

IN THE CONSISTORY COURT OF BIRMINGHAM

IN THE MATTER OF ST. MARY'S CHURCH, HANDSWORTH

JUDGMENT

1. By Petition dated the 4 January 2018 the Rector of St Mary's Church, Handsworth, the Rev. Dr. Robert Stephen and Keith Hemmings, Churchwarden, seek a Faculty for a major re-ordering of St Mary's Church. The Petition is the outcome of extensive consultation and advice from the DAC over a number of years and as will become apparent during the course of this judgment that consultation has continued and culminated in a meeting at the Church on the 4 September 2018 when my Deputy Registrar and myself met Parish representatives, the architect appointed to the scheme and representatives from Historic England and the Victorian Society. I should say at this juncture that all the relevant parties have co-operated fully to ensure that I have the best advice available to enable me to make a decision about one of the most important churches in the Diocese which is justly known as "the Cathedral of the Industrial Revolution".
2. Subsequent to that meeting further amendments were made to the details of the Petition and responses to those amendments have been received from Historic England and the Victorian Society. I am satisfied that all parties have been given a fair opportunity of commenting on the proposals and making their submissions.
3. The present position is that Historic England do not object to the proposals but the Victorian Society have set out in a detailed letter dated the 14 October their concerns about the proposals. I should say that I found their letter to be thoughtful and balanced and I am grateful to the Society for the care that they have taken in what, to them, to the Parish and to the Diocese is a matter of the greatest importance.

4. The Victorian Society although raising objections do not seek to become a formal opponent to the Petition and all parties have agreed that I can deal with the matter on the basis of the written material before me with there being no need for an oral hearing.
5. The DAC have recommended the Petition to me but at the meeting of the 12 December 2017, details of which the Parish have, they make some observations about the need to agree some of the details of the new work, in particular the work associated with the boiler, the lighting and the precise patterning of the new flooring. All these are matters that are properly raised and I am sure that the Parish will liaise with the DAC to discuss these details and in default of agreement refer the matter back to the Chancellor.

THE PROPOSED WORK

6. The installation of an air-sourced, heat exchange underfloor heating system in the nave with radiators in the chancel being served by the heat exchange units for which the current boiler room and organ blower room would be re-ordered and extended. A secondary gas boiler would also be installed to support the system and to provide hot water. The underfloor heating will be placed on top of the existing floor in the nave and overlaid with stone (now amended to tiles) sympathetic to the building.
7. The creation of a nave altar platform to overcome what is said to be an enormous visual disadvantage created by the rather strangely sited tower which would be large enough for various concerts and other dramatic uses and would be furnished with a new altar and seating for the liturgical ministers.
8. The renovation of the organ console so that it is moveable and the relocation of the choir organ to the east end of the north aisle so that the organist becomes part of the worshipping community and the organ has the action unified and the pipework sounding together to get over the present dynamics of the organ as it presently is.
9. The re-siting of the pulpit (the alabaster panels to be cleaned by a conservation specialist) to the south side of the new platform and against the tower, moving it back to where it was until the Church was rebuilt in 1820, with the lectern removed to the north side.
10. The creation in the north of the north aisle of a servery area (the refectory) with suitable facilities for service refreshments. This would be separated from the main

body of the Church with glass screens so that the space can be used either as part of the Church or independently with minimal reduction in natural light into the nave.

11. The removal and refurbishment of the pews from the 18th century to the servery area and to the Wyrly Chapel. The replacement of the other pews with new custom made moveable pews which would be more easily reconfigured for the two aisles at the centre of the nave.
12. The remodelling of the current vestry to accommodate three additional toilets with a storage area above.
13. The creation of a new vestry (with a sufficiently flexible door to allow the bells to be removed) in the area under the tower, where the vestry was until the 17th century. There would be a screen created in glass and the image of the Blessed Virgin Mary would be etched into the glass, in accordance with the dedication of the Church itself.
14. The moving the Handsworth War Memorial to the west of the second window on the south wall, and moving the memorial that is presently there to a place one window down, and above the memorial that is currently at that place.
15. The use of the south aisle for a professional display highlighting the history and significance of the church.
16. With the use of non-invasive cleaning materials, the removal of heavy staining to the internal north and south walls.
17. The establishment of a suitable array of lights to focus attention to the nave altar and serve the refectory area and the historical display.
18. I will deal in detail with the observations made by the Victorian Society but at this juncture I can say that they tell me that they have serious concerns about the proposals, particularly:
 - The installation of glazed screens to the outer north aisle
 - The proposal glazed screen to the tower arch;
 - The removal of the nave and aisle pews;
 - The introduction of the raised floor with underfloor heating;

- The impact of the proposed raised dais in addition to the proposed raised floor.

STATEMENT OF NEEDS

19. The Statement of Needs indicates that the Parish needs a building that will be warm and flexible, principally for the worship that is eucharistically centred and hence the need for a nave altar. There is a need for the organ (and especially the organist) to be part of the worshipping community rather than being removed to the East end and the organ (which is basically sound) to be integrated with a unified action to the console. Space is needed for liturgical movement around the building. The pews are required that are both removable and more worthy of the building. There needs to be flexibility to enable the space to be used for community needs. The significant place that the church has in the history of the Industrial Revolution needs to be taken seriously so that visitors may be attracted and be educated about the various personalities connected with the church and the artefacts entrusted to the Parish.
20. The Parish of Handsworth is at the heart of an area of hyper diversity within the City of Birmingham. Some houses are in multiple occupation, mainly used by recent refugees, prisoners or alcoholics and others are large single family dwellings in some of the best housing in Birmingham. The congregation is growing numerically and the vast majority of those who attend are drawn from the Parish. The church had been used exclusively for worship but is increasingly used by the community for meetings, concerts and social gatherings, something the Church wants to develop. The Church are developing links with the CBSO, Birchfield, Big Local, Handsworth Park, Aston Villa FC, the Romany Gypsy Association, and many others.
21. The present layout of the building is, according to the Parish, hampering such community development and flexibility of worship. The poverty of the existing heating system means that during the winter months the church is often unusable because of the cold.
22. Liturgically, as I am told has happened many times in the past, the intention is that the building will be remodelled to facilitate worship. The intention is that the nave altar will bring celebrant and people together in a westward-facing position, whilst still having the facility for the more traditional eastward facing celebrations for great occasions at the High Altar. The re-ordering would allow for processions to move

more readily around the building and for other services to be hosted without people precariously fitting in between pews. The pattern of worship at St Mary's includes very formal events with civic guests through to all-age worship where space could be used more creatively were it flexible. The aisles, particularly the side aisles, are narrow and do not make movement around the building, particularly liturgical movement, very easy.

THE CHURCH ITSELF

23. The Parish Church at Handsworth, dedicated to St Mary, has continued on the same site for a millennium or more. The first stone church was built around 1160 and the bottom stages of the tower date from this building. The simple and austere church served for some considerable time before it was enlarged in the 14th century. Because of the instability of the ground, this expansion was northward instead of being lengthened and broadened. In the 15th century the tower was raised and the Wyrly Chapel was added to the north of the Chancel.
24. In 1820 a reconstruction destroyed the medieval character of the Church. The architect for this rebuilding was William Hollins who rebuilt the north arcade and aisle and enlarged the Church by adding a broad north transept filled with pews and galleries. The interior of the Church was re-arranged to suit contemporary taste. Hollins' work was subsequently described as "utilitarian Gothic of an age uncertain of the principles of ecclesiastical style".
25. The restoration of 1876 was an almost total reconstruction of the Church inspired because the fabric was in a bad state with the threat of the roof collapsing and an unbearable stench from the burial vaults (which were subsequently concreted over) and because there was a desire to remodel the building in keeping with the modern taste associated with the Oxford Movement. One of Birmingham's most distinguished Victorian architects, whose work is increasingly recognised, J A Chatwin, was engaged as the architect for the project. Shortage of money meant that his original proposals for clerestory windows could not be undertaken with the result that the church is darker and less lit than he intended. It also meant that the inside finials are carved only on the sides visible to the congregation and the outside finials are not carved at all.
26. The interior was re-arranged in conformity with the then Victorian taste. The Jacobean pulpit and reading desk, with heavy hexagonal sounding board, then fixed to the massive wall of the tower and the old high-backed pews curiously arranged to

face it were disposed of and the galleries were replaced with pews. Some of the lower 18th century oak pews were put in the south aisle and the wood was in contrast to the new seating of pitch pine. The sanctuary was adorned with an altar, a reredos and two sedilia and guarded by brass rails. The Chancel was finished with stalls and later entered through a screen of iron and copper. The organ was moved from the west end to be near the choir. A marble pulpit and brass lectern flanked the Chancel steps. Over the succeeding few years painted glass was inserted into most of the windows. The neo-gothic font of 1820 was removed and the old medieval font was brought back and placed on a platform at the west end of the south aisle.

27. Since that time there have been few structural alterations. The pinnacles have been removed from the tower, restoring its essential character of strength and solidity. The font has been removed from the end of the south aisle and placed in a baptistery at the west end of the nave. A screen of oak and glass divides the vestries from the rest of the church.
28. Pevsner and Wedgwood in their Guide to the Buildings of Warwickshire (1966) whilst acknowledging the importance of Chatwin's work concentrates on the Church's importance as the final home of *"that brilliant group of late 18th century/early 19th century industrialists, Boulton, Watt and Murdoch."* Their association with the Church has led to it being regarded as the Cathedral of the Industrial Revolution and in 1826 a simple chapel was added to the south east, designed by Rickman to house Chantrey's statue of James Watt *"a very fine large piece in marble. The great engineer is seated in a chair, deep in thought, holding a pair of compasses, with a scroll on his knee. The bare, isolated little room in which it is set creates the feeling of a genius left alone with his ideas"*.
29. St Mary's Handsworth is a Grade II* listed building.

THE COURTS APPROACH

30. I remind myself that the burden of proof is on the Petitioners and that the approach commended by the Court of Arches in *Re: St Alkmund, Duffield [2013] Fam 158* requires me to be satisfied that such harm as may be caused by the proposed works to the significance of the Church as a building of special architectural or historic interest is outweighed by the proven needs of the Parish. I also must bear in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building and that is particularly the case if the harm is to

a building which is, like St Mary's Handsworth, Grade I or II* where serious harm should only exceptionally be allowed. I also bear in mind the observations of the Court of Arches in *Re: Holy Trinity, Eccleshall (30 July 2010)* when the Court of Arches observed that the Faculty jurisdiction has always favoured changes which are reversible. As can be seen in the history of St Mary's, tastes change and the ability to return to the status quo ante is often an importance consideration.

31. The Victorian Society are right to point out that the scale of work sought to be undertaken is large and it seems therefore that my proper approach is to consider the individual proposals against the St Alkmund criteria and examine in each case the objections raised by the Victorian Society.

MY ASSESSMENT OF THE PROPOSALS

32. **The re-siting of the organ and console**

- Having inspected the present configuration, I am satisfied that far from doing harm to the Church, the proposal will result in a significant benefit. The Wyrly Chapel is obscured by the present configuration. The monuments to William Wyrley (sic) and his wife are almost entirely obscured. The Parish's proposals will enhance the appearance of the east end of the Church. The Parish have already removed the carpet from the Chancel which has exposed the fine Victorian tiling. The improvement in what will be delivered rebuts the presumption against any change.

33. **The Lighting Array**

- Whilst I have considerable sympathy with the Victorian Society that Chatwin's original design of a clerestory would be a welcome addition, I have to be realistic and accept that finances preclude this. I am sure the Parish will bear in mind the Victorian Society's suggestion that the introduction of such windows might in the long term be possible but at this stage I am satisfied that it is not and accordingly I believe that the proposed lighting arrangements will add to the appearance of the interior and thus the presumption against change is rebutted.

34. **The Dais Pulpit and Lectern**

- I am satisfied that the liturgical benefit of forming a Dais in a polygonal shape which reflects the design elsewhere in the Church is necessary and

will result in an improvement to the Church as a whole and in particular to its purpose as a place of worship, rather than a museum. It is a pity that the fine Chancel steps will no longer be visible but I remind myself that this work is reversible, should fashions change, and that the amended design is now appropriate in terms of the shaping of the front of the Dais. I can also understand that the removal of the pulpit to the south side (where it was until 1820) and the moving of the lectern to the north side will both be aesthetically pleasing and will keep in situ two fine works of art. The Victorian Society are concerned about the pulpit having an over bearing appearance but the Parish counter by saying that that is what a pulpit is for to enable the message to be delivered. I do not find that the arrangements will result in any harm to the Church and indeed they will result in an improvement. Once again the Parish has rebutted the need for the status quo to remain.

35. The Vestry

- I bear in mind the concerns of the Victorian Society about the positioning of the new vestry in the tower. The presence of a glazed screen with an appropriate engraving partially obscuring the interior is in my judgment an improvement necessary and will sit more happily with the remainder of the building than, for example, a curtain or a wooden screen. There is the opportunity for the new glass screen to be an attraction and a fine piece of religious art. I do not accept that the proportion will be significantly disturbed and bear in mind that on my inspection the present area is cluttered and inspection of the fine monuments on the wall is near impossible. I therefore accept that no harm will result by issuing a Faculty allowing the work in the tower to be carried out but I will make it a condition of the work that the fixing of the screen be agreed with the DAC and in default be referred to me. I would anticipate that the fixing can be carried out in the same manner as that proposed for the glass screens on the outer north aisle.

36. The Outer North Aisle

- I am satisfied on the evidence that the Church, to carry out its mission, needs to offer to a congregation facilities that are rooted in the 21st rather than the 19th Century. The Victorian Society do not object to the removal of

pews to make this space but are unpersuaded that glazed screens are needed. They point out the potential impact from light reflection on the glass, that the nave and aisles are currently a large but harmonious space and that that will be broken up. They suggest that the servery could operate within an open outer north aisle. Whilst I understand their view point, from a practical purpose it does seem to me that there should be a barrier between the servery and the main body of the Church and that the least intrusive barrier will be provided by glazed screens. The Victorian Society rightly are pleased with the Parish's proposal that the glass is intended to be "water cut" to follow the overall silhouette of the capitals and column bases and I accept their submission that that should be a condition of granting this particular part of the Petition. I also accept their submission that an appropriate cleaning regime is necessary but from the care exhibited by the Parish in caring for their Church and the pride that they clearly take in its huge significance, it seems to me that I can rely upon them to carry out the necessary cleaning regime without making it a condition of the Faculty. I regard the proposals relating to the servery and the outer north aisle not to present a risk of harm to the building and I accept that the Parish have rebutted the presumption against changing the status quo.

37. The Heating System

- In my judgment the Parish have exhausted every possible heating alternative, have sought expert advice and have been told that the only appropriate heating system which will prevent the Church continuing to be unusable within the winter months is an underfloor heating system. I am satisfied that the installation of such system will necessitate the raising of the floor by 136mm. That will of course alter the original proportions but the evidence before me is that it would not be safe to excavate lower down thus leaving the present floor at its existing level and thus there is no alternative but to raise the floor. All parties have worked hard to minimise the level by which the floor would have to be raised and I accept the evidence of the Parish that were things to change the original floor would still be in existence and the raised floor could be reversible. I further accept that the Parish's proposal to place cast iron grilles, to a sympathetic design, around the columns is appropriate. I have given some thought to the grilles at the side of the aisles and at my meeting wondered whether or not it

would be possible for cast iron grilles of a similar design to be positioned there. I have received evidence from the heating expert that the system that is best for the Church can only operate with aluminium grilles of the pattern designed by the manufacturer. I understand that these can be painted black and thus although the grilles at the side will not be the same as the grilles around the columns it seems to me that there is no alternative but to permit the installation of such aluminium grilles once I have determined, as I do, that it is only the underfloor heating system that will adequately heat the Church. I accept that the raising of the floor will result in some harm to the original proportions as designed by Chatwin but the building is a large building and it seems to me that the effect will be kept to a minimum. I am satisfied that such harm as will be caused is overridden by the necessity of the building being adequately heated. In short that need is much greater than the potential harm caused and thus I find that the Parish's Petition to install a new heating system must be granted and because the heating system has to be under floor, the proposal to raise the floor level also has to be agreed.

38. The Flooring of the Nave

- The original proposal was for there to be stone slabs but at the meeting I attended the Parish were asked by the Victorian Society to consider the use of appropriate tiles. The Parish readily agreed to that and I would wish details of those tiles to be submitted to the DAC (and the conservation advisor for the Victorian Society, Mr Tim Bridges sits on the DAC) so that the appropriate tiles can be agreed and as the Victorian Society say in their submission to me, "the quality and texture of these tiles is commensurate with the character of the interior of this Grade II* ecclesiastical building.

39. The Pews

- The original proposal for lighter coloured pews has been changed. An example of the darker pew was available for inspection and the pews with planked backs reflect the design of the existing pews. The removal of the 18th century pews to the servery and Wyrly Chapel seems to be an appropriate way of better using the pews than at present. In relation to the Parish's proposal to remove the pews in the Nave and aisles apart from those to be used elsewhere, and to replace them with new pews, I accept

the submissions by the Victorian Society that many of the pews date from Chatwin's rebuilding of the nave. In particular the umbrella holders and trays are original to the seats and were fitted to the reused 1820 seats at the same time. They do not object to the removal of some pews from the front of the nave to create the Dais area, the north aisle and the south aisle but do object to the total removal and replacement of the current 1870's pews and wish to see the majority of those in the nave retained. However they recognise the quality of the proposed replacements. In principle I am prepared to grant this part of the Petition but I would wish to hear from the Parish as to whether some of the Victorian Pews could be retained, and if so where in order that visitors may get an understanding of what originally was there. I would be grateful to hear further from the Parish on this matter and would hope that there can be a continuation of the discussion with the Victorian Society. I make it clear that I accept the Petitioner's argument for the pews to be moveable to create a flexible worship space but I do regard it as appropriate, if it is possible within the scheme of the re-ordering, for some of the Victorian Pews, particularly those with umbrella stands to be retained so that visitors to the church can be aware of what was in place before this re-ordering.

OTHER MATTERS CONTAINED IN THE PETITION

40. I accept that the smaller matters raised in the Petition are not opposed; the proposed store cupboards will be an asset and the re-modelling of the current vestry to accommodate three additional toilets with the storage area above are clearly appropriate for a church in the 21st century. The re-siting of the Handsworth War Memorial and the transfer of the memorial and the place where it is to go are appropriate and no objection has been raised to that. I am satisfied that the Parish has rebutted the presumption against any change.

MY DECISION

41. With the exception of the position of the pews that I have set out in paragraph 39 I therefore grant the Petition and direct that a Faculty be issued permitting the work,

the subject of the Petition. In the light of the submissions that I have received I attach the following conditions:

- (a) That the Parish discuss with the DAC the points of design and detail set out in the meeting of the 12 December 2017.
- (b) That the required archaeological works shall be carried out in accordance with the work's brief set out in the meeting of the DAC on the 12 December 2017.
- (c) The details of the proposed light fittings be agreed by the Parish with the DAC.
- (d) The Parish provide to the DAC details of the fixing of the glass screen to be installed in the tower.
- (e) That the screens in the north aisle be "water cut" to the columns and bases.
- (f) That the detail of the tiles to be installed on the floor shall be agreed with the DAC.
- (g) In the unlikely event that there is any disagreement about these conditions and their operation the matter shall be referred to the Chancellor for his determination.

42. Pursuant to The Ecclesiastical Judges, Legal Officers and Others (Fees) Order 2017 (Table1) the Parish will pay the following fees incurred in accordance with this faculty within 28 days of the date hereof;-

Registry fees of £2,900 plus Vat being 29.2 hours at £102 per hour

43. May I finish by thanking all parties for the sympathetic way that they have sought to preserve St Mary's Handsworth as a memorial to what has gone before but at the same time ensure that it is fit for purpose for future worship.

Dates this 26 day of November 2018

Mark Powell QC, Chancellor