



Faculty – Grade I listed late-C14th village church – Minor internal re-ordering – Removal of a redundant 1960 pipe organ (installed in 1994) – Re-organisation of west end of nave to include the removal of up to eight C 20th pews and their replacement by chairs – DAC recommending works for approval – Objections to pew removal – Faculty granted

Application Ref: 2022-071399

IN THE CONSISTORY COURT
OF THE DIOCESE OF OXFORD

Date: Friday, 4 November 2022

Before:

THE WORSHIPFUL DAVID HODGE QC, CHANCELLOR

In the matter of:

St Laurence, Combe

THE PETITION OF:

THE REVEREND RALPH WILLIAMSON (Rector)

Mr ANDREW HOBSON and Ms LINDA SODERBERG

(Churchwardens)

This is an unopposed faculty petition determined on the papers and without a hearing.

Five individuals submitted objections but none of them elected to become a party opponent.

The following cases are referred to in the Judgment:

Re All Saints, Hooton Pagnell [2017] ECC She 1

Re St Alkmund, Duffield [2013] Fam 158

Re St Chad, Longsdon [2019] ECC Lic 5

St James, Church Kirk [2022] ECC Bla 3

Re St John the Baptist, Penshurst (2015) 17 Ecc LJ 393

Re St Peter & St Paul, Aston Rowant [2019] ECC Oxf 3, (2020) 22 Ecc LJ 265

Re St Peter, Shipton Bellinger [2016] Fam 193

JUDGMENT

Introduction and background

1. This is an unopposed online faculty petition, dated 4 July 2022, by the Rector and the churchwardens to undertake a minor re-ordering of the west end of this Grade I listed, late-C 14th village church to create a more flexible space by removing a redundant 1960 pipe organ (installed in 1994) and up to eight pews, replacing them with chairs, and disposing of several items of redundant church furniture. The parish consider that these changes are necessary to create an open space at the rear of the church, with movable lightweight seating, which would afford space for families during, and enable members of the congregation to mingle freely after, services, thereby advancing the church's worship and mission. The exterior of the church building will remain entirely unchanged; and the parish consider that there will be no adverse impact on the historic fabric of the church, or its significance as a Grade I listed building.

The church building

2. The village of Combe, in the Archdeaconry of Dorchester in the Diocese of Oxford, lies to the west of Blenheim Palace. The parish church of St Laurence was first listed as a Grade I building on 27 August 1957; and the list entry was subject to a minor amendment on 29 October 2012. The listing description reads as follows:

Church. Built 1395 for Eynsham Abbey (datestone). Coursed limestone rubble, rendered over chancel, with ashlar quoins and dressings; gabled stone slate chancel roof and shallow-gabled lead roofs; gabled porches of stone slates to south and flagstones to north. Chancel, nave and west tower. Perpendicular style. 5-light east window with panel tracery; off-set corner buttresses; 2-light window with restored head to north; south side wall has label moulds over 2- and 3-light square-headed windows and 2-centred double hollow-chamfered doorway. 4-bay nave has hood moulds over 3-light windows with panel tracery; offset buttresses divide bays, which each have parapet with quatrefoil-carved frieze. South porch: moulded pointed-arched doorway set in stone-coped gable with offset corner buttresses and fleur-de-hys finial with 1395 date; cinquefoil-headed side lights; moulded stone ribs support ceiling; ancient plank door with iron fittings set in hollow-chamfered pointed-arched doorway. North porch: hood mould over casement-moulded doorway; late C19/early C20 3-light window to left; early C12 round-arched inner doorway. 3-stage west tower: offset corner buttresses; label mould over pointed-arched hollow-chamfered doorway with cusped mouchettes

in spandrels; restored 3-light west window with panel tracery; cusped lights and hood-moulds with head stops over 2-light belfry windows; string course with gargoyles and carved heads beneath crenellated parapet with corner finials. Interior: trefoiled piscina, and 3 sedilia set under crocketed canopies. C18 communion rail. Late C14 three-bay wagon roof, with corbelled posts braced laterally to ashlar plate. Double-chamfered chancel arch; late C14 rood stairs to north and canopied image niche and trefoiled piscina to south. Rare late C14 polygonal stone pulpit, carved with blind tracery and resting on ribbed stem. 4-bay depressed tie-beam roof, braced to corbelled posts. C19 font to west; C15 octagonal font, with relief carvings of figures, on floor to east. Wall paintings: parts of complete painted scheme of c.1440, discovered 1894. Doom painting over chancel arch has Christ flanked by Apostles and scenes of the Last Judgement. Crucifixion with the Virgin and St. John to north-east. Part of Annunciation to south-east with hands of God above Gabriel holding scroll. St. Christopher fording the stream, over south door, painted over by C17 Ten Commandments and Moses and Aaron. Painting of St. Catherine holding sword and wheel near north door. Two C17 devotional texts to north and south walls. C15 stained glass: east window has canopies set in panel tracery and, in the tracery glass, Christ and the Virgin in Majesty flanked by two Cherubim and a censuring angel. East window of south side of nave has figure of St. James Major holding wallet, staff and pilgrims hat. Nave windows have C15 Cherubim set in panel tracery lights. Late C19 west window of south side of nave has reset C15 fragments.

There is no reference to the pews in this listing description. However, this is a relatively early listing description; and also one that pre-dates the installation of the pipe organ. The entry for the church at page 275 of the 2nd (2017) edition of the volume of *Pevsner's Buildings of England for Oxfordshire: North and West*, by Alan Brooks and Jennifer Sherwood, refers to a pair of box pews of 1833-4 in the south-west corner of the church but these will not be affected by the proposals. The entry also states that:

F. C. Eden restored the nave in 1907-8. The rear pews are of this date; the front ones, by S. S. Teulon, came from Blenheim Palace chapel.

There is no dispute as to the provenance of the front pews, which are not affected by these proposals; but the evidence is that the pews presently at the rear of the church were obtained from St Luke, Cowley when that church was decommissioned in 1995, and that they replaced earlier pews which had been considered as dangerous. If the pews are from St Luke, then they probably date from 1937-8 when that church was built by H. S. Rogers.

The proposals

3. At its meeting on 9 May 2022, the parochial church council (the **PCC**) passed, by a majority of nine to one (with one abstention), a resolution relating to the proposals in the following terms:

That a faculty application will be submitted to the DAC for consideration at their next meeting permitting:

- (1) the Osmond organ to be removed and sold;*
- (2) the removal and sale of seven short pews and one long pew infected with woodworm;*
- (3) the removal and sale of two associated pew bookshelves; the Victorian lectern; the five wooden chairs from the back of the church; and the prie-dieu; and*

(4) *acquisition of up to 40 chairs of either Trinity Church Chairs Abbey or Theo chairs.*

4. As described in the Notification of Advice, the petition, and the public notice, the proposals are for:

Creation of flexible west end space in church by: the removal of

(1) *the Osmond pipe organ*

(2) *up to 8 x 20th century West end nave pews (previously from St Luke's church, Cowley)*

(3) *1 x double-sided wooden lectern with rotatable bookrest*

(4) *5 x wooden chapel chairs of unknown provenance*

(5) *1x dilapidated prie-dieu and*

(6) *2 x large bookcases forming a set with the pews;*

Associated acquisition of 20 x Trinity [Abbey] chairs; associated timber floor repairs to prevent trip hazard in central aisle.

The Statement of Needs

5. In their Statement of Needs, the parish explain why they wish to remove the old unused organ, eight pews, two bookcases and miscellaneous chairs, a lectern and other furniture that is no longer in use to create an open space at the back of the church, with movable lightweight seating. The parish need more space that is unburdened by heavy furniture for families attending services. At the moment every square inch of space is occupied. Modern child buggies are said to be about the size of a 1960s mini, and children need some space without being restrained into a slot between two pews. The congregation like to mix after services but at present this involves people either moving from one pew to another or standing in the aisles, resulting in a risk of accidents when people are carrying hot drinks around. The proposals would also greatly simplify preparation for events like the harvest lunch and the carol service.

6. The parish cannot see that the proposals would cause any harm to the church. The statement of significance sets out the history of the pews, which are very recent to the church. In the petitioners' view, the changes proposed will vastly enhance the amenity of the church to the congregation and improve the look of the church. The parish contend that one only has to look at churches where similar changes have been made such as Wootton by Woodstock, Church Enstone, Charlbury, and Bampton to see how much more welcoming a church with some clear space and modern furniture is when compared with one that remains stuck with a Victorian, early C 20th look, such as St Laurence.

The Statement of Significance

7. The Statement of Significance emphasises that the faculty application has been made so as to allow the parish to provide a flexible space at the rear of the church to allow for gatherings and mixing in the church after services. At present, the church has no available space for such social interaction, and this hinders the free flow of people and reduces the opportunities for social interaction within the congregation. The space at the rear of the church is very constrained by the footprint of the church, and is completely taken up by two rows of heavy and uncomfortable pews. The parish therefore propose to remove from the west end of the nave the Osmond pipe organ, which is now little used as it has been replaced by an excellent Eminence

electronic organ, and up to eight of the pews. The statement of significance addresses the background, the pews, the other surplus furniture, the proposed new chairs, the Osmond Organ and its disposal, and works to the floor. An annex describes the consultation that was undertaken about the proposals in and around March 2021.

(1) Background: St Laurence is a C 14th Grade I listed church whose particular architectural glories are wall paintings that survived the Reformation, a sedilia, and an unusual stone pulpit with fine tracery. The church serves the modest hilltop village of Combe and was built between about 1320 and 1395 (when it was consecrated) by the monks of Eynsham Abbey, probably reusing earlier elements from a church serving the original village located in the Evenlode valley, about half a mile from the present village. Although originally a royal manor, like neighbouring Woodstock, Combe has never been a wealthy village and the church remains very much as it was built. There are no side chapels, simply a nave with north and south porches - the south porch is now a vestry - with a font placed just southwest of the intersection of the central aisle and the cross aisle between the porches. I have attached two photographs at the end of this judgment which show (i) the general view towards the west end of the church, and (ii) the view towards the altar, revealing the open-backed pews from the chapel of Blenheim Palace.

(2) Pews: There are two sets of pews within the church. One set of eight (sited at the front of the nave) was donated by the Blenheim Estate sometime in the 1860s, when the chapel at Blenheim was refurbished. The other set (of 14) was obtained when St Luke's, Cowley was decommissioned in 1995 and replaced some earlier pews. The parish believe these pews date to about the 1930s, when St Luke's was built. The parish have not been able to find any other information about them, searches for a contemporary faculty having drawn a blank. From PCC minutes dating to 1995, the parish understand that the previous pews were dangerous, and there is discussion in the minutes of the potential to replace the dangerous pews with the Cowley pews; but there is no record of any PCC decision, and no faculty has been found. Whatever happened in 1995, the Cowley pews were obtained and transported to Combe; and they have been in use ever since, as are two large matching bookcases. The Cowley pews are said to be extremely heavy and difficult to move when reconfiguring the space for, say, the harvest lunch. The Cowley pews are of two sizes: six are 8 ft 6 inches long (the long pews) and eight are 7 ft long (the short pews). The bookcases are also 8 ft 6 inches long. In order to accommodate two families with young children (under six) who had become regular attenders at all services, as an experiment from about 2018 the parish have moved some pews at the south side of the rear of the nave into a C-shape to provide an area at the rear of the church where they may sit and entertain the children whilst services take place. This has been very well received by both parents and other members of the congregation, and has improved the space for interaction after services. The need to provide suitably distanced space once the church reopened after the March 2020 COVID lockdown led the parish to move all the pews back into use facing east so as to create additional space. This has undoubtedly led to greater stress levels within families as the children have no space of their own. The parish very much desire to create a permanent open space at the rear of the church, and this has congregational support. They have considered running the social space experimentally for a year or two to gauge the congregation's reaction, whilst not permanently disposing of the pews. However, the parish have nowhere to store the pews taken out of use, and investigations into off-site storage have drawn a blank for any solution other than acquiring space at commercial rates (which the parish simply cannot afford). Given the positive reactions to the church's 2018 trial, and the result of their consultations - with all but one member of the congregation firmly in favour - the parish anticipate that the new

social space will be in quickly. The parish therefore propose to remove from the church: one long pew with woodworm damage further to the east, replacing it with one of the long pews from the west end; seven of the eight short pews, with one remaining to partition the space at the rear of the church from the cross aisle by the door; and both the bookcases. The parish propose to dispose of the pews and the bookcases for the best price they can. A number of people have already informally expressed an interest in acquiring one of the pews. It would be of benefit to the church if at least some of the pews could be rehoused locally.

(3) Other surplus items: As well as the organ, the pews and the bookcases, stored at the rear of the church, and really only there gathering dust, the parish have: a large Victorian double-sided rotating lectern; a woodworm damaged, wobbly prie-dieu; and five wooden chairs that are almost never used because they are distinctly uncomfortable. The lectern is a fine Victorian piece that was in use until about the mid-1990s, when a modern oak lectern was acquired. It is however far larger than is practical in this small church, and it used to dominate the space in front of the choir stalls when it was in place there. It is also so tall that shorter members of the congregation had to stand on a special step to read the Bible, and impracticable to use with a microphone, so it has not been used for almost 30 years. Its provenance is unknown: the large Bible that lives upon it bears the coat of arms of the church's Patron, Lincoln College, from whom it was clearly a gift; but inquiries of the Lincoln College archivist have not revealed any record of either the Bible or the lectern being given to the church. Originally, the parish had thought the chairs to be of unknown provenance, but a postcard showing the interior of the east end of the church, produced by Mr Williamson as part of his objections, suggests that they were originally used by the choir before the choir stalls were introduced by H. S. Rogers in about 1929.

(4) The new chairs: As at the date of the Statement of Significance, the parish proposed to replace the pews with 30 stacking chairs from Trinity Church Furniture, although they had yet to decide between the Trinity Abbey and the Trinity Theo M chairs. Both products were considered suitable, and the parish hoped that the DAC could recommend a faculty on the basis that the PCC should be left to choose between one or the other, informing the Registry of their choice once it was made.

(5) The Osmond organ: Removing the Osmond organ would free up the remainder of the space at the rear of the church. The Osmond organ has served the parish well for nearly 30 years. It is a nice sounding instrument, and several members of the congregation are very fond of it. However, it is not powerful enough to support any but the thinnest of congregations. There is just one keyboard, and its musical range is limited to playing hymns during services. Those who choose to sit at the front of the church may struggle to hear it over the voices of those behind them. The parish have provided a history of the various organs at Combe from the early C 20th to the installation of the Osmond organ, which was prepared in support of the application for the faculty to install the Eminence organ in 2014. The Osmond organ itself had been installed pursuant to a faculty dated 20 May 1994, and it was a gift from St Mary Magdalene Latimer, who were disposing of it on the recommissioning of their organ post-restoration. The parish consulted with the congregation on this whole proposal in February and March 2021 and the plan found favour with them. The former opposition to the installation of the Eminence organ in 2014 has not carried over into any opposition to the removal of the Osmond organ as part of the present proposals. At least three of the more trenchant opponents of the Eminence organ installation have responded positively to the present proposals, and some of them have acknowledged that it is now time to move on. The Eminence electronic organ is a better

instrument that can be heard all over the church. The enthusiastic choir finds the Eminence organ much better for supporting its singing, as it has speakers in the chancel which allow them easily to hear what is being played, which is not possible with the Osmond organ at the far end of the nave. The Eminence organ has also recently been responsible for a step up in the church's musical offering, with a young organist from Stonesfield, who has been practising regularly on it, now playing for the church with great accomplishment about once a month, with the encouragement of the organist, the choir, the churchwardens and the congregation. He has been awarded a Cathedral Organ Scholarship at Christ Church Cathedral.

(6) The disposal of the Osmond organ: The parish have advertised the Osmond organ (subject to faculty) in the register of the Institute of British Organ Builders but without any response. The present proposal is to advertise the organ on eBay for £450 in the hope of finding a buyer. The parish have an offer of £150 for the parts that can be recycled. The parish may be able to obtain something further for the wooden casing which is in reasonable condition if they have to go down the scrapping/recycling route.

(7) Works to the Floor: The floor in this section of the church consists of stone flags in the centre aisle flanked by two wooden floors where the pews sit and (so far as the parish know) under the organ. The flags and the wooden floors are not even. In some places there is a small lip up from the flags to the wooden floors. This has not proved a problem with the pews in place, but the parish anticipate that it may become a problem once the wooden floors have been cleared of the pews. The parish's builder recommends laying a curved batten along the edge of each wooden floor to smooth the transition. His verbal estimate for this is about £200. The majority of the work involved will be shaping the batten to the irregular floor.

(8) The consultation about the organ and the pews: In March 2020, letters proposing the removal of the Osmond pipe organ, and the pews sited to the right of the entrance to the church, were sent to all those listed on the church's electoral roll (54 in total). 30 responses were received to the letter. There were no negative responses to the proposal to remove the Osmond pipe organ. One person did not mention the organ in her reply. One person was in favour of removing the organ but raised concerns that its removal, and any subsequent repairs, should be done carefully, mindful that there may still be wall paintings in that area. Of the 30 responses received, 29 were in favour of removing the pews. One respondent felt that the pews should remain, arguing that removing the organ may provide sufficient space for a family area, and that removing the pews could reduce the seating area in the church and affect the acoustics of the building. An older member of the congregation commented that there used to be more space at the rear of the church before the pipe organ and the Cowley pews were installed: there used to be fewer pews in this area, and the organ used to be in the chancel. Two suggestions were made about detailed implementation: One was to retain three pews to create an enclosed family area, and a verbal suggestion was made to retain a pew to provide a boundary adjacent to the entrance door.

*The Notification of Advice (the **NoA**)*

8. At a meeting held on 19 May 2022 the Diocesan Advisory Committee (the **DAC**) recommended the proposals for approval by the court, subject to the following provisos:

(1) That, in disposing of up to eight pews to create flexible space, where possible the PCC should select those in the poorest condition for disposal.

- (2) That a photographic record should be kept of the items disposed of, and the church's inventory updated accordingly.
- (3) That the finish of the Theo Abbey chair was to be agreed with the DAC officer in due course.

The DAC advise that the proposals are not likely to affect the character of the church as a building of special architectural or historic interest, its archaeological importance, or any archaeological remains existing within the church or its curtilage. Before issuing their NoA, the DAC had consulted the Diocesan Organ Adviser, the British Institute of Organ Studies, and the Church Buildings Council about the proposal to remove the Osmond pipe organ.

The Osmond Organ: History and consultation

9. According to a note on the history of the organ prepared by the parish in support of the faculty application for the installation of the new Eminence organ in 2014, the existing pipe organ was presented as a gift by St Mary Magdalene, Latimer, in Buckinghamshire, where it had been in use as a temporary instrument in about 1994. One of the parishioners in Combe paid for the organ to be installed. This replacement organ was built by Osmond of Taunton in about 1960. According to the British Organ Archive maintained by Birmingham University:

John Edward Minns set up in business as an organ-builder in Taunton from 1879. He continued in business until his retirement in 1895 when the firm was purchased by one of his employees George Osmond. Osmond retired in 1939 but remained a Director until 1944. The firm was never very large and most of the work undertaken was in rebuilding older organs with cosmetic work but little actual change. Osmond died in 1950 and the firm continued until the 1970s under local contractors.

It follows that the Osmond organ is likely to have been built by “local contractors”. It was acquired initially by the Ministry of Defence and was then moved to St Mary’s. St Mary’s used the instrument for the period whilst their organ was being repaired. More information can be found in the National Organ Archive where the instrument is listed as D 02107.

10. The Osmond organ was sited in St Laurence in the north-west corner of the nave. Given the size of the instrument and the interior design of the church, this was practically the only place for it to be put: there are a number of mediaeval wall paintings and certain fixed features, which result in there not being any solid, blank wall against which a pipe organ can be placed other than in the north-west corner or, if a small instrument, in the chancel (as before).

11. The Osmond organ has a nice mellow sound and no doubt has been a considerable improvement on its predecessor. It has been serviced regularly by Mr Brian Carlick. However, it does have its limitations, as follows:

- (1) The organ is of limited range. It has one manual, with six speaking stops, but one of them, the Melodic Bourdon 16, ceased to work some years ago; and Mr Carlick has been unable to restore it to working order.
- (2) There is, and never has been, a pedal board.
- (3) Hence the bass pipes are non-functioning.

(4) The location of the organ (at the rear of the church) means that the time lapse in sound reaching the chancel is significant: it is difficult for the congregation and the choir to be completely in step.

(5) Further, the volume of the organ is not sufficient for a full congregation, and certainly not sufficient to penetrate the chancel and the choir stalls at the necessary level.

(6) Probably due to fluctuations in temperature within the church, the organ loses tune.

12. On 13 December 2019, Dr Andrew Hayden, the Casework & Conservation Officer for the British Institute of Organ Studies, advised that the Osmond organ “... *is not one BIOS would have any particular interest in though it is likely to be a competent enough instrument and would find use, I’m sure, in a small chapel or church. On the evidence so far, I cannot see a case for scrapping.*” On 23 December 2019, Dr David Knight, of the Church Buildings Council, advised that: “*This organ from 1960, installed by a local workman in 1994, is not an instrument with any obvious historic or other significance that would merit the involvement of the Council. That said, it is probably a suitable instrument for a church with straightforward musical requirements, and it would be a pity for it to be removed for scrap.*” Since then, the organ has been advertised in the Organ Builders Journal, with the approval of the Diocesan Organ Advisor (Mr Barry Williams), but with no response. By email dated mail 15 October 2021 Mr Williams advised: “*Last May I wrote to the Institute of British Organ Building (IBO) to ask that the instrument be put on their redundant list, subject to faculty. It was listed by the IBO as Number 672 on 3rd June 2021. If there is no interest then eBay may be the only other means of disposal. That is best considered once the faculty has been granted. It might be helpful if the faculty states that the organ is to be disposed of 'under the supervision of the Diocesan Organs Adviser'. That means that I can deal with it quickly.*”

The public notices

13. The usual public notices were displayed from 5 July to 4 August 2022. Five objections have been received, which I summarise below. The objectors are: Mr Anthony Williamson, Ms Jenny Haviland, Ms Sue Goodman, Ms Janet Robinson Wood and Ms Cecelia Adamson. The Registry have sent all five objectors notices under rule 10.3 of the Faculty Jurisdiction Rules 2015, as amended (the **FJR**), giving them the opportunity either to become a party opponent to the proceedings or to leave their letters of objection on the record for the Chancellor to take into account in reaching his decision. Mr Williamson and Ms Haviland responded to confirm that they would like to leave their letters on the record. Ms Goodman, Ms Robinson Wood and Ms Adamson have not responded. In accordance with rule 10.5 of the FJR, the petitioners were invited to respond to the letters of objection that had been received. Their response was received within the deadline, and their letter has been uploaded in the supporting documents on the online faculty system (the **OFS**), as have all the letters and emails of objection.

14. Since this is an unopposed faculty petition, I am satisfied that it is expedient in the interests of justice, and in furtherance of the overriding objective of the FJR, for me to determine this petition without a hearing, and on the basis of the considerable volume of written and illustrative material that has been uploaded to the OFS, and which is before the court. In light of the helpful photographic images of the church interior contained within the material available on the OFS, I did not consider that it would assist me to view the interior of the church. In determining this faculty application, I have had regard to all the material uploaded to the OFS, including the consultation responses, the letters and emails of objection, and the petitioners’ response to them.

15. Before I proceed to summarise the objections, and the petitioners' response thereto, it is convenient for me to set out the legal framework by reference to which this faculty petition falls to be determined.

The legal framework

16. I should preface this part of my judgment by explaining that the corollary of the ecclesiastical exemption from the requirement for listed building consent from the local planning authority before any works can lawfully be carried out to a listed church building is the need for the faculty system to apply equivalent levels of transparency, openness and rigour in maintaining appropriate levels of protection for that significant part of the national heritage that church buildings represent. As Chancellor Singleton QC (in the Diocese of Sheffield) explained at paragraph 20 of her judgment in *Re All Saints, Hooton Pagnell* [2017] ECC She 1:

... churches, particularly listed churches, constitute a tangible and spiritual history which touches everyone including the people of the past, the present and the future including those from within and from outside our church communities and from within and outside their geographical area. They connect us to each other and to those who went before us and to those yet to come by our mutual and continuing appreciation and enjoyment of their beauty and history. These buildings need and deserve to be preserved, renewed and improved, expertly, professionally and within a process open to public scrutiny. That is my understanding of the purpose of the strict law which applies to listed buildings generally and within the Faculty Jurisdiction as applied to listed churches generally and Grade 1 and 2 listed in particular. Within the church the preservation and development of beauty and history is undertaken to the glory of God.*

17. Since the church of St Laurence, Combe is a Grade I listed building, this faculty application falls to be determined by reference to the series of questions identified by the Court of Arches in the leading case of *Re St Alkmund, Duffield* [2013] Fam 158 at paragraph 87 (as affirmed and clarified by that Court's later decisions in the cases of *Re St John the Baptist, Penshurst* (2015) 17 Ecc LJ 393 at paragraph 22 and *Re St Peter, Shipton Bellinger* [2016] Fam 193 at paragraph 39). These questions are:

- (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 not, have the petitioners shown a sufficiently good reason for change to overcome the ordinary presumption that, in the absence of good reason, change should not be permitted?
- (3) 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?
- (4) How clear and convincing is the justification for carrying out the proposals?
- (5) In the light of the strong presumption against any proposals which will adversely affect the special character of a listed building, 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?

18. When considering the last of the *Duffield* questions, the court has to bear in mind that the more serious the harm, the greater the level of benefit that will be required before the proposed works can 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 exceptionally be allowed. I recognise that these questions provide a structure and not a strait-jacket. To adopt a well-worn phrase, these are guidelines and not tramlines. Nevertheless, they provide a convenient formula for navigating the considerations which lie at the core of adjudicating upon alterations to listed places of worship, namely a heavy presumption against change, and a burden of proof which lies upon the petitioners, with its exacting evidential threshold. Since the judgment of Chancellor Eyre QC (in the Diocese of Lichfield) in *Re St Chad, Longsdon* [2019] ECC Lic 5 (at paragraph 11) and my own judgment in this Diocese in *Re St Peter & St Paul, Aston Rowant* [2019] ECC Oxf 3, (2020) 22 Ecc LJ 265, a practice has also developed of inquiring whether the same, or similar, benefits could be achieved in a manner less harmful to the heritage value of the particular church building concerned. At paragraph 7 of my judgment in the latter case I said the following (with reference to the fifth of the *Duffield* questions):

In considering the last question, the court has to bear in mind that the more serious the harm, the greater the level of benefit that will be needed before proposals can be permitted. It also has to bear in mind that serious harm to a church listed as Grade I or Grade II should only be permitted in exceptional cases. 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 the 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, on this hypothesis, cause more harm than is necessary to achieve the desired benefit.*

19. In summary, for the purposes of the present case, which concerns a Grade I listed church building, I must consider:

- (1) The degree of harm that these proposals, if implemented, would cause to the significance of the church as a Grade I listed building of special architectural or historic interest; and
- (2) Whether the petitioners have demonstrated a clear and convincing justification for their proposals, in terms of any resulting public benefits which would outweigh that harm.

In doing so, I have to bear in mind:

- (a) That the burden rests on the petitioners to demonstrate a sufficiently good reason for making any changes to this listed church building;
- (b) That the more serious the harm, the greater the level of benefit that will be required before the proposed works can be permitted;
- (c) Since this building is listed Grade I, only exceptionally should serious harm be allowed; and
- (d) Whether the same, or substantially the same, benefits could be obtained by other works which would cause less harm to the character and special significance of this church building.

The objections

20. It is convenient to set out the objections in alphabetical order of each objector's surname since this is how they have been addressed in the petitioners' response.

(1) Ms Cecilia Anderson: She lives in the parish, her name is on the electoral role, and she is a regular member of the congregation. She would be sad to see the removal of any oak pews from the church. She states that Charlbury church looks less impressive now it has replaced the pews with chairs. Charlbury's Quaker Meeting House replaced most of the wooden pews with chairs a few years ago and Ms Anderson still thinks this was a mistake. The parish have moved into the 21st century with a splendid new organ and outreach activities such as a weekly Tuesday coffee morning. Both these are more meaningful than simply changing the church furniture. The removal of the pipe organ and lectern will create space, and hopefully this will prove sufficient for the church community's needs. Ms Anderson also feels that replacing good quality, old furniture with often poorer quality replacements is not good environmentally.

(2) Ms Sue Goodman: She is a member of the church choir and is on the church electoral roll. She points out that it is only eleven years since the removal of the chairs at the back of the church was last proposed to the Diocesan Registry and rejected and, yet again, the same proposals have been put forward, albeit slipped in amongst other proposed changes. Ms Goodman raises the following objections:

(a) *Lack of notice*: Whilst it is a requirement for proposed changes to be advertised, they do not appear to be known generally throughout the village, and it was only brought to Ms Goodman's attention by another member of the congregation. Not all older members of the church have access to broadband and the church website, and no mention of it was made in the church section of the village free newspaper.

(b) *The Statement of Needs*: The opinions put forward in the 'Statement of Needs' come across as high-handed in tone and very subjective, and are views that are not held by the majority of the congregation, villagers, and visitors who also have a special interest in the church. In many parishes these days, the back of the church is frequently cluttered with items making them appear more like an abandoned children's nursery than a place of worship. One only needs to glance through the comments in the visitors' book to see that one of the principal aspects that the writers appreciate about this church is the beauty, simplicity and sense of calm that it has retained. This quality is today increasingly rare, and possibly contributes in part for the increased popularity in the use of our cathedrals, in particular since the pandemic. Given that previous generations have preserved the church in this condition for the benefit of the present generation, Ms Goodman finds it hard to understand why the parish should wish to duplicate the facilities already available in the converted Methodist chapel, or the village hub, which is only several hundred yards away. In doing so, the parish could damage those unique properties of their parish church as a sacred place of worship and prayer.

(c) *Seating numbers*: As a member of the church choir, Ms Goodman knows from experience that at festival times the church can be filled to overflowing, with members of the congregation sometimes sitting in the chancel with the choir. The proposed removal of eight pews and some additional chairs, with a capacity of over fifty, and replacing them with twenty stacking chairs effectively reduces the seating capacity of the church by thirty, which does not seem sensible, unless, of course, the unstated intention is to apply for more stackable chairs at a later date.

(d) *Replacement of pews with chairs:* In 2011 Ms Goodman was asked to draw up a layout for proposed wooden chairs at the request of a member of the PCC. In the process of measuring and observing the use of the area in question, and as a member of the church choir, Ms Goodman came to the opinion that the proposed replacement of the pews would not be the best solution to the problems defined, and that simpler and less interventionist solutions could be employed. Her observations were then, and are now, that the two main reasons for proposing a change were that the pews are heavy to move when there is a need to create space and that the pews are uncomfortable. There are, however, more reasons for retaining the existing pews:

(i) Manoeuvrability: Whilst pews are quite heavy, they do not need lifting. Since 2011 those at the back of the nave have been fitted with felt pads underneath which makes movement a lot easier. For heavier duty lifting, a special wheeled trolley is available. Those that advocate the use of stacking chairs are not usually those that do the stacking, it being the older and less fit members of the congregation, and usually women, who do it. As a woman in her seventies who suffers from arthritis, Ms Goodman can attest to the fact that moving pews fitted with padded glides is a lot easier than lifting and stacking chairs.

(ii) Comfort: Those who complain about the comfort of pews already sit in the available chairs, which are sufficient in number for most groups using the church for other activities. The pews have in the last ten years also been fitted with new cushions.

(iii) Financial considerations: The long-term financial implications of the disposal of pews, and their replacement with chairs, do not stand up. The pews fetch little money, their replacement with chairs is costly, and repairs will be needed in due course, whereas the pews require little maintenance.

(iv) Aesthetics: Visually, the existing oak pews, although not in themselves of any great beauty, are more in keeping visually than the stacking chairs proposed. They fit the available space and are readily set out in preparation for a service. The chairs would be difficult to align, and often look untidy. If they were to be linked together, it would defeat the object of changing them.

(v) Safety: If the proposed chairs are not linked together, they could present a hazard in terms of escape in the event of a power cut.

(vi) Seating numbers: The pews can accommodate a greater number of people, particularly when the village school children and their families are in attendance.

(vii) Cleaning: It is much easier to clean both the pews, and the floor between, than it is chairs. This is important as it tends to be older people carrying out this work.

(viii) Draughts: The church is heated using radiant heaters, and will need to keep this type of heating to protect the wall paintings as warm air would cause damage. It is therefore prone to draughts, and the pews do a better job of cutting these out than do chairs.

(ix) Community Use: Unlike many urban churches, the combination of the rural setting and the heating restrictions imposed by the wall paintings, means that the area in question within the church will not have a regular day-to-day requirement for flexible usage. This is the more so now, as the former Methodist chapel close by has been acquired by the village and is warm and available for this type of use.

(x) Community seating patterns: Certain families have routinely sat in the pews which it is proposed to change. Their opinions should be considered.

(xi) Other historic considerations: The church has many kneelers which were made for use in the pews by family members of the congregation. They are part of the village history and should if possible be retained in use.

In summary, Ms Goodman adds that the general opinion of all but a very few individuals that she has spoken to seems to be in favour of retaining the pews. It would seem that the proposals are more a project of active and vocal members on the PCC, who keep returning to this issue in an attempt to push it through. Beyond getting rid of the pews, there seems to be little in the way of detailed ideas put forward as to how this newly regained space could be utilised to good effect, nor of proposals as to how it would be left in the interim when not in use for social gatherings.

(e) *The Osmond pipe organ, lectern and chapel chairs*: Ms Goodman knows of no objection to the removal of the pipe organ, which has been replaced by a new electronic organ at the front of the nave.

(3) Ms Jenny Haviland: She is against the removal of the pews. Chairs would spoil the character of the church. If the old organ is removed, there would be enough space to move the pews out of the way if more space were needed. To her mind, the integrity of the church would be lost if chairs were introduced. In response to the rule 10.3 notice, Ms Haviland states that she does not wish to have any further involvement in the proceedings, but simply to have her letter left on the record.

(4) Ms Janet Robinson Wood: She considers that the chairs will not enhance the appearance of the back of the church; but her concern is really with the cost of all the works involved at a time when the cost of everything is increasing. She also maintains that the new, modern chairs will not last for the 100 years the pews and other furniture that is to be removed have lasted. This is an ongoing cost for future generations.

(5) Mr Anthony Williamson: He is a member of the PCC, is on the church electoral roll, and is the tower captain for the bell ringers. He is in favour of removing the old organ at the back, now that the new one has proved itself in its position at the front of the chancel; but he does not agree to the removal of any pews. This proposal feels like a precursor to re-visiting the question of the wider removal of pews. The PCC predominantly consists of influential people with very strong views about chairs who have not accepted the decisions made in relation to an earlier faculty in 2011. The reasons for not doing that then are just as pertinent now. In that faculty, the proposal was to remove these same pews, one of the arguments being that they were heavy and difficult to move around. This related to fairly minor shifting within the area so it is noteworthy that they were moved for PCC meetings, Gift Day, harvest festival, an open tower event, and the experiment of an area for families with children at the back. Since 2011, cushions have been added to the pews and the wooden floor has been sanded and polished. All the pews now have felt on their bases to prevent scratching the floor, which has the added bonus of making them much easier to shift. Moving the pews at the back takes less than two minutes to create an open area. When necessary, pews could be placed against the walls to create space, and for the rest of the time the parish would not lose any seating capacity for Christmas, Easter, weddings, funerals, carol services and fund-raising concerts. Having chairs would reduce capacity as pews can accommodate a greater number of people, particularly when families are in attendance. In

response to the assertion that there is a need for more space for families at services, Mr Williamson counters that the experiment with families and children at the back of the church made services feel as though there were two activities going on in parallel, something to which the acoustics of the church do not lend themselves. The new rector has been successful in encouraging families to attend church services and he stated at the last PCC meeting that he wants families with children to be at the front taking part in the service. Once the old organ has gone there will be ample spare space at the rear of the church, without the need to remove any pews. The current proposal does not make it clear whether the chairs would be in place as a matter of course for regular church services. If the intention is to have a large semi-permanent space at the back of the church, this would result in having stacks of mostly unused chairs. In this situation, moving the existing pews to one side would incur no cost and would be more useful (the bench seats of pews provide somewhere to put things), safer (the pews are robust and child-friendly whilst stacks of chairs are not), and more attractive (pews moved to one side look tidier than stacks of chairs). If the intention is to have the chairs in place at all times, however, then it is not clear where all the extra space for buggies and mingling would come from. Having the chairs semi-permanently in place would not simplify the preparation for harvest festival, which requires space for tables, as it would take longer to unlink and stack the chairs than it would to move the pews. Having a mix of pews, existing modern cushioned chairs, and the new proposed chairs at the rear will adversely affect the look and character of the church building. It is misleading to justify the proposal by quoting changes at Wootton, Church Enstone and Bampton, which cost a lot more, and Charlbury, which was completely re-ordered. The proposal does not mention the issues with the change of seating at Stonesfield which is in the same parish. Stonesfield's progressive approach to services and seating, in contrast to a more traditional approach at Combe, has been a significant contributory factor to its congregation numbers dwindling in the last few years. Pointing out that eight pews can accommodate about 40 people, Mr Williamson identifies concerns about the number of chairs and their cost. He points out that the PCC has not decided which chairs to choose: discussions around comfort and cost have not been resolved. Nor is it clear how many chairs the PCC wants to buy or how they will be funded. These are not secondary issues but are fundamental to the proposal; and until they are clarified, it would be inappropriate to proceed further with the proposal to remove the pews. Mr Williamson has produced a postcard showing the interior of the church before 1928, when the new choir stalls were added. It shows the beautifully carved lectern, with its Bible, and chapel chairs in the nave. As they are of historical interest for future generations, Mr Williamson is not in favour of removing them. In conclusion, Mr Williamson can find nothing convincing in the statements of needs and significance that would justify removing the pews, the lectern or the chapel chairs; and he trusts that the court will reject this proposal. In response to the formal rule 10.3 notice, by email dated 2 August 2022 Mr Williamson indicated that his preference was for "*a more informal approach where the Chancellor will take my letter into account*".

The petitioners' response

21. The petitioners have responded to these objections by way of a letter dated 16 September 2022 from Mr Andrew Hobson, one of the churchwardens and a petitioner, which was approved by the PCC at a meeting held the previous day. Of the eight members who attended this meeting, there were seven votes in favour and one against, with no abstentions. The three members of the PCC who could not attend indicated their approval to the letter. Before addressing the specific points made by the objectors, the writer makes the following

preliminary points by way of a general statement of the rationale for the application, and to cover some points made more than once in the objections:

(1) The purpose of this application is to provide a flexible space at the rear of the nave, with a view, particularly, to enabling free mingling after services, and a space where children at services can be unconstrained by pews, a need the parish have identified by discussion with families who regularly attend services. These two points were, and are, the primary drivers of these proposals, notwithstanding the other possible uses of the space which have been discussed.

(2) This application should be considered solely on its merits by the Chancellor. What has happened in the past, and what may happen in the future, are not relevant to this application. The past cannot be undone; and any changes for which a future PCC may petition will have to be considered on the merits of such an application. Having said that, the parish wish to add that neither the present PCC, nor any of those who have been involved in the extensive discussions over the present petition, have any “*thin end of the wedge*” agenda.

(3) This application has been made after a consultation exercise undertaken in February 2021, by which all those then on the electoral roll were sent a letter containing the proposals as they then stood. Of the 54 recipients of this consultation letter, 30 responded. Of those 30 responses, 28 approved the entire proposal; and one focussed on what was to replace the pews and made no comment on the organ. One person objected to the proposed removal of the pews; and no-one objected to the removal of the Osmond organ. Responses to the consultation were received from Sue Goodman and Anthony Williamson. No response was received from Celia Adamson or Janet Robinson Wood. Jenny Haviland was not contacted as she is not on the church electoral roll. On the basis of these responses, the then PCC considered that there was significant support for the proposals. Following that consultation, the proposal has been mentioned at the Annual Parochial Church Meetings held in 2021 and 2022; and during spring 2022 sample chairs from Trinity Church Furniture were placed in the church so that views could be canvassed about which of three the PCC should chose as replacements.

(4) Some of the objections seem to be based on a presumption of how the space will be used and what “*look*” may result. The petitioners have little doubt that the use of the space will evolve over time. However, the proposal is made on the basis that there will be an area of the church free of pews, and thus open unless specifically in use, in which case it is expected that an appropriate number of chairs will have been put out, linked together to provide seating.

(5) Another point made is the relative ease of moving chairs and pews. The pews are heavy and awkward to move. The felt pads fitted about four years ago have made the task of moving them easier, not easy. Repositioning them is often not just a case of sliding them around. There are four people who regularly move the pews when the need arises. None is under 60, two are in their 70s; two are women; and the lay petitioners are two of the four.

(6) The pews will be replaced with approved wooden stacking chairs supplied by Trinity Church Furniture, and of the type recently installed in Bath Abbey, weighing about 4-7 kg. In the main area of the nave, excluding the wood-wormed pew, there are 13 pews, each seating five people, plus side chairs, giving a potential seating capacity of 75 in this area of the church. The average Sunday attendance for Parish Communion is between 25 – 30 people, with approximately 40-45 adults and children attending All Age Worship Services. There is therefore sufficient seating capacity for the church not to need to set out the chairs, except so far as they may be useful for

families with pushchairs and prams, and for services at festivals such as Christmas and Easter, weddings and funeral services.

22. The petitioners address each of the objections in alphabetical order of the objector's surname, as follows:

(1) Ms Celia Adamson: Her primary concern appears to be the visual effect of removing the pews and replacing them with chairs, alongside the environmental impact of unnecessarily replacing furniture. She also claims that the removal of the Osmond organ will create additional space at the back of the church; and she highlights the success of the church's present outreach and the new organ, (installed in 2015) as mitigating the requirement for further change. In response, the petitioners say that:

(a) Concerns about the visual effect of removing pews to create an open space are a matter of aesthetics on which views will vary. The petitioners do not agree that the space created by the removal of the Osmond organ will be sufficient.

(b) It is correct that the new organ, and activities such as coffee mornings (and also the rector's involvement with the village school), have resulted in more families attending church, especially for the monthly All Age Worship services. However, the church would like to build on this outreach and provide the facilities and opportunity for greater involvement with families, which rows of pews do not support.

(c) Removing the organ will create only a modest extra available space. The organ dominates the rear of the nave and so overall its removal will substantially improve the appearance of this part of the church. The organ is sited against the rear wall of the church and takes up an area approximately 1.5 metres in depth (against the wall) and 2.5 metres in width. However, there is an ancient stone well head (approximately 1 metre diameter) sited next to the organ which must be taken into consideration and which no one wants to try and move again (after it had to be moved to accommodate the new organ).

(d) Concern about the quality of the chairs is unmerited. The Abbey chairs proposed are approved for church use, and the samples provided to the church appeared to be of excellent quality. The petitioners intend to sell the pews, for which there is an established market. They have already received expressions of interest from villagers.

(e) Overall, re-establishing the space at the rear of the church will not only give the church community a more useful area in which to meet and continue its outreach to the community; it will also better display the architecture, the wall paintings, and the box pews which are integral to the church building.

(2) Ms Sue Goodman: Her primary concerns are: lack of consultation with interested parties regarding the proposed changes, and her understanding that the changes are not the majority view of the congregation. She also mentions the architectural simplicity of the building and the historical heritage of the church, which should be preserved as a sacred space for prayer. Ms Goodman's other concerns are that of sufficient seating capacity if the pews are removed; and she lists reasons for not removing them. In response, the petitioners say that:

(a) As regards lack of notice of the proposals, as someone on the church electoral roll, Ms Goodman was written to in February 2021. She responded by email sending a copy of the floor plan for the PCC's use, which she had prepared for the previous proposal to remove the pews in

2011. She also commented on the design of the chairs to replace the pews, suggesting that these should be of *'modern design, lightweight and comfortable'*.

(b) It is over a year now since the consultation took place and so the PCC can appreciate that Ms Goodman's opinion of the project may have changed over that time; but concerning the opinion of the congregation at the time of the consultation, there was only one written objection to the project (from Mr Anthony Williamson). Overall, the church congregation was in favour of removing the pews and the organ, appreciating the advantages; and many were enthusiastic about the PCC's decision to apply for a faculty to do so.

(c) As regards, the cluttered nature of many churches, it is, in part, the clutter of items at the rear of the church that the project seeks to overcome. Hence the request to remove the unused items stored in front of the bell tower. Removing the pews and the organ will create a more peaceful visual space, much more akin to that when the church was originally built.

(d) The preservation of the church's heritage is very much of foremost importance to all those who worship in, and care for, the church building. The pews and the organ (only installed in the 1990s) are not however a fixed part of this heritage. The former have provided a functional use for seating, which the chairs will fulfil. The organ has not been played or serviced since 2015, when the digital organ was installed. The church is also more than just a building; it is predominantly the people who attend and their Christian witness and prayer. It is this that these proposals are intended to enhance, and not detract from, and thereby provide a facility to fit today's needs.

(e) There is no reason why the seating numbers should be reduced by the introduction of chairs to replace the pews. The converse of Ms Goodman's concern is that the church is sometimes at risk of being over crowded for some services, as occurred at a recent funeral. Chairs will afford more flexibility as to how many people can be seated in the church and the distance between seats.

(f) To provide more space for occasions such as harvest lunch, where tables are needed, the parish move the pews to a U-shaped configuration, and then move them back to their normal seating arrangement for Sunday services. This is hard work (albeit not as hard as it was before pads were fitted). It is not practical, for instance, to move the pews at the end of every service to provide circulation space for coffee, etc., unless the church chooses to keep one side of the church with the pews against the wall and the other in a seating configuration. This has been done for short periods, but it does reduce the church's seating capacity.

(g) All of the pews have soft seat pads. When consulting with the congregation about the type of chairs to replace the pews, comments from some members of the congregation were for padded chairs to be purchased. However, the guidance from the DAC is that only chairs with unpadded wooden seats should be purchased; advice which the church has heeded.

(h) The aesthetics of chairs against pews is a subjective matter, but these pews are of no great beauty. The parish do not consider that linked chairs will provide any greater risk concerning exit from the church than pews do.

(i) Regarding cleaning, the pews require regular bees wax polishing to keep them in good order, which the chairs will not. It will be much easier to keep the floor swept and in good order with chairs, which can be stacked, as against pews in situ.

(j) In answer to the point about the pews insulating against draughts, the petitioners simply say that even if this happens (and they cannot yet know), the risk of this happening is no good reason to deny the church the flexible open space that the petitioners, and the majority of the PCC, consider will be in its best interests.

(k) As regards financial considerations, the parish will sell the pews, but they accept that the sale will not cover the cost of buying the chairs. The church is fortunate to have received an offer of funds in memory of a past member of the congregation which will cover the whole cost of purchasing the chairs; but the PCC also intend to launch an appeal to finance the chairs to supplement these funds.

(l) As for the other community buildings: The village has the reading room and the village hub as available community buildings; but the point is that the church has identified a need to improve the existing use of their building, and to provide better amenities for the congregation. There is no duplication with any other provision in the village. The other facilities are some distance from the church; and their use is charged for, and is also not really feasible for events that take place immediately after church services (such as coffee).

(m) The congregation have been consulted on seating for families.

(n) The kneelers will be retained and will continue to be cared for, although only a few are in regular use. With two exceptions, and where kneelers are provided, members of the congregation now sit or stand for prayer. Placing the kneelers back in front of the pews will make floor cleaning unnecessarily more difficult given they are no longer used by the majority of those attending services.

(o) It is not possible to comment regarding conversations Ms Goodman has had about retaining the pews, except that, from the consultation undertaken, all of the responses, save one, were in favour of removing the pews. Had it been otherwise, the PCC would not have proceeded with the petition for this faculty.

(p) Concerning Ms Goodman's final comment about firm proposals as to how the space will be used, the proposal is that the space should be flexible. Sometimes it will have seating and sometimes it will be open. Sometimes it will support the Harvest lunch, sometimes perhaps the APCM, and often the PCC will meet in the space. After services, it will be used for mingling and refreshments. The fact that the petitioners have not specified every use to which the flexible space, the foundation of this application, is made is (so the petitioners say) no bar to the Chancellor approving the application, the purpose of which is perfectly clear from the petition and the accompanying documents.

(3) Ms Jenny Haviland: She is concerned that the integrity of the church will be lost with the removal of the pews. In response, the petitioners say that Ms Haviland was not consulted about the proposal as she is not on the church's electoral roll. By removing so much furniture, the character of the church building will be restored, providing a visually more peaceful and integrated space. It is not proposed that the chairs should be left out at all times.

(4) Ms Janet Robinson Wood: Her letter expresses concern that chairs will not enhance the appearance of the rear of the church. However, Ms Robinson Wood's primary concern is in respect of the cost of the project and the long term durability of the chairs. She considers that the five wooden chairs earmarked for removal should be retained. In response, the petitioners say that:

(a) With respect to the aesthetics of the chairs, the chairs proposed are the same as those recently installed in Bath Abbey and many other parish churches around the country. More locally, Woodstock church has removed its pews and opted for the greater flexibility of chairs. However, the visual appearance of chairs is a subjective matter. Both Woodstock church and Bath Abbey appear to be content with their choices.

(b) With respect to the costs, at the end of 2021 the church lost a long-standing member of the congregation and a former churchwarden. His widow has expressed a wish to make a significant contribution to a project in his memory. That contribution, together with the sale of the pews, and funds raised from voluntary offers to purchase a chair, will be used to pay for the purchase of the new chairs. How long the chairs last will depend on how they are cared for and the use that is made of them. They are guaranteed for 10 years (for the seat and back) and for life (for the frame). There is no reason to expect that they will not last for at least the next 50 years; beyond that one cannot predict, or know, what the needs of the church will be.

(c) The wooden chairs have been kept in virtual storage at the rear of the church for many years, sometimes being used when extra seating was needed. The aim is to reduce the clutter at the rear of the church. Reference should also be made to the comments in response to Mr Williamson's objections below.

(5) Mr Anthony Williamson: He is a lifelong member of the parish and a committed member of the church community, a bell ringer and the tower captain, and a long-standing member of the PCC. He has consistently expressed his views concerning the pews: that they are an important and integral part of the church building and therefore should remain. Mr Williamson is also concerned that the implementation of this proposal will lead to the complete removal of all the pews from the church building – to be replaced by chairs. He comments on the manoeuvrability of the pews, and the space created by the removal of the organ; and he questions how the space released will be configured, especially so as to provide space for families with prams and buggies. There is also the question of the costs, which Mr Williamson details in his letter. In response, the petitioners say that:

(a) Any concerns that this petition will be a precursor to one seeking the removal of the pews sited in the body of the nave has already been addressed.

(b) Whatever happened in 2011 is not in issue on this application. The PCC of that time considered a change in the seating arrangements. This project was not concerned with how the space within the church could be better utilised. At that time also the Osmond organ was in use, with no plans to remove it. The faculty application met with opposition and was therefore dropped.

(c) The cushioning to the feet of the pews has made them more manoeuvrable than they were in 2011. Reconfiguring the seating space for festivals and other events is easier to achieve than it was; but it is still quite a task, and one the parish do not do lightly. However, this does not provide the circulation space needed after services; nor does it allow flexibility of use of the church building outside of Sunday services.

(d) The petitioners note the comments regarding the '*children's area*'. This was an attempt to set aside an area for families with toddlers so that they could be present together during the service and the children could be entertained with books and colouring. This was popular for the families but also distracting for some worshippers; and it ceased because of the risks inherent

with Covid. The preference of the present Rector is not to reintroduce this but to encourage families and young children to sit at the front of the church. However, there are families with babies, and children of toddler age, who need an area to sit with their children, and with their prams and buggies, and this is best accommodated at the rear of the church to avoid filling the church aisle. Parents also like to be towards the back of the church to make a quick exit if they perceive that their child has become too noisy.

(e) The removal of the organ will give some, but limited, additional space.

(f) There have been representations within the church concerning the future utilisation of the space presently occupied by the organ. The church organist and choir leader would like to place a cupboard in this area to house the choir music and books etc. The 'vestry' (a conversion of the church's south porch) also doubles as a kitchen and includes the church toilet and ladder store. The space could be used to place a cupboard for service booklets and other papers. There has also been a proposal to place a small kitchenette in this area and so revert the vestry to its proper use. But all of these projects are decisions for a future PCC. Only by removing the organ and the pews however are these projects possible.

(g) As regards the use of the chairs, it is presently proposed that the chairs will be stacked until they are needed. Mr Williamson suggests that the pews could be stacked up close together to give more space. This sometimes happens now, but only on a temporary basis. As a permanent solution, this option could run the risk of the back of the church becoming an open storage area; and, as has been said many times in this response, moving the pews about is hard work, notwithstanding the felt pads.

(h) The chairs in Stonesfield were installed, replacing pews, over 30 years ago. They are fixed, upholstered chairs, although of a type that will stack. There has been a reduction in church attendance in the last 2 – 3 years but this is not in connection with the seating. The trend for church attendance in Stonesfield is reversing, with new families moving into the village.

(i) The petitioners note the confusion over the number of chairs required, in part because of the intention not to dispose of all the pews at once, but to take a measured approach and see how the project progresses. The supporting statement has also been built up over time and so there have been document changes. The PCC will purchase the number of chairs required to replace the seating capacity lost by the pews. Thus, if in the first instance five pews are removed, 20 chairs will be purchased. Mr Williamson's costings are accepted. As previously stated, funding will be through the sale of the pews, an in memoriam gift to the church, and voluntary funding of chairs by members of the congregation.

(j) Mr Williamson also objects to the proposal to dispose of the few wooden chairs and the lectern; and he produces a postcard showing the church as it used to be. Until they saw this image, the petitioners were not aware the chairs had been used by the choir. Since that photograph was taken, oak choir stalls have been installed. The chairs just sit around wherever space can be found for them within the church. They are occasionally pressed into use when there is a big service, but so are IKEA chairs borrowed from the village reading room for such occasions. The lectern is a magnificent piece, but its provenance is unknown; and it has not been used for 25 years or more, when a modern lectern that allowed a microphone to be used by the reader was acquired. When the older lectern was in use, shorter readers had to stand on a box to see the Bible; and, unamplified, they were often hard to hear because they were basically talking

to the lectern. Both the chairs and the lectern are functionally redundant. The church is not a museum and it does not have any real storage space enabling it to keep redundant articles.

(k) The petitioners note that the old photograph shows the church with oil lamp lighting. It now has electric lighting. The parish have to be able to move on from what went before and adapt to modern circumstances; and they cannot be in a position where anything introduced into the church is there permanently.

23. In summary, the petitioners, together with all the members of the PCC save one, are of the opinion that the faculty sought is in the best interests of their church; and, for the reasons set out in Mr Hobson's letter, they ask the court to grant the faculty.

Analysis and conclusions

24. I am satisfied that the petitioners have made out their case for the court to grant the faculty they seek. I will deal first with the proposal to remove the Osmond organ, and then move on to the other aspects of the proposals.

The organ

25. The removal of the organ will cause no harm to the significance of this church as Grade I listed building of special architectural and historic interest; and the petitioners have provided a clear and convincing justification, and have made out a clear case, for its removal. This 1960 organ is not an instrument with any obvious historic, musical or other significance. It was not built for this church; and it was installed only relatively recently in the church's long history. As an organ, the instrument has its limitations; and it is now effectively obsolete, having been replaced by the more effective Eminence organ. None of the British Institute of Organ Studies, the Church Buildings Council, or the DAC Organ Adviser have any concerns about the removal of the Osmond organ; and there are no objections to its removal from anyone living within the parish or on the church electoral roll. The removal of the organ will free-up much-needed space at the rear of the church. In short, there is no good reason for the retention of the organ; and very good reasons for its removal. I will include, as a condition of the faculty, that the organ is to be disposed of under the supervision of the Diocesan Organ Adviser. Its new location should be notified to the National Organ Archive so that their records can be updated.

The pews

26. In my judgment, the petitioners have provided a clear, cogent, and convincing response to the various objections that have been raised to the removal of the eight pews at the rear of the church. I am satisfied, consistently with the advice I have received from the DAC, that the removal of up to eight of the pews that were introduced into the church from St Luke's Cowley in 1995 will cause no harm at all to the significance of this church as a Grade I listed building of special architectural and historic interest. These pews are not part of the original fittings of this fine church building, nor are they of any significant intrinsic merit or historic significance. As appears from the photographs, there is a clear distinction between the areas to the west, and to the east, of the font and the cross-aisle between the church porch and the vestry; and the removal of the Cowley pews at the west end of the church will set no precedent for any wider pew removal. The significant pair of box pews of 1833-4 in the south-west corner of the church will not be affected by the proposals; and nor will any of the fine pews that came from the chapel of Blenheim Palace. The removal of the pew immediately to the west of the font at the

rear of the church will also confer the benefit of giving it greater prominence, and creating more space around it.

27. I am also satisfied that the petitioners have provided a clear and convincing justification, and have made out a clear case, for the removal of the pews. It is the clear wish of the great majority of the parish that there should be a flexible space at the rear of the nave, where families can feel at home unconstrained by the narrow space between the pews, and members of the congregation can freely mingle after services. Provided this can be done without causing any harm to the significance of a listed church building - as I am satisfied is the case here - it is my view that the court should accord great weight to the views of parishioners since the parish are generally far better placed than any Diocesan Chancellor to assess the pastoral and missional needs of their own church community. It is clear to me that the removal of the Osmond organ, on its own, will not provide the space that is necessary to satisfy the parish's perceived needs. For this reason, I have considered, but rejected, the alternative option of granting a faculty limited to the removal of the organ, and associated works of making good the space which it presently occupies, in order to see whether the parish can achieve its objectives within the more limited area that this would free up. I therefore grant a faculty permitting the disposal of up to eight pews in order to create flexible space at the rear of the church. I will include a condition that, wherever possible, the petitioners should select those pews in the poorest condition for disposal. One of the long pews should be used to replace the long pew with woodworm, For the avoidance of doubt, the faculty will make it clear that none of the pews from the chapel of Blenheim Palace, or the box pews, are to be removed.

28. The consequence of removing the pews is that there will be a need to introduce a number of chairs into the church to replace the seating that will be lost by the removal of up to eight pews. Both the Abbey, and the Theo, chairs produced by Trinity Church Furniture, are an acceptable choice of chair. My personal preference would be for the Theo chair with wooden legs, rather than the Theo M chair with metal legs, because I consider that the former chair will blend in rather better with the wooden flooring, the remaining box pews, and the wooden door screen at the west end of the church. However, I would not wish to be too prescriptive about what is, essentially, a matter of aesthetics. I am therefore content to leave the choice, and the finish, of the new chairs to be agreed with a DAC officer, in due course, before they are purchased. In the event of any difficulty arising over the choice of the chairs, the petitioners will be able to revert to the Chancellor under the general permission to apply to the court, by letter to the Registry, for further directions as to the carrying-out of this faculty.

The other surplus items

29. I am satisfied that the removal and disposal of the two bookshelves, the five wooden chairs, and the prie-dieu will cause no harm to the significance of the church; and that the parish have demonstrated a clear and convincing case for their removal and disposal. The bookcases match the pews which are to be removed from the church, and they take up space at the rear of the church; the prie-dieu is damaged and unattractive; and the five wooden chairs are almost never used because they are distinctly uncomfortable. There is no point in retaining any of these items, which are all surplus to the church's needs. Moreover, in the case of the existing chairs, these would look out of place in relation to the new, modern chairs.

30. The lectern is a fine and elaborate piece of Victorian craftsmanship that (from the postcard identified and produced by Mr Williamson) was clearly present in the church, and in

use, from before 1928 until about the mid-1990s, when a modern oak lectern was acquired. Despite that, it cannot be said that its removal from the church would harm its significance as a Grade I listed church building. The lectern is visible in the first of the two photographs attached to this judgment at the far west end of the church; and I have seen photographs of it close up. In its present location, it takes up little space at the far west end of the church; and its retention there would not materially affect the parish's objectives in creating a flexible space for families and gatherings after services. The lectern is, however, far larger than is practical in this small village church; and because it is difficult to read from, it is effectively redundant (as evidenced by its present location). I agree with the sentiment expressed by the petitioners that a church is not a museum, and that it should not be used to provide storage space for redundant articles which serve no present, or any foreseeable, function or purpose. A lectern is not simply a piece of furniture but it is intended to serve as a reading-desk from which the scriptures are read in church. This particular lectern is no longer fulfilling that function in this church. It would be better placed in a church where it will be treasured and used as a working lectern: compare the bells in the closed church of St James, Church Kirk which was the subject of my recent judgment bearing the neutral citation number [2022] ECC Bla 3. I therefore accede to the petitioners' application for the removal and disposal of the Victorian lectern. I will impose a condition that the petitioners are to make all reasonable efforts to dispose of the lectern to another church within the Diocese and, failing that, to another church. If this is not possible, the lectern is to be disposed of as directed by a DAC officer.

Disposal

31. For these reasons, the court will grant a faculty for the proposed works as sought. The faculty will be subject to the following conditions:

- (1) When disposing of up to eight pews in order to create flexible space at the rear of the church, wherever possible the petitioners should select those pews in the poorest condition for disposal. One of the long pews should be used to replace the long pew with woodworm. For the avoidance of doubt, none of the pews from the chapel of Blenheim Palace, or the box pews, are to be removed.
- (2) A photographic record should be made, and deposited in the church records, of the current seating arrangements and all the items disposed of; and the church's inventory is to be updated accordingly.
- (3) The choice, and the finish, of the new chairs are to be agreed with a DAC officer in due course before they are purchased (although consideration should be given to the Theo chair with wooden legs).
- (4) The existing Osmond pipe organ is to be disposed of under the supervision of the Diocesan Organ Adviser. Its new location is to be notified to the National Organ Archive so that their records can be updated.
- (5) The petitioners are to make all reasonable efforts to dispose of the lectern to another church within the Diocese and, failing that, to another church. If this is not possible, the lectern is to be disposed of as directed by a DAC officer.
- (6) Before implementing the proposals, the parish are to notify the church's insurers; and they are to comply with any recommendations or requirements they may make or impose.

I give the petitioners permission to apply to the Court, by letter to the Registry, for further directions as to the carrying-out of this faculty, or for any variation of this faculty in the event of any difficulties presenting themselves.

32. In the first instance, the period allowed for these proposals to be implemented will be two years from the date of the grant of this faculty. That relatively long period of time is intended to reflect the measured approach contemplated by the parish, and will allow for a phased removal of the pews, and the introduction of the new chairs, so as to allow the parish a period to experiment with the new layout at the rear of the church. I would remind the parish that, notwithstanding the terms of the PCC resolution (which refers to the acquisition of up to 40 chairs), the petition, the NoA and the public notice, all refer to the introduction of 20 chairs; and this faculty is limited accordingly, so if any more chairs are required either a further faculty, or a variation to this faculty, will be needed. I should also point out that a faculty is facilitative and not directive: it permits the removal and disposal of up to eight pews, but it does not require all of them to be removed or disposed of.

33. In the usual way, I charge no fee for this written judgment. The petitioners must pay the costs of this petition, including any additional fees incurred by the Registry in dealing with this faculty application.

34. In conclusion, I must thank the parish, the objectors, the consultees, and the DAC for the evident care and attention they have devoted to this faculty application. Their work has certainly contributed to a fully informed analysis and decision. I must also apologise to the parish for the length of time it has taken me to produce this judgment.

David R. Hodge

The Worshipful Chancellor Hodge QC

Friday, 4 November 2022

I: General view of the west end of the church



II: The view towards the altar –
Showing the open-backed pews from the chapel of Blenheim Palace

