

IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY

C2209/2016

LONG ITCHINGTON: HOLY TRINITY

JUDGMENT

- 1) Holy Trinity, Long Itchington is a Grade II* listed church. The south aisle dates from the late 12th Century and the chancel, nave, and tower from about 1300. There have been various reorderings and restorations over the life of this church and the current pews were introduced in 1866.
- 2) The Petitioners are the churchwardens and the vice-chairman of the Parochial Church Council. They petition, with the support of that Council, for the removal of the pews in the nave and south aisle, save for four short pews, and for their replacement with Alpha A1LSE chairs. Those are upholstered wooden chairs designed for use in churches and chapels. The Petitioners propose that there be wine coloured upholstery.

The Procedural History.

- 3) In its Notification of Advice the Diocesan Advisory Committee recommended approval of the works but certified that they were likely to affect the character of the church as a building of special architectural or historic interest.
- 4) There has been no response to the public notice.
- 5) There has been consultation with the Victorian Society, Historic England, and with the Society for the Protection of Ancient Buildings. The last of those has deferred to the views of the Victorian Society in respect of the pews. I will consider the details of the representations made by the Victorian Society and Historic England more fully below. In short both of those bodies reluctantly accept the need for the removal of the pews but oppose their replacement with upholstered chairs. Both of those bodies have been invited to confirm whether they wish to become parties opponent. Historic England has confirmed that it

does not wish to become a party but is content for me to take account of the points made by it in correspondence. The Victorian Society has not responded to the correspondence from the Registry and I will proceed on the basis that it does not want to become a party but I will take account of its representations.

- 6) I concluded that it would be expedient to determine this matter on the basis of written representations. The Petitioners consented to this and have provided short supplemental representations. I have also received a short report from the Diocesan Advisory Committee explaining the reasoning behind its advice.

The Applicable Test.

- 7) I have already explained that Holy Trinity is a listed church. The proposed works will clearly alter the appearance of the interior of the church. I agree with the assessment of the Diocesan Advisory Committee that, involving as they do the removal of Victorian pews from the nave and the aisle, the works are likely to affect the church's special character. Therefore, the approach laid down in *Re Duffield: St Alkmund* [2013] 2 WLR 854 as modified in *Re Penshurst: St John the Baptist* (2015) 17 Ecc L J 393 is to be followed and these questions addressed:
- a) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
 - b) If not have the Petitioners shown a sufficiently good reason for change to overcome the ordinary presumption that in the absence of a good reason change should not be permitted?
 - c) If there would be harm to the significance of the church as a building of special architectural or historic interest how serious would that harm be?
 - d) How clear and convincing is the justification for carrying out the proposals?
 - e) In the light of the strong presumption against proposals which will adversely affect the special character of a listed building will the benefit outweigh the harm?
- 8) In considering the last question I have to bear in mind that the more serious the harm the greater the level of benefit needed before proposals can be permitted. I

also have to bear in mind that serious harm to a church listed as Grade I or Grade II* should only be permitted in exceptional cases.

The Petitioners' Submissions.

- 9) The Petitioners seek to remove the pews in order to enable the church to be used more flexibly. The pews are free-standing but are long and heavy. This means that they can be moved but that moving them is an exercise which requires a number of parishioners. It is an exercise which is neither easy nor necessarily safe. The Petitioners point out that in 2014 the Diocesan Advisory Committee commented that the pews were heavy, in poor condition, and of no particular historic or architectural significance. The photographs I have seen confirm the length of the pews and indicate that they are of a standard undistinguished appearance. I can readily appreciate from the photographs that moving them is a difficult exercise.
- 10) The Petitioners are particularly motivated by the need to have flexibility in the church for "Messy Church" services. These are held every three months. They involve games, worship, and a meal. They are seen as a key part of the church's mission to children and their parents. For such services to take place the pews have to be moved. In addition the pews have to be moved for activities such as the church's harvest supper and Christmas market and for other social events or for village events such as concerts.
- 11) In respect of the choice of chairs the Petitioners seek upholstered chairs. They explain that they want the appearance of the church to be "*warm and welcoming*" and they believe that unupholstered chairs would not give that impression to those entering the church. They do not anticipate having to stack the chairs and so it is not a priority to have chairs which are readily stackable or which can be stacked to any height. They have seen similar chairs in use in other local churches and believe that they are likely to be both hard-wearing and comfortable.

The Representations from the Victorian Society and Historic England.

- 12) The Victorian Society said that it regretted the loss of the pews. However, it accepted that the pews were not of any individual merit and that their importance

lay in the contribution which they made as a body to the church. The Society also accepted that the Petitioners had made out a strong case for the need for flexibility. The Society sought to persuade the Parochial Church Council of the value of keeping the current seating but said that if that persuasion did not work it would not oppose the removal of the pews. It does oppose the introduction of upholstered chairs. It says that the chairs currently proposed would “*an unworthy replacement*” for the pews. The Society refers to Holy Trinity’s Grade II* status and says that seating which is “*more harmonious*” with that should be required. The Society also makes the point that if it is well-designed unupholstered seating is not uncomfortable.

- 13) The stance of Historic England mirrors that of the Victorian Society. It regrets the loss of the pews but in the circumstances does not object to that. However, it says that the proposed chairs would not be a “*fitting replacement*” for the pews. It also opposes the proposed upholstered chairs on the ground that “*experience has shown that they do not last particularly well*”. It says that well-designed unupholstered chairs can be both “*comfortable and long-lasting*”.

The Advice of the Diocesan Advisory Committee.

- 14) The Committee has recommended approval of the petition but the report explaining its reasoning shows that the Committee was far from enthusiastic about the choice of chairs.
- 15) The Committee had initially written to the Parochial Church Council urging the use of unupholstered seating and discouraging the use of the proposed upholstered chairs. It had done so for essentially the same reasons as given by the Victorian Society and Historic England. The Parochial Church Council had continued to express its preference for upholstered chairs.
- 16) The stance adopted by the Committee in those circumstances was summarised thus in the report: “*As with similar cases, the DAC maintained its preference for unupholstered and more practical and elegant chairs ... but did not wish to prolong this application further nor felt strongly enough to object. The DAC therefore agreed, in this instance, to support the preference of the PCC and recommend the proposals. The proposed chairs can therefore, in the view of the*

DAC, be considered appropriate for this church insofar as a number of similar churches have introduced similar chairs and found them suitable for their needs.”

Removal of the Pews.

17) Individually the pews are of little merit. Their contribution to the special character of the church lies in their unity as a Victorian ensemble filling the nave and south aisle. The font and organ are also Victorian but they were not installed at the same time as the pews and this is not a case where there was a Victorian restoration in which a number of furnishings were installed as part of a deliberate and unified design. It is of note that although the Listing Description and Pevsner: Buildings of England: Warwickshire both give detailed accounts of the interior of this church neither mentions the pews. In those circumstances it is apparent that the contribution made by the pews to the special character of Holy Trinity is modest at most.

18) The photographs show that the pews are long and that they are substantial pieces of furniture. I have no doubt that moving them is a difficult exercise and that even when moved they occupy a significant amount of space. The Petitioners have demonstrated that the presence of the pews impedes an important part of the mission of this church. As both the Victorian Society and Historic England have acknowledged the Petitioners have put forward good grounds for the removal of the pews.

19) Accordingly, I conclude that the harmful impact of the removal of the pews on the special character of the church will be no more than modest. The benefits to be obtained from that removal are real and substantial. I, therefore, authorise the removal of the pews.

The Replacement Chairs.

20) The question of which chairs are to replace the pews is a more difficult one. I accept that the Petitioners have given careful thought to this matter and that they and the Parochial Church Council are firm in their preference for upholstered chairs.

21) However, both the Victorian Society and Historic England set out strong arguments against such chairs. It is also clear that the support of the Diocesan Advisory Committee for the proposed chairs is far from enthusiastic. I am also conscious of the fact that the approach taken by the Victorian Society, by Historic England, and initially by the Diocesan Advisory Committee is mirrored in the powerful and considered advice of the Church Buildings Council. In its Guidance Note on Seating the Council says:

“With many years of experience and having seen a range of completed schemes, the Church Buildings Council generally advocates the use of high quality wooden chairs (i.e. unupholstered) and pews where seating is necessary.

The Council’s experience is that wooden chairs have the greatest sympathy with historic church environments, present the best value for money with long lifespans, and that a well-designed, ergonomic wooden chair can provide as much comfort as an upholstered design.

Upholstered seats are not considered to be appropriate for the following reasons:

- *They have a significant impact in terms of colour, texture and character which is not consonant with the quality of a highly listed church;*
- *Experience demonstrates that upholstered seating needs more regular refurbishment (wear and tear, staining) than seating without upholstery. ..*
- *They are heavy and therefore more difficult to arrange and stack;*
- *The addition of soft furnishings can alter existing acoustics;*
- *Wood tones and textures fit well within church buildings and have been used for centuries in this context, whilst some colours have associations with other types of buildings such as offices.”*

22) I have to take account of the fact that Holy Trinity is a Grade II* church and that the nave and south aisle are mediaeval. The clear preference for those who have expertise in these matters (including expertise of different kinds of seating in different churches) is for unupholstered seating.

23) I turn to the Petitioners’ reasons for preferring upholstered seating.

- a) They say that they do not anticipate needing to stack the chairs and so upholstered chairs (which can only be stacked a few high) will be adequate and there is no need for chairs which can be stacked in high piles (as some unupholstered ones can be). I note this factor although as one of the reasons

for removing the pews is the need to create flexibility an ability to stack chairs in high piles would clearly not be a disadvantage.

b) The Petitioners have researched the chairs with the suppliers and with other churches which have similar chairs. They believe that the proposed chairs will be durable. I accept that modern high quality upholstered chairs can be durable. However, this is a matter of degree and duration. I have no doubt that even the best modern upholstered chairs will need replacement and are at risk of becoming shabby in appearance before unupholstered chairs of a similar quality.

c) The Petitioners do not believe that unupholstered chairs will appear “*warm and welcoming*”. This combined with the implicit view that they will be less comfortable than upholstered chairs is clearly the main reason for the preference of the Petitioners and the Parochial Church Council. I accept that the interior appearance of a church should if at all possible not be off-putting to those new to it. However, it is to be remembered that an overly casual appearance can be incompatible with a house of God and can be as unattractive to newcomers as an appearance of excessive rigour. An emphasis on quality and seemliness is not only appropriate in buildings dedicated to the Glory of God but is also part of what attracts those new to the Church. When considering comfort I must give considerable weight to the expert advice that properly designed unupholstered chairs can be as comfortable as those which are upholstered. It follows that the various expert bodies whose views are before me are agreed that quality unupholstered chairs can be as comfortable and look as welcoming as those which are upholstered.

24) I am not persuaded that upholstered chairs as opposed to quality unupholstered chairs are necessary in order for the Petitioners to achieve their legitimate objectives of furnishings which enable flexible use of the church and which are suitable in terms of appearance for modern use. I am satisfied that those objectives can be achieved by installing quality unupholstered chairs. I am persuaded that upholstered chairs would be less compatible with the appearance and character of the church’s interior than unupholstered chairs. It follows that the

chairs proposed by the Petitioners would have a greater adverse impact on the special significance of the church than would those without upholstery.

- 25) The preferences of the Petitioners and the Parochial Church Council cannot prevail over the consensus of expert opinion in circumstances where the objectives justifying the reordering can be achieved without upholstered chairs. The introduction of such chairs would detract from the appearance of the church in a way and to an extent which is not necessary and which is, for that reason, impermissible.
- 26) Accordingly item 1 of the proposed works, the removal of the pews, is authorised but item 2, the introduction of Alpha A1LSE chairs, is not. The faculty will be granted in terms that authorise the introduction of unupholstered chairs of an appearance and design which are confirmed by the Diocesan Advisory Committee to be appropriate or which are approved by this Court in the event that the Petitioners and that Committee are unable to agree.

STEPHEN EYRE
HIS HONOUR JUDGE EYRE QC
CHANCELLOR
24th July 2016