

In the Consistory Court of the Diocese of Norwich NR178/15

Re St Andrew, Framingham Earl

## Judgment

1. The Rector and Churchwarden of this parish have petitioned for a faculty to permit the replacement of the heating system in this Grade I listed church and the removal of the Victorian nave pews and their replacement with chairs. The proposed panel heaters are to be located along the north and south walls where the pews now sit. The change is the first in a two-phase proposal (known as the Narthex Project), the second phase of which is the construction of a modest modern extension housing a welcome area, toilet and kitchenette. Planning permission has already been granted for this second phase although no application has yet been made to this Court for a faculty permitting those works.
2. The church of St Andrew at Framingham Earl has a Saxon chancel and Norman nave and round tower. The church has, of course been subject to many changes over the centuries and was heavily restored in the nineteenth century. It is a tiny, beautiful and ancient church set on the edge of the village. The church holds regular services approximately three times a month and has an average congregation of 16. The current congregation is made up of mostly retired people and the parish have experienced difficulty in attracting new and younger people. The Narthex Project is intended to renew the life of this congregation by the introduction of basic facilities (running water, a toilet, comfort and heating). The intention is to make the building more comfortable and attractive in order that it can better serve its community by being used for a number of additional church and wider community events.
3. After a visit in November 2014, the DAC has considered the proposals. It supported the permanent removal of pews as they “are not original to the church and are a conglomeration of at least 2 sets” and recommended the works on the proviso that the type of chair to be used would be agreed with the DAC.
4. The public notices were duly displayed and have elicited a letter from Mr Peter Porter, a resident of the parish who has worshipped at the church for 29 years. Historic England and the Victorian Society have

been consulted and the Church Buildings Council has also provided its advice to the Court.

5. I visited the church on 28 December 2015 in order to assess the impact of the proposals on the significance of the church. I am grateful to the Churchwarden for coming to open the church for me and her considerate discretion in allowing me to inspect the church undisturbed.

### **The objections**

6. Mr Porter has set out his concerns about the proposed works in a full and carefully considered letter dated 25 May 2015. I trust that I do him no disservice in summarizing his concerns thus:
  - a. Although the existing heating system is inadequate and needs replacing, the proposed panel heaters are not the best method of heating the church. Instead an alternative of more efficient radiant heaters should be used;
  - b. The replacement of the pews with chairs is not in keeping with the character of this traditional country church;
  - c. The issues of comfort can be adequately addressed by the use of cushions;
  - d. The current uses of the church mean that there is no need for more flexible space. Given that the average age of the congregation is well over retirement age, Mr Porter cannot think of any new activities which members might engage in which would require that flexible space; and
  - e. The money to be used could be better spent on the introduction of water and toilet facilities.

I am aware that the Revd Parsonage has spoken to Mr Porter about his concerns. I do not know whether that conversation has set Mr Porter's mind at rest to any degree, but he has chosen not to become a party opponent in this case. I have taken full account of Mr Porter's concerns in determining this petition.

7. The Victorian Society has raised concerns about the proposed changes but has also chosen not to become a party opponent in this case. It observes that the pews are good quality, simple pews with distinctive circular finials and argues that they give structure and character to the simple nave interior. It is said that their presence is fundamental to the interior architecture and that their removal would be significantly harmful. The Victorian Society argues that the church's needs can be met in other ways; alternative heating systems are available which would not interfere with the location of the pews, comfort can be attained by using cushions and flexibility can be achieved by making the pews moveable. It is suggested that the removal of the pews to the west of the north door would provide a small area for meetings *etcetera*. In addition, the Victorian Society objects to the Alpha wooden upholstered chair chosen by the petitioners to replace the pews. It is

suggested that the chair is ugly and that upholstered chairs are incongruous with the interior of historic churches.

8. Historic England has indicated that it does not object to the proposed works. The pews are not exceptionally interesting examples of their type and are relatively recent in date as well as being brought from another church. Whereas the introduction of underfloor heating and a tiled floor are suggested, Historic England makes no objection to the proposed heating system and is content with the existing wood block flooring. Historic England does suggest that the radiators should be coloured to match the walls.
9. When asked for its advice, the Church Buildings Council has deferred to the views of the DAC. Having explored their provenance, the CBC has concluded that the pews are of relatively low significance and that “the need to remove pews is accepted”. Whilst deferring to the DAC, the CBC observes that it would be unfortunate to replace the pews with upholstered chairs as this would significantly alter the character of the church’s interior.

### **The *Duffield* Guidelines**

1. The *Duffield* guidelines (set down by the Court of Arches in the decision of *Re St Alkmund, Duffield* [2013] Fam 158) must be used to assist in determining a petition of this sort:

“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 (see *Peek v Trower* (1881) 7 PD 21, 26-8, and the review of the case-law by Chancellor Bursell QC in *In re St Mary’s, White Waltham (No 2)* [2010] PTSR 1689 at para 11). 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 (see *St Luke, Maidstone* at p.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 2\*, where serious harm should only exceptionally be allowed.” [para 87 of the judgment].

### **Harm**

10. All agree that the heating system needs renewal although there are conflicting opinions about which heating system would be the most appropriate. The parish have made efforts to visit other churches to assess similar heating systems. They have taken the advice of their experienced architect and have concluded that the panel heaters proposed offer the best option for this church. The proposed heating system has been recommended by the DAC, which has the benefit of a heating advisor. Despite Heritage England’s expressed preference for underfloor heating (which I take to be based on aesthetic grounds) there has been no objection to the system proposed apart from Mr Porter’s concerns about efficiency. I understand Mr Porter’s concerns but am satisfied that the professional advice received in this case means that the proposed heating system is appropriate for the purposes of heating this church.
11. The removal of the pews is said to cause the greater harm to the significance of this building. It is clear that the removal of the pews and their replacement with chairs would have a significant impact upon the aesthetics of the interior of the nave. Nevertheless, that does not mean that it would necessarily cause harm to the church as a building of historic or architectural significance. It is clear from the relatively lengthy listing entry that the significance of this building comes substantially from its 11<sup>th</sup> and 12<sup>th</sup> century origins. The pews are not mentioned, nor is any of the timber from the interior apart from the 17<sup>th</sup> century pulpit and the painted Victorian west gallery. The pews themselves are solid and attractive but unremarkable, not original to the church and made up of at least two other sets of pews. I am of the view that any harm caused by the proposed changes would be slight.

### **Justification**

12. In considering whether the harm caused would be outweighed by the resulting public benefit I must consider the purposes which the petitioners are seeking to achieve through these works.
13. The petitioners say that some people have stopped coming to the church because it is cold and uncomfortable. The number and age of the current congregation means that more people must be attracted to the church if its future is to remain viable. In particular, the petitioners wish to attract families and children as a priority. For this they need space for children to sit, play and feel comfortable: a crèche and children’s area. The petitioners also wish to introduce different

styles of worship in order to sustain and support the growth of the congregation with new and younger members; café church and some festival services being held with different formats of seating. They wish to encourage wider church and community use of the building throughout the week: Parish Council and PCC meetings in the round, coffee mornings, bible studies, a toddler group, educational visits, walking groups and musical recitals and rehearsals. Planning permission has been granted for a new children's hospice to be built in the parish and the PCC are keen to signpost St Andrews church as a place of peace and retreat for those using the hospice. It must be acknowledged that some of these aims are only likely to be fully realised when Phase Two of the Narthex Project is complete, but many of them will be realisable as a result of the works proposed in this petition.

14. When balancing the harm and the justification I must consider whether a reduced scheme (such as that proposed by the Victorian Society) could achieve the same ends for the parish. The Victorian Society has suggested the alternative of removing the pews to the west of the north door and making the other pews in the nave moveable. Firstly, the area to the west of the north door (discounting the area to the south side of the west end of the nave which is taken up almost entirely with the stairway to the gallery) is extremely small. It is filled by two small pews, one of which has already been shortened, the other having been cut to fit around the gallery's supporting pillar. The space that would be realised by the removal of these pews would be extremely small and would quite simply be inadequate to serve as an open area to host even small meetings or as a children's corner for more than one or two children with adult carers. Further, although the pews in Framingham Earl church are short (they would sit only three adults comfortably) they are solid, heavy and rather bulky. The Victorian Society accepts that if they are to be made moveable they may need additions to the backs for stability and possibly castors for movement. One consequence of their solid style is that even without such additions the depth of the pews is greater than the space between them. As a result of this, rendering the pews moveable would realise only limited flexible space within the church. I do not know whether representatives of the Victorian Society have visited the church, although there is no mention of such a visit in the papers before me. It is only upon visiting the church that it can be appreciated just how small the nave of Framingham Earl church is. There is simply nowhere to store moveable pews: more space in the nave would be used for storing the pews than would be realised by their movement. This could not possibly meet the need for flexibility sought by the parish.

15. In determining whether to grant a faculty in this case I have weighed up a number of factors in particular: the real need in this parish to encourage and welcome new and younger people into their

congregation, the significant public benefit from the wider community use of the building, the limited harm to the building's significance from the proposals and the lack of realistic alternatives. In weighing up those factors I have decided that the public benefit resulting from the proposals clearly outweighs the harm which would be caused and that therefore a faculty should issue in this case subject to certain conditions.

16. One issue which will be the subject of conditions is the type of chair to be used to replace the pews. Significant concerns have been raised by the CBC and the Victorian Society about the type of chair proposed. The DAC have not felt able to recommend that aspect of the changes at this stage but have asked that the type of chair be agreed in consultation with them. In light of this I would encourage to the petitioners to try to agree the type of the chair with the DAC and once an agreement between the petitioners and the DAC has been reached the matter should be referred back to the Chancellor for approval. In the event that an agreement cannot be reached between the petitioners and the DAC the matter should be referred back to the Chancellor in any event for determination. It will be a condition of the faculty issued that the pews shall not be removed from the church until the choice of chair has been approved by the Chancellor.

Ruth Arlow  
Diocesan Chancellor

19 January 2016