

IN THE CONSISTORY COURT OF THE DIOCESE OF LONDON

Re ST MARY STOKE NEWINGTON

JUDGMENT

1. By a petition dated 23 January 2011 the Vicar and churchwardens seek the removal of the box pews from the nave to storage in the crypt of the New Church; the retention and conservation of a sample of box pews in the south aisle of the Old Church; Installation of new York stone paving in place of the nave pew platforms and throughout the north aisle in place of wood block flooring; Installation of new movable seating; Installation of new heating system including two boilers, reconditioning of existing radiators and new under floor heating to nave and north aisle; Installation of one accessible and one standard WC to the old school room; Removal of font to storage in the New Church; Installation of a new kitchenette beneath the tower and other related works.

2. The Statement of Need supporting this petition discloses that since the re-opening of the New Church in 1958, after bomb damage, the Old Church also having been damaged by bombs, the Old Church was regarded as secondary space and at times had been very little used. It is currently used for morning and evening prayer on Sundays and for small scale concerts including the Stoke Newington Early Music Festival and N16 Fringe Festival, otherwise the church is not open. The Old Church has hitherto been regarded as an historic encumbrance to the parish which has more than adequate worship facility with the New Church, has modern church rooms and a community centre. The PCC has been able to do no more than basic maintenance of the Old Church but it is not in a good state of repair and the PCC does not have the funds for the inevitable major works. The parish wishes to develop the Old Church as a building which serves the wider community whilst continuing to be a space for worship.

3. To be used in this way (and without being used in this way the building has no real future) it needs proper heating (in my judgement it needs that anyway given the damp) as well as lavatories and other basic facilities which would be expected in a community facility and that are also DDA compliant. The parish has conducted its own research into what is needed in the local area and what would be popular. To make the building sustainable in the future, the parish needs a space which can be used for exhibitions, craft, drama and music workshops/rehearsals, performances and other events seating up to 100 people in various configurations. The community project would not be feasible without this. There is very limited use of the building at the moment because of the very substandard facilities. Other groups such as Stoke Newington School and Hackney Youth Services are very interested in using the building but not in its present state.

4. As well as that set out in the Statement of Need, I was informed that the full evidence of potential interest in using the building submitted is as follows:

(i) Local primary schools – pupils and their families both through Living History activities and arts events (St Mary’s, Parkwood, Grazebrook, William Patten). All the schools have a highly multicultural pupil population. The above have expressed particular interest and three of them have been involved in developing the heritage learning activities. Parents at Grazebrook were consulted as part of the petitioners’ research into how and who might use the building and expressed interest in a wide range of activities. Hackney Museum has included historical information about the Old Church in its primary schools’ pack

(ii) Stoke Newington School and Sixth Form (a Media Arts College)

- interest and development in Black History Month heritage activities
- use of the Old Church for music/drama/arts events for presentation of pupils’ work, for instance a group of pupils are writing and performing their own mini-

operas this summer and there is a plan to perform for the wider public in the Old Church

- The Heads wrote *'We have been involved in developing the approach to the learning activities for secondary school students and as a result we know that on completion the building and its heritage activities will provide a tremendous opportunity for our students to engage with our local and national histories in a meaningful and relevant way'*.

(iii) Tenants / residents of local estates (Denman House, Clissold Estate, Clissold Residents Group, Members of a local lunch club – mainly Afro-Caribbean). Members of these groups expressed interest in heritage activities, arts events, crafts workshops and a reminiscence project.

(iv) Drama and Dance in the church

- Common Air Theatre – through the medium of Forum theatre work with local communities and young people on the issues facing them to help them break down barriers between people and address the issues they face
- Drama students from St Mary's University College Twickenham working with Stoke Newington School students and elderly people on reminiscences of life in Stoke Newington
- N16 theatre company – Second Skin performing Promenade Theatre
- Shobana Jayasingh Dance Group – Cultural Olympiad performances
- Stoke Newington Literary Festival
- On the Other Hand Puppet Theatre Company – young children's theatre
- Cleo Sylvestre – The Adventures of Mary Seacole

(v) Music / Arts events

- Renkart a Turkish/Kurdish arts group – music performances and photography workshops including helping to organise a photography competition for local children. The partnership with Renkart has led to a variety of interest from different Turkish groups

- Stoke Newington Early Music Festival
- A wide range of musicians, both local and international with genres including nu-folk, alt-country, gospel and psych rock as well as baroque and choral music
- young people wishing to use the building to make their first CD or undertake their first performance or to rehearse
- amateur choirs and musicians
- Professional musicians – jazz, folk, rock, classical

(vi) Exhibitions by local artists

5. As well as damp, dilapidation and lack of facilities, the use of the Old Church is severely restricted by the box pews. They are uncomfortable to sit in for any length of time; the pew backs are 60cms high and vertical and the depth of the seats is only 32cms. They make activities which require visibility of performers below waist height impossible and they are immovable, thus restricting use of the main space. Also they are only compatible with short traditional worship which is currently only attended by up to 25 people whereas worship in the New Church attracts up to 125-150 people. To be sustainable the Old Church has to generate income; greater flexibility of use is essential for this and the box pews prevent that.

6. The church is listed Grade II* and was, according to a stone over the door, built in 1563. The PCC, 17 out of 24 attending, voted unanimously in support of these proposals in February 2011. The Diocesan Advisory Committee issued a certificate recommending these works, subject to the following provisos:
 1. There should be a full archaeological building record (to English Heritage level 4) of the box pews, to be carried out before they are removed. This document to include a more general archaeological record of the building in its present state (to EH level 3) and copies to be deposited with Hackney Archives, the Greater London Sites and Monument Record and the National Monuments Record.

2. Detailed drawings of the proposed relocation of some of the pews to the south aisle to be provided.
3. A copy of any recommendations arising from the quinquennial inspector's visit to examine the status of repairs referred to in the latest Inspection report to be provided.
4. Details of the under floor heating system in the nave to be provided.
5. Details of the proposed alterations to the old school room to be provided once initial opening up works have been carried out.
6. Details of proposed new seating arrangements to be provided in due course.

English Heritage, the Church Buildings Council, The Society for the Protection of Ancient Buildings, the London Borough of Hackney, the Ancient Monuments Society and Mr Mark Chatfield, an individual member of the Ancient Monuments Society, have all submitted written objections to certain aspects of the works, as has the Georgian Group which has also chosen to become a Party Opponent but consented to the matter being determined on written representations. The PCC has sought to accommodate many of the reservations expressed by these bodies and has modified the proposals considerably to the extent that the only issue which I need to resolve is the box pews and the floor beneath them. The purpose of this Judgment, therefore, is to deal with the question of the box pews. Other matters will be dealt with subsequently.

7. As I have stated, the Old Church was built in 1563. The "New" church was built in 1858 and since that date the Old Church has not been the primary place of worship and has had a different and complimentary, or sometimes competitive, role with the New Church. The petitioners' evidence is that the Old Church has provided a strikingly different environment from the New and is viewed and used as a community asset and not just a parochial one. None of the original fittings exists in the church. It would appear that the introduction of box pews predates the major works carried out by Charles Barry. The evidence suggests that some box pews were installed in 1806 but these were altered and extended by Barry into the north aisle and at the front of the nave. Also the box pews in the south aisle postdate Barry as his

works specifically excluded “the family chapel” [the south aisle] from his pewing arrangements.

8. Both the Old Church and the New Church suffered bomb damage during the second world war. In the case of the Old Church this involved the destruction of the north aisle, which was subsequently reroofed and rebuilt but without box pews. However, photographs from before the war show that the north aisle is not the only area from where box pews have been removed. They show transverse pews at the front of the nave and box pews in the south aisle, neither of which exists today.

9. The Georgian Group states that its objection is based on the parish demonstrating that the need to remove the box pews is greater than the significance of the fabric it is proposed to remove but of course I am the judge of that and I exercise that judgement bearing in mind the CBC guidance:

“there is a similar overwhelming presumption against the removal or alteration of pre-Victorian pews, in particular box pews”

10. The Georgian Group also referred to a decision of Tattersall, Ch in the Manchester Consistory Court in *Re Holy Trinity, Horwich*, where a Faculty was refused to remove box pews from a gallery in the church where they were not visible from the re-ordered nave and their removal was “not a matter of necessity but merely of taste and comfort in relation to a balcony that was used infrequently”. Furthermore the pews in question were “rare and important survivals illustrating four types of socially graded seating”. Neither of those cited matters is the case at Stoke Newington and although not bound by Tattersall, Ch’s decision I am quite prepared to apply here, the test which he used of “what is necessary for the pastoral well being of the parish rather than mere taste and comfort.”

11. The Georgian Group argues that the pews are a critical part of the church's layered character and it argues that to remove them would be to remove the most visually prominent aspect of the church's early 19th century history. Firstly, it could be argued that the pews are not the most visually prominent aspect but that the reredos and sanctuary panelling or the organ gallery or pulpit are. Secondly, at various times since Barry various of the box pews have been removed not just as a result of bomb damage but by design. The Georgian Group also states that it is its policy that pre- 1840 box pews should not be removed. It would be wrong in law for a Diocesan Chancellor to adopt such a blanket approach and not consider each case on its merits, whilst of course applying the CBC guidelines quoted above. The Group also argues that the pews are no longer in their original configuration as a result of the bombing and therefore represent an important part of the church's history. However, the opening up of the church to the wider community is part of the church's twenty-first century history if it is allowed to occur.

12. I undertook a site visit at the church on Friday 10 February 2012 and initially I thought I was looking at the wrong pews, as in over twenty years as a Diocesan Chancellor I can honestly say that in terms of both craftsmanship and timber this must be the worst example of woodwork I have looked at for Faculty purposes. From the very first look, they appeared shoddy and in poor condition and on close examination I could see that some of them had been dismantled and improperly re-assembled with at least one piece clearly upside down. After the visit I then revisited the DAC advice and the opinion of the expert who had also examined the woodwork, David Luard of Luard Conservation Limited, who had described the pews as:

“...oak grained softwood with an oak capping, painted later. No earlier than 1806. These pews are of little architectural importance. The missing south aisle pews can be reinstated using woodwork from those removed from the nave.”

After my viewing of the pews, that is an opinion which in my judgement accurately

reflects that which I saw.

13. I did seek further clarification from the petitioners of how they proposed to deal with the pews, if I were prepared to consider their partial removal and was informed as follows:

“In answer to the question concerning the pews, the answer is in several parts:

- 1) Before the pews are removed, a person with appropriate expertise will be employed to make a thorough record of them in situ and to develop a plan for their disassembly. This will include numbering of all the parts of the pews to facilitate re-assembly if desired.
- 2) After disassembly, a portion of the pews will be re-assembled in the south aisle. Pews were removed at some point in the past from the south wall, facing northwards into the church – the signs of where they were are still clearly visible. In order to make the south aisle an authentic reminder of this stage of the church’s life, those pews will be restored using the fabric from the nave and the south aisle as a whole will then serve as a place to access the church’s history. Part of the bid to HLF is to provide learning materials, especially for schools, and to use the south aisle as a learning space.
- 3) The remainder of the pew fabric will be stored in the undercroft of the New Church, which is large and dry.
- 4) As there is no proposal for fixed furnishings in the nave, it would not involve any other works should there be a need to restore the pews there.”

Thus what is proposed is not the destruction or disposal of the pews but their retention in such a way that they can be restored should that ever be deemed appropriate. That which is proposed is not therefore irreversible.

14. I have born in mind Canon F13 and I do not consider that, with the retention of a significant number of the box pews in the south aisle, whilst the rest are removed from the nave, the proposals will adversely affect the character of the church as a

building of special architectural or historic interest. The pews represent furnishings that are not original to this ancient building, which were introduced to the church after it had been in existence for 250 years and during their time in the church they have not continuously been in the present configuration or in the present numbers. Their contribution to the character of the church will be maintained by a representative sample of the pews being retained. Even if I am wrong about their effect on the character of the building I would consider that the presumption against change is outweighed by the pastoral and financial need for the parish to use the building as proposed, which will not be possible with the pews in situ. Furthermore the pews are being retained and stored in the New Church so if it ever became appropriate they could be restored.

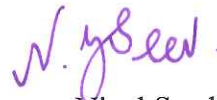
15. Given the style, condition and situation of these pews and the status of this building as opposed to the new church, this case can be distinguished from *Re Holy Trinity, Horwich* cited above but as I have said I am happy to apply the test applied by *Tattersall, Ch*, although not bound to so to do. I have also applied the *St Helen's Bishopsgate* test to the following effect:

- 1) I am satisfied, given the financial situation of this parish and the work needed on this building and the potential uses of it if this work is carried out, that the removal of the pews is necessary for the pastoral well being of *St Mary's* and for the church's wider mission in that parish.
- 2) Because of the history and condition of these pews and the retention of a significant number in the south aisle, I do not consider that the removal of some of these nineteenth century pews would adversely affect this Tudor church.
- 3) Even if I am wrong about 2), the necessity proved by the petitioners is such that in the exercise of my discretion I consider that a Faculty should be granted.

16. I have also taken into account the views of all the other parties mentioned above even though they have elected not to become parties opponent and they do not in fact take the points made by the Georgian Group any further. However, it is regrettable that because English Heritage does not support these proposals, the National Heritage Lottery Fund is not able to make a grant towards the cost of these works even if I rule that as a matter of law they should be allowed, so effectively even if I rule in the

petitioners' favour the work may not be able to go ahead. Nevertheless, as I have indicated on the evidence before me, the petitioners have established on the balance of probabilities, that the removal of the pews on the terms submitted should be allowed.

17. I therefore direct that a Faculty may issue for the removal of the pews as outlined above and subject to the details being in accordance with DAC's and Inspecting Architect's recommendations and executed under the supervision of the Archdeacon of Hackney. Any ancillary works should be agreed between the parties and referred to the Court for further directions.



His Honour Nigel Seed QC, Chancellor

19 March 2012