

**IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD**

**ST. CHAD: LONGSDON**

**JUDGMENT**

- 1) The church of St Chad in Longsdon has a grade II\* listing. It was built in 1903 – 1905 in the Arts and Crafts style and is a good example of the work of the Norman Shaw school. The nave retains its original pews. The pews formerly in the north aisle were removed in 1997 leaving that area open.
- 2) Brian Turner and Elizabeth Charles, respectively the treasurer and churchwarden of this church, petition with the support of the Parochial Church Council for a faculty permitting the introduction of 16 upholstered Alpha A1LE chairs together with 4 dining tables in the north aisle. The vicarage has recently been sold and as a result the church has lost the use of the church room. In those circumstances the Petitioners wish to install the chairs and tables so that the north aisle can be used for refreshment and fellowship after church services and for meetings of the Parochial Church Council.

**The Procedural History.**

- 3) The Diocesan Advisory Committee concluded that the proposed works would adversely affect the church's special significance and it did not recommend approval. There was no response to the public notice. Historic England has written a letter of objection to the proposals but has chosen not to become a party opponent.
- 4) I concluded that it would be expedient to determine the matter on the basis of written representations together with a site visit and the Petitioners consented to that course. I have considered the report of the Diocesan Advisory Committee on this matter together with the letter from Historic England and the Mr. Turner's detailed submissions in response. In advance of the site visit Mr. Turner helpfully obtained a sample of the kind of chair which the Petitioners propose to introduce and I was able to see that sample in the setting of the church. It has taken longer to reach my decision and to provide the Petitioners with this judgment than I had

hoped. I am conscious how frustrating the delay in resolving this matter must have been for those involved in the life of St Chad's and I apologise for that.

### **The Representations.**

- 5) The Petitioners say that there is a need to provide facilities for post-worship fellowship and for meetings of the Parochial Church Council and that the north aisle is now the only practicable venue for those activities. They say that they believe that the proposed chairs will be comfortable and durable. It is their contention that the impact on the overall appearance of the church will be limited. The Petitioners and the Parochial Church Council have considered other chairs recommended by the Diocesan Advisory Committee and say that those various other options are either too expensive or less attractive. They point out in the latter regard that some of the other suggested chairs have metal frames which they contend would not be compatible with the overall appearance of the church. The Petitioners lay considerable emphasis on the fact that other listed churches in their locality have Alpha A1LE chairs and that in some instances these have replaced all the pews. They take issue with the views of the Diocesan Advisory Committee saying that the latter has placed undue emphasis on the guidance from the Church Buildings Council. They conclude by emphasising that the proposal is not for a reordering of the whole church "but to equip a small area with 16 chairs which will only be used for half an hour after a weekly Sunday service for tea and coffee plus six PCC meeting throughout the year". The last point is said to be relevant in two respects. First, as indicating the modest nature of what is proposed. Second, it is said that the limited usage of the chairs means that the problems of durability and of the appearance of the chairs deteriorating through use which have been mentioned by the Diocesan Advisory Committee and which figure in the Church Buildings Council guidance will not feature here.
- 6) The reservations of the Diocesan Advisory Committee relate principally to the quality of the proposed chairs and to the impact which their introduction would have on the appearance of the church. The Committee says that "the presently proposed items are not of sufficiently quality in terms of their design, materials, or finishes" and that if they were to be installed "the eye [would be] usually drawn by a grouping of these chairs to the disadvantage of an appreciation of the interior

as a whole". The Committee identifies a number of other chairs which are unupholstered and with wooden frames which it believes would meet the seating needs while having less impact on the appearance of the church. In reaching its conclusions and in making those submissions the Committee points out that it has had regard to the Church Buildings Council's guidance on church seating.

- 7) The comments of Historic England echo the views of the Diocesan Advisory Committee. Historic England has no difficulty with the proposal for use of the north aisle for refreshment but agrees with the Committee as to the unsuitability of the proposed tables and chairs. It describes the current appearance and character of the church thus:

"Despite the changes to the interior which have taken place over recent years, much of its historic fabric and furniture, and overall sense of carefully considered elegance, remains intact. A key contributor to this is the simple, but well-detailed approach to materials, and the muted but harmonious palette and aesthetic."

- 8) That is an assessment which accords with the impression I formed on my site visit. In the light of that assessment Historic England says that the proposed chairs are unduly domestic in appearance; that their presence would be an "incongruous intrusion"; and that they would not fit with the "colour, texture, and character" of the existing interior.

### **The Applicable Principles.**

- 9) I have already said that St. Chad's is a listed church and that the proposed works will lead to an alteration in its appearance. Therefore, the approach laid down in *Duffield: St Alkmund* [2013] 2 WLR 854 is to be applied and the following questions addressed:
- a) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
  - b) If not have the Petitioners shown a sufficiently good reason for change to overcome the ordinary presumption that in the absence of a good reason change should not be permitted?

- c) If there would be harm to the significance of the church as a building of special architectural or historic interest how serious would that harm be?
- d) How clear and convincing is the justification for carrying out the proposals?
- e) In the light of the strong presumption against proposals which will adversely affect the special character of a listed building will the benefit outweigh the harm?

10) In considering the last question I have to bear in mind that the more serious the harm the greater the level of benefit needed before proposals can be permitted. I also have to bear in mind that serious harm to a church listed as Grade I or Grade II\* should only be permitted in exceptional cases.

11) In applying the *Duffield* guidelines the court has to consider whether the same or substantially the same benefit could be obtained by other works which would cause less harm to the character and special significance of a church. If the degree of harm to the special significance which would flow from proposed works is not necessary to achieve the intended benefit because the desired benefit could be obtained from other less harmful works then that is highly relevant. In such circumstances it would be unlikely that the petitioners could be said to have shown a clear and convincing justification for proposals which would, ex hypothesi, cause more harm than is necessary to achieve the desired benefit.

**Analysis.**

12) The impression I formed on my site visit was that considerable efforts had been made to preserve the special character of this church while rendering it fit for worship and for church life in the Twenty-First Century. It was also apparent that the north aisle was the only location where it would be practicable to site tables and chairs for use for refreshment and fellowship and for meetings.

13) However, my site visit also confirmed the force of the assessment made by the Diocesan Advisory Committee and Historic England as to the likely visual impact of the proposed tables and chairs. I remind myself that as chancellor I have no particular or special expertise in matters of aesthetics and that I must exercise

care in making assessments of such matters. Nonetheless, it was apparent to me that the proposed tables and chairs would be out of keeping with the existing furnishings; that the eye would be drawn to them; and that they would have a marked impact on the appearance of the church.

- 14) I need not for the purposes of this judgment engage in an assessment of the precise nature of the weight to be attached to the Church Buildings Council guidance on seating. At the very least that guidance is an indication of the considered view of the Council and of the factors to be taken into account when decisions are made on the suitability of particular seating. It was open to and legitimate for the Diocesan Advisory Committee and Historic England to take that guidance into account when forming their own views on the Petitioners' proposals.
- 15) It follows that I am satisfied that the proposed tables and chairs will have a real impact on the appearance and special significance of this grade II\* church. They will strike a discordant note and will detract from the overall character of the interior. There is a benefit to be achieved by the introduction of the tables and chairs. It is a real benefit and I accept that there is a need for provision for seating for refreshment and for meetings. However, that is a benefit which can be obtained and a need which can be met by works which would have a markedly less harmful impact on the character of the church. That is by the introduction of other seating which would be more in keeping with the existing furnishings. In those circumstances a clear and convincing justification has not been shown for the proposals and the harm which would be caused outweighs the benefit to be obtained.
- 16) As I have noted above the Petitioners make the point that the proposal is for a limited number of tables and chairs which will only be used for a short period of time each week. The difficulty is that they will be in position permanently and so will have an impact on the appearance of the church as a whole continuously. A continuing harm will have been caused for a limited benefit. I sought clarification of the Petitioners' proposals because some of the comments in their submissions suggested that the tables and chairs might only be in position when being used. Mr. Turner confirmed that the intention is for them to be in place permanently. He

explained that there is no suitable place in which they could be stored when not in use. Moreover, moving them into and out of sight would be beyond the resources of the faithful few who attend St Chad's and who prepare the church for services there. I can well understand that but it does have the consequence that furnishings which would detract from the appearance of the church would be in position permanently even though they would only be in use for a short time.

- 17) The Petitioners placed emphasis on the fact that the same chairs are in use in other churches including local churches which are also listed. That argument has at best only very limited weight. The circumstances of each church (even of each listed church) are different. Moreover, there will be cases where the benefit to be obtained from the use of such chairs does outweigh the harm and where that benefit cannot be obtained in any other way. That might be the position if it was necessary to change all the seating in a church and where seating of other kinds was not suitable or practicable for particular reasons.
- 18) I have also taken account of the fact that chairs of the kind recommended by the Diocesan Advisory Committee are more expensive than those proposed by the Petitioners. The financial impact on a small congregation is a relevant consideration but here the fact of the limited number of chairs comes into play. The proposal here is for 4 tables and 16 chairs and so the additional cost of the more expensive chairs though a material factor will be markedly less than in other cases where many more chairs are being bought.
- 19) It follows that the case for making the proposed change to this church has not been established and I am compelled to refuse the petition.
- 20) The position would have been different if it had been practicable for the tables and chairs to be removed from sight when not in use. In those circumstances the impact on the appearance of the church and the harm to its special significance would have been markedly reduced. The tables and chairs would have been present during services and shortly thereafter and on the occasion of meetings but not otherwise. Then the balance between the benefit to be achieved and the harm being caused would have been rather different and the grant of a faculty would have been permissible. I accept that this course is unlikely to be

practicable. However, if the Petitioners are able to put in place arrangements which would achieve that result I will permit them to apply for a faculty without other formalities but subject to consultation with the Diocesan Advisory Committee. Similarly an application for permission to introduce chairs of the kind suggested by the Diocesan Advisory Committee can be made without formality other than such consultation.

*STEPHEN EYRE*  
HIS HONOUR JUDGE EYRE QC  
CHANCELLOR  
28<sup>th</sup> June 2019