

IN THE CONSISTORY COURT OF THE DIOCESE OF ST EDMUNDSBURY AND
IPSWICH

In re **Boxford, St Mary**

JUDGMENT

1. This is an amended petition by a Grade I listed church, to:
 - a. Dispose of unwanted furniture
 - b. Install an aumbry with a lamp
 - c. Install a nave altar
2. The DAC recommend the works and the PCC unanimously supported the works. On the face it this should have been a very straightforward petition. It has, however, become something of a saga.
3. When I first received the petition, I asked that the amenity bodies be consulted for their views on the removal of the 'unwanted furniture'. In fact the DAC secretary visited the Church as part of a visit he was making to other churches in the area. He wrote an email on 19th July 2022 stating:

Yesterday I visited St Mary's in Boxford and, thanks to Audrey Zuck, inspected the items to be disposed of under faculty application 2020-054508. I believe the Chancellor is mistaken in stipulating correspondence with the amenity societies. That is required only in instances where the proposed works would affect the 'special interest' of the building, i.e. the quality which deems it eligible for listed status and which that status exists to conserve.

That is manifestly not the case here. All but a couple of the items look as though they were probably brought into the church from elsewhere and some, such as the drop-leaf table, are clearly domestic in origin. The pew to be disposed of is part of the suite of furnishings introduced during Blomfield's restoration of 1886-1887 and identical in design to those which remain. So probably is the prie-Dieu, but it is a moot point whether consultation is required on the disposal of a movable object, such as this is. At any rate, there is such a concept as 'core special interest' – in other words, the overriding reason why a building is listed, and, to put it bluntly, St Mary's in Boxford is not listed at Grade I because of the Blomfield furnishings.

4. I am quite content to defer to the opinion of the DAC secretary in this case regarding the furniture. I assumed thereafter that this would be a straightforward petition. I was wrong.
5. On the same date as the DAC secretary's email however an objection was lodged by Mr David Lamming.
6. In summary he objected to the whole petition. He raised various objections including:
 - a. Procedural irregularities in the correct display of the relevant documents relating to the petition,
 - b. Whether the furniture to be disposed of could accurately be described as 'unwanted', in particular the disposal of certain pews, which he stated were useful when there were large services and had been invaluable during socially distanced services during COVID,
 - c. Procedural irregularities in the information displayed-namely the identified person to contact being the Rector and not the PCC secretary,
 - d. The installation of an aumbry had not been the subject of proper consultation with the church community, which had hitherto objected to the reservation of the Sacrament.
 - e. The installation of an aumbry raised a concern that 'Roman Catholic, non-Anglican, doctrine' was being promoted.
7. The Registrar recommended that the petitioners issue a fresh petition, to include the installation of a nave altar and to deal with the objections raised by Mr Lamming.
8. The petitioners filed a second petition dated 5th September 2022. It included a statement of needs regarding the aumbry including details of the PCC resolution with regard to the fresh positioning of the aumbry within the Lady Chapel dated 15 August 2022 and details of the original PCC resolution regarding the installation of the aumbry dated December 2019.
9. Mr Lamming filed a further letter of objection dated 3rd October 2022. He repeated his objections from his first letter, but added a further objection that the relevant documents had 'arguably' not been displayed properly within the Church and the petition itself had not been included in the documentation on display.

10. The petitioners made appropriate amendments and the public notice in relation to the petition was displayed, indicating that any objections should be filed by the 8th November 2022.
11. On 8th November 2022 Mr Lamming filed a further letter of objection, repeating the objections made earlier and adding a fresh objection that the documents displayed within the Church were 'obscured by the board on which they had been posted being largely concealed behind an adjoining board'. He also repeated his concerns that insufficient consultation had been undertaken, whilst also acknowledging that it was not a requirement. He indicated that he had no objection to the introduction of the nave altar.
12. The petitioners filed a detailed reply. I make no apologies for repeating it in its entirety, as it sets out the background and pastoral issues which have played out here:

Response to Objections by D Lamming

C. Substantive objections

3 Disposal of 'unwanted furniture'

3.1 I have no objection to the disposal of items of furniture that are genuinely redundant, but I do not see in the paperwork any reasoned case for disposal of the listed items. Certain of these items are said "*to be of better quality and to have an auction resale value.*" I would have expected a statement to be included in or with the petition containing, for each item, (a) the provenance of the item (i.e., if known, when it was acquired and, if a gift to the church, from whom, and whether that person or his/her heirs at law had been contacted about the proposed disposal) and (b) a report giving its estimated value, and any recommended reserve price at sale by auction.

The purpose of the disposal of items of furniture was to remove redundant furnishings in order to improve the versatility, functionality and aesthetics of the building. The primary drivers were:

1. To implement the DAC's original advice to declutter the church following their visit in the Autumn of 2019, during which many of the items on this list were individually identified, including the redundant pews.
2. To improve accessibility and functionality of the church for community use as well as to facilitate the congregation socialising after services without overcrowding.
3. The PCC-approved intention to further explore building works to improve storage, install toilets and provide proper disabled access, all of which would necessitate freeing up as much space as possible
4. While potential sale is not financially motivated, any incidental financial gain from the disposal would be welcome, given dire financial straits, and therefore it was determined that where items might have an auction resale value, these should be disposed of via auction.

3.2 In any event, I cannot agree that the four small oak pews and three large oak pews are redundant as alleged. Currently, these freestanding pews are positioned in various places around the church, where they provide additional (and moveable) seating. They are not unsightly and the provision of such additional seating for occasions when there is a large congregation is useful. During the Covid-19 pandemic, when attendance in church was permitted, subject to 'social distancing' the longer pews, arranged around the west end of the church, were of particular assistance.

To the best of the PCC's knowledge and belief, in the past two years Mr Lamming has not been a regular attender of services and did not attend services at St Mary's during Covid protocols. It is therefore difficult to find grounds for his assertion that the longer pews at the west end were "of particular assistance." It should be noted that due to smaller attendance, the congregation was easily accommodated in the centre pews under Covid protocols.

The long delay in the faculty process did allow for more creative use of the longer pews against the wall in the new children's' space and behind the new serving space, and the PCC will revise the application to reflect this use. However, the shorter pews are simply stored as much out of the way as possible, and are currently blocking the North door, which is used upon occasion and is the intended disabled access route (subject to architectural and other permissions and input), as well as cutting into the access to the Lady Chapel, the choir vestry and vestry. Finally, contrary to Mr Lamming's assertion, the shorter pews are not necessary for additional seating during events with large attendance, because alternative temporary seating is available. The faculty will be revised to reflect the arrangements put in place after the faculty was originally requested.

3.3 The document states that "*sale by auction will generate useful funds to be devoted to other purposes.*" It fails to state (i) the estimated total proceeds of such sale, and (ii) the 'other purposes' to which it would be proposed to devote those funds.

As stated above, while disposal is not financially motivated, it was hoped that certain items could be disposed of via auction and therefore a financial bonus, to be used as designated by the PCC, would be welcome, but is by no means assured given that pews are in significant supply on the second-hand market.

3.4 Further, there is a procedural objection. The necessary resolution is stated to be "*via electronic communication on 4th July 2020*". It states, "*If I don't receive any objections before Saturday 11th July 2020 I will assume consent under CCR.*" It is not clear who the 'I' is in this sentence. It is presumed that the 'I' is the rector and that Page 4 of 4 the reference is to rule M29 of the Church Representation Rules ('Business by Correspondence'). However, under that rule it is for the PCC secretary (instructed by the chair) to send the proposal to the PCC members and to report the outcome to the next PCC meeting. It is not clear that this procedure was correctly followed.

As Mr Lamming knows, Boxford PCC does not have a PCC Secretary at this time. In the absence of a PCC Secretary, it is entirely appropriate that it falls to the Chair or Vice-Chair to conduct this business.

4 Installation of an aumbry

4.1 The PCC resolution of 4 December 2019 does not support the current petition: it only approved the '*suggestion*' of the rector, the Revd Robert Parker-McGee, that a £2,000 donation received by the church '*could be used*' to purchase an aumbry.

The PCC, having unanimously approved this resolution, has clearly given their consent to purchase an Aumbry. Its location was to be determined by DAC guidance after further consultation.

Their later resolution of 7th June 2022, approved unanimously by all members of the PCC, provides further evidence of the PCC's unanimous support: '*We the PCC of St Mary's Boxford hereby approve the installation of the new Nave Altar and the placing of a new Aumbry on the South window ledge in the Lady Chapel in St Mary's Church Boxford.*'

As a result of Mr Lamming's objections here, a third resolution has been passed unanimously on 15th August 2022 by the whole of Boxford's PCC stating that: "*We the PCC of St Mary's Church, Boxford, approve the purchase and fitting of an Aumbry and Sanctuary Lamp into the Lady Chapel of St Mary's Boxford to store consecrated eucharistic elements for the purpose of taking home communion out to the elderly, infirm and housebound, and as an aid to prayer for those to whom it would be helpful in our increasingly diverse congregation. We feel this would be best suited to being fitted on the ledge of the South Window above the Piscina in the Lady Chapel, but would equally approve of this being situated on a shelf on the South-East corner of the Lady Chapel as has been previously suggested, if the window ledge were deemed unsuitable*".

It should be noted that, given the passage of time and re-composition of the PCC, these resolutions have been supported by a total of 11 different PCC members, with no one opposed. This alone constitutes between $\frac{1}{3}$ and $\frac{1}{2}$ of the regular congregation.

4.2 The 'Statement of Needs' fails to record any resolution of the PCC supportive of the faculty petition, including how many members of the PCC were present at the relevant meeting, the date of the meeting, and how many members were in favour of the revised proposal as to location, how many (if any) were opposed, and how many abstained.

See response to point 4.1, noting that each of these resolutions were passed unanimously. Mr Lamming has not provided a compelling argument as to why publication of individual names would be in the best interests of the faculty application, the good governance of St Mary's Boxford PCC or (most importantly)

of those individuals. Should the Diocese require further details of the PCC resolutions, we would be happy to share them, trusting in the Diocese's discretion in this matter.

4.3 Further, although the Statement of Needs states that the current absence of an aumbry "*has been detrimental to the broadening spirituality of the congregation (who would like to have it in place to aid prayer)*," there appears to be no recognition that the tradition of St Mary's Church, prior to the present incumbent, has been opposed to the reservation of the sacrament, with the proposed change being promoted by the current rector, who is of an anglo-catholic persuasion. Accordingly, one would expect to have seen a more extensive justification for the proposal, together with details of the wider consultation (if any) on the proposal within the church community.

As noted in the two prior responses, the installation of an aumbry was passed unanimously in three separate resolutions of the PCC of St Mary's Boxford. Noting that the function of the PCC is to be consulted on matters of general concern and importance to the Parish, and to co-operate with the minister in promoting the whole pastoral, evangelistic, social and ecumenical mission of the Church, it should also be noted that this proposal and reasons for an aumbry were addressed in notices during services in 2019 and no concerns were raised by the attending congregations in response to requests for comments. The proposal has received the support of the Ministry Team and has received the bishop's approval necessary under Canon Law for any faculty application for an aumbry.

The aumbry installation was also mentioned in various official reports for APCMs, including the APCM of 4th May 2021 at which Mr Lamming was present and although briefed on the aumbry as well as other aspects of the faculty, he did not raise the objections he is currently putting forward, according to the official Minutes which were subsequently accepted at the 2022 APCM at which he was also present.

The false accusation that the present incumbent is acting in opposition to the wishes of the congregation and imposing a theological style upon them that they dislike has been a constant line of attack by Mr Lamming and is well known to the Bishops and Archdeacon. Because of this, and to reassure himself that it were not the case, the present incumbent asked all 5 PCCs of the benefice at a meeting on 28th July 2020 to clarify whether they were happy with his ministerial style and liturgical tradition and whether they had any concerns. Every PCC member present, except for Mr Lamming, responded in support of the incumbent's spiritual/liturgical style and the work he was doing, and this is recorded in the minutes of that meeting. It is our belief that this provides evidence that the present incumbent carries the support of the majority and that Mr Lamming's repeated claims are false and designed to be divisive.

Further, there is no evidence to support Mr Lamming's claim that St Mary's Church in Boxford has collectively been historically 'opposed' to the reservation of the sacrament. On the contrary, taking Home Communion to the infirm and

housebound has long been an important part of pastoral ministry in the benefice and especially at St Mary's Boxford, just as it is in most mainstream Church of England parishes. Historically, successive incumbents, readers and lay elders have all used the reserved sacrament for home communion on a regular basis. This ministry will continue through the present incumbent.

Nonetheless, and as is made clear in the documents, it is the case that St Mary's has not had anywhere to store these consecrated elements in a respectful manner when they are not being used to take out to the sick and housebound. Consequently, the consecrated eucharistic elements have historically had to be stored in the vestry safe together with the money, silverware and other spurious odds and ends. This has proved especially problematic during the pandemic, when we were having to store extra consecrated hosts to adhere to our COVID protocols (leaving them 7 days before distribution).

Storing the sacrament in a common safe in this way is clearly unacceptable (and some would say a disrespectful practice) and a more fitting alternative needs to be quickly found. It was a result of this that the present incumbent and previous churchwarden brought this suggestion to the PCC in the first instance back in 2019.

In his argument Mr Lamming seems to want to narrowly define the congregation of St Mary's in Boxford as being at the extreme end of the reformed spectrum. But his views are not, and likely never have been, shared by most of the congregation. The congregation at Boxford has always been broad and has broadened further in recent years. It is now very diverse and includes Christians from Central Anglican, Low Anglican, Anglo-catholic, Eastern Orthodox, Roman Catholic and non-conformist backgrounds. The Church wishes to take seriously the broadening spiritual needs of this prayerful community now more representative of their local demographic, as it looks to follow the diocesan vision to 'grow deeper'. It is widely recognised that for some knowing the consecrated eucharistic elements are physically present in the church would prove helpful for this. As a generous and welcoming community, we feel it is right that we address this need.

The presence of an aumbry in the Lady Chapel will in no way impinge negatively upon those for whom it is not helpful (as the presence of the sacrament in the vestry safe has not over the many years that it has been there), indeed from the vast majority of the pews in the nave the aumbry will not even be visible. But for those whose spirituality is fed by praying in the presence of the sacrament, and for those who are distressed by its current inappropriate location, this will be an important and helpful addition.

4.4 The statement that the congregation would *"like to have [the aumbry] in place to aid prayer"* raises a concern that Roman Catholic, non-Anglican, doctrine is being promoted, contrary to Article XXV of the 39 Articles of Religion (*"The Sacraments were not ordained of Christ to be gazed upon..."*) and Article XXVIII (*"The Sacrament of the Lord's Supper was not by Christ's ordinance reserved,*

carried about, lifted up, or worshipped.") There is nothing in the faculty paperwork to indicate that this issue has been addressed.

Mr Lamming speaks here as if Aumbries are not in common use throughout the Church of England, which of course they are. As such, lots within the C of E would disagree with Mr Lamming's stance, including many within this benefice. Throwing around accusations of imposing 'Roman Catholic practices' feels like something dragged up from the 16th or 19th Century long since laid to rest in the Church of England (or should have been). Given the nature of this objection, we feel we must respond with an appropriate theological response. We do not expect Mr Lamming to agree with it, but only to be generous enough to recognise that it is a perfectly valid, widely held and taught Anglican position with broad appeal and therefore one which a broad congregation needs to take seriously.

There is no question that the taking of communion out to the sick and housebound is a very important practice in the parochial life of the Church of England. Under Canon B 12, only a minister ordained in the Church of England may consecrate the elements of bread and wine for communion. It is also expected that other 'authorised' ministers (deacons and lay) be sent out to take those elements to those who are sick and housebound as a part of everyday pastoral ministry in the parish. For them to do so, however, eucharistic elements first must be consecrated by the priest at a Eucharistic celebration. This all has precedence in scripture and church tradition and is clearly laid out in Canon Law. The question remains: what do you do with these consecrated elements in between times?

As a Church at large, it is widely considered that we have high regard for the sacrament and treat it as something very special indeed. In fact, it is so special that we feel it is important to take to vulnerable people's homes after it has been consecrated at the general gathering of the worshipful faithful by their convenor and representative, the priest. Added to this, Anglican tradition, the 39 articles and Canon Law are all at pains to ensure that the gathered congregation and its ministers treat the sacrament in an appropriately respectful and holy way; something to be held reverentially and in high esteem. None of this should be in any way controversial.

So, in keeping with all this, it has long been common practice for Anglicans across the globe and of varying traditions, and especially within the C of E, to reserve the sacrament in an aumbry ready for taking out to the sick and housebound. For many it is also helpful as a focus for prayer. Suggesting that this is imposing some kind of 'Roman Catholic Doctrine' upon the church is disrespectful to a very large cohort of Anglicanism and its tone is damaging to the traditional inherited Anglican charism, not to mention ecumenical relations. We must remember in all such arguments that the Church of England is both Catholic and Reformed and sits as the 'Via Media', not at some extreme end of the reformed spectrum.

It is often said that the Thirty-Nine Articles are a compromise intended to provide something of a middle way for warring factions of the Reformation Era. Some of it is clearly designed to appease and limit the influence of the extreme puritan elements threatening the church in that moment; some to quieten and control the historical Roman Catholic influences striving to undermine the reforming of the already existent Church in England. As such, these articles do not form law in the same way as the Canons of the Church might do. More properly, they might be considered as guidelines rather than prescriptions (otherwise which modern Anglican approaches might stand?). The Articles often form statements rather than dictates and can appear to contradict themselves in their attempts to hold different theologies in tension.

This seems to be the case for instance with its numerous theories of atonement inlaid into various of the Articles which together do not always seem to hold theological consistency. Similarly for Article XXV, to which Mr Lamming refers. It does not expressly prohibit anything (unless you wish to read it that way), but instead simply states that *“The Sacrament of the Lord’s Supper were not ordained by Christ to be gazed upon”*. i.e. that is not its main intention. It is a statement of historical fact, nothing more, and it does not prohibit anyone from so doing. Indeed, earlier in that same Article it states that such Sacraments are *“certain sure witnesses, and effectual signs of grace, and God’s good will towards us, by the which he doth not only quicken, but also strengthen and confirm our Faith in him”*. Many have made the very small step from here to infer reasonably that in the presence of the sacrament we can feel closer to Christ. Or to put it another way, simply being in the presence of the sacrament may enrich these benefits. Certainly, there is a thriving and valid stream of mainstream Anglican thought that believes precisely this, far broader than any narrow ‘Anglo-Catholic’ label which Mr Lamming uses so disparagingly.

Again, Article XXVIII simply makes the statement that *“The Sacrament of the Lord’s Supper was not by Christ’s ordinance reserved, carried about, lifted up, or worshipped.”* Again, this is a statement of historical fact, not a prohibition. If it were, then every parish priest in the country who elevated the host and chalice during the Eucharistic prayer for the congregation’s prayerful attention and focus would be accused of being in breach of it. Instead, the reverse is true and it is a widely taught practice in theological colleges, dioceses and parishes across the country and common practice throughout the Anglican church both in England and abroad.

To close, we would like to repeat again, that any mention of prayer in regard to the aumbry in this faculty application is clearly meant to expand and grow the parish’s generous spirituality, and its presence simply provides a focus for prayer for those to whom it is helpful so that they may find a home with us, nothing more. As already explained, the parish have long reserved the sacrament for use in home communion and will continue to do so, but there is nowhere to respectfully and responsibly store it. This is what this faculty is trying to remedy.

13. Mr Lamming was invited to become a party opponent. He declined, as is his right. I will take his submissions into account.

Discussion

Alleged breaches of the Faculty Jurisdiction Rules

14. In dealing with this issue I have conflated Mr Lamming's detailed criticisms summarised in points a) and c) above.
15. Mr Lamming's objections to the alleged breaches of the rules deal with the petitioners' failure properly to display the documents required in the correct way or at all.
16. His objections are valid. There have indeed been failures by the petitioners to display the required documentation in the correct way or at all.
17. It would be easy to criticise the petitioners for these failures. A short discussion with the highly experienced and helpful Registrar or the Archdeacon would have cured any failings, and I would recommend any future petitioners to pursue that route should they have any queries about the Faculty system.
18. Whilst I agree that there have been failings by the petitioners to abide by the strict letter of the rules I have to query what problems have been caused by these failures so as to render this petition fatally flawed.
19. Failures to abide by the Regulations were deplored by the Court of Arches in the case of *In re Emmanuel Church, Bentley* 2006 2 WLR 1008, but the facts of that case could not be more starkly different to this case. *In re Emmanuel Church, Bentley* concerned petitioners who included a large multi-national corporation with the associated financial capacity and who had the ability to instruct expert Solicitors. The present case concerns a parish church with limited resources. Mr Lamming is also on the electoral role of the church, and resident in the village. Accordingly, it begs the question why he did not raise these issues directly with the incumbent, any other petitioner or the Registrar either formally or informally rather than writing letters of objection. A case in point is the alleged 'failure' of the PCC secretary to apply rule M29 of the Church Representation Rules ('Business by Correspondence) when, as Mr Lamming knows, there is currently no PCC secretary on the Boxford PCC. A cynic, having read the petitioners response, might suggest that his objections in this regard are mischievous. I am not that cynic, but I am at a loss to know how these failures are so serious as to cause me to reject this petition.

20. Whilst acknowledging that there may have been failures in abiding by the rules I can see no difficulties caused to Mr Lamming or any other potential objector by these failures.

The disposal of various items of furniture

21. Mr Lamming does not directly raise 'Duffield' issues in relation to these items of furniture, but it is incumbent upon me to apply that test namely:

(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?

22. Having received the evidence of the Secretary to the DAC and having read the petitioners submissions I have no hesitation in answering 'no' to the first question.

The installation of the Aumbry

23. Mr Lamming's objections are in two parts. The first procedural, the second doctrinal.

24. His procedural objections - that there had been insufficient support and/or no appropriate resolution by the PCC - is plainly wrong on the evidence. It may be that, had the petitioners uploaded or displayed the correct documentation, this objection would not have been raised, although I note that Mr Lamming was present at an APCM when this matter was discussed and approved. I reject Mr Lamming's submissions.

25. The second objection is one I have described as 'doctrinal' and, on a strict interpretation of the law is one I should not rule on as being outside my

jurisdiction. In my opinion, however, the presence of an Aumbry is a common feature of many parish churches up and down the country. Mr Lamming's repeated description of the incumbent as being 'of the anglo catholic persuasion' is unhelpful. I note what the petitioners say in their evidence about Mr Lamming's previous behaviour in their reply to his point 4.3 above.

26. I make no findings of fact about this but must point out that the Consistory Courts are not places for ad hominem attacks, and I note and approve of the petitioners' gracious response to this attack.

The introduction of a nave altar

27. I have read the petitioners submissions on this point and note that Mr Lamming does not object to this.

Conclusion

28. Having considered all the evidence and the submissions in this case I grant the entirety of this amended petition as prayed.

7th February 2023

Justin Gau,
Chancellor