

Diocese of Exeter

Chancellor

Date: 6th July 2018

Parish: St Mathias Church, Torquay

JUDGMENT

1. By a petition lodged in June 2016, the Rector and two church wardens of St. Matthias Church in Torquay have applied for a Faculty authorising extensive external and internal re-ordering and redevelopment to this church which has a Grade II* listing. The application has been through a full process of consultation and discussion which has engaged with parishioners, the local planning authority, the relevant heritage bodies and the DAC. At the conclusion of that process the scheme, which had been adapted and amended along the way, is now recommended by the DAC and accepted by all other consultees save for Historic England (“HE”) and three long-standing parishioners. Although other matters of detail arise, the focus of the objections that remain relate to the proposal to remove all of the pews.
2. The church which was constructed originally in 1858 in the High Victorian Gothic style, stands in a busy residential area on a hill above the main centre of Torquay. In addition to structural extensions in 1865 and 1885, the church was substantially extended and enlarged in 1894 by the well-known church architect, John Loughborough Pearson. A report by experts, Hugh Harrison and Jane Root, in April 2016 attributes the design of the pews to JL Pearson and the manufacture to Harry

Hems. The Harrison/Root report advises that “the layout of the seating is not significant and the seats themselves are not individually significant” but that “the design is significant enough that every effort should be made to retain the majority of the seats, and their design would allow for them to be made movable without damaging their aesthetic quality.” HE and the three objectors place considerable reliance on the fact that the seating, viewed a whole, is an intrinsic part of the Pearson design and, as such, should be maintained in its original position.

The overall scheme

3. In recent years the regular congregation at St. Matthias has greatly expanded. The church has developed innovative forms of worship designed to encourage the attendance of families and others who prefer a freer flowing form of worship than that provided by the conventional liturgy.

4. The church has a relatively large church hall built in the 1980’s, which stands adjacent to the church building and is connected to it by a covered walkway. Many of the less conventional acts of worship are presently conducted in the church hall, rather than the church. The church hall can hold some 80 people, but attendance at worship now frequently reaches that capacity figure. The petitioners do not accept that extension of the church hall, which is the preferred option put forward by the lay objectors, would be a viable option to cope with any further expansion in the size of the congregation. In any event, the petitioners consider that the modern forms of worship should now be moved into the church building because that, more properly, is the place where the worshipping congregation should ordinarily meet and, because the spacious church building will readily provide for any further increase in numbers.

5. In order to establish a space in the church building that is flexible and can facilitate the various configurations of furniture, including, on occasions, tables and chairs, it is, say the petitioners, necessary for all of the pews to be removed.
6. More generally the church wishes to present itself to the local community in a more modern, open and welcoming manner than is currently the case. The west face of the church sits prominently in view of those travelling up the hill out of Torquay, yet, as a traditional Victorian Gothic façade, it presents an impervious face to the world and gives no inkling of what activities may be going on inside. The plan is to introduce substantial glass panels in the doorways which will in turn bring light in to the west end of the interior. In addition, the current somewhat cramped turning area for cars is to be re-modelled into a piazza or esplanade connected directly with the pavement in a way so as to encourage passers-by to walk up to and enter the building. Finally, in terms of the west front, it is proposed that two relatively sizeable video display boards should be erected for the purpose of displaying changing advertising slides relating to forthcoming church activities.
7. As may be imagined given the scale of the re-ordering that I have described, the proposals include many incidental additional changes each of which, save for the proposed re-location of the font, have been accepted by all interested parties.

Procedural matters

8. Following a preliminary consideration of the documents, I determined that a site view and an informal directions hearing were necessary. I am extremely grateful to all those who attended the church on the occasion of my visit on Saturday 28 April 2018. I hope all parties agree that the visit enabled me to see the key areas of the church that are relevant to this application and to hear from and understand the perspective of all

those present who either were in favour of, or who had concerns about, individual elements in the scheme.

9. None of the three objecting parties asked the court to hold a formal oral hearing and each is content for their written objections, supplemented by the observations made on 28 April, to be taken into account. In like manner HE, who were represented on 28 April, take a similar stance.
10. I am grateful to the petitioners, HE and the objectors who have each, at my invitation, filed short supplementary documents clarifying their position following the visit.

Re-ordering of the west end

11. Much of the detail of the scheme for re-ordering the west end of the church is now either agreed to, or at least accepted. For my part, I too understood and accept the need for the proposed changes in general and I consider that the result is likely to be a significant enhancement of the physical presentation of the church on the face that is most observable by all those who pass by.
12. The remaining matters of contention relate to:
 - a) The design of the new glazed door in the west end screen;
 - b) The treatment of the new TV screens on the external west end.
13. In relation to the doors, matters have moved on since my visit. In a letter on behalf of the petitioners submitted 2 May, the Reverend John Beckett states:

“The architect is, if considered necessary, content to include a narrow wooden “C” shaped simple oak frame to the inner west screen doors to remove Historic England’s objections to just the simple glazing, though we remain unclear as to the benefit this will bring and it has not been among any of the DAC recommendations.”

14. For their part, in a letter dated 15 May, HE note the petitioners' willingness to accept their proposed solution and they recommend it on the basis that "this creates a wooden frame along the outer edges of the doors leaving the meeting point frameless and retaining the uninterrupted view through the church to the chancel. The frames will allow the new doors to have a more contextual response to the design and materials of the screen."
15. On any view the introduction of a wooden frame to the otherwise fully glazed door within this overall scheme is a matter of detail. The twin primary aims of the scheme are to allow those outside the church to see through the doors and into the interior and, secondly, to introduce natural light to the otherwise fairly dark interior of the west end. Wooden beading around the doors, as recommended by HE, would not compromise either of these two objectives to any marked degree. It is, in the end, a matter of taste and design rather than principle. On the basis that an element of dispute remains, the decision falls to this court and, for my part, I accept the opinion of HE on this point and, modest though it may be, I anticipate that wooded beading around the door will provide a bridge in the design between the obviously modern plate glass and the wooden screen that surrounds the door opening.
16. I therefore direct that the specifications for the glass doors is to be altered so as to include framing of the glass as recommended by HE. I also direct, that once the specification has been drawn up, the details, including a cross section of the frame and the choice of timber and stain, are to be submitted to the DAC for its approval.
17. So far as the TV monitors on the external west elevation are concerned, HE's original position was to express concern at an installation which might be overly bright and/or

have a flickering screen so as to be a distraction or otherwise be seen to be out of place on the front of a Victorian building.

18. On the 28 April visit the petitioners explained that the screens would display fixed images rather than flickering, and that the “lux level” would be moderated so as to be noticeable, but not obtrusive. On that basis, as I understand it, (this is confirmed by the absence of any point being made in HE’s subsequent letter), any objection in principle of the screens by HE has now been withdrawn.
19. The sole remaining point, in terms of a departure from the current specification, is the suggestion that the screens should be framed in wood so as to tone in more readily with the surrounding fabric. Again, that issue, having been discussed on 28 April, is now accepted by the petitioners. I therefore direct that the specification relating to the screens be amended so as to require modest wooden framing on the basis that the final specification is to be submitted to the DAC for approval in like manner to the beading on the glass doors at the west end.

Removal of the pews

20. It is in relation to the pews that a substantial level of disagreement remains. It is therefore necessary to set out the respective position of the various parties in some more detail.
21. I have already summarised in broad terms the nature of the petitioners’ case as to “need”. Impressively, the Rector and all those involved in this busy parish have succeeded in developing a variety of liturgical formats with the result that numbers attending have increased and are now at or near the capacity of the church hall. The case on need is largely accepted by HE and the objectors. The question to be determined is not, therefore, “whether” there should be any change to the

accommodation within the church hall and/or the church, but “how” and “where” the necessary physical changes can best be made. It is also necessary to look at the matter proportionately and ask just how much change is necessary in order to meet the perceived need.

22. The petitioners’ case, in short, is that it is only by the wholesale removal of the pews that the need for flexibility and space, both now and looking to the future, can be met. The architect has helpfully provided a range of illustrations showing how seating and furniture within the space of the nave could be configured to provide for different service formats. In each illustration the totality of the space now occupied by the pews is utilised.
23. In addition to the need for space to cope with the increased numbers of worshipers, the petitioners also recommend their proposal because of the need to create storage space and reduce clutter in the body of the church, and, more generally, in the belief that a large flexible space will be great benefit to the wider community, for non-liturgical purposes.
24. Specifically, with respect to the pews, the petitioners make the following points:
 - a) The pews are dangerously unstable unless fixed to the floor;
 - b) The pews are heavy, even if shortened, and impracticable to use around tables;
 - c) The existing pews are not stackable;
 - d) Partial removal of the pews (as a suggested compromise) would liberate a floor area that is no larger than the current hall;

- e) Part chair and part pews solutions were rejected (with the support of the DAC and the CBC) because that would destroy the uniformity of seating that is part of Pearson's original vision for the church.
25. The petitioners also question the level of historical significance of the pews since they were not part of the original building, they were, apparently, installed very quickly and have a uniform and plain design. It is contended that the design leans more towards the 'Arts and Crafts' style rather than Pearson's Gothic design for the building and the point is made that St. Matthias was not mentioned in a July 2017 HE report on key Pearson church's.
26. Objections have been received from three long-standing Parishioner's Mr Hart, Mr Lane and Mr Gingell.
27. Mr Hart set out the detail supporting his objection in a letter dated 9 October 2017. The principle points that he makes concerning the pews are:
- a) The pews are made of good quality Oak and historically significant;
 - b) They are in excellent condition, well designed, comfortable and free to maintain. This is in contrast to the proposed chairs which have a life expectancy of only 25 years;
 - c) The Exeter DAC has gone completely against its own guidance for the removal of pews in supporting the petitioner's case;
 - d) Given the opposition of HE, the removal of the pews might lead to the church losing its Grade II* listing;

- e) Rather than removing examples of the work of Pearson and Hems, they should be being preserved;
- f) The church hall is the best in Torquay and the current interior of the church does not, in fact, hinder church growth.

28. Mr Ian Lane set out his objections in a letter dated 13 October 2017. In summary the points made about the pews are as follows:

- a) Removing the pews would compromise the integrity of the fine setting for worship established by the current physical arrangements;
- b) Seating capacity would in fact be reduced unless very narrow chairs were used;
- c) Pews provide accommodation for hymn books and bibles which may be lacking if replaced by chairs;
- d) Continual reconfiguration of seating would involve time and personnel;
- e) The range of activities proposed for the reconfigured building is not wholly to be welcomed, for example, Holy Communion following quickly on from “breakfastzone”;
- f) There is a health and safety risk to children from insecurely stacked chairs.

29. Mr Lane further suggests that some who attend the less formal services in the church Hall, view the church building as “foreign territory” and may not be persuaded to use it even after the proposed changes. As an alternative he suggests extending

accommodation in the church Hall. Finally, and separately, Mr Lane objects to the planned relocation of the Font, a topic to which I will turn at the conclusion of this judgment.

30. Mr Gingell set out his objections in a document dated 16 September 2017. He, in common with Mr Hart, is concerned that the removal of the pews may lead to a downgrading of the Grade II* listing which may have financial consequences in terms of funding for the future repair of the church. He stresses the historic importance of the value of the current internal furnishings. Mr Gingell also, in common with the other objectors, points to an alleged failure by the petitioners to consider possible alternative schemes which would not involve the removal of the pews.
31. In a letter dated 12 December the petitioners provide a detailed response to the three main objectors. The letter points to the Bishop's exhortation for parishes to be more flexible in the way that they operate to take account of the changing context in which parish life now sits. The petitioners' case is that the growth in numbers of those attending services is to be found in the worship currently housed in the church Hall. Their case is that if the parish wants to continue to use the church building itself in the long-term, then it needs to be furnished in a way that enables the church leaders to carry out their mission to the entire body of individuals who seek to worship at St. Matthias.
32. With respect to the detailed points of objections made the petitioners make the following observations:
 - a) The PCC did seriously consider options that would leave the church building alone and concentrate on the extending the church Hall. A detailed explanation is given of the reasons leading the PCC to reject that option.

b) Removal of the pews is supported by a survey of parishioner's, many people find the pews uncomfortable, this is a case that the DAC accept should be granted despite the countervailing factors listed in their guidelines. It is accepted that by replacing the pews the maximum seating capacity will be slightly reduced. The petitioner's plan to have book holders between the chairs with bibles at each end of each row;

c) There is no reason to suppose the changes will result in reclassification of the Grade II* listing.

33. Following my visit to the church Mr Hart wrote on 19 May 2018 making certain observation on the petitioner's recent documentation. There is, unfortunately, plainly a disagreement in terms of what may or may not have been said at various meetings as to possible alternative proposals involving the church Hall. For my part, as a result of the sketch plans and oral commentary I was given at the meeting, I have a basic understanding of the scope of the possible alternatives based upon the church hall. I will make my decision on that basis, without needing to resolve any question of what was, or was not, said at earlier meetings.
34. Mr Hart confirms his agreement to the removal of two rows of pews at the rear of the church to improve circulation in that location.
35. By letter dated 7 May Mr Lane also responded to my invitation to make any further observations. In addition to maintaining his original objections, he draws attention to the fact that the petitioners' proposals will lead to a considerable reduction in the present availability of bibles in the pews.
36. By letter dated 6 May, Mr Gingell joins the debate as to what was, or was not, discussed at PCC sub-committee meetings. As I have indicated, I propose to determine this application by considering the merits of the alternative proposals rather than investigating the internal governance processes within the parish.

37. Turning to the merits of a scheme based on the church hall, Mr Gingell stresses that it would reduce the overall cost, provide long-wanted disabled access, ease the storage problem, replace the kitchen, upgrade the toilets and improve the marketability of the hall complex for secular use. In summary he invites consideration of the project to be based upon the whole building complex rather than simply the church in isolation.
38. HE have been fully engaged in the consultation process throughout the development of this project. In their initial response, dating 18 November 2016, HE stressed that St. Matthias Church is a fine example of a Gothic Victorian place of worship. HE advised that “pews hold significance in their fabric, their design intent as part of the Pearson-Hems scheme but also their role in emphasising the architectural orientation of the church.” HE were, however, fairly comfortable with the loss of a small number of pews to the rear of the church to enlarge the welcome area. Whilst appreciating the petitioner’s desire to achieve total flexibility by the removal of all pews, HE favoured a more limited reduction with the loss of some pews to the front and rear of the main blocks, leaving a critical mass of benches in the centre which would maintain the strong axial quality, rhythm and Pearson’s design intent. In consequence HE opposed the complete loss of the Nave pews.
39. On 27 June 2017 HE made its formal response to the consultation process. Whilst the central thrust of their position remained the same, it was, by then, underlined by contemporaneous research more generally into Pearson’s work which was published in July 2017.
40. HE’s essential position was maintained in a further response dated 8 January 2018. In terms of maintaining a “critical mass” of pews, HE was prepared to consider the complete loss of the aisle pews, so long as the pews in the Nave were retained, albeit

in a flexible state. HE stated that it would welcome the opportunity for a site view in order to continue discussion of possible options.

41. Finally, in a letter dated 15 May 2018, following my visit to the church, HE set out its final position in the following terms:

“We remain of the opinion that the comprehensive loss of the pews from the Nave will have a significant impact. It is intended that four examples will be retained as a small example of the features as independent entities, however, their contribution to the complete Pearson interior will be lost, as well as the erosion of the internal structure they provide within the body of the building and their positive role in emphasising the architectural arrangement of the building. Consequently, removal will have a major impact on the special interest attributed to St. Matthias church.”

42. HE put forward a constructive alternative solution which would make more effective use of the area in the Transepts at the front of the Nave to create a large useable space to bring more contemporary forms of worship into the church building. Alternatively, a further option is to make the pews flexible so that they could be moved from their ordinary position from time to time.
43. For completeness I should record the responses of the church Buildings Council (“CBC”) and the Victorian Society (“VS”).
44. In a letter dated 23 November 2016, the CBC recorded that, on balance, the needs of the parish justified a removal of the Nave pews in this case because “it considered that the statement of need provided cogent reasons for replacing the pews with chairs, and demonstrated that the parish had carefully considered a spectrum of options before making their proposal.”
45. In an email dated 24 November 2016 the VS supported and endorsed the advice of HE set out in their letter of 18 November 2016.

Discussion

46. As all parties accept, the Statement of Need clearly establishes the need for some expansion of and/or internal reorganisation of the church buildings to accommodate the welcome and impressive enlargement of the worshipping community who regularly attend St Mathias' church. The question is where and how this expansion can best be made, having regard to the historical importance of the church and its interior and to the need for proportionality.

47. Despite understanding the constructive alternative proposals put forward in outline by the three local objectors, I am unpersuaded that developing the church hall as they suggest would provide sufficient space beyond that which is currently needed. The benefit of these alternative plans is that they would cater for the current numbers and would not involve significant alteration to the pews in the church. However account must also be taken of the reality that the changes that are now to be made represent a once in a generation development for this church and it is important to have regard not only to the current needs but also to possible future further growth. Part of the rationale for opening up the West end and introducing digital advertising screens is to encourage greater participation from those in the community who do not already attend events and services. If this, as all hope, bears fruit, then adapting the accommodation in the church hall simply to hold numbers at around the current level of need will prove to be inadequate.

48. Further, I accept the argument made by the Petitioners that a primary aim of these changes should be to bring those who currently worship in the church hall into the main church building itself. The historic central aim of those who first designed, built and then adapted the Victorian building must have been for it to be the worshipping

centre of this community. It is therefore entirely in keeping with that historic core aim to make changes that enable those in more modern times who wish to worship in substantial numbers but are currently unable to do so because of the internal arrangements in the church. Again, the West end changes are aimed at drawing people into the church, not the church hall, and there is an illogicality about then diverting a significant proportion of them away from the church and into the hall as currently is the case.

49. In terms of the alternative proposal to develop the church hall, there must also be a legitimate concern that if the move into the church does not take place now, the worshipping group outside the church building will grow further and the use of the church building may dwindle.
50. Finally, in terms of the church hall proposal, it is impossible to ignore the weight of opinion represented, not only by the Petitioners and the PCC, but also by the fact that the need to focus on the church building as providing the solution to the need for space is accepted by the DAC and each of the heritage bodies, including HE.
51. It follows, that I have concluded that the additional space must be found within the church building. If that is to be the way forward, there is a degree of acceptance by all that some pews should be removed from the West end to provide greater space for circulation. In terms of the remainder of the central block of pews, the objectors adopt differing positions. HE contend that the required space can be liberated by removing a modest number of pews at the front of the nave and using the transepts. Alternatively, HE suggests that the whole body of pews could be made more mobile by the use of castors, thereby retaining the integrity of the current layout for most purposes. In contrast, the three local objectors take the view that, save for the few pews at the west

end, the question of the removal of pews should be seen as a binary issue whereby the pews either all stay in place or are all removed.

52. Having heard and understood Mr Lane's concern that the use of chairs will reduce the availability of bibles that are currently in the pews for the use of the congregation, I am satisfied that the vicar and the Petitioners accept this point and will endeavour to ensure that in the new configuration sufficient bibles will be available. Whilst this is an important matter, it could not form a reason, on its own, for refusing permission for the removal of the pews if that were otherwise justified and I do not understand Mr Lane to be saying otherwise.
53. I have already summarised the evidence as to the significance of the pews. Whilst these are not of the greatest significance in themselves, they do have historic importance as forming part of the current intact interior of a celebrated Victorian architect. I therefore approach this issue on the basis that any radical alteration which would adversely impact upon the internal Victorian layout should only be permitted if there is a pressing and proportionate reason for doing so.
54. A solution along the lines put forward by HE might be ideal if it could provide sufficient space and flexibility as it would, from time to time, enable the interior of the church to be set up in a manner which maintains and respects the integrity of the original Pearson design. Having given a good deal of thought to the various options suggested by HE, before, during and since my visit, my conclusion is that the Petitioners were right to maintain that any such solution would fail to achieve their object and would be likely to create as many difficulties as it solved. Having seen the pews and got the feel of their heft, it is questionable whether putting them onto castors would make them significantly more mobile. In addition, removing the anchor points

in the floor may render them unstable to a degree which might become a danger to those moving them or using them.

55. In addition, once moved for the introduction of a more informal seating arrangement, the pews would be unlikely to be able to supply that seating and would need to be stored along the sides of the nave or in the transepts. This is a very substantial body of woodwork and to store them in this way, as well as being no small task, would create an adverse impact on the overall look of the rearranged space.
56. The suggestion by HE that sufficient space could be liberated by removing the front few rows of pews was, in my view, shown not to be the case by the demonstration using tracing paper cut to size that took place during my visit. As with the church hall, the space provided, whilst sufficient for the current numbers, would not provide any room for the further expansion which is at the heart of the parish's aspiration in supporting the scheme as a whole.
57. In this regard, I was impressed by and I agree with the principled position of the three local objectors who accept that if, contrary to their earnest wish, some pews have to go, then it is not viable to consider some form of half-way arrangement. Save for HE, no party supports an option based upon either removal of the front few rows alone and/or mobile pews. The HE proposals are no more than suggested alternatives, and there is no criticism in describing them as such, which are put forward as the basis for discussion. That discussion has now taken place, albeit in the somewhat artificial context of this court process, and I am satisfied, for the reasons given by the Petitioners, that each such option has been fully considered and ruled out for sound reasons. In like manner to the use of the church hall, it is neither right nor possible to ignore the considered view of the DAC and CBC, who have likewise undertaken the

exercise of evaluating the various options as against the historical importance of the furnishings, and who have concluded that the proposals put forward are justified. This is an altogether more powerful factor in view of the fact that the DAC has come to this conclusion notwithstanding that it involves traversing a number of elements within its own guidelines.

58. Standing back and looking at the proposals for this church as a whole, they are, in my view, to be seen as a sensitively and carefully considered response to the rapidly developing needs of the widened worshipping community that are now drawn to St Mathias Church. The overall concept that has been developed by the incumbent, his advisers and the parish is both impressive and makes sense in the context of a church which has a modern outlook on worship but which also has the blessing of a large church building. Save for the three local objectors, whose position I understand and respect, it is of note that this ordinary parish, which has recently developed in a manner which is out of the ordinary, but which has, nevertheless, been able to take most of the members of its no doubt diverse congregation along with it in promoting the proposed changes.
59. A tipping point has been reached in the life of this parish and this church. I accept the argument of the Petitioners that, unless a radical change is made now to liberate the interior of the church building so that it can be used in the variety of ways which are proposed, there is a significant risk that the newly gathered congregation will out-grow the church hall and seek somewhere altogether different for its worship.
60. The proposed changes have been well thought through and have resulted in plans for a modern and flexible interior which, despite the loss of the pews, remains in all other respects sensitive to the Victorian features of the church building.

61. The only remaining issue is that of the location of the font. The proposal is that the font be moved from its current location to the north of the West door, where it sits under a series of stained glass windows relating to baptism, to a position at the head of the north side aisle where a lectern currently stands. The lectern is to be removed. The only objection to this proposal comes from Mr Lane, who relies first on the established position under Canon F1.2 which states that:

‘The font shall stand as near to the principal entrance as conveniently may be, except there be custom to the contrary or the Ordinary otherwise directs; and shall be set in as spacious and well-ordered surroundings as possible.’

62. Mr Lane secondly questions the need for the font to be moved and he thirdly points to the break-up of the current appropriate juxtaposition between the stained glass baptismal scenes and the font which sits below them.

63. Mr Lane’s position is supported by concerns expressed by the CBC.

64. The Petitioners seek to justify the proposal to move the font on the basis that it is needed in order that a higher proportion of the congregation can witness a baptism than is presently the case where, in a large interior, the font is in a corner far away from the main focus of worship.

65. The photographs included within the Statement of Need, coupled with sight of the distances and lines of vision as seen during my visit, demonstrate just how disconnected the font is in its current position from the centre of worship. Although relatively close to what is now the main entrance through the West door, the font is in fact tucked away behind a recess and would not be directly visible to anyone entering the church. In like manner, its site in the recess by the NW door increases the

difficulty that most members of the congregation are likely to have in seeing it during a traditional service.

66. Weighing these conflicting elements up, and allowing significant weight to Canon F2 as I have consistently done in relation to other requests to move a font in previous cases, I consider that the request is justified on this occasion, despite the breaking of the connection with the baptismal scenes. In short, the current position must make the font out of view for most members of the congregation and, given the nature of baptism whereby the new member is welcomed into the church community by all of its members, I consider that this font needs to be brought out from its current obscure position to one that is far more accessible to the congregation as a whole.
67. It follows from the various decisions that I have now recorded, that I direct that a Faculty is to be issued in the terms of the Petition, subject to any amendments that have hitherto been agreed and subject to the directions in paragraphs 16 and 19 of this judgment and on condition that each of the provisos in the DAC Notice is satisfied.

The Rt. Hon. Sir Andrew McFarlane

Chancellor of the Diocese of Exeter