

Neutral Citation Number: [2020] ECC Swk 3

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

IN THE MATTER OF THE CHURCH OF THE ASCENSION, BLACKHEATH

AND IN THE MATTER OF A PETITION BY THE REVEREND ANNE BENNETT, MS
BRIDGET KNAPPER AND MR TERRY COX

JUDGMENT

Introduction

1. This is the Petition of the Revd Anne Bennett, Ms Bridget Knapper and Mr Terry Cox, the Team Vicar and Churchwardens, respectively, of the Church of the Ascension, Blackheath. By it they seek permission to re-order the interior of the church, including the creation of a narthex at the west end. More particularly, as described in the petition, the works for which permission is sought are as follows:

Removal of the fixed pews and pew platforms within the Nave; introduction of new chairs (total of 150); construction of a new timber floor in the centre, with re-used and additional stone paving at the edges; introduction of a new kitchenette facility in the South-West corner of the Nave; replacement of gas heaters with flat panel radiators, and introduction of new boiler(s) with new flue(s) at the West end; insertion of new toilet cubicle on the ground floor (at the base of the South-West corner staircase); refurbishment of existing toilets area including new boiler; creation of a Narthex area at the west end of the Nave, by inserting timber-framed glass partitions and doors; creation of a new doorway from the North-West staircase/entrance lobby into the Narthex area; new wooden fixed storage / furniture / noticeboards; relocation of the Font at the West end; redecoration of the interior; replacement of the audio-visual system (PA system, induction loop, and moveable LED monitor screen(s) on mobile stand(s)).

2. The final decision on the type of chair to be installed has yet to be made and, if a faculty issues, would appropriately be a matter to be addressed by a condition. The part of the works that are controversial are the removal of the pews and the installation of the new timber floor. More particularly, the works to create the narthex have evidently been carefully designed to respect the existing building and have attracted no objections; the need to move the font arises from the creation of the narthex. It remains at the west end of the church, near the principal door of the church.

3. The proposal is to remove all the pews and pew platforms and dispose of them, replacing them with chairs. The original proposal was to lay a new wooden floor over the existing floor i.e the floor of the interior of the building would comprise a single wooden floor¹. This proposal was then modified so that the new wooden floor would be reduced in size, and a new stone floor laid to form a margin around it. Some of the existing stone floor could be re-laid for this purpose, depending on its condition, and, more

¹ The DAC thought that the large expanse created by the installation of a single wooden floor would give the inside of the church something of the feeling of sports hall, which it considered inappropriate.

specifically, the patterned flagstones forming it would be used to extend the patterned area at the east end of the central aisle².

The Church of the Ascension

4. The Church of the Ascension, Dartmouth Row, Blackheath has an interesting history and the building has changed substantially over the years. The story begins in 1697 when Susanna Grahme built a proprietary chapel called the Dartmouth Chapel to serve this part of the parish of Lewisham (the parish church of St Mary is more than a mile away at the bottom of the hill³). Susanna was the aunt of the first Earl of Dartmouth, who was Lord of the Manor of Lewisham and lived at Dartmouth House, Blackheath. The church was then rebuilt in 1750 at the cost of the second Earl. It was rebuilt again in 1838 – 1839⁴ at the cost of the fourth Earl. The east end survived; an attractive arrangement of columns supporting what the listing describes as a *coffered semi-dome*⁵. At the time of this rebuilding, it seems likely that the church would have been fitted with box pews in familiar Georgian style; it was certainly fitted with galleries. In 1885, the box pews (or whatever were the earlier seating arrangements) were replaced with the current pews. These sat in four blocks, two either side of a central aisle, each on a wooden platform⁶. Subject to this the floor is mostly of plain flagstones; the central aisle and an area at the east end of the central aisle employs a simple and restrained squared pattern. It is likely that they date from the 1838 - 1839 re-building, or largely so.

5. The church was hit by a flying bomb in July 1944 and badly damaged, although it seems that the pews survived. It was restored but the side galleries were removed. The pre-war stained glass was entirely lost and replaced by plain glass. In 1968 there was a minor re-ordering by which the sanctuary was extended a short distance into the nave and the choir stalls were removed.

6. As is the form, the listing description describes first the exterior of the building and then the interior, followed by an identification of the principal fixtures. The pews are identified as one of the principal fixtures and the listing points out that they still bear their brass numbers. The principal reasons for it being designated at Grade II* are as follows:

It is of considerable interest as a remarkably elegant classical Anglican chapel of the 1830s and which probably incorporates part of the structure of its 18th-century predecessor at the E end. The church has an unusual history, dating back to the late C17. It has strong Group Value with its flanking houses.

7. The Statement of Significance identifies the significance of the pews as being low/moderate. Their intrinsic significance is not a matter in dispute; I consider below whether the form of the pews gives them significance.

8. The Statement of Significance points out that the stone flooring is not in good condition and overall assesses it as being of low significance. I shall consider the correctness of this assessment in due course.

Consultation

² For a description of the existing stone floor see paragraph 4 below. In theory the works would be reversible. It is however difficult to imagine circumstances in which anyone might wish to restore the floor after it had been re-used in this way and the work involved in piecing it back together again would be considerable.

³ Making it easier to get to church, but less easy coming back.

⁴ The Royal Commission on Historic Monuments has 1834 but the latter date, which is adopted in Pevsner and Cherry *The Buildings of England, London 2: South* (1983), seems to reflect contemporary documentary evidence.

⁵ *A Short History of the Church of the Ascension, Blackheath* (2012) says that this work did not affect the form of the sanctuary. The plasterwork of the sanctuary may originally have been made by one of the plasterers who was working at the time at Greenwich Hospital. However this may be, the listing does not support the proposition that any work from the seventeenth century survives.

⁶ The side pews are slightly shorter than the pews on the central aisle.

9. The London Borough of Lewisham, through its Senior Conservation Officer, expressed the following view:

I have had a look at the proposals and consider that they are well thought through, fully justified and will not harm the significance of the listed building.

10. Historic England were consulted at the time that the proposals were first considered. At that stage it expressed reservations about the removal of the pews. Some changes were made which it has welcomed. However, it remains concerned about the removal of the pews and the treatment of the floor. These concerns are set out in a letter dated 19 September 2019.

11. As regards the pews, Historic England said:

Whilst the pews may not be considered of great artistic merit individually, the ensemble provides a formal quality to the church's internal character that, when combined with the ledger stone flooring, helps to frame and draw the viewer's eye to the central decorative apse at the east end. As such, the pews and stone flooring do contribute to the overall character of the church. Removing these features that likely date to the Victorian reordering would erode an important phase of the building's evolution, severely altering the historic character of this interior, which would be harmful to the significance of the building.

The Statement of Need does present a vision for the church, which we acknowledge to instigate would require some increased internal flexibility. In our previous letter, we were open to exploring the option to make the pews moveable or otherwise adapted to improve their flexibility and enable imaginative reuse within the PCC's vision, which unfortunately does not appear to have been seriously considered. Furthermore, it is disappointing that no pews are proposed to be retained as examples for future reference, which could easily be accommodated against the side walls. We therefore are unconvinced that the harm has been sufficiently mitigated or minimised.

12. As regards the floor, it said:

The flagstone flooring which survives to the western end of the church and down the main aisle of the church signifies the traditional processional route through the church to the chancel and therefore contributes to the church's internal character. The plainer stone flooring to the aisles also retains evidence of the support foundations of the north and south galleries, this provides an evidential link of the building's original layout and therefore is not without some significance. The historic flooring should be retained.

The replacement of the stone flooring with a mix of sprung hardwood and Yorkstone paving would be a major intervention that would heavily contrast and disrupt the harmony of the Church's interior character, which in our view causes unnecessary harm. Should the PCC decide to retain the existing flagstone flooring to the central and side aisles, and install new flooring, where the pew platforms currently reside, that better complements the existing floor, we would not raise an objection.

13. The Georgian Group wrote:

The Committee felt that the nave paving is of some quality and represents an important aspect of the historical development of the Church. The Committee felt strongly that the surviving paving and slabs, between the pew platforms, should be retained in any proposed scheme.

14. The Church Buildings Council was supportive of the proposals but did query whether it might be possible to preserve the flagstones forming the central aisle.

15. The Victorian Society did not wish to comment.

16. Neither Historic England nor the Georgian Group wished to become parties opponent.

Public benefit

17. There are areas of great wealth within the parish and also areas of deprivation. No one social group predominates and the ages of members of the congregation range from infants to 90 year olds. The church is a lively one and as well as the main Sunday service, there is a weekly mid-week communion and Messy Church once a month. Once a month there is an open table holy communion, a fresh expression of church for LGBTQIA+ people. There is a supportive group of "Friends of the Church". The church is used by the Trinity Laban Conservatoire of Music and Dance; by Guides and Brownies; by a Steiner nursery and playgroup; for a monthly community lunch; and a community group each Friday

18. The substitution of chairs for pews would greatly facilitate access for those whose mobility is impaired. Ms Bennett feels strongly from her experience that the current arrangements send the wrong message about the inclusivity of the church (or its lack of it). The Victorian pews are not in themselves of great significance and look tired and scuffed. They inhibit flexible use of the interior of the church. This impacts on the way that the church is used for worship; for church related uses (meetings); and on secular uses (eg concerts or a book sale). Ms Bennett wants to see the church become the hub of the community. The narthex, the redecoration, the new heating, the new kitchen area and the new toilets, together with the provision of a new floor and chairs, will transform the church for the better.

Consideration

19. It seems to me that the case presented as to the need for these proposals and the public benefit that they will provide is a strong and convincing one; and it is not challenged by Historic England or the Georgian Group. I note also the endorsement that the proposals have received from the Conservation Officer of the local planning authority. Her views have informed my assessment of the proposals and it will be seen that that conclusion is broadly the same as mine.

20. I do specifically comment on the point made by the Petitioners as to the improvement made for those whose mobility is impaired. There may be some situations involving historic buildings where compromises have to be made because of the constraints that those buildings give rise to. It seems to me that it would be unfortunate however if in carrying out works of the scale and kind here proposed it was not possible to make proper provision for those whose mobility is impaired; and I am glad to say that it seems to me that in the present case it will be possible to make such provision.

21. Historic England suggest that the pews have historical value, bearing witness to a phase in the church's evolution. This is undoubtedly true and is generally a point that can be made about any historic object. However, it seems to me that, realistically, this is one of those cases where there is objection not to the loss of the pews themselves (which, of themselves are of low significance) but to the particular form that they give to the interior; and to a perception that the provision of chairs in place of the pews would not replicate that form.

22. It is possible that the existing pews could be detached from the pew platform and made moveable; rather than do this with undistinguished and worn seating, it would be better for new benches to be provided⁷. If such an option were pursued, I think that, if the benches were generally left in the configuration that the pews now have, then from a visual point of view, the end result would be better than any configuration of chairs. But benches would be less flexible than chairs and, as the DAC point out, there would be issues about storage. I think that this is a case where the need for the flexibility provided by chairs clearly outweighs the visual loss (which I would assess generally as being moderate) resulting from the pews not being retained or not replaced by benches. It is certainly important that a high quality chair be provided (such as, is currently envisaged, a Howe 40/4). Sometimes in an historic church there may be some benefit arising from the creation of a cleared space; I am unconvinced that

⁷ The only potential disadvantage being cost.

such a benefit would arise here, the space being a large one and not broken up by columns or monuments. This suggests that from a listed buildings point of view that it would be best if, when the church was not being used for anything else, the chairs should be laid out in rows in a traditional format. I think that this would indeed be the case, and I have, accordingly, considered whether I ought to make laying out the chairs in this way a condition of the faculty. I appreciate that it would not, in practice, be enforceable but I know also that, if I did impose such a condition, the Team Vicar and Churchwardens would loyally try to see that it was observed. However, in practice, I think that the imposition of such a condition might well have the effect of inhibiting the flexibility that the provision of chairs is designed to achieve. I think that ultimately what is most important is that the scope for a traditional layout is preserved. After all, if the vision of the Petitioners is fulfilled and the church is used more for concerts and similar events, the traditional layout will be adopted quite frequently.

23. I turn to consider the proposals as regards the flooring. As regards church floors, the Church Buildings Council and SPAB have jointly prepared an *Historic Floors Guidance Note* (2017). This generally emphasises the importance of church floors: *the collection of surfaces accumulated over time [which] all contribute to the character and significance of a church*. The floor in the present case speaks only of one period and is of no artistic merit and I agree with the *Statement of Significance* that it is of low intrinsic significance. This said, it is part of the historic fabric of the church, and there is no reason to change it without a reason. Under the proposals much of it will indeed be preserved – on either side of the new wooden floor and at the east and west ends of the church. What will be lost is the paving of the central aisle. However in this regard I do take Ms Bennett’s point that, if it were preserved, it would read oddly with the use of the central space and, more particularly, when, as is planned, the congregation would gather round a Holy Table positioned in the Nave. This is illustrated by a series of helpful plans prepared by the Petitioners’ Architects. It is readily possible to imagine a situation where the central aisle was made up of eg Victorian tiles of some quality. If this were the case, I think it would be necessary for the Petitioners to “put up” with any incongruity in the arrangements; although the effect of that incongruity would be lessened by it being obvious why the aisle was being preserved. However the facts of the present case are different and I think that the case for losing the central aisle is made out.

24. A question arises as to what is to happen to the pulpit and lectern. The pulpit is identified in the listing as a plain pulpit dating from the 18th century⁸. There is no certainty that it was originally installed in the church but it is likely that it is part of the original three-decker pulpit, cut down in 1883. The wooden lectern in the form of an eagle (which is a fine example of the type) was given to the church by the Revd Henry Legge who was brother of the fourth Earl of Dartmouth and Vicar of Lewisham between 1831 – 1879. The DAC advise that both pulpit and lectern should be retained in the church because of their historical associations and I agree. It is proposed that the pulpit should be mounted on castors and this seems sensible. This all said, the pulpit and lectern are essentially redundant in terms of current liturgical use. Ms Bennett has a thought that the pulpit might be the focus of a “children’s corner” within the church but I have some doubts about the practicality of this. One knows from experience that potentially unused (I hope not unloved) items of this kind can suffer and ultimately not survive. All I can do in the present case is to **require** the pulpit and lectern to be retained and **encourage** the Petitioners and PCC to look after them.

25. Overall, for the reasons set out above, I think that the case for the proposals is made out and, more particularly, that the pews may be replaced by chairs and that the central aisle need not be retained. It will be seen that in paragraphs 19 to 24 above, I have been carrying out the sort of balancing exercise envisaged by the guidance given in the *Duffield*⁹ case. It is however appropriate that I should specifically address the *Duffield* questions.

⁸ The listing also identifies the pulpit as one of the principal fixtures.

⁹ See *In re St Alkmund, Duffield* [2013] Fam 158.

1. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?

26. I consider that the answer to this question is “Yes”, albeit I think that, overall, the proposals will be beneficial, as well as helping to ensure that the building continues in existing use. As regards the pews, that harm is not the loss of the pews themselves but of the form they give to the seating in the church. The loss of the central aisle must also be viewed as harm as involving loss of historic fabric which is of some significance, albeit of low significance.

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.

27. By reason of my answer to question 1, questions 3, 4 and 5 do arise.

3. If the answer to question (1) is “yes”, how serious¹⁰ would the harm be?

28. As set out above, I think that the loss of the pews will cause moderate harm. The replacement of the pews by chairs rather than benches will mean that the seating arrangements will not always (perhaps not usually) replicate the formal rows of chairs but it will always be possible for the chairs to be formally laid out in rows. It seems to me that it is difficult to put any precise weight upon harm of this kind but, of its nature, it is not the highest kind of harm (and necessarily not as great as if pews of intrinsic value were being lost). The loss of the stones forming the central aisle will not in my judgment amount to serious harm.

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

29. There is a clear and convincing justification for carrying out the proposals. Moreover the public benefit secured could not be achieved if a more limited proposal were pursued¹¹ or if I were to seek to require the provision of benches instead of chairs.

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.

30. In this case the harm is not serious and the public benefit is considerable. It is appropriate that a faculty should issue.

Conditions

¹⁰ On the meaning of *serious*, see my judgment in *In re St John's Church, Waterloo*, recently re-iterated in *In re St Mary's Church, Oxted* [2020] ECC Swk 2.

¹¹ See *In re St Michael, Llanybodwel* [2019] ECC Lic 6.

31. If room can be found within the building for the retention of one or two pews (the retention of more would not be feasible) that would provide an interesting link with the past. Accordingly I make the retention of two pews a condition of the faculty. If the condition proves difficult to achieve (as it may be), the Petitioners should make a further application to the Court. The pulpit and lectern are to be retained within the church. Details of the proposed replacement chairs are to be agreed with the DAC. Details of the existing floor shall be carefully recorded and a copy supplied to the CBC and the London Metropolitan Archive. The detailed specification and schedule of works is to be agreed with the DAC. Without prejudice to the generality of this requirement, the specification is to include details of the narthex screen, the floor construction and the heating system. The colours for the redecoration scheme are to be agreed on site with the Archdeacon and a representative of the DAC. In the event of disagreement arising under these conditions, the matter is to be referred back to the Court. The work is to be completed to the reasonable satisfaction of the church's Inspecting Architect. This faculty is for the works as described in the petition and separate permission should be sought for any additional works.

Concluding remarks

32. There are churches – quite often indeed Georgian churches – which come to be described as “jewels” and which are not readily susceptible to adaptation to enable them to be used better for modern liturgy or for secular purposes. These churches have a particular value all of their own and if they are to continue in use as churches (as one hopes) it is necessary to build on what in narrow terms may be seen as disadvantages (eg box pews) but which, viewing the position more widely, may be considered advantages. The Ascension, Blackheath is not in this category. It is what may broadly be described as an attractive Georgian church, but in its current form it is very different to the church that the Georgians (or early Victorians) would have known. Fortuitously, the survival of the east end, the loss of the galleries and the substitution of plain glass for stained glass after the bombing has produced a very attractive church. But it is not so intrinsically important that it cannot be altered. This said, in my judgment I have recognised that new benches might look better than chairs; and explained, nonetheless, why I am permitting chairs. What is borne in on me is that there is at the Ascension a small but dedicated congregation who, with Ms Bennett's able guidance, are devoted to keeping the church alive. It is my prayer that they will succeed; but there can be no guarantee of these things, despite one's best hopes. However they have recognised a feasible and attractive way forward which involves developing their church building and which I am permitting. If I were not to permit it, setting aside the discouragement this would cause them, I do think that there would be a serious risk that the church would not survive. This would evidently not be the best outcome for the church but it would not be the best outcome for the listed building either; alternative uses would be likely to involve greater compromises with its fabric and fittings than any that I am permitting.

PHILIP PETCHEY

Chancellor

26 February 2020