

Neutral Citation Number: ECC [2021] Wor 5

IN THE CONSISTORY COURT OF THE DIOCESE OF WORCESTER

CASE NUMBER [2019-039697]

RE ST PHILIP AND ST JAMES, HALLOW.

IN THE MATTER OF A PETITION FOR PERMISSION TO RE-ORDER THE NORTH AISLE

JUDGMENT

Delivered on 13 August 2021

Introduction

1. A petition comes before me dated 21 November 2020 to re-order the north aisle of the parish church of St Philip and St James, Hallow. The petitioners are Mrs Cath Thorpe, Churchwarden and Rev'd Kalantha Brewis, Priest-in-Charge. It seeks permission to:
 - a. Remove and dispose of 10 pews from the North Aisle; and
 - b. Introduce 30 new stacking chairs and 5 new stacking tables.
2. This petition follows on from an application for a faculty which was granted in 2018, providing for the installation of an accessible toilet facility, replacement servery and disposal of 3 pews only north aisle. I understand that petition also requested the removal of all the pews in the north aisle, but the faculty was restricted to 3 only, as at that time the Chancellor (my immediate predecessor) had 'seen no evidence to justify the removal of more than three', as is clear from his letter to the Registrar dated 7 April 2018. It was made quite clear on the face of the Form 7 Faculty order that, 'This faculty authorises the removal of three pews only. The removal of any more pews shall require a further faculty.' This petition, therefore, seeks that further faculty.

The Church

3. The church of St Philip and St James, Hallow is a Grade II* listed Victorian church built 1867-1869. Hallow is a village that dates back to at least AD816 and is situated around 2 miles northwest of the city of Worcester.
4. The current church building was designed by the regionally significant architect W J Hopkins, who was the Worcester Diocesan Architect for many years. He built or developed at least 24 churches in and around Worcestershire over the course of the second half of the 19th century. He also designed many other buildings, including some in the village of

Hallow, namely the school house and the house and other buildings at Parkfield, the then home of Charles Wheeley Lea (the Lea of Lea & Perrins Worcestershire sauce and benefactor of St Philip and St James.) Most of his church buildings are in the Gothic revival style.

5. According to Brooks and Pevsner in *The Buildings of England: Worcestershire* (Yale University Press, 2007) the church of St Philip and St James, Hallow, is W J Hopkins' most important church. The editors of the Wikipedia page 'Hallow, Worcestershire' take a similar view, describing the parish church as W J Hopkins' most notable work¹ referencing an on-line document, *A Brief History of Hallow Church*, to which, frustratingly, the hyperlink does not work.
6. The statement of significance confirms that the church is built of local sandstone, with a clerestory, unusual roof structure and tall spire. There are significant monuments (including to Charles Bell, who gives his name to Bell's Palsy), an impressive and beautiful reredos, and 'rather less appealing' pulpit² which was the gift of P H Pepys, an earlier predecessor as Chancellor of Worcester.
7. I undertook a site visit, together with Mrs Matthews of the Diocesan Registry, on 4th August 2021 so I could consider the building for myself. I am grateful to the petitioners for facilitating this.
8. My own observations confirm that this is a very handsome church in a beautiful setting. The dimensions are well balanced, the raftered roof is impressive, the uniform red sandstone is pleasing and the pale stone reredos, pulpit and font provide a striking contrast to their backgrounds emphasising the liturgical significance of those locations. The pews are simple and give a definite sense of space and harmony arising from their uniform appearance across the nave and both side aisles, save as set out below.
9. The north aisle has already partially lost its contribution to that uniform appearance of the building, both due to the recent servery space installed at the back of the aisle pursuant to a previous faculty and due to the much more historic introduction of the organ at the top of the aisle. The organ takes up most of the space of the original vestry on the south side of the chancel leaving only a very modest sized priests vestry. This contrasts with the light and airy lady chapel on the south side, which itself appears to have been introduced since the original church was built. The remaining 10 rows of pews in the north aisle, between the servery and the organ, are in reasonable condition, although showing some signs of wear and tear and other damage.
10. I also noted that the central aisle up the nave of the church is relatively narrow, and that similarly there is limited space in the chancel between the nave and the sanctuary. The chancel was originally handsomely furnished with centrally facing pews with the intention that a robed choir would be used for music during worship, which furniture appears to remain intact. I understand such a choir continues to sing here (subject to Covid-19)

¹ https://en.wikipedia.org/wiki/Hallow,_Worcestershire accessed 27.5.21

² Brooks and Pevsner, p.341.

alongside other forms of music in support of worship. There are two small, pew-less spaces at the back of the church, one at the west end of the south aisle to the left of the main door, where the font was originally located, and the other at the back of the nave to which the font has been relocated, presumably at some point in the 20th Century. The flooring shows evidence of a former pew platform around the font, and some matching pews have been placed around the north, south and west edges of this space facing in towards the font. The original plans at Lambeth Palace also show this area to have originally been pewed. The door on the west side of the font leads to the tower. The ground floor tower room is the only storage space available to the church and also has to serve as the choir vestry, as the very small priest's vestry behind the organ is inadequate for that purpose.

11. The church does not have a church hall, although the village does have a secular village hall.

The proposals

12. The proposal is to remove the remaining 10 pews in the north aisle to increase the flexibility of use of the space within the church. In addition, it is proposed to introduce 5 movable tables, and 30 moveable chairs so that the clear space can be used in the following ways:
 - a. For meetings (presumably chairs around one table, or several tables placed together),
 - b. For food (presumably chairs around individual tables),
 - c. For a music band to support worship and/or drama presentation,
 - d. A meeting space for children and young people,
 - e. To park wheelchairs and pushchairs / buggies; and also
 - f. To sit in rows facing the front.
13. The wooden floor under the pews will be sanded and waxed. The tiles surrounding the wooden floor will be stabilised (any damaged will be replaced from a store of original tiles). There is no proposal to install carpet.
14. Some new stacking chairs are proposed to be introduced. I sent the petition back to obtain more details of the chairs, as the detail provided was inadequate, including various broken hyperlinks embedded into documents, or links to sites producing a range of different designs. I was also concerned that it appeared that a pale coloured wooden design was proposed for the movable furniture, when the pews in the church (most of which will remain even if this petition is granted) are oak in a mid-brown colour.
15. However, in answer to further questions from myself the petitioners have clarified their proposals and now propose to introduce:
 - a. 25 Durham Stacking Contemporary Cathedral chairs in a medium oak stain; and
 - b. 5 stacking Rectangular Chrome Frame folding tables in oak finish 800mm x 1600mm.
16. The suppliers of the chairs have provided a sample of wood stained to their medium oak finish, which I am told is a good match to the pews, and indeed appears to be so from the photograph supplied.

17. It has also been confirmed that the chairs will be stored in the tower room when not in use.

PCC resolution, public notice, and local support

18. The PCC resolution supplied with the original petition was inadequate, but following referring the petition back to the petitioners, a PCC resolution dated 12 April 2021 has been passed unanimously, supporting the application for a faculty for the removal of the remaining north aisle pews and the introduction of the furniture set out at paragraph 11 above.

19. Public notice has been given by publicising the petition both inside and outside the church between 22 November and 22 December 2020 and by publishing it on the diocesan website. There has been consultation with the local planning authority, Historic England and the Victorian Society. The local planning authority has not responded. Heritage England and the Victorian Society have responded and object to the proposals. Both have been invited to become parties opponent and both have declined. This judgement nevertheless takes into account the information and opinions provided by them, for which I am very grateful.

20. The proposals enjoy some significant local support. Letters of support have been received from two individuals and three groups, all dated in 2018. These are:

- a. Professor Hazel Kemshall, School Governor, Parish Counsellor and parishioner;
- b. Dean Clarke, District Councillor for Hallow Ward;
- c. Jeanette Hill on behalf of Hallow Parish Council;
- d. Joy Fulcher on behalf of Hallow Village Community Group; and
- e. David Thorpe on behalf of The Friends of St Philip and St James Church, Hallow.

21. The main thrust of the community support is that the village lacks space for smaller community meetings, for which the village hall is said to be unsuitable. I am also told that the village hall is in frequent use with regular bookings such that it is not always available when the church community wishes to use it.

The DAC advice

22. I have received advice on this petition from the DAC. They recommend the works for approval by the court subject to a condition that the details for the treatment of the revealed floor are agreed with the DAC prior to works commencing.

23. The DAC also noted that they had considered, and recommended, these works in 2017 as part of the wider proposal to install toilet and servery facilities. They saw no compelling reason to move from their stance of 2017 despite the objection of the Victorian Society and the comments from Historic England. The parish were advised to consider these comments again prior to their formal submission to the Chancellor.

The legal test

24. In all cases where an application is made for permission to make changes to a building on consecrated ground, the legal test for whether such a faculty should be granted is set out in *Re St Alkmund, Duffield* [2013] 2 WLR 854 which directs the Chancellor to answer the following questions to determine the petition:

1. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
2. If the answer to question (1) is “no”, the ordinary presumption in faculty proceedings “in favour of things as they stand” is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals.
3. If the answer to question (1) is “yes”, how serious would the harm be?
4. How clear and convincing is the justification for carrying out the proposals?
5. Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building, will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm?

In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade 1 or 2*, where serious harm should only exceptionally be allowed.

The harm

25. Unfortunately, the petitioners’ Statement of Significance does not properly assess the significance of the pews, nor their contribution to the overall significance of the church. To understand this, I am reliant upon the information provided by the Victorian Society and my own research and observations.
26. The Victorian Society point out in their first response to this petition, dated 18 June 2020 that St Philip and St James is a ‘seriously impressive building both inside and out’ and ‘very well furnished’. It is largely intact, with Hopkins’s furnishings largely intact. They continue, ‘The existing benches constitute an integral element of Hopkins’ conception, and are inevitably a major feature of the interior’s character and appearance. Any erosion of the historic seating would therefore cause a decree of harm to the building’s special interest. The almost total clearance of an entire aisle, as is proposed, could only have a quite considerable impact.’ I pause to add that the proposal is to remove all remaining pews, and the pew frontal from the aisle.

27. The Society were concerned by the lack of detail of significance of the pews in the Statement of Significance (something which in their view had not changed since the earlier petition). They also expressed the view that the Statement of Need did not clearly set out how the additional space generated by removing the further pews would be used. They were also concerned by the lack of specifications for the replacement furniture, and feared they may be of insufficient quality. They indicated they would formally object to the scheme if further work was not done to these proposals.
28. Sadly, in responding to the Victorian Society's comments the petitioners have sought to minimise the importance of the pews to the significance of the church, and reject the Society's view that the pews were 'intrinsic to Hopkins' design' on the basis that they cannot find any reference to their design or selection, and that they are not in themselves 'beautifully crafted items'.
29. In his email of 11 December 2020 James Hughes of the Victorian Society expressed his disappointment that the parish had moved directly to seeking a faculty, rather than working with the Victoria Society to see if an alternative scheme could achieve the flexibility sought with less damage to the significance of the church. As to the provenance of the pews he said:

The parish seems intent on arguing that the benches were not designed by Hopkins, or at least that there is no evidence that he designed them. In the absence of any information as to the precise provenance of the design of the benches the only assumption one can reasonably make is that Hopkins was responsible for the design, or at least the choice of design, of the benches. The burden of responsibility to prove otherwise lies with the parish, if that is what it wishes to do, and so far it has produced no evidence to that effect. Hallow's benches are, it seems, identical to the congregational benches in Hopkins's church at Tibberton, designed and constructed around the same date as Hallow. That alone seems compelling evidence of their provenance. It is important too to remember that Hopkins designed relatively few wholly new churches. Of them Hallow is his acknowledged masterpiece. Its significance, as with any parish church, is multifaceted, but lies at least in part in the fact that it is very much of a piece and date and, despite the partial loss of fittings, largely intact. The loss of any number of benches would harm the building's interest; but the clearance of an entire aisle would certainly strike at key aspects of the building's significance. We note, finally, that Hopkins's seating scheme at Suckley has, recently, largely been destroyed; and his benches at Drakes Broughton were all removed about a decade ago, increasing the rarity value of the benches at Hallow.

30. On the issue of the provenance of the pews, I agree with Mr Hughes that the absence of specific information relating to the pews suggests they are the ones that were installed at the time of the building of the church. The historic plans found at Lambeth Palace Library show that the design for the church was to be fully pewed from the start. Had the pews been altered since the church was first built it is likely that there would be some record of this, or the pews would be more of a feature in themselves. It is more likely that people would replace simple pews with more ornate ones rather than replacing more ornate ones

with simpler ones (in the context of a Victorian Gothic Church). It is hard to see why anyone would spend time and money replacing simple pews with other simple ones. Therefore, unless and until there is any positive evidence that the pews have been changed later, I am content to find that the pews form part of the original furnishings of the church, and as such will be in the form determined as appropriate by W J Hopkins.

31. It also follows that, as a key part of the original, otherwise largely intact, furnishings of this fine building the pews make an important contribution to the significance of the building.
32. In their response to the consultation Historic England were also concerned with the lack of detail in the proposals, although that was remedied by the response provided to them by the petitioners, and the further information supplied to me on request. HE acknowledges that some greater flexibility of space is needed, and having received the clarifications offer no further comment.
33. I find that the pews do indeed comprise an important element of the significance of the building. I therefore answer the first question of the Duffield test by finding that removing 10 rows of pews will result in harm to the significance of St Philip and St James Hallow as a building of special architectural or historic interest.
34. The next question is the third Duffield question, namely the level of harm. I find that removing the remaining pews from the north aisle will cause harm that it is not inconsiderable. The harm would be serious, but not exceptionally serious. Much of the significance of the building derives from other aspects of it (for example the roof, the materials, the font and reredos and the overall proportions) but the pews do add substantially to its overall appearance and the removal of 10 more of them will cause significant harm.

Justification for the proposed works

35. The fourth part of the Duffield test is to ask how clear and convincing is the justification for carrying out the proposals. This part of the test was not initially well addressed by the petitioners, and it is unfortunate they did not articulate their needs more clearly in response to the Victorian Society's early concerns, rather than seeking to downplay the significance of the pews.
36. However, the petitioners have now set out their position more clearly both in writing, particularly in the email from Rev'd Kalantha Brewis to the Registry dated 20th January 2021 and over the course of the site visit on 4th August. These justifications can be broken down into the following headings:

- a. Worship

The church already uses a small music group to support worship alongside its organ and robed choir. However, it is used infrequently because the only space for it at present is on the platform between and in front of the choir pews where there is limited space and they need to move their equipment out of the way to allow priest

and congregation to pass through this space to celebrate and receive holy communion. The north aisle is said to provide a preferable location for the music group if the pews were removed. I agree that this is likely to be a good use of the space if created, and would enhance the worship to a greater degree than trying to provide this in the small area in the chancel.

Also, the space at the back of church on the south side is seen as less than ideal for the use of young children and their carers and it is seen as preferable for them to be closer to the front so as to be more involved in worship. This, presumably, couldn't happen at the same time as the music group was using the space. This is a less convincing justification, as if the music group are to use the space regularly it will not take on the familiarity to which young children often respond well. Also, parents of very young children sometimes appreciate being discrete rather than 'on show' and like to be able to take children outside easily if they feel they are disturbing the older worshippers too greatly (some disturbance is inevitable and to be welcomed!). Fully involving children, including young children, in worship by the church family on a Sunday morning is hugely important, but needs to be undertaken in a way that actually integrates them into the act of worship itself. The location of their creche space is secondary in achieving this.

A better point, is that the St Philips and St James are introducing more informal child-friendly worship services, including elements of craft activity (as is often undertaken under the umbrella term 'Messy Church') and that open space in the north aisle, with the use of table and chairs, will support such activities far better than rows of pews which have proved difficult to accommodate this.

Similarly, I am told that informal 'café church' style worship is also being set up and that the proposed new space is needed for this. I am not clear to what extent this is something that will happen or that may happen so this alone would be a less convincing justification.

I am told the space could be used for drama presentations. Again, I did not get the sense that this is something that is attempted at present. Frankly, it seems to me this will be difficult to do well either in the small space in the chancel or off to the side where visibility to the rest of the congregation will not be particularly good.

A better point is the lack of any good wheelchair space in the main body of the church, which would be provided by the removal of the north aisle pews. Opportunity for the better inclusion within the worshipping congregation of wheelchair users is to be encouraged.

It is also envisaged that if the church is full, for example for a large wedding or funeral or other significant event, that the space can be refilled with chairs in rows (save perhaps for wheelchair spaces) to provide almost as much seating as would be lost if the proposals go ahead.

b. Fellowship

There is currently very little socialising space within the church, and no church hall. The importance of informal conversation after a service, usually over refreshments, in building up the church community has been keenly highlighted across the Church of England in the past 18 months of covid restrictions. I accept that this is likely to be an important use of the proposed space.

Also, other social events, including those involving the provision of food can take place much more satisfactorily in a pew-less space with table and chairs than sitting rows. It is suggested that this could include not only church use, but community use, such as by baptism parties.

Both of these points add weight to the justification of the harm to the significance of the building.

c. Meetings

Church meetings, whilst often mundane, are nevertheless an important part of church life, and vital to ensuring good co-operation between the clergy and laity of the parish. The arguments in support of providing this space so that meetings can be held is also well made out. Tables and chairs are important so that people can face each other and take notes if they wish. There is no church hall. The village hall is not always available and is not a good space for smaller meetings. I am told that at various points during the pandemic some church meetings were held (when permitted) in the church building as it was a bigger, better ventilated space than a room in someone's house, but that it was not very satisfactory as sitting in pews means that people have their backs to each other or have to crane round to see each other.

Attempts to use the space around the font for meeting is similarly unsatisfactory as the font blocks the ability to see each other. The suggestion of relocating the font has not been adopted, and as the only option would be to move it back into the corner by the door, I consider this was rightly rejected. Liturgically it is important for the font to be prominent, visible and accessible to the whole of the congregation.

d. Pastoral support

The use of this space for pastoral work is also put forward, with examples being bereavement support groups, mental health support groups, mental health first aid training. I understand these are all activities that are being undertaken up to a point but which could expand and be better provisioned with better meeting space.

The letters of support for this project show that there is a desire in the wider community to use the space as the village hall is at capacity with examples being given of book groups, NCT groups and AA meetings.

These arguments clearly show public benefit to the proposed works.

Is the case made out?

37. Finally, I must bear in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building, and consider whether any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm.
38. Having found that the proposals will adversely affect the character of this grade II* listed building, and also that there will be public benefit from the proposals (as defined the Duffield questions), I must now consider whether the overall the public benefit outweighs the harm that would be caused.
39. In this case I find that they do. It has not been an easy decision, as it will be a shame to further damage the character of this very handsome, harmonious building. However, whilst not all of the justifications put forward by the petitioners are strong, many of them are. I do think it is particularly important to be able to provide music in support of worship in a convenient manner that does not clutter the chancel or impede access between the chancel and the nave. The provision of music for worship has also previously been thought to be a sufficient justification to alter this splendid church as can be seen by the introduction of the large imposing organ that takes up almost all of the space to the south of the chancel.
40. Additional flexible worship space is also desirable, and taken together with the need to provide space for a music group to support worship, this justification does provide an additional public benefit.
41. Additionally, I find that space for meeting – whether formally on church business or informal socialising - is also a pressing need in a church with very little open space, no attached meeting rooms and no church hall. Satisfactory space for PCC meetings and other church groups is an obvious need that is well made out, and the additional ability to use this space for pastoral work and community groups strengthens the point. Space for fellowship and pastoral support is always important, but is particularly so at this time as communities begin to re-open following the various pandemic lockdowns and the church takes steps to help meet the pastoral needs left unmet during the pandemic or caused or exacerbated by it.
42. This also justifies the introduction of new, moveable furniture into the space, which is considered further below.
43. Overall, I am satisfied that the various public benefits that will arise from the proposals do outweigh the harm they will cause to the significance of this beautiful building.

The new furniture

44. As set out above I was initially concerned with the proposals to introduce pale wood or upholstered furniture, but this has now been revised with oak coloured wood and non-upholstered furniture now being proposed.
45. I was also initially concerned by the fact that the tables were fold away tables, and the chairs light weight stacking chairs with chrome legs, feeling that more substantial furniture would be more in keeping with the remaining wooden furniture in the church. However, the very limited nature of the storage space in this church became very clear to me when I visited; any chairs and tables will need to be stored in the room under the tower which is already having to serve a number of purposes. More substantial, non-stacking furniture could not be sensibly stored, and would end up being left out in the main body of the building when not in use which would undermine the flexibility of the space and give a cluttered appearance.
46. I am therefore content to approve the new furniture that is proposed to be introduced.

The existing upholstered chairs

47. It was also initially proposed to introduce upholstered chairs to match some previously introduced. No photographs of these upholstered chairs were provided, and further enquiry confirmed that no faculty had been granted for their introduction. The clear guidance of the Church Buildings Council is that high quality wooden chairs without upholstery is to be recommended, when replacing older seating in historic churches. I therefore did not consider the style of the chairs previously introduced to be of relevance in determining whether or not to permit the new chairs proposed. I am also told that these chairs are only used temporarily and are stored in the tower room when not in use.
48. The petitioners have offered to seek a retrospective faculty for these chairs, for which I am grateful. However, such a faculty would be unlikely to be granted, unless some very clear, logical and convincing reasons could be advanced that outweighs the general guidance disapproving such items. However, given they have already been purchased and used, it would be very wasteful of both funds and resources for them to be simply thrown away. I therefore direct that they are only used in the main body of the church on a temporary basis and are always put away out of the main body of the church when not in use. When they deteriorate to a state when they cannot reasonably be further used, they must not be replaced by the same or a similar design. However, having granted a faculty for the Durham Stacking Contemporary Cathedral chair, more of that design of chair may be introduced into the church without further faculty under List A (unless there is any future change to the relevant part of the rules).

Conditions

49. The DAC support this petition subject to the condition that the details for the treatment of the revealed floor are agreed with the DAC prior to works commencing. The parish

anticipate sanding the boards and varnishing them, but in my view, it is sensible for the details to be confirmed with the DAC to ensure all is dealt with in the most appropriate way, in keeping with the particular significance of this church.

50. I note that that when the previous faculty was granted it was subject to a condition that “the DAC Archaeological Advisor, or another archaeologist approved in writing by the Court following consultation with the DAC, shall be given an opportunity to inspect and record the building before, during and after the works”. I trust that condition was complied with. I shall similarly impose a condition that the same Archaeologist who was given the opportunity to record the previous work shall likewise be given opportunity to add this work to his / her record. (In the event that the previous archaeologist is not willing or able to do so, it shall be done by such archaeologist as may be improved in writing by the court following further consultation with the DAC).

51. In any event the parish shall retain a copy of any record prepared by such archaeologist, and if there is none, make their own photographic record and retain such record within the records of the church.

52. Because of the significance of this church locally and nationally, and the finely balanced nature of this decision, it is particularly important that a good record of it is kept both before and after the works are undertaken.

Conclusion

53. I shall grant this petition subject to the conditions indicated.

THE WORSHIPFUL JACQUELINE HUMPHREYS
CHANCELLOR OF THE DIOCESE OF WORCESTER

13 AUGUST 2021