

**In the Consistory Court of the Diocese of Derby**

**In the Matter of a Faculty Petition**

**St John the Baptist, Tideswell**

**St John the Baptist, Tideswell**

**JUDGMENT**

1. Saint John the Baptist church in Tideswell is known as the Cathedral of the Peaks. It is Grade I listed, one of the most important churches in England and the most significant building in the village of Tideswell. It attracts over thirty thousand visitors a year. Its size and architectural style are in contrast to the surrounding buildings making it a focal point of the village. It occupies a slightly sloping site in the centre of the village. It is surrounded by an attractive, mown churchyard with a variety of trees and shrubs. The parish of Tideswell dates from 1252. Work on the current church building began between 1330 and 1340 and the building was completed around 1380. It is constructed, mainly from local gritstone (sandstone), although some limestone, from the immediate area, was also used. Much of the building is constructed in the Decorated style. The tower, probably finished last, shows elements of the Perpendicular style. In the second half of the nineteenth century, major renovation and restoration work were carried out under the guidance of the influential ecclesiastical architect, John D. Sedding.
2. The church was, until October 2023, heated by gas boilers feeding a large-bore piped water system. In October 2023, during a storm, the boiler room was flooded and the gas boilers damaged beyond repair.
3. An immediate request was made for an interim faculty to replace the gas boilers. This was on the basis that the church's insurers would only pay for like-for-like replacements. Replacement of gas boilers, without consideration of alternative options, is, however, not consistent with the Church of England's Net Zero Carbon Agenda. I was therefore unwilling to grant an interim faculty until the parish could demonstrate that it had had due regard to the guidance issued by the Church Buildings Council.
4. I was concerned that Ecclesiastical Insurance appeared to be willing to fund only like for like replacement of gas boilers. Further enquiries revealed that this is indeed the standard response, although, when pressed, there is no requirement that insurance money is used on a fossil fuel system, simply that payment has to be made on this basis, which is more understandable.
5. The initial advice taken by the parish, and set out in a Report dated 9<sup>th</sup> April 2024, concluded that because of the quality of the electricity supply to the church, any heating system reliant on electricity was not an option. As a result, there was little, if any, real engagement with the guidance. This was unfortunate.
6. The General Synod of the Church of England resolved in February 2020 that the church would work to achieve the position of net zero carbon by 2030. It was recognised that this was an ambitious target and would require significant effort.

7. Heating is the main source of carbon emissions for most churches and so decisions about replacement of heating systems will be the most important net zero carbon decisions that most churches will have to make. That is most particularly the case where fossil fuel boilers have failed and a new heating system is required.
8. This question has been considered by a number of Chancellors and the judgments were helpfully reviewed by the Deputy Chancellor of the diocese of Carlisle in *Re All Saints' Church, Scotby* [2023] ECC Car 2.
9. He summarises the current legal position, as contained in the Faculty Jurisdiction Rules 2015 (as amended), at paragraphs 26 and 27 where he says:
 

26. .... So far as relevant to faculty applications, these provide as follows:

(1) Rule 2.2 defines “net zero guidance” as:  
“guidance issued by the Church Buildings Council under section 55 of the Dioceses, Pastoral and Mission Measure 2007 on reducing carbon emissions”;

(2) Rule 4.2(2)(b) provides that at the initial stage of consultation with the DAC intending applicants must submit:  
“any advice or other material relating to the environmental implications of the works or proposals including, in the case of matters to which net zero guidance applies, an explanation of how the intending applicants, in formulating the proposals, have had due regard to that guidance”;

(3) Rule 4.9(7A) states that when the DAC provides its advice, this must “include a statement of—
 
  - (a) whether, in its opinion, the explanation under rule 4.2(2)(b) is adequate, and
  - (b) if its opinion is that the explanation is not adequate, its reasons for that opinion.”

(4) Rule 5.5(3)(e) provides that the same material as is mentioned in rule 4.2(2)(b) must be submitted with the petition;

(5) The specimen DAC Notification of Advice (Schedule 3, Form 2) requires the DAC to indicate whether or not the explanation as to how the Petitioners have had regard to net zero guidance is adequate, in its opinion. It provides as follows:

“The works or proposals involve matters to which net zero guidance applies  
(that is, guidance issued by the Church Buildings Council under section 55 of  
the Dioceses, Pastoral and Mission Measure 2007 on reducing carbon emissions). In the opinion of the Committee, your explanation of how, in  
formulating the works or proposals, you have had due regard to net zero guidance is/is not adequate. [and the Committee’s reasons for the opinion that your explanation is not adequate are:]”
27. In my judgment, the purpose of requiring the Petitioners to explain how they have had “due regard” to the guidance, and of requiring the DAC to set out its opinion on that explanation, is clearly to enable, and indeed to require, the Chancellor to make a decision on whether they have actually had due regard to the guidance.

10. He concludes, and I agree, that the role of the Court is to determine whether the guidance has been followed or, if not, whether the petitioners have established any cogent reason for not following the guidance. It is not an option for a parish simply to choose not to engage with the guidance at all.
11. The guidance published by the Church Buildings Council is contained in several documents. There is a general document entitled “*A Practical Path to ‘Net Zero Carbon’ for our churches*”, to which are added three heating specific documents: “*Heating Principles*”, “*Heating Checklist*” and “*Heating Options Appraisal*”. These documents, used together, are intended to enable and assist churches in deciding on the most appropriate heating system for their building.
12. In *Re All Saints’ Scotby*, the Deputy Chancellor helpfully distilled five key points from the guidance and I repeat them here in full. These key points were also adopted by Chancellor Ormondroyd in *Re Christ Church, Chineham* [2025] ECC Win 1.

40. In my judgment, there are five key points that can be distilled from the guidance, which accord entirely with reality and common sense. In my judgment these are the points which generally need to be considered in an application of this nature.

41. The first is that churches need to be properly heated. A cold church is unwelcoming. This is likely to deter people from attending and detract significantly from the ministry of the church. This is particularly the case in a part of the country with an ageing population, it being well known that older people tend to feel the cold more than younger people.

42. The second is that in assessing whether a church building is properly heated, it is necessary to consider the proposed and likely uses for the building. For instance, if the only proposed use is for formal Sunday services then the function of the heating system might be limited to keeping people warm in the pews. If, however, the building is to be used for more informal services such as Messy Church, or for wider community use, it may well be that some or all of the space will need to be heated.

43. The third is that any proposed heating system must be affordable. A requirement for a heating system that is not affordable is unworkable, because the church will not be able to instal such a system. In a typical case where the existing heating system has failed this will leave the church with no heating at all, and may lead to its closure. This point is clearly recognised in the guidance, to the extent that it acknowledges, with a degree of realism, that there will sometimes be little option other than to replace a fossil fuel burning boiler with another fossil fuel burning boiler.

44. The fourth is that the list of types of heating system available for churches is finite. In most cases it should be fairly easy to place these types of system, at least roughly, in order of merit, in terms of achieving the net zero target. A proper appraisal will generally involve considering each type of system in turn in order to evaluate whether it is an appropriate option for the particular church, with a view to finding the highest placed system in the list which meets the needs of the church.

45. The fifth is that once there has been a determination as to the appropriate type of heating system or, more specifically, whether the proposed system is appropriate, it is necessary to consider whether any conditions should be

imposed when granting the faculty. In particular, it is necessary to consider the ways in which any carbon emissions from such a system may be offset, however imperfectly, by other methods.

13. Returning to Tideswell, the failure of the Petitioners to engage with the Net Zero Carbon agenda led to the Diocesan Advisory Committee issuing a Notification of Advice dated 27 November 2024, which did not recommend the works for approval by the Court. The works were described as “To replace gas boilers”. The DAC recorded its reasons for not recommending as “Inadequate evidence of due regard for Church of England Net Zero Carbon guidance, as the PCC had not fully engaged with exploration of net zero carbon heating solutions.”
14. This non recommendation appears to have provoked further action from the Petitioners in the form of a Revised Options Appraisal which runs to 62 pages. It is undated, but was uploaded to the OFS, along with other documents, on 1 March 2025.
15. This Revised Options Appraisal does address the ideal, most energy efficient option, before then considering other options, in the light of a commitment to working towards net zero carbon by 2030. It is what should have complied at the outset. The Appraisal determines that the ideal system would be electrical, but concludes that this is impractical. It then considers Combined Heat and Power, Electric boilers, Air Source Heat Pumps, Air to Air Heat Pumps, Biomass boilers, Ground-source Heat Pumps, Localised Heating, Solar generation of electricity, Hydrogen ready boilers and conventional gas boilers. Its final conclusion is a request for a three phase programme:

Phase 1: Natural Gas Boilers – Utilizing £7,788.80 from insurance proceeds and £1,947.20 from 2025 fundraising to install ATAG SR60 boilers, or similar, if these become unavailable, to restore heat promptly and allow us to restore footfall and events in church. A green tariff will be used in order to minimise emissions. Restoration of our revenue streams would allow us to fund Phase 2 as swiftly as possible.

Phase 2: Air Source Heat Pump Integration – Securing £82,000 within two years to add Air Source Heat Pumps, leveraging adjacent power sources to achieve a low-carbon solution. Once installed, the natural gas boilers would only be used to top up the heating provided by the Air Source Heat Pumps.

Phase 3: Upon completion of the previous two phases we will have restored heat to the church and restored our revenue streams. At this point we will be in a position to formally commit to annually offsetting as much carbon as we can practically afford.

We respectfully request faculty approval to initiate Phase 1 immediately, halting ongoing deterioration and revenue losses, with Phase 2 to follow as funds are secured.

16. This analysis is of the type which ought to be carried out by every parish with a Grade 1 listed building which needs to replace its heating system. It enables both the DAC and the Court to consider properly the key points contained in the issued guidance.
17. It was following the submission of the Revised Options Appraisal that this petition was referred to me. It had not been reconsidered by the DAC and so the Notification of Advice was still a “Not Recommend”.

18. I took the opportunity to visit St John the Baptist, Tideswell, in June and the newly in post vicar, the Reverend Fiona Kouble, showed me around. I was impressed that there did now appear to be a genuine engagement with the zero-carbon agenda. Since the Notification of Advice remained one of not recommending the works, but the updated options appraisal had not been considered by the DAC, following my visit I requested a reconsideration by the DAC of its advice.
19. This occurred and, in due course, I was provided with a copy of the minutes of the DAC meeting. In essence, while impressed by the Revised Options Appraisal, the DAC was unwilling to change its advice because what was being requested was unchanged and the DAC was not convinced that there was a genuine commitment to proceed to the proposed Phase 2.
20. It is in that context and with the principles set out above in mind, that I have to consider this petition.
21. I am satisfied that the petitioners have now demonstrated that they have had due regard to the Net Zero Carbon guidance. I can therefore proceed to consider the proposal and, in so doing, I propose to utilise the five-point test detailed in *Re All Saints', Scotby*.
22. It is necessary that this church is properly heated. I accept that the lack of heating is likely to have deterred people from attending and has detracted from the ministry of the church in Tideswell, although the delay in determining this petition is predominantly due to the inability of the petitioners to demonstrate that they had had due regard to the Net Zero Carbon guidance.
23. I conclude that this is a church which is open and used on a daily basis. It is therefore the case that the whole space does need to be heated, rather than just those sitting in the pews during an act of worship.
24. I also conclude that there are difficulties in achieving an affordable and realistic net zero heating system in St John the Baptist, Tideswell. The current electricity supply is inadequate for a fully electric heating system and its improvement is not imminent. Such a system would also be extremely expensive. As the guidance acknowledges, on occasion, there may sometimes be little option other than to replace a fossil fuel burning boiler with another fossil fuel burning boiler.
25. The petitioners have now carried out a proper appraisal of the options available to them, considering each in turn and evaluating their suitability for the church. They have concluded that gas boilers are the only option in the short term, but that Air Source Heat Pumps can be added to provide the primary source of heat in the medium term.
26. In my judgment it is the fifth point which is the most important in this case. Namely, the consideration of what conditions should be imposed when granting this faculty. I have concluded that accepting the request for replacement fossil fuel boilers coupled with an intention to introduce Air Source Heat Pumps must come with conditions which reflect the concerns of the DAC.

27. In my judgement the appropriate conditions should be those which will ensure that there is progress towards what is described as Phase 2. Replacement of fossil fuel burning boilers cannot continue indefinitely and parishes must move away from reliance on them. I have therefore determined that a faculty will issue for the replacement of the gas boilers as follows: I will grant a time-limited faculty for what is described as Phase 1, that is the installation of new gas boilers, for a period of five years (to 2030). I will include conditions that the boilers should be hydrogen ready, the gas must be supplied on a green tariff and carbon offsetting must be put in place. In the five-year period I will expect progress to be made towards implementing Phase 2 (including improving the electricity supply) and also an exploration of the possibility of installing PV cells on the roof. A petition for an extension of the faculty will need to be supported by evidence.

23 December 2025

Timothy Clarke  
Chancellor