

Re St Mary the Virgin, Willingdon

Judgment

1. By a petition which is both undated and unsigned, the vicar and churchwardens of St Mary the Virgin, Willingdon, seek a faculty for the reordering of the interior of this Grade I listed church.
2. The proposed re-ordering comprises:
 - i. the removal of the two front rows of pews and their replacement with chairs;
 - ii. the relocation of the lectern;
 - iii. the construction of a step and handrail;
 - iv. the introduction of a nave altar;
 - v. the removal of the pews in the Ratton Chapel and their replacement with chairs;
 - vi. the removal of a muniments chest on permanent loan to Michelham Priory.
 - vii. the creation of space for a book stall.

In addition certain to the above, permission was sought to undertake certain works to the bell tower door. These being uncontroversial, I gave permission for them to be undertaken in advance of my determination of the contested reordering.

3. There has been consultation with the Council for the Care of Churches, and English Heritage, as well as the Diocesan Advisory Committee. Public notice has resulted in five individuals, whether singly or jointly, writing letters of objection, and a form of petition bearing some 17 signatories was sent to the registry. Three of those who wrote letters responded to notification from the registry and stated that they did not wish to participate in the proceedings by becoming a formal objector. They have invited me to take their letters into account under rule 16(3)(a) of the Faculty Jurisdiction Rules 2000. In the absence of any response from the others, I treat their letters likewise. As one of the writers has made a request for anonymity, I do not propose to record any of their names individually in this judgment, but their details are retained with the case papers in the registry. A detailed written response to all of the letters has been submitted by the petitioners, together with a further letter from one of them in a personal capacity. The petitioners have signified their consent in writing to me determining this matter on written representations and I therefore do so under rule 26(1) of the Rules. I have read a dozen or so letters and emails which are supportive of the proposals but I should emphasise at the outset that my adjudication of this matter

is based upon my assessment of its merits and not by a respective headcount of proponents and opponents.

4. The parish have produced a detailed Statement of Need. This sets out the parish's thinking and the process of consultation and listening which has preceded the lodging of the current petition. It began as long ago as 2004 and has been the subject of a pastoral letter in January 2005 to which a variety of responses were forthcoming. The collective responses were the subject of a balanced and detailed summary prepared by the vicar on 4 February 2005 and a further letter was circulated by Fr Martin after that meeting explaining what had taken place and inviting further comments.
5. The DAC issued a certificate of recommendation on 9 June 2006, with certain provisos on points of detail. The thrust of other professional opinion in this case militates in favour of the grant of a faculty.
 - (a) the Council for the Care of Churches in a letter dated 17 June 2005 stated that it 'was supportive of the proposals and felt that the scheme had been carefully considered and instigated by genuine need within the parish'. It voiced mild reservations with regard to certain aspects of the carpeting.
 - (b) English Heritage, which was also consulted at an early stage, supports the proposal in its current form. See its letter of 3 May 2005 in which it is stated that 'we have no major concerns about the proposals which seem to be sensible in increasing the usability of the church'.
 - (c) Wealden District Council apparently did not respond to a letter from the parish's inspecting architect dated 12 April 2005 seeking its comments on the proposal.
6. I turn then to the letters of objection, the content of which I take thematically.

Preservation of historic heritage

7. The strongest objection seems to be voiced in relation to the proposal for the removal of pews in the Ratton Chapel. Reference is made to the great historic and cultural value of this particular part of the church, an opinion said to be widespread within the local community and not merely amongst churchgoers.
8. In various judgments which I have delivered in this court over a number of years, I have drawn attention to the fact that no church building ever stands still in terms of its appearance. By their nature, churches demonstrate the architectural style, aesthetic considerations, and liturgical usages of changing times. The present is merely the accretion of the tastes of previous generations. The incumbent and PCC are but temporary custodians of a building. However the temporary nature of their custodianship must not become a dead hand. In the discharge of their functions of care and conservation, the incumbent, PCC and churchwardens must 'have due regard to the role of a church as a local centre of worship and mission': see section 1 of the Care of Churches and Ecclesiastical Jurisdiction Measure

1991. But their discretion to alter the fabric of the church is not unfettered. On the contrary, it is subject to the strict rigour of the faculty jurisdiction exercised in the consistory court. The chancellor is required to balance the often uneasy tension between heritage considerations and the legitimate needs and expectations of the worshipping community both now and in the future.

9. In their response, the petitioners fully acknowledge the tradition and history of this building, cherished by generations of worshippers. They state:

‘And we, like those who have gone before us want to make the fullest use of the building to the glory of God, preserving its beauty and sense of awe and wonder, whilst using it in a way that says something about our understanding of God in his world today.’

They indicate, correctly, that the pews are a Victorian addition and do not date from the foundation of the church. They state the ‘schoolroom’ formation of seating is not conducive to contemporary styles of worship and the ecclesiology of lay and ordained gathering around the altar in a learning church.

10. The plans have altered so that it is no longer proposed to re-site the memorial tablet in the floor but instead to cover it. Were this to be a very recent memorial and traceable descendants of the person commemorated were to object then the situation might be different. It is not widely known that memorials belong not to the incumbent, churchwardens or PCC, but remain in the ownership of the heir-at-law of the subject. It is questionable whether the PCC should use its own funds to relocate someone else’s property.

Sufficiency of other meeting places

11. It is suggested that there are already adequate places where discussion and prayer groups can meet. Reference is made to the vestry, the church office in the church, the vicarage, the church hall, and the curate’s house. The petitioners, in their response, make the point that the Ratton Chapel is used extensively for mid-week worship, the daily eucharist and the morning and evening offices. There is a legal obligation for these acts of worship, pursuant to the Canon Law of the Church of England. This regular cycle of devotion, they say, will be enhanced by the works to the chapel. Equally for teaching and confirmation preparation there is much to be said for utilising the church itself rather than a secular meeting room.

Loss of spiritual ambience

12. Concern is voiced that the changes will destroy the permanent spiritual ambience of the chapel and its contents, and deny future generations the opportunity of appreciating and treasuring the Ratton Chapel. It is also suggested that the bringing forward of the chancel step will have the effect of increasing the attractiveness of the Ratton Chapel, by improving sightlines to the place where the eucharist is celebrated. It is also maintained that newcomers are positively attracted to worship at St Mary’s because of the beauty of the building. Fewer people can be seated on chairs than in pews.

Disabled access

13. It is said, with some force, that wheelchair users may not wish to be placed in a prominent place at the front of the congregation and would prefer to be somewhere less visible. One of the letters of objection is from a wheelchair user who is entirely content to be at the back of the church. The practice of bringing the Eucharistic celebration closer to the people is commonplace within Anglican practice and, where such practice is to be exercised, adaptations to the furnishings of the church are necessary to facilitate it. The provisions of the Disability Discrimination Act are a secular justification, supplementing the liturgical need.

Unnecessary works and misuse of funds

14. I have said before in various judgments, that it is improper for this to Court to dictate to parishes how their funds should be expended. PCCs are democratically elected and are accountable to the Charity Commission and to the bishop for their financial management. This Court would be usurping the statutory functions of the PCC to determine how it utilises its funds. No empirical evidence has been put before me to suggest that pews are less costly to replace or maintain in the long term than chairs. It is a value judgment for the PCC.

Process and consultation

15. There is criticism made in the letters received in the registry (one correspondent in particular) that there was inadequate consultation, that opposition in the parish is silenced or suppressed, and that the notification of the petition was in an obscure position. I do not consider any of these allegations to be made out. On the contrary, I have set out in this judgment the briefest of summaries of the lengthy process of consultation adopted by the parish and the transparency of the petitioners. The incumbent's conduct has been exemplary and any criticism of him is entirely misplaced.
16. However, I detected an unfortunate tone of indignation in the personal letter sent by one of the other petitioners speaking of a small core of people orchestrating opposition and criticising them for suggesting that parishioners do not have minds of their own. Petitioners should be prepared for individuals expressing contrary views, often emotively and with a hyperbole that might offend. The faculty jurisdiction permits – indeed encourages – the robust articulation of contrary views. It is the task of the chancellor to evaluate conflicting evidence and opinions and to form a judgment in the light of the material placed before him. Petitioners should not become frustrated when they are met by a degree of resistance from a group of individuals, however small in number. Such opposition is an essential feature of the fairness of the system within which we must all work.

Assessment

17. This petition, as with all petitions for reordering, is to be evaluated in the context of the presumption against change which is the governing principle where, as here, changes to a listed church building are proposed. The onus of proof lies with

the proponents of change. The burden is not readily discharged. The practice of the consistory court is to follow the so-called *Bishopsgate* questions as expressly approved by the Court of Arches in *Re St Luke the Evangelist, Maidstone* [1995] Fam 1, which I propose to address in turn below. Note also my comments as Deputy Chancellor of the Diocese of Winchester in *Re St Mary, Longstock* [2006] 1 WLR 259.

(1) Have the petitioners proved a necessity for some or all of the proposed works either because they are necessary for the pastoral well-being of the parish or for some other compelling reason?

18. Necessity, in the context of pastoral well-being, is something of an amorphous yardstick, but the petitioners have placed before me a highly persuasive body of reasons for what is proposed. It is borne out of a level of consultation which is to be applauded and in the context of a process of listening which has been thoughtful, reflective and sensitive. In my opinion the petitioners have demonstrated in their statement of needs and their written response, together with the primary material placed before the court, that the proposed works are necessary for the witness, mission and outreach of the church and the living out of the Gospel.

(2) Will some or all of the works adversely affect the character of the church as a building of special architectural and historical interest?

19. I am satisfied that such change would be mildly adverse to the character of the church as a building of special architectural and historical interest. However, in the scheme of major reorderings, both within this diocese and beyond, the proposals are comparatively modest in their extent and context.

Is the necessity proved by the petitioners such that in the exercise of the court's discretion a faculty should be granted for some or all of the works?

20. I am convinced that it is. A very strong case for change has been made out, supported by professional opinion. I note in particular the positive assessment of the CCC, the DAC and English Heritage. Each of these organisations (which many regard as inherently conservative) comprise experts in the field of heritage issues concerning church buildings. It is significant that the proposals have their support. I have considered with care each and all of the objections raised but have come to the considered conclusion that in this case they are insufficient, even when taken cumulatively, to prevail.

21. I therefore order that a faculty pass the seal subject to the following conditions:
- i. that the muniments chest is not removed from the church until a formal loan agreement has been drawn up and executed to the satisfaction of the

chancellor, and that the chest remains the subject of the faculty jurisdiction of this court;

- ii. that no order is placed for the carpet without prior authorisation from the chancellor, and that there should be consultation with DAC as to its exact type and colour before such authorisation is sought;
- iii. that an electrical inspection should be undertaken on completion of the work and a copy sent to the secretary of the DAC;
- iv. that a proper photographic record is taken of the church in its current state and lodged with the parish archives;
- v. that an additional photographic record be taken of the memorial which is to be covered over and that this be separately lodged with the parish archives.

The Worshipful Mark Hill
Chancellor

9 October 2006