

**In the Worcester Consistory Court**

**Archdeaconry of Worcester: Parish of Castlemorton: Church of St Gregory**

**Faculty petition (2019-05) relating to reordering of church (phase two): removal of pews; construction of a new floor; removal and disposal of principal font; modifications to Lady Chapel altar; provision of additional storage units**

**Judgment**

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**Introduction**

1. Castlemorton is a small rural village and parish at the south-western corner of the county. The church of St Gregory is, to quote the statement of significance, a fine if understated example of an English country church, in which the varying architectural styles of the past 900 years blend seamlessly to reflect the continuity of the generations that have built and nurtured it. It is a Grade I listed building.

**The proposal**

2. The first phases of the reordering of this attractive church, to make it suitable for a wider range of uses, was to install toilet and kitchen facilities in the tower area, with additional storage cupboards and new staircase panelling. This appears to have met with widespread approval.
3. The next phase – which is the subject of the present petition – is to create additional space in the nave, so that the wide range of social and cultural activities that are already part of the mission of the Church to the local community may take place more effectively. Those activities include concerts, school activities, special services (including at Christmas and Easter), coffee mornings, exhibitions, and flower festivals.
4. The Diocesan Advisory Committee (DAC), at a site visit, commented that the church is overly cluttered with furniture, leaving little room for activities other than conventional worship. There is space to seat around 200; and the church is occasionally full to overflowing, for example at some weddings and funerals; but the normal congregation on a Sunday morning is 25 to 35. The PCC considers that it is better to have fewer fixed pews, and when necessary to accommodate overflow by means of stacking chairs.
5. The first element in the proposed works is therefore to remove

- five pews (P13 to P17) from the western end of the nave, opposite the organ;
- six pews (P7 to P12) from the western end of the southern side of the church, to the west of the font, and the frontal associated with pew P7; and
- six pews (P1 to P6) from the eastern end of the southern side and the south transept, currently used as a Lady Chapel, and the frontals associated with pews P2 and P3.

The numbering of the pews refers to the numbers shown on the plans.

6. The second element, linked to the first, is to provide a level floor in the areas from which the pews have been removed, with a solid base covered with appropriate tiles.
7. The principal font, by the south door, is mounted on an octagonal plinth that has a step to the west, for use by the priest administering baptism, butting up to the desk to the front of pew P7. This is apparently unsafe, as there is insufficient space for the priest, which has led to several near-misses in recent years. And the font would intrude into the new social area created by the removal of the pews all along the south side of the church. The third element of the proposed works is therefore to remove the font, to a new location to the north of the Lady Chapel altar currently occupied by a metal storage cupboard (which would need to be rehoused), and to remove its octagonal base.
8. Linked to the three elements of work identified so far is a fourth, to use the space in the south transept and between the transept and the south aisle, currently designated a Lady Chapel, as the principal area for baptisms, and also for other purposes – possibly with the use of “quality” chairs in various layouts. In addition to the removal of the pews P1 to P6 (see paragraph 5), it is proposed to remove completely the plinth on which the Lady Chapel altar stands, which would release space and remove a trip hazard. The communion rail, dating from 1944 may be re-worked and used elsewhere in the church; “some ideas are under consideration”.
9. Fifthly, it is proposed to improve the layout of the chancel, which is at present somewhat cramped, by removing some or all of the existing pews – P18 to P23, and the two short ones opposite P22 and P23, unnumbered on the plan. Two of the longer pews currently forming part of the choir stalls will be replaced with the two short pews, with allegedly Jacobean front panels, to be removed as part of the first element of the works. In response to the comments of Historic England (see below), the parish observed:

We believe that the furniture in the chancel should be made free-standing, involving the removal of all the plinths (and the under-pew heaters in that area) so that the individual units can be easily re-arranged, according to need. We accept that it will be important to retain the traditional array in the chancel, though some of the choir pews would now be shorter than is

currently the case. The key need is not replacement, but flexibility of movement.

10. Sixthly, a new cupboard is proposed at the west end, to accommodate the wide array of flower-arranging equipment - vases, stands, implements and other items – currently stacked on pews in this area. This will incorporate some timbers salvaged from the redundant pews in the chancel.
11. Finally, it is proposed to replace the existing, unsatisfactory unit currently used to store linen with a new unit storing linen in drawers, to be created by the conversion of the altar in the Lady Chapel – although the new unit could be used occasionally as a communion table if required.
12. The PCC has unanimously supported the proposals; their cost will be met from the parish's reserved funds.

### **Responses to consultation**

13. The proposals will undoubtedly affect the character of the church as a building of special architectural or historic interest. They have accordingly been notified to Historic England, the Society for the Protection of Ancient Buildings (SPAB), the Georgian Group, the Victorian Society and the local planning authority, in accordance with Part 4 of the Faculty Jurisdiction Rules 2015.

#### *Historic England*

14. Historic England analysed with some care the various types of pews in the church, but strongly recommended that the parish engage an independent expert to assess their quality.
15. More generally, it observed as follows:

“Leaving aside the merit of each individual pew, and addressing the question of pew removal when considered only as a quantum, there are 16 pews proposed for removal and 15 proposed to be retained, excluding those in the chancel which are likely to come forward for removal at a later date. We consider that the extent of the pew removal in the rear of the nave, amounting to four pews, will have little impact on the character and significance of the church. With regard to the proposed removal of six pews and one frontal in the west end of the south aisle, we consider this will have some impact on the church's appearance and character, but we could accept this change for the ensuing benefits to the church's use and viability. The removal of these 10 pews (including two long pews) would create a large social space, which would be in proportion to the size and scale of the church.

“We have greater concern when it comes to the removal of the six pews and two frontals, as a quantum, in the south aisle east end and in the Lady Chapel. This area is much more visible from the chancel and the

entrance and from the nave, and the lack of pews here will lead to a meaningless space. Reducing the overall quantum too much will also restrict the availability of pews in the future to effect the repairs that are quite clearly required in some of the pews proposed for retention in the current scheme.

“There are other changes proposed to the Lady Chapel or south transept. The proposed elimination of the concrete steps beneath the altar here and the reconfiguration of the altar table to create a linen cupboard is acceptable to us. The proposed elimination of the altar rail from 1944 is regrettable to us; however, we would not object to this element but would appreciate knowing its destination.

We were not convinced on another score by the justification for the removal of pews 1, 2, 3 and 4, which we felt would be required for seating, given the doubling up of the functions of the Lady Chapel proposed. You explained that this space, even with a new function, has an under-used identity, despite the curtains around it and its use as a green room. The retention of pews 3, 4, 5 and 6 as a group should be considered, with the two frontals.

“The redesignation of the cut-down medieval font in the Lady Chapel as the principal font is in principle acceptable to us. However, we are concerned about the knock-on effects of this, namely the removal of four to six pews discussed above. We are also supportive of the removal of the octagonal plinth underneath the Restoration font and its relocation. We would be open to considering its re-use elsewhere in the church. ...

“We note that you are now convinced of the need for a solid floor where the platforms will be removed.”

16. Historic England did not wish to become a party opponent, but maintained its objection to the scheme as currently proposed, in particular with regard to the removal of pews.

*The national amenity societies*

17. The Society for the Protection of Ancient Buildings (SPAB), too, questioned the origin and date of the pews. It accepted that it might be possible to remove some of the pews (possibly P7 to P11, P13 and P14); but considered that the removal of 16 pews, taken as a whole, would have a significant impact on the character of this Grade I church.
18. The Society suggested that it might be possible to retain the font by the south door, and was concerned as to the treatment of the floor in the area where the pews were to be removed, and as to the re-ordering of the Lady Chapel – although it did not object to the removal of the altar plinth. The Society also sought more details on various points. It subsequently wrote to say, in essence, that its position was more or less the same as that of expressed by Historic England in the extract quoted at paragraph 15 above.

19. The Victorian Society also objected, on the same basis. And the Georgian Group deferred to the SPAB and the Victorian Society.

*The planning authority*

20. The local planning authority, Malvern Hills District Council, told the parish by telephone that “it had no interest in the internal re-ordering of the church”.

*The diocesan advisory committee*

21. The DAC has recommended the works, subject to provisos requesting more details. It subsequently commissioned a report produced from David Hawkins, who was at that time its furniture advisor (he has since retired). Mr Hawkins considered all of the pews in detail, and recommended that the project be allowed to proceed in its current form.

## **Procedure**

22. This petition has attracted a number of objections, from Historic England and the national amenity societies, but none of the societies wished to become a party opponent. I decided that, in all the circumstances, I should visit the church to see for myself the points raised by the parties. None of those who had raised objections wished to be represented at a site inspection, so I made my visit on 12 July 2019, accompanied only by the Deputy Registrar.
23. In the light of my site inspection, I decided that I had enough information to enable me to reach a decision on the basis of written representations, without the need for a full oral hearing.

## **The law**

24. In this case, as in many others involving proposals for the comprehensive reordering of a church, two questions of legal principle arise:
  - what is the general approach to alterations proposed to a church that is a building of special architectural or historic interest?
  - what is the approach to the moving of a font?
25. I have recently set out the current law on these points in slightly more detail in my recent judgment in *Worcester, All Saints* [2019] Wor 1, but for convenience I summarise them here.

*Works affecting the character of a historic church*

26. The approach that should now be taken by a consistory court to considering a petition relating to proposed works to a historic church was explained by the Court of Arches in *Duffield, St Alkmund* [2013] Fam 158 at [87]:

- “(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. 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, 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.”

27. In a subsequent decision, the Court of Arches noted that, in answering question (1), it is necessary first to consider what is the special architectural or historic interest of the church in question (*Penshurst, St John the Baptist* (2015) 17 Ecc LJ 393 at [22]). It also observed that the grade at which the church has been listed will be highly relevant.

28. Various decisions of consistory courts since then have followed the principles set out in *Duffield* and *Penshurst*; they are still good law.

*The moving of a font*

29. A number of proposals for moving fonts have reached the courts in recent years. Emphasis has been placed on:

- the desirability of there being a single font in a church;
- the desirability of that font being at a suitable and prominent location, ideally but not necessarily by the main door currently in use.

30. The issue was considered at length in *Wandsworth, Holy Trinity* (2012) 15 Ecc LJ 125, in which the chancellor summarized the relevant historical background and examined the principal decisions of the courts relating to proposals to relocate fonts. He concluded (following the decision of this court in *Eckington, Holy Trinity* (1999) 5 Ecc LJ 489) that the basic rule was that a font should be as near the principal entrance to a church as conveniently may be, but that it

may be permissible for it to be relocated elsewhere in exceptional circumstances.

## Discussion

31. I agree with the DAC that the church is very full of pews. This is particularly noticeable when entering through the main door on the north side. I am therefore entirely sympathetic in principle to the parish's desire to remove some of them, to create a bit more space. And the amenity societies are not wholly opposed to the removal of any pews. The question is therefore not whether any should be removed, but how many – and which ones.
32. It appears that a large amount of general (but apparently inconclusive) discussion has taken place as to which pews are of particular interest, which could be moved from one part of the church to another, and which could be removed without loss. I sympathise with those who have suggested that the parish has provided insufficient details of the pews to be removed. In view of the concerns that has been expressed by Historic England and others, the report produced by the DAC has only dealt with the pews at a relatively superficial level. In particular, I was not entirely sure that I could identify with certainty in the course of my site inspection the Jacobean pews that have been mentioned, nor as to the features of those (or other) pews that are of particular interest.
33. If, therefore, any of the pews are to be removed – which I discuss below – it is essential that all of the pews currently in the church be thoroughly assessed, in order to ensure that only those of less merit are removed, with those of greater interest retained. This may require a programme of re-locating those in the latter category, to achieve a scheme that retains those of greatest interest whilst meeting the desire of the parish to create some open space. And some consequential works may be required to those being retained.
34. Against that general background, I consider in turn each element of the proposed works.

### *The removal of the pews from the western half of the church*

35. The removal of the first group of the pews (P13 to P17), at the western end of the nave opposite the organ, seems perfectly sensible, and has raised little objection. And the removal of the pews from the western half of the south side of the church (P7 to P12), along with the frontal associated with pew P7) also seems sensible. Historic England has accepted that this could be justified in order to bring about benefits to the church's use and viability.
36. Those two elements of works will together lead to a sensible-sized area at the western end of the church that will provide a large area that can be used by the congregation before and after worship services, and for other occasions – meetings, children's groups and so on – as well as by the wider community for various purposes. They will affect the character of the church as a building of

special architectural or historic interest, but the effect will be neither particularly harmful nor particularly beneficial – it will simply be a change, from a church full of seating to one with a greater amount of open space that can be used for purposes other than seated worship. As expressed by Historic England, the resulting social space would be in proportion to the size and scale of the church. Insofar as these works may cause any harm, therefore, that is undoubtedly outweighed by the need for such additional space.

37. As noted above, I am content to leave to the DAC the details of which pews should be removed from these areas, and whether any of those currently in this area should be moved elsewhere in the church, to replace others of less merit that could be disposed of. This may be a matter for the new furniture and woodwork advisor, or by another suitably qualified expert approved by the DAC, either of whom will be able to take into account all of the views that have been expressed as well as this judgment.
38. It will also be necessary to carry out restoration works to the floor after the removal of the pews, to ensure an attractive and safe finished surface. The details of this will need to be approved by the DAC before the pews are removed.

*The moving of the font*

39. There does not seem to be any particular need for a new font to the north of the altar in the Lady Chapel – the PCC accepts that there is clearly no liturgical need for two fonts (let alone three, including the one to the south of the chancel step, currently used for flower arrangements).
40. The justification for moving the font by the south door is therefore that it will intrude into the new social area to be created by removing all the pews from the south aisle. It is also suggested that the plinth is unsafe in that there is insufficient space for the priest officiating at baptisms.
41. I note that none of the three fonts is located by the main door currently in use, which is on the north side of the nave. However, the one that is proposed to be moved is located immediately by the south door, and thus retains the symbolism of being near to an entrance, even if not the principal one.
42. For reasons that I will explain below, I am not yet convinced that it is appropriate to remove the pews in the Lady Chapel area. It follows that the font will be at the corner of the new open space, rather than in the middle; and it will not therefore intrude into that space in the way that it would have done into a larger space. I also note that the step to the west of the octagonal plinth will be much more easily accessible once the pews P7 to P12 have been removed, such that I suspect that the safety problem that has been highlighted will be greatly lessened.
43. I am therefore not convinced that a case has been made out to justify moving the font.



### *The works in the Lady Chapel area*

44. The removal of the concrete steps and platform supporting the altar table in the Lady Chapel seems unexceptionable, although thought will need to be given as to the making good of the floor in this area. Also acceptable is the reconfiguration of the table itself to create a store for altar linen – which will, I assume, remain in the same location. The works necessary to create the new linen storage appear to have been fully thought through, so no further approval is required in that regard. The removal of the 1944 communion rail seems in itself acceptable, although the proposal for its relocation seems unhelpfully vague; and a scheme will therefore need to be approved by the DAC before it is moved.
45. Subject to the approval of details in some cases, I consider that none of these works will cause harm to the character of the church as a building of special architectural or historic interest.
46. However, I share the concerns expressed by Historic England and the SPAB as to the removal of the pews in this area. It seems to me that the resulting area of open space, taken together with the area cleared in the western half of the church will be excessive, and may indeed, as suggested by Historic England, be “meaningless”. The proposed use as a baptism area would only occur on a few occasions each year, and would not seem to justify such a major change. As for other possible uses of this area, they have not yet been identified.
47. It is likely that, once the pews have been cleared from the western half of the church, new patterns of use of the building as a whole will emerge – but this is likely to take some time. And that may lead to a new proposal for the Lady Chapel area, which can be reconsidered in due course. But in the immediate future I am not convinced that there exists a clear idea as to what this area will actually be used for – I note the reference to ideas being “under consideration”, along with “possible” layouts for chairs.
48. I therefore conclude that harm will be caused by the removal of pews from the area currently occupied by pews P1 to P6 and the frontals to P2 and P3; and that such harm is not outweighed by any need for those works that has yet been identified. But I accept that it may be appropriate to exchange some of those pews and frontals with others elsewhere in the church, to ensure that the overall scheme results in the pews of most interest being retained.

### *The chancel*

49. I have noted already the comment of the PCC that the key need in relation to the chancel is not replacement, but flexibility. In response to that, Historic England has been supportive in principle of the changes proposed, although it notes that it may be appropriate to exchange some of the pews to be removed from the chancel with others to be removed from the western half of the church and south aisle.

50. I too am content with this in principle – although, once again, I consider that the DAC needs to be satisfied as to the detailed specification of what is proposed.

*The new cupboard*

51. The creation of a new cupboard at the west end, to accommodate some of the miscellaneous items currently lying around on pews and elsewhere, seems sensible. Here too, the details of the works appear to have been fully thought through, so no further approval is required.

## **Conclusion**

52. A faculty should therefore issue to authorise:

- (a) the removal of eleven pews and two pew frontals, from the area currently occupied by pews P7 to P17, and the exchange of pews in the church from one location to another, to ensure that those of greatest artistic or historic interest are retained;
- (b) the removal of the pew platforms, and in their place the installation of a new solid floor, covered with suitable tiles, in the area from which those pews and frontals have been removed;
- (c) the conversion of the altar in the Lady Chapel to enable it to house altar linen, the removal of the plinth and steps on which it stands, the moving of the 1944 altar rail to another location within the church, and the making good of the floor;
- (d) the carrying out of works to the pews currently in the chancel to make them movable, the removal of the plinths on which they stand and the under-pew heaters in that area; and
- (e) the introduction of a new cupboard at the west end to store flower-arranging equipment and other items.

53. That faculty is subject to the following conditions:

- (1) before either item (a) or item (b) is carried out,
  - (i) a detailed assessment of all of the pews in the church by the DAC furniture advisor or another expert in historic joinery approved by the DAC, and
  - (ii) a scheme showing which pews are to be retained in their existing location, which are to be moved within the church, which are to be altered, and which are to be disposed of,must be submitted to the DAC and approved in writing by the DAC or, in the event of such approval not being forthcoming, by the Court;
- (2) before any of items (a), (b) or (e) is carried out, a detailed scheme for the new floor in this area must be submitted to the DAC and

approved in writing by the DAC or, in the event of such approval not being forthcoming, by the Court;

- (3) before item (c) is carried out,
  - (i) a detailed scheme for the new floor in this area, and
  - (ii) a scheme for the reuse of the 1944 altar rail

must be submitted to the DAC and approved in writing by the DAC or, in the event of such approval not being forthcoming, by the Court;

- (4) before item (d) is carried out, a detailed specification for the treatment of all the furniture in the chancel must be submitted to the DAC and approved in writing by the DAC or, in the event of such approval not being forthcoming, by the Court;
- (5) items (a) to (d) must be carried out in accordance with the details approved under the foregoing conditions.

54. In conclusion, I realise that this will not provide the parish with all it wants, but once the works that have been approved have been carried out, and have been in use for a while, it will be possible to see whether any further works are required, and whether they might be justifiable.

**Charles Mynors**

Chancellor, Diocese of Worcester

16 September 2019