

## In the matter of St Margaret, Rottingdean

### Judgment

1. This is a petition for the internal reordering of the parish church of St Margaret, Rottingdean. The proposal includes the following elements which I have itemised sequentially for ease of reference:
  - a. removal of existing pews and pew platforms
  - b. removal of the existing temporary kitchenette
  - c. installation of new kitchenette in vestry
  - d. provision of mobile servery
  - e. installation of new underfloor heating system and floor finish
  - f. installation of new wall mounted radiators
  - g. construction of a new platform at the east end
  - h. installation of a ramp
  - i. removal of existing, and installation of new, power and data services
  - j. installation of new drainage services
  - k. re-decoration throughout
2. A time-limited faculty (akin to an Archdeacon's Licence for Temporary Minor Reordering) was issued on 14 July 2021, pursuant to a judgment of this court of even date. It was conditional on a petition for a permanent faculty being lodged within 24 months and upon certain conditions being discharged relating to a raised platform which had been introduced without authority. The time for lodgement was subsequently extended on the application of the petitioners.
3. For the avoidance of doubt, the work summarised at paragraph 1 above constitutes what the petitioners describe as Phase 1 of a project, with the prospect of Phase 2 (as yet unspecified) to follow. The Court is only considering the proposals which come within the ambit of this current Phase 1. I have left out of account the remarks of Dr Moore (the incumbent) on behalf of the petitioners in his letter of 21 December 2023 concerning Phase 2. The Court cannot proceed on the basis of speculation. I also make plain that the outcome of the current petition should not be taken as an indicator as to the likely outcome of any future application, whether in the form of what is referred to as Phase 2 or otherwise.
4. Although there is no Party Opponent, various concerns and objections were raised during the consultation process, all of which I have taken into account in the course of my determination, although they may not be expressly and individually addressed within this judgment.

#### **Public notice**

5. During the course of public notice, several parishioners informed the registry that the documentation was not available for view within the church as required under the Faculty Jurisdiction Rules 2015. This was corrected and I directed that the consultation

clock be restarted, so that the full 28 days were available and no parishioner was prejudiced.

6. Public notice elicited some letters of objection, together with several in support. One particularly detailed letter came from certain residents of Tudor Close, immediately adjacent to the church. Whilst not opposing the phase 1 reordering, they have strongly voiced concerns in relation to the phase 2 extension. Their observations therefore carry little weight within the current proceedings which are expressly limited to the matters summarised at paragraph 1 above, which are the only items with which the court is concerned.

#### **The Victorian Society**

7. The Victorian Society, in common with some other consultees, makes legitimate criticism of the tone and content of the Statement of Significance, which appears to undervalue some of the architectural and other features of the building, particularly those of the nineteenth century. It may assist if I make it clear that the Court carries out its assessment in this, and all, cases based on the objective significance of the church in question and is not influenced by deliberate or inadvertent understatement by petitioners.
8. The Society recommends reusing the original Victorian tiles in the form of a retained central walkway and makes the point that if the pews are to be removed, then the Court should be rigorous in ensuring the quality of their replacement. The proposed replacement chair in this instance is within the scope of the Church Buildings Council advice.

#### **Society for the Protection of Ancient Buildings**

9. SPAB indicated that it was content to defer to the advice of the Victorian Society in relation the current proposal.

#### **Historic England**

10. Historic England expressed itself to be 'generally supportive of the proposed re-ordering proposals'.

#### **Local planning authority**

11. Brighton and Hove City Council object to the wholesale removal of the Victorian pews and floor tiles.

#### **Church Buildings Council**

12. The concerns of the CBC relate principally to the re-siting of the pulpit, and the removal of a door in an archway, neither of which is pursued in the current petition. The Council makes a coherent plea for the reuse of Victorian quarry tiles to retain the 'legacy' of the aisle.
13. The Council invites the Court to include a condition in any faculty which it authorises prohibiting the commencement of the works until faculty and planning approval has been secured, and the funds raised, for phase two. I am not convinced that such a condition would be appropriate, or indeed lawful, in these circumstances. A faculty is a permissive right. Even were the condition to be imposed, the parish would be perfectly entitled to elect not to implement it. Phase 1 is for a discrete and severable suite of works. The Court should not be impeded in determining the petition by speculation on

what may, or may not, occur in the future. The current petition stands or falls on its own merits.

### **Diocesan Advisory Committee**

14. At a meeting of the DAC held on 13 July 2023, the works outlined in paragraph 1 above were recommended for approval by the Court, subject to the following provisos.

1. The pulpit is to remain in situ (as shown on the revised plans).
2. The Victorian tiles should be salvaged and used in the entrance porch, and the main aisle should be delineated when the new flooring is fitted (as shown on the revised plans).
3. A Written Scheme of Investigation covering the approach to the archaeology associated with the internal works should be supplied for approval by the DAC Archaeological Adviser.
4. Details of the exact location and height for the Hooker Memorial should be submitted for approval by the DAC.
5. Details of the sound desk and location should be submitted for approval by the DAC.
6. The parish and architect are encouraged to check the paperwork on the Online Faculty System and ensure that the information in the documents is consistent with the final drawings.

15. I note in passing that I find provisos 3, 4 and 5 unhelpful. The statutory function of the DAC is to advise, and the Court is enormously assisted by the DAC's expertise. It has no statutory competence to give approvals, either collectively or through individual members or advisers. To suggest that it has engenders confusion between the advisory function of the DAC, and the adjudicatory and enforcement functions of the Court. This might lead parishes to the assumption that the DAC's role is more expansive than it is. A better choice of words would have been more appropriate, when identifying matters deserving of further attention.

16. In giving its principal reasons for recommending the works for approval, the DAC states:

Objections have been raised by Historic England, Brighton and Hove City Council, Victorian Society, Church Buildings Council and have not been withdrawn. The Committee's principal reasons for approval [sic]<sup>1</sup> or not objecting to the works or proposals being approved despite those objections are: The parish have revised their proposals in response to the initial consultation responses, but have not yet reconsulted the consultees in respect of the revised proposals. Please see DAC minute under Supporting Documents for a full explanation.

17. The helpful minute describes the DAC, by a majority, favouring the compromise proposal of incorporating two rows of reused Victorian tiles to delineate the former aisle, together with the use of such tiles throughout the lobby. It particularly welcomed the retention of the pulpit and the screen at the west end, and the reduction in height of the dais.

### **The Petitioners' case**

18. This matter has been under consideration within the parish for a very long time. It seemed to become locked within a vortex of consultation, involving both the secular and ecclesiastical systems. To break the apparent deadlock the petitioners took the decision to sever the internal reordering from the more ambitious extension and to proceed solely with the reordering, notwithstanding the fact that it had devoted much time and effort to

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<sup>1</sup> Presumably this was intended to read: 'recommending for approval'.

consulting on the larger project. What is now before the Court is substantially more modest and limited than what had originally been presented to consultees.

### **Assessment**

19. The practice of this court is to follow the *Duffield* framework, which is well known and does not require rehearsal.

### *Harm*

20. The Listing Statement for St Margaret's reads as follows:

Anglican church. Norman nave, tower and chancel of c1200, south aisle of 1856 by Sir George Gilbert Scott, who carried out a restoration of the church as a whole at that date; choir and clergy vestries of 1973-4 by Denman and Son. Random flint with stone dressings, roof of tiles; the C19 work to the chancel, south aisle and west end marked by a tighter use of flint. EXTERIOR: the east end has 3 lancets of equal height, dating from 1856, with a common hoodmould and a blank quatrefoil above; the south wall of the chancel has one pointed-arched entrance with an elaborately moulded architrave and hoodmould of C19 date; one plain lancet to right of the entrance, and one lower lancet to the left with a trefoiled head, probably of C14 date; a C17 stone bracket survives between this window and the entrance; one plain lancet to north wall. The tower is of 3 stages and flanked to north and south by angle buttresses; plain lancet window, with 2 narrow bell openings above and one such narrow opening to east and to west; pyramidal roof. The south aisle has paired trefoiled lancets with common hoodmoulds to east and south sides and a single trefoiled lancet to the west, the latter of C14 date and resited by Scott; lean-to roof of lead. On the north side of the nave there are, from the tower, 2 pairs of lancets, then a single lancet, than another pair; between the second pair and the single lancet, a low opening, now blocked, with decayed dressed stonework, possibly deriving from the earlier Saxon church. The west end has a pointed-arched entrance with hollow- and wave-moulds and hoodmould with head-stops of St Margaret of Antioch and St Richard of Chichester; the west door has elaborate Gothic Revival decoration to the hinges; the west end flanked by 2 massive buttresses with one offset, of late C14 date, and an additional angle buttress to the south, of early C19 date; cross at apex of gable. Choir and clergy vestries of 2 storeys, square in plan, the principal part under a hipped roof and the upper part set back. Set into the west end of the south aisle are 2 stones, in memory of Sir Edward Burne-Jones and his wife Georgiana, who are buried there. INTERIOR: the interior has the peculiar feature that the level of the floor is raised by 3 steps from the nave to the 'crossing' under the tower, and then by 3 steps again to the chancel. The interior was plastered and the nave reroofed by Scott; features of earlier interest are the priest's doorway in the chancel with C13 mouldings; the crown post roof to the chancel with arched braces and cambered tie beams, possibly of a date with the chancel; and the chancel arch and the arch to the crossing, which are triple chamfered; the nave arcade to the south is of 3 bays, the restored columns having Early English capitals and an inner order to the pointed arch. Gallery to west end with balustrade possibly of C18 date. Remains of Norman font kept at the west end of the south aisle, by a font of similar design dating from 1910. Behind the pulpit, a memorial tablet surmounted by a bust of Thomas Redman Hooker. Polished Purbeck marble slab tomb of Thomas Pelling in the chancel, 1732. Stained glass by Morris and Company: east window 1893; lancets either side of the chancel, Mary Virgin and St Margaret, 1894; lancets either side of the 'crossing' 1897; Ridsdale window in north side of nave 1902; Rowden window in north side of nave 1919; all the designs are by Burne-Jones except for the figures of Christ bearing the Cross and St George and the Dragon in the Rowden window, which are by JH Dearle. Chancel window in memory of Sir Wentworth Dilke, 1922 by Townshend.

21. St Margaret's is currently listed as grade II\* although several consultees, notably the Church Buildings Council, have remarked that the building is of sufficient quality to be

grade I. For the purposes of this judgment, I propose to approach the matter as if the church had grade I designation.

22. The proposals, if implemented, might result in some harm to the significance of the church as a building of special architectural or historic interest, but that harm would be relatively minor. It is important to stress that the Court is only concerned with the limited proposals which the petitioners have chosen to pursue in the current petition.

#### *Justification*

23. There is no meaningful challenge to the parish's justification for the proposal. It is clear and compelling in relation to the relatively modest internal reordering which is now pursued. It will allow improved liturgical use of the building and permit a range of community uses for concerts and events.

#### *Balance*

24. Mindful of the strong presumption against change, I am satisfied in this instance that the public benefit in implementing the proposals outweigh the limited harm that will result.

#### **Disposal**

25. It follows that a faculty will pass the seal. It will be subject to the following conditions:
- (1) that the works will be carried out under the direction the parish's inspecting architect, Mr John Bailey;
  - (2) that the works are not to commence until each and all the following have been complied with:
    - i. that a written Scheme of Investigation covering the approach to the archaeology associated with the internal works has been approved by the Court, following consultation with the DAC Archaeological Adviser.
    - ii. that details of the exact location and position for (a) the Hooker Memorial and (b) the sound desk have been approved by the Court following consultation with the DAC.
    - iii. that the court costs have been satisfied in full;
  - (3) For the avoidance of doubt:
    - i. The pulpit is to remain in situ.
    - ii. The Victorian floor tiles are to be salvaged and used in the entrance porch and to delineate the main aisle  
in accordance with the revised plans lodged by the petitioners.
26. The works are to be completed within 24 months or such extended period as the Court may order.

#### **Costs**

27. The costs of and occasioned by this petition, to include a correspondence fee for the registrar, shall be borne by the petitioners.

#### **Postscript**

28. As mentioned earlier in this judgment, a faculty is a permissive right. The securing of a faculty does not compel the petitioners to implement it. They may choose not to do so pending the determination of an as yet inchoate application for a more ambitious project. That is entirely a matter for them. But I should make two things clear. First, that the works authorised under this petition are final and not temporary or transitory. This

judgment should not be interpreted as expressing any view on how a future petition for more ambitious works might be determined. Dr Moore asserts in his representations: ‘the kitchenette proposed in this [petition] is a temporary measure: the proposed kitchen in Phase 2 will enable access into the Nave via the re-opened door in the north wall’. He should be disabused of this misunderstanding and misstatement. The works authorised by the faculty I have today granted will be final and the parish must appreciate before works commence that the end result will be permanent and enduring unless and until a further faculty is obtained. I would not wish the parish to proceed on a false premise. Secondly, Dr Moore intimates that the parish might wish to revisit the positioning of the pulpit, despite the concession made within these proceedings. I will not pre-judge the outcome of any future application with regard to the pulpit, but I note the near unanimity of opposition to its removal or repositioning. Any future petitions in relation to this church will be considered on their merits on a case-by-case basis.

The Worshipful Mark Hill KC  
Chancellor of the Diocese of Chichester

8 January 2024