

In the matter of Selmeston Parish Church

Judgment

1. The vicar and churchwardens of Selmeston Parish Church petition for a faculty for the removal of a wooden platform and four pews from the west end of the church. This is a relatively modest proposal but public notice elicited a letter of objection from a parishioner and the petitioners sought a short stay of the proceedings whilst the PCC considered its response to this letter. The petitioners have now asked that the stay be lifted and that the Court proceeds to determine the petition. The objector, Mr P J Shaw, who is a parishioner and regular attender at the church, has chosen not to become a party to the proceedings but has requested that I take the contents of his letters of 7 and 14 August into account in determining the matter, which I do.
2. Selmeston Parish Church is a grade II listed building, dating from about 1867 when it was largely rebuilt under the direction of the architect, Ewan Christian. The proposed works are set out in the Schedule of Works or Proposals on page 2 of the petition. It reads:

‘Removal of a wooden platform and four pews at the west end of the south side of the nave aisle.’

Although this item is numbered 1, there are no other works included in the schedule. The public notice (which was on display from 22 July to 20 August 2013 includes the additional information by way of clarification, ‘floor to be tiles to match the existing tiling’. It also states, but in parentheses, ‘Removal of pew from south west corner to create space for storage’. I do not consider that this inconsistency invalidates the public notice, since the Schedule of Works is *less* extensive than that which appears on the notice. There has been substantial compliance with rule 6 of the Faculty Jurisdiction Rules 2000.
3. The DAC certificate dated 15 July 2013 is couched in identical terms to the Schedule in the Petition, namely ‘Removal of a wooden platform and four pews at the west end of the south side of the nave aisle’. It recommends the proposed works without qualification or proviso. A letter from the Victorian Society, which is undated, indicates that the Society did not wish to comment, but was happy to defer to the professional opinion of others, which would include the DAC.
4. The photographs contained within the petition papers identify the four pews to be removed which form part of a central block lying between the font and a pillar. The rear pew, which lies against the back wall of the church, is to remain.
5. I have set out the Schedule of Works with precision because elsewhere in the papers there is reference to *five* pews being removed. This appears in the quotation of Mr Robert Coleman, a builder, and the Statement of Need makes reference to the ‘removal of pews [plural] in the south west corner of the church [to] create a space for the storage of chairs, a table and possibly a cupboard for keeping books/children’s resources etc’. Minute 9.2 of a PCC

meeting held on 19 June 2013, whilst resolving to pursue the works comprised in the current petition, refers also to the removal of 'a further three pews at the south-west corner of the church to make space for folding chairs etc'.

6. The court can only deal with matters set out in the Schedule of Works or Proposals in the petition, notwithstanding that other works may have been mentioned in the public notice or discussed at a PCC meeting. If the PCC is minded to carry out any other works then this must be the subject of an application to vary any faculty which may be granted or by way of a fresh petition depending on their nature and extent. This will require further consultation with the DAC and other relevant consultee bodies and a further public notice.
7. Turning then to a determination of the specific matters to which the petition relates, I have had the advantage of considering a Statement of Significance, a Statement of Need, certain photographs of the interior of the church, a quotation from a local builder, and a specification from the architects, John D Clarke. I note that the 'Part Plan as Proposed' (Drawing 9630/01) differs from the proposals in the petition in two material particulars. First it includes in the shaded block of pews, the fifth one at the rear, and secondly it delineates by hatched lines a single pew at the back of those in the south aisle next to which it is noted 'remove pew'. As already stated, this court can only consider proposals in the Schedule to the petition, and I disregard the wider ambit evidence by the architect's drawings.
8. Mr Jeremy Shaw's letter of 7 August 2013 set out two grounds upon which he contended that the petition should be refused. First, he maintained that there were no strong reasons for making what he regarded as a fundamental change to the appearance of the church. Secondly he maintained that the costs of the project did not constitute proper stewardship of the parish's funds.
9. Mr Shaw considers that were a faculty to be granted, the reduction in seating capacity would be such that temporary free standing chairs would be needed and these would need to be stacked in an unsightly manner when not in use. The increased use of 'loose chairs' would amount to a health and safety hazard in the event of a fire.
10. On the question of stewardship, Mr Shaw categorises the proposed expenditure as a manufactured means of utilising a windfall legacy, as opposed to being a means of funding a carefully thought through proposal. He considers that the money would be better retained until required for urgent and necessary works to the fabric of the church at some time in the future. He suggests that a future incumbent may take a very different view about the ordering of the interior of the church and, in consequence, alterations should not be made at the whim of the current office holder.
11. Amplifying these points in his letter of 14 August, Mr Shaw categorises the works as 'a total waste of money'. He can see no reason why the views of the current worshipping community should prevail over those who laid out the church interior a century and a half ago. He considers that the removal of a central block of pews will 'destroy the integrity of the appearance of the interior of the church'; and the alterations will 'stick out like a sore thumb'. He considers that the present position of the font, surrounded by pews, is symbolic

of those baptised being in the midst of the congregation, rather than in an empty space at the back of the church.

12. By letter dated 29 August 2013, written by the incumbent on behalf of the petitioners, a response was given to Mr Shaw's letter of objection. I note that the PCC has twice considered Mr Shaw's views. The court agreed to stay the determination of the petition whilst the PCC discussed the matter at its meetings on 18 September and 4 December 2013.

13. I have commented in other judgments upon Christian stewardship and its relevance to the proper discharge of the faculty jurisdiction. As was stated by me in *St Mary Magdalene, South Bersted* (Chichester Consistory Court, 19 March 2002, unreported):

The PCC, being an elected body, is entrusted, *inter alia*, with the financial administration of the parish. It must act in accordance with ecclesiastical law and the requirements of charity legislation. In the absence of bad faith, it would be a usurpation of the PCC's function for this court to interfere in its decisions on the use of its resources.

The PCC has resolved to spend a sum of £2,000 on the proposals. It is in a position to do this in consequence of a bequest in the sum of £10,000 from Mr Lester Spiller. The legacy was for the benefit of the church and it would be inappropriate and a breach of trust for the PCC to donate the sum to other charitable causes. The PCC has formed the view that the enhancement of its sacred space is a proper use of about one fifth of the overall bequest. The balance remains for other works of maintenance and upkeep. This is a perfectly legitimate use of the legacy and it is beyond the power of this court to dictate otherwise.

14. Where changes to a listed church are proposed, consistory courts are now encouraged to follow the framework and guidance recently commended by the Court of Arches in *Re St Alkmund, Duffield* [2013] Fam 158, by asking itself a series of questions:

- (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.

1. Harm to the significance of the church as a building of special architectural or historic interest

15. Notwithstanding the strongly held view of Mr Shaw, this is a relatively minor proposal. The lack of any comment from the Victorian Society (a conventionally conservative organisation)

is strongly suggestive that no harm will be caused to the significance of the church as a building of special architectural or historic interest. In my view, Mr Shaw overstates by quite a margin the likely impact. The DAC certificate expresses the view that the work proposed is not likely to affect the character of the church as a building of special architectural or historic interest, and I find myself in complete agreement with that expression of professional opinion.

2. Rebuttal of presumption against change

16. In this instance, I consider that the petitioners have sufficiently discharged the burden of proof which lies upon them. They have satisfied me of the need for circulation space for socialising following worship, and of the liturgical benefits of allowing baptismal parties to gather around the font for Christian initiation. I can well understand how the 'boxing in' of the font on two sides impedes the fullest involvement of parents, godparents, relatives, friends and the wider church family. Nothing in canon F1 militates against this. I do not consider that there is any meaningful symbolism in the fact that pews have been placed right up against the font. It more probably reflects the shortage of space within the church and the need to maximise the number of pews in the church at a time when regular attendances were higher. The symbolism of the people of God gathered around all four sides of the font when the sacrament of baptism is undertaken might be considered to carry greater meaning than the proximity of seating.

3, 4, & 5. Serious harm and justification

17. Having regard to my findings as 1 and 2 above, it is unnecessary for me to consider these three further questions. Were I to have done so, I would have concluded that the harm would be towards the lower end of the scale and that the parish's justification was both clear and compelling. I consider that the petitioners have advanced cogent and compelling justifications on the basis of liturgical freedom, pastoral well-being and putting the church to other viable uses consistent with its sacred character. Having flexible space which can be used for meetings, for socialising after worship and for children's groups are worthy objectives. It would not be appropriate for these to take place in the chancel even though it has been opened up by the removal of the choir stalls for musicians and prayer sessions. The benefit of the reordering for baptisms has already been addressed.
18. I make no criticism of Mr Shaw for placing before the court his reasoned objection to what is proposed. The faculty jurisdiction subsists in the balancing of sincerely held but differing views and opinions. I have given due weight to his observations, mindful that he is a long-standing and regular communicant member of the worshipping community. But I am nonetheless persuaded that the views of the petitioners are to prevail and that a faculty (solely for the works specified in the Schedule to the petition) will pass the seal. The costs of this determination, to include a correspondence fee for the registrar will be borne by the

petitioners and are to be paid before any works are undertaken. The works are to be undertaken under the direction of Mr Richard Crook RIBA, the inspecting architect.

19. I add one footnote. A faculty is a permissive right. It allows the petitioners to undertake the work set out in the Schedule but it does not compel them to do so. It is a matter for the PCC whether it chooses to implement this permission.

The Worshipful Mark Hill QC
Chancellor of the Diocese of Chichester

16 December 2013