

In the matter of All Saints, Lindfield

Judgment

1. By a petition dated 8 September 2015, the vicar and churchwardens of All Saints, Lindfield seek a faculty in relation to its ASPIRE project. The proposed reordering is to be carried out in two phases and, although there was originally a lack of clarity between the two phases, I am satisfied that this has been resolved in subsequent correspondence and by way of an amendment to the petition. I am further satisfied that neither the statutory consultees nor the public have been misled by these minor discrepancies. The nature and extent of the proposals have been fully aired and there is no injustice in the petition proceeding in the terms drafted.
2. Several letters of objection were sent to the registry in consequence of public notice although none of the correspondents chose to become a party to the proceedings. I will take into account all the matters raised in those letters together with the response of the petitioners. The Victorian Society (hereafter 'the Society') elected to become a party opponent. It had corresponded with the parish on the emergent proposals, and in a letter to the registry dated 5 April 2016 the Society adopted the content of those letters and amplified the Society's major concerns.
3. The Society had previously confirmed in writing that it was agreeable to the matter being determined on written representations. The petitioners did likewise in a letter of 26 February 2016. By email of 5 April 2016 the Society stated that 'it does not wish to make any further representations in this case'. In the circumstances I am content to order that the matter be disposed of by written representations under r 13.1 of the Faculty Jurisdiction Rules 2013. Having regard to the overriding objective and the court's case management powers under r 1.4, I do not consider it necessary to exercise the court's discretionary power and give any directions under r 13.2 for the purpose of determining the proceedings on consideration of written representations. I am satisfied that both the petitioners and the Society have been afforded every opportunity to make such representations as they wish to the court. Mr Christopher Costelloe's helpful email of 5 April 2016 puts this absolutely beyond doubt so far as the Society is concerned. I am of the opinion that it is just and expedient to proceed to determine the matter on the material which is currently before me.

The proposal

4. What is proposed is a substantial reordering. It has been under consideration for many years, with preliminary consultation within the congregation as early as 2011. An application to the DAC for formal advice was made in June 2014. The amended petition encompasses the following works; those designated for Phase 1 are marked with an asterisk:
 - i. replacement of floor with under floor heating and new stone finish;
 - ii. removal of pews* and replacement with chairs* and choir benches;

- iii. improvements to south porch and west entrances;
- iv. provision of newly furnished central dais;
- v. relocation of former chancel screen;
- vi. updated heating, lighting and AV systems;
- vii. redecoration;
- viii. extending external brick path to west entrance;
- ix. conversion of choir and clergy vestries;*
- x. conversion of outer vestry into clergy vestry;*
- xi. making good woodblock flooring;*
- xii. removing base horn and providing new speakers behind organ pipes.*

The intention is for phase 1 to be undertaken this year and phase 2 next year. Allowing for delay and overrun it is hoped that the project will be complete by the Spring of 2018. The proposal has evolved in consequence of a prolonged consultation process and what is now before the court represents a project which has been rethought and recalibrated as the parish has responded to points raised. The petitioners are to be commended for their readiness to listen and to compromise. Nonetheless, the current proposal remains controversial and the court needs to evaluate whether the petitioners have discharged the burden of proof which rest with them when a faculty is sought for changes to a listed church building.

Background

5. All Saints church occupies a dominant position at the northern end of the High Street. The settlement of Lindfield is medieval in origin and boasts some 64 listed buildings and monuments, nine graded II* and the remainder grade II. Amongst the II* buildings is 'The Tiger', a former inn which is now owned by the church and used as parish offices and for supporting a variety of activities in the promoting of its mission. The church is listed grade II*. It lies within the Lindfield Conservation Area. I need not rehearse in this judgment the content of the Statement of Significance which is a substantial document, professionally produced by experts in ecclesiastical architecture and related specialisms. The listing statement is reproduced in full at page 40 of the Statement of Significance.
6. The church underwent two Victorian reorderings in 1845-49 and 1883-84.
7. The Statement of Needs makes explicit how the current reordering proposal arises out of the core mission of the parish as articulated in its Mission Action Plan, and further refined through its Aspire project. It is thoughtful, prayerful and extremely detailed.

Local objection

8. Public notice of the petition elicited several letters to the registry, one of which (whose authorship I do not propose to specify although it is recorded on the court file) was later withdrawn. The remaining letters were from Mrs L Basset (20 November 2015), S I A Hite (30 November 2015), Mrs D Helme (26 November 2015), and Canon and Mrs G Bridgman (18 November 2015). There is more recent correspondence with the registry from Canon and Mrs Bridgman, Mrs Helme, and Mrs Basset pointing to possible failures in the statutory requirement for public notice. I am not convinced that there has necessarily been a breach of the relevant Faculty Jurisdiction Rules, but in any event, I do not consider it necessary or expedient to enquire into the matters raised. Some considerable time has passed since public notice took place. I am not aware of any application from any parishioner to object out of time and I am satisfied that the letters which have already been received adequately reflect

the nature (although possibly not the extent) of the concern felt in the parish. In my assessment the overriding objective militates in favour of a prompt determination of this petition rather than further delay for a speculative enquiry as to public notice when the proceedings are already somewhat stale.

9. The nature and scope of the objections, taken generically, comprise:
 - i. strong objection to the removal of pews and their replacement with chairs;
 - ii. objection to the proposed profane uses of the sacred interior of the church, for example farmers markets, fashion shows, barn dances, theatre, U3A events; and the loss of peace and sanctity if other activities are to be accommodated within a more flexible interior.
 - iii. the existence of a large hall, the facilities in 'The Tiger', and other church buildings with flexible seating in the village, which are all more appropriate for accommodating these other events;
 - iv. inappropriate use of PCC funds and gross waste of resources when money could be better spent elsewhere;
 - v. the unsuitability of the proposed chairs, ergonomically and aesthetically and the lack of durability in the chosen inexpensive cushioned chair. A preference is expressed for the 'Howe' chair;
 - vi. the inappropriate diversion of funds, previously designated for the 'Tiger' project;
 - vii. irreversible damage to the choir stalls, and the absence of any consideration as to who will supply the labour for the constant rearrangement of both chancel and nave furniture.
10. The petitioners responded very fully to the various points made in the correspondence. They did so in a number of thoughtful and carefully argued documents enclosed with a letter from Mr Kenneth Markham, churchwarden, dated 19 January 2016.

Diocesan Advisory Committee

11. The DAC issued its Notification of Advice on 28 October 2015. It recommended the works, subject to a number of provisos on matters of detail. It also recommended that the petitioners consult Historic England, the Society for the Protection of Ancient Buildings, the Victorian Society and the Church Buildings Council.
12. I directed that the Society and the SPAB be specially cited and that the advice be sought from the CBC.

Church Buildings Council

13. The advice of the CBC was contained in an email from Christina Emerson dated 4 March 2016. It read:

'The proposals for the reordering of Lindfield church are wide-ranging and the Church Buildings Council has raised a number of concerns over the course of the project, many of which have been addressed by the parish as the project has developed. I attach our letters of advice in the hope that they can be of help to the chancellor.'

By oversight, contact with the CBC was by letter under r 9.5 of the Rules rather than in Form 11 under r 8.8 as ought to have been the case. Notwithstanding this minor procedural error, the response of the CBC is startlingly unhelpful. It does not identify which of the

CBC's concerns have not been addressed, but intimates there are some. It apparently did not occur to the CBC that the reason the court expressly sought its expert opinion was because I was of the view that the earlier correspondence did not provide the court with sufficient help. Regrettably, therefore, the court is disadvantaged in only having very limited advice from the CBC, framed when the proposals were at a much earlier stage of their gestation.

14. Doing the best I can reading through the earlier correspondence, I think I can discern an initial opposition encapsulated in phrases such as 'radical and negative impact' (albeit that at that stage an extension seems to have been in the contemplation of the parish), and an abiding objection to the method of fixing for flat panel radiators (even though under-floor heating is now envisaged). I note that on 28 July 2014, the CBC commented favourably on the proposed introduction of the Howe 40/4 chair. Unfortunately the CBC has not expressed an opinion on the Alpha chair now proposed (which may be one of its unaddressed concerns) notwithstanding the considerable time and trouble the CBC has taken in recent years in promoting best practice in the design of chairs and benches for use in historic churches, and its routine objection to upholstered congregational chairs which this and other courts generally receive whenever they are proposed.

Historic England

15. In a very helpful letter sent to the inspecting architect on 25 November 2015, Samantha Johnson of Historic England was good enough to respond to consultation on the revised proposals. She expressed Historic England to be 'much more comfortable' with the current version. It noted the harm which would result to the two Victorian re-orderings, but concluded:

'... we think that the scheme as presented is now one which has found an appropriate balance between conserving those most significant 19th century furnishings, and providing the type of worship space required by the users of the church today. We do not wish to object to the reordering.'

SPAB

16. The Society for the Protection of Ancient Buildings was specially cited by letter from the registry dated 23 February 2016. I cannot trace an acknowledgment of, nor a reply to, this letter. The 21 days for making representations is now well expired. It would appear that the inspecting architect had himself consulted the SPAB by letter dated 2 November 2015 and received no response. There is amongst the papers a letter dated 15 September 2014 from SPAB which is of very limited utility in my evaluation of the current petition because it relates to a much earlier iteration of the project which bears little resemblance to what is now proposed. Therefore this court has the further disadvantage of effectively having no input from SPAB.

The Victorian Society

17. In its Form 5 Particulars of Objection, the Society raises three principal objections:
- i. the alteration of the chancel space involving the removal of the choir stalls and flooring;
 - ii. the removal of the pulpit to the Tiger;
 - iii. the provision of upholstered chairs to replace the pews.

18. In his letter of 5 April 2016, Mr Costelloe amplifies on these objections, including through reference back to earlier correspondence with the parish. He comments on how inappropriate the Alpha SBM2 metal-framed stacking chairs are for this particular sacred space, especially with bright upholstery in a vibrant raspberry hue. He says;

‘In our assessment, based on seeing a number of churches that have re-seated with similar chairs, the visual impact of these would be highly damaging to the interior of the building. The shiny metallic frames have a clinical, industrial feel that is at odds with the natural materials and earth tones of the historic interior. More importantly, the bright upholstery of over three hundred raspberry chairs would become the dominant and discordant note in the entire interior, drowning out and clashing with the muted tones of every other surface. The damage is particularly gratuitous given that another chair on the parish’s shortlist, the Theo in solid wood, would have all the practical advantages of the proposed chair, without dominating the interior and causing a huge and deleterious visual impact.’

19. Mr Costelloe points the court to the guidance published by the CBC, http://churchcare.co.uk/images/Seating_March_2015.pdf, although the Society’s stance is somewhat undermined by the CBC’s apparent indifference to this aspect of the current proposal.

6. Selecting new seating

The view of the Church Buildings Council:

With many years of experience and having seen a range of completed schemes, the Church Buildings Council generally advocates the use of high quality wooden chairs (i.e. unupholstered) and pews where seating is necessary. The Council’s experience is that wooden chairs have the greatest sympathy with historic church environments, present the best value for money with long lifespans, and that a well-designed, ergonomic wooden chair can provide as much comfort as an upholstered design.

Upholstered seats are not considered to be appropriate for the following reasons:

- They have a significant impact in terms of colour, texture and character which is not consonant with the quality of a highly listed church;
- Experience demonstrates that upholstered seating needs more regular refurbishment (wear and tear, staining) than seating without upholstery. This is especially true of multi-use churches where it will be normal to eat and drink regularly on the chairs;
- They are heavy and therefore more difficult to arrange and stack;
- The addition of soft furnishings can alter existing acoustics;
- Wood tones and textures fit well within church buildings and have been used for centuries in this context, whilst some colours have associations with other types of buildings such as offices.

20. The Society regards the proposed audio visual installation as inelegant and cluttered, adopting the mythical imagery of a Procrustean bed. It also voices particular unease with the fact that proposals for the replacement of the choir stalls and dais furniture in the chancel remain inchoate, the detail of which is to await a future petition.

Local Planning Authority

21. Mid-Sussex District Council was approached in respect of the only aspect of the proposal which might have required planning permission, namely the work to the pathways in the

churchyard leading to the various entrances. Permission was granted on 12 February 2016 subject to a number of uncontroversial conditions.

The petitioners' case

22. I have already made brief, and complimentary, reference to the Statement of Needs. In addition to the generalised justification set out in this fulsome document and its attachments, the petitioners have added in a variety of documents more detailed comments in response to the letters of objection and to the observations of the Victorian Society. The petitioners emphasise how they have responded to the opinions expressed in the consultation process. In particular, they state how they abandoned plans for the North Annex which had not commanded widespread support. They make repeated reference to one of the guiding principles which has animated the ASPIRE project, namely 'honouring the past – building for the future'.
23. On the three principal objections raised by the Society in its Form 5, the petitioners respond substantively as follows:
- i. the removal of two of the choir stalls, and their adaptation to a relocated position in the south transept, is essential to enable worship in the round and to make best use of the dais. The current proposals comprise the retention of the present flooring in the sanctuary of the north and south chapels. Ultimately, when phase 2 of the proposed works is complete, marble tiles will be salvaged from the chancel and reused to replace damaged tiles on the chancel dais. Three important historic ledger stones and two memorial brasses in the chancel aisle will be incorporated into the new stone flooring. The petitions confirm that the dais will not be carpeted (as have once been proposed) but will have a wood finish.
 - ii. that the petitioners have explored every possibility for relocating the pulpit within the church, but there is nowhere it can go, and there is no intention that it be used liturgically. With great reluctance and some difficulty and inconvenience, the petitioners are prepared to make provision for the permanent storage of the pulpit within the 'Tiger'.
 - iii. that considerable thought has gone into the selection of the Alpha SBM2 stacking skid base lightweight upholstered chair having regard to the particular needs of the parish. The chosen chair is in use in some 70 churches and a photograph of St Cuthbert's, Portsmouth evidences that the particular colour of upholstery which has been selected can work well in the context of a listed historic church. The petitioners believe that the proposed chair will have acoustic benefits and its bright colour will complement the darker interior furnishing which, by way of a compromise, they have agreed be retained.
24. In relation to the letters of objection from parishioners, which I have summarised in generic terms above, the petitioners respond as follows.
- i. chairs are essential in order for the church to have the flexibility for both liturgical and secular uses;
 - ii. the removal of the pews will enable a new floor to be laid together with underfloor heating;
 - iii. Historic England regard the pews as unremarkable;

- iv. that the Alpha chair represented 'better value for money' than the Howe chair which was considered as an alternative but rejected (although the higher cost of the Howe chair seems to have been built into earlier budgets for the project);
- v. the vicar is leading a small group charged with developing an appropriate policy for the future uses of the church building taking account of the inherent reverence of the building as consecrated place of worship;
- vi. that the 'Tiger' is unsuited for larger scale activities, and several initiatives have outgrown the space. It is intended that the church and the 'Tiger' will be complementary to one another, not competing alternatives.

The relevant law

25. Proposed changes to a listed church building need to be addressed by reference to a series of questions commended by the Court of Arches in *Re St Alkmund, Duffield* [2013] Fam 158:
- (1) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
 - (2) If the answer to question (1) is no, the ordinary presumption in faculty proceedings 'in favour of things as they stand' is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals. [...] Questions 3, 4 and 5 do not arise.
 - (3) If the answer to question (1) is yes, how serious would the harm be?
 - (4) How clear and convincing is the justification for carrying out the proposals?
 - (5) Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building ... will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade 1 or 2*, where serious harm should only exceptionally be allowed.

Harm

26. In considering whether the proposals, if implemented, would result in 'harm to the significance of the church as a building of special architectural or historic interest', there is always a degree of subjectivity. A differently constituted Court of Arches in *Re St John the Baptist, Penshurst* [2015] WLR (D) 115 clarified that question (1) cannot be answered without prior consideration of what is the special architectural and/or historic interest of the listed church, and that in answering questions (1) and (3), the particular grading of the listed church is highly relevant. In *Re St Peter, Shipton Bellinger*, 19 November 2015 (unreported), the Court of Arches emphasised that no proper analysis of what constitutes the special architectural character and/or historic interest of the church can be undertaken, or a sound conclusion reached on whether harm would be caused without an examination of the listing description.
27. It cannot sensibly be argued that the proposals within this petition would not result in harm to the significance of the church as a building of special architectural or historic interest. The

petitioners realistically accept that this is the case, even after they have been scaled down from what was originally contemplated.

28. Less certain, perhaps, is assessing how serious that harm would be for the purposes of question (3). There is express reference in the listing statement to the 'C19 octagonal pulpit carved with scenes from the life of Christ, wooden screen and pews'. The choir stalls in the chancel are not singled out for particular mention nor is its marble floor, but other features and furnishings are mentioned.
29. In my opinion the harm to the significance of All Saints, Lindfield as a building of special architectural or historic interest will be significant but not substantial.

Justification

30. The justification for the broad thrust of the proposal is firmly mission led. Occasionally I am sceptical of proposals which rely upon the term 'flexibility' as a justification for the proposed reordering of a church, as if the word has a magic quality to justify any intervention. In truth, however, I consider that there is a genuine need for the interior of this building to have a greater adaptability so that it can fulfil the recurring liturgical needs of its devout and growing congregations and be put at the disposal of the local community for other ventures.
31. I note the concerns of several of the objectors to possible inappropriate or profane uses of the sacred space, and I am pleased to see that the vicar is in the process of establishing a group which will ensure guidance is given as to what should or should not be allowed. I have regard to canon F15 of the Canons of the Church of England which reads as follows:

F 15 Of churches not to be profaned

1. The churchwardens and their assistants shall not suffer the church or chapel to be profaned by any meeting therein for temporal objects inconsistent with the sanctity of the place [...]
32. I take the view that this canonical duty is very clear and that, in consultation with the incumbent, the churchwardens will ensure that whilst a variety of additional and auxiliary uses will be possible, the canon law will require that they are carefully monitored and that the spiritual nature of the church is preserved.
 33. I also note what is said about the expenditure of large sums on what is, to paraphrase, a vanity project. However, as I have stated elsewhere, it is not the role or function of the consistory court to interfere in financial decisions which are for the PCC. It would be a usurpation of their statutory discretion under the Parochial Church Councils (Powers) Measure 1956 for a chancellor to dictate to a PCC how much it should allocate of its resources to its various projects and activities. Provided a PCC has acted in good faith and has the funds available, the court will not review its decisions on spending. The real criticism here is of a waste of resources, and I do not regard this as an allegation of bad faith. I therefore do not consider it appropriate or profitable to examine the PCC's decisions in the deployment of its finances.

The balancing exercise: will the public benefit outweigh the harm?

34. I have not found this an easy decision. The petitioners have presented their case with great thoroughness and thoughtfulness. They have had regard to the *Chancellor's General Directions* and consulted in a timely fashion with the appropriate range of individuals and bodies. They have revisited and revised their proposals in response to the views expressed by others. But they have come to the view that the proposal which they now seek is right for them, right for the parish, and right for the future as they seek to develop as a local worshipping community against a national trend which shows decline in church attendance and religiosity. Notwithstanding certain criticisms, they have engaged with the local community and they have prayed to discern what the will of God might be for All Saints, Lindfield.
35. On the other hand, I have to consider the personal views expressed by the local objectors as well as the expert opinion of the Victorian Society, which objects to the matter sufficiently strongly to have chosen to become a party opponent. In many ways the Society is in an invidious position. If it routinely objects to every proposed alteration of any Victorian reordering it will be accused of being deliberately obstructive and uncooperative. Conversely, if it makes concessions and conciliatory gestures, a parish might seek to exploit this and assert that if the majority of the proposal is unobjectionable then it would be wrong for the court to stand in the way of the small aspect where objection is taken.
36. In this case, consistent with my experience of the Society more generally, it has sought to be as helpful and supportive of the parish as it can be. There are instances in the correspondence where the Society has praised the parish for the way it has heeded advice and revisited its plans. I appreciate that the process of seeking a faculty can seem protracted and frustrating for a parish and I suspect that in this instance the petitioners may have yielded to their frustration when making written representations to the court which in one or two respects made unjustified and ungenerous remarks concerning the manner in which the Society did nothing more than discharge its statutory right to be consulted. This was unfortunate as it detracted from the otherwise exemplary manner in which the petitioners have conducted themselves.
37. I have come to the conclusion that the petitioners have discharged the burden of proof which lies on them to demonstrate to the court's satisfaction that the public benefit will outweigh the likely harm. However they have done so in respect of most, but not all, of the works. Where I am not satisfied is in relation to the type of chair. The justification for the removal of the pews and the introduction of free-standing chairs is flexibility. That objective can be realised without filling the church with metal framed upholstered chairs in a dominant raspberry shade. I accept the evidence of the Victorian Society that this would have a particularly harmful effect on the interior of this church. Whilst I am persuaded that the removal of the pews is capable of justification, I am not satisfied that the type of chair proposed in substitution can be.
38. In relation to the pulpit, I note the considerable efforts to which the parish has gone to try and find a means of retaining the pulpit in the church. I have particular regard to the fact that the pulpit is specifically mentioned in the listing statement, which is a factor that has weighed heavily in my assessment. However, I accept the evidence of the petitioners that there genuinely is no appropriate place within the church to which it can be relocated, albeit with some reluctance, I would be agreeable to its removal from the church. It should not be

disposed of, however, and I will require it to be retained permanently in the 'Tiger' and kept safely and securely in perpetuity so that it may be reintroduced should that be the wish of a future PCC.

39. So far as the chancel is concerned, I am satisfied that the public benefit justifies the harm. It would have been better had the parish been able to put before the court fully worked out proposals for the changes to the choir stalls and for the new chancel furniture which it wishes to introduce. However, this is a somewhat exceptional case where a large scale reordering has been in contemplation for many years and the parish is entitled to know whether the overall scheme is likely to be favourably received before investing time and money in drawing up plans for bespoke liturgical furniture to be fabricated in the event that a faculty is granted. In this instance I can accept the hesitancy of the petitioners in this regard. However, in the event that a faculty were to issue pursuant to the present petition, I would make it a condition that no work is to be undertaken in the chancel until the court has given its approval for what is currently destined to be the subject of a later petition.
40. The outfall of the above conclusions is that the petition must fail as the court cannot give its approval to the entire suite of works which it encompasses. However, were the petition to be amended to specify a type of chair different from that currently proposed (such as the Howe chair, though not necessarily) I would be content to authorise that a faculty pass the seal. I therefore propose a stay of these proceedings for 28 days to allow the parish to reflect on this judgment and consider whether it wishes to apply for an amendment. If no application is made, then at the expiry of 28 days the petition will stand dismissed.