

Neutral Citation Number:[2020] ECC Liv 3

IN THE CONSISTORY COURT of the DIOCESE OF LIVERPOOL

St Thomas the Martyr, Up Holland

JUDGMENT

Introduction

1. This judgment follows on from (and should be considered by reference to) an earlier judgment ([2019] ECC Liv 4) which I provided in respect of a faculty petition (Petition 1) for the removal of two carved wooden screens on either side of the chancel steps and the children's choir stalls in the chancel, in the parish church of St Thomas the Martyr, Up Holland, near Skelmersdale. It was a simple and straightforward petition where the level of harm was relatively low and whilst not enthusiastically supported by the Victorian Society or the SPAB there was no formal opposition to the proposals to relocate the screens within the sanctuary.¹

2. At the time of my initial visit in early September in respect of Petition 1, I was made aware of further plans in relation to internal re-ordering of the mainly Victorian pews, in a brief discussion with Rev Lock, but regrettably the substance of the parish church's plans and associated DAC advice had not been brought to my attention, and I had been asked to deal with the screens in isolation to any other outstanding matters.

3. Within a short period of time papers were forwarded to me by the Registry in relation to the two principal petitions with which this judgment deals, (petitions 2 and 3), the first (petition 2) seeking the reversal of every alternative pew in the north and south side aisles to form five booths on each side separated by tables, and the second, (petition 3) a more substantial petition seeking the removal of the last six rows of pews on either side of the central aisle and the repositioning of the rear pews and panels, thus creating open space for meeting and fellowship. petition 3 also sought the modernisation of the screen and projector with replacement of existing, and the relocating of a World War II war memorial on the communion rail in the Lady Chapel. Neither of these latter two aspects were particularly significant, and by themselves would not have involved the same extent of consultation, advice and investigation as the major aspects of pew removal.

4. It was immediately apparent to both myself and the Registry on considering petitions 2 and 3 (already well progressed as faculty applications at the time of my earlier decision) that it would be inappropriate to deal with the various applications for what is fairly extensive internal re-ordering on a piecemeal basis. It was also apparent from preliminary engagement with the amenity societies that they were expressing significant concerns that the reordering had not been

¹ On my recent visit it was apparent that the relocation had been sensitively and carefully achieved, giving the impression that the screens have always been in their new position on either side of the altar. It is relevant that the petitioners are able to protect the heritage of this church with sensible and well thought out schemes. (see para 30 below)

dealt with holistically. The point was properly made in correspondence, and confirmed in my earlier directions, that the impact from internal alteration to the historical character, heritage and architecture of such a splendid grade 1 listed building had to be considered in terms of the overall effect, which required a consolidation of the petitions. Were it otherwise, it would be open to any PCC to make numerous separate applications to avoid the prospect of objection been taken either by parishioners or those entrusted with heritage protection, to a large-scale project. Happily, the petitioner on these applications, and minister of the parish church, the Reverend Paul Lock, fully understood the need for an holistic consideration and I am quite satisfied that this piecemeal approach was not intended to be anything other than a practical way of dealing with the reordering whilst plans were developing and the church leaders were addressing the missionary aspects of the church.

5. Following my earlier directions on petitions 2 and 3 I was able to visit the church once again, and meet with Rev Lock and one of the churchwardens to discuss the proposals in order to understand for myself the impact which they were likely to have on the historic interior of this church. I directed that the revised statements of need and significance which had been drawn up by the petitioner in response to concerns raised by both SPAB and the Victorian Society should be sent to those bodies for further comments before I provided a final decision. That has now been done, but no further response has been forthcoming.

The Church and its historic significance

6. I described the church in my earlier judgment in the following terms:

“St Thomas the Martyr is the parish church for the village of Up Holland in West Lancashire. It is a beautiful grade 1 listed mediaeval church occupying a position near the centre of the village. It was founded at the beginning of the 14 century, but it was not until the beginning of the 19 century that the church became a parish church. The chancel, together with the ornate furniture with which this current petition is concerned, was re-ordered in the late 19th century, whilst the furnishings elsewhere within the nave are of varying ages. As a working church, the current layout was designed by Sir Basil Champneys, the celebrated Victorian architect.”

7. By way of further detail it is to be noted that the church itself is situated in a conservation area. It has no attached church hall or meeting rooms, and all church activities take place within the building itself.

8. In respect of the pews, there is a greater amount of further information in the revised statement of significance which had not been available at the time these petitions were lodged, nor set out in the earlier statement of significance for the first petition. The pews themselves are Victorian and not particularly elaborate in construction, although they represent an integral part of the internal design when substantial changes were made under the supervision of Sir Basil Champneys. They are largely made of pitch pine. The most important features of the furniture are the carved pew ends, affixed to the pews in the north and south aisles, which it is proposed should be reversed to form booths. Many of these pew ends bear dates, usually 1635, together with initials, although there is no historic record of the identity of the initials. They are constructed from oak,

and it would appear that they formed part of the original pews, but subsequently removed at the time of the internal re-ordering and refurbishment, because the evidence suggests that they were attached to the new pine pews with machined screws.

9. The pews in the central aisles do not contain these elaborate and carved pew ends, but are the basic Victorian pine pews, stained dark, and clearly installed to replace earlier seating from the 16th, 17th and 18th centuries. The only feature of real interest is the rear panel on either side of the central aisle, forming a raised back to each of the rearmost pews. It is believed that the timber within these panels came from the original balcony removed in the 19 century, and although not particularly elaborate, obviously carries with it some degree of historical association.

10. Immediately behind the panel on the north side of the central aisle is the churchwardens' pew. This is not the subject of any application by the petitioner, although it is to be noted that it represents the most significant historic feature in respect of the internal furniture and fittings. It is dated 1679, and the carved inscription is that of the names of the two churchwardens at the relevant time. Regrettably because of the narrow space at the back of the church it is not a feature to which the visitors attention is easily drawn, although clearly it should be a focal point, as representative of the heritage and history of this fine building.

11. The altar in the lady chapel has a communion rail positioned just above the step, containing inscriptions of parishioners killed during World War II, and thus it is a war memorial, with further inscriptions on the altar itself. However, the inscriptions cannot be seen unless the observer crouches particularly low, because they are below the usual eye line. The communion rail, if positioned at a higher level, could form part of a reredos screen where the inscriptions would be far more visible.

The proposed works in both petitions

12. Dealing with the north and south side aisles first and foremost, it is not proposed that any pews be removed within this project, but instead on both sides every alternate pew should be reversed to face in the opposite direction, creating what would in effect be five separate booths on each side in a café style to allow for meetings, fellowship and multifaceted use. Clearly the reversal of the pews would mean that they can no longer be utilised in regular worship, although the petitioners plan that should the need arise in the future, they could be restored to their original style. There are no platforms or plinths which would require to be removed. In each of the booths a table would be supplied, with double electrical and USB sockets allowing greater use of technology, with a wide availability of Wi-Fi within the church. This will create an internet café opportunity amongst other things.

13. Because the reversal of every alternative pew would mean that the carved side panels would otherwise be obscured, it is intended that these panels would be positioned on the opposite side so that the historic features can still be observed.

14. The need for this work is justified, according to the petitioners, by the plan to make the church a community hub and resource with the opening of a café for lunch, coffee and snacks throughout the day. This is seen as part of the development of a ministry of welcoming the community, and allowing the church to be used in a variety of different ways, in a village where there is very little opportunity for meeting, fellowship and general socialising. I understand that the Post Office retains a keen interest in having a branch within the church which will further enhance the community role. The provision of booths, it is thought, would not only enable people to meet, to share a coffee/lunch, but would also improve children's activities, including craft, learning opportunities, as well as providing a facility for adult education. An additional benefit, it is thought, would be to allow church members to gather after the Sunday services. Congregation numbers do not justify the use of the side aisles at present.

15. The removal of pews from the west end of the church (the rear of the nave) is said to be necessary to allow congregation meeting place at the end of services, because presently there is only a very narrow passage which funnels churchgoers towards the exit, and is a disincentive to remain for fellowship. Further, whilst smaller wheelchairs can pass between the old churchwardens' pew and the rear pews, currently it is not possible for motorised wheelchairs or scooters (possessed by several congregation members) to pass other than down the central aisle. They cannot, for instance, access the millennium chapel easily, or the Ellen Moss room on the south side, where there are toilet and catering facilities.

16. It is intended that the rear panels of the final row of pews, which provided a back to the two pews containing individual seats, should not be disposed of, but remain part of the new seating arrangement as movable panels. The rationale behind this is that if they were fixed to the rear pews which had been moved forward, and it became necessary to introduce chairs for larger congregational use, the view of those in the chairs would be blocked by the screens.

17. A further need has been advanced for the pew removal, relating to the current state of the wooden plinths which are deteriorating towards the westerly end with evidence of rot and collapse. The proposal is that the floor should be levelled where the pews are removed, with the removal of the wooden plinths and platforms, and the provision of stone flooring to match the existing.

18. The balance of the proposals relates to the war memorial communion rail, and the projector and the screen. As indicated above, it is proposed that the communion rail should form part of the altar at eye level, incorporated into a reredos screen. This would allow the inscriptions to be read and this would serve the purpose of an appropriate memorial, when presently it is somewhat obscured.

19. The projector is presently fixed to a bracket on one of the columns in the central aisle on the right and in a prominent position above the nave. It is easily observable, and somewhat unsightly. It is proposed that a long throw projector be used from the former organ loft, and this would not be seen by congregation members. The screen which is used at present is a conventional drop-down screen which when fully extended would obscure the choir from the congregation sight. The intention is that a new screen would be positioned above the chancel arch, and therefore only visible from the chancel and sanctuary, and capable of being lowered electrically and/or mechanically when required, which would only be in services for congregational use. Thus it would

not detract from the open space within the church, and would be an appropriate way of enhancing the overall interior appearance.

The nature of the objections

20. These petitions are not formally opposed, and none of those consulted wish to become parties opponent, but as I have indicated above, objections have been voiced, and it is appropriate that they are considered. It is of some regret that neither the SPAB nor the Victorian Society have responded to the documents forwarded by the Rev Lock, comprising the updated statements of need and significance. Mr Hughes from the Victorian Society had expressed concern about the piecemeal approach, which has now been addressed by the composite document which has been produced in both respects. It is clear, again as I have indicated, that the question of harm must be approached by giving holistic consideration to the reordering.

21. Otherwise and specifically in relation to the proposals, the objection of Joanne Needham from SPAB related to the absence of a clear and convincing justification or need for both pew reversal and the pew removal from the rear of the nave, although she did acknowledge that a lack of space was very restrictive for activities after services. She advised that an independent report should be obtained in relation to the significance of the pews, although also encouraged the petitioners to consider having the rear pews with a high wooden panels made movable rather than permanently altered. Clearly, however, this has now been addressed in the revised proposals, and the petitioners intend to have at least the panel movable and non-fixed.

22. Mr Hughes makes similar observations, and questions why such a large gathering space is required at the rear of the church (west end) although he accepts that some clearance may be necessary. He poses a number of questions in relation to the reversal of the pews in the north and south aisles, some of which have been addressed by the updated statement of need, and he points out that the west facing benches would be impractical for most forms of worship. He believes that the creation of booths would be unduly harmful to the special interest of the interior.

23. Neither of the amenity societies have any comment to make in relation to the remaining two aspects of the petition 3.

Determination

24. I had set out the legal approach which is to be undertaken in relation to a faculty grant, particularly where the court is considering changes to a grade 1 listed church building of historic and architectural interest, in my earlier judgment. Essentially, the court is concerned with the application of the so-called “Duffield” principles when assessing the level of harm to the church building from the reordering. It is axiomatic that more major works will give rise to a greater prospect of harm than minor alterations, which is precisely why all the work undertaken in the re-ordering process has to be considered collectively. It should also be borne in mind that the needs in terms of mission and building use will change with the passage of time, but if projecting forward,

an assessment of those needs can be made in contemplation of all the work that is required for a particular generation, a more objective analysis can be undertaken by the court with regard to the overall effect in terms of harm.

25. I now turn to the application of the principles, by reference to the two major proposals, which I summarise as north and south pew reversal, and pew removal from the west end of the nave.

26. The context in which the proposals fall to be considered, is that this medieval church, and former priory, was the subject of substantial reordering in the middle of the 19th century to cater for the needs of the Victorian congregation, and to make effective use of the building as a parish church. Galleries were removed, and new pews were installed. The most significant and historic features of the earlier 16th and 17th century furniture appear to have been retained, and incorporated into the “modern” Victorian fittings. However, the Victorian interior, principally the pews and other features of the Champneys design, have added to the heritage of the historic building and justify more than just a passing acknowledgement. Interference with the congregational pew layout established 150 years ago therefore has an undoubted impact on the historical significance of the church and in my judgment causes harm.

27. On the other hand, the proposal here does not involve wholesale pew removal, and the larger proportion of the furniture will be retained in the central section, providing an acknowledgement of the Victorian heritage, and the traditional worship and congregational focus of the last century and a half. It might be said that the pew reversal in the side aisles has a greater impact creating, as it will, a somewhat incongruent layout, and certainly not one that could be used for regular worship. Set against that is the fact that the scheme is intended to be reversible, should the need arise in the future to return the pews to their original facing direction. Further, the most significant and historic features will not be affected if the 17th century side panels are retained.

28. Taking all these aspects into account and applying the first of the Duffield questions, I have come to the conclusion that the level of harm from the proposals is significant, but not serious. I should make it clear that in arriving at such an assessment, I have considered the measures which are proposed to mitigate what are clearly major changes, and the extent to which these are largely preservative of the Victorian and earlier Restoration heritage. The positioning of the panels on the reversed pews will mean that none of the 17th century carvings are obscured. The panels on the rear of the final row of pews in the main aisle will remain as a feature even though pews are to be removed and positioned further forward in the nave. The movability of the panels does not affect this. Accordingly it is largely the alteration to the Victorian layout which represents the harm that is caused.

29. Further mitigation features are represented by the opening up of a space to exhibit the old churchwardens pew, and to make this visible to churchgoers and other visitors, and the intention to provide a matching stone floor when the wooden plinths are removed, which is entirely in keeping with the existing floor and the wider historic aspect.

30. I should also make it clear that I have considered these works in the context of the earlier removal of the front row of the choir stalls, and the repositioning of the chancel screens. I agree

that the overall effect on the historic character of this church should take into account the full extent of reordering which has been undertaken over the past 18 months. In this respect, having seen for myself the way in which the chancel screens have been positioned, and the chancel re-ordered retaining the major part of the choir stalls and their frontages, and having discussed the proposal with representatives of the church, including the petitioner and the churchwarden, I am satisfied that heritage preservation is at the forefront of their planning, and that consideration has been given to enhancing the historic features of this church insofar as it is possible.

31. I now address the question of the justification for the proposals reminding myself that the resulting public benefit should outweigh the harm which is caused by the reordering, particularly where the church is concerned with a grade 1 listed building. Because the harm here is significant, although not serious, there is a requirement that the level of benefit should be considered to be relatively high, but it need not be substantial in providing the necessary balance.

32. In this respect, I have little hesitation in coming to the conclusion that what is proposed by the petitioners provides wholesale justification in terms of benefit to the congregation and wider community as a whole, and could not be construed as a vanity project or insensitive modernisation for the sake of any transient requirements, without regard to the longer term future. Accordingly, I am satisfied that the need for these works of reordering outweighs the level of harm which is caused by them.

33. There is little doubt that the present pew layout is unsuitable for a modern congregation comprising a proportion of largely elderly churchgoers, some of whom will have disabilities and mobility issues. There are serious questions raised as to accessibility to all parts of the church, including the toilets and small meeting room/kitchen facilities. The pews in the nave virtually abut the rear of the church (west end) and there is little room to move, gather or meet at the end of services. Because the congregational numbers do not justify the use of the entire church, the requirement to make the side aisles available for worship no longer exists, even with more substantial services, such as weddings, funerals, and major holy days. Whilst there will be a tendency for some congregation members or visitors to move to the side aisles, this is a church with a very wide nave, separated by a central aisle, and efficient use of the church in worship can be managed appropriately by the use of the two main central aisles, even if restricted in the number of rows.

34. I can understand the concerns that the creation of booths is somewhat incongruent and if the aisles were used in a worship service, they would be wholly inappropriate. However, as I have indicated, the intention is not to use them other than for mainly non-church service based activity gatherings, including the development of a café society, adult learning, children resources, and small group discussion. Within the service it may be possible to use them for “different prayer experiences” as the statement of need describes it. As part of its missionary focus, the development of a community hub which would be both encouraged and enabled by this facility is a benefit which carries significant weight, in my judgment, and it is clear from the evidence, including the statement of need, and earlier PCC discussions, that this has been carefully thought out. There is little in the way of regular meeting place for the church parishioners, or the wider village community in Upholland, and the provision of a post office as well as a café would enable the church to become a far more significant focal point, providing benefit on a significant scale, as

well as allowing regeneration of income which would contribute towards the upkeep of this fine building.

35. The two remaining works relating to the repositioning of the communion rail and the removal of the projector and screen with a replacement by a more discrete arrangement, are both minor works that do not represent any degree of harm to the historic and architectural character of the church. In fact the repositioning of the communion rail to form a reredos will enhance this feature as a war memorial, creating a fitting tribute to the later development of the interior and reflecting the place of this ancient church in the history of the 20th century. The removal of the unsightly projector will enhance the visual aspect of the internal columns of the arches, and the raising of the screen to the level of the chancel arch will mean that casual visitors to the church will have an uninterrupted view of the fine chancel from the nave.

36. In the circumstances, I am prepared to grant the faculties which are sought in relation to both these petitions. It will be a condition of the faculty issue that the petitioners provide evidence that the funds are in place before the commencement of any works, and that those works shall be completed within a period of six months. The Petitioners shall be responsible for the additional fees of the Registry as directed but not for any Chancellor's fees which are waived in accordance with my usual practice.

His Honour Judge Graham Wood QC

Chancellor of the Diocese of Liverpool

12th April 2020