

IN THE CONSISTORY COURT OF THE DIOCESE OF ROCHESTER
Re: St John the Evangelist, Penge
Faculty petition 1575

J U D G M E N T

1. By a Petition dated 18th June 2015, the then Petitioners applied for a faculty to enable works to be carried out to the church of St John the Evangelist, Penge.
2. **Background.** The church, which was built in 1850, is Grade II listed. Sitting as it does on Penge High Street, it is a fine example of Victorian architecture within the Penge High Street Conservation Area. It is a very substantial building located in a strategic position within the community that it serves. Over time there have been extensive changes made to, and reordering of, the church.
3. On the site on which the church stands there is at the northern corner a poorly designed two-storey vicarage built in about 1968-70.
4. I held a Directions Hearing at the church on 20th May 2016. In attendance were the then Registrar, the then Incumbent, the Revd Nigel Poole, the then Archdeacon of Bromley and Bexley, the Venerable Paul Wright, Mr Derek Shilling and Mrs Sarah Anderson of the Diocesan Advisory Committee (“the DAC”), and Ms Sophia Laird of the Victorian Society. The parish was, at that juncture, hoping to petition for extended works to the church building.
5. The proposed works were intended to be funded by the development of housing on what is a large site. That, of course, was dependent on the granting of the appropriate planning permission by the relevant local authority, Bromley Council.
6. Having visited the church and heard about the PCC’s desire to petition for extensive further works, I gave directions on 25th May 2016. Later I made the decision to await the petition for what I term the wider works, and then to deal with all issues arising together, and gave directions accordingly on 24th October 2016.

7. Unfortunately, and through no fault on the part of anyone, decisions on the wider works have taken much very longer to resolve than expected. The reasons for this are, inter alia, the local authority took a long time to make a decision on the planning application for housing; the application itself was refused; there followed a lengthy interregnum; there were all the problems experienced in so many quarters by the Covid pandemic and its aftermath; and there was a merger of the church with Holy Trinity, Beckenham.
8. The upshot is that the parish cannot for the moment afford to carry out the wider works, and so no longer seek to pursue or to explore that option.
9. Thus, the petitioners, who are now the Revd Jessica Smith, the Incumbent, and Mr Ian Baldwin, a Churchwarden, have fallen back on part of what was their original petition, namely to seek only the permanent removal of the pews and integral clergy stalls from the chancel, and for their disposal.
10. In fact, the pews and clergy stalls have not been in situ since 2014, when they were removed under an Archdeacon's Licence for Temporary Minor Reordering dated 7th April 2014. Whilst the Licence has long expired it was agreed at the meeting on 20th May 2016 that there would be no objection to the reinstatement decision relating to the pews and clergy stalls being deferred until decisions had been made about the proposed wider works to the chancel roof. This means that the pews and clergy stalls have not been used for nearly 10 years.
11. There are no formal Parties Opponent to the Petition to remove the pews and clergy stalls permanently, though the Victorian Society, Historic England, and the Church Buildings Council have all made written representations to the Court. I shall refer to those representations in more detail below.
12. **Procedure.** The Petitioners have consented to my dealing with the Petition on written submissions. Insofar as the transitional provisions are concerned, the **Faculty Jurisdiction Rules 2015 (as amended) Rule 28.3(1)** provide; "The Faculty Jurisdiction Rules 2013 continue to apply to proceedings in a consistory court that were started before 1st January 2016 as if these Rules had not been made, save to the extent that the Court orders otherwise."
13. Applying as I have done **Rule 13.1** of the 2013 Rules, I am satisfied that this is a petition suitable to be dealt with by way of written submissions.
14. **The PCC.** At a PCC meeting held on 15th May 2023 those attending, being 12 in number, unanimously voted in favour of resubmitting the faculty petition to remove the choir pews and clergy stalls permanently.

15. **The DAC**. The DAC by its updated Notification of Advice dated 24th July 2023 recommended the removal of the choir pews and integral clergy stalls (already removed) and the introduction of 24 chairs. This was a change in its position from that declared in its earlier Notification of Advice dated 27th July 2015. The DAC in a letter also dated 24th July 2023 from its Secretary stated; “The Committee commented that the updated Statement of Needs (May 2023) gives a careful and thorough analysis of how the chancel is now used on a regular basis, and clearly explained why the PCC feels that the mission of the parish would be impacted if they had to reinstate the pews. The Committee observed that the parish’s mission with children and young people was inspirational, noting that this was made possible because of the extra space created in the chancel. The Statement of Needs explained clearly the distinction between how the chancel and chapel were used in separate and distinct ways. The Committee discussed whether it would be possible to retain some of the pews elsewhere in the church but agreed that this would not be feasible given the activities in the church and the use of the building.”
16. Overall, the DAC stated that concerns previously expressed had been addressed, and that it considered that the impact on the significance of the pews and the setting was justified given how the chancel had been used since the removal of the pews. The DAC unanimously recommended approval to the permanent removal of the choir pews and their disposal.
17. **The Victorian Society**. The Victorian Society (“the VS”) provided objections in emails dated 18th February and 15th June 2016. Whilst they accepted that the pews and integral clergy stalls in the chancel were not of exceptional quality, they argued that extensive reorderings over 40 years had eroded the character of the interior, and that what was left should be preserved. They pointed out that the choir stall pews had been supplied specifically for the church, and that their style was suitable for the architecture. They took issue with the replacement chairs, and stated that in their opinion the removal of the choir stalls etc and their replacement with chairs would “further erode the character of the interior, leaving the building without a single cohesive designed space.”
18. The VS also considered the Statement of Need to be very weak; this objection has been dealt with by ensuing events.
19. Finally, the VS was concerned that the Archdeacon had exceeded his remit. I do not propose to deal further with this objection here, in that it is no longer strictly relevant to the issues that I have to decide, save to say that Archdeacons must be wary of overstepping their powers and trespassing on the Consistory Court’s jurisdiction.

20. **Historic England**. Historic England (“HE”) in their letter of 15th June 2016 had this to say; “We do not wish to comment in detail but offer the following observations.....Although very little information regarding the significance of the pews has been submitted, it is clear that they make an important contribution to the spatial qualities of the interior and emphasise the formality of the chancel and its significance as a separate liturgical environment. However, we accept that the extensive reordering of the church over the years has compromised their integrity to an extent.”
21. Whilst the position of HE seemed ambivalent they stated a strong preference “to see these important features retained.”
22. With respect to HE it seems to me that much of what they have said has also been overtaken by events.
23. **The Church Buildings Council**. The Church Buildings Council (“the CBC”) in their email of 22nd June 2016, argued that the Statement of Need “does not give sufficient justification for why flexible seating is required in the chancel, in addition to the nave and chapel.” Again, what has occurred since 2016 deals with this argument.
24. It is unfortunate that there are no formal Parties Opponent because I am thereby deprived of seeing witnesses giving evidence under oath, and of having the opportunity to see and hear them in person, and in particular of having their accounts tested in cross-examination.
25. **The present position**. As I have said above, the disputed pews were removed in 2014, and I cannot ignore this fact. Of course, such cannot be determinative in my findings but it is an important factor. The church has had no chancel pews for nearly a decade, and there will be many in the congregation who do not recall them and have never known the church with them. The style of worship has changed and evolved in and around what has become a new status quo. This has been recognised by the DAC who specifically “commended the Incumbent and parish for their work with children and young people.”
26. In the Statement of Need dated 22nd May 2023, the Incumbent wrote that on a Sunday the chancel area is used “as a quiet space for prayer and reflection.” During the week, she said that the whole church complex was used to facilitate a wide range of community outreach activities. A monthly Saturday activity brings in between 30-40 households. The church has made particular efforts to reach out to local schools and has had considerable success in this regard. Insofar as toddler groups are concerned, independent researchers from Christchurch Canterbury University recently described the church’s work with young children as the “gold standard” for church toddler groups.

27. The Incumbent says, and I accept this, that the chancel is an integral part of the whole for all the activities. In describing what the church wants and needs the Incumbent has this to say; "...we are a growing missional church...(encompassing) a diverse often hurting community, sometimes with significant needs or additional health needs including mental health. All these require a safe space where people can come and be ministered to. The chancel and the chapel areas complement each other in providing these spaces.....However, the chapel alone cannot fulfil all the ways in which we have used the chancel for worship and mission. Firstly, it is too small for more than about ten people to sit comfortably. Secondly, the chapel is dark and therefore a much less attractive space than the chancel. And, thirdly, the acoustic is poor, which would make it a difficult space for many of our older adults who have hearing issues."
28. On, as it were, the positives of the flexible chancel space, the Incumbent states; "With the choir pews removed, the chancel has been used flexibly for a wide range of services and worship. These services have included smaller reflective and Communion services where worshippers have particularly appreciated the light streaming in through the large East window, regular morning prayer and a wedding." She describes the chancel area as being; ".....a wonderful space to use with school classes. With the chairs arranged in four rows a class of thirty can be comfortably seated in this space." She goes on to describe specific uses of the chancel, such as for use as a quiet place to focus on the cross during an Experience Easter event, a space to reflect on the Last Supper, where participants shared bread and grapes together, and for prayer stations.
29. The Incumbent says that the chancel is a space that encourages worship, because it is light and inspires awe and wonder, whilst remaining a space that can be arranged in a way that is welcoming, and which enables chairs to be arranged so that everyone can see each other.
30. In summary, the Incumbent states; "The reality is that, if we had to return the choir pews to the chancel, this would actively obstruct the use of the space for worship, welcome and witness. The pews are uncomfortable and at an awkward height - both for tall and smaller people - and very difficult for those with disabilities or mobility issues. They would render the space less flexible and allow fewer people to participate in worship and activities in the chancel. They would block some of the sunlight coming through the East window and would obstruct peoples view of that window and of the reredos. It would be much harder to use the space for prayer stations and much harder to arrange it appropriately to welcome a class of school children."
31. I accept in its entirety the very well-argued factual case put forward by the Incumbent.

32. **Conclusions.** I am effectively being asked by those opposed to the grant of the faculty which is sought, to impose, or reimpose, on a church that does not want them, pews and integral clergy stalls that were removed nearly a decade ago. Moreover, the evidence which I have accepted is to the effect that if I did so the worship and work of the church would be positively hindered and damaged.
33. I have no hesitation in finding that the Petitioners have proved by all that has been achieved over the last near decade, that the works, namely the removal of the chancel pews etc are necessary for the pastoral well being of the church and parish. By their absence it is clear that the church has been able very considerably to improve its mission and outreach particularly to the young in the local community. Nothing should be done to hinder that.
34. In addition, on the particular facts of the case, I do not consider that any harm will be done to the significance of the church as a building of special architectural or historic interest, even though it is listed, if the removal of the pews is made permanent. If I am wrong here, the harm would not be serious, whereas the harm that would occur if I refused the faculty would be, and would be lasting. Everyone involved agrees that there have been major reorderings over some four decades, and so the integrity of the church building as an architectural structure has long gone. In the premises the permanent removal of the chancel pews and clergy stalls will not adversely affect the character of the church as a building of special architectural and historic interest, or at all.
35. In the light of what I have said above, and applying the tests laid down by the Court of Arches in **Re St Alkmund Duffield [2013] Fam 158** as summarised in **Re St John the Baptist Penshurst [2015] PTSR D40**, the petitioners succeed.
36. That leaves only the question of what is to be done with the pews and clergy stalls which have been in store since 2014. I do not consider it reasonable or practicable to order their use elsewhere in the church or their continued storage on an indefinite basis. Accordingly, they may be given to another church or sold, as asked.
37. The Petitioners must pay the costs of the Petition together with the Registrar's fees as I direct.
38. Let faculty issue accordingly.

John Gallagher
Chancellor
15th August 2023