

In the matter of St Mary Magdalene, South Bersted

Judgment

1. By a petition dated 17 September 2013, but not lodged with the court until July 2014, the petitioners, who are respectively the incumbent, churchwarden and PCC secretary of St Mary, Magdalene, South Bersted seek a faculty for the removal and disposal of a number of redundant or dilapidated items including:
  - i. 4 short free-standing modern oak pews (circa 1967)
  - ii. 3 desks
  - iii. A portable altar and communion rail
  - iv. 2 old 'Glastonbury' style sanctuary chairs
  - v. A wooden cross
  - vi. 2 wooden candlesticks
  - vii. 11 standards and their metal wall fixings
2. The DAC considered these proposals at a meeting held on 12 June 2014 and issued Notification of Advice on 16 June 2014 recommending them in their entirety and without proviso.
3. When the matter was referred to me, I considered myself bound to refer the matter to the Church Buildings Council under rule 8.7 of the Faculty Jurisdiction Rules 2013. Unfortunately the CBC's summer meeting timetable was such that the matter could not be considered within the 21 day period prescribed by rule 8.8. However, by letter dated 5 August 2014, the chairman of the CBC expressed the Council's views, having sought comments from certain of its members. I am grateful for this advice and do not consider that the court would be assisted by enlarging the time for a fuller response of what is a relatively straight-forward matter.

**The need for a hearing in open court**

4. I have reviewed the matter, both substantively and procedurally, in the light of the judgment of the Court of Arches in *Re St Lawrence, Oakley with Wootton St Lawrence* dated 14 April 2014. In particular, I have considered paragraph 19 which, when shorn of surplus verbiage, states: it should be borne in mind by chancellors in disposal cases that faculties should seldom be granted without a hearing in open court whether or not the petition is formally opposed.
5. This unopposed petition is one for which, in my judgment, a hearing in open court is neither necessary nor expedient. My reasons are as follows:

- i. The items in question are of negligible financial or other value and therefore do not come within the category of 'church treasures';
  - ii. The reference to 'disposal cases' in the declaratory guidance in paragraph 19 of the Court of Arches' judgment in *Wootton St Lawrence* should be read in its wider context as applying only to 'church treasures', properly so described;
  - iii. Public notice has produced no letters of objection from parishioners;
  - iv. The petition is not merely unopposed: it has the active support of the DAC and the CBC;
  - v. The modest and uncontroversial nature of the petition is such that it would be disproportionately expensive to convene a hearing, particularly when the items in question are of little value. I have particular regard to rule 1.1 of the Faculty Jurisdiction Rules 2013 which articulates an overriding objective for the transaction of business in the consistory court which includes saving expense, dealing with the case in ways which are proportionate to the importance of the case and the complexity of the issues, and ensuing petitions are dealt with expeditiously. The FJR impose a duty on the court to 'further the overriding objective by actively managing cases' (rule 1.4(1)) and active case management is said to include 'dealing with the case without the parties needing to attend court'.
6. I would be concerned if the Court of Arches' guidance in paragraph 19 of *Wootton St Lawrence* were to develop into a mantra which was uncritically applied in absolutely every case where a parish which to divest itself of any object whatever its value. Whilst the wording of the paragraph suggests the guidance has application in all 'disposal cases', I consider it should be read in context and applied only where the proposed disposal of church treasures (properly so described) is involved. There will be a subjective element for a certain category of case in determining whether a specific item is a church treasure. In most instances, however, it will be obvious. Where doubt exists, the court should be cautious and lean towards categorising an object as a church treasure, guided by expert opinion including that of the DAC and CBC.

#### **The petitioners' case**

7. The items which the petitioners seek to dispose of are described as 'redundant' or 'dilapidated'. The parish does not have the facilities to store them. The standards (flags) are such that they have become an eyesore. The village of Bersted now lies within the creeping conurbation of Bognor Regis. The present church dates from the early fifteenth century, and underwent a substantial restoration in the latter part of the nineteenth. In 1969 a brick hall was erected adjoining the churchyard. A modest reordering in 2002 saw the removal of some pews and the creation of a facility for refreshments. The items which are the subject matter of this petition are stored in the north aisle, north chapel and tower, where they amount to unsightly clutter.
8. For convenience and clarity, I propose to deal with the subject matter of this petition adopting the groupings adopted by the chairman of the CBC in her letter to the court of 5 August:

*Suite of modern furnishings comprising: four pews, desks, portable altar and communion rail, a cross and two candlesticks*

9. The CBC's view is as follows:

'there seems to be little doubt (based on the photos provided separately by the parish) that these unornamented pieces of unexceptional design are of little or no significance [...] The Council therefore has no objection to the disposal of these items.'

10. The parish has put considerable effort into tracing members of the donor family of the suite of furnishings both through the Sussex County Archivist and elsewhere. They are to be commended for this. I am satisfied that these objects, either individually or as an ensemble, do not come within the category 'treasures'. They are not even borderline treasures. The parish having satisfied me that it is proper to dispose of these items, I so order.

*The sanctuary chairs*

11. The opinion of the CBC on these old Glastonbury style chairs was that 'the significance of the items was likely to be low'. The CBC ventured that the parish might obtain some additional information as to their historical significance and value and suggested securing two or three valuations from auction houses. However, the parish in this instance obtained an informal, though highly reputable valuation, in the sum of £120 which, to my mind, does not put it into the category where more detailed consideration by a clutch of auction houses becomes prudent. In my judgment, they do not constitute 'church treasures'. Again, I am satisfied that the petitioners have made out a case for the disposal of these chairs and I so order.

*The standards*

12. These standards comprise six British Legion banners, a Dunkirk Veterans Association Banner, a Royal Artillery Association banner, two Union flags and one with the cross of St George. The CBC commended the parish for its efforts in contacting the various organisations associated with each of these. I echo this. Prudence and good sense have been guiding principles adopted by the parish throughout, and demonstrate what I would expect to see within similar petitions in the future.

13. The CBC was supportive of those banners not wanted elsewhere to be incinerated. The PCC and churchwarden are agreeable to the incineration of the union flags and the cross of St George; so also is the country secretary of the Royal British Legion, in relation to their standards. The Dunkirk Veterans Association was disbanded in 2000. The various standards are in such poor condition that they would be unlikely to survive cleaning. The membership secretary of the Royal Artillery Association, has kindly agreed to collect the standard of its Bognor Regis Branch and return it to the Association's base at Larkhill, Hampshire.

14. In my judgment, these standards do not constitute 'church treasures'. Once again, I am satisfied that the petitioners have made out a sound case for the removal from the

church of each of these standards, and I am content to authorise this by faculty. With the exception of the RAA standard which is to be kept safe until collected by the membership secretary, the other standards are to be incinerated in a seemly and dignified manner as directed by the second petitioner, Mr Kevin Kindleysides, who, as churchwarden, has sensitively navigated this matter through to its conclusion in an exemplary manner.

15. In relation to the standard of the Dunkirk Veterans Association, I invite the petitioners to defer its incineration for a period of three months to allow for the remote possibility that any publicity attendant upon this judgment leads to an individual with a legitimate interest in the Association (disbanded more than a decade ago) offering it a suitable home, whereupon the matter should be referred back to the court for directions.

The Worshipful Mark Hill QC  
Chancellor of the Diocese of Chichester

3 September 2014