

**Diocese of Exeter**  
**Chancellor**

**Date: 15<sup>th</sup> April 2012**

**Parish: St Peter's Church, Bratton Fleming**

**JUDGMENT**

1. By a Petition lodged on 15<sup>th</sup> August 2011 the Rector and Churchwardens of St Peter's Church in Bratton Fleming seek a Faculty permitting the following:
  - a. relocation of font to west end of south aisle;
  - b. relocation of one choir stall front to south wall of south aisle to be used as dado panelling;
  - c. removal of 3 pews from south aisle.
  
2. The incumbent and PCC have been involved for over six years in developing a programme for reordering the interior of St Peter's Church. The plans have proved to be controversial within the local community and there is a substantial procedural history standing behind the current application. In a lengthy judgment handed down on 4<sup>th</sup> October 2010 I gave permission for certain elements in the proposed scheme, but refused permission for other significant elements primarily on the basis that the pastoral need for such change had not been established.
  
3. In a further judgment given on 26<sup>th</sup> May 2011 I clarified a number of ancillary issues which flowed from the October 2010 judgment.
  
4. The current application relates solely to the position of the font. The Petitioner's plan is to move the font to a position to an area immediately to the West side of the main entrance to the church in the North wall. Permission is sought to remove three

pews and install a now redundant choir stall frontal in order to create a Baptistry area around the repositioned font.

5. The current proposal is in contrast to that contained in the original application, which was to move the font to the South-East corner of the church in order to create a Baptistry area in the space liberated if permission were given to remove the present organ. The relevant paragraphs of the October 2010 judgment dealing with the font proposal are as follows:

(7) The Font

90. The Petitioners' case in relation to the font is basically two-fold. Firstly it is said that the current font is too tall and prevents members of the congregation, particularly (and importantly) children, from seeing what is going on. Allied to the point about height is the claim that the plinth base stands proud of the overall footprint of the upper font and thereby creates a tripping hazard both during a baptism and generally. Secondly, it is said that the location of the font is such that it creates an obstacle which gets in the way and that the font would be better located in the side chapel created by the removal of the organ, where it could be the focus of a dedicated baptismal space.
91. The CBC is not in favour of move away from the door, but would support an alternative position near to the door. The Victorian Society considers that the plinth of the font has attractive decorative tiles and is an integral part of the design and it should be retained with the font.
92. As with the pulpit and the organ, those who object to the proposals are not in favour of a radical relocation of the font, which is seen as an integral part of the current layout and a link with the past.
93. Canon F1(2) provides that 'The font shall stand as near to the principal entrance as conveniently may be, except there be a custom to the contrary or the Ordinary otherwise directs; and shall be set in as spacious and well-ordered surroundings as possible'.

94. With regard to Canon F1(2) the Petitioners' case state that: 'We have taken advice from clergy within the Diocesan hierarchy and feel we are right with regard to our own building and its constraints, in giving the font 'as spacious and well ordered surroundings as possible'.
95. The wording of Canon F1(2) is in strict and plain terms. At Bratton Fleming there is obviously no 'custom' of the font standing anywhere other than in its present location near to the door. The only other exception that might permit consideration of another location is where the Ordinary (ie the Bishop) otherwise directs. Any discussions that the petitioners may have had with clergy in the Diocesan hierarchy have not been recorded or submitted in support of this Petition. Such discussions would in any event fall far short of a direction from the Bishop.
96. On the above basis, the court can only conclude that the application to move the font from its present location cannot be brought within Canon F1(2) and must, in the absence of a direction from the Bishop, fail on that ground alone.
97. In any event, the case for a radical move of the font from a location near to the door is not in my view made out on the evidence. In this regard any issue as to the height of the font is irrelevant to its location in the church. Whilst I do accept the petitioners' case that the current location is not ideal as it is in the middle of a main thoroughfare, that does not of itself justify a very radical relocation. The petitioners have failed to demonstrate that sufficient thought has been given to relocating the font in another more convenient location near to the door.
98. On the issue of height, again the court accepts the evidence of the rector and others who have first-hand experience of using the font in practice that it's height is not ideal and the lower part of the plinth creates something of a hazard. I also accept that the degree of tiling that now

remains is not such that this would, on its own, justify retaining the entire plinth.

99. For the reasons given above, I am therefore clear that the current application to move the font to the North East corner has to be refused, but I would invite the parish to develop an alternative proposal for relocating the font in another position in the vicinity of the door and, once that location is chosen, consider then what needs to be done to reduce the height and width of the plinth in that location.

6. The PCC has apparently accepted the invitation contained in paragraph 99 of the 2010 judgment and presents the current application as an alternative proposal for the position of the font in the vicinity of the door. The proposal also seeks to retain the plinth upon which the font currently stands, but provides for this to be sunk so that it is flush with the surrounding floor.
7. The proposal is hotly contested by a number of local residents, who have submitted detailed and closely argued documents setting out the grounds for opposition. Five of the objectors have formally become a 'party opponent'. All parties have formally agreed to the application being dealt with by written representations under Faculty Jurisdiction Rules 2000, rule 26. In addition to these voices of opposition, the Registry has received some two dozen letters in support from members of the congregation, various detailed documents in response to the objectors from the Petitioners and a letter supporting the application from the Archdeacon of Barnstaple.
8. By a Certificate issued on 2<sup>nd</sup> August 2011, the Exeter DAC expressly recommends the proposal (without any additional provisos). Both English Heritage and the Victorian Society have been consulted and have opted not to express an opinion on the proposal. Finally, the Church Buildings Council states in a letter dated 19<sup>th</sup> September 2011: 'The Council was pleased that an amended scheme for moving the

font had been brought forward in the light of the consistory court decision, and was pleased to recommend the granting of a faculty’.

9. It is therefore to be noted that, in contrast to the position relating to the 2010 proposal, the present application is backed by evidence of the express support of the DAC, the Archdeacon, the CBC and a significant number of individual parishioners.
10. The current application, whilst it relates to a relatively discrete and uncomplicated plan, has generated a file of documents, with arguments for and against, which is some two inches thick. I have read all of this paperwork. The detailed points that have been made on each side will be well known to most who may read this judgment, and are available for inspection on the Registry file. I do not therefore propose to rehearse these matters in detail within this judgment. After dealing with the issue of consultation, I will summarise the main points for and against before turning to my analysis and decision.
11. Many of the matters raised by those who oppose this application relate to the process of consultation (or as they would argue, the lack of consultation) rather than to the substance of the proposal itself. Given the unfortunate history of the previous Petition, I have been keen to be satisfied that there has, by now, been an effective process of communication of views about the current proposal. I am grateful to all involved (both the participants and the staff at the Registry) who have produced, analysed and responded to the various documents that have been produced by each side, with the result that I am clear that the issues have been well and truly dissected. Whilst I note the criticisms that are made of the early stages of the process, these matters are now only of historical interest and cannot impact upon the decision that now has to be made on the proposal itself.
12. The principle arguments in favour of the proposal are as follows:
  - a. the current location of the font is not ideally placed as it intrudes upon a main thoroughfare within the building;
  - b. the font and plinth are too high above the surrounding floor level;
  - c. it is both a tripping hazard and a falling hazard;

- d. it obstructs the view of the Chancel for worshippers seated behind it;
- e. there is a restricted space for people to gather at the time of Baptism.

13. The arguments marshalled against the proposal by the principal objectors may be summarised as follows:

- a. the new location for the font is too far from those seated in the front pews in the Nave;
- b. there is no evidence that moving the font is necessary; there is no liturgical or pastoral need for the move;
- c. moving the font from its current location in a focal point in the church will reduce its status;
- d. at present the font can be surrounded by the congregation, whereas in the proposed location there will be no room on two of the four sides because of the presence of the North and West walls;
- e. the claim that the current set up is a tripping hazard is not made out;
- f. the removal of three pews is unnecessary, will upset the balance in the church and completely change the character of the church;
- g. the church cannot afford to lose any more pews.

14. In approaching this issue I have at the forefront of my consideration the need for the Petitioners to satisfy the burden of proof which is upon them to establish a pastoral or other pressing need for the proposed change. The default position in an application such as the present is 'no change' unless the evidence justifies it.

15. In paragraph 97 of the 2010 judgment I accepted that the location of the font was 'not ideal'. At paragraph 98 I accepted the evidence of the Rector and others that the height was not ideal and the plinth presented a tripping hazard. The court is not bound by these earlier statements if, in the light of additional evidence, they require revision. The current process has thrown far more focus upon the font than was the case in the multi-faceted 2010 exercise. I have once again considered the plans and photographs and I have read the accounts given by those familiar with this church.

As a result I am reinforced in the conclusions that font is not ideally located as it reduces the central thoroughfare and in that respect does not fit well with the other changes that have now been approved. I also accept without reservation the evidence of the minister (supported as it is by other correspondents) as to the difficulties caused by the height and location of the plinth. For the court to hold that a minister's evidence is not to be accepted on a point such as this would require very cogent evidence to the contrary; the assertions made by the opponents are in no manner sufficient to displace the minister's credibility on this point. I also accept that the current position of the font must cause some impact on the sightline of those who may sit behind it.

16. On the basis of these findings, the petitioners have, in my view, established that there is a need to consider an alternative location for the font which complies with Canon F1(2).
17. The question therefore boils down to whether the proposed site is preferable to the present location, or should the font remain as currently sited despite the negative aspects that have been established. In this regard the arguments of those opposing to the effect that the proposed move will take the font from a focal point to something of a backwater in the church, and that the congregation will not be able to surround the font during baptism, come to the forefront. It is also necessary to consider the consequential need to remove pews to accommodate the font, which is an integral part of the proposal; in that context the important points made by the opponents as to the balance and number of pews in the church as a whole are entirely relevant.
18. The present proposal arises from the court's earlier robust rejection of the radical plan to move the font to the South East corner of the church. The decision was one which took on board and agreed with the points then made by those who opposed the reordering plans. In rejecting that proposal, I expressly invited consideration to be given to a proposal which saw the font remaining near the church door, but which ameliorated some of the negative aspects of the present location and set-up. The necessary reconsideration has taken place and the current plan is the result. The matter that now falls for judicial determination is, whilst undoubtedly important, in a

fairly narrow compass and lacks the radical element which was a feature of its predecessor. It requires a judgment based on matters of fine tuning rather than canon law or principle. In that regard, the court cannot ignore the fact that the revised proposal commands the support of the DAC, the CBC, the Archdeacon, the PCC and a number of local residents. Neither EH nor the Victorian Society oppose the proposal. This is a proposal about which it is possible to hold reasonable views for or against, as evidenced by the submissions that have been made to the court. In determining an issue which is not based on principle or canon law, the weight and quality of the professional, clerical and lay evidence in support of the proposal are important features. The weight of the evidence in favour in this case is such that I consider that the court would need to be able to identify very clear reasons if rejecting the proposal.

19. Although I understand and have considered the relevant arguments made in opposition, these arguments, in my view, either are not made out or are insufficient to outweigh the material in support of the proposal. Whilst I accept that the font is currently at a focal point in the structure of the church interior, I consider that the new location, with the creation of a dedicated Baptistry will give an uncluttered prominence to the font, which is not possible in its present location. Further, I do not accept that the new location will prevent members of the family and congregation from gathering around the font. The plans show that the side of the plinth upon which the celebrant is likely to stand is positioned up against the North wall under the window. There is a space some three floor tiles wide between the side of the font and the screen in front of the tower and a wider space in front of the font. Even taking account of the fact that currently the pews immediately next to the font may be occupied, I consider that the new proposal creates a greater space for people to gather around a baptism than is possible in the present location.
20. The proposal does involve the loss of pews. As will be plain from the earlier two judgments, I regard the need to husband the stock of existing pews as an important matter. In the present case, however, I believe that the number of seats lost is modest and I accept the evidence from the petitioners that at recent well attended



services, there has been spare seating capacity. In a case where I consider that the proposed move of the font and the creation of a baptistery area is otherwise justified, the loss of three pews is proportionate and justified. The use of the now redundant choir stall frontal as a feature behind the font is a sensible and welcome suggestion if the creation of the Baptistery area is to go ahead.

21. Finally, I consider that the proposed plan, which achieves a move of the font from an unsatisfactory position, will fit in with and complement the changes for which permission has already been given, and will remove the final cause of major contention over the internal reordering of this church. It is to be hoped, as the petitioners have indicated, that a line can now be drawn over proposals for change in St Peter's Church and the congregation may now come together to worship in the reordered building in a manner which may not have been possible whilst these contentious proposals have been debated over the past five or more years.

22. For the reasons that I have given, I hereby direct that a Faculty be issued giving permission for the changes proposed in the Petition.

Sir Andrew McFarlane

Chancellor