

IN THE CONSISTORY COURT OF THE DIOCESE OF BRISTOL

In re Ashton Keynes, Holy Cross

JUDGMENT

1. The Church of Holy Cross, Ashton Keynes is a Grade I listed building (indeed, the only Grade I listed building in Ashton Keynes), situated on the site of a 12th Century Church.
2. The petitioners apply to permanently remove 6 pews and to shorten 14 other pews.
3. The justification for this is as follows:

Removal of 6 pews

The permanent removal of 6 pews will provide an open space that can be used as a welcome and circulation space and for post service social time.

The additional space will also provides the church greater flexibility as the open space could be used to serve tea/coffee, to meet (formal meetings and/or social occasions), accommodate those who need wheelchair access or have babies in buggies. Overall, the permanent removal of the pews would help the church building become a more welcoming space and one that can more easily adapt to the needs of the moment. There is also a health and safety issue as the pews to be removed are located outside the church kitchen and the permanent removal would allow the serving of hot beverages in a safer, less confined space.

We aim to sell the 6 pews locally and advertising them within the village and local area. The money would go towards future church maintenance projects.

Shortening of 14 pews

The shortening of 14 pews would again help the church building become a more welcoming and flexible space.

The current pews are very long and heavy. As this is the case, they are difficult to move when the church seating needs to be reconfigured for different uses, for

example: different forms of worship, exhibitions, music concerts, as well as school, social and fundraising events.

As well as being difficult to move, the pews are difficult to store due to their length. (another health and safety issue)

The shortening of the pews would not significantly reduce the available seating. This is because the certain sections of the pews are not used because sightlines are blocked by the pillars or parts of the pew have no platform for seating to accommodate the pillar (see photographs).

By removing 6 pews and shortening 14, the church building would become a much more flexible space but would also retain the majority of its pews. This solution is intended to strike a balance between conserving the history of the building whilst making is suitable for the needs of a modern community.

By making the church building more adaptable it can be regularly used and kept at the heart of its community.

The pews being shortened sit behind pillars which have restricted vision or provide no seating area at all. The re lighting faculty includes uplighting of the pillars/ archways which the shortening of these pews will create the space for.

4. The Victorian Society and Historic England raise objections to the petition on the basis (and I summarise) that the pews are unusual Butterfield designs, and that the Church has substantial side aisles that could be used for temporary storage of the pews when required.
5. The Victorian Society has set out its very full objections to the scheme. These were served out of time, but I still take them into account:

Firstly, on the pew removal, we wish to reiterate our previous advice on the significance of the benches, the harm that would be caused by their removal, and the lack of justification that has been provided for doing precisely what is proposed. The benches are undoubtedly those installed by Butterfield as part of his comprehensive, high quality and sensitive restoration of the building. Butterfield is recognised as one of the most significant architects of the period, and his work, irrespective of extent, is always considered important. But, as Nicolas Olsberg has himself pointed out, Ashton Keynes is "*lucky to have a church whose many very careful fittings and adaptations by WB are all apparently intact. Rare to find the gesamtkunstwerk still recoverable*". It is, perhaps, easy to overlook the fact that what survives at Ashton Keynes is very unusual and extremely significant. We dismiss as irrelevant the reference in the CBC's comments to machine made benches. The fact that machines and tools were utilised in the production of these furnishings really has no bearing on their significance. Practically all benches at this date were made, in some form, with the assistance of machines. The really interesting element of them, from an artistic perspective, is the linenfold detailing, and that would all have been carried out by hand.

The nave benches play an especially significant role in defining the character and rhythm of the main space, its sense of order and repose, as well as in setting up impressive vistas from both east and, especially, west ends. Eroding this ensemble of furnishings by carving out a space at the back would cause a high level of harm and would seriously undermine the group quality and symmetry of the whole set of benches.

The previous (and current) proposal developed on the basis of the mistaken belief that the benches were introduced a long time after Butterfield carried out his work. Given that we now know that they were introduced by him, and that the level of harm would be considerably higher than was initially envisaged, we are disappointed that the parish has not seen fit to seriously reconsider its proposal. While we acknowledge the parish's desire for a space that can be flexibly arranged, we see no reason – and are presented with none in the documentation – why that space could not be provided in either the north or south aisles, at the west end. The removal of benches within one of the aisles would cause a far lower level of harm to significance, whilst still appearing to offer what the parish requires. That being the case, we struggle to see the justification for what is proposed and must object to it. We ask, again, that the parish reconsiders its options (and, preferably, draws up an options appraisal) and, instead of eroding the significant block of nave benches, instead reorders the west end of one of the aisles to create the space desired.

We also wish to point out the lack of consistency in the proposals, which, in part (by the shortening of the benches), is intended to provide an *“aesthetically better visual effect of uniform floor plan”*. What is proposed (in respect of the pew removal) would completely imbalance and erode the symmetry of the seating layout in the nave.

The shortening of the benches is not something we would wish to object to in principle. We are concerned, however, that the parishioners are intent on carrying out the work to the benches themselves. These are precious, historic furnishings, which form an integral part of a highly significant nineteenth-century restoration. If any work to the joinery is to be carried out, then it should be done by qualified and highly experienced carpenters.

6. The petitioners answered these objections thus:

- The linen fold ends to the 14 of the pews will remain in the church as being re - attached to the pews being reduced in length.
- We need to create space at the back of the church for health and safety reasons – not only to serve hot food and drinks directly outside the kitchen but also to be able to accommodate wheelchairs and to be flexible so that we can accommodate other uses for the church such as workshops, concerts. Wheelchair accommodation is not possible with the current width of the aisles so without this rear space there would be no circulation space and no space for provision of hospitality and nowhere to accommodate wheelchair users.
- The south aisle pews sit directly in front of the Lady Chapel and are frequently used for smaller services such as early morning Holy Communion, Compline and Evensong

etc. Removing pews from this area would not benefit the whole church and its use and the congregation.

- The north aisle has a narrow access point which cannot accommodate wheelchairs and the North door opens against the entry to this aisle. The north aisle space is too small and too far away from the kitchen to be used as a social area.
- You refer to 'parishioners' undertaking the work. The 'parishioners' as has been outlined in the faculty are in fact professional artisans – professionally trained cabinet maker, furniture restorer and carpenter. All work will be undertaken with the greatest care and skill.
- The church is the only Grade 1 listed building in the village and the PCC and village community are acutely aware of the need to preserve this historic building for future generations. The church building does need though, to adapt to meet the needs of its community, as cast in aspic there is a danger the building will not be used and fall into disrepair. We do not wish this to happen and so are seeking to sensitively make changes so the building continues to be used regularly and valued by the community. It does mean that by being valued and supported by the villagers we able to continue to fund expensive repairs and maintenance this historic building requires.

7. Historic England, in a second response, identified their concerns:

We do not oppose the shortening of the 14 long pews with retention of pew ends, we are supportive of them being kept in their original position and would urge the retention of as much historic fabric as possible.

We remain concerned about the removal of 6 pews and we would urge that further consideration is given to a solution that retains the pews within the church, either wholly or in part. Again, we support the Victorian Society's views that alternative options may be possible for flexible use of the church - the pews are not fixed, and the aisles and other spaces are generously sized. Alternative options should be considered that allow for their retention in the church.

8. The CBC did not oppose the proposals in principle, but raised concerns over the petitioners' original assertion that the pews were installed 20 years after the Butterfield re-ordering. They helpfully submitted further advice:

The Council notes the amendments to the statement of significance and the PCC's response to the Victorian Society and Historic England.

Although the pews do appear to be from the Butterfield restoration of the 1870s, they are machine-made versions of the one remaining 18C linenfold pew-end in the church (which will be retained). This does raise their significance, however, the Council is content to the DAC and their assessment of the pews and the use of the space. The vast majority of the Butterfield pews will remain and the Council has no objection to the removal of six pews.

9. SPAB raised no concerns over the proposals.
10. I have set out the objections and responses as fully as I do so that all parties are aware of the issues I have had to deal with.
11. The petitioners have also helpfully provided many photographs taken of a wide range of community and other events that have been possible in the Church whilst the temporary re-ordering was in place. They have also taken photographs of some of the pews which are sited immediately behind substantial pillars in the nave, indicating that at least some of the pews have areas where all views are cut off and, indeed, where parts of the pews cannot be used for sitting in at all.
12. I have to carry out a balancing exercise between the concerns raised quite properly by the CBC, Historic England and the Victorian Society and the test laid out in the *Duffield* case together with the Church's statutory duties under S 35 Ecclesiastical Jurisdiction and Care of Churches Measure 2018.

Re St Alkmund, Duffield [2013] Fam. 158 at paragraph 87 (with editions):

(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 the question (1) is 'no', the ordinary assumption 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 (see Peak v Trower (1881) 7 PD 21, 26-28, and the review of the case law by Chancellor Bursell QC, in In re St Mary's, White Waltham (No.2) [2010] PTSR 1689 at para 11). Questions 3, 4 and 5 do not arise.

(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 (see St Luke, Maidstone [1995] Fam. 1 at 8), 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), it is well established that 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 I or II*, where serious harm should only be exceptionally allowed.

Ecclesiastical Jurisdiction and Care of Churches Measure 2018

35 Duty to have regard to church's purpose

A person carrying out functions of care and conservation under this Measure, or under any other enactment or any rule of law relating to churches, must have due regard to the role of a church as a local centre of worship and mission.

13. Having considered the matters helpfully raised by the CBC, Historic England and the Victorian Society and having balanced them against the responses given by the Petitioners I am persuaded that any harm caused to the significance of the Church is justified by the public benefits that will result from it.

14. I direct that the following conditions apply to the Faculty:

1. The carved pew ends from the pews to be removed shall be carefully separated from the main pew structure and retained for re-use or display within the church building.

2. The remaining elements of the dismantled pews may be disposed of as appropriate.

25th February 2022

Justin Gau,
Chancellor of the Diocese of Bristol