised that the parish’s concern for the coherence of its proposals reflects a key principle of Historic England’s own guidance regarding the alteration of historic churches.

#### *Watford Borough Council*

33. Watford Borough Council was consulted in 2008 regarding the original, more limited plans for re-ordering, and responded at that stage. Its most recent response (a letter of objection dated 30 March 2017) was served pursuant to my direction that special notice be given under rule 9.3 of the Faculty Jurisdiction Rules. In correspondence from the Council it was suggested that it had not been consulted since 2008 and that the further modified plans it was reviewing in 2017 had not previously been notified to it. This has been addressed by the parish and documents have been produced which indicate that the Council was in fact consulted by the parish on 20 July 2016 and further contacted on 4 October 2016, but no reply was received in either case.

34. Turning to the objections set out in the Council's letter of 30 March 2017, these echo many of the concerns set out by the Victorian Society and Historic England as regards the harm to the significance of the church to be caused by the loss of the 19th century nave and chancel wooden furniture and of the concealment of the Minton floor tiles in the chancel and the change in the ordering itself. Discrete points raised by the Council may be summarised as follows:

- (1) Preservation of parts of pews by “*carving up*” does not respect the status of the furniture;
- (2) Removal of the nave pews would fundamentally alter the relationship to liturgy and theology embodied by their Victorian ordering and eradicate a significant historical demonstration of the evolution of worship in England over the centuries;
- (3) The alterations to the chancel would cause it to lose its character and the of use of timber as flooring to cover over Minton tiles reverses the historic relationship of spaces between the nave and the chancel (as would the installation of the wooden dais between chancel and nave). I repeat my earlier comments as to the misunderstanding of the intended floor covering for the chancel;
- (4) Although the repaving of the nave in stone in the event that the nave pews are removed is generally supported, the Council concurs with Historic England's points concerning the preservation of memorial ledgers and the need to ensure careful archaeological oversight during the installation of underfloor heating.

35. The conclusions reached by the Council very much echo those expressed by Historic England, although it also appears to be suggesting that giving expression to the full extent of proposed changes to the chancel alone may be a way of enabling the parish to meet its objectives whilst keeping the historic character of the church elsewhere. The letter is slightly difficult to follow on that point, but if that is indeed the suggestion of the Council, I do not agree that that suggestion is warranted on the documents before me.

#### *Church users*

36. Finally, in support of the Petitioners' position there are also (annexed to the Statement of Needs) views expressed by some church users.

37. Veronica Baxter expressed the view that the church suffered from:

*“...extremely uncomfortable seating. (Seriously uncomfortable – quite the worst church benches anywhere!) I can only assume that these pews were intended for shorter and smaller congregations...”* and noted that *“...there is general unrest in Watford on this matter.”*

38. Mary Forsyth wrote in support of replacing uncomfortable seating and in support of recording the memorial stones and any contents beneath them if the nave floor were to be replaced.

39. Myra Chave-Jones wrote to:

*“...protest in the strongest possible terms about the diabolically uncomfortable pews! ...There is no room to sit comfortably, either for one’s posterior, one’s feet or one’s legs. I was so uncomfortable last time that I thought I would not be able to come again.”*

40. Mr Q. Poole of the Purcell Music School wrote:

*“Put simply, the more freedom there is to move furniture, and therefore to start with a completely open space before deciding what to put in it, the better. In the current choir, removal of the fixed stalls would enable us to put up suitable raised seating for a good choral platform, where every face could be seen and every voice heard.*

*For our lunchtime instrumental concerts, the ideal would be to move the piano to the centre of the space (with the flat side of the instrument to the east). If, in addition to this, the seating in the nave were to be movable, that would of course open many possibilities for arranging performances in all sorts of ways, which could have delightful results”.*

#### Further responses and modifications proposed by the Petitioners

41. I have found the Petitioners to have been highly responsive throughout the long history of this matter. Not only have modifications been made following helpful observations supplied by consultees, but they have also supplied comprehensive written responses to every comment and objection supplied in respect of the proposals.

42. The starting point for the Petitioners' responses was the initial modification of their plans following receipt of Historic England's letter of 15 July 2015 (and the receipt of Dr Tracy's report), prior to submission of plans to the DAC. As set out in the parish's response to Historic England dated 27 January 2017, these initial modifications included:

- (1) Retaining the reredos in its existing position;
- (2) Retaining side screens under the tower;
- (3) Modifying the shape of the dais.

43. The CBC's comments were subsequently supplied, which led to a further modification of the proposals, as set out in the letter of 20 October 2016 from the architects, MEB Design Ltd, to the CBC and a letter from the parish dated 7 November 2016 to the Registry. The modifications to the proposal were:

- (1) Raising the pulpit and positioning it on the dais;
- (2) Improvements to the Essex Chapel;
- (3) The reintroduction to the chancel of frontals formed from existing fronts and backs of nave pews, which enable elements of the Gilbert Scott woodwork to be retained in a prominent position;
- (4) Proposals for relocation of some pews to the Essex Chapel;
- (5) The creation of a dado incorporating the carved pew ends.

44. As detailed above, these modifications have been supplied to and were recommended by the DAC on 18 November 2016 (subject to the proviso that the reintroduction of frontals should be fixed for stability but preferably demountable for flexibility). It is the modified version of proposals which is commented upon by the Victorian Society, Historic England and Watford Borough Council.

45. In January 2017, pursuant to a direction of the Chancellor seeking to understand more fully the fate of the church furniture in the re-ordering, a document entitled "*A summary of how the church seeks to mitigate the loss of the furnishings*" was supplied. Without reproducing the document in full here, the gist of it is that of the nave pews, only nine are to be made available for sale. The remainder are to be reused elsewhere in the church, either intact in a variety of locations (including the Essex Chapel and the entrance lobby),

or split and frontals used as dado panels, frontals and the carved ends reused. Of the chancel pews, all are either to be retained in situ or relocated (for example to the Haydon Chapel). Copies of Gilbert Scott pews elsewhere in the church and 20<sup>th</sup> century additions (and which have not been the focus of the consultees' concern) are to be sold or disposed of.

46. As regards further objections made by Historic England, Watford Borough Council and the Party Opponents (as detailed above), the parish's various responses may be drawn together here for convenience. In summary the parish has responded as follows:

- (1) The experience of experimental removal of choir pews under the Archdeacon's temporary licences has brought the chancel successfully back into regular use for smaller, intimate services;
- (2) There is no plan to resurface and cover Minton tiles in the chancel with wood (in respect of which there were concerns that the significance of the nave and chancel in relation to one another would be reversed). Rather they will be covered by tiling which will be patterned and coloured in keeping with retained screens and frontals;
- (3) The Petitioners have been alive to the need to retain significant elements of 19th century woodwork and as such propose the repurposing, relocation and reuse of significant elements;
- (4) The proposed releveling of the floor is necessary for access by those with impaired mobility. In the present arrangement such visitors are unable to access any of the east end of the church;
- (5) Access for those with impaired mobility is also impossible in the nave and aisle pews by reason of their raised wooden platforms. This would be dealt with by their replacement with the proposed Howe 40/4 wooden chairs;
- (6) An important point raised by the Victorian Society (and previously mentioned by the CBC) is the suggestion that there is no justification for the proposed modification of the chancel when there are two existing chapels suitable for smaller group worship already. In response to this point, the parish states that a focus for worship is

necessary in such situations. In the chancel, the reredos, frontal and east window provide such a focus. The Haydon Chapel cannot be adapted to provide such a focus because it has very large windows which make it impossible to do so. It is also commented that the character and location of the Haydon Chapel simply does not complement such worship, and on that point I am entirely guided by the users of the church. The Essex Chapel, which has been commented upon by the DAC as being very beautiful, suffers too from a problem of character – the space is described as low ceilinged and limited in space, dominated by family tombs and, as with the Haydon Chapel, lacking a focus for worship in a way that is not easy to remedy. As such it is a place that, whilst suitable for private prayer and worship, would be unsuitable, for example, for vulnerable members of society to join in intimate worship. I accept that these chapels are unsuitable alternatives to the chancel for the intimate services and small group worship that the church wishes to conduct;

- (7) As to concerns regarding relocation of the memorial ledgers, the parish comments that these pre-date the 1848 restoration of the church and there is nothing available to suggest that their present positions correspond to their original locations. Reassurance is given that an archaeologist will be on site at all times during excavation work.

The justification for carrying out the proposals and application of *Duffield* test to the facts

47. Reviewing this matter against the *Duffield* criteria I find as follows:

- (1) *Would the proposal result in harm to the significance of the church as a building of special architectural or historic interest?* The answer is yes and I cannot see any sensible departure from that view expressed anywhere in the documents before me.
- (2) Question (2) accordingly does not arise.
- (3) *If there would be harm to the significance of the church as a building of special architectural or historic interest, how serious would that harm be?* The harm has been assessed by consultees variously as “considerable”, “serious” and “to a high degree”. I agree with those assessments. This is principally because much of the

church's significance derives from the current ordering. That ordering is characteristically 19<sup>th</sup> century and is of historical note because it represents an early phase in the evolution of what was later to become the standard layout for Anglican parish churches. Although much of the 19<sup>th</sup> century furnishing will be retained or reused, it will not be retained in its current layout, or, necessarily, intact, therefore impacting seriously upon the existing character of the church. I have also benefited from the report of Dr Tracy whose assessment of the Victorian woodwork is that it is good quality early work by the important architect, Sir George Gilbert Scott, and he concludes that *"It is difficult to find other evidence for such an ambitious and complete set of Gothic parish church fittings by Scott at this early date."*

- (4) *How clear and convincing is the justification for carrying out the proposals?* I find the justification provided by the Petitioners to be compelling. The proposals have been in the pipeline for almost 10 years, carefully reviewed and modified on several occasions with an open mind by the Petitioners. They have expanded from the original more modest proposals but always with the same underlying purpose of providing flexibility of use, cohesion and modernity to enable the church to appeal to the current generation and the urban community it serves. The ability to do so is lacking in the existing constrained configuration, and the purposes the church has aimed for in seeking to change those constraints have never deviated. The constancy of the parish's objectives and the responsiveness of the Petitioners in compromising on areas where they could do so without losing sight of their objectives indicates the importance to the parish of the matters set out in the Statement of Need which have driven the Petition. The Petitioners have in my view shown that they and the PCC have thought out in detail the purposes the plans are to fulfil and I find those purposes amply justify the proposals: for an increase in the size of the worshipping congregation; to support a ministry delivering to a diverse urban community; for greater use of the church building in comfort and with proper accessibility which is not achievable without in the process significantly harming present features. Their responsive attitude to the objections and challenges that have quite properly been raised to the ambitious proposals has led to a future-looking compromise which also seeks to retain the interest and significance of its heritage.

(5) *In the light of the strong presumption against proposals which will adversely affect the special character of a listed building, will the benefit outweigh the harm?*

Despite the significance of the harm and the strong presumption that gives rise to, I am nevertheless satisfied that the Petitioners have established a real need for accessible, welcoming space and for the ability to use such space flexibly which outweighs the negative consequences. They have demonstrated that the existing arrangement of the interior of the church requires a bold reordering in order to achieve accessibility across the broad strata of the community it serves. The means by which they have done so I have already noted elsewhere. In particular:

- (a) Many of the church's key activities involve the use of the main church building and are unsuitable to be held in the church centre. I accept that large numbers of people attend some church events and that many find the existing arrangements off-putting and uncomfortable to use;
- (b) I accept the Petitioners' evidence that the present rigidity means that there is no scope for using the church for different forms of worship nor for flexible musical formats, such as might well take place were the space more accommodating. I am satisfied that the current heavily pewed layout of the church poses significant drawbacks to the achievement of the objectives described in the Statement of Needs;
- (c) The current position is that the church cannot readily and comfortably be used for anything other than traditional format worship with the congregation seated in rigid rows, and even that is complained about by the church users because the pews are unforgiving for any length of sitting and unsuited to the modern community;
- (d) Whilst I accept that the ways in which the parish seeks to mitigate the loss of the Victorian woodwork do not retain the order and structure of the existing arrangement of pews and I further accept that it is in part that arrangement which contributes to the significance of the church, nonetheless the plans for mitigation do ensure retention of very interesting aspects of the existing woodwork. The approach works towards cohesion of past and present within the church. Far from creating a featureless, modern vacuum within a medieval shell, the proposals retain character by the retention of specific furnishing details which reference the work of previous times and which are

relatable and interesting to modern churchgoers, albeit they are not those features deriving from form and arrangement;

- (e) I am also satisfied that, contrary to the views of the Party Opponent, the features of the Haydon and Essex chapels, in particular the irremediable lack of a suitable focus in the Haydon Chapel and its unsuitable location within the church and the restricted character of the Essex Chapel housing family tombs, together the Petitioners' (as users, best placed to evidence this) views as to the atmosphere and character of those spaces, make them unsuitable for the further development of intimate worship at the church, which is important to its mission. As such the church has lacked such a space. The chancel, meanwhile, has lacked a purpose and presents well in terms of suitable focus and location within the church. The experiment conducted in the chancel following the two Archdeacon's licences appears to have proven successful as to its use, and this space, suitably cleared and modernised in accordance with the proposals, will provide what the church has lacked for intimate worship space in a suitable location;
- (f) I also regard the lack of accessibility and flow for mobility impaired visitors (for example to the nave and aisle pews and to the east end of the church) as a further, very important factor, which requires significant change in order to address it.

48. The foregoing matters indicate to me that the balance in this case is tipped clearly in favour of allowing the proposals, despite the harm that will be done to the significance of the church by doing so. Having considered them in detail, I believe that the appropriate course in this case is to allow the proposals in full and without modification. As has been noted by objectors, including Historic England and Watford Borough Council, the achievement of the Petitioners' objectives depends on the integrity of the proposed scheme as a whole, and a piecemeal approach would not work. Indeed a less ambitious scheme might do harm of a different kind to the church – namely potentially detracting from the features which currently exist, whilst simultaneously failing fully to achieve the objectives of the Petitioners. For example, it is highlighted in the Statement of Needs- and I agree- that if the nave pews were to be replaced by flexible seating but the chancel pews were retained in situ, the disparity would further fuel the unattractive contrast between

those areas and provide even less incentive to tap into the chancel's potential as a worship and music space.

### Conclusion

49. In all of the circumstances I am satisfied that this is an exceptional case where the mismatch between the existing layout and furnishings of the church and the requirements of the community it serves is extreme. If I left matters as they stand, or agreed to only limited changes, I would be preventing the parish from developing its mission in expanding the congregation and reaching out to that modern, urban local community. I respect the views of the objectors and I am grateful for the detailed, thoughtful and balanced way in which they have expressed their concerns and objections. However on the evidence before me I do not believe that a piecemeal or partial reorganisation would answer the needs the parish has identified and I accept that the problems identified by the parish in the Statement of Need and responses made in these proceedings are a real and significant impediment to the development of the church's mission in the local community. To grant the petition is to give the church an opportunity to move forward in an environment both well suited to the location of the church and attractive across the full spectrum of the community. Accordingly the proposals set out in the petition and accompanying plans and notes, and subsequently modified, as recommended by the DAC on 18 November 2016 (in modified form) shall be permitted.

50. No adverse costs fall to be borne by the Victorian Society because they have properly raised difficult and important points, echoed by others who did not become Party Opponents, which have influenced the proposals in a positive way. In accordance with the usual practice, the Petitioners will be responsible for meeting the Court's costs.

LYNDSEY DE MESTRE

DEPUTY CHANCELLOR

14 JULY 2017