

Neutral Citation Number: [2022] ECC She 3

DIOCESE OF SHEFFIELD

In the Consistory Court

Her Honour Judge Sarah Singleton QC

Chancellor

Judgment

Concerning the Petition of the incumbent and churchwardens of the church of St Mary the Virgin Hook, to carry out works of internal reordering

1. The works which fall to be considered by this Petition form the first stage of various works that are to conclude with necessary works of restoration and repair. The works subject to this petition are described as follows:

Re-ordering including pew removal and replacement with chairs, new audio-visual equipment, relocation of font to north-east of nave, accessible W.C. to former choir vestry with new door to east side, fixed kitchenette, storage tugs and new blue carpet runners.

2. St Mary the Virgin, Hook is a Grade 2* listed church. The current building was completed in 1225 but it is thought that the building incorporates a stone arch of an original Saxon structure. It may well be the oldest building in the Goole area by some 400 years. The listing arises not only for its ancient structure but also for important artefacts which are sited there including Tudor and Jacobean chairs, a Jacobean table and a unique stained-glass window of Queen Victoria wearing spectacles. In 2007 medieval wall paintings were discovered at the church.

The churchyard is graced by magnificent trees including a copper beech said to be the finest example in East Yorkshire. The church and churchyard are each havens for wildlife, located as they are, close to the nationally important marshland of the Humber Estuary. The churchyard hosts a significant bird population. Pipistrelle and Brown Long Eared bats roost in the church roof and fly inside the church during evenings before leaving their roost. This biodiversity is warmly welcomed by the congregation.

3. The church building needs restoration and maintenance and is on the Heritage at Risk Register by reason of failing roofing, ground movement and the need for window and stonework repairs. The Petitioners advance a powerful case for a parallel need to enable the church to be a building fit for 21st Century use by the congregation and the community. The church at present has a limited maximum capacity, is not accessible for users with disabilities, it has an outside toilet down a path and is without adequate refreshment making and washing up facilities.

Extensive research and consultation have preceded the presentation of this Petition. The aspiration of the Petitioners and that of the congregation and the local community is that the works proposed be completed by 2025 to coincide with the 800th anniversary of the building.

4. Although the church has a small regular congregation attending formal worship, it attracts large congregations to festival services and has close ties with the nearby local primary school of 200 pupils who use the building regularly.

5. The church was restored and extensively re-ordered internally in 1844, 1873 and 1896 including the installation of fixed pew seating; the pews in the nave severely limit the potential for the space inside the church to be used for events and activities other than formal worship. It is inferred by the Petitioners that during the centuries prior to the Victorian re-ordering the usual custom and practice for medieval churches was followed where the church would have been used as a village hall or community space as well as for formal worship. The Statement of Significance suggests that the pews in the nave are of low quality pine whereas those of the chancel are of higher quality oak as is the pulpit and other furniture. The pews which would be removed under the proposals are the poorer quality nave pews. The better choir pews and oak furniture would remain.

6. The reordering works which are the subject of this petition include the installation of new AV equipment, pew removal and font relocation, the installation of an accessible WC to the former choir vestry, the installation of a kitchenette, storage tugs and new blue carpet runners. The Petitioners propose to replace the pews in the nave with stackable chairs and, after careful consultation with their regular users, propose metal chairs with blue padded upholstery.

7. The Views of the Amenity Society Consultees

a) Church Buildings Council

In November 2019, when first consulted, the CBC expressed approval for most of the aspects of the proposed reordering. However they wanted to see a better description of the significance of the pews which the project team sought to remove. They were opposed to the introduction of upholstered metal chairs to replace the pews if removal is permitted. They point to the Council's seating guidance to the Petitioners incorporating a strong preference for timber chairs.

b) Historic England

Historic England, by their letter of 5th August 2020 had no objection in principle to any aspect of the scheme but offered advice as to certain matters:-

They were disappointed that the WCs were to be installed where the choir vestry is at present, pointing out their 2013 suggestion that there be an improved outside facility.

They were concerned at the larger scale of the kitchenette and servery proposed which they believed was somewhat bigger than originally planned and incorporated a sweeping curved suspended roof canopy which they questioned. That aspect of the proposals has since been abandoned and modified.

They were regretful that alternatives to pew removal had not been pursued and pointed out that a small degree of harm would be given considerable weight given the listing of this church. They urged the Petitioners to follow the CBC guidance as to replacement seating if the pew removal is permitted.

c) The Victorian Society

By their communication of November 2021 the Victorian Society set out their view that the Project has overstated this church's medieval origins and understated its Victorian heritage asserting:-

This is as much a building of the nineteenth century as any other, and the Statement of Significance ought not just to reflect that, but to celebrate that. Whatever scheme is adopted

should honour the church's nineteenth-century heritage, which is rich, characterful and no less unique to Hook than its medieval history (and certainly more in evidence).

They go on, in trenchant terms, to suggest that complete pew removal is not sufficiently justified.

They object to the curved canopy proposal for the kitchenette

As to the replacement chairs proposed, they say;-

I should make it clear that irrespective of how this reordering scheme develops over the coming months, and regardless of the details of the activities and business plans that are produced, the Society will not at any stage consider the proposed new chairs suitable for a highly listed church interior such as St Mary's.

In their later communication welcoming the removal from the plans of various features which they had earlier opposed, the society repeats strong objections to the removal of all the nave pews. They criticise the lack of a business plan to support the contentions as to the need for flexibility suggesting that the system requires such a plan in advance of reordering proposals. Their objections to the proposed replacement seating is expressed more strongly than ever and they urge the parish to reconsider its choice of chairs.

d) The Society for the Protection of Ancient Buildings

The Society welcomes the plans for restoration, maintenance and repair. In their communication of 23rd November 2021 they defer to the Victorian Society as to the majority of the proposals. They recommend archaeological consultation and a watching brief in respect of the impact of the proposals on any important below ground archaeology. They recommend the advice of a specialist conservator in respect of moving the font. They recommend wooden seating if pew removal is thought to be justified.

By their comments of January 2022 the Society agrees with the perspective of the Victorian Society: disliking what they describe as "Restorationist" arguments which elevate the importance of the older parts of the building over the later. They say "... changes accrued over a building's lifetime often contribute to its special interest and beauty as do signs of age ..."

The Society urge the Petitioners to develop a scheme of expert conservative repair rather than replacement of the existing worn corbels. They recommend archaeological advice in respect of the flooring and continue to discourage the removal of the nave pews. They express a firm view against the selected metal blue upholstered chairs should the pew removal be permitted referring to the CBC guidance and the general preference for timber over metal or upholstered chairs. The society is concerned by the visual impact of the preferred AV solution suggesting moveable units as a less invasive more flexible solution.

8. Business Plan

A business plan and cash flow projections with and without the proposed internal reordering have been prepared by the incumbent. The cash flow prediction without the proposed re-ordering predicts a very difficult situation. The cash flow prediction with re-ordering is also challenging. It anticipates achieving very high levels from fund raising in years 2, 3 and 4 following permission being granted to enable the restoration works to be undertaken. The document anticipates, following those years of

financial stress and pressure to enable the restoration plans to proceed, a settling down to a much healthier financial situation.

In essence the plan is for the internal reordering which is the least expensive aspect of the project to proceed as soon as possible and to be undertaken in achievable stages in order to increase the income of the parish and to enable fundraising for the project.

The parish has two objectives for the proposed internal re-ordering. The first is to be able to use and hire out the building to increase the present modest income of the church by adding to it the profits of church run events and the hire fees of the externally run events. The second is for such expansion of events to result in more people joining the now dwindling regular congregation. By that process he anticipates growth in the congregation and an increase in regular giving from the enlarged congregation. He acknowledges the difficulties of the project but, he can demonstrate that unless the internal reordering is undertaken, there is no chance of achieving the income necessary to undertake essential works of conservation, repair and maintenance of the roof and the stonework. He predicts stagnation in the congregation, reduction in income and deterioration in the building unless the project goes ahead and the parish allowed this opportunity to bring about change.

9. The Faculty Process

The DAC considered these works at their meeting of 16th June 2022 and recommended them for approval by the Court subject to the removal from the proposal of the installation of a metamorphic sign. That proposal is no longer advanced. During the development of the plans for these works as I have outlined relevant historical amenity bodies have been consulted including Historic England, the Victorian Society, the Society for the Protection of Ancient Buildings and the Church Buildings Council. None of the consultees have made formal objections or wish to become formal party objectors. Public notice requirements have been completed and no objection to the works has been received.

10. The Applicable law

The legal path to be navigated by a judge examining proposals in respect of a listed church is well signposted and derived from paragraph 87 of the Court of Arches decision in St Alkmund Duffield [2013] Fam 158, the enduring principles of which have been repeatedly affirmed since.

The applicable questions are:-

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 not, 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.
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 mission, 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 be particularly the case if the harm is to a building which is listed Grade 1 or 2* where serious harm should only exceptionally be allowed.

Decision

11. The petitioners acknowledge that the internal re-ordering will cause harm to the significance of the church as a building of special architectural or historical interest. They seek to rebut the presumption against change by demonstrating the moderate nature of the harm and advancing absolute necessity as the justification for the proposals. I do consider that the harm which will be caused is moderate. The Petitioners have taken an approach of conserving as much as they consider practical and feasible of the interior of the church as it stands, including the works of Victorian restoration evident in the chancel and the choir furniture. A key area of harm would occur in the stripping out of the lower quality fixed pews of the nave, which will change the appearance of that space from that of a typical Victorian Anglican church. That appearance would be lost. Unless it is lost, however, the plans of the church to maximise the income that the building can produce are unattainable. The dilemma is similar (although less acute) to that faced by Chancellor Peter Collier QC in respect of the unique and beautiful pews contained in the church at Holy Trinity Hull in his decision concerning that church reported at [2017] ECC York 1. It will be remembered that he determined that the pews might be removed.

12. The Petitioners are also criticised for adopting a “Restorationist” approach and not valuing the Victorian aspects of their church. I do not consider this to be fair. The Petitioners do not advance a return to a more Medieval layout as a justification for the harm of removing the pews in and of itself; rather, they seek to mitigate the harm by such a perspective. In general they demonstrate a reverence and respect for the church’s Victorian heritage by what they seek to retain. Overall I consider the changes proposed would result in moderate harm.

13. I turn then to the justification which must necessarily be powerful to rebut the presumption against any harmful change to a Grade 2* listed building. The plans of the Petitioners for works of restoration and repair are welcomed and strongly encouraged by all the consultees. Unless those works can be undertaken the building will continue to deteriorate at a gradually increasing pace. Constructive advice has been offered about those works by some of the consultees, for example with respect to necessary archaeological overview and the preferability of repair over replacement with respect to the corbels; no doubt that advice will inform the plans for repair and restoration as the stages of the works proceed and fall to be considered. However, I am quite persuaded that unless the Petitioners are able to undertake the internal reordering they propose as stage 1, the necessary works of restoration will never be achievable, and the church will stagnate. The justification is not only powerful but overwhelming.

14. I consider the justification for installing the proposed toilet facilities internally rather than expanding and improving the present outside facilities to be self-evident and the use of the choir vestry for this is considered and justified and reduces the visual impact in the nave and chancel of this necessary installation.

15. I note that the Petitioner’s plans for the kitchenette have changed to reflect earlier comments and are now as minimalist as possible and consistent with their need for this facility. I anticipate that the kitchenette plans will be adaptable and reversible with relative ease in the future.

16. I note the care with which the AV scheme has been prepared and approve the installation as proposed, knowing that care will be taken to ensure that this installation will also be adaptable and reversible.

17. I am unable to endorse the Petitioner's choice of upholstered metal chairs to replace the pews which are to be removed. I note the consultation that has taken place and the arguments advanced by the Petitioners in respect of the comfort and cost of the various chairs. The cost arguments are particularly directed against the most expensive timber chair tried out by the consultees. I note that other wooden chairs are available closer in cost to that of the Petitioners' metal upholstered first choice. I am afraid that the Petitioners have simply not advanced a sufficient justification for a departure from the CBC's guidance in respect of seating and the preference for wood or timber.

18. I therefore propose to direct that a faculty issue to permit these works. An archaeological watching brief is to be commissioned where the works impact the underlying floor or ground. The replacement seating must be of wood or timber in accordance with the guidelines.

HHJ Sarah Singleton QC

Chancellor

4th September 2022