

In the matter of St Paul, Brighton (No 2)

Judgment

1. By a petition dated 16 March 2012, the vicar and churchwardens of St Paul, Brighton seek a faculty for disposal of the pews in the nave of the church and the introduction of chairs in their place. Strictly, a petition was unnecessary since I directed in paragraph 8 of an earlier judgment dated 17 February 2011 (in consequence of which an interim faculty was issued) that any application concerning alternative seating could be made within those proceedings, albeit that I did require the application to be made within six months which, self-evidently, it was not.
2. The church is a grade II* listed building and its historic and architectural features are helpfully summarized in a Statement of Significance dated 12 March 2012 prepared by Mr Richard Andrews, the parish's inspecting architect. The history can be briefly stated. The church was built in 1846-8 to the design of RC Carpenter. It was apparently paid for by the Reverend H M Wagner, vicar of Brighton for much of the nineteenth century. It has a magnificent interior with stained glass by Pugin and a screen surmounted by a Bodley rood. The striking tower with octagonal timber bell stage is compromised by overpowering civic architecture of more modern surrounding buildings.
3. A substantial reordering in the 1970s introduced a nave altar on a large step dais fronted by seemingly incongruous baroque altar rails which in fact work both aesthetically and liturgically. More recently, attractive etched glass doors were added to separate the nave from the narthex whose fish design evokes the historic origins of the church serving the fishing community in this part of the town.
4. Yet more recently, the floor was substantially improved by the introduction of tiling in place of vinyl. As this work was nearing conclusion just before Christmas 2010, a most unfortunate fire occurred as related in my earlier judgment. Due to smoke damage, much of the furniture and ornaments of the church were removed into storage, pursuant to the terms of the interim faculty.
5. The enforced absence of the pews from the nave gave the vicar and PCC the opportunity of reflecting upon the appropriate manner of meeting the current needs of the parish and the anticipated future needs. The reasoning is set out in a careful and reflective Statement of Need which I need not rehearse in this judgment.
6. The PCC has canvassed its proposals as required by the Faculty Jurisdiction Rules, and it would appear that Mr Andrews orchestrated this thorough and detailed consultation which I summarise as follows:

Diocesan Advisory Committee

7. A certificate of recommendation was issued on 16 April 2012, which raised queries about the number of chairs to be purchased and where they were to be stored if not required on any particular occasion.

Church Buildings Council

8. The CBC noted that the pews were contemporary with the construction of the church but considered them “to be of pine and of no special quality”. Whilst disappointed that there was no pew available for inspection at its site visit (although apparently not making any prior request in this regard) it had no reason to query the assessment in the PCC’s paperwork that they “did not contribute in any major way to the significance of the church”. The CBC made constructive suggestions for replacement seating, but in the context of acceptance that the case for the disposal of the pews had been made out.

English Heritage

9. The written response of English Heritage was thoughtful, pragmatic and very constructive, striking the balance which always needs to be struck between heritage considerations and the needs of the PCC to cater for worship and mission in preaching the gospel afresh to successive generations. It notes the status of St Paul’s as the first of a series of outstanding gothic churches constructed in Brighton in the mid-Victorian period.
10. The “plain” appearance of the nave pews is noted, as is their incompleteness as an ensemble in consequence of the self-evident removal of a considerable proportion during the major 1970s reordering. English Heritage helpfully suggested that enquiries be made to establish whether the pews were part of Carpenter’s original design. The Petitioners followed up on this but to no avail. The overall tenor of English Heritage’s response was neutrality.

Victorian Society

11. Equally helpfully the Victorian Society provided input broadly in line with that of English Heritage but came to a conclusion which was more dogmatic. It accepts that the pews are “not particularly distinctive in themselves” and, like English Heritage, commends the petitioners on their choice of replacement chair. However, it makes the point – simply and with some force – that the church was conceived and designed with pews in mind and that the holistic aesthetic scheme of its originators should be respected. Indeed, the footprint of the nave continues to retain a wooden pew ‘platform’ which demands the presence of two solid banks of pews on either side of the centre aisle. The Victorian Society questions whether the petitioners have made out a sufficient case of need.
12. By letter from the registry dated 1 June 2012, the Victorian Society was invited to enter a formal objection in Form 4 but no response was received.

Public notice

13. Public notice produced twelve letters of objection, none of whose authors elected to become a party to the proceedings. I have taken their observations into account in

considering this petition, as I have the views expressed by the statutory consultees. I do not propose to mention each correspondent by name and I shall take their comments thematically. Ten referred to aesthetic and historical reasons namely that chairs would be out of character for this Victorian Grade II* church and would compromise the interior particularly as St Paul's was one of the few churches built with pews specifically in mind. The holistic vision of RC Carpenter was emphasized, in contradistinction to other Victorian churches in Brighton and elsewhere which were conceived with chairs in mind. Four emphasized the design of the interior whose historic fabric suggests a sense of drama and importance when viewed from the west down the nave to the high altar. Two were critical of a lack of consultation with the general congregation. Seven expressed doubt as to financial viability or practical flexibility of chairs (rather than pews) which were considered to be a false economy in the medium to long term. Five asserted that pews are good solid pieces of furniture and give support to elderly and less able making it easier and safer to rise to a standing position. Two made the point that when the floor was reinstated it was done with intention of the pews being put back. I am grateful for all the correspondents for expressing their strongly held views with great clarity and thoughtfulness and also with dignified moderation.

Petitioners' response

14. The petitioners provided a written response to the points raised by the consultee bodies and the authors of the letters of objection. This response was reflective and measured but it is unnecessary to rehearse the content of the letter in the course of this judgment.

Site visit

15. Since the proposals had engendered some local and professional controversy, and since the CBC felt it was compromised by not having sight of a representative sample of the pews in question, I requested that a site visit be arranged and I duly visited the church on Wednesday 29 August 2012. I should like to express my thanks to the incumbent, Canon Robert Fayers for the Eucharistic hospitality extended to me at the daily Low Mass and for taking the time to show me the church in the company of his curate. Fr Robert had ensured that some sample pews had been brought out of storage in Gloucestershire as I had requested. They were remarkable in their ordinariness and I found them somewhat uncomfortable to sit on.

The law

16. The Court of Arches has prescribed an approach which consistory courts are to follow in determining whether or not a faculty should issue in the case of alterations to listed church buildings: see its judgment in *Re St Luke the Evangelist, Maidstone*, [1995] Fam 1, adopting what are generally styled the '*Bishopsgate Questions*', first posed in the unreported decision of *Re St Helen, Bishopsgate*, 26 November 1993, London Consistory Court. Those questions are:
 - (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?
 - (2) Will some or all of the works adversely affect the character of the church as a building of special architectural and historical interest?

- (3) If the answer to (2) is yes, then 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?

Necessity

17. Contrary to the submission of the Victorian Society, echoed in some of the letters from objectors, I am amply satisfied that the petitioners have discharged the burden of proof on necessity. I appreciate the need for flexibility is easy to assert and hard to refute. I also accept that there have been examples elsewhere of banks of chairs, introduced to facilitate flexibility, lying fixed in serried ranks year after year. What persuades me here, however, is that this is a parish which is engaging at so many levels with the local community including outreach to the surrounding clubs and pubs in a demanding and challenging ministry as well as providing a 'safe place' in the early hours of the morning at weekends. The petitioners speak of schools and drama and music-based activities which would make use of the building but for the discomfort and fixedness of the pews. I do not consider these to be hollow words in the context of the wider contemporary mission and witness of the parish. Mindful of the overriding duty under section 1 of the governing statute (Care of Churches and Ecclesiastical Jurisdiction Measure 1991), I consider that this court must acknowledge, support and rejoice in the Gospel being lived out in the parish and recognise what is being done by the clergy and laity to use its church building as a local centre of both worship and mission.

Adverse effect

18. Having seen for myself the poor quality of these very ordinary pews I am not convinced that their removal would necessarily have an adverse effect on the character of this church as a building of special architectural and historical interest. However, on the limited basis that the pews (even those of inferior quality such as here) may have been specifically designed as part of the overall scheme of internal decoration I am prepared to proceed on the assumption that this question is answered affirmatively.

Balance of discretion

19. Thus we come to the crucial issue: is the proven need such as to outweigh the possible adverse effect? I am more than satisfied that it is. Comfortable flexible seating must be a priority if attendance is to be maintained and future generations attracted to the church for both spiritual and secular purposes. I do not consider that the loss of a further section of machine-made pine pews of no particular quality will have a deleterious effect on the interior of the building. To the extent that the original vision for the church comprised a nave full of pews, this was compromised to a very large degree in the 1970s reordering when the nave altar and dais were introduced and a large portion of pews removed from a significant section of the nave.
20. In my assessment, the proposal in this petition may well constitute a distinct improvement to the interior of the church; and in any event is part of the gradual evolution of all church buildings in consequence of the successive change over a period of time, a factor perceptively recognised in relation to this particular

building in the representations from English Heritage. The current chairs, temporarily introduced following the fire, and ghastly in their red upholstered inappropriateness, have demonstrated the considerable benefits which are likely to accrue to the mission and worship at St Paul's in consequence of a more flexible seating arrangement. The retention of approximately six representative samples in the aisle chapels will ensure the continuation of the original features, albeit in attenuated form, and will serve to reduce the clutter currently in those side aisles and the assortment of furniture currently in use.

21. I am not insensitive to the heritage arguments forcefully articulated by both the Victorian Society and by those who wrote to the registry in opposition to the petition, and in reaching my conclusion I have reminded myself of the presumption against change where listed buildings are concerned. There are many reasons why this building was afforded grade II* listed building status and I am not convinced that the continued retention of such of the nave pews as were not removed in the 1970s reordering was a determinative feature. I am in no doubt that the delicate balancing exercise under the third *Bishopsgate* question militates in favour of the grant of a faculty in this instance, the petitioners having satisfied the heavy burden of proof which lay upon them.
22. I make two concluding observations. First, I suggest that the oak chairs as proposed by the petitioners (whose suitability is favourably commented upon by the consultees - albeit on something of a 'without prejudice' basis in the case of the Victorian Society) are stained slightly darker than the sample which I was shown so as to be closer in tone to other furniture and liturgical fixtures in the vicinity. Secondly, I invite the parish to consider replacing the two timber pew 'platforms' with red and black tiling to produce a harmonious appearance for the whole of floor. The 'aisle' can be defined in the design of the tiling. The parish have a very experienced and talented inspecting architect who can advise on the feasibility and likely cost. I would hope that parishioners might be generous in funding these works to complete the internal reordering of what is an impressively beautiful and clearly well loved building.
23. A faculty for the proposed works will therefore pass the seal.

The Worshipful Mark Hill QC
Chancellor of the Diocese of Chichester

2 September 2012