

In the matter of All Saints, Otley

Judgment

1. By a petition dated 1 April 2015, a faculty is sought for a number of alterations to the interior of this church. They include, in abbreviated summary form:
 - i. the removal of pews in the nave and side aisles and the introduction of chairs;
 - ii. the introduction of underfloor heating and the removal of pew platforms;
 - iii. installation of toilets on mezzanine level;
 - iv. relocation of war memorial;
 - v. remodelling of north entrance;
 - vi. relocation of font to north aisle;
 - vii. provision of nave altar and platform;
 - viii. provision of moveable organ console;
 - ix. re-wiring, new sound system, new lighting system and general redecoration.
2. All Saints is a grade I listed church. It occupies a prominent position in the centre of the market town of Otley, and has been a Christian site since the first or second century. Only the foundations of the original saxon church remain. The Norman church of the eleventh century now forms the present day nave. Side aisles were added in the fifteenth century. The listing description denotes the local and regional significance of the building as being moderate/high. The parish's Statement of Significance dated November 2014 is a model of thoughtful clarity and contains an abundance of detail concerning the historic evolution of the building with particular reference to the its sacred function as a local centre of worship and mission.
3. The proposals which are before the court have developed over time as the PCC has entered into discussions with various bodies that have a part to play within the faculty jurisdiction. I hope I can fairly summarise the respective positions of those bodies as follows.

English Heritage

4. English Heritage has communicated its views in letters of 25 November 2013 and 6 February 2015, and emails of 9 January and 6 February 2015. The mutually respectful engagement between English Heritage and the petitioners can be traced in the way the proposals have evolved in the course of the consultation. English Heritage is able to express itself as being 'supportive of the proposals to increase the flexibility of the building to facilitate its wider use by the community'. Its only remaining caveat relates to the choice of chair to replace the pews and the means whereby surplus chairs are to be stored.

The Victorian Society

5. Whilst the Victorian Society was unable to send a representative to the site visit which was arranged in November 2013, its Churches Conservation Adviser, Tom Ashley, provided a very full email on 17 December 2013. Mr Ashley raised a number of significant concerns to the proposals as they then stood. However, modifications to the proposals led, constructively, to the view of the Victorian Society changing such that by 13 March 2015, Mr Ashley was able to write an email indicating that the Society would not object to the works proceeding as now proposed. Its only caveat similarly concerned the choice of chair.

Society for the Protection of Ancient Buildings

6. By a letter dated 29 January 2014, SPAB indicated that it was sympathetic to the parish's wish to develop the building but pointed to the need for a clear justification for a reordering which would have a major impact on the special architectural and historic interest of the building. It also stated that greater priority ought to be given to repairs to the fabric. SPAB voiced its clear objection to the proposal to take up the existing floor, but indicated it would defer to the Victorian Society with regard to the removal of the pews.
7. Subsequently, by letter dated 4 February 2015, SPAB provided its views on the plans as they had further evolved commending 'the PCC's thoughtful and methodical response to the initial views of the consultees', a description which I am happy to endorse. SPAB also commended the parish for undertaking repairs to the fabric in the interim. It was noted by SPAB that the proposed new flooring was to be confined to the areas where the pews and platforms were to be removed with the remainder of the floor unaltered. This applies in particular to aisles, the rear of the west end and the diagonally set paving at the front of the nave. Certain other points of detail are raised by SPAB, most particularly its recommendation that uniform and homogenous paving be avoided by varying the size and direction of the stones.
8. Whilst this is undoubtedly a 'more favourable' response, SPAB was still looking for 'further reassurance', to adopts its own terminology. The court is not required to give special notice to an amenity society under FJR r 8.3 if the body concerned 'has indicated that it has no objection or no comment to make'. The wish for 'further reassurance' denoted a degree of ambiguity and on my direction the registry wrote to SPAB by letter and email on 12 May 2015 seeking clarification as to whether it had further comment to make or wished to become a formal objector. Disappointingly, to date no reply or acknowledgment has been received. I appreciate that, in common with other amenity societies, SPAB is reliant on a largely volunteer workforce. This court values the expert input that SPAB and is impoverished when requests for input go unanswered. The only proper inference, it seems to me, which I can draw from this lack of response is that SPAB has no further comment to make and, accordingly, special notice under r 8.3 is not required. I can proceed to determine the matter on the basis of the two substantive letters I have mentioned, which I am pleased to record are very detailed, focussed and constructive in both tone and content, together with what is styled an 'interim response' in an email of 13 January 2013.

Church Buildings Council

9. The CBC provided advice in a letter of 17 December 2013 (which is not with the papers lodged by the petitioners) but this was overtaken by the revised proposals which garnered approval as appears from an email of David Knight dated 30 December 2014. His sole caveat concerned the archaeological issues.

Diocesan Advisory Committee

10. The DAC considered the current proposals at a meeting held on 12 February 2015 and issued Notification of Advice on 27 February 2015 recommending them in their entirety subject to two small but significant provisos.

Response to public notice

11. Public notice produced two letters of objection: one from Ms Ashlie Rhodes dated 26 March 2015 and one from Mr Paul Rhodes which is undated. Neither chose to become a formal objector for the purposes of r 9.3. I have taken the contents of their respective letters fully into consideration, as I have a careful and pastoral letter in response, written to Ms Rhodes by the vicar, the Reverend Graham Buttanshaw, dated 13 April 2015, in which he sets out the thinking behind the proposals.
12. The thrust of the letters is directed to the removal of the pews, which is described variously as 'wrong', 'a complete waste of money' and having the result that the church 'would lose its charm and beautiful aesthetics, spoiling the atmosphere'.

The law

13. Adopting the framework and guidelines commended by the Court of Arches in *Re St Alkmund, Duffield* [2013] Fam 158, a series of questions needs to be addressed whenever changes are proposed to a listed building. The starting point is a strong presumption against change and a significant burden lies on petitioners to rebut it.

Would the proposals result in harm to the significance of the church as a building of special architectural or historic interest?

14. Clearly they would.

How serious would the harm be?

15. The original proposals were far more invasive and far reaching than the revised ones. I need to look holistically at the total effect of all that is currently proposed within the present petition. Limiting the replacement flooring to the area beneath the pew platforms renders the works and their impact of a different and lesser magnitude. Removing the Victorian pews would undoubtedly have a significant effect on appearance of the interior of the building and the balance and harmony achieved by the present arrangement would be lost.
16. The pews themselves and the platforms on which they stand are of no particular individual value, but they work as a dignified ensemble in the liturgical use of the sacred space. Notwithstanding the opinion expressed by SPAB on this matter, and the legitimate observation that floors and pews can often be undervalued and

dismissed as unimportant, I consider that in this particular instance, mindful of the limited area now affected by what is proposed, the level of harm is moderate.

How clear and convincing is the justification for carrying out the proposals?

17. I have already expressed my view on the Statement of Significance dated November 2014. I anticipate that this document has gone through many drafts and it represents a PCC which takes a responsible approach to its temporary custodianship of a heritage building of significance, which used for the mission and worship in a vibrant and multi-faceted local community. Similarly the Statement of Need demonstrates that it is the product of thought and reflection of the part of representatives who given coherent and strategic attention to what is required of the building now and what may be in the future. It demonstrates prayerful and detached consideration of relevant matters together with the wisdom and humility to take advice from experts, to weigh that advice in the balance and to come to a reasoned conclusion. I need not rehearse the detail within this judgment, but I have given particular regard the fact that the proposals changed as the parish clearly took on board the opinions it received, and that it evidences consideration being given to a range of options giving careful reasons for discarding alternatives.

18. In considering the evidence of justification, I have had regard to:
 - i. the Statement of Significance;
 - ii. the Statement of Need;
 - iii. the incumbent's letter of 13 April 2015;
 - iv. the note of a PCC discussion held on 24 February 2014;
 - v. the minutes of a visit from the DAC on 8 February 2013.

19. Occasionally the term 'flexibility' is deployed as an objective when there is no consensus as to what a parish wants to do. In this instance I am satisfied that the PCC has truly turned its mind to the use of its sacred place, how it is heated and lit, increasing access, and providing toilets and facilities for the young, the elderly and the infirm. It has given thought to liturgy and, especially, Eucharistic gathering as well as audio visual means of enhancing contemporary worship. It has also had regard to increased community uses of the church and to the welcoming more people over the threshold. The genuine needs and ambitions of this parish all militate in favour of the proposals.

20. I need say a particular word on the pews, since they were the focus of the two letters of objection. No community will ever be unanimous when change is in the air. Attachment to how things have been previously may be rooted in sentiment but often comes from the aesthetic value of the items in question. In this instance, I note that none of the consultative bodies now argues for the retention of the pews and that collective professional assessment is a weighty consideration. I am in no doubt that those who write to the registry will be caused genuine upset at the removal of the pews, but the fact that the incumbent took the time and trouble to reply to them in the way he did shows an acute awareness of his pastoral responsibilities.

Will the public benefit outweigh any harm?

21. For the reasons already outlined, I am drawn inevitably to the conclusion that the distinct pastoral benefits carefully identified and articulated by the PCC will outweigh such harm as will result from the implementation of these proposals. It may be that in generations yet to come, the changes will come to be seen as something of an enhancement to the building itself as well as to the spiritual vitality of the parish, but that would be mere speculation.

Order

22. The petitioners have satisfied me that a faculty should issue and I so order. It will be subject to the following conditions:
- a. that the works are to be completed within 18 months under the supervision of the inspecting architect, Mr Carl Andrews;
 - b. that a proper and effective archaeological watching brief is to be put in place with monitoring throughout the currency of the works;
 - c. as to the chairs, and the current lack of clarity in the views of the relevant consultee bodies on the specific type proposed, no chairs are to be introduced without the court's prior express approval. It is expected that the petitioners will produce evidence of specific consultation with those bodies that have expressed reservations before a request for approval is made;
 - e. that, where possible and as the inspecting architect shall direct, there is to be variation in the size and direction of the stones deployed in flooring the areas previously occupied by the pew platforms;
 - f. that the works are not to commence until the petitioners have paid the statutory fees arising from this judgment, such fees to be assessed by the registrar.

The Worshipful Mark Hill QC
Chancellor

4 June 2015