

IN THE CONSISTORY COURT OF THE DIOCESE OF ST ALBANS

IN THE MATTER OF: ST CATHERINE AND ST PAUL, HODDESDON

JUDGMENT

Scope of proposed works

1. This is an application from two churchwardens and the incumbent of this grade II* listed church to:
 - 1.1. Remove 26 pews from the nave and behind the altar, plus 3 pew fronts, retaining the original pews in the gallery and 4 of the best of the pews from the nave or altar areas¹ (which will then be located two at the back of the church and one on each side of the transepts), but otherwise disposing of the pews². A temporary re-ordering licence is in place and has allowed the church to experiment with the proposed arrangements in practice. Presently the pews are stored in the transepts. The church already owns around 70 stackable chairs which have been used in place of the pews to experiment with the more flexible space left by the removal of the pews;
 - 1.2. Relocate the mounts for the Church Wardens' Staves. The mounts are currently affixed to the ends of pews and in the event that the pews are removed, the mounting of the Staves will inevitably need reconsideration. Part of the proposed works in the petition is therefore that these are moved to the gallery support pillars;

¹ Four pews had been moved behind the altar during a reordering in 1976 and are not used. The other pews have been moved to the transepts under the Archdeacon's licence and are currently being stored there.

² Under rule 18.1(b) FJR 2015 (as amended) I granted permission for the schedule of works to be amended to read as follows: *To remove the pews and replace them with chairs, keeping 4 of the best pews locating 2 at the back of the church and 1 on each side of the transepts; relocation of the Wardens' staves and relocation of a monitor, mounting it on the side wall.*

1.3. Movement of an existing monitor to a new location in the gallery. At present it is mounted at the back of the gallery and the proposal is to move it to the front of the gallery. Following consideration of input from Historic England (“HE”) the proposals in this regard have been modified from the original proposal to hang the monitor over to the gallery frontal (which HE felt would create an imbalance and detract from the quality and detail of the gallery) and instead to affix the monitor to the side wall on a hinged mount to enable it to be folded back out of sight when not in use.

Views of consultees

2. The PCC has engaged in much careful consultation with its community which has produced some mixed reactions to the loss of the pews. However, over time it appears that careful discussion and the experimentation that has taken place under the Archdeacon’s licence have assuaged the majority of those who initially favoured retention of the pews. I deduce this both from the history of the matter I have seen set out in the texts of carefully minuted meetings and from the fact that no objections were received via the process of public consultation.
3. HE was consulted. Whilst noting that the original arrangement of the pews had not survived, HE expressed the view that the removal of the pews would harm the heritage significance of the church. However, it recognised the benefits associated with the proposals and did not object to the removal of the pews, provided that an agreed number were retained for use in the transepts.
4. No views were expressed regarding the relocation of the Wardens’ staves and as to the relocation of the monitor, as set out above, HE expressed concern about the potential negative impact upon the decorative front panels of the gallery, which the Petitioners have acknowledged by the modification of their proposal to mount the monitor on a side wall instead.

5. The Planning Officer of Broxbourne Council was also consulted. The Planning Officer expressed the views that the disposal of the pews would be a matter for regret in circumstances where they could be stored in case of future need. If not stored then the view was expressed that they should be put to use in a different church. No views were expressed regarding the relocation of the monitor or the Wardens' staves.
6. The Council and HE have been approached as to whether they wished to become party opponents. Neither do and both are happy for their written views, as per the supporting documents, to be taken into account in my determination.

Significance of the church and the internal features in question

7. The church is an 1860s and 1880s Gothic revival church with an 18th century chapel at its core. Its west gallery with a decorative front featuring a central pediment carried on fluted Doric columns and flanking panels is an important contributor to its quality and character by reason of its symmetry, ornamentation and depth of detail. HE comments that the church's significance is "...informed by the legibility and quality of its distinct development phases and their associations" and in respect of the pews, in particular, notes that they were introduced as an essential part of the 1860s works undertaken "...on aesthetic, moral and religious grounds at a time of rapidly expanding population." The significance of the church, the pews and other features in relation to the proposals and the appropriate decision-making framework is considered in more detail below.

Determination

8. Dealing first with the removal of pews and weighing the arguments for and against the removal of the pews and their replacement with the existing stackable chairs owned by the church, I apply the framework set out by the Court of Arches in *Re St Alkmund, Duffield*³ and *Re St John the Baptist, Penshurst*⁴. The framework is: (1) would the

³ (2013) Fam 158

⁴ [2015] WLR (D) 115

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 is ‘no’, the ordinary presumption ‘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. (3) If the answer to (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 the very strong presumption against proposals which will adversely affect the special character of the listed building, will any resulting public benefit (including liturgical freedom/ pastoral well-being/ mission opportunities/putting the church to viable use consistent with its primary role as a place of mission and worship) outweigh the harm? The more serious the harm the greater will be the level of the benefit needed before an application can succeed. In a Grade 1 or 2* building, serious harm should only exceptionally be allowed.

Duffield question 1: (1) would the proposals, if implemented result in harm to the significance of the church as a building of special architectural or historic interest?

9. Drawing from (i) the listing entry, (ii) HE’s assessment in its letter, (iii) Pevsner and (iv) the Statement of Significance it is apparent that the particular architectural interest of the interior of church is principally due to the eighteenth century gallery and staircase with its interesting columns and panels, the Georgian panelling in the interior and the round windows in the foyer, and also the sense of the private chapel that is given by the plain, rectangular shape of the nave with a flat ceiling and arched windows. None of these features will be adversely affected by the removal of the pews and, as the pews themselves are later importations, there is no contiguity of design, interrelationship with other features or element of atmosphere which is especially dependent on retention of the pews.
10. However, as HE’s letter of 11 October 2022 makes clear, the “*legibility and distinct character of its development phases*” is another feature contributing to the significance of this church, and the incorporation of the pews is part of that reading that will be lost by the removal and disposal of the pews. I therefore disagree with the assessment

contained in the Statement of Need that the proposal to remove the pews will “...*have no impact on the architectural or historical interest of the building as they were not an original part of the Georgian building.*” Rather I consider that the removal of the pews will impact upon, and indeed harm, the significance of the church as a result of its impact on the way in which the development phases of the church is read.

Duffield question 3: If the answer to (1) is ‘yes’, how serious would the harm be?

11. Turning to the third of the *Duffield* questions:

- 11.1. I have paid attention to the fact that the grading of this listed church is II*, a very high grade reflecting the importance and uniqueness of its architectural features;
- 11.2. I have sought to assess the role the pews play in contributing to this grade of listing and in doing so have noted that all who have been consulted consider that although the loss of the pews would be regrettable, the conclusion in each case is that to do so is, nonetheless, supportable. Nowhere has it been suggested that their removal would have a particularly serious impact on the church’s significance;
- 11.3. The key features which render the interior of this church especially interesting and give it its character, for example the gallery, the Georgian panelling, the shape and space of the chapel style interior, will not be harmed by the removal of the pews. I do not demur from the idea that the way in which they may be read and experienced may be altered by the loss of the pews, but the features themselves are intact and many of their interactions with other features remain unchanged;
- 11.4. I have noted that the delegation from the DAC who visited the church in 2021 saw it after the experimental removal of the pews from the nave under the terms of the Archdeacon’s licence. They remained well able to “read” the interior and discern the original intentions of the building from the layout even without pews in situ at that point;
- 11.5. It is also the case that some pews will be retained in the gallery and four pews located at the back of the church and in the transepts, so the loss of pews from the church is not complete;

11.6. The point is made in the Statement of Need that removal of the pews allows the Georgian panelling to be more easily seen and maintained, such that their removal may, in some important respects, serve as an enhancement to acknowledged features of interest and significance in the interior.

12. Weighing these factors leads me to the conclusion that the degree of harm that I have determined would be caused to the significance of the church as a building of special architectural or historic interest by the proposals to remove the pews is properly assessed as a low level of harm.

Duffield question 4: how clear and convincing is the justification for carrying out the proposals?

13. Turning next to the fourth Duffield question, I have first considered what are the key justifications put forward in support of the proposals. I have identified three, as follows:

13.1. To increase the flexibility of available space in the interior of the church and thereby increase the range of activities the church may be used for. In this regard the space created by the temporary reordering has allowed the church to plan and execute a range of activities which greatly increases the interface between church and community. These have taken the form of (amongst other things) weekly dance groups, an annual “Holiday at home” event, exhibitions, holiday clubs, town events, the running of the Broxbourne Night Shelter project, Slimming World, St John’s Ambulance, the temporary use as a vaccination centre during the pandemic, as well as an increased range of church services including Café Church, Messy Church and Wild Church;

13.2. To resolve the issue of detachment from the congregation experienced by the incumbent during church services. Under the pewed arrangement, the congregation is scattered through the nave, choir, gallery and transepts. The flexible placement of the seats in the nave, bringing the chairs through from the transepts, has drawn the body of the congregation into the main space of the church and allows better contact between the incumbent and the congregation, with consequent benefits to ministry and worship;

13.3. To improve accessibility. The pews in the nave prevent wheelchair access and any attendance at the church by wheelchair users has been limited to the space in the transepts. The temporary reordering has demonstrated that chairs in the nave resolves this difficulty and greatly increases the accessibility to the heart of the church for all.

14. I have considered how clear these justifications are and have reached the conclusion that they are very clear. In particular, each of the three key justifications are articulated and evidenced without ambiguity in the documents before me. It is also the case that none of the key justifications have been gainsaid (either as to existence or importance) by any evidence in the papers nor in the opinions of any of those who have expressed concern or contrary views.

15. I have concluded that each of the key justifications are also strongly convincing, providing, as they do, sound reasons for the removal and disposal of the pews. I am supported in reaching the conclusion that the justifications for the proposal are very convincing by the fact both HE and the Council, whilst expressing regret at the loss of the pews, nonetheless expressly recognise the benefits that will flow to the church by their removal. Furthermore, the success of the temporary reordering under the Archdeacon's licence has allowed many of the ideas regarding flexibility, space and accessibility to be experimented with. The outcomes have confirmed that the space is put to a much greater variety of uses without the pews than when they were present. It is also the case that I conclude that the justifications are very convincing in this case because there has been extensive consultation with the congregation over time and some of that consultation threw up opposing views. However, a great deal of care and attention was then given to discussion, listening and controlled experimentation prior to seeking a faculty and despite the earlier antipathy to removal expressed by some members of the congregation, the public notice has produced no objections. As such I conclude that this too supports the conclusion that the justifications for the proposed works in this case are convincing.

Duffield question 5: will any resulting public benefit outweigh the harm?

16. Finally, I have turned to consider question five of the *Duffield* questions, namely: bearing in mind the very strong presumption against proposals which will adversely affect the special character of the listed building, will any resulting public benefit (including liturgical freedom/ pastoral well-being/ mission opportunities/ putting the church to viable use consistent with its primary role as a place of mission and worship) outweigh the harm? (The more serious the harm the greater will be the level of the benefit needed before an application can succeed. In a Grade 1 or 2* building, serious harm should only exceptionally be allowed.)
17. It is clear to me that, given the low level of harm to significance caused by the removal of the pews, the public benefits (in particular pastoral well-being, increased mission opportunities and benefits to congregation and community) amply outweigh that harm in this case. The benefits are already being manifested under the temporary reordering licence. The increased accessibility and greater range of functionality is providing significant benefits to the church and wider community and that has not been gainsaid by those expressing any degree of opposition to the removal of the pews, nor can it seriously be disputed.
18. Accordingly, on the above assessment I am satisfied that the proposed works to remove and dispose of the pews should be permitted.
19. For completeness I should add that in terms of HE's view that some pews should be retained, and the Council's observations that whilst it did not object to the removal of the pews, their disposal from the church so that they would not be available for use from time to time was a matter of regret, I note the Petitioners' considered response to these points. There has been careful thought given and a change in the planned scope of works to reflect the points raised by HE and the Council. Accordingly, whereas the initial proposal was for the disposal of all 30 pews, four are now to be retained and kept in use. This seems to me to be an appropriate response, allowing for some of the fabric to be retained but without impediment to the aims of the church which I have evaluated and found to be persuasive and compelling in this case. The Petitioners observed that the various – and numerous – new events that the church has managed to introduce since the removal of the pews under licence, remain hampered in scale and scope by

the retention of the pews *en masse* in their temporary location (the transepts). Those areas are rendered very congested by the presence of the stored pews and this also makes serving tea and coffee difficult after services. This evidence, which I accept, is provided by way of the Petitioners' reply to HE's letter and is not contradicted by alternative evidence or any point of view expressed before me. I am persuaded that the Petitioners' points are right in their conclusion that retaining more of the pews than they have indicated they intend to do would undermine the outcomes the church is aiming to achieve. I note also the uncontroverted evidence before me that further aspects to reordering the church are under consideration which are contingent upon clear space in the transepts and also that the associated Church of England school is presently unable to be accommodated in full with the pews present, but if they were to be removed there would be space for the whole school plus parents. For these reasons I am satisfied that the proposals should be allowed in full, with the retention of four sample pews and the gallery pews, and that retention of any further pews would be, in this case, an impediment to the benefits the Petitioners have evidenced.

20. I also note that the Council tentatively suggested that the design of the existing chairs which are being used in the nave is out of keeping with the style and appearance of the church. Having reviewed photographs of the chairs in situ, I note that, although there is always some incongruence between an historic interior and ranks of modern chairs, in this case their light, neutral colour and appearance plays relatively harmoniously with the painted gallery and pale paintwork of the interior. (NB I have also seen two red chairs and a single plain wooden chair appear in some of the photographs with no explanation for how those chairs feature in the plans, but I would note that they detract from the effect of the grouped neutral coloured chairs and should be removed). In the circumstances I will permit the chairs to be introduced on a permanent basis on the grounds of economy, practicality and because they have proven to be effective and non-objectionable in appearance during the course of the Archdeacon's licence, but would observe that all chairs for use in the nave should be of a single design and uniform appearance, that the PCC should, in due course, give consideration to new replacement chairs, seeking advice from the DAC as to the most appropriate designs to complement the interior and as to whether to include some chairs with arms for ease of access and standing.

Monitor and Wardens' staves

21. The other two elements of the proposed works relate to moving the monitor and to relocating the mounts for the Wardens' staves (which are currently attached to the ends of pews and will therefore be lost when the pews are disposed of).
22. I have also considered these two aspects against the *Duffield* criteria and have concluded as follows:

22.1. Monitor: the monitor is currently located on the back wall of the church on the north side of the gallery. The proposal was initially to relocate it by hanging it (unfixed) over the front of the gallery. HE observed that this would look unbalanced and would detract from the details and symmetry of the detailed and attractive gallery. There was initially some resistance from the Petitioners to the prospect of reconsidering its plans to take account of this observation. However, the Petitioners very properly overcame their reluctance and engaged in careful thought, including the evaluation of whether the introduction of a monitor stand would work instead (for sensible reasons, it was concluded that it would not). It was eventually concluded that it was important to ensure that the appearance of the balcony panelling remained unimpeded, given its significance, and that mounting the monitor on a side wall on a hinged bracket was a preferable solution. I agree with this and, for the avoidance of doubt, would not (on the basis of the papers before me) have permitted the monitor to be hung over the gallery for the reasons identified in HE's letter. However, the mounting on a retractable bracket from a side wall is not objectionable. It is a minimal change to the interior appearance of the church, does not detract from the distinctive interior features and accordingly I find that it will not harm the significance of the church. Any presumption in favour of maintaining the status quo as regards the monitor's location is, in my judgment, rebutted easily by the uncontroverted evidence that it cannot, in its present location, be seen and read by anyone without anything other than excellent eyesight, and that relocating it to the side wall will mean that it becomes usable by clergy and others leading services.

22.2. *Wardens' staves*: the relocation of these to the pillars either side of the entrance to the church is not controversial and has elicited no comment from the consultees nor via public consultation. The change in appearance will be minimal and I consider that this will have no impact on the significance of the church and that any presumption in favour of retaining the status quo is rebutted in this case because of the practical need for a permanent mounting place and the fact that it will be impossible to do so once the pews are disposed of.

22.3. Accordingly, I will permit the works as to the relocation of the monitor to a retractable bracket attached to the north side wall of the gallery and as to the relocation of the mounts for the Wardens' staves.

Conclusion

23. In these circumstances, I am prepared to grant a faculty in the terms of the amended scope of works, subject to:

23.1. The modification of the intended location of the monitor (i.e. the permission is for relocation of the monitor to the north side wall of the gallery, mounted on a retractable bracket, not to be hung over the gallery front as originally envisaged in the petition);

23.2. The condition that all reasonable efforts should be made to dispose of the pews to another church or otherwise in a way whereby they can be put to use (including consideration of the "Take a Pew" scheme or similar).

24. The time for completion of the proposed works is 18 months.

25. I am grateful for the careful work that has been done by all those involved with this Petition and I wish the parish well for the future.

6 July 2023

**Lyndsey de Mestre KC
Chancellor**