

Neutral Citation Number: [2016] ECC Cov 4

**IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY**

C158/2011

**SALFORD PRIORS: ST. MATTHEW**

**JUDGMENT**

- 1) The church of St. Matthew in Salford Priors has a grade I listing. The nave dates from the Eleventh Century and the south aisle from the end of the Twelfth Century (or perhaps a little later). There was a substantial Victorian restoration which included the installation of the current pews in the nave and aisle with readers' desks at the west end of the chancel and the pulpit at the junction of the chancel, nave, and south aisle. It is a feature of particular note for present purposes that the south aisle is markedly wider than the nave and chancel. The south aisle is currently pewed. At the west end of the aisle is the "Church Room". This is used for some storage and also for the serving of refreshments before and after services.
- 2) It is also of particular relevance that the church has no church hall or equivalent building. A recent application for planning permission for the building of a modest extension to house toilets and a relatively small meeting room has been refused.

**The Petition.**

- 3) The Rector and churchwardens petition with the support of the Parochial Church Council seeking a faculty for the substantial reordering of the south aisle together with reordering of parts of the nave and chancel. The main elements of the proposed works are.
  - a) The removal of the pews from the south aisle and their replacement with stackable chrome framed upholstered chairs.
  - b) The creation of a screen at the east end of the south aisle.

- c) The widening of the doorway leading from the south aisle to the Church Room with a view to creating easier access between those areas.
- d) The creation of a level platform at floor level across the east end of the nave and the south aisle.
- e) The movement of the pulpit and the repositioning of one of the readers' desks to facilitate the creation of the platform and its operation as a level clear space.

**The Petitioners' Contentions as to the Benefit of the proposed Works and the Need being met.**

- 4) I will consider below the Petitioners' arguments as to particular items of the works. However, their overall contention is that they and the Parochial Church Council are working to increase the size of the worshipping congregation at St. Matthew's. In order to do this they need to be able to provide comfortable seating; space for a larger crèche; and more space for the provision of hospitality. They contend that the proposed works will allow for flexibility in worship by, for example, enabling the holding of Café Church style services. Such flexibility in forms of worship is a further element in the strategy of encouraging new worshippers and of providing for the different needs of different groups. The works are also intended to allow the creation of a smaller worship space at the east end of the south aisle. The removal of the pews and the installation of chairs in the south aisle will, the Petitioners say, enable the church to be used for exhibitions and other forms of community use as well as for church functions such as harvest suppers and Passover meals. I note that harvest suppers and similar functions would in many parishes be held in a church hall but that option is not available to this parish. The church runs Alpha courses and marriage courses. However, the church building with its fixed pews and with no alternative seating is not felt to be a suitable setting for such courses. As a consequence they have on occasion been held in hired premises. The platform is intended to provide space for drama and similar activities across the front of the nave and the south aisle. It is also intended to create a more suitable setting for the Music Group which provides most of the music for services at St. Matthew's and which

is currently positioned in the somewhat cramped setting of the east end of the south aisle.

### **Procedural Matters.**

- 5) In its Notification of Advice the Diocesan Advisory Committee recommended approval of the works but certified that the works were likely to affect the character of the church as a building of special architectural or historic interest. I agree with that assessment of the likely effect of the works.
- 6) There has been no response to the public notice but both Historic England and the Victorian Society have expressed detailed objections although in differing terms. The Victorian Society has confirmed that it does not wish to become a party opponent. Historic England has not responded to requests to confirm whether it wishes to become a party opponent. I have proceeded on the basis that it does not wish to become such a party but have taken account of the objections from Historic England and from the Victorian Society as I will explain below.
- 7) I concluded that this was a matter in respect of which determination on the basis of written representations together with a site visit was expedient. The Petitioners consented to this course and provided brief written representations to supplement the original detailed Statement of Need. I made an unaccompanied site visit on 23<sup>rd</sup> April 2016.

### **Impressions formed on the Site Visit.**

- 8) In taking account of the impressions I formed on the site visit I am conscious of the need to avoid attaching excessive weight to my assessment of matters in respect of which the members of the Diocesan Advisory Committee and the staff of Historic England and the Victorian Society have considerably greater expertise than me. Nonetheless I found the site visit of assistance in determining this petition and the following matters were of particular note.
  - a) Space was clearly at a premium in the church. It is very heavily pewed with the consequence that there is very little free space.

- b) The Church Room was cluttered. It was apparent that the lack of free space meant that the room had to be used as something of a store room. The room is not large and having seen it I accept the Petitioners' contention that it becomes uncomfortably crowded when used for the provision of refreshments after services.
- c) The lack of space in the church means that there are elements of clutter in those parts of the church not occupied by pews.
- d) The pews in the south aisle are clearly an important part of the setting of the church interior. They form a striking ensemble with those in the nave.
- e) It was also apparent that the positioning of the pulpit and of the pair of readers' desks facing each other at the west end of the choir stalls was a significant element in the appearance of the chancel and nave.

### **The Applicable Principles.**

- 9) I have already said that St. Matthew's is a listed church. The proposed works will lead to a marked alteration in its appearance. 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 namely:
  - 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?

- 10) 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 Justification for carrying out the Proposals.**

- 11) I am satisfied that the Petitioners have established that there is a real need for space and for space which can be used flexibly. I have already noted the absence of a church hall; the small amount of unoccupied space in the church; and the inadequacies of the Church Room. The current position is that the church cannot in reality be used for anything other than traditional worship with the congregation seated in rows of pews facing east. There is no scope for using the church for different forms of worship nor for harvest suppers or similar functions. The Petitioners have shown that they and the Parochial Church Council have well thought out plans for an increase in the size of the worshipping congregation; for a ministry to younger people and to young families; and for a greater use of the church building. I am satisfied that the current heavily pewed layout of the church will be a significant impediment to the achievement of those objectives.
- 12) Historic England has said that space can be created in ways other than the removal of the pews. In his letter of 30<sup>th</sup> September 2015 Mr. Molyneux said that *“there is plenty of scope for more space without removing very many of the pews.”* He suggested an expansion of the Church Room by moving the screens around it and with *“some limited pew removal (say two rows)”*. Such measures would lead to an increase in the size of the Church Room but in my assessment that would not address most of the needs shown by the Petitioners. An expansion in the size of the Church Room would make that room less crowded when refreshments are served in it and it might make the room big enough for some meetings but it would not enable flexibility in the worship in the church nor would it allow more general use of the church. The increase in the size of the Church Room suggested by Mr. Molyneux would not be sufficient to enable that room to be used for harvest suppers or similar functions. The Church Room even if expanded would not be suitable setting for Alpha courses or for marriage preparation courses other than for ones attended by only a small number of

people. Moreover, such an expansion of the Church Room would not address the fact that the church itself cannot be used for Café Church or other forms of worship involving flexibility in the configuration of the seating.

- 13) I turn to the need for a dais or level platform extending across the east ends of the nave and the south aisle. I accept that such a platform would be of benefit in enabling dramatic performances in that part of the church and I also accept that it would provide a more fitting position for the Music Group than that of the east end of the south aisle in its current configuration. It follows that the creation of the platform is desirable and that it would bring benefits if it were to be implemented. My assessment, however, is that this is at a considerably lower level of importance than the need for the space and flexibility which would result from the removal of the pews.

#### **The Areas of Dispute.**

- 14) There is no dispute about much of what is proposed but there is dispute about some key features of the proposals. Thus the Victorian Society accept the removal of the pews in the south aisle but Historic England objects in strong terms to this. Having accepted the removal of those pews the Victorian Society objects to the proposal that they be replaced by stackable chrome chairs. The Society says that the replacement should be solid wooden chairs. The movement of the pulpit and of one of the readers' desks is associated with the creation of the platform running from the nave into the south aisle. As I will explain below the Petitioners have striven to reach an acceptable compromise in relation to those proposals but serious differences between them and the Victorian Society remain.

#### **The Removal of the Pews in the South Aisle.**

- 15) At an early stage the Petitioners had sought the advice of the Church Buildings Council. This had led to a report being commissioned from David Hawkins. Mr. Hawkins is specialist in considering furniture and historic woodwork. He is a standing adviser to the Diocesan Advisory Committees of Worcester and of St. Edmundsbury and Ipswich and provides ad hoc advice to the Church Buildings Council and to other dioceses. Mr. Hawkins was critical of the comfort of the

pews. He says that although some of the pews in the south aisle date from the early Seventeenth Century (or from the reused parts of such pews) the majority are Victorian. Mr. Hawkins was clearly persuaded of the church's need for space and he recommended approval of the proposal.

16) The Victorian Society said "*while the loss of pews is usually regrettable, we do not object to the removal of the pews from the south aisle. Their loss is mitigated by the retention of the pews in the nave aisle.*"

17) Historic England, by way of contrast, objects in strong terms to the removal of the pews. Mr. Molyneux expresses the view that the pews in the nave and in the south aisle "*are a complete suite*". He believes that the retention of parts of the Seventeenth Century pews in the south aisle pews was deliberate and that the pews installed in the Victorian restoration sought to follow the earlier design. Mr. Molyneux accepted that the Petitioners had made a strong case showing their need for space. Nonetheless, he said that the removal of pews would cause serious harm to the special significance of the church. Removal of the pews would "*remove a significant element of the church's history*" and Mr. Molyneux says that "*a key part of a good set of architect designed pewing will be permanently destroyed removing an important element of the church's development*" or "*an important historic element of the fabric*".

18) I have already said that the Petitioners have established a real need for space which can be used flexibly. I have also recorded my conclusion that Mr. Molyneux's proposal for an extension of the Church Room will be a palliative at best and that it would not meet the need identified by the Petitioners.

19) I accept that removal of the pews in the south aisle would have a very real impact on the special character of this church. It would moreover amount to a measure of real harm to that special character. There is more scope for debate about the extent and severity of that harm. I note in that regard that both the Victorian Society and the Diocesan Advisory Committee regard the removal of the pews as acceptable. I proceed on the basis that such a conclusion would not have been reached if either of those bodies had regarded the removal of the pews as being likely to cause serious harm to the church's special character. I

also note that neither Pevsner; *The Buildings of England: Warwickshire* nor the listing description make any reference to the pews. Despite those factors there is very considerable force in Historic England's contention that the pews make a major contribution to the special character of this church. The impression which I formed on the site visit was that the pews in the south aisle are a major element in the appearance and the special character of the church. They form an ensemble with those in the nave and contribute significantly to the character resulting from the Victorian restoration works. The removal of those pews will undoubtedly have a serious and harmful impact on the integrity of the Victorian design.

- 20) I have concluded that the particular circumstances of this case are exceptional and that notwithstanding the church's Grade I listing the harm caused by the loss of the south aisle pews is justified. The factors of especial note are the absence of a church hall; the pressing need for space and flexibility in the church itself; and the impracticability of creating appreciably more space in any other way. Retention of the pews would leave a major obstacle in the path of the proposed expansion of the congregation. I note in passing that use of the church by a lively and growing worshipping community is the best guarantee of its future protection. Accordingly, I authorise that element of the proposed faculty relating to removal of the pews.

### **The Choice of the Chairs replacing the Pews.**

- 21) The Petitioners' original intention had been to replace the pews in the south aisle with Howe 40/4 chairs in oak frames. These are stackable wooden chairs. The Petitioners now propose that the pews be replaced with Alpha SB2M chairs. These are stackable chairs with a chrome frame and upholstered seats and backs. The Petitioners have a number of supplemental justifications for this change of approach but the principal factor is one of cost. The Howe chairs cost £175 each while the Alpha chairs would cost £55 each. The Petitioners believe that seventy-five chairs will be needed and so the cost difference is something over £9,000. The Petitioners contend that the impact of the upholstered chairs on the appearance of the church can be mitigated by care being taken in the choice of colour for the upholstery. The church architect has recommended damson or



wine coloured upholstery believing that such colours will not draw attention from the architectural detailing of the church.

- 22) As I have already said the Victorian Society does not object to the removal of the pews but it does regard the proposed of the Alpha chairs as “*unacceptable*”. It believes that the original proposal of wooden chairs should be adopted. The Society refers to the guidance of the Church Buildings Council supporting the use of wooden chairs. The Society accepts that careful thought has been given to the choice of colour for the upholstery but its concerns remain. The Society says that the proposed chairs would be “*incongruous with the handsome interior of the church.*” The Society lays emphasis on the Grade 1 listing of the church saying that the chairs would not be acceptable in such a setting. The Society also says that the cost differential is less marked once account is taken of the greater longevity of wooden chairs.
- 23) My approach to this issue has to be influenced by the Grade 1 listing of the church and by the fact that it is a building which was built and designed to the Glory of God. For both those reasons the furniture installed in the church must be of the highest quality and must be concordant with the general appearance of the church.
- 24) I have no doubt that the removal of the pews in the south aisle will have a significant impact on the appearance of the church. I have concluded that the pressing need for space and for space which can be used flexibly justifies that impact. However, I am satisfied that the Victorian Society is correct to say that the introduction of chrome-framed chairs would further detract from the appearance of the church. Even when mitigated by care in the choice of the colour of upholstery there would be a discordant effect. That further discordant effect and further adverse impact is not justified by the need for space and flexibility. That is because that need can be met by appropriate chairs. The differential in cost is a real consideration but that differential is reduced when account is taken of the likely lifespan of the chairs and in any event it cannot justify the introduction of chairs which will be unsuitable in this particular setting.

25) Accordingly, I refuse permission for that part of the petition which seeks to introduce Alpha SB2M chairs. I will permit the introduction of Howe 40/4 wood framed chairs in oak or such other chairs as are confirmed by the Diocesan Advisory Committee to be of comparable quality and appearance.

**The Movement of the Pulpit and the Reader's Desk.**

26) The Petitioners' original proposal was that the pulpit be shortened in height and be moved to the south side of the chancel with the southern reader's desk and the lectern also being moved. The brass lectern is to be moved from the south to the north side of the nave. The purpose of these movements was to enable the creation of a level platform spanning the east ends of the nave and of the south aisle as an area for leading worship; for drama; for children's activities; and for the music group. The Petitioners refer to the need for "*a clear space with minimal obstructions across the width of the church.*"

27) The movement of the lectern is not contentious and is appropriate. However, the Victorian Society objects to the proposed works in relation to the pulpit and the reader's desk. The Petitioners have made real efforts to address the Society's concerns and the proposals have been modified. The Society acknowledges the efforts which have been made to address its concerns. It nonetheless objects to this element of the proposed works.

28) The modified proposal is for the pulpit to retain its current height but it is nonetheless to be moved. The southern reader's desk will be retained in the church but will be moved to a position at the north side of the arch at the east end of the south aisle.

29) The Victorian Society believes that the pulpit and reader's desk should be retained in their current positions. It did at one stage indicate that it would not object to the movement of the pulpit but the movement proposed by the Petitioners would necessitate movement of the reader's desk if the pulpit is to be accessed. The current view of the Society is that the platform should be extended around the pulpit in its current location. As to the reader's desk the Society says "*the readers' desks are clearly a matching set and are meant to be placed across*

*from each other in the chancel. To move one to the proposed location seems almost an afterthought and would clutter the new dais.”*

- 30) It is apparent from the plans and photographs that if the pulpit is retained in its current location there will be a substantial protrusion into the proposed level platform across the width of the church. This assessment was confirmed on my site visit. Such a protrusion would markedly reduce the uses to which that platform could be put. I am satisfied that the availability of a clear level space spanning the east end of the church would be of real benefit in terms of the worship in this church. However, I am also satisfied that it is of a different order of importance than the need for flexibility and space which is to be addressed by the removal of the pews from the south aisle.
- 31) The pulpit and the readers' desks are significant features of the west end of the chancel and the east end of the nave. The movement of the pulpit and of the southern reader's desk would have a very marked impact on the appearance of that part of the church. In that regard it is relevant to note that the pews will remain in the nave. If the desk and pulpit remain in their current positions the nave and chancel will retain much of the integrity of the Victorian restoration. It is my assessment that movement of the pulpit and the desk would very substantially disrupt that integrity. The proposed movement would mean that the reordering would have a significant impact on the nave and chancel as well as on the south aisle.
- 32) I realise that the retention in situ of the pulpit and reader's desk will detract from the usefulness of the proposed platform. I have to be conscious of the benefit which would derive from an unobstructed open area at the front of the church. However, I also have to give considerable weight to the Grade I listing of this church. I have concluded that the degree of benefit which would be derived from such an obstructed area, real though it would be, does not justify the degree of impact on the appearance of the nave and chancel which would result from the proposed relocation. The pulpit will have to remain in place and if the pulpit is not to be moved then the case for moving the desk falls away. The creation of a platform will be permitted but it will have to be constructed around the pulpit.

**Conclusion.**

33) It follows that items 2 – 4 and 7 – 13 of the proposed works shall be permitted. Items 6, the movement of the pulpit and 14, the relocation of the desk, are not authorised. Item 5, the creation of the platform, is authorised but on the footing that the works shall be performed in such a way as does not alter the position of the pulpit or the reader's desk. In respect of item 1 the removal of the pews in the south aisle is authorised but the replacement with Alpha SB2M chairs is not. The furniture introduced to replace the pews is to be Howe 40/4 wood framed chairs or such other chairs as are in the opinion of the Diocesan Advisory Committee of equivalent appearance.

STEPHEN EYRE  
HIS HONOUR JUDGE EYRE QC  
CHANCELLOR  
8<sup>th</sup> May 2016

**IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY**

C158/2011

**SALFORD PRIORS: ST MATTHEW****FURTHER DIRECTIONS**

- 1) Following my Directions dated 20<sup>th</sup> May 2016 the Petitioners have indicated that they wish to install the Theo unupholstered stacking chair made by Chorus.
- 2) In its e-mail of 23<sup>rd</sup> May 2016 the Victorian Society indicated that this was an example of the type of chair which it was advocating. In the note of 27<sup>th</sup> May 2016 setting out the Diocesan Advisory Committee's thinking Mr. Jones refers to the Theo chairs as being good quality wooden framed chairs of the type whose introduction the Diocesan Advisory Committee would support.
- 3) It follows that the type of chairs which the Petitioners now wish to introduce is one which both the Victorian Society and the Diocesan Advisory Committee support. In order for there to be formal satisfaction of the condition 4 of the faculty I invite the Diocesan Advisory Committee to confirm its approval of the use of the Theo chair in this setting. However, subject to that there is no need for any further action in relation to my earlier Directions. The note from Mr. Jones suggests that such approval should be forthcoming swiftly.
- 4) May I thank the Petitioners and the Parochial Church Council of St Matthew's for their response to the condition I imposed in relation to chairs. I apologize for any confusion caused by my misdescription of the Howe 40/4 chair. However, I am confident that there will now be arrangements in place which will both enable flexible use of the south aisle and so facilitate the parish's work in winning souls for Christ while also preserving the beauty of this lovely church.

STEPHEN EYRE  
HIS HONOUR JUDGE EYRE QC  
CHANCELLOR  
11<sup>th</sup> June 2016