

Neutral Citation Number: [2020] ECC Der 5

In the Consistory Court of the Diocese of Derby

The Parish of Chinley with Buxworth,

The Church of Buxworth, St James (Grade II)

In the Matter of a Petition dated 10th March 2020 presented by Rev. John Hudghton, Vicar, Stephen Dolley, deputy churchwarden, and Mirrlees Dolley, PCC Treasurer, for re-ordering, disposal of pews, and introduction of tables and chairs.

JUDGMENT

1) Mr Dolley is the lead petitioner. I received the petition and supporting documentation around 12th September, and on 27th September sought some further information to clarify what the petitioners were wanting to achieve. Mr Dolley replied very quickly and helpfully, but about 12th October the Registrar informed me the churchwardens, who are not petitioners but obviously have an important role in the life of the church, wished to respond to my Note as well, and I therefore received comments from Mike Halliwell and Gordon Lowe on 14th October. In describing the case, I shall not distinguish between the two separate replies and original documentation.

Summary

2) The petition seeks permission for '*The removal of eleven pews from the back of St James' and their replacement by tables and chairs in accordance with the accompanying plan*'. The plan shows what was originally a building of very simple design. It was erected in 1874 to drawings by John Lowe, in gritstone with a slate roof, and bell-cote to the west gable. It is a single cell structure with a polygonal apse to the east end, and north and south vestries acting as transepts externally. The main entrance is by the porch situated at the south-west corner. This gives access to a lobby area with kitchen and WC on the north side, and double-doors (wood at the bottom and leaded-lights above) giving access into the nave area by means of the single central aisle. I assume the building originally had pews over the whole of the nave extending more or less to the west wall, and the lobby, kitchen and WC are the result of an earlier re-ordering, which may also have led to the relocation of the font to the south-east corner of the nave, opposite the pulpit on the north side. The floor rises one step to the chancel with the vestry areas on north and south, and then rises a further three steps into the sanctuary/apse. The plan shows the organ presently occupying the north vestry area. Overall there is little open space save at the front of the nave and in the lobby.

3) The plan does not exhibit any scale, but at present there are a total of 10 pews on the north side of the aisle and 11 on the south, all of similar size. They are constructed in softwood and are said in the listing description to be contemporary with the building, along with the font and other fittings. Photographs show them as typical of their time, and probably taken from a manufacturer's catalogue. They are not of the most simple kind, but nicely made and shaped, and the backs are gently raked, and the seats are covered with loose runners. There are a number of hassocks visible on the photos supplied, in a blue material. The pew ends giving on to the aisle have a

carved motif and fittings to hold umbrellas and walking-sticks, with drip-trays. The wardens indicate that each pew will seat four adults in comfort, (when Covid spacing is not in force). The pews are not secured to the floor but are simply held by their own weight, which is not inconsiderable, but allows them to be moved by a couple of strong individuals.

4) The proposal is to remove and dispose of just over half of the pew-seating, leaving just five rows at the front of the nave, on either side of the aisle. Further, the petitioners wish to introduce approximately 50 stackable chairs with tubular metal all around frames, with upholstered seats and backs in a blue material, together with a number of lightweight tables with foldaway legs. I shall deal with that part of the petition separately.

5) The **Statement of Needs** describes the parish as being in the High Peak area of Derbyshire and it is within the Buxworth Conservation Area. The two villages of Buxworth and Chinley have a population of around 2800. There are farms and hamlets in addition to the larger villages. Chinley lies on the main Sheffield/ Manchester railway line and this appears to be something of a commuter area for the cities. It is part of a Mission and Ministry Area with the neighbouring parish of Hayfield, (with which I have a slight acquaintance). St James's hosts the main service on the first Sunday and St Mary's in Chinley, a little over a mile away, hosts the main service on the others. In addition St. James's has an early Communion twice a month, which attracts around 7 worshippers. I am not given figures for the larger service. It is said the parish has 'a modest but lively congregation', though it seems clear 'modest' is a polite word for 'small'. **The Statement of Needs** is very short. After mentioning '*fellowship and coffee*' after services it states '*from time to time we serve lunches in church during the week*' using the narthex/lobby. That however is a small space and gets very crowded, which discourages people from staying. The petitioners wish to expand into the larger area of the nave. It is also now clear that from time to time the pews, not being attached to the fabric of the building, are cleared to the sides and other events or celebrations are held in the nave.

6) I was exercised as to why 11 pews were to be disposed of in the proposal, and I now gather that the remaining 10 can then be conveniently cleared to the side walls. Otherwise, it appears there has to be 'double -parking' as things are at the moment, or some other space has to be found for temporary storage. Thus the proposal to dispose of 11 pews is based on an extraneous consideration, as it seems to me, and that the clearing away is not directly connected to an actual or perceived need for the space they occupy. I do not consider this can be a controlling factor in the decision. I note, but cannot explain, that the wardens believe 11 pews will be retained, not 10, as my consideration of the plan indicates. No matter!

7) It is appreciated by the parish that the impact of Covid-19 will affect a number of aspects of the scheme, and its implementation (if permitted), since the PCC overwhelmingly endorsed the proposal in November 2019. Its ongoing effects may delay the implementation of any faculty, because inevitably the opportunity for social events, even if connected to worship, will be much restricted in the coming months, in all probability. Nonetheless the petitioners wish to have a decision from the Court so they can begin to frame their thinking about the future use of the building. Overall they see the increase in flexibility, as likely to assist in promoting its greater use and attracting people into St James's. It should enable more effective mission overall. The space

will be *'more welcoming and usable for fellowship and lunches'*. It will allow *'more flexible and creative church services and provide other services to the community, such as space for exhibitions and concerts.'*

Diocesan Advisory Committee and amenity bodies

8) The DAC considered the proposals at their meeting on 9th March 2020, before such consideration was dealt with on a 'virtual' basis. They *Recommended* them save that the choice of chair was to be agreed by the DAC (see below). They considered the work was likely to affect the character of the church as a building of special architectural or historic interest, and recommended consultation with Historic England, the local planning authority and the Victorian Society. This has been done.

9) **HE** did not wish to comment (letter of 15th January 2020).

10) Mr James Hughes of the **Victorian Society** responded to the consultation by email of 24th January, objecting to the removal of the pews and the replacement chairs. Subsequently, the Society indicated it did not desire to become a formal objector, but wanted the Court to consider the points raised, a course directed by the Faculty Jurisdiction Rules 2015. This I will do. The Society *'objected strongly to the chair as being metal-framed and upholstered 'in a horribly garish hue'. They were 'entirely inappropriate in a nationally important church interior, and particularly one defined by a modesty and character that appear wholly fitting to its rural location. There can be no justification for them here, even if one were to concede to a certain extent of pew removal'.*

11) Mr Hughes observed that the church *'is all of a piece and date' and the benches are not simply fitting but integral'*. He noted they were referred to (unusually) in the listing description. Any reduction in their number would be regrettable, but accepted that the small size of the interior and *'its present arrangement does not permit much in the way of flexibility'*. To leave only 5 pews at the front (on each side of the aisle) *'would not constitute a critical mass and would fail to preserve the contribution the benches make to the appearance and character of the interior'*, and he pleaded that if any were allowed to be removed it would be less.

12) In an email of 3rd March Mr Hughes asserts - in summary - that the petitioners have failed to give an appropriate rationale for their proposals, or demonstrated specific needs to be met. He describes what they say as *'laudably aspirational but ultimately (demonstrates a) rather nebulous desire to diversify the church's offering with no real evidence that it would do so'*. The Society *'remain(ed) sceptical what would be created would really constitute a genuinely suitable and desirable community facility....'* He goes on to ask for the retention of at least **7 rows** of pews. (This could be achieved by removing a total of **4 rows** of pews, 3 benches on the north side and 4 on the south side of the aisle. He repeated the overall concerns in an email of 26th August.

13) The **local authority** is Staffordshire Moorland D.C. and High Peak Borough Council. Gill Baylis is a Senior Conservation Officer with them. In an email of 9th March, she raised no objection to the proposals, noting the **Statement of Significance** asserted the removal of the pews (as proposed)

would have no impact on the significance of the building. *'I would question this assumption'*, (as indeed Mr Hughes has done fully and forcefully). The removal plainly does have such an impact.

14) **Public Notices** were exhibited from 10th March to 9th April without eliciting any objections, and notification on the diocesan website had a similar result.

15) Chancellor Hill QC succinctly set out the approach to issues such as this in his recent decision in *In the matter of St Andrew, Ferring* [2020] ECC Chi 5 at paragraph 10:

*The approach of the consistory court when changes to a listed building are proposed, is to adopt the so-called **Duffield** framework which considers the harm that would result to the building and the justification for carrying out the works. The crucial final step, mindful of the heavy presumption against change, is whether any resulting benefit would outweigh the harm caused. There is no longer a necessity hurdle for petitioners to meet. (Duffield is a reference to the appeal case of Duffield St Alkmund, decided in 2012, which established the principles to be applied from that time forwards.)* I shall use that approach, which in my view is more than advisory, but mandatory.

The removal of 11 pews would, in my judgement, create harm to the historic and architectural significance on the high side of moderate.

Discussion

16) It is clear that the church is underused, and the petitioners and wardens are anxious to raise its profile in the community and make it more usable (and used) than at present. Despite Mr Hughes's repeated strong criticisms, they have persuaded me that their (pre-Covid) plans move in that direction and that what they propose will be of benefit to both the worshipping community and the wider community. Nonetheless there is (perhaps inevitably) little detail as to what events or happenings will take place that will actually give effect to their aspirations, nor any certainty how their proposals will turn out. Things seem to have proceeded on the basis *'if we clear it (the nave), they will come'*.

17) But I do not underestimate the problems they have. Small churches in rural areas have often been afflicted by lack of interest and sufficient support from their local communities, and have faced difficulty in finding ways to engage effectively. Their interior layouts are also frequently ill-adapted to activities other than those where people sit in rows, on fixed seats, facing forwards. St. James's has greater flexibility than that, as it is possible to move the pews, but that does not solve everything. Unless there is the ability to use the building more effectively, and reach out into the community, it will eventually die. That is not a course anyone wants, but to prevent it, or seek to do so, some changes need to be made.

18) There has also been no great acknowledgement by the petitioners, as it seems to me, until recently, that this is a listed building, and that as a result, there are responsibilities laid on the church authorities to ensure the structure overall should not be interfered with, without a clear justification. Even if a proper justification for some level of re-ordering is made out, there is still a need to ensure that the harm to the significance of the listed building is limited to the least extent that is justified. The proposals (and how they may work out) are also affected by the ongoing Covid-19 uncertainties, so this introduces greater problems for the church authorities and for me. I have already pointed out the fact that the extent to which the petitioners wish to remove pews is

dictated by how easy it is to 'sideline' the number of pews *retained*, rather than by how much space is actually and demonstrably *required*. That cannot dictate the decision.

19) In general terms, the effect on the building's significance of removing pews, must relate to the number to be removed. In many churches, the removal of one or two rows (especially in larger buildings) will be of little effect, and easily justified by the need to make more room for this or that activity, or the introduction of equipment of some kind. Removal of three or four rows is bound to have a greater effect, and so on, as the number increases. Here the removal of 11, is to take away a proportion marginally greater than one-half. I consider the effect visually will be significant, and will leave the remaining pews looking rather lonely. I have no doubt that the scheme overall, with the introduction of new chairs, of whatever kind) will not only allow all the congregation to be seated, but also have an easily cleared area for a diverse range of activity. I am told the church already has a number of folding chairs that can be deployed, if required, for larger services at festival times, or when perhaps an occasional funeral has attracted many mourners, or there is a marriage with many guests (considering normal times of course), or for more informal events or services.

20) It is for the petitioners to justify their proposals, and the extent of what they propose. They have not done the latter. I consider that in regard to the extent of what they seek, that it is important to proceed very cautiously in allowing removal of some of the most notable visual features that for many people 'make' this a church building and not a parish hall. The petitioners readily concede there is added uncertainty at the present time, and an extended period may be required to see how much need for added space there really is. I think the best way to proceed is to allow a smaller number of pews to be removed, than that proposed, bearing in mind that the removal and disposal of any of these original pews, will not allow for 'second thoughts'. Once they are gone, they will be gone. On the other hand, if the church is to have the opportunity to see what positive effect its proposals will have, the amount of space to be cleared, has to be realistic and allow them to try out what they are seeking to achieve. The Victorian Society in its careful response to the consultation, which was too readily dismissed by Mr Dolley, in his enthusiasm to push on with a mission initiative, as he saw it, has suggested a maximum of 7 pews rather than 11. That gives, to my mind, some expert indication to enable a decision to be reached as to the 'right' answer. While it comes more from the 'heritage side' than from the 'mission side', it takes due account, in my judgment, of the need to limit any changes to the least reasonably required, while preserving the overall appearance of this listed building. It represents one-third of the present seating, which is a significant proportion.

21) It will be appreciated that the effect of changes to a listed building depends not only on what is removed, but also on what is to be introduced. I do not believe that the proposed tables are to be introduced on a 'permanent' basis, in the sense that they are to be always set out, rather than being put up as and when required. I have no details of the make or cost, but the photo supplied shows a standard lightweight folding table. It so happens my own church has a number of the identical type so I am familiar with it.

22) The chair for which the petitioners seek approval is an Alpha Furniture product reference 2B2M, with a metal frame and upholstered back and seat. It is lightweight and stackable. I am told

by the wardens that the coverings are available in red, blue and beige. The PCC felt the blue was neutral, and may hide any future staining better. I have to say it is a strong blue, but the runners and kneeler in the church now are also blue, though it seems a less strident shade. The cost is just under £50 per unit. The unit price inevitably will affect the buyers' choice, and I accept that other models of chair are likely to be more expensive by a significant amount. Mr Dolley tells me that the PCC were aware of the national advice from CCC about replacement chairs for historic buildings, which tends very strongly towards un-upholstered wooden seating, of whatever design or shape, to anything else. Nonetheless the type proposed was considered very suitable for their needs at St James's, and comfortable. The wardens say the PCC has looked at other Victorian churches in the area which have replaced their pews with other seating, which they assume has been approved by the official bodies - which is probably an over-optimistic view. Despite their widespread use, upholstered chairs are invariably opposed by the amenity bodies, however much favoured by PCCs.

23) The DAC Secretary has confirmed to me the DAC did not approve the this type of chair - hence the Note on the Notification of Advice that '*the choice of chair is to be agreed by the DAC*'. In my experience, where chairs have been introduced elsewhere despite being contrary to the 'official' advice or policy, the DAC have almost always backed the PCC's choice of seating. That is obviously not the case here. The wardens were contemplating acquiring 50 of the stackable chairs, but think a somewhat smaller number - perhaps 30 - will be sufficient.

Conclusion

24) In the result, I am prepared only to approve the application to a limited extent, as follows:

Subject strictly to the conditions below IT IS ORDERED that

- 1) The petitioners may remove up to seven individual pew benches from the west end of the nave, and dispose of them.
- 2) They may introduce up to 30 stacking chairs of a design and material to be agreed with the DAC, together with up to 8 of the folding lightweight tables for temporary use as necessary, of the kind illustrated on the photo submitted.
- 3) In the event no agreement as to design and material of the chairs (for the frames or seat and back covering (if any)) is reached within 6 months of the issue of the faculty, the matter is to be returned to the Court for decision or further directions, and both the petitioners and DAC are then invited to set out shortly and succinctly their points of difference, for the Chancellor's assistance at that time.
- 4) No pews are to be removed permanently unless and until the design of the replacement chairs is resolved by agreement with the DAC or order of the Court**
- 5) Liberty to the petitioners to seek further directions by letter or email to the Registry.

John W Bullimore
Chancellor
29th October 2020