

real pastoral upset occurring in the future, even when an original turning of a blind eye may itself have taken place for seemingly good pastoral reasons. [RA]

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Re Holy Trinity, Barnes

Southwark Consistory Court: Petchey Ch, June 2011

Re-ordering – unlisted building – consultation

A faculty was sought to replace half the benches in an unlisted Victorian church with chairs. The benches had been funded, stained and prepared by church members during a re-ordering of the church in 1989. The petition sought to facilitate work with the wider community through a playgroup and a service with a meal called 'Space to Be', both of which would be enhanced by the flexibility of movable chairs instead of benches. A donor of the original benches objected to the proposal on aesthetic grounds and argued that there had been insufficient consultation. The chancellor held that the test of reasonable necessity in facilitating the church's mission outweighed the aesthetic objection, given that the application related to an unlisted building. Similarly, with an unlisted building the requirements for consultation were more limited than for a listed building and consultation had been sufficient in this instance. However, it was necessary to recognise the earlier work done by church members when the benches were installed in 1989. Accordingly, the bench donated by the objector and her husband should be one of those retained. Plaques remembering the donors of the benches to be removed should be retained and displayed in the church, along with photographs to show what the church looked like prior to the re-ordering. [Catherine Shelley]

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Re All Saints, Sanderstead

Southwark Consistory Court: Petchey Ch, June 2011

Altar rails – Equality Act 2010

Following the removal of altar rails for a trial period, the applicants sought a faculty for their permanent removal to create more space in the sanctuary, to facilitate the distribution of Communion and to assist those who could not kneel to receive Communion owing to age or disability. An objection to the removal was received from the donor (no longer resident in the parish) of

the altar rails, who argued that removal of the rails diminished the sanctity of the sanctuary. Further objections were raised by an elderly parishioner with disabilities, arguing that the application was inadequately advertised and that removing the altar rails made receiving Communion more difficult and breached the disability provisions of the Equality Act 2010.

After considering the history of canon law concerning the distribution of Communion, the chancellor held that there is no canonical obstacle to receiving Communion standing nor to not providing altar rails. As regards the Equality Act it was held that, while divine service and the administration of Communion are public services they are not the actions of a public authority. Accordingly, neither the European Convention on Human Rights nor the Equality Act were applicable. The chancellor stated that the church should seek to avoid discrimination, but accepted that reasonable adjustments were being made to enable those with disabilities to receive Communion and that they therefore suffered no substantial disadvantage by removal of the altar rails. The chancellor held that as the removal of the altar rails would not adversely affect the aesthetic appearance of the church the *Bishopsgate* questions did not apply. The necessity of facilitating administration of Communion both generally and for those unable to kneel outweighed both the objections of the donor of the rails and those concerning discrimination. To acknowledge the donor's gift the removed rails should be stored, preserving the option of using them on an occasional basis or restoring their permanent use if necessitated by future changes of circumstance.

As regards consultation and notice of the faculty application, it was suggested *obiter* that advertising faculty applications on the outside of the church's front door was preferable to placing them with other notices inside the church door or in a covered noticeboard. [Catherine Shelley]

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Re St Mark, Englefield

Oxford Consistory Court: Bursell Ch, June 2011

Fonts – number – location

The church, which was situated in the Englefield estate, had been substantially rebuilt by Sir Gilbert Scott during the nineteenth century, including the installation of a baptismal font designed by Scott. Significant features from the original eleventh-century church remained. Sixty years prior to the application the original thirteenth-century font had been unearthed from a field and had since resided next to the Scott font in an overcrowded baptismal area in the south