

**IN THE CONSISTORY COURT OF
THE DIOCESE OF GUILDFORD**

Date: 21 June 2023

**IN THE PARISH OF WESCOTT
THE CHURCH OF HOLY TRINITY**

In the matter of a petition for a faculty for the internal re-ordering of the worship space by removing the remaining pews in the nave and replacing with chairs and to modify and restore the floor to create a single level worship space across the main body of the church.

JUDGMENT

1. Holy Trinity Church is a grade II* listed parish church built in 1852 in the Surrey Hills on the Wotton Estate near Dorking. Pevsner described it as the “Surrey Style” with flint walls and a shingled bell tower. Designed by leading Victorian architect Sir George Gilbert Scott, famous for his work in the Gothic Revival, he added a south aisle in 1855.
2. The recently discovered 1880 faculty shows the construction of the vestry on the south side of the church (completed at the turn of the century) and a significant reworking and retiling of the chancel, refurnishing with new stalls and desks, a new pulpit and lectern, and the relocation of the organ. This took place after Scott’s death.
3. A Lady chapel was created in 1936 by removal of seating. A new organ was installed in 1958 and a north porch was enclosed by new oak doors in 2000. In 2002 the south aisle pews were replaced by chairs while a creche room was enclosed at the west end in 2004. Originally highly decorated its chancel walls are now white. It has some notable windows and some 20th century memorials.
4. The parish has an electoral roll of 200 and a worshipping community of 100 mainly at two Sunday services. It presently has limited facilities to support other mission activities. Previous removal of pews from the south aisle has allowed chairs to be arranged informally in that area. Audio visual and lighting is used for some services, lectures and meetings.
5. The petitioners contend that the future of the church depends on providing more than traditional pew-based Sunday services. It needs to be usable for the local school, flexible for different styles of worship, useful and engaging for the local community and

accessible to a wider range of people. A faculty has been approved for an accessible toilet and there are plans for a small kitchen. The petitioners contend that the proposal for re-ordering is to ensure delivery of the vision priorities of Discipleship, Community and Children & Families.

6. The PCC and the then incumbent Reverend Alan Jonas were granted authority to carry out a scheme of temporary minor re-ordering by the Archdeacon on 12 May 2021. The licence noted:

The pews are freestanding on a raised wooden floor. They are attached to the floor with two L shaped metal brackets to prevent them slipping/toppling. Removal involves taking out four screws from each bracket/pew. They have been removed to allow chairs to be used for flexibility with social distancing. The pews are currently in the creche room in church but will be moved to St John's Chapel (owned by the church) for storage.

The Petition

7. By a petition dated 17 August 2022 the petitioners applied for a faculty:

To remove the remaining pews in the nave and replace with chairs.

To modify and restore the floor to create a single level worship space across the main body of the church.

8. The works are estimated to cost £40,000 and predicted to take 4 weeks. At a PCC Meeting on 21 May 2021 the reordering plans were approved by a majority of 13 to 1. The petitioners completed a net zero checklist in compiling their proposals. The Diocesan Advisory Committee approved the proposals on 4 August 2022. The petitioners' insurance company have been notified of the works. This petition is from the two churchwardens as the church is currently in vacancy.
9. The proposal is for 19 pews to be removed. The petitioners have expressions of interest in 10 of them from the congregation, with one to be kept as an example of the historic seating. They had proposed to sell the remainder, but initial enquiries suggest that there is no real market for them. They propose to purchase 120 chairs to replace and improve the capacity of the pews. These would supplement existing Chapel chairs which were introduced in about 2003.

The Pews and Floor

10. The pews in the chancel are oak and the petitioners accept they are of architectural interest and so are to be retained. The nave contains some original pews and pew

platforms which probably date from the earliest days of the church. They are certainly shown in pictures from 1906. Below the pew platforms and pine floor the original church floor is of red and black tiles laid to repeating patterns.

11. The original pew seating were benches which were rented. More pew benches and chairs were added in 1855. Some pews dating from 1852 are in the north nave with a shelf for books, tongue and groove back and panelled ends.
12. Some pews from 1855 are finished properly and adapted to be more comfortable. Other pews are plain with the ends facing the walls unfinished. Some pews have been moved or adapted as a result of the various changes to the building.
13. The petition proposes to remove the dark stained pine pews and expose some of the original tiled floor. The petitioners contend that these pews are plain and functional for maximum occupancy and have been adapted throughout the church's history. They say that the proposed replacement chairs are elegant, ergonomic and practical - winning a Church of England "Design a Chair" competition. They will create a lighter and welcoming worship space, saying that pews are uncomfortable and therefore unwelcoming.

Statement of Needs

14. The petitioners say that their most pressing need is to permit people to participate in a wider range of worship and other activities. They seek to raise the floor level of the nave to maximise the useable level floor area of the church allowing greater flexibility and inclusivity.
15. The welcome area, which is one step down from the main area also needs consideration to improve the flow of users into the building. This will be achieved by removing a small section of the pew platform and relocating one radiator. They propose to restore the timber floor and adjust edges and trims, revealing the original tiles at the back of the middle aisle.
16. They propose not to remove the existing raised floor completely as it would be more expensive, remove important insulation, require ramps to the Lady chapel and vestry and require the rerouting of large cast iron heating pipes.
17. The petitioners want to create a large community space for the church and the village. The pandemic showed the need for flexible seating to accommodate social distancing. Since the licence for the temporary removal of the pews in 2021, the parish have had flexibility for concerts, events seated at tables, workshops, and other "café" style activities which need flexible seating/tables. They held a Christmas fair.

18. After the proposed reordering, they wish to lay out services in the round, have Messy Church, café style worship, Alpha and inclusive worship where wheelchair users and pushchairs are not restricted to the south aisle (identified in their accessibility audit).
19. They also note that the current worship space is disjointed. Families sit in the comfortable seating in the south aisle and few people choose to sit in the 'uncomfortable' nave pews so there is a problematic distance between the celebrant and the congregation. The local primary school would use the church if it was reordered.
20. The petitioners seek to introduce the award winning wooden "Theo" chair, which is ergonomic, light and stacks well and use their existing Chapel chairs (with padding and kneelers) down either side of the main aisle to de-lineate it. They have considered sustainability in the proposals and have plans for funding.

Consultation Responses

21. The amenity societies initial responses in early 2022 resulted in revised statements of significance and needs, an access audit and further comments. Historic England made no comments. The Victorian Society's response on 7 April 2022 noted that the church is a 'listed building of great character and charm, designed and expanded by one of the most distinguished architects in British history' and the pews, although plain, were original with historical significance. Its objection is that 'well preserved Scott interiors are increasingly rare' and it wished to preserve the pews for heritage reasons.
22. Unfortunately, the parish response to the Church Buildings Council in March 2022 was not sent and when this came to light in October 2022, the Registry ensured that the CBC was sent the original response and given an opportunity to comment. In a letter dated 14 November 2022 the CBC commented that the revised proposals did not justify the removal of all of the pews resulting in further details of the justification being provided by the petitioners.
23. The petitioners responded that although the space is adequate for traditional Sunday worship in pews, the parish needed to expand new forms of worship in line with national and diocesan visions which require the reordering as explained above.
24. The CBC also commented on the proposal to cover heating radiator pipes with grilles, so they produce some indirect additional heat to the church. It suggested a ramp from the welcome area to the proposed timber floor was required for full circulation. The parish agreed the CBC's proposal that at least 10% of the chairs should include arms and it should make provision for storage on bespoke trolleys.
25. In an email dated 1 December 2022, the CBC confirmed that it was satisfied by the parish's answers about the proposed replacement chairs and the effect on the heating

pipes. It was content to defer to the judgement of the architect and DAC on the necessity, or not, of a ramp to ensure accessible circulation around the building. It thanked the parish for the additional information. It did not object to the principle of the removal of the nave pews if there was clear and convincing justification, but remained concerned that the parish's proposals were more aspirational than evidence based. On 14 December 2022 it confirmed that it had no further comments on the proposals.

Formal Objection

26. On 16 December 2022 the Victorian Society served a Form 5 objection to the removal of the pews and the covering of the central nave aisle with a raised floor concealing the Gilbert Scott tilework. It suggested an alternative – essentially the limited removal of some pews. The Society contended that the church with pews preserves the inherent spirit, coherence and integrity of Scott following his remodelling of the building in the mid-1850s which has not been lost by changes over the last century.
27. The Society noted that the original Scott tiles extend down the length of the nave and are partially hidden beneath the existing pew platforms. The tiles articulate the emphasis on the chancel and the nave as a processional route within the church with theological significance. Their loss, even if temporary, would be a significant loss. The Society said that the south aisle is currently accessible and it doubted the need for the whole church to be accessible and used flexibly for modern services, concerts, meetings, etc. It contended that such uses will be occasional or rare. It challenged the assumption that pews are unattractive and uncomfortable. It highlights the lack of uniformity of mixed chairs – the new Theo chairs mixed with existing Chapel chairs to mark the central aisle.
28. The petitioners' Form 6 dated 5 January 2023 noted the agreement that the nave pews are plain, that the proposal to cover the nave aisle is “temporary” in the sense that it is “unlikely to be irreversible” and will preserve the historic fabric of the floor and that accessibility is of central importance.
29. The petitioners challenge the contention that original Scott interiors are ‘rare’ pointing to the large number of them listed in the Historic England database. They challenge that Scott was involved in the pews saying that it was likely to be Victorian pragmatism to adapt the church to the (then) modern needs and their choice was probably influenced by budgetary rather than architectural choices. They point out that Scott used chairs in some of his other churches.
30. They quote Scott as saying of his approach that it was “free, comprehensive and practical, ready to adapt itself to every change in the habits of society, to embrace every new material or system of construction, and to adopt implicitly and naturally, and with hearty good will, every invention or improvement, whether artistic, constructional, or

directed to the increase of comfort and convenience.”

31. The petitioners refer to various advantages to the congregation and community of the flexibility permitted by the Archdeacon’s licence. They highlight the increase in the use of the church by the primary school, with new worshippers at special Harvest, Carol and Christingle services, designed with school families in mind which takes advantage of the flexible space.
32. The petitioners use published ergonomic principles to show the discomfort of pews - a recommended seat depth of 16” - 18” compared to the “insufficient” pew depth of 13” coupled with the recommendation of a backward sloping seat base of 5-8 degrees compared to the flat pew. They note that the pew backrest is effectively angled forward 5 degrees due to the top rail.
33. They note that the Victorian Society is the only amenity society to object and that there has been no objection from members of the congregation or public.
34. I gave directions in early 2023. I invited the parties to hold an informal meeting to discuss the proposals, to investigate areas of common ground or possible compromise; to take steps to identify the issues so that they can produce a joint list of what matters are agreed or disputed; and to agree any proposed directions for the matters in dispute to be determined.
35. On 16 February 2023 the petitioners sent the Society new information revealing the 1880 faculty pointing out that it was not a complete Scott church and interior as previously understood. In March 2023 the Society withdrew as a party opponent to this petition on this basis, which I am satisfied was entirely reasonable.
36. In those circumstances a hearing to determine this petition was unnecessary. The Society made no claim for costs despite raising concerns about the late discovery of the 1880 faculty which was omitted from the Statement of Significance. I note the Society’s complaint that it has been put to significant time and cost in responding to a petition on an incorrect basis and its concern that the Society may have been viewed by the petitioners and even the DAC as an ‘obstacle’. As there are no issues for me to decide it would not be appropriate or helpful for me to comment further.
37. In short, the Society maintained that the removal of the pews and partial concealment of the tiled floor surface would still ‘strike at the heart of the building’s core significance’ despite it not being an original complete Scott interior. The Society maintained its objections on paper and asked me to take it into account in my determination which I do.

38. Over Easter I considered whether a visit was necessary for the proper determination, but the photographs, plans and other illustrations mean that I am satisfied that I have sufficient to determine the petition.
39. I have taken some time to go through all the material very carefully as I recognise that there are strong representations that the petition involves the loss of historic Victorian pews and on the other hand there is a strong representation that substantial change is necessary for the future mission of this church. Carrying out that detailed assessment has taken a substantial time and I apologise to the petitioners for the delay in issuing this judgment.

Discussion

40. *In re St Alkmund, Duffield* [2013] Fam 158, the Court of Arches put forward 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 , 26–28, and the review of the case law by Bursell QC, Ch in *In re St Mary's Churchyard, White Waltham (No 2)* [2010] Fam 146 , 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 *In re St Luke the Evangelist, Maidstone* [1995] Fam 1, 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 I or II*, where serious harm should only exceptionally be allowed.”

41. When considering the *Duffield* questions:

a. I have identified the special architectural or historic interest of the church as a

listed Gilbert Scott church and the character of those interests. Although it is not a church with a very high level of architectural or heritage interest, it is still significant.

- b. In my view the proposals would result in a medium level of harm to the significance of the church as a building of architectural or historic interest. The removal of the pews would be a major change to the overall interior. I do not assess the harm as being of a particularly serious nature in the context of the building as a whole as these are changes to the furniture of the church rather than its construction and there have been many other changes made to it over the decades so that it is not preserved in its historical form.
- c. In my judgment there is clear justification for carrying out these proposals. There is a need for flexibility in the modern use of the church building for the worshipping congregation and so that it is used by the community.
- d. I take into account the public benefit and particularly the opportunities for mission and putting the church to viable uses that are consistent with its role as a place of worship and mission.

42. I bear in mind the strong presumption against any proposals which will adversely affect the special character of a listed building and so it seems to me that there must be a substantial public benefit and opportunities for mission resulting from these proposals which outweigh the level of harm to a listed building.

43. I do not accept the suggestion that these original pews are plain, functional and of no real architectural interest. Although they may or may not have been part of Scott's original vision, they are likely to have been an important part of the heritage of the church for over 100 years. I do not accept that pews are unwelcoming because they are always uncomfortable. Although pews are not naturally ergonomic and may lack the comfort of a modern chair design, they are still a much-valued feature of many Victorian churches and should not be disposed of lightly. Pews are often seen by many as an integral part of a church and can provide a good capacity for seating. However, I do accept that the parish has the specific vision to develop 'Community' and 'Children & Families' and that the proposals are necessary to enable this. Without a flexible main space there is a much-reduced community use and a real problem engaging with children and families.

44. I am satisfied that these proposals will ensure worship is more inclusive as wheelchair users or those with children in pushchairs cannot at the moment access the central area. There is good evidence from the few months of the temporary re-ordering that the church can have services, including significant ones, where disabled people have been accommodated in the main body of the church. I note that it has enabled events which used the whole of the church. The petitioners have been able to lay out chairs in different arrangements. There will be substantial public benefit and opportunities for mission as

a flexible space in the nave of this church will be one of the largest spaces available in the village and is likely to bring the community into the building.

45. I agree with the petitioners that the alternative approach of reductions and modifications to the pews to improve accessibility and to mix pews with chairs would be in danger of making the interior more incoherent rather than improving on the proposed aesthetic. I accept that the proposal retains the visual cues of an aisle leading towards the altar with a significant amount of original red and black tiling visible at the rear of the nave.
46. I have considered the CBC guidance on chairs and consider that the new Theo chairs meet the CBC advice to use of high-quality wooden chairs. Wooden chairs have the greatest sympathy with historic church environments, present the best value for money with long lifespans, and that a well-designed, ergonomic wooden chair can provide as much comfort as an upholstered design.
47. In those circumstances I grant the petition for a faculty as sought. The works must be completed within 18 months.
48. Due to the delay since Easter in my completing this judgment (for which I apologise) I waive the usual fees for a faculty judgment. However, the Registry has been heavily involved in ensuring that there was proper communication and consultation with the amenity societies in late 2022 and early 2023, which has resulted in some legal costs which must be paid by the petitioners as a condition of the faculty.

Andrew Burns KC

Chancellor

21 June 2023