

## In the matter of St Peter, Brighton

### Judgment

1. By a petition dated 12 October 2015, the vicar and churchwardens of St Peter's, Brighton seek a faculty for 'internal works including stage, light rigging, sound system and cable electrics, installation of timber flooring and under floor heating, new carpet and chairs; cable routes and means of fixing; new timber joinery for kitchenette and storage'. The petition is opposed by the Victorian Society. Both the Society and the Petitioners have agreed in writing for the matter to be determined on written representations.

#### **Background**

2. As will be apparent from previous judgments which I have given relating to this church on 22 June 2012 and 1 July 2015 respectively, St Peter's, Brighton is a Grade II\* listed building of considerable architectural merit. It occupies a prominent position within the city and was designed by the distinguished architect Charles Barry.
3. A substantial reordering took place in 1876 for which George Somers Clarke was retained. This saw the installation of nave pews in substitution for the box pews of Barry's design. Between 1889 and 1906 the church was reordered and substantially extended by the demolition of Barry's polygonal apse and the construction in its place of a very large chancel for which choir stalls were fabricated and installed in collegiate formation.
4. In 2009 Holy Trinity Brompton took over St Peter's by way of a church plant. A lease of the building was taken for a period of 125 years and thirty people moved from HTB to make St Peter's the regular place of worship for them and their families. Numbers have grown steadily over the past few years. It has transformed itself from its initial function as a church plant and now draws large congregations from in and around the Brighton area and is a major success story for evangelism in the diocese.
5. Years of neglect had left the church in a poor state of structural repair. Emergency works of repair to the stonework of the tower have been undertaken pursuant to uncontroversial faculty with generous funding from Historic England. Following contested proceedings in 2012, I authorised the issuing of a faculty for the permanent removal of the nave pews, save for some examples which were to be retained.
6. In 2015, I authorised the issuing of a further faculty for the return of the choir stalls, not to their original position in the chancel, but instead to the Lady Chapel. This was something of a compromise solution about which the Society may have retained certain misgivings, but chose not to enter an appearance as a party opponent.

### **The current proposal**

7. The Statement of Needs indicates that the petition is intended to seek permanent approval for works which were previously undertaken pursuant to archdeacon's licences for temporary re-orderings granted in 2009 and 2010 respectively. I am unconvinced that the works which form the subject of the current petition were necessarily covered by the earlier archdeacon's licences. The terms of those licences lack specificity.
8. In any event the works were manifestly unsuitable for an archdeacon's licence: they are far too extensive, they comprise alterations to the fabric of the building, and perhaps most significantly they were not (nor were they intended to be) temporary in nature. My previous judgment contained directions relating to regularising the works purportedly undertaken pursuant to the archdeacon's licences.
9. For the benefit of cases which may arise in the future, I draw specific attention to the provisions of r 8.2 of the Faculty Jurisdiction Rules 2015. Whilst I note that these archdeacon's licences in this instance were a previous statutory regime, the salient parts are identical. The rule is headed 'temporary, minor re-ordering' and all three of those words are important.

### **Input from Amenity Societies and others**

10. Historic England, in a fulsome, fair and balanced letter dated 29 February 2016 commend the petitioners for all the work they have done in bringing this failing church back into life. They recognise that the unexpected and hugely expensive cost of repairs to the stonework of the tower has been a distraction for them: it has had to reallocate money for this emergency work, which has taken up a great deal of their resources. It is critical of the prospect of wall to wall carpeting and of the current chairs but notes that the proposed carpeting is wholly reversible and that the petitioners are likely to replace the inappropriate chairs relatively soon. It makes reference to a spiral bound document entitled 'The Building Master Plan' prepared in October 2015.
11. The Church Buildings Council, by email dated 4 March 2016, indicated that it did not wish to become a party opponent but objected to one aspect of the proposal, namely the carpet. It considered that wall to wall carpet was not appropriate for a grade II\* listed building and was under the impression, understandably, that it was only ever intended by the parish as a temporary expedient.

### **The case of the Party Opponent**

12. The Victorian Society's objection is most fully articulated in its letter of 10 February 2016. It considers that making permanent the temporary reordering 'will negatively impact the aesthetic quality of the interior'. With particular reference to the floor the society states,

'The current stone floor and pew platforms have been retained, although they are covered with a floating floor and carpet. Carpet is not an appropriate form of flooring for a historic building as it is overly domestic in character and has a tendency to create a sea of non-descript flooring.

[...]

The aesthetic impact of the carpet is clearly apparent in the church. It has created a drab sea of carpet which lacks character and quality. Simply changing the carpet to a different colour will not make the principle of carpet in the church any more appealing. The original floor ... appears to be handsome grey stone, especially in the chancel where there is a checkerboard design to the floor. The historic floor

contributes to the dignity and the quality of the interior and it should be revealed rather than covered up with a floating floor and carpet ... Carpet quickly becomes tatty and worn which negatively impacts the character of the interior.'

13. In relation to the black upholstered chairs, the Society makes the point that, together with the carpet, they create 'a bland and nondescript interior'. The utilitarian black and metal chairs seem more appropriate, the Society suggests, to an office building or doctors' surgery.

#### **The petitioners' response**

14. The petitioners have prepared a careful Form 6 Reply dated 6 March 2016. It takes issue with the description of the floor by the Victorian Society and others and suggests that the floating floor contains within it an underfloor heating system completed pursuant to faculty at a cost of 'a six figure sum'. This will need to be removed and the expenditure will be wasted. I do not find this argument impressive. The petitioners have been consistently encouraged to think holistically about their proposals for this building and to come forward with a scheme for the work overall, staged for future years as finance becomes available. The unsuitability of carpet, save as a temporary expedient, has been made clear by experts and indeed by the court on various occasions in the past. I also note, for what it is worth, that the Building Master Plan dated October 2015 includes the following at page 25:

'We basically don't have a heating system and only want to put one in once we are clear about the spatial master plan. This must consider cost, efficiency, flexibility and environmental impact.'

15. The petitioners advance their reasons for preferring a carpet and they suggest that the heavy wooden chairs commended by the Victorian Society would be both impractical and beyond the financial means of the congregation.

#### **The law**

16. This petition to a Grade II\* listed building and it is incumbent upon the petitioners to prove their case. Adopting the framework and guidelines commended by the Court of Arches in *Re St Alkmund, Duffield* [2013] Fam 158, a series of questions needs to be addressed whenever changes are proposed to a listed building. The starting point is a strong presumption against stage and a significant burden lies on petitioners to rebut it.

*Would the proposals result in harm to the significance of the church as a building of special architectural or historic interest?*

17. Undoubtedly there would be harm to the significance this listed church.

*How serious would the harm be?*

18. The level of harm would be serious in that the interior would be domesticated (through the carpet) and industrialised (through the chairs). However this harm would be short term, in that it would be expressly limited to a fixed term of years and reversible in that the carpet could be removed and the original floor uncovered and brought back into use, and that more suitable chairs can be identified, sourced and introduced.

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

19. The petitioners argue a good case, but one predicated upon the eventual completion of a 'Building Master Plan' which currently remains inchoate. The arguments seem to be

largely – if not wholly – finance led, and whilst they may be clear and convincing as regards a short term measure which is wholly reversible, it has less clarity and is markedly less convincing for the longer term. I have considerable sympathy for the parishioners. They took on a vast church building where attendance had dropped to single figures and have revived its fortunes providing a vibrant and growing community fully integrated into the Brighton area and serving its diverse needs. The fabric of the church has been an unexpected drain on the community's resources, not least the emergency repairs required to the stone work of the tower. This has also been a distraction for the community and discerning and articulating its vision for the building. There is still work to be done here.

*Will the public benefit outweigh any harm?*

20. This question, in the highly unusual circumstances of this particular church, needs to be addressed in context. What was originally a church plant has now become a vibrant independent church community which is strong, sustainable and growing. It is well led, spiritually and practically. The consistory court has granted a series of faculties enabling changes to be made to the fabric of the building, notwithstanding strong opposition, mindful that St Peter's is a local centre of mission and worship. However, one must be careful that through a process of attrition, the combined effect of a series of individually justified changes may lead to harm to the interior of a Grade II\* listed church which plays an important role in the civic life of Brighton. In this instance, the nave pews have all been removed, and the choir pews and chancel furniture relocated to the Lady Chapel. Like the ship in Theseus' paradox, the fabric may end up being so altered that it ceases to be what it was originally.
21. I am of the view, as indeed was heralded in an earlier judgment, that the wholesale wall to wall carpeting of the interior of this church causes significant harm which the petitioners have failed to justify, save on a time limited basis. It creates a domestic feel which detracts from the aesthetics of its magnificent interior. Similarly, the bland functional black chairs cannot be justified save on a time limited basis. I am mindful of the exceptional circumstances in this case, and I note with regret that unfortunate situation which has arisen as a consequence of overly generous archdeacon's licenses for temporary reordering at the outset. I am mindful of the time and money which has been diverted to the emergency repairs to the tower. I give particular weight to the fact that the petitioners have received a generous offer to have the carpet replaced free of charge by a flooring specialist.
22. In these unusual circumstances, I am satisfied that a faculty may be granted but expressly on a time limited basis. A new carpet may be introduced but within five years it is to be removed and the floor reinstated on such terms as the court may hereafter direct. Similarly the black chairs may remain but for no longer than five years. I expect the church to return to the consistory court with properly formulated proposals for the long term use of the church, its halls and other space within its footprint and for the land within its curtilage.
23. The faculty will extend to the cover the various ancillary matters listed in the Schedule, including but not limited to the removal of the heating blower. It is hoped that as this project continues to thrive, this interim solution will give the community confidence to move forward with its future planning.