

## In the matter of St John the Evangelist, Cononley with Bradley

### Judgment

1. Following an earlier judgment in this matter in January 2016, bearing the neutral citation number [2016] ECC Lee 1, a faculty was issued for an ambitious reordering of the interior of this unlisted church which included relocating the font, extending the width of the chancel steps, removal of choir stalls from the chancel, removal of the pews in the nave, re-flooring of nave, narthex and chancel, introduction of kitchen and toilet facilities in narthex, relocation and improvements to the Victorian screen.
2. The CBC was content to defer to DAC, which issued a Notification of Advice recommending the works. Historic England indicated that it was happy to defer to the Victorian Society which confirmed that it had no comment to make on the proposals in their revised form. The revision included the introduction of wooden chairs in the nave, in accordance with the Victorian Society's original response to parish.
3. The Court's judgment concluded by declaring that a faculty could pass the seal, conditional upon the following choice of chairs:
  - (a) the solid wooden Rosehill Chantry chair for the nave;
  - (b) such upholstered or un-upholstered Rosehill folding chair for the narthex as the PCC may decide.The petitioners were given liberty to apply to vary either condition.
4. The works did not proceed as swiftly as hoped and various orders were made extending the period for completion. A final extension was granted on 4th April 2019, requiring the work to be completed by 31 January 2020.
5. On 31 January 2020, the Reverend Julie Bacon, interim vicar at St John's Cononley, (and not a party to the original proceedings), emailed the registry apologising that the completion date would not be met and offering a full explanation. She indicated that the first service to take place in the re-ordered building is scheduled for 1 March 2020, followed by a community 'church warming' event and then a re-dedication on Sunday 5 April 2020.
6. Ms Bacon continued:

As a matter of urgency, we wish to order chairs for the worship space as the completion of the project approaches. [...] I spoke to Simon Cowling (Dean at Wakefield Cathedral and former chair of the DAC) who recommended Alpha Chairs as a supplier of good reputation of ecclesiastical chairs. We obtained samples of 3 Alpha chairs which have been seen and tried by members of the congregation, including an all-wooden one, and one with arms. There was a strong preference for (a) chairs with arms, which are easier to get in and out of for elderly people; (b) some upholstery, for increased comfort. It was felt that the all-wooden chairs were noticeably less comfortable for older people, and that if we bought them, there would be a need for cushions. The Alpha chairs are significantly lighter, which would be easier for an aging congregation to move. There is also the option for them to be linked, which will result in neater rows and greater stability. I appreciate that cost cannot be a deciding factor, but it is also the case that the Alpha chairs are cheaper than the Rosehill ones, and are guaranteed for one year

more. The sample chairs from Alpha were looked at yesterday in church with representatives from the congregation and in the presence of Liz Haestier from Overton Architects.

The preference of the building project group, taking into account the congregation's feedback, would be to buy 50 wooden framed chairs with wooden backs and upholstered seats from Alpha, 30 with arms and 20 without. This would allow 5 rows of 10 chairs (with an aisle in the middle, effectively creating 2 blocks of 25 chairs each), with chairs with arms at either end and in the middle of each half-row, so that arms could be used as needed by anyone requiring their assistance.

I attach a summary of information regarding specification and costs of the chairs from Alpha and Rosehill, which also shows that we have looked at samples from ICS. I also attach web-links for the Rosehill Chantry and Alpha Lightweight Wooden Stacking Chair.

At present we do not have sufficient funds to purchase chairs for the narthex (and the gallery was removed when the project proposals were scaled back). There is already a gap between the overall project costs and available funds; the exact amount is as yet uncertain, but is expected to be between £5k and £10k. The church is making every effort to raise the additional funds necessary, particularly through renewed efforts in approaching grant-making bodies. Purchase of new chairs for use in the narthex will therefore need to be deferred until additional funds have been raised.

Would it be possible for you to put this information before the Chancellor for his response - or otherwise please advise me of how I can further assist him and you in connection with this matter?

7. There are two aspects of this application which concern me. First, that it is made so late. It is poor practice to implement certain works authorised by faculty and then apply to vary the faculty so as to change or exclude other elements. A faculty is *table d'hote* not *à la carte*. Permission is given for a suite of works to be implemented holistically not on a pick or mix basis. That said, the Court granted liberty to apply without limit of time, and in the circumstances it would be improper and ungenerous to reject the application on the ground of delay alone.
8. More troubling however is the impecuniosity argument. A prudent PCC should never embark upon a project when they lack the funds – either in hand or promised – to complete it. It concerns me that at this very late stage an application should be made to the Court to vary a faculty because a parish cannot afford to complete the works which have been authorised.
9. In the light of the issues raised, I called for the complete file of papers dating from 2014 in order to determine the matter.
10. The petition, signed by the then incumbent and one churchwarden, stated the inspecting architect had costed the work at £160,000 and that £100,00, of which was immediately available from named benefaction and the balance of £60,000 would be sought from grants or fundraising. It is unclear to me whether there have been unexpected increases in the costs of the work or a shortfall in fundraising. An unusual feature is that the petition (as costed) included the addition of a gallery. This was not pursued so there should have been more than enough flexibility within the budget. It was at best unwise, and at worst cavalier, to embark upon this re-ordering project knowing there was doubt as to the sufficiency of the parish's finances. I regard holding off the application to vary the faculty until now to have been an error of judgment.

11. Turning to the material available at the time the original faculty was granted, I note that the Victorian Society in an email of 29 June 2015 strongly urged the parish to consider wooden chairs or benches.

12. In a letter dated 8 September 2015, from Mr Mike Overton, the church's inspecting architect, to the then secretary to the DAC, it is stated that 'we have agreed with the church that they will utilise one of the attached timber chairs'. He continues,

With reference to the timber seating in the nave, the selection of these will depend on cost and the preference or otherwise for a shelf for books or kneeling cushion. My own preference is the all timber 'Rosehill Chantry' in terms of fitting well within this Victorian Church stained to match the existing screen and furnishings, but the Chorus chair is rather more easily moved and stacked and the Alpha chair is a little more affordable. I am hoping that we can gain approval for any one of the 3 selected timber chairs for the nave, and either one of the folding chairs as overspill or gallery chairs.

13. It is clear from the sequence of correspondence that the liberty to apply to vary the conditions in the faculty was not intended to be unlimited but to allow the parish the option of considering one of the other two designs which Mr Overton had floated both with the parish and with the DAC and other consultees.

14. The first matter for me to consider is whether it would be appropriate to revisit the principle that the replacement chairs be wooden, rather than upholstered. I note the preference of the building project group and the views of the congregation as carefully and helpfully reported by Ms Bacon. I note the remarks made in respect of comfort and convenience.

15. The application to vary reveals one of the difficulties resulting from the lengthy passage of time in the implementation of works authorised by faculty. People move on, those in leadership are replaced, and the corporate memory is lost. I suspect many of those now involved in this re-ordering – which has reached the 'snagging' stage – will have no direct recollection of what pre-dated the grant of the faculty. They may not be aware of the basis on which the DAC was consulted, nor of the terms of consultation with the amenity societies.

16. This project was advanced on the parish's behalf on the basis that wooden chairs would be introduced into the nave. The Victorian Society gave a very clear opinion that such chairs were required and the correspondence suggests that the parish accepted that recommendation, thereby eliminating the Society's opposition to the revised proposal with the wooden chairs. The project was put to the DAC on the express basis that on the completion of the reordering the nave would be populated by wooden chairs.

17. I considered seeking the advice of the DAC on the application to vary and also to consult the Victorian Society. However I am conscious that Ms Bacon wants a swift response and has contacted the registry asking for the matter to be expedited. I consider it unlikely that the Victorian Society will have altered its position which was expressed at the time fully and with clarity. The role of the DAC is advisory only and I have come to the view that even were it to offer support for what the parish now proposes (which I consider to be unlikely), my ultimate disposal of the application would not be affected.

18. In short, the request for a variation of the faculty must be rejected. The application comes too late. The works have largely been implemented. To allow this variation would be to break faith with the basis upon which the consultation took place, the manner in which it was put before the DAC and the way in which the petition was advanced in the Consistory Court. I am tolerably confident that had the original petition proceeded on the basis of upholstered chairs for the nave it would have failed *in limine*. Though unlisted, there is significant architectural merit in the building which would be compromised by the wholesale introduction of domestic-style upholstered chairs in the nave. It would be inappropriate, verging on an abuse of process, to allow such chairs now on an *ex post facto* basis, when the whole reordering scheme would not have been approved had upholstered chairs been proposed when the original petition was lodged. The limited availability of funds is regrettable, and the parish must do some soul searching to see how they got themselves into this position. But it seems there is adequate funding for wooden chairs in the nave, albeit the folding chairs for overflow seating in the narthex will have to wait.
19. I have expedited this matter as requested by Ms Bacon. I am prepared to revisit my determination if there is further material she wishes to place before me, or further representations she feels may affect my decision. But she wanted my answer promptly and now she has it. I will allow her 7 days within which to make any further representations.
20. In summary therefore, the application to vary the faculty is refused. To complete the part-implemented works the parish is required to introduce solid wooden Rosehill Chantry chairs in the nave as directed. I am prepared to authorise a further extension of time to allow them to be sourced. I would also be willing to agree a programme for their introduction in stages. I would be favourably disposed to a more limited application to vary the faculty, changing the specification to one of the other two designs of wooden chair put forward by Mr Overton in his letter to the DAC.
21. Pending resolution of the outstanding matters concerning the nave chairs, I am prepared to allow the parish until 1 September 2020 to seek further directions from the Court with regard to the chairs for the narthex. Any temporary seating arrangements in nave or narthex will require prior authorisation from the Court which can be given informally in writing.

The Worshipful Mark Hill QC  
Chancellor

20 February 2020