

Neutral Citation Number: [2019] ECC Nor 4

IN THE CONSISTORY COURT

DIOCESE OF NORWICH

**In the matter of
GAYTON, ST. NICHOLAS REORDERING WORKS**

-and-

**In the matter of
A PETITION FROM THE REVEREND JANE MARGARET HOLMES
AND LYNDA NEWELL**

Judgment of the Chancellor

November 19, 2019

Etherington Ch.

1. The Rev'd Jane Margaret Holmes is Team Rector and Lynda Newell is the PCC secretary. By Petition dated May 23, 2019 they ask the court to permit reordering work in this Grade 1 listed church.
2. The scope of the works is these:
 - a. Removal of all pews in nave and north aisle - except five older 'pauper' pews to the west end of the north aisle which will remain in situ.
 - b. Repair nave and north aisle floor as per architect's specification re-using existing materials where possible and where there is exposed earth from removal of pews in nave to lay pavement brick tiles to blend with surrounding flooring as per architect's specification.
 - c. Remove existing carpet and replace - drawings and carpet sample currently held with DAC. (Extra Heavy-Duty Contract - Westex Talisman - colour Tofu)
 - d. Install new flexible seating in the form of chairs (Wooden Stacking Church Chair from Alpha Furniture - Light Oak using Nappa

Aquaclean fabric on seat and back in Sangria colour) Chair design and Nappa sample currently held with DAC.

- e. Install oak storage unit in south aisle to the west of the organ - drawing and site photo currently held by DAC.
 - f. Replace six overhead infrared heaters in the nave with new ones of a square design and mount them 1 metre lower. Install a further six additional new infrared overhead heaters – i.e. three in north aisle - two in south aisle and one on west wall. Plan and specification from electrician attached. UKPN will need to upgrade electrical supply - quote attached.
 - g. Disposal of pews - These are in a very poor state of repair and due to their construction will have to be dismantled to remove them. It may be possible to allow some members of the community to take some of the wood to 'make up a new pew at home' if there is a desire to do so. Failing this, if we are unable to either sell or grant away any of the wood for preservation our contractor will dispose of it safely.
3. The DAC, subject to certain provisos recommended to the court these proposals. It certified that they were likely to affect the character of the church as a building of special architectural or historic interest and recommended the applicant to consult Historic England (HE), the local planning authority, the Victorian Society (VS) and the Society for the Protection of Ancient Buildings (SPAB).
 4. There are no objections from parishioners or other lay persons with an interest and some letters of support. The Historic Environment Service had no objection to the removal of the pews. The local planning authority had no observations. The Church Buildings Council (CBC) made a number of suggestions of which the three most significant were that a study of the pews should be made, that floor covering or carpet should be avoided if possible and that replacement chairs should be stackable and non-upholstered. Historic England had no objection to the proposals if the “pauper” pews were retained.
 5. The VS recognised that it was the right moment for the issue of seating to be considered broadly and in the long term but questioned whether the wholesale removal of pews was necessary. The VS understood there were issues of the pews viability because of the state of repair and of the issues that would be involved in making them moveable. It said that individually the pews were not “exquisite”. However it thought that wholesale removal would have a somewhat harmful and certainly significant effect on the visual impact of the interior requiring

justification by an overwhelming public benefit. In later correspondence there was criticism of the failure of the PCC to address these problems sooner. The same points made by the CBC about seating were echoed and amplified by the VS.

6. In relation to the VS's comments about the pews the Petitioners remind the court that the state of the pews was highlighted by the last two Quinquennial Reports – described in 2011 as having suffered from “quite bad beetle activity” which has caused damage to and deterioration of what was poor quality wood. Cushions were noticed on most of the benches. The same observations are made again in 2016. However, other urgent work took precedence involving water ingress and, subsequently in respect of the timbers which had an infestation of death watch beetle. Work was done in getting reports and in consultations including with the VS in 2014. David Hawkins was contacted in 2014 on the CBC's advice and recommended orally wholesale removal but he did not submit a written report for some reason. The Petitioners tell me that the VS more recently was offered an opportunity to see the pews but were unable to accept.
7. I have no doubt that the Petitioners have been cooperative and proactive in exploring and consulting over the state of the pews and in getting expert evaluation and I reject the criticisms that have been made of them.
8. The enhanced test in *St. Alkmund, Duffield* is not actually engaged here in its usual way as the state of these pews is in my judgment sufficiently bad to warrant their removal as a reason in itself. I am satisfied they are beyond reasonable repair. The Petitioners are also keen to eradicate beetle infestation from the pew boxes. Accordingly, I am also satisfied they must be removed. Five “pauper pews” in the west end of the church are in better condition and will be retained in situ. *Duffield* therefore really applies to the way in which the church is subsequently ordered. Asking the usual questions:
 - (1) Would the proposals, if implemented, harm the significance of the church as a building of special architectural or historical interest? The answer is “yes” but the proposal that will have the greatest visual effect – the removal of most of the pews – is inevitable.
 - (2) If the answer to (1) is “no”, then the presumption is to be in favour of the *status quo* but it can be rebutted more or less easily depending upon the nature of the proposals.
 - (3) If the answer to the first question is in the affirmative, it is necessary to ask is how serious the harm would be. I assess the harm in the circumstances as no greater than moderate and based on the church's changed appearance.

(4) Then, it is necessary to assess how clear and convincing is the justification for the proposals. The justification for removing the pews is that they must be removed. I will turn to the justification for the replacement proposals next.

9. The replacement seating is proposed to be stackable and upholstered chairs. I myself made my concern about upholstered chairs clear given the general preference now for non-upholstered chairs to avoid the dominance of brightly coloured upholstery, issues of wear and tear, and problems with cleaning. I also expressed some scepticism as to whether upholstered chairs were in fact more comfortable – the issue of comfort being dictated more by the design of the chair.
10. The Petitioners have pointed out that the Nappa Aquaclean (range D87) was easy to clean even from ink stains and more of a faux leather. The seats and backs are easily removed when they do wear out. I am satisfied by the Petitioners response that storage will not be a problem and that they do not intend to overstock the church with chairs. Stacking would only be for temporary periods. I had major concerns, however, with the sangria colour that was proposed and whilst I understand the thematic efforts to follow colours through the church rather than randomly picking colours simply because they are liked, I felt the effect was going to be too dominant. The Petitioners have considered this aspect and indicated that they would be content with a neutral colour for the fabric and the upholstery restricted to the seat area and, taking into account all of the circumstances and views expressed, I am satisfied these chairs are an acceptable substitute for the unsustainable pews.
11. The works necessary to remove the pews will itself cause attention to need to be paid to the flooring. In some areas in the nave, the floor has sunk. It is proposed to repair and restore the floor using existing brick and flag where possible and, where it is not, replacing like with like.
12. It is not disputed that, again, floor works are necessary but the Petitioners would like to use the opportunity to create a more flexible floor space to accommodate different styles of worship and work with children. It is said that the hall is small and may indeed close. There are issues connected with size and with access, particularly parking, and the proposal is to move activities such as Messy Church into the church. They had, at another church, an existing “Little Fishes” for mothers with young children who wished to learn more about the Christian faith which closed because of cold and issues with flooring. Gayton Brownies would like to use the church as would the local Church of England primary school for performance events. The school and village are said to be

growing with further housing development but without reordering the church is unlikely to have room to accommodate events such as the ones described above and additional community events.

13. Given the emphasis on children's events in particular the Petitioners propose soft flooring by way of carpet in a neutral shade to avoid a dominant colour in a sizeable area. It is proposed to re-carpet aisle areas with the same carpet which will be made of high quality wool with properties making it relatively easy to clean. It is thought it would last for 30-40 years (the aisle carpets have so far lasted 25 years) but, in any event, should the mission of the church develop in ways not requiring it, the Petitioners point out it would be a reversible feature. It will be laid with reversibility in mind. The church is already carpeted and therefore acoustics are likely to be similar it is thought.
14. Whether one agrees or disagrees with the proposals, it is clear that the homework on each aspect relating to all of them has been considerable. This is a particularly thoughtful project.
15. The effect of the proposals will clearly alter the appearance of the church and the principal visual difference will be the introduction of chairs instead of pews and the greater visibility of the floor carpeting if permitted.
16. This carpeting was a concern raised by both the CBC and SPAB. SPAB's revised proposal omits the carpet between the east end of the nave and the chancel. The Petitioners feel that this difference is no more aesthetically pleasing than their own proposal and fear that it might also cause people to trip.
17. I have considered this aspect carefully. I have decided that first, the difference is in truth relatively small and I have concluded that the Petitioner's approach is justified particularly in view of the neutral colouring.
18. I have not rehearsed the many interesting and significant features of this Grade 1 listed church. I read these and considered them but this is really a case where the reordering is forced upon the church in any event and is justified by its needs and its mission. I am satisfied that the justification is present, that the project has been carefully thought out with care and with due consideration for the church as a whole.

19. To what aspects of the work is the enhanced *Duffield* consideration relevant?

- a. Removal of all pews in nave and north aisle - except five older 'pauper' pews to the west end of the north aisle which will remain in situ. As discussed, it is relevant to this proposal.
- b. Repair nave and north aisle floor as per architect's specification re-using existing materials where possible and where exposed earth from removal of pews in nave to lay pavement brick tiles to blend with surrounding flooring as per architect's specification. This does not engage the consideration. This will not affect the character of the church as a building of special architectural or historical interest. The consideration is not involved.
- c. Remove existing carpet and replace - drawings and carpet sample currently held with DAC. (Extra Heavy-Duty Contract - Westex Talisman - colour Tofu). The consideration is involved with this proposal as already stated.
- d. Install new flexible seating in the form of chairs (Wooden Stacking Church Chair from Alpha Furniture - Light Oak using Nappa Aquaclean fabric on seat and back in Sangria colour) Chair design and Nappa sample currently held with DAC. The consideration is involved with this proposal as already stated.
- e. Install oak storage unit in south aisle to the west of the organ - drawing and site photo currently held by DAC. It is not involved with this proposal.
- f. Replace six overhead infrared heaters in the nave with new ones of a square design and mount them 1 metre lower. Install a further six additional new infrared overhead heaters - ie 3 in north aisle - 2 in south aisle and 1 on west wall. Plan and specification from electrician attached. UKPN will need to upgrade electrical supply - quote attached. It is not involved with this proposal.

20. Accordingly, I am satisfied that the works that do involve the *Duffield* enhanced consideration are likely to cause at most moderate harm to the significance of the church as a building of special historical or architectural interest and I recognise that some harm was inevitable. Of course, there are also some benefits in the case of these high box pews disappearing in that certain features will be more visible.

21. There is a justifiable need for a reordering that is necessary in any event and I am satisfied that there are no sensible alternatives. Trying to recreate the church exactly as it was would be difficult and it would frustrate the benefits that this reordering will bring.

22. The proposals not affected by the enhanced *Duffield* test, the new overhead heaters (welcomed by the CBC) the upgrading of the electricity supply, the installation of the oak storage unit and the repairs to the floor are not contentious and can readily be permitted.
23. However, I will apply the three provisos of the DAC as conditions: concerning the confirmation that the heaters will work at the proposed height, that special attention should be given to the possibility of uncovering wall paintings and what to do about it and the proviso concerning the cabling and junction boxes. I also impose a condition that the replacement chairs must be upholstered only in the seat and in the neutral material specified by the Petitioners.
24. In these circumstances, I will allow the Petition as prayed for and order the Faculty to pass the Seal.