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*Faculty – Unlisted town church constructed in 1875-7 (with later tower and spire) – Faculty for major repairs, refurbishment, and re-ordering granted in 2021 on condition that none of the existing historic fittings were to be altered – Various historic fittings removed and sold at auction without faculty approval (including a gothic stone pulpit with alabaster columns c. 1908) – Application for retrospective permission for their disposal and sale – DAC recommending proposals for approval – Objections received from the Victorian Society which did not wish to become a party opponent – Faculty granted for the disposal and sale of all items, including the pulpit – Future lessons*

**Application Ref: 2023-086886**

**IN THE CONSISTORY COURT OF  
THE DIOCESE OF BLACKBURN**

Ash Wednesday, 14 February 2024

**Before:**

**THE WORSHIPFUL DAVID HODGE KC, CHANCELLOR**

**In the matter of:**

**St Luke, Blackburn**

**THE PETITION OF:**

**THE REVEREND JASON GARDNER (Vicar)**

**STEPHEN (Steve) THOMAS (Churchwarden)**

**Hearing date: Quinquagesima Sunday, 11 February 2024**

**Judgment date: Ash Wednesday, 14 February 2024**

This is an unopposed petition determined on the papers after an inspection and hearing at the church.

Objections were received from the Victorian Society but they decided not to become a party opponent.

The following cases are referred to in the judgment:

*Re St Alkmund, Duffield* [2013] Fam 158

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

*Re St Luke the Evangelist, Maidstone* [1995] Fam 1

## JUDGMENT

### Introduction and background

1. This is a sad tale which illustrates the problems that may arise when a church fails to observe the terms and conditions of a faculty granted by the consistory court. It has resulted in a substantial, and unnecessary, expenditure of time and effort on the part of the Archdeacon, the DAC, and the Registry, considerable inconvenience and delay to third parties, and a diversion of the focus of this remarkable church away from its impressive evangelising and missional activities to the less well understood, and unwelcome, structures of the faculty process. The parish accept that none of this should have happened; and they have proffered fulsome, and repeated, apologies for their mistakes, to which the Diocesan Advisory Committee (the **DAC**) recognise that they may, albeit unwittingly, have made some minor contribution. In answer to questions from the court during the course of the hearing of this petition, both of the petitioners, and their additional witness, said that they could not recall having ever read the faculty under which major re-ordering works have been carried out to this church, and they had therefore been unaware of the precise terms and conditions of that faculty. Clearly, such admissions have implications for the future training of clergy, churchwardens, members of Parochial Church Councils (**PCCs**), and others who may be involved in carrying out works under the authority of a faculty. But they should also lead this court (and others), when granting a faculty, to consider the need, in appropriate cases, to impose a further condition – which it had never previously occurred to me might be necessary – to the effect that: *‘Before commencing any of the works authorised by this faculty, each of the petitioners is to read this faculty and return a copy to the Registry bearing their signature and confirming that they have read this faculty and have understood its terms and conditions.’*

2. St Luke’s Church stands on the west side of the large industrial town of Blackburn in Lancashire, to the south of the A674 (Bank Top). Although the church was constructed by Stevens and Robinson between 1875 and 1877 (with the tower and steeple being added later, in c. 1908-10), it is not a listed building. In his oral submissions at the hearing of this petition, the Archdeacon of Blackburn, the Reverend Mark Ireland (the **Archdeacon**), suggested that this may have been because of the massive growth in church building in the middle of the C19<sup>th</sup>, with over 100 churches being consecrated in only 30 years in the Diocese of Manchester (of which this Diocese of Blackburn then formed part). This church is the tallest building in this part of the

town, and the church spire, which can be seen for at least three miles when approaching Blackburn, serves as one of the town's landmarks.

3. Following a major re-ordering and refurbishment, which was carried out in difficult circumstances due, first, to the COVID pandemic, and then to escalating construction costs and difficulties in sourcing materials, the church relaunched as a family-centred, youth resourcing church with a community event on 27 September and a homecoming service on 1 October 2023. This was made possible, in large part, due to the considerable amount of work undertaken by volunteers from the local community, who have worked for many hours to make their parish church building fit for its new missional purpose. At the hearing of this petition, on Sunday 11 February 2024, the Archdeacon rightly paid tribute to the visionary leadership of the Reverend Jason Gardner, who (with the help of his wife, Rachel) has helped to grow the congregation so that it is now the second largest in this deanery of Blackburn with Darwen (only surpassed by the Cathedral), describing it as a remarkable example of 'inner-city' renewal.

4. The major re-ordering of this church building was carried out pursuant to a faculty granted on 27 August 2021 (under application reference 2021-058600). The petitioners were: (1) the then incumbent (since retired), (2) a former churchwarden, and (3) the Reverend Jason, then a planting curate at Preston Minister. The Statement of Significance, prepared by Patrick Wilson Architects in support of this faculty application, is dated February 2021. It notes that the church building is unlisted; and states that although from the Victorian period, it has no specific architectural features or any elements of high significance, whilst recognising that the church building has communal and historical value as the local community had raised funds to help to build it. Specific reference is made to: (1) The reredos, located on the east wall of the Sanctuary, and depicting the Birth of Christ, the Last Supper, and the Ascension. Although this is not mentioned in the Statement of Needs, from the inscription the reredos dates from 1877, and so is contemporaneous with the construction of the church building. (2) The stone pulpit, then located in the south-east of the nave, and described as '*Caen stone pulpit ... built in memory of the first Curate-in-Charge, in approximately 1908*'. (3) The font and font cover, then located on the west side of the nave, near the vestry: '*The font is stone and was installed in 1939. It was dedicated in memory of Robert Entwistle, Verger of the Church for 28 years. The font cover is decorative timber.*' (4) The brass eagle, located in the Regimental Chapel. '*It reportedly weighs between 150 and 200kgs. It was given to the Church by Mr. James Walmsley (a former Church Warden) in memory of his wife.*' (5) The organ box: '*The church has a space where an organ once sat. The original organ was removed around 1985 and now only the façade of it remains with an empty space inside used for storage. The organ has been an electric organ, with speakers concealed behind the organ pipes.*' In addressing the significance of the proposals, the Statement emphasises that: '*The interior works to the existing church are of low-moderate significance as the fabric is to be repaired and the changes to the internal layout are reversible. Existing features are retained, and the proposal serves local needs.*' The summary at the end states: '*All of the proposed works and interventions have been designed to be as sensitive to the historic fabric as possible, while being able to read as modern elements. The proposed changes inside the church building have a high level of reversibility and don't permanently alter the existing fabric.*'

5. The short entry on St Luke's Church at page 130 of the volume of *Pevsner's Buildings of England* for *Lancashire: North* (edited by Clare Hartwell and Nikolaus Pevsner, and published in 2009) contains no reference to any of the fittings within the church building.

6. The DAC's Notification of Advice, issued on 3 June 2021, records that the DAC '*does not object to the works or proposals being approved by the court*'. In bold type at the top of the Notification

there appears the following statement, as required by rule 4.9 (7) (b) of the Faculty Jurisdiction Rules 2015, as amended (the **FJR**):

**This notification constitutes advice only and does not give you permission to carry out the works or other proposals to which it relates. A faculty must be obtained from the Consistory Court before the works or proposals may lawfully be carried out.**

In the body of the Notification, there appears the further statement (again in bold type):

**This advice does not constitute authority for carrying out the works or proposals and a faculty is required.**

7. The description of the works or proposals in the faculty that was granted on 27 August 2021 includes the following:

Repairs, refurbishment and re-ordering of St Luke's Church, including: New boilers, new nave floor covering inc. insulation between joists to improve thermal efficiency, re-ordered west end to include office/private worship space, kitchenette, Accessible WC and Creche/Welcome Area, New sockets throughout and new hydro zero boiler for new radiators ... Redecoration throughout church. South Transept organ casing (organ removed circa 1990) to be removed and replaced with ply faced partitions for chair and AV stack storage. New AV provision throughout, including new projector screen to be fixed behind Chancel arch and projector to be fixed to new low-lying metal bar above reredos ...

The works included the relocation of the existing font to the position shown on the proposed ground floor. So far as material, the annotations to that plan read:

The existing font is to be carefully relocated to the North East end of the Nave, adjacent to the Regimental Chapel. This move is necessary to allow the reordering of the West end, in order to create new kitchenette, Accessible WC and Welcome/Creche spaces.

The conditions attached to the faculty include the following:

2. None of the existing historic fittings in the church building are to be altered and the chancel is to remain as existing.

6. Every contractor or professional adviser engaged in respect of the works must be given a copy of this faculty and these conditions must be expressly drawn to their attention.

8. In setting out my reasons for granting the original faculty, I noted the following summary at the end of the Statement of Significance and Needs prepared by the church architects, Patrick Wilson, in February 2021:

All of the proposed works and interventions have been designed to be as sensitive to the historic fabric as possible, while being able to read as modern elements. The proposed changes inside the church building have a high level of reversibility and don't permanently alter the existing fabric. The new church

hall serves the need of the church and its youth focused mission. The facilities and spaces proposed will help the church thrive and continue to be a poignant figure in the local community. It is felt that the proposals align with the key values which the church are aiming to achieve and respect the existing fabric for future appreciation.

I recorded the following observations from the Ancient Monuments Society:

We find the documentation hugely encouraging and wish the scheme well.

We do find it astonishing that a building of this quality and punch in the townscape is neither listed nor even on any Local Lists.

That being said, the petitioners are approaching this scheme with the care that we would expect in the treatment of a listed building and they are to be thanked for that.

We would like to explicitly commend the design of the new church hall – its strong character and distinctive form is so much better than the tired functionalism of the present building (with rather pathetic peaked windows in a purely nominal echo of the host building). The newbuild will signal to the outside world the renewed confidence in the parish.

We are prepared to defer to the Victorian Society on aspects of detailing inside the church but warmly commend the principle of this project.

I also noted the following consultation response from the Victorian Society:

Although unlisted, the church is a distinctive building which contributes positively to the local built environment by its strong architectural features. Not least its imposing tower and distinctive windows at clerestory level, all of which give it some significance. With the Ancient Monuments Society we express our surprise that the church is not listed, even at a local level.

The Society appreciate the parish's desire to improve the church building and associated hall for current and prospective needs. The Design and Access Statement makes clear that consideration has gone into the design and proposed materials. It will be a highly distinctive in design and a vast improvement on the existing hall, an architectural addition worthy of its site. Not only does its design manifest the evident vigour of the parish, but by its architectural quality it shall hopefully also increase interest and appreciation of the church. The Society accepts the proposed hall.

In light of previous alterations to the church, specifically the alterations to the west end, the laminate floor and removal of pews which have already damaged the significance of the church interior, the Society concedes to the current proposals. We note in the documentation that none of the existing historic fittings will be altered and that the chancel shall remain as existing. In a church whose interior has been substantially altered it is important that what historic fittings remain are preserved. We welcome the proposed repair of plasterwork. I hope these comments are helpful and will allow the application to progress.

I concluded:

The proposals are clearly necessary and desirable; and, as the comments from the Ancient Monuments Society and the Victorian Society cited above make clear, they have been carefully drawn up so as to have the least possible impact on the church building. The replacement of the existing church hall will be a clear improvement on the existing building. The implementation of these proposals will serve to advance significantly the church's mission in the community.

It is clear from these summary reasons, and from condition 2 of the faculty, that in granting the original faculty, I attached considerable weight to the fact that these proposals had been carefully crafted so as to have the least possible impact upon the church building and its fittings.

9. During the course of carrying out the refurbishment of the church, the parish decided that certain of the church fittings had become surplus to requirements. They were encouraged in this view by observations made by members of the DAC during the course of their visit to the church on 14 June 2023. At a meeting of the PCC on 26 June, members voted to remove and dispose of various items of church furniture, although a decision on the pulpit was deferred until a further meeting of the PCC. This was held on 11 September, when a proposal *'to get rid of pulpit as it won't be used and sticks out'* was passed, with ten members voting in favour and two against. In the meantime, on 27 June, the church's then operations director, Sam Walmsley, had created an online faculty application, in the names of himself, the Reverend Jason, and Mr Stephen Thomas (as the sole churchwarden), seeking a faculty authorising the *'disposal of church furnishings including credence tables, lecterns and small tables'*. On 3 October, a revised form of petition was submitted seeking *'retrospective permission for the removal of the pulpit and disposal of church furnishings including credence tables, lecterns and small tables'*. This was considered by the DAC at their October meeting when they provisionally decided to recommend the revised proposal for approval by the court, subject to any consultation responses that might be received from the Church Buildings Council and the Victorian Society. I had directed that the latter should be consulted in light of their response to the previous consultation exercise that had been undertaken in connection with the earlier re-ordering proposals. Unsurprisingly, since they tend not to comment on proposals for unlisted church buildings, the Church Buildings Council were content to defer to the views of the DAC. I shall need to return later to the consultation response from the Victorian Society. Mr Walmsley has since ceased to act for the church as its operations director, and he no longer features as one of the petitioners. The relief sought on the petition has also been further refined. It now seeks retrospective permission for the removal and disposal by sale of several items from the church, including: (1) The stone pulpit (2) A hooded choir pew (3) A sanctuary lamp (4) Wooden and wrought iron altar rails (5) A brass eagle lectern (6) A bronze eagle lectern (7) A wooden bible stand/lectern (8) Two credence tables.

10. The reason for the revisions to the original draft petition to seek retrospective permission for the removal and disposal of the relevant items is as follows: In the course of preparing the church for its imminent relaunch events on 27 September and 1 October, Mr Alan Gregory, a member of the PCC and a longstanding member of the congregation, arranged for an architectural salvage company to attend the church, on 14 September, in order to view, assess, price, and remove any surplus items within the church it might wish to purchase. There is a lack of clarity in the witness evidence as to whether it was originally contemplated that the pulpit should be included in any sale but, upon discovering that this could easily be disassembled, the

purchaser indicated that it would be prepared to take the pulpit away at the same time as the other items. The Reverend Jason, who was attending a conference in London with his curate, was contacted by telephone, and he agreed to the sale of all the items at a total price of £2,000; and these were all removed by van that same day. The full history of events is set out in the Reverend Jason's witness statement:

In the period leading up to the October 2023 launch event there was considerable pressure to make sure all the work could be carried out, in particular the clearing of the church to enable the installation of the audio visual system within the chancel and nave.

Initially there had been no intention to include the removal of the pulpit as part of the refurbishment. However, towards the end of the reordering work, during a visit from the DAC on 14 June 2023, we started to consider the location of the pulpit within the newly refurbished church building. The DAC commented that with the removal of the organ fascia from the south transept, the pulpit now looked incongruous. We also recognised that the removal of the pulpit would not just provide more space for our worship team but also support a better location for the audio visual equipment.

The initial audio visual equipment plans had included a drop down screen from the ceiling of the chancel that would make use of a long or short throw projector. However, the implementation of this screen proved to be both impractical and financially prohibitive.

Changing the plans from a drop down screen required more space on the raised platform of the chancel to incorporate two 70 inch screens. We realised that the removal of the pulpit would provide this extra space and enable a greater symmetry within the chancel and sanctuary area.

Whilst the removal of the pulpit had not been part of the original scope, it was decided that this option should be explored and plans were put in place to seek a faculty to remove the pulpit. Our interim Operations Manager, Sam Walmsley, started a Faculty application for the removal and disposal by sale of several items within the church including the stone pulpit and, amongst other items, eagle lecterns that had been stored within the military chapel.

In order for the items to be removed and the church cleared in advance of the launch service, Alan Gregory, a member of the PCC and longstanding part of the congregation of St Luke's had already sourced a buyer - West Yorkshire Architectural Salvage - for the majority of the items, excluding the stone pulpit.

On 14 September 2023 West Yorkshire Architectural Salvage came to review the items which were being offered for sale. They agreed a price for the items and also said that they could take them immediately after agreeing the sale to prevent having to make a return visit. After looking at the pulpit and determining that it had been constructed on top of the stone chancel steps, the purchaser commented that it could easily be disassembled and that they would be happy to also remove it at the same time.

Stephen and Alan were working on the church building repairs that day whilst myself and my curate were attending a conference in London. After several phone calls between myself, Stephen and Alan, I agreed that they could remove it after securing a price for the pulpit and other items.

Having discussed the pulpit removal during the DAC visit and receiving a view from the DAC that the removal of the pulpit would only add value in terms of the aesthetics of the church, there was a wrong assumption that approval to remove it would be assured. I fully recognise that this was a naive decision on my part driven by the desire to progress the final elements of the audio visual equipment installation in order for the church reopening to proceed as planned. The removal of the pulpit allowed the retracking of the electrics in order to power stage equipment, namely the 70 inch screens installed in the south side of the chancel.

As soon as we realised that we had acted in error, Sam Walmsley made a retrospective Faculty application which was considered at a DAC meeting on 12 October 2023. The DAC recommended the application, subject to comments by the Victorian Society, but asked that we inform the reclamation company that permission for removal had not yet been fully granted and therefore they should hold the items in storage until a decision was made on the application by the Chancellor.

Unfortunately, due to a misunderstanding, the reclamation company proceeded to sell the items at auction [dates to be confirmed as far as we are aware of them]. We are very grateful for the support from the Registry team in assisting with the identification of the current location of the items.

As a team we deeply regret the impetuous nature of our decision. It came after a long haul of overcoming many obstacles in order to get the church mission ready and open to the people of Bank Top and the Galligreaves estate. The church is thriving and we have welcomed hundreds of people into our services alongside hosting activities and for our local Anglican primary schools and High Schools.

Although we had not entertained removing the pulpit until the DAC visit, we do believe its removal has enhanced the aesthetics of the church. Opening up that area of the building helped provide space for our audio visual equipment so that the Chancel platform is well structured. This in turn, twinned with our new lighting system, has provided a new focus for the Sanctuary area and notably the reredos which can now be lit up, capturing the eye upon entry to the nave.

As I noted in my previous letter, we deeply regret the amount of extra work this has caused for the DAC, the Registry team and the Consistory Court. This was not our intention and we apologise that our lack of understanding meant that we were not aware of the full ramifications of our actions. Following this situation we have refreshed our training, and that of our Church Wardens and PCC, in the Faculty regulations to ensure that these are fully followed in future.



11. Mr Gregory's account is similar (although he says that it was originally contemplated that the pulpit might be among the items to be purchased by the salvage company):

The original opening date, following the extensive renovations, was to be 28 November 2021 with the hall following on in February 2022. Unfortunately, due to construction issues and price increases, the opening dates were consistently put back and money was running out. As a result a lot of the building work fell onto volunteers like myself. So it was that a date was set for a public opening on 1 October 2023 preceded by a civic event on 27 September 2023.

Up against time deadlines, volunteers were working extremely hard to at least have the church looking at its best for the openings, although by no means what the original plans were intended to show. At this point I contacted West Yorkshire Architectural Salvage to discuss with them the purchase of some of our items. Included in this was the pulpit. At this point I honestly believed the faculty was at the DAC and had been approved, so therefore it was only a matter of time before we received approval. I explained the situation to the antiques company and they were willing to wait but following discussions with Rev. Jason it was agreed to sell the items. This discussion was driven by the time pressures of a project that was already running 22 months late. The decision to sell is now one I deeply regret and still have sleepless nights over.

...

The motivation behind the removal of the pulpit was not just to balance the view of the altar but it facilitated the audio-visual system that is necessary for today's needs and is what today's generation expect: if only the budget would have allowed, we'd have had a pull down screen as originally intended.

We all have a duty of care to preserve the past, but it is a difficult balancing act. When the pews were removed in 2005, there were objections. In 2005 the DAC stated that the only features of the church worthy of note were the Victorian floor tiles and the reredos. These have been kept intact along with the font and the war memorial from St. Philip's.

In conclusion, I deeply, deeply regret the removal of the pulpit without the correct permissions and that it has caused so much hurt and massive inconvenience and legal consequences.

12. There is a similar statement from Mr Thomas, the churchwarden, who reiterates that they all thought that a faculty for the removal and disposal of the pulpit was *'just a formality as it was the Chair of the DAC who in June 2023 had said that to balance the front of the church up we needed to remove the pulpit; he explained that we had the essential liturgical items in place in the Altar, Reredos and Font that had now been relocated to the front of the church, and that the pulpit put the front of the church out of balance'*.

13. When the removal of the items of church furniture and fittings from St Luke's first came to the attention of the DAC, the Registry advised that the parish should put the purchaser on notice that any onward sale of any of these items should be put on hold pending the determination of a retrospective faculty application authorising their removal and disposal.

Despite what I am told were verbal assurances that the items were in storage, and would not be disposed of, and that no injunction was required, it subsequently came to light that certain of the items purchased by the architectural salvage company were put up for auction, and sold, at an annual auction sale of architectural antiques held on Wednesday 11 October. As described in the respective sales invoices, these items comprise: (1) the pulpit (sold for £660, plus buyer's premium and VAT); (2) a gothic brass eagle lectern (sold for £3,000, plus buyer's premium and VAT); (3) a gothic bronze lectern (sold for £2,600, plus buyer's premium and VAT); and (4) a hand carved, gothic oak two-seater settle/pew with gothic carved fretwork canopy (sold for £350, plus buyer's premium and VAT). The total price achieved at auction on the sale of these four items alone represents a considerable profit to the salvage company on the total sum of £2,000 that it paid the church for the 'job lot' of items that it took away from the church on 14 September. This should stand as a warning to other parishes against taking the easy course of seeking to 'clear' a church of redundant and unwanted items in one fell swoop (even with faculty consent), and to Chancellors (in the unlikely event that such a warning were needed) of the desirability of including appropriate conditions governing the method of sale within any faculty authorising the disposal of such items. It has taken time and effort on the part of the Registry to locate the buyers of these items; to warn them (by appropriate emails and letters) that, given the circumstances of the sale without faculty approval, title has not validly passed to them, and that they should retain the items pending the final determination of this faculty application; and to notify them of their right to join in these faculty proceedings as interested parties. There are other items (such as the altar rails) which have been removed from the church but do not appear to have been sold at auction with the items the Registry have traced, but their whereabouts are not known.

14. I commend the various purchasers for the patience they have shown in co-operating with the Registry over the retention of these items pending the final determination of this faculty petition. The purchaser of the pulpit, in particular, has demonstrated considerable understanding since this was purchased with a view to being shipped to Ireland to adorn a church there; although, by the second half of January 2024, the Registry was receiving repeated requests either to confirm the sale of the pulpit and its onward transport to Ireland, or to arrange to collect the pulpit and reimburse the purchase and transport costs, or to authorise its storage locally within the UK and cover the costs. I understand from the Registry (although this is not formally in evidence) that the buyer of one of the eagle lecterns has claimed to have spent over £3,000 in renovating the item and to have had a buyer lined up for it; and that one of the purchasers has confirmed that he understands the importance of a faculty authorising the disposal of church items but says that he was unaware that the items had come from the Church of England or, if they had, he had assumed that the faculty process had been completed. (In that connection, I note that the invoices for only two of the four items describe the provenance as '*removed from St Luke's Church, Blackburn*').

15. Given the inconvenience being caused to the purchasers of the various items, I exercised my case management powers, under FJR 18.1 (2) (a), to shorten the period for the display of the usual public notices to 21 days. These were displayed during the period from 25 November to 17 December 2023 (inclusive). No objections were received in response to the public notices.

16. It is against this background that I turn to relate the progress of this confirmatory faculty application and to set out the various representations that have been received in connection with it.

### The Updated Statement of Need

17. This was uploaded to the supporting documents and images section of the online faculty system (the **OFS**) on 3 October 2023. It reads:

St Luke's has recently been in a period of major re-ordering and refurbishment. This has been taking place as a result of a transition into a Youth Resourcing Church and a lively, thriving church community in Bank Top. The work has included the building of a new fit-for-purpose church hall, removal of fixtures in the main church as well as repairs and upgrades to the electrical installation, paintwork, roofing and flooring of the building. Whilst this work has not been without its challenges, it is now almost complete and the launch of the new space was celebrated by a Homecoming Service on Sunday 1 October 2023 attended by over 230 people.

During the completion of the works previously given permission under a faculty, a small number of additional works were identified. We are therefore requesting retrospective permission for their completion as they were undertaken whilst contractors were on site. The matters requiring retrospective permission are the removal of the pulpit and the disposal of a small number of freestanding items of liturgical furniture.

#### **Removal of the Pulpit**

The faculty granted for the works in the church did not include the removal of the pulpit which was positioned on the right-hand side of the front part of the nave. A conversation with the PCC has identified that this may have been an oversight as at the time of application the focus was on the removal of the organ which was previously located behind the pulpit alongside other changes. However, following the removal of the instrument it was clear that the pulpit was now not in-keeping with the surrounding features of the building. Furthermore, sight lines down the church were interrupted for both members of the congregation and those leading services. It might be suggested that the pulpit appeared as an island detached from all other architectural highlights. The PCC are of the opinion that the pulpit is of similar heritage as the reredos, but the large distance between the two items meant that this was no longer clear. In addition to the pulpit becoming an isolated installation, the re-purposing of the building into a Youth Resourcing Church meant that the style of worship no longer required such a formal space for preaching. It was clear that the pulpit would therefore be redundant and unsuitable for the new approach to worship in the church. The PCC resolved that it would be much preferred for the pulpit to be used by another place of worship where its design and style would be appreciated and useful.

By removing the pulpit, the stage area at the front of the church has become an open plan space which is fit-for-purpose. In addition, the sight lines are clear for worshippers and leaders alike which has enabled the church to realise its vision and affirm its worshipping style as it looks to growth and a thriving future.

## Disposal of Freestanding Liturgical Furniture

Upon returning to using the liturgical space, it was clear that a small number of items of freestanding furniture were no longer required. With a clear transition to an alternative worshipping style, items such as credence tables, other small wooden tables and two lecterns were no longer necessary for the life of the church. The PCC were not aware of any major historical significance and did not wish for the furniture to remain unused in a corner of the church space. It has been agreed that any memorial plaques will be retained so that they can be displayed somewhere else in church at some time in the future.

A decision was therefore taken to remove the freestanding furniture with the intention of them being used by other churches for their intended purpose.

### The petitioners

18. On 14 November 2023, the Reverend Jason wrote to the Consistory Court as follows:

I am writing to you to express my sincere regret at the ongoing issues caused by the removal from St Luke's, Blackburn, of the pulpit, lecterns and hood of the Bishops chair without waiting for faculty approval.

Having been in regular contact with the Diocese, I am fully aware of the extent of the impact this has had, and how much work is going on in the aftermath to undo some of the harm, for this I am truly sorry. It was never my intention to operate outside of the correct faculty procedure. I do hope that this letter will go some way to conveying how seriously I am taking this and how deeply felt my apology is.

As you are no doubt aware, myself and my wife Rachel, moved to Blackburn with the aim of delivering a vision to bring about new growth at St Luke's. Our church serves a deprived parish of Blackburn, which includes the Galligreaves estate, and had seen a significant drop in congregation numbers over recent years. When the Bishop of Lancaster invited us to consider leading St Luke's, we were keen that this would not be a church that closed its doors to the existing congregation or the community.

Over the two years since we arrived, it has been a privilege to see many of the inherited congregation serve alongside us as we have sought, with God's aid, to breathe fresh life into the Church and the surrounding area. From starting with around 30 people two years ago, last Sunday saw our numbers at over 150 people in the building with 54 of those being under the age of 16. Initially we were unable to make use of the church building and all our worship activities and youth groups had to be held in the local high school. We have recently been able to return to the St Luke's building and, since reopening the doors, have seen a leap in attendance. It is so exciting to see so many people walk into church on a Sunday and count St Luke's as *their* church.

It was imperative that we were able to make the church building 'mission ready' so that it was able to embrace local people of all ages, and it has been an

arduous journey to see the completion of the new church hall and the refurbishment of the main church. There have been many hurdles along the way and at times it has been a painful process to get back in the building and really start to serve the community. However it has all been worth it to see the church become a beacon of hope: running Alpha courses; managing drop ins for young people and those in recovery; opening up as a ‘community warm space’ during the winter months and hosting the local council and the Police and Fire Services as they run community clean ups in the area.

I appreciate that this does not excuse our oversight regarding this issue and the need to ensure we had faculty approval. We want to express how sad and sorry we are that our eagerness to bring everything together to relaunch back in church on our ‘Homecoming Sunday’ meant we acted rashly. This is my first post as the lead Priest in a parish and the fault lies somewhat with my naivety and my enthusiasm to get back in the building after a tortuous wait.

Since realising our mistake, efforts have been made to try to identify the location of the items. I am extremely grateful for the support of Jen Read, DAC Secretary and Lisa Moncur, Diocesan Registrar, for their support with this. I am aware that Lisa Moncur has written to the company who purchased the items to ensure that they are aware of the legal status and I am hugely appreciative of the support that she has offered in this regard. I have ensured that St Luke’s PCC is aware of the situation and I am looking to ensure that there is training in place for both myself and the PCC to ensure that we are refreshed on the faculty requirements so as to ensure that such a mistake cannot occur again in future.

Thank you for taking the time to read this letter. If I can provide further clarity or assistance in this matter please do not hesitate to contact me.

*The Victorian Society*

19. Mr James Hughes, Senior Conservation Adviser to the Victorian Society, responded to the DAC consultation request by way of email dated 23 October 2023 as follows:

When consulted on proposals for a new hall in 2021 we expressed surprise at the fact that the building was not listed. Looking at images of the church interior prior to its substantial reordering it seems clear that the building was (though not now) of listable quality. As we also noted in 2021, the retention of the church’s surviving historic fittings is of absolute primacy. Of these the pulpit, font and fantastic reredos are unquestionably the most impressive and important. The 2021 application documents explicitly excluded the removal of the pulpit (and other historic fixtures) and it seems unlikely that contractors would have undertaken such a significant intervention without specific instruction to do so. We would welcome an explanation therefore of precisely how this has occurred. The building may not be a listed building, but the unconsented removal of the pulpit still represents a significant abuse of the system that cannot pass without acknowledgement.

The effect of its removal is pronounced. Not only is this one of the building's foremost liturgical pieces, it is a dignified and impressive work of design and craftsmanship, with pleasingly pronounced mouldings and tracery. The Statement of Needs suggests that its evident relationship with the reredos was hard to appreciate, but we disagree: indeed, the photographs uploaded to the application, particularly those that illustrate the entirety of the east end prior to the removal of the pulpit, amply demonstrate the effect and relationship of the triumvirate of font, reredos and pulpit.

Their ensemble quality was notable and significant. In addition, as the Statement of Significant notes, the pulpit was installed as a memorial in perpetuity to a person who contributed to the church and its people, a lasting contribution that is by no means diminished by the time that has passed since. It is the pulpit that is the memorial – not the plaque that accompanies it – and as such it should be valued and retained. For a variety of reasons then our opinion is that the pulpit is impressive, important and makes a notable contribution to the character and appearance of the interior, and to the ensemble quality of the other fine historic fixtures that remain.

I'm afraid we are entirely unconvinced by the arguments put forward for the pulpit's removal. It occupies a limited footprint on the very periphery of the threshold to the chancel. It is hard for this reason to see how the pulpit could be considered a significant imposition, especially now that the interior has been almost entirely cleared and levelled. The argument that the use and flexibility of the interior relies on the removal of the pulpit seems in our view to be untenable. And while the present church family may not wish to use it regularly, we should bear in mind that future congregations and communities may well value it, both artistically and practically.

We therefore oppose the removal of the pulpit and advise that it is reinstalled.

While the brass eagle pulpit may not have the artistic quality or make quite the architectural contribution that the pulpit makes to the church interior, it is itself also a memorial, and for that reason is not something to be dispensed with unless there is a genuine and pressing need to. It is also a very impressive piece of metalwork, and the eagle's pose is unusually dynamic and dramatic. In the context of a substantial church building there seems little benefit spatially in removing it (could it not simply remain in the Regimental Chapel?) and it is easy to see how it could from time to time serve a practical purpose, both now and in the future.

The Statement of Significance offers no insight as to the age or significance of the wooden eagle lectern. What is its provenance? Is it, too, a memorial? In the absence of any information about it we cannot comment on or concede to its removal.

May I ask what has occurred to the canopied stalls that once sat in the chancel? Were these removed as part of the reordering works consented in 2021? If so, was the removal of the canopied stalls specifically covered by that faculty?

I trust that this advice is of assistance to the DAC.

20. In light of this consultation response, I directed that the Victorian society should be given special notice of this petition pursuant to FJR 9.3. This was done on 27 November 2023. On 18 December, the Society responded by email stating:

We are grateful for the opportunity, but do not wish to become a party to proceedings in this case, a step the Society takes only exceptionally rarely.

We do though wish to maintain our objection to the application, for the reasons articulated in my letter of 23 October, a copy of which I attach to this email. The pulpit is an impressive, important piece, the permanent removal of which would irreversibly harm the character and appearance of the church interior; and the justification provided for its removal is unconvincing. We reject any notion that the retention of the pulpit would undermine or appreciably harm the vibrancy and efficacy of the present church community and the undeniably excellent work that it does.

We regret not having received any response from the parish that seeks to actively address any of our questions or concerns.

21. As part of my directions prior to the hearing of this petition, I directed that the Victorian Society's representations should be served upon the petitioners if that had not already been done. At the hearing of this petition, I directed the Reverend Jason to their objections, and invited him to comment upon them. He accepted that he had been remiss in approving the removal of church fittings and items of furniture from the church without first seeking faculty approval, which had been deeply unfortunate. He took issue with the Society's comments on the church's arguments for the pulpit's removal: The church needed the space created by the removal of the pulpit for their gatherings and other events. Its removal had improved the aesthetics of the east end of the church, drawing the congregation's attention to the chancel and the sanctuary, and improving their views of the reredos. It was unlikely that future generations would ever want to use the pulpit now that the church was in use as a youth resourcing church because of changes in the way the Word was now taught. Indeed, pulpits were no longer necessary to enable preachers to be heard at the rear of a church because of the availability of modern sound systems.

22. At the hearing of this petition, the Archdeacon pointed out that he had written to the Victorian Society on 23 November 2023 but, sadly, he had received no response. His letter reads as follows:

Thank you for your comments on the faculty proposals for retrospective permission for removal of the pulpit and eagle lecterns. I am writing to you as Archdeacon of Blackburn, as St Luke's is in my archdeaconry, and on behalf of the DAC.

First of all I want to express my profound apologies for the removal of the pulpit from St Luke's, Blackburn without a faculty. I am afraid that we as a DAC share some responsibility with the PCC for this serious mistake, and so I am writing to you both to explain what happened and assure you that we have located the pulpit and other items and made clear that they are subject to faculty jurisdiction and must not be moved pending the decision of the Chancellor as to whether or not to grant a retrospective faculty for their removal.

If I may I would like to begin my explanation with a bit of context. Despite the best efforts of its previous incumbents and congregation, Blackburn St Luke was on the verge of closure when I became archdeacon in 2016. A previous reordering in 2005 which removed all the pews, was an attempt to reinvigorate the church, partly by using the nave as an overflow classroom for the neighbouring St Wilfrid's Church of England High School. This arrangement came to an end with the extension of the school facilities, which led to further uncertainty about the future of St Luke's church, as a small and predominantly elderly congregation serving a very deprived community was left with sole responsibility for maintaining a huge building which was in poor repair.

In 2019, the diocese was fortunate to receive some funding from the Church Commissioners to create a resourcing youth church at St Luke's. The funding paid for the new church hall and a further reordering of the church which included to remove the redundant organ screen, reorder the west end narthex and move the font from its original position at the west end to the north east of the chancel. The result is a large flexible space which can be used for large conference-style meetings, café-style services and energetic youth events where young people can use the building without fear of breaking anything important. The young people who attend St Luke's are largely from non-church backgrounds and the current church arrangement is helping to break down barriers and pre-conceived notion of what church is and should be. The revitalised space and new hall have been a tremendous success with over 200 people attending the re-opening of the church last month.

The church is now used daily for groups of young people to meet, be involved in social outreach and hear the gospel. The team at St Luke's is working hard to reach more young people in an area of severe deprivation.

The memorial chapel was left as existing as a link with the history of the church. It was, however, full of unused pieces of furniture, such as the eagle lecterns so could not be used as the quiet, reflective space envisioned in the original proposals. The DAC Secretary advised that a faculty would be needed to dispose of these items.

The whole DAC visited the church just before the reordering works had been completed. Viewing the reordered chancel area it commented that the pulpit now seemed incongruous in the cleared setting and the DAC advised the leadership team that the chancel would look better aesthetically without it, and that its removal would provide more flexibility for the contemporary style of worship which is now drawing many new people to worship. We of course explained that they should apply for a faculty to remove and dispose of the pulpit at the same time as the faculty for the disposal of the lecterns. The vicar and leadership team of the church are rather better at cutting edge evangelism and youth ministry than at understanding the finer points of faculty law, and in a misguided but well-meaning act, took this to mean that they could go ahead with removing the pulpit and the eagle lecterns and did so.

The church building is not listed, being part of the massive church building programme of the Victorian period in Blackburn. Many of these fairly unremarkable 19th century churches have since been demolished as part of the changing landscape



of Blackburn, with the total disappearance of the settled cotton mill communities the significant growth of other faith communities in the town – Blackburn with Darwen now has the highest concentration of those identifying as Muslim of any English borough outside of London. St Luke's church building could so easily have followed so many others and been demolished, had it not been for the prayerful vision and foresight of the local incumbent who saw the potential for St Luke's, situated next to a large Church of England Academy and down the road from Blackburn College to become a youth resourcing church.

The exciting appointment of the Revd Jason Gardner to lead this church along with his wife Rachel who is national director of YouthScape (a national Christian youth trust) together with the whole-hearted support of the small residual congregation, has seen a remarkable renaissance of Christian life in this part of Blackburn which is now reaching and serving an area of huge deprivation in the name of Jesus Christ.

I attach a number of photographs which may be helpful in illustrating the interior of the church with and without the pulpit.

- St Luke's chancel and pulpit prior to the current building project
- St Luke's chancel on the day when the DAC visited, the pulpit left in situ
- St Luke's chancel with the pulpit removed
- St Luke's Homecoming service

Whilst I deeply regret that the leadership team acted precipitately in removing the pulpit, the DAC had offered its full support of the proposals prior to the works and still support the proposals. I humbly request that the Victorian Society reconsider their opposition to this project and recognise that a Victorian church which attracts scores of adults and children every week to worship God and enjoy this connection with a long history of worship on the site is a far better future than for another Victorian church building to become disused, vandalised or demolished. Within a short distance of St Luke's there is the highly listed CCT church Holy Trinity with magnificent Victorian interior, forever preserved by its status as a closed church in the care of the CCT. In Blackburn we therefore have a fine Victorian museum piece. I appeal to you for your understanding and support to let St Luke's adapt its building as it wishes to enable it to grow and thrive as an open church with a successful mission to the young people of Blackburn.

We will await the decision of the Chancellor in this matter and will work with the PCC to make sure his judgement is followed carefully.

I have attached images of the photographs referred to by the Archdeacon at the end of this judgment.

23. As required by FJR 10.5 (2), in reaching my decision on this petition, I have taken the Victorian Society's objections, and the responses of the petitioners and the Archdeacon, into account.

The purchasers

24. In addition to the Victorian Society, I directed that special notice should be given to the known purchasers of the various items of church furniture. On 27 November 2023 the Registrar gave special notice to the purchasers of the two eagle lecterns, the canopied oak two-seater settle/pew, and the pulpit. Each of the letters included a statement along the following lines:

As you are in possession of items that have been removed from a church without faculty permission you are an interested person in the application for a retrospective faculty order for their removal and disposal. This application is being expedited as a matter of urgency. I attach a copy of the petition. You should be aware that the Victorian Society had objected to the removal and disposal of certain items in 2021 when the faculty order for the re-development of the church was granted and a condition was added to that faculty such that alterations to the chancel were prohibited.

As an interested party I am inviting you to consider whether you would like to join the proceedings as a party in support of the application. Alternatively, you may wish to offer a letter of representation to the Court in support of the application. I attach a booklet on costs which is a standard publication. You may also wish to take your own legal advice.

The Chancellor (acting as Judge) requires a response within 21 days of this letter. If we do not receive a response within that period we will assume that you do not wish to become a party and have no representations to make. As mentioned, the Court intends to deal with this matter as expeditiously as possible after this period of 21 days, but in the meantime the Court requests that you store the items carefully until a decision is reached.

25. The only substantive response to these letters has been a letter, dated 12 December 2023 and addressed *'To Whom It May Concern'*, from Father Charlie Byrne PP who, as the Parish Priest of the Churches of St John the Baptist, Carrigart, and Stella Maris Downings, in County Donegal, in the Roman Catholic Diocese of Raphoe, is the ultimate purchaser of the pulpit. This letter reads:

I, the Parish Priest of Mevagh, undertook the restoration of our beautiful neo-gothic Roman Catholic Church (1886-2023) in 2010. At that time we installed a wooden ambo as a temporary measure and have been searching since for a more solid permanent structure that would befit the sanctuary and be a worthy place from which to proclaim the Word of God.

Having found and purchased this ambo at auction, we were delighted and looking forward to installing it in our church.

This latest news has come as a great shock to us and a major disappointment as we had purchased it in good faith and our wish is that this matter can be resolved in our favour.

For those who may not know, an *'ambo'* is an elevated lectern or pulpit, typically located in the nave before the chancel, and raised on two or more steps.

*The DAC's Notification of Advice*

26. The DAC considered this faculty application at their meeting at Whalley Abbey on 13 December 2023. This was attended by the Chair, both Archdeacons, and 14 other members of the DAC. Paragraph 4.2 of the minutes of the meeting records the following by way of background:

An application for retrospective permission for the removal and disposal of the pulpit, two credence tables and two eagle lecterns (one bronze and one brass) was recommended at the October meeting subject to comments from the Victorian Society. The Victorian Society opposed the removal and requested that the pulpit is reinstated. It was subsequently discovered that a hooded choir stall which was supposed to be reinstated in the sanctuary had also been disposed of, as had the altar rails, a sanctuary lamp and a bible stand/lectern. The reclamation centre had promised to store the items but, instead, all items were sold at auction. The items have been found and are being held. The Chancellor has issued instructions that a reduced public notice is issued prior to DAC advice (expires on 17 December); the Victorian Society is to be asked whether they wish to be party opponents; and the CBC is content to defer to the DAC.

27. The NoA is dated 15 December 2023 and recommends the proposals for approval by the court, following consultation with the Church Buildings Council and the Victorian Society. The DAC advise that the proposals are not likely to affect the character of the church as a building of any special architectural or historic interest. The NoA records that objections have been raised by the Victorian Society and have not been withdrawn. The DAC's principal reasons for approving the proposals despite those objections are:

1. The Committee had no objections to the removal of the pulpit as this had been suggested to the incumbent at a DAC visit in June 2023. The removal of the organ screen as part of the reordering created an open chancel area which left the position of the pulpit incongruent with the open space. It did, however, regret that this suggestion was taken as permission by the incumbent to remove the pulpit without faculty consent and recognised that the need for a faculty should have been emphasised more strongly when its informal advice was given.
2. The Committee recognised that, as the style and type of worship had changed significantly since the reordering, many of the items disposed of without permission were no longer needed for liturgical worship in the church. They were being stored in a side chapel, unused. Their disposal means that these items can be repurposed for regular use in other Christian churches.
3. The Committee noted that the clearing of the side chapel has created a quiet space for prayer and reflection where before it was a cluttered, storage area.
4. The Committee noted that the incumbent and the PCC were deeply sorry for their error in disposing of the items without permission and recognised that it was a genuine mistake. A training session on the Faculty Jurisdiction

Rules is to be offered to the PCC and leadership team so this mistake cannot happen again.

5. The Committee noted all the good missional work being done in the parish and that St Luke's church building is once again beginning to thrive when a few years ago, it faced closure. The Committee wished to support this missional growth, and could recognise that lessons had been learned. It was therefore content to recommend the application.

### The legal framework

28. At this point, it is convenient for me to set out the legal framework by reference to which this faculty application falls to be determined. Although the legal title to the church's movable assets is vested in the churchwardens, they may only sell, or otherwise dispose of, them with the consent of the PCC, and after a faculty authorising such a sale or disposal has been granted by the consistory court. Although not relevant for the purposes of the present faculty application, special rules apply to the sale of 'church treasures'. The disposal of any church asset is unlawful in the absence of a faculty. Since St Luke is not a listed church building, what have become known as the *Duffield* guidelines (so named after the decision of the Court of Arches in the leading case of *Re St Alkmund, Duffield* [2013] Fam 158), as explained and expanded in later authorities, have no application to the present case. Instead, this petition is governed by the ordinary presumption in faculty proceedings in favour of things as they stand, or, in the case of a confirmatory faculty such as the present, as they stood before the unauthorised sale or disposal. Thus, the burden rests on the petitioners to demonstrate a sufficiently good reason for the court to authorise the removal and disposal of these items of church furniture and fittings. *Hill: Ecclesiastical Law*, 4<sup>th</sup> edn. (2018), observes, when addressing the reordering of a church (at para 7.136, but omitting foot-notes):

Changing patterns of worship may dictate the relocation or removal of fixtures, fittings, and ornaments in a church. A balance must be struck between the dynamic quest for change and the dogged retention of the present or the half-remembered past. The Church of England remains a broad church, and one that has been constantly evolving. Accordingly, a guiding principle when addressing the reordering of the interior of a church is that any changes should be reversible. The present generation is but the temporary custodian of the fabric and fixtures of the church. Each case will fall to be determined on its merits ...

It is also worth remembering the perceptive observations of Chancellor Singleton QC (in the Diocese of Sheffield) 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 ... Within the church the preservation and development of beauty and history is undertaken to the glory of God.

Preliminary determination and directions

29. Having worked my way through all the many emails and the documents on the OFS relating to the present and (so far as material) the earlier faculty application, on 25 January 2024 I indicated to the Registry that I was satisfied that it was appropriate to grant a confirmatory faculty authorising the removal and disposal by sale of all the items of church furniture, with the possible exception of the pulpit (about which I remained undecided). I was also satisfied that it was appropriate to announce this decision as soon as possible, in order to achieve clarity for all affected by it. A formal faculty to that effect was issued on 30 January 2024; and the purchasers of those items of church furniture have all been notified accordingly. My reasons were that I was satisfied that the petitioners had made out a sufficiently good reason for the court to authorise the removal and sale of all these items, with the exception of the pulpit. I was satisfied that the style and type of worship in this church had changed fundamentally since the reordering and the relaunch of this church as a youth resourcing church, and that none of these items were still needed for worship in this church. Nor could I envisage any of such items ever being needed by this church in the foreseeable future. Whilst I regarded it as deeply regrettable that the removal and disposal of these items had taken place without the prior authority of any faculty, and in breach of the express conditions of the extant reordering faculty, I noted the heartfelt regret, and apologies, expressed by the parish. I was satisfied that this was not a case of any deliberate flouting of the court's order and authority. Whilst I did not consider that the parish should be in any better position, as a result of their unlawful conduct, than if they had sought faculty approval prior to the unlawful removal and sale of these items, I took the view that I could not ignore the fact that such removal and disposal had taken place, that apparently innocent purchasers would be affected if the court failed to ratify the sales as soon as possible, and that wholly disproportionate costs of rectifying the situation might fall to be borne, either by the parish, or by the minister and the volunteer workers who had been responsible for the removal and sale of these items, when all they had been doing had been motivated by a genuine love for the church and a wish to advance its mission, and in a desire to get everything ready for its imminent launch events, and in the genuine belief, instilled in them by remarks from responsible DAC members during their visit to the church in June, that the grant of any necessary faculty was a mere formality. At the time, I had understood that the items had been sold for £2,500 (rather than £2,000), and I was therefore conscious that this was considerably less than the prices subsequently achieved for those items that had been resold at auction. I was also conscious that had I been authorising the prospective disposal of these items by sale, I would have attached conditions requiring them to be sold at the best price reasonably obtainable for each item individually, and also regulating the method of sale, rather than by allowing them to be sold as a *'job lot'*. Nevertheless, given the apparent good faith of the persons responsible for the decision to sell these fittings and items of church furniture, and the circumstances in which they had done so, I did not consider it appropriate to refuse to confirm their actions solely because they had acted unwisely in agreeing a poor price for these items.

30. Having now visited and inspected the church, seen and heard the evidence of the Reverend Jason, the churchwarden, and Mr Gregory, and received the powerful representations of the Archdeacon, I am left in no doubt that my decision was the right one. It is inconceivable that this church would ever find any future use for any of these items. As I had anticipated from

my inspection of the uploaded floor plans and photographic images, the only traditional worship space within the reordered church, the Regimental Chapel in the north transept, is far too small, to accommodate comfortably even one of the eagle lecterns, or any of the other items. To have relocated them anywhere else within the church would have been as incongruous as it would have been pointless.

31. However, I was not immediately satisfied that the petitioners had made out a sufficient case for me to confirm the removal and disposal of the pulpit. Having viewed the images of the pulpit before its removal, and during the works (Images I, II and III at the end of this judgment), I had formed the preliminary view that the relocation of the existing stone font to the north-east of the nave, near the Regimental Chapel, had enhanced the significance of the pulpit in its former position at the south-east end of the nave, on the steps leading up to the chancel. It seemed to me that having the font and the pulpit on either side of the entrance to the chancel enhanced the setting and appearance of the beautiful, large carved stone reredos on the east wall of the sanctuary, behind the Communion Table, which depicts the Birth of Christ, the Last Supper, and the Ascension.

32. On the footing that: (1) the pulpit was the only remaining potentially contentious item, and (2) the petition was not formally opposed, and had been recommended for approval by the DAC, despite the objections of the Victorian Society, I directed the Registry to write to the petitioners inquiring whether they: (a) were content for me to determine the petition on the basis of written representations or wished there to be a hearing, and (b) wished me to view the church, or were content for me to rely upon the images that had been uploaded to the OFS. If a view were required, I considered that it would be best for this to take place at a time when I could attend a service at the church so that I could observe, and participate in, their particular form of worship. Due to my existing commitments, I indicated that the earliest I could attend a service at the church would be Sunday 11 February; and that if a hearing were required, I would be content for that to follow that service if suitable arrangements could be made. At 10.30 on the evening of Sunday 28 January, the Reverend Jason emailed the Registry, stating that after due consideration, the church had decided that they would like the Chancellor to visit during the service on 11 February and to hold a hearing afterwards. I am grateful to members of the church, and to the Registrar and Registry Clerk, for making the necessary arrangements for the hearing. These have involved the Registry in preparing, and providing sufficient copies of, a 220-page, indexed hearing bundle (in both digital and hard copy form), and making suitable arrangements for the hearing to be digitally recorded.

33. Since this is an unopposed faculty application, only limited directions were required. On 29 January 2024, I gave the following directions for the conduct of the proceedings (pursuant to FJR 11.1):

(1) The issues on which the court requires evidence are:

(a) Whether the court should (i) require the pulpit to be restored to its original position within the church, or (ii) confirm the sale of the pulpit at auction; and

(b) The circumstances in which the pulpit was removed from the church and came to be sold at auction.

(2) Any witness statements setting out the evidence to be given by any witness on those issues are to be filed at the Registry and served on the Archdeacon by email no later than 4.00 pm on Wednesday 7 February 2024.

(3) Any witness statement must be:

(a) verified by a statement of truth in the following form -

*I believe that the facts stated in this witness statement are true.*; and

(b) signed and dated by the witness.

(4) Without the permission of the court, the petitioners may not rely upon the evidence of more than three witnesses.

(5) The witness's witness statement is to stand as their evidence in chief.

(6) All witnesses must be available at the hearing to answer any questions from the Archdeacon or the court.

(7) If this has not already been served, the advice of the Victorian Society is to be served upon the petitioners and the Archdeacon forthwith.

(8) The hearing will be preceded by an inspection of the church.

(9) The hearing will comprise: (a) short openings by the petitioner and (if so minded) the Archdeacon, (b) any witness evidence, and (c) any closing observations by the petitioners and (if so minded) the Archdeacon. The hearing should not last more than two hours in total.

All of these directions were duly complied with.

#### The hearing

34. Together with the Registrar and the Registry Clerk, I duly attended the church's usual 11 o'clock Sunday morning 'Gathering' for music, worship and prayer on 11 February, arriving at about 10.40 am. This gave me an opportunity to inspect the church on my own before the service. The Archdeacon (who had a prior commitment to preach elsewhere in the Diocese) arrived before the service ended at 12.30 pm. After the service, I inspected the interior of the church in the company of the Registrar, the Registry Clerk, the Archdeacon, the petitioners, and Mr Gregory. Our inspection included viewing the east end of the church, both close up and also from the normally inaccessible west gallery. Particular attention was paid to the Regimental Chapel, the former locations of the pulpit and the organ box at the south-east end of the nave, the stage in the chancel, the locations of the two 70-inch portable television screens and the two portable tower speaker units which stand at either side of the stage, and the entrance to the new church hall in the south transept.

35. The hearing took place in the new church hall to the south-east of the church. It lasted from about 1.40 until 2.55 pm. After an opening prayer, the Reverend Jason opened the case for the petitioners. He reiterated their sincere apologies, and deep regret, for the hasty actions of the church, and the stress and the strain to which these had given rise. The decision to remove and sell these items had been made in haste, after frustrating, and costly, delays in the building project, and in advance of the church's imminent launch event on 27 September. Volunteers had had to take on a lot of the work since the architect and quantity surveyor had to step down due

to cost pressures. Since opening, there had been a jump in the numbers regularly attending the church. This was a church for the local community, and it needed to be flexible, with extra space essential for the growth of the church. The key need was for a church that honoured God and people. Prior to the DAC's visit on 14 June 2023, there had been no intention to remove the pulpit, even though it seemed incongruous and it would never be used as a pulpit (and, anecdotally, had not been so used by either of the two previous incumbents). Previously, the parish had not appreciated how much the pulpit would interfere with the church's audio-visual installations. The TV screens shown on Images I and II had been earlier, 43-inch screens, rather than the larger, 70-inch screens currently in place on the stage. Both these screens and the tower speakers needed to be raised up on the stage rather than placed on the floor of the nave. It was advantageous to have as much space on the stage, and for the layout of the nave to be as flexible, as possible. The Reverend Jason considered that the removal of the pulpit had improved the aesthetics of the church, opening up a full and uninterrupted view towards the Communion Table in the Sanctuary, and drawing attention to the Reredos and its depiction of three important episodes in the life of Christ. The Reverend Jason later confirmed the truth of all that he had said in opening once he had taken the oath.

36. In his opening remarks, the Archdeacon expressed his support for the parish's case for the removal of the pulpit, both in his role as Archdeacon and on behalf of the DAC. He referred to the remarkable growth in the church congregation under the Reverend Jason's visionary leadership, and he described this church as a remarkable example of '*inner-city*' renewal. Those churches which succeeded were those which had adapted to the changing needs of their community. The Archdeacon acknowledged that the DAC felt that they must bear some measure of responsibility for the present situation. The DAC had formed the view, on their June visit to the church, that the pulpit no longer fitted in to the church building following the removal of the redundant organ chamber to the south. There was a need for an open space at the front of the nave, with clear, and unobstructed, access to the Church Hall through the south transept. If the court sanctioned the sale of the pulpit, it would be used once again for the preaching of the Word of God, and the instruction of a new congregation. That would make a much better use of the pulpit than its return to the church, to languish unused, as an unwanted piece of furniture, getting in the way of this church's mission. In many churches, the pulpit is no longer in use for sermons or for teaching, but rather as a place to store unwanted items, or as a platform for a TV screen. Such use would not be consistent with the presumed intentions of the pulpit's original donor, who would surely welcome its use for its original purpose of preaching and instruction by its new church owner. The Archdeacon referred to the willingness of each new generation to allow change and development to adapt to new needs of worship. He reminded the court of the fate of the landmark church of Holy Trinity in Mount Pleasant, to the east of Blackburn. Built by Edmund Sharpe between 1837 and 1846 with a grant from the Commissioners, it had closed in 1981 and was now in the care of the Churches Conservation Trust. When we had visited it some years ago, it had recently been used to host a beer festival. Churches like St Luke will only survive if there is a willingness to allow church buildings to be adapted and changed, with congregations who will love, cherish, and maintain them. This church needs a young congregation of all ages to sustain it for future generations whilst seeking out Christ in the C 21<sup>st</sup>. The DAC were said to be all of one mind: that the removal of the pulpit had both improved the aesthetics of the church and helped to promote its revival as a Youth-Resourcing church, which was serving as a beacon of light and hope for a very deprived community, and despite facing enormous financial challenges.



37. The court received evidence, first, from the Reverend Jason, then from the churchwarden, Mr Thomas, and finally from Mr Gregory. None of them could remember having ever seen a copy of the original reordering faculty, and they were not aware of its conditions. I have already recorded the Reverend Jason's observations on the Victorian Society's objections to the removal of the pulpit. He acknowledged that his gifts lay in the field of evangelism and discipleship with young people, and that he had left other people to deal with administrative and operational matters. He emphasised that the apparent symmetry at the front of the nave shown on Images I and II was not part of the original design of the church interior. The reredos had been installed in 1877, whilst the pulpit dated from c. 1908, and the font from 1939 and had only recently been moved to the front of the church. Mr Thomas explained that this refurbishment project would never have happened without an incredible amount of hard work from local volunteers. He had lived in this area all his life, and for 64 years he had never entered the church, only starting to attend in the last 18 months to two years. He described it as 'heart-breaking' to see the church in its former dilapidated condition, with rain pouring through the roof, and heating and electrics that did not work.

38. In closing, the Archdeacon reiterated the sense of responsibility felt by the DAC for having first suggested the removal of the pulpit. Having seen the effect of that removal, the DAC were unanimously of the view that it was the right decision to have taken, although they regretted that the correct faculty process had not been followed; and they had put the necessary re-training in place. The renewal of this church building had enabled many young people in this deprived church community to grow as new disciples of Christ. The Archdeacon recognised that church buildings were given to their congregations in trust on behalf of the nation. But the best way to preserve them for future generations is to allow them to adapt and grow according to the needs of changing generations. He had been deeply humbled by the testimony of all three witnesses. The Archdeacon hoped that in its new church home, the pulpit might live again as a vehicle for the proclamation of the Word of God, rather than cluttering up the work of this church. Finally, the Archdeacon referred to the significant costs of this whole faculty process, and not least of the hearing. He recognised that they must fall to be borne somewhere, and he expressed the hope that they would not become a burden on this church. The Reverend Jason echoed the Archdeacon's closing observations; and he emphasised that the removal of the pulpit had not been effected out of any disregard for this church building.

39. At the end of the hearing, I announced that, somewhat contrary to my initial impression, I had been persuaded that I should grant the confirmatory faculty for the removal and disposal by sale of the pulpit, for reasons that I would set out in this written judgment. I also made it clear that whilst the costs of the Registry would need to be met, I did not propose to see the parish having to bear the statutory fees associated with this faculty application to which the Chancellor would normally be entitled.

#### *Analysis and conclusions*

40. Consistently with the views, recommendations, and submissions of the DAC and the Archdeacon, and notwithstanding the objections so clearly and helpfully made by the Victorian Society (for which I am grateful), I am entirely satisfied that the petitioners have made out a good and sufficient case for the grant of a faculty authorising and confirming the removal and sale of the pulpit. The DAC are a specialist body required by s. 37 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (the **2018 Measure**) to advise the Chancellor on matters relating to the grant of faculties. They must review and assess the degree of risk to

materials arising from proposals (amongst others) relating to the alteration of places of worship or their contents. They must also take action to encourage the care and appreciation of places of worship, and the contents of such places. In this case, the DAC have advised that these proposals are not likely to affect the character of this church as a building of any special architectural or historic interest. They have recommended those proposals for approval by the court; and they have provided cogent reasons for doing so, notwithstanding the objections raised by the Victorian Society (which I have recorded at paragraph 27 of this judgment). Just as I should not simply ‘rubber-stamp’ the considered and reasoned views of the DAC, nor should I disregard them without good reason.

41. Section 35 of the 2018 Measure provides that:

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

The statutory predecessor of that section (s. 1 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991) was considered by the Court of Arches (Sir John Owen, Dean of the Arches, and Chancellors Goodman and Sheila Cameron QC) in *Re St Luke the Evangelist, Maidstone* [1995] Fam 1. This was the first occasion on which the Arches Court of Canterbury had sat in its new constitution as a three-member court. At page 7, the Arches Court held that in the absence of words expressly limiting the wide jurisdiction long enjoyed by chancellors, the section could not be said to apply to chancellors since they were not persons carrying out functions of care and conservation. Rather, in carrying out their functions under the faculty jurisdiction, chancellors were (in the words of what is now s. 7 (1) of the 2018 Measure) to ‘hear and determine ... proceedings for obtaining a faculty’. However, the court went on to make it clear that: ‘If the section had applied to the chancellors it would have added nothing to the existing duty and practice of chancellors.’ I take that to mean that, independently of s. 35, when exercising the faculty jurisdiction, a chancellor should have due regard to the role of the particular church as a local centre of worship and mission. I also note, and bear in mind, the court’s observation (at page 8) ‘... that a church is a house of God and a place for worship. It does not belong to conservationists, to the state or to the congregation but to God.’

42. Having now visited and inspected St Luke’s church, I remain of the view that the relocation of the existing stone font to the north-east of the nave, near the Regimental Chapel, had enhanced the significance of the pulpit in its former position at the south-east end of the nave, on the steps leading up to the chancel. It still seems to me that having the font and the pulpit on either side of the entrance to the chancel enhanced the setting and appearance of the beautiful, large carved stone reredos on the east wall of the sanctuary, behind the Communion Table. However, as a result of my inspection, and in light of the evidence and submissions presented prior to, and at, the hearing, I am now satisfied that the petitioners have made out a sufficiently good case, and provided a clear and convincing justification, for the court to confirm the removal and sale of the pulpit. My reasons are as follows:

(1) I agree with the Victorian Society’s assessment that the pulpit is ‘a dignified and impressive work of design and craftsmanship, with pleasingly pronounced mouldings and tracery’; that the ‘ensemble quality’ of ‘the triumvirate of font, reredos and pulpit’ is ‘notable and significant’; and that ‘the pulpit is impressive, important and makes a notable contribution to the character and appearance of the interior, and to the ensemble

*quality of the other fine historic fixtures that remain*'. However, that triumvirate is both recent and short-lived, the font having been relocated to the east end of the nave only recently as part of the present reordering. Further, none of the three items is contemporaneous, with the pulpit dating some 30 years later than the reredos, and the font 30 years younger still.

(2) I am satisfied that the style and type of worship in this church has changed fundamentally since the reordering and the relaunch of this church as a youth resourcing church, and that the pulpit is no longer needed for worship in this church. Nor can I envisage the pulpit ever being needed by this church in the foreseeable future. Unlike the Victorian Society, I cannot contemplate future congregations or communities at St Luke's ever again valuing it, either artistically or practically.

(3) Try as I might, I cannot see how the return of the pulpit can be reconciled with this particular church's mode of worship, or its mission. I am satisfied that there is no room to move the pulpit any appreciable distance to the south of its former position at the south-east end of the nave. Restoring it to its former position would necessitate the relocation of the speaker tower and television screen on the right-hand side of the stage as one faces the stage looking east. These cannot be moved forward from the stage onto the floor of the nave because this would materially obstruct free passage across the front of the nave to the south transept in order to access the toilets situated, and the activities taking place, within the newly constructed Church Hall to the south. It was evident during the course of the service I attended last Sunday just how much pedestrian traffic there is passing across the front of the nave, with many children (and, indeed, adults) freely accessing the toilets, and the activities, in the Church Hall during the course of the '*Gathering*' for worship, prayer, and readings. Even a single speaker tower would take up far too much of the space required for such access, and would present a potential hazard to young children. The presence of the font presents no similar material obstruction because there is little traffic to the Regimental Chapel in the north transept. I am satisfied that it is simply not possible to relocate the TV screen, or the tower speaker, still less both of them, towards the centre of the stage because this would take up space that is needed for those conducting, and performing during, church services. Such relocation would also seriously interfere with the view of the reredos enjoyed by those sitting on the south side of the nave. Since the reredos is the principal survivor of the original church decorations, and a beautiful and inspiring piece of church furniture, I consider that nothing should be done that might impair views of the reredos. Although the Victorian Society may consider that the pulpit formerly occupied '*a limited footprint on the very periphery of the threshold to the chancel*', having inspected the interior of the east end of the church building, I am satisfied that its return would indeed constitute '*a significant imposition*'.

(4) I recognise the point made by the Victorian Society that '*... the pulpit was installed as a memorial in perpetuity to a person who had contributed to the church and its people, a lasting contribution that is by no means diminished by the time that has passed since. It is the pulpit that is the memorial – not the plaque that accompanies it – and as such it should be valued and retained.*' I accept, however, the Archdeacon's counter-argument that since, happily, a suitable new church home has been found for the pulpit, it is far better that it should live again as a vehicle for the proclamation of the Word of God rather than standing in a prominent position at the front of this church, unwanted, unloved, and resented, cluttering up the missional and liturgical work of this church, and viewed as an impediment to the church's worship and mission. I agree that the former option would be much more consistent with the presumed intentions of the pulpit's original donors, who would surely

welcome it being restored to its original use for preaching and instruction by its new church owner.

43. For these reasons, and contrary to my initial impression, I will therefore grant a further confirmatory faculty authorising the removal and disposal by sale of the pulpit, in addition to the other items of church furniture and fittings.

44. In conclusion, I must thank the Victorian Society, the DAC, the Archdeacon, and the Registry for their considerable assistance in dealing with this faculty application. Their work has certainly contributed to a fully informed analysis and decision. I thank the parish for the hospitality shown to us at the service and hearing last Sunday. I also apologise to the ultimate purchaser of the pulpit for the time it has taken me to reach a conclusion of this aspect of this faculty application.

*David R. Hodge*

The Worshipful Chancellor Hodge KC

Ash Wednesday, 14 February 2024

I - Pulpit before removal



## II - Pulpit before removal





### III - Pulpit during works



IV – After removal of the pulpit





V – After removal of the pulpit



VI – Opening event





VII – Opening event

