

IN THE CONSISTORY COURT OF THE DIOCESE OF BLACKBURN
IN RE ST. ANNE FENCE-IN-PENDLE
PETITION NO: 7 OF 2008

Before the Chancellor His Honour Judge John W Bullimore
Hearing: 10 May 2008.

The Reverend Richard John Adams for the Petitioners.

Miss Claire Bunbury of Counsel for the objectors.

JUDGMENT

SUMMARY

1. The petitioners (Mr Adams, Dr Paul Wright churchwarden and Simon Parker Treasurer) by a petition of the 31 January 2008, seek permission to remove a total of 4 pews from the rear of the nave to create space within that area for various purposes. The objectors contend that these purposes are already well catered for, and that the effect will be to spoil the appearance of the building, and that as a matter of law no sufficient necessity for the proposals has been shown.

THE BUILDING

2. St. Anne's is a Grade II listed church built in 1837. It is compact in appearance being basically rectangular with a tower at the west and small chancel and sanctuary at the east. The vicar's vestry is at the northern side of the sanctuary and a choir vestry to the south and west of the tower. These two areas may have been added later as they change the symmetry of the overall plan, but I did not investigate that issue at all. A porch at the southwest corner of the building provides the main entrance into the area below the gallery at the west end, which is supported on a number of slim metal pillars. In the early 1990's a narthex was constructed below the gallery. This required the removal of some of the pews. A glazed screen was constructed at the eastern side of the area. Doors give access into the choir vestry and the area below the tower, as well as into the nave.

3. The pews in the nave are in two blocks set on wooden platforms three or four inches high. There is a central aisle and a walkway down the north and south sides. The pews appear new to be in 12 rows; any row in the main blocks appears capable of seating say 8 people without undue proximity being forced on anyone. The front pew at the north side is somewhat shorter because the pulpit stands in the northeast corner. A platform has been constructed next to it, with a ramp, suitable for a wheelchair. Large diameter heating pipes run along the sides and front of the wooden platforms.

4. About 1.5m from the front of the pews are two steps up to a raised area with short rows of choir stalls at either side facing one another. At their eastern end one passes under the chancel arch into a small area outside the communion rails and sanctuary. On the southern side of the choir stalls and at a similar level to the main floor is a small chapel; on the opposite northern side is (I think) the organ console, the main body of the instrument being placed centrally on the western gallery.

5. The proposals affect pews at both sides towards the rear. Counting forward from the western (narthex) end, rows 2 and 3 are to be removed. I was told the pews were introduced around 1887 at the time of Queen Victoria's jubilee, which coincidentally was also the church's. They are oak, nicely carved, and two of the objectors who gave evidence (Mrs Barton and Mr Holgate) had a strong attachment to them, as they (or perhaps one of them) had been paid for by members of their families in years gone by, or were where certain people had sat, in their own pew for which they paid rent, or in Mr Holgate's case, and he is now over 70, where he used to sit with his father when he was a lad. Each pew is obviously of substantial weight and length and would be difficult to manoeuvre, or to remove and replace on a frequent basis.

PREVIOUS FACULTY PROCEEDINGS.

6. A faculty must have authorised removal of some pews and construction of the narthex area. If, as was suggested, this was done in around 1994, it would have been my responsibility to give permission, although I have no recollection of the matter. I did gather there were those who still regretted loss of those pews. Mr Holgate, who is a former warden, as was his father before him, commented along the lines, it was as well it was not his/his father's pew which was then taken out.

7. In around 2000, before Mr Adams was instituted in 2001, I was required to adjudicate at a consistory court hearing at St Anne's in relation to the choir stalls, which were at that time removed from their accustomed position, presumably under a temporary permission which had been granted. There was an interregnum at that point, and I was faced by a lot of unhappy people, deeply divided among themselves. On the one hand there were the more conservative and traditional worshippers and other parishioners; on the other hand, a substantial group categorised by the former as 'happy — clappy' and certainly looking for a freer and more informal style of worship, who wanted to retain the open raised area for a music group or something similar. The issue about the choir stalls was simply a focus for dispute in a congregation deeply divided as to what was proper, required or necessary, for a living Christian church at the turn of the millennium.

8. In the result — and I have not sought to look up the judgment I then gave — I required the choir stalls to be returned to their place. Those who disagreed, or many of them, left St Anne's for more congenial worship elsewhere, and Mr Adams had to pick up the pieces. One of the witnesses — the Reader John Turnham — was quoted by the objectors as having said back in June 2000, when the Archdeacon Dr John Marsh had attended the PCC, that people were not listening to one another, and the present objectors suggested nothing had moved on since then. Mr Adams considered this extraordinary, that in the light of past experience the PCC and petitioners had done everything they reasonably could not to cause division or polarise opinion. I shall say something further about 'consultation' below.

THE PRESENT APPLICATION

9. The latest petition follows a temporary licence granted by the Archdeacon of Blackburn, the Venerable John Hawley, on the 10 January 2006 and a petition issued in 2007, which was subsequently withdrawn, by which the petitioners wanted to remove one pew on each side and turn the next (the third row) to face to the west. That earlier petition mirrored what was done purportedly in compliance with the licence, and sought to make it permanent. That was also opposed by a number of people.

10. The present objectors were very critical of the way the permission for temporary reordering ('the licence') was handled. They said it was done without consultation, and there was no minute of the PCC approving the proposal, and after it was granted, then its terms were not followed, either as to what was done or for how long it was done. The evidence showed there was at least some force in the last complaint, and the 'the licence issue' seems to have been a cause of further disquiet. I do not want to spend undue time on this, because frankly any justified criticism about 'the licence' does not bear on whether the present petition is to be granted. Strict compliance with the licence would not have made permission more likely to be given; equally the petitioners are not to be 'punished' if they have failed to comply properly, by my withholding permission now, if I ought properly to grant it. There are other ways of ensuring compliance where the terms of a licence are not being followed.

11. What is the purpose of a permission for temporary re-ordering given under Rule 9 of the Faculty Jurisdiction Rules 2000? It will be readily understood (certainly here at Fence) that any proposal to alter the fixtures or fittings is likely to provoke opposition. A licence to do so for a relatively short period gives those in favour the chance to road-test what they want to do and see if it works, or what adjustments might be required, and it gives those objecting the opportunity to assess what they think they will dislike, and see whether they want to continue to object. The whole idea is based on the requirement that the supporters have a limited time in which to make up their minds what they want to do, and then must either petition for a faculty to make it permanent, with or without modifications, or they are to restore things to the prelicence state. It is a very sensible provision and I would have thought quite simple to understand and operate.

12. Before granting the licence the Archdeacon has to be satisfied this is minor reordering, that it has the support of a majority of the PCC and that it is expedient to grant the request (i.e. the Archdeacon thinks it is acceptable to allow whatever it is). The licence expires on a given date which cannot exceed 15 months from the date of the licence. Under previous Rules it was 12 months only, but the period was lengthened so a full church year was available to the assessment including all the major festivals and so on.

13. The licence states:

“(a) *if* you desire to extend the above period, with or without changes you should NOT LATER than two months before the expiry of the above period consult the Diocesan Advisory Committee and submit to the Diocese Registrar a petition for a faculty describing fully the works or proposals including any changes, AND ALSO PROCEED TO DIS PLY A PUBLIC NOTICE in accordance with rule 6 of the FJR 2000.

(b) if such a petition is submitted then the period of authorisation given by this licence set out above will continue in force until determination of your petition.

(c) if no such petition is submitted, you must immediately after expiry of the period set out above, cause the position as it existed before grant of the licence to be restored.

CONDITIONS TO BE COMPLIED WITH ON CARRYING OUT OF WORKS OR PROPOSALS”.

14. So, this is a permission to do something which otherwise would require a faculty, for a limited period only. If the proposers (a majority of the PCC and incumbent) want to continue with the experiment and make it or something similar permanent, they are to petition for a faculty; if they apply before the licence runs out, then the temporary re-ordering can stay in place after the 15 months has run until the petition is determined. If the 15 months runs, without their seeking a faculty, they are to restore the church to its pre-licence state.

15. The relevant licence permitted “Removal of last but one row of pews in the nave”. Mr Adam told me it was granted by the Archdeacon after a telephone conversation in which he recalled explaining that he also wanted permission to reverse the third row of pews and that he had not subsequently noticed this was not included on the licence itself. He accepted that the PCC minutes before the 10 January 2006 did not record any discussion of the matter, although he clearly recalled such discussion had taken place.

16. Once the pews were re-arranged (row 2 taken out, row 3 reversed) at some stage carpet was introduced into the two areas. The present objectors contend this was not authorised either by the licence, nor could it be covered by the list of minor matters, which list the Chancellor is required to publish, which can properly be done without any faculty permission at all. The carpet is not mentioned on the licence; carpet on a new and previously uncarpeted area is not included in the minor matters list.

17. However it is not something I would be very concerned about. The carpet was introduced so as to provide protection from splinters or roughness on the floor so as to make a safer play area for small children, which was part of the overall purpose of the rearrangement in the first place. It was a sensible precaution.

18. The licence itself ran out on the 10 April 2007. No faculty had been presented. The status quo ante should have been restored. I drew attention to this in a Note of the 24 February 2008. Apparently the pews were put back on the 16 March, Palm Sunday.

19. Efforts were made by Mr Adams to describe these deviations from the licence as technical or procedural and it was suggested the conditions of the licence were overlooked in the press of other matters. I have no doubt the clergy have more important issues to wrestle with on occasion than what must often appear to them to be rather bureaucratic provisions. However that is to overlook what is at stake here. It is well known that changes which amount to more than 'something or nothing' require permission from the Archdeacon, or from the Chancellor, and that such proposals may be opposed by one or more members of the electoral roll or by parishioners (even if they never attend).

20. It is, for good or ill, how the Church of England operates in this regard. Rule 9, temporary re-ordering, puts off the opportunity to press the objection for a period of time, so potential objectors have to put up with a situation they may well continue to dislike, while the supporters, and opposers, have an extended but not unlimited opportunity to assess the whole thing. That is sensible, and permitted on the basis the objectors will only be kept out of the process and unable to oppose effectively for a limited time. To ignore that very clear period is to break what is really a question of good will and trust. The supporters are given a limited time to try out their ideas and

see if they work, but it is a limited time, not the start of a long period to be extended by stealth, whether unwittingly, as here, or otherwise. Further, Rule 9(4) makes it clear that ‘the period specified in the licence shall not be extended by the Archdeacon ‘ (my emphasis).

21. The Archdeacon may decline to grant a licence in the first place, and instead a temporary faculty for the same purpose, or I suppose an extension over the 15 months, could be sought from the Chancellor.

22. As to the licence, despite there being no entry in the minutes — which is surprising — I unhesitatingly accept there had been such a discussion. Firstly Mr Adams told me it was so. Secondly, I cannot sensibly think the PCC was faced with a *fait accompli* by two or three zealous church members, and that they did not then object. Thirdly if there had been no discussion, I think the congregational opposition would have been a good deal greater. Fourthly the Archdeacon was at the time satisfied a majority of the PCC wanted the licence to be granted. However sensible wider discussion or provision of information in the congregation would have been (if indeed there was none) the licence was not sought on the basis the majority of the congregation or parishioners wanted it. It was an experiment based on the views of the PCC

CONSULTATION

23. During the hearing, much was made of a supposed lack of consultation, although I think this word was used in a number of different senses.

Usually the complaint in these cases is that proposals have emerged by some secret process, that members of the congregation and parishioners have been kept in the dark, and the PCC has tried to slip things through. That is not suggested here, or if it is, I reject it.

24. The Church of England does not require government by referendum at any level. One function of the PCC is to cooperate “with the minister in promoting in the parish the whole mission of the church, pastoral, evangelistic, social and ecumenical “(Parochial Church Councils (Powers) Measure 1956 as amended — Section 2(2)(a)). Under section 4(1)(ii) the PCC has inherited the former responsibilities of the

churchwardens, in relation to the financial affairs of the church, and the care, maintenance, preservation and insurance of the fabric and goods of the church. The PCC therefore is expected to give a real lead in cooperation with the minister. It does not do so in isolation from the congregation or the wider parish, but as elected representatives for and on behalf of the worshipping community, and its members are expected to know what the views of those groups are and to use their powers and responsibilities against that background. They are not required to undertake specific surveys or consultations before embarking on what may be a sensitive decision in the life of the church.

25. “Consultation” in respect of a faculty petition has two distinct meanings. Rule 3 and Appendix B of the 2000 Rules require consultation in certain instances with English Heritage, national amenity societies and the local authority. In the case of a listed building, (and the exact requirements do alter depending on the listing — Grade I, Grade II* or Grade II), it is required where the proposals involve alteration “to such an extent as is likely to affect its character as a building of special architectural or historic interest”. This is a statutory process which is required by the Rules in those circumstances. In the present case there seem to have been some contact with English Heritage. However I am not sure it was required in a strict sense under the Rules. English Heritage are much more interested in the comparatively small number of churches in the two higher grades.

26. A document from English Heritage speaks of consultation being required with them in the case of Grade II churches being “limited to alterations that comprise demolition or removal of a substantial part of the interior. . . .you do not need to consult us about extensions “(surprisingly)”or the partial removal of fixed pews and furnishings”. This is plainly only a partial removal, and I accept that that is a pretty flexible concept but 4 pews out of 24 is not more than that. Further the DAC certificate at Part 2 of the form (page 20 of the bundle) does not assert “in the opinion of the Committee (DAC) the work is likely to affect the character of the church as a building of special architectural or historic interest” nor, to be fair does it assert it will not, but I think the DAC might well have given some indication if they thought it had that effect. My own view is that the proposed change does not affect the character of the building — it simply is not important enough. I accept others — including the present objectors —

will disagree, but I do not accept the proposition that the removal of each and any item present at the time the building was listed, and so part of the listing, will affect the character of the building. The proposal may be wise or justified, or not, but this proposal does not in my judgment require statutory consultation with English Heritage or the Victorian Society under Appendix B paragraphs 3 and 5.

27. At the hearing “consultation” was also used in the context of the objectors. It seemed to be suggested the petitioners had not consulted with the congregation or the objectors and Miss Bunbury criticised the petitioners for not carrying out a formal consultation with the congregation. This seemed to involve some process of formal questioning or investigation of what people felt about the changes involving the four pews. I do not accept this was required or was necessary for reasons given above.

28. It was plain members of the congregation have been aware of the suggestion that there should be a limited alteration to the pews at the rear, over many months, although exactly what alteration has changed over time.

Secondly, I have no doubt the final proposal that I have to rule on, is clear to those who support it and those who oppose it.

Thirdly any process of gathering information about the amount of support or opposition is simply not required by the Rules. It is obviously sensible to keep people informed about what is proposed and to bear in mind the size of and reasons for objection. There is no suggestion that has not been done, and the proposers know only too well that there is opposition.

Fourthly the process, which is suggested, is as some of the witnesses pointed out, likely to polarise opinion.

29. Fifthly, insofar as consultation requires listening and discussions and not simply passing on information, that has been done. There was a meeting chaired by the Archdeacon on the 29 August 2007, I think there was a further meeting on the 25 September 2007, and the NSM curate, the Reverend Philippa Shooter, and the incumbent met with the objectors on the 2 October 2007 in a closed and unminuted

meeting to discuss matters. It is not that there is a lack of consultation, there is simply a lack of agreement. Consultation does not mean going on talking until one or both sides are worn down to a compromise neither wants

30. Sixthly, consultation seems to me to include in the end, referral of the disagreement to an independent and impartial person for decision. The whole process of petitioning, giving people chance to write in with their objections and then if they wish to complete a Form 4 to make themselves formal objectors (as 6 people have done together with 9 Form 4's from the previous faculty proceedings which I directed were to stand as objections in this petition, although some in any event had opposed again), are all part of the consultation. People are taking part in the decision making process.

31. I am clearly of the view there has been no lack of "consultation" or indeed a failure to look for a way forward acceptable to both viewpoints. There has simply been no agreement.

OTHER OBJECTORS

32. Mrs Barton contended that some 40 members of the electoral roll have allied themselves with her opposition (including some of the formal objectors) and agreed she may represent them at the hearing. I have been provided with their names. She sought to balance these against 3 e-mails from people unable to be present, which Mr Adams read out (pages 18, 19 & 20 in the supplemental bundle provided by Mr Adams). These people were in favour of the proposals. Mrs Barton denied the suggestion she had sought to influence people into 'signing up', but at the least they must have known she was of a certain view herself, and there is no indication that anyone wanted her to record any view favourable to the proposals. She at some stage organised a petition where her own views were certainly very clear. This is at page 16. The Petition is different from the list of names she has subsequently provided. I am quite prepared to accept there are others besides herself and those who completed a Form 4 now or previously, who are opposed to removal of the 4 pews. However it is the practice of consistory courts generally, not just here in Blackburn, to decline to give weight to lists of names on petitions, round-robins, or similar. It is partly because there is no knowing why people object, or what may have been said about the proposals or the motives of those who support them. This is not just a numbers game

but an attempt to weigh argument fairly. Also there is a statutory way for people to register opposition. It is simple, cheap, and involves nothing more than a piece of paper, an envelope and a stamp. When the public notice goes up, there is an indication those who object may write to the Registrar within 28 days. If they do, they will almost always say why they object. It is a personal statement, setting out reasons. They will then be invited to complete a copy of Form 4, giving perhaps greater detail, and also making them parties to the proceedings with the right to give evidence, present argument, and ask questions of the other side. If they choose not to complete the Form, and many take that course, their initial objections will nonetheless be taken into account by the Chancellor as required by the Rules, when he makes his decision.

33. The statutory scheme which requires minimum effort, allows people to register reasoned opposition. Why should I be prepared to accept what is in effect a list of names? I am not prepared to do so, save to the extent of accepting there are others who object.

LEGAL CONSIDERATIONS

34. Miss Bunbury reminded me of the Court of Arches decision in St. Luke the Evangelist Maidstone 1994 3WLR 1165, which gave guidance to Chancellors on the exercise of their powers when faced with proposals to alter a church. The following propositions emerge:

(a) it was recognised that those most concerned with worship in a church are those who worship there regularly, although other less regular worshippers may also be concerned.

(b) where a church is listed there is a strong presumption against change which would adversely affect its character as a building of special architectural or historic interest.

(c) to override that presumption there must be evidence of sufficient weight to show a necessity for such a change for some compelling reason, which could include the pastoral well-being of the church.

(d) whether a church is listed or not, the Chancellor should always have in mind not only the religious interests, but also the aesthetic, architectural and communal interests relevant to the church in question.

(e) although the present and future needs of worshippers must be given proper weight, a change which is permanent and irreversible is to be avoided wherever possible.

(f) I also remind myself that under Section 1 of the Care of Churches etc Measure 1991: “Any person or body carrying out functions of care and conservation under this Measure... shall have due regard to the role of a church as a local centre of worship and mission”.

35. (g) The Court commended the approach to the above issues (b) to (d) of asking the following questions:

- (i) have the petitioners proved a necessity for some or all of the proposed works, either because they are necessary for the pastoral wellbeing of the church or for some other compelling reason?
- (ii) will some or all of the work adversely affect the character of the church as a building of special architectural and historic interest?
- (iii) if the answer to (ii) is yes, then is the necessity proved by the petitioners such that in the exercise of the Court’s discretion a faculty should be granted?

It seems to me that in looking at (iii) one also has to consider the nature and extent of any opposition which exists.

THE PETITIONERS’ CASE

36. The proposals were commended by the petitioners on several bases, which in my view need to be evaluated as a whole, rather than one by one. I have already drawn attention to the vital role of the PCC in cooperation with the parish priest in the whole

mission of the church. The PCC is elected to act in cooperation with the minister in that regard and their views on what is required for the mission of the church in this area is entitled to be given weight. The parish has adopted a mission action plan from 2005 (under the prompting and leadership of the Rt Rev Nicholas Reade, the Bishop of Blackburn who has encouraged all parishes in the diocese to do so) and that plan was updated in 2007. One priority identified by the plan is to reach out to families with young children, and to demonstrate as a practical expression of the gospel, both welcome and hospitality. To that end St. Anne's have sought ways of engaging newcomers, so they are not simply attenders at the services but are also enabled to engage more fully as families with the worship and life of the congregation, and are so drawn into the fuller life of the church fellowship and thereby get to know other Christian people.

37. The practice of the 'regulars' has been to have refreshments after the morning service in the adjacent hall with its newly refurbished kitchen. Experience has shown that it is difficult in some cases to get newcomers to move even that short distance from the church to the hall, so that once they are out of the door, they are away. Attempts have been made to serve coffee in the narthex once a month, but these have not been entirely successful. There are Health and Safety issues, but it is fair to say some young families do stay, who would not otherwise go to the hall. To remove these pews would provide added space for them to sit and chat, and they could meet and relax more conveniently after the service in the space provided, perhaps with one or two of the upholstered chairs now in the gallery being used as well. This would help create an informal area.

38. Secondly those who have babies or youngsters in prams and buggies are not relegated to the narthex, although I note there is a loud speaker system so they can follow what is happening within the worship area. To relegate them to the narthex, because it is not presently possible to bring the prams into the nave, leaves them in a disadvantaged and marginalised position.

39. Next, when people come to church in wheelchairs, some at least are reluctant to sit at the front under the pulpit. The space there is limited and not everyone wishes to be at the front. Access to the front is awkward. Despite the platform, many wheelchair

users would prefer to have a choice of position towards the back, especially those who cannot transfer, as some do, from their wheelchair, into a pew. Mrs Connie Clark, one of the present wardens, told me of instances where wheelchair users who had come to a wedding, had declined to come to the front as it was too exposed and they had been glad of the space provided under the temporary arrangements. Again for them to be placed in the narthex, if the petition is refused, is discriminatory.

40. The reader John Turnham whose late wife had used a wheelchair herself, and who has himself undergone hip and foot surgery, welcomed the proposals. Mrs Turnham had not liked using the narthex and sometimes stayed away from church as she did not feel part of the worshipping congregation. I understood him to indicate his own disabilities would be helped by a less cramped space than afforded by the ordinary pews. One of his daughters is reluctant to bring her daughter to a service because of the restricted space, although he accepted that his other daughter did bring her 3 year old.

41. Mr Adams relied on the e-mails I have referred to, from people who had benefited from the experiment, and were disappointed to find that the pews had been put back on Palm Sunday. I recognised none of these individuals was present and so could not be cross-examined.

42. The Venerable John Hawley told me this sort of proposal was commonplace and that the diocese tried to be as inclusive as possible.

43. Mr Adams told me that suggestions from the objectors had been considered by the PCC in an effort to find a way forward, as it was recognised there was unease and opposition. However to remove only one row left insufficient turning space for wheelchairs (46” as against the recommended 54”) and the idea of putting the pews on sliders, even if technically feasible, raised issues of long-term maintenance, and the safety of small fingers being caught in the track. He and the PCC wanted to take practical steps to fulfil their mission obligation, in relation to the building as well as the liturgy. They wanted to provide the best ‘village church Anglicanism’. “The furniture should not cause problems for mission”, and worries about aesthetics should not hinder the formation of spiritual beauty in those drawn more fully into the life of

the church. What was proposed was adaptation not major alteration, to help provide a practical welcome. The pews would be retained in the gallery.

THE OBJECTORS' CASE

44. Mrs Pamela Barton and Mr Cohn Holgate spoke for the objectors. Mrs Barton who is a PCC member was recognised by Mr Adams as being someone who worked hard in making people feel welcome, and through her, others had become Christians. She spoke of the considerable personal attachment many individuals in the community had for the building. This was where they had been baptised, confirmed and married, and in many cases their parents and forebears over many generations had attended the church and were buried in the churchyard. She contended the present provision of facilities met all reasonable needs which the petitioners relied on. Asked why so many are 'heartbroken' by the proposals, she responded it was because people felt their ancestors had sat in these same pews. She responded sharply to the suggestion this was to be more attached to the surroundings than to the demands of the Christ they follow, by asking why Christ was not heard to be asking the petitioners to leave well alone. She pointed out the provision of toys and children's things available in the narthex for younger ones and the Sunday school in the hall for older children.

45. Mr Holgate as I have said has a long history of involvement with this church. His father had said to him 'vicars come and go but you must look after the church' – plainly an admonition he had taken to heart. He would not still be part of this church if the choir stalls had not been put back. He felt that 'once you start altering things it does not go down well at all', a view he obviously held himself but which he considered was shared by many others. The hall was suitable for drinking coffee; the church was not. He could not understand why anyone wanted to use it as a cafeteria. 'It is wrong'. He accepted wheelchair users did not like to sit at the front. Overall there was no evidence of better attendance at the family service, because people could drink coffee, and the membership of the congregation was much the same as on other Sunday morning services.

46. I allowed opportunity for other comments from the 50 or so present. David Venn the pastoral assistant expressed his concern for the future of the church in terms of new people becoming members. If that did not happen, there would be no church. The

provision of the narthex and family services had been a step in the right direction, and now it was right to move on. Another speaker was less enthusiastic and asked if the younger generation would indeed keep the church going.

CLOSING SUBMISSIONS

47. Miss Bunbury provided me not only with a note about St Luke's Maidstone but an excerpt from the Council for the Care of Churches website, which urges considerable caution in altering pew seating, and also a recent decision of Chancellor Wiggs about All Saints Burbage (Salisbury) where he declined to authorise removal of all remaining pews in a Grade 11* church, which had been largely rebuilt in 1854. Miss Bunbury urged me strongly to the view the petitioners had fallen short of proving a 'necessity', or 'some compelling reason' and pointed out the 'strong presumption against change'. She also criticised 'the wholly inadequate consultation process' but I have sought to deal with that above, as also her criticisms of the way the temporary licence was put into effect.

48. Mr Adams suggested necessity is a matter of degree, and that what was sought was desirable, was not irreversible, and that the church had to operate in a changing culture. Many now had not been brought up in church. It is a gospel imperative for people to be brought into the community of the church first, and the church had to strive to do that, so that they were exposed to the life of the church.

CONCLUSIONS

49. I have already indicated that the petitioners' reasons ought to be considered as a whole. Taken one by one they may appear insubstantial. All of them however are motivated by the desire to bring others into the fellowship of the church and its worship more effectively, by making the surroundings more convenient for their needs, whether they be families with babies or small children, or those with mobility difficulties. It is vital that the church is inclusive and makes provisions for those with differing needs, and it is no answer to say "well we managed" or "no one thought to do that for us". The local church is a centre for mission and that includes helping those who are at all attracted to the church and what it stands for, to come closer, and not to put obstacles in their way.

50. Further I have to say that I am cautious about taking as a starting point the idea that removal of 4 pews will affect the character of this listed building. It is a comparatively minor change. To accept this will change the character is in reality to accept that almost any change will be likely to do so. However I recognise others may disagree with that evaluation, not simply the present objectors, and I shall proceed on the basis that the changes will have that effect. Nonetheless this change is not irreversible or necessarily permanent, and that does in my view make a great difference in evaluating it.

51. Assuming that I ought to judge there is a necessity for what is sought before I allow this petition, I do approach the question of necessity with care. Necessity has to be more than what is 'desirable' (pace Mr Adams) but the word may be taken to connote a degree of need which is not warranted. I have had many petitions for the introduction of toilet facilities into churches which are hundreds of years old, that have so far lacked those facilities. Almost inevitably the effect will be 'adverse' in the sense it will affect the church and its fixtures as at the time of listing. How then can it be said this is 'a necessity' when the congregation has gone without all those years? The necessity has to be judged I believe by current expectation. What people look for in the physical arrangements of a church building differ from age to age. A congregation now seeks a degree a warmth and comfort and allied facilities which our forebears would have though incredible. Again most churches now seem very limited in terms of space to move around simply by reason of all the woodwork that previous generations thought appropriate. Times change and what our buildings need to provide must be measured against that.

52. In my view, the limited proposals put forward help to meet a compelling need, identified by the PCC, namely the better welcoming of those who are not already part of the congregation, or occasional attenders, or those with special needs, families with young ones, or wheelchair users, into the fellowship. I was impressed with what Mr Adams said about this, confirmed at the end by David Venn's wise words. The church has to work for the next generation. This is a necessity for the mission of the church.

53. On any view the effect on the character of this listed building is limited. This is not a wholesale removal of the seating. Indeed I rather suspect that even from the raised area between the choir stalls, where the Register and I were placed for the hearing, the absence of such pews will not be all that noticeable.

54. I am satisfied that on the balancing exercise required under paragraph 35(g), if it is indeed required in this case, the balance is firmly with the petitioners. The objectors were taking too narrow a view, and despite the depth of their own feelings on the matter, I cannot accept they have sufficiently seen the need for the church to take those practical steps in forwarding its mission.

55. I therefore grant the petition; the petitioners are at liberty to take such additional steps by way of carpet or otherwise as may be necessary to make the area safe and comfortable for small children.

It is a condition of the grant of this faculty that

- (i) the pews are carefully removed, and safely stored in the gallery until further order, and
- (ii) the petitioners do pay an additional fee to the Registrar for the extra correspondence and preparation for the hearing, in a figure approved by me, such amount to be payable prior to and as a condition of the grant of the formal faculty.

56. It is not my practice to seek the statutory fees payable to the Chancellor for the hearing or preparation of the judgment, or for travel.

57. I am grateful to those who gave evidence, and presented the respective cases.



HIS HONOUR JUDGE JWM BULLIMORE

21 May 2008